

# Official Journal

of the European Union

ISSN 1725-2423

C 278

Volume 46

19 November 2003

English edition

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2003/C 278/07

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<sup>(1)</sup> Text with EEA relevance

## I

(Information)

## COMMISSION

Euro exchange rates <sup>(1)</sup>

18 November 2003

(2003/C 278/01)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,1778	LVL	Latvian lats	0,6487
JPY	Japanese yen	128,17	MTL	Maltese lira	0,4283
DKK	Danish krone	7,4384	PLN	Polish zloty	4,5973
GBP	Pound sterling	0,69705	ROL	Romanian leu	39 895
SEK	Swedish krona	8,9665	SIT	Slovenian tolar	236,11
CHF	Swiss franc	1,5568	SKK	Slovak koruna	40,935
ISK	Iceland króna	89,16	TRL	Turkish lira	1 725 697
NOK	Norwegian krone	8,189	AUD	Australian dollar	1,6412
BGN	Bulgarian lev	1,9468	CAD	Canadian dollar	1,5424
CYP	Cyprus pound	0,58323	HKD	Hong Kong dollar	9,138
CZK	Czech koruna	32,085	NZD	New Zealand dollar	1,8652
EEK	Estonian kroon	15,6466	SGD	Singapore dollar	2,0285
HUF	Hungarian forint	257,20	KRW	South Korean won	1 390,39
LTL	Lithuanian litas	3,4527	ZAR	South African rand	7,9199

<sup>(1)</sup> Source: reference exchange rate published by the ECB.

**Notification according to Article 95(4) and (5) of the EC Treaty****Request for authorisation to introduce national provisions derogating from a Community harmonisation measure**

(2003/C 278/02)

(Text with EEA relevance)

(Notification No 2003/A/9171)

1. By letter of 23 September 2003 the Republic of Austria notified to the Commission the regional provisions concerning the 'Salzburg Act prohibiting genetic engineering' that it deems necessary to introduce by way of derogation from the provisions of the European Parliament and of the Council Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms<sup>(1)</sup>. The Commission received the Austrian notification on 24 September 2003.

2. Article 95(4) provides that 'if, after the adoption by the Council or by the Commission of a harmonisation measure, a Member State deems it necessary to maintain national provisions on ground of major needs referred to in Article 30, or relating to the protection of the environment or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them'.

3. Article 95(5) provides that 'if, after the adoption by the Council or by the Commission of a harmonisation measure, a Member State deems it necessary to introduce national provisions based on new scientific evidence relating to the protection of the environment or the working environment on grounds of a problem specific to that Member state arising after the adoption of the harmonisation measure, it shall notify the Commission of the envisaged provisions as well as the grounds for introducing them'.

4. According to Article 95(6), 'the Commission shall, within six months of the notification approve or reject the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction to trade between Member States and whether or not they shall constitute an obstacle to the functioning of the internal market'.

5. The draft Act<sup>(2)</sup> is primarily concerned with the protection of nature and the environment, natural biodiversity

and organic production. It seeks to ban the cultivation of GM seed (including GM seed with Community authorisation) and the use of transgenic animals for breeding and in particular their release for hunting and fishing. However, the draft Act permits such activities if they are performed in contained use facilities. Furthermore, it provides for compensatory mechanisms for monetary losses due to the presence of GMOs in conventional products. The Act is deemed to be a temporary measure, applicable for three years.

6. The Salzburg regional Government deems it necessary to introduce measures intended to protect organic and traditional agricultural production as well as plant and animal genetic resources from hybridisation with GMOs. These measures are based on the fact that Salzburg authorities consider that the issue of coexistence between GM and non-GM method of agricultural production is still largely unsettled. The draft Act relies on three studies, which allegedly advocate that a GMO ban for Salzburg is necessary since coexistence measures are practically impossible to be put in place and since there is a lack of thorough knowledge on all potential risks related to GMOs<sup>(3)</sup>. Furthermore, the explanatory notes joined to the draft Act briefly describe the specificity of Salzburg region's ecosystem and agricultural practices, which are considered by the regional authorities as special circumstances justifying derogation to Directive 2001/18/EC.

7. The Commission reminds interested parties that possible observations on the Austrian notification will only be considered if received no later than one month after the publication of this notice in the *Official Journal of the European Union*. Furthermore, the Commission reserves the right to communicate to the Republic of Austria any observations that may be submitted.

(1) OJ L 106, 17.4.2001, pp. 1-39.

(2) Draft Act prohibiting the cultivation of genetically modified seed and planting material, the use of transgenic animals for breeding purposes and the release of transgenic animals especially for the purposes of hunting and fishing (Salzburg Act prohibiting genetic engineering (German designation: GTVG)).

(3) The three studies are: 'GM-free areas of farming: conception and analysis of scenarios and steps for realisation', Werner Müller, 28 April 2002 (carried out on behalf of the department for environment of the region of Upper Austria and of the Federal Ministry for social security and generations); 'Scenario of coexistence of genetically modified, conventional and organic crops in European agriculture', Joint Research Centre, May 2002; 'Report from the Working Group on the co-existence of genetically modified crops with conventional and organic crops', Danish Institute of Agricultural Science, 10 January 2003.

8. Further information regarding the notification can be obtained from:

Bundesministerium für Wirtschaft und Arbeit  
Abteilung C2/1  
A-1010 Wien, Stubenring 1  
Tel. (43-1) 711 00 58 96  
Fax (43-1) 715 96 51 or (43-1) 712 06 80  
E-mail: post@tbt.bmwa.gv.at

Contact point in the European Commission:

Hervé Martin  
European Commission  
Directorate General Environment  
Unit C4  
BU5 02/137  
B-1049 Brussels  
Tel. (32-2) 296 54 44  
Fax (32-2) 299 10 67  
E-mail: herve.martin@cec.eu.int

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### Prior notification of a concentration

(Case COMP/M.3273 — First/Keolis/TPE JV)

(2003/C 278/03)

(Text with EEA relevance)

1. On 6 November 2003 the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 <sup>(1)</sup>, as last amended by Regulation (EC) No 1310/97 <sup>(2)</sup>, by which the undertakings FirstGroup plc, United Kingdom ('First') and the undertaking Via G.T.I. United Kingdom Limited, London, ('Keolis'), controlled by the French SNCF, acquire within the meaning of Article 3(1)(b) of the Council Regulation joint control of undertaking TransPennine Express JV (TPE JV) by way of purchase of assets.

2. The business activities of the undertakings concerned are:

- First: United Kingdom based international transport group with interests in bus and rail operations,
- Keolis: passenger transport services in Europe, including bus, rail and light railway,
- TPE JV: operation of United Kingdom passenger rail/bus franchises.

3. On preliminary examination, the Commission finds that the notified concentration could fall within the scope of Regulation (EEC) No 4064/89. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference COMP/M.3273 — First/Keolis/TPE JV, to:

European Commission,  
Directorate-General for Competition,  
Merger Registry,  
J-70,  
B-1049 Brussels.

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<sup>(1)</sup> OJ L 395, 30.12.1989, p. 1; corrigendum: OJ L 257, 21.9.1990, p. 13.

<sup>(2)</sup> OJ L 180, 9.7.1997, p. 1; corrigendum: OJ L 40, 13.2.1998, p. 17.

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**Prior notification of a concentration**  
**(Case COMP/M.3313 — CRH/SAMSE/Doras)**

**Candidate case for simplified procedure**

(2003/C 278/04)

(Text with EEA relevance)

1. On 7 November 2003 the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 <sup>(1)</sup>, as last amended by Regulation (EC) No 1310/97 <sup>(2)</sup>, by which the undertakings CRH France SA ('CRH', France) belonging to the group CRH, and SAMSE SA ('SAMSE', France) acquire within the meaning of Article 3(1)(b) of the Regulation, control of the whole of the undertaking G. Doras SA ('Doras', France) by way of purchase of shares through a newly created company constituting a joint venture.

2. The business activities of the undertakings concerned are:

- CRH: production and trading of building materials,
- SAMSE: trading of building materials and 'do it yourself' retailing,
- Doras: production and trading of building materials.

3. On preliminary examination, the Commission finds that the notified concentration could fall within the scope of Regulation (EEC) No 4064/89. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under Regulation (EEC) No 4064/89 <sup>(3)</sup>, it should be noted that this case is a candidate for treatment under the procedure set out in the notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference COMP/M.3313 — CRH/SAMSE/Doras to:

European Commission,  
Directorate-General for Competition,  
Merger Registry,  
J-70,  
B-1049 Brussels.

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<sup>(1)</sup> OJ L 395, 30.12.1989, p. 1; corrigendum: OJ L 257, 21.9.1990, p. 13.

<sup>(2)</sup> OJ L 180, 9.7.1997, p. 1; corrigendum: OJ L 40, 13.2.1998, p. 17.

<sup>(3)</sup> OJ C 217, 29.7.2000, p. 32.

COMMISSION COMMUNICATION PURSUANT TO ARTICLE 4(1)(a) OF COUNCIL REGULATION  
(EEC) No 2408/92

**Modification by the United Kingdom of public service obligations in respect of scheduled air  
services between Glasgow and Campbeltown and Glasgow and Tiree**

(2003/C 278/05)

(Text with EEA relevance)

1. The United Kingdom has decided to modify the public service obligations in respect of the scheduled air services between Glasgow and Campbeltown and Glasgow and Tiree as set out in the Notices published in the *Official Journal of the European Communities* C 387/06 and C 387/07 of 21 December 1996, as modified in the *Official Journal of the European Communities* by C 355/03 of 8 December 1999 and C 310/07 of 13 December 2002, pursuant to Article 4(1)(a) of Council Regulation (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes.

2. THE MODIFIED PUBLIC SERVICE OBLIGATIONS ARE AS FOLLOWS:

— *Minimum frequencies*

- Two return trips per day except Saturday and Sunday between Glasgow and Campbeltown; and
- One return trip per day except Sunday between Glasgow and Tiree.

— *Capacity*

- The capacity of the aircraft used on the **Glasgow to Campbeltown route on Monday to Friday** should be not less than 14 seats (Glasgow to Campbeltown) and 16 seats (Campbeltown to Glasgow);
- The capacity of the aircraft used on the **Glasgow to Tiree route on Monday to Saturday** should be not less than 13 seats (Glasgow to Tiree) and 16 seats (Tiree to Glasgow);

(Provision is currently made by the present operator for one seat for the post office on all outbound Glasgow to Tiree services. This is, however, subject to separate contract arrangements).

— *Fares*

Proposals should include two pricing options for each route as follows:

1. For the route **Glasgow to Campbeltown**, one pricing option for a single ticket not exceeding GBP 54 and a second pricing option for a single ticket not exceeding GBP 50 (excluding air passenger duty and security charges), and
2. For the route **Glasgow to Tiree**, one pricing option for a single ticket not exceeding GBP 79 and a second pricing option for a single ticket not exceeding GBP 62 (excluding air passenger duty and security charges).

The maximum fare on the routes may be increased once every year with the prior written consent of the Scottish Ministers in line with the United Kingdom's Retail Price Index (all items) or any successor index to this.

No other changes may be made to the fare levels without the prior written consent of the Scottish Ministers.

The new maximum fare on each route must be notified to the Civil Aviation Authority and will not enter into force prior to their notification to the European Commission which may publish them in the *Official Journal of the European Union*.

**COMMISSION COMMUNICATION PURSUANT TO ARTICLE 4(1)(a) OF COUNCIL REGULATION  
(EEC) No 2408/92**

**Modification by the United Kingdom of a public service obligation in respect of a scheduled air  
service between Glasgow and Barra**

(2003/C 278/06)

(Text with EEA relevance)

1. The United Kingdom has decided to further modify the public service obligation in respect of the scheduled air service between Glasgow and Barra as set out in the Notice published in the *Official Journal of the European Communities* C 387/06 of 21 December 1996, as modified in the *Official Journal of the European Communities* by C 355/04 of 8 December 1999 and C 310/08 of 13 December 2002, pursuant to Article 4(1)(a) of Council Regulation (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes.

2. THE MODIFIED PUBLIC SERVICE OBLIGATION IS AS FOLLOWS:

— *Minimum frequencies*

One return trip per day except Sunday between Glasgow and Barra

— *Capacity*

The capacity of the aircraft used should be not less than:

— 12 seats on the Glasgow to Barra route and 15 seats on the Barra to Glasgow route (Monday to Friday); and

— 10 seats on the Glasgow to Barra route and 15 seats on the Barra to Glasgow route (Saturday).

(Provision is currently made by the present operator for 2 seats for the post office on all outbound services. This is, however, subject to separate contract arrangements).

— *Aircraft types*

The aircraft used should be suitable for landing on Barra airstrip which is located on Traigh Mhor beach.

— *Fares*

Proposals should include two pricing options as follows:

— One pricing option for a single ticket not exceeding GBP 101 and a second pricing option for a single ticket not exceeding GBP 71 (excluding air passenger duty and security charges).

The maximum fare on the route may be increased once every year with the prior written consent of the Scottish Ministers in line with the United Kingdom's Retail Price Index (all items) or any successor index to this.

No other changes may be made to the fare levels without the prior written consent of the Scottish Ministers.

The new maximum fare on the route must be notified to the Civil Aviation Authority and will not enter into force prior to its notification to the European Commission which may publish it in the *Official Journal of the European Union*.

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## III

(Notices)

## COMMISSION

## Operation of scheduled air services

**Invitation to tender issued by France under to Article 4(1)(d) of Council Regulation (EEC) No 2408/92 in respect of the operation of scheduled air services between Dijon and Clermont-Ferrand**

(2003/C 278/07)

(Text with EEA relevance)

1. **Introduction:** Pursuant of Article 4(1)(a) of Regulation (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes, France has decided to impose public service obligations in respect of scheduled air services between Dijon and Clermont-Ferrand. The terms of these public service obligations were published in the 'Official Journal of the European Union' No C 227 of 18.11.2003.

Insofar as by 1.3.2004 no air carrier has commenced or is about to commence scheduled air services between Dijon and Clermont-Ferrand in accordance with the public service obligations imposed and without requesting financial compensation, France has decided, in accordance with the procedure laid down in Article 4(1)(d) of that regulation, to limit access to only one air carrier and to offer by public tender the right to operate such services from 1.4.2004.

2. **Object of invitation to tender:** Operation from 1.4.2004 of scheduled air services between Dijon and Clermont-Ferrand in accordance with the public service obligation imposed on that route and published in the 'Official Journal of the European Union' No C 227 of 18.11.2003.
3. **Participation:** Participation is open to all air carriers holding a valid operating licence issued by a Member State under Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers.
4. **Tender procedure:** This invitation to tender is subject to points d, e, f, g, h and i of Article 4(1) of Regulation (EEC) No 2408/92.

5. **Tender dossier:** The complete tender dossier, comprising the specific rules governing the invitation to tender and the public service delegation agreement together with its

technical annex (text of the public service obligations published in the 'Official Journal of the European Communities') may be obtained free of charge from:

Chambre de commerce et d'industrie de Dijon, 1, place du Théâtre, BP 370, F-21010 Dijon Cedex. Tel.: (33) 3 80 65 92 84. Fax: (33) 3 80 65 37 09. URL: [www.dijon.cci.fr](http://www.dijon.cci.fr).

6. **Financial compensation:** The tenders submitted will indicate the amount required by way of compensation for operating the service for 3 years from the scheduled starting date (with an annual breakdown). The exact amount of compensation finally granted will be determined each year ex post on the basis of the costs and revenue actually generated by the service, within the limits of the amount given in the tender. This maximum limit may be revised only in the event of an unforeseen change in the operating conditions.

The annual payments will be made in the form of instalments and a balance. The balance will be paid only after approval of the carrier's accounts for the route in question and verification that the service has been operated in accordance with the conditions laid down in point 8 below.

In the event of termination of the contract before its normal expiry date, point 8 will be applied as soon as possible to allow payment to the carrier of the balance due, the maximum amount referred to in the first subparagraph being reduced, where appropriate, in proportion to the actual duration of the service.

7. **Duration of contract:** The duration of the contract (public service delegation agreement) is three years from the date scheduled for the beginning of the services mentioned in point 2 of this invitation to tender.

8. **Verification of the operation of the service and of the carrier's cost accounts:** The operation of the service and the carrier's cost accounting for the route in question will be the subject of at least one annual examination in cooperation with the carrier.
9. **Termination of contract and notice:** The contract may be terminated by either party before its normal expiry date only if six months' notice is given. If the carrier fails to respect a public service obligation, it shall be deemed to have terminated the contract without notice if it does not resume the service in accordance with the public service obligations within one month of the serving of formal notice.
10. **Penalties:** Failure by the carrier to observe the period of notice referred to in point 9 will be subject either to an administrative fine of up to 7 622,45 EUR pursuant to Article R.330-20 of the Civil Aviation Code, or to a penalty calculated on the basis of the number of months of default and the real operating loss of the service during the year in question, not exceeding the maximum financial compensation provided for in point 6.

In the event of serious breaches of the public service obligation, the contract may be cancelled and the carrier deemed to have terminated the contract without notice.

In the event of minor breaches of the public service obligation, the maximum financial compensation provided for in point 6 shall be reduced, without prejudice to the application of the provisions of Article R.330-20 of the

Civil Aviation Code. Such reductions shall take account, where appropriate, of the number of flights cancelled for reasons attributable to the carrier, the number of flights made with a capacity lower than that required, the number of flights which failed to comply with the public service obligation as regards stopovers, and the number of days on which the public service obligation was not complied with as regards time at destination, fares charged, and the use of computerised reservation services.

11. **Submission of tenders:** Tenders must be sent by registered letter with acknowledgement of receipt, the postmark serving as proof, or delivered by hand with receipt, at the latest six weeks from the date of publication of this invitation to tender in the '*Official Journal of the European Union*' before 17.00 (local time) to the following address:

Chambre de commerce et d'industrie de Dijon, 1, place du Théâtre, BP 370, F-21010 Dijon Cedex. Tel.: (33) 3 80 65 92 84. Fax: (33) 3 80 65 37 09. URL: [www.dijon.cci.fr](http://www.dijon.cci.fr).

12. **Validity of invitation to tender:** In accordance with Article 4(1)(d) of Regulation (EEC) No 2408/92 of 23.7.1992, the validity of this invitation to tender is subject to the condition that no Community carrier presents by 1.3.2004 a programme for operating the route in question as from 1.4.2002, in accordance with the public service obligations imposed, without receiving any financial compensation.