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Comunicaciones e informaciones

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Comisión Europea

ES

Precio: 3 EUR

[1] Texto pertinente a efectos del EEE

(continúa al dorso)

[1] Texto pertinente a efectos del EEE

II

(Comunicaciones)

COMUNICACIONES PROCEDENTES DE LAS INSTITUCIONES, ÓRGANOS Y ORGANISMOS DE LA UNIÓN EUROPEA

COMISIÓN EUROPEA

No oposición a una concentración notificada

(Asunto COMP/M.5785 — Sun Capital/DSM Special Products)

(Texto pertinente a efectos del EEE)

(2011/C 34/01)

El 2 de diciembre de 2010, la Comisión decidió no oponerse a la concentración notificada que se cita en el encabezamiento y declararla compatible con el mercado común. Esta decisión se basa en el artículo 6, apartado 1, letra b) del Reglamento (CE) nº 139/2004 del Consejo. El texto íntegro de la decisión solo está disponible en inglés y se hará público una vez que se elimine cualquier secreto comercial que pueda contener. Estará disponible:

— en la sección de concentraciones del sitio web de competencia de la Comisión (http://ec.europa.eu/competition/mergers/cases/). Este sitio web permite localizar las decisiones sobre concentraciones mediante criterios de búsqueda tales como el nombre de la empresa, el número de asunto, la fecha o el sector de actividad,

— en formato electrónico en el sitio web EUR-Lex (http://eur-lex.europa.eu/en/index.htm) con el número de documento 32010M5785. EUR-Lex da acceso al Derecho comunitario en línea.

No oposición a una concentración notificada

(Asunto COMP/M.6033 — Johnson & Johnson/Crucell)

(Texto pertinente a efectos del EEE)

(2011/C 34/02)

El 28 de enero de 2011, la Comisión decidió no oponerse a la concentración notificada que se cita en el encabezamiento y declararla compatible con el mercado común. Esta decisión se basa en el artículo 6, apartado 1, letra b) del Reglamento (CE) nº 139/2004 del Consejo. El texto íntegro de la decisión solo está disponible en inglés y se hará público una vez que se elimine cualquier secreto comercial que pueda contener. Estará disponible:

— en la sección de concentraciones del sitio web de competencia de la Comisión (http://ec.europa.eu/competition/mergers/cases/). Este sitio web permite localizar las decisiones sobre concentraciones mediante criterios de búsqueda tales como el nombre de la empresa, el número de asunto, la fecha o el sector de actividad,

— en formato electrónico en el sitio web EUR-Lex (http://eur-lex.europa.eu/en/index.htm) con el número de documento 32011M6033. EUR-Lex da acceso al Derecho comunitario en línea.

IV

(Información)

INFORMACIÓN PROCEDENTE DE LAS INSTITUCIONES, ÓRGANOS Y ORGANISMOS DE LA UNIÓN EUROPEA

COMISIÓN EUROPEA

Tipo de cambio del euro [1]
2 de febrero de 2011

(2011/C 34/03)

1 euro =

	Moneda	Tipo de cambio		Moneda	Tipo de cambio
USD	dólar estadounidense	1,3803	AUD	dólar australiano	1,3676
JPY	yen japonés	112,35	CAD	dólar canadiense	1,3649
DKK	corona danesa	7,4549	HKD	dólar de Hong Kong	10,7490
GBP	libra esterlina	0,85190	NZD	dólar neozelandés	1,7657
SEK	corona sueca	8,8615	SGD	dólar de Singapur	1,7560
CHF	franco suizo	1,2922	KRW	won de Corea del Sur	1 521,85
ISK	corona islandesa		ZAR	rand sudafricano	9,8704
NOK	corona noruega	7,8840	CNY	yuan renminbi	9,0890
BGN	lev búlgaro	1,9558	HRK	kuna croata	7,4207
CZK	corona checa	24,124	IDR	rupia indonesia	12 462,41
HUF	forint húngaro	269,59	MYR	ringgit malayo	4,1945
LTL	litas lituana	3,4528	PHP	peso filipino	60,583
LVL	lats letón	0,7015	RUB	rublo ruso	40,6500
PLN	zloty polaco	3,9128	THB	baht tailandés	42,589
RON	leu rumano	4,2580	BRL	real brasileño	2,2984
TRY	lira turca	2,1824	MXN	peso mexicano	16,5974
			INR	rupia india	62,8865

[1] *Fuente*: tipo de cambio de referencia publicado por el Banco Central Europeo.

INFORMACIÓN PROCEDENTE DE LOS ESTADOS MIEMBROS

Comunicación de la Comisión con arreglo al procedimiento previsto en el artículo 17, apartado 5, del Reglamento (CE) nº 1008/2008 del Parlamento Europeo y del Consejo, sobre normas comunes para la explotación de servicios aéreos en la Comunidad

Nueva licitación para la explotación de servicios aéreos regulares de conformidad con las obligaciones de servicio público detalladas en el anuncio publicado en el DO C 34 de 3.2.2011

(Texto pertinente a efectos del EEE)

(2011/C 34/04)

Estado miembro	Italia
Rutas afectadas	Elba Marina di Campo–Florencia y viceversa Elba Marina di Campo–Pisa y viceversa
Período de validez del contrato	1 año a partir del 27 de marzo de 2011
Plazo de presentación de propuestas	2 meses desde la publicación del presente anuncio
Dirección en la que puede obtenerse gratuitamente el texto de la convocatoria y cualquier otra información o documentación pertinente relacionada con la licitación y con la obligación de servicio público	ENAC (Ente nazionale per l'aviazione civile) Direzione centrale sviluppo economico Direzione sviluppo trasporto aereo Viale del Castro Pretorio 118 00185 Roma RM ITALIA http://www.enac.gov.it E-mail: osp@enac.gov.it

Comunicación de la Comisión con arreglo al procedimiento establecido en el artículo 16, apartado 4, párrafo primero, del Reglamento (CE) nº 1008/2008 del Parlamento Europeo y del Consejo, sobre normas comunes para la explotación de servicios aéreos en la Comunidad

Obligaciones de servicio público respecto a servicios aéreos regulares

(Texto pertinente a efectos del EEE)

(2011/C 34/05)

Estado miembro	Italia
Ruta afectada	Reggio Calabria–Venezia Tessera y viceversa Reggio Calabria–Turín Caselle y viceversa Reggio Calabria–Milán Malpensa y viceversa Reggio Calabria–Bolonia Borgo Panigale y viceversa Reggio Calabria–Pisa San Giusto y viceversa
Fecha de derogación de las obligaciones de servicio público en la ruta afectada	18 de noviembre de 2010
Dirección en la que puede obtenerse gratuitamente la información o la documentación pertinente relacionada con la obligación de servicio público	ENAC (Ente nazionale per l'aviazione civile) Direzione centrale sviluppo economico Direzione sviluppo trasporto aereo Viale del Castro Pretorio 118 00185 Roma RM ITALIA http://www.enac.gov.it E-mail: osp@enac.gov.it

INFORMACIONES RELATIVAS AL ESPACIO ECONÓMICO EUROPEO

ÓRGANO DE VIGILANCIA DE LA AELC

El Órgano de Vigilancia de la AELC considera que la siguiente medida no constituye ayuda estatal en el sentido del artículo 61, apartado 1, del Acuerdo EEE

(2011/C 34/06)

Fecha de adopción de la decisión:	29 de septiembre de 2010
Asunto nº:	67278
Número de Decisión:	378/10/COL
Estado de la AELC:	Islandia
Denominación (y/o nombre del beneficiario):	Supuesta ayuda estatal concedida por el Puerto de Reykjavík a Stáltak hf.
Base jurídica:	Artículo 61, apartado 1, del Acuerdo EEE
Tipo de medida:	Adquisición de acciones

El texto de la decisión en la lengua auténtica, suprimidos los datos confidenciales, se encuentra en el sitio web del Órgano de Vigilancia de la AELC:

http://www.eftasurv.int/state-aid/state-aid-register/

No constituye ayuda estatal en el sentido del artículo 61 del Acuerdo EEE

(2011/C 34/07)

El Órgano de Vigilancia de la AELC no formula objeciones contra la siguiente ayuda estatal:

Fecha de adopción de la decisión:	13 de octubre de 2010
Asunto nº:	68560
Decisión nº:	390/10/COL
Estado de la AELC:	Islandia
Región:	Distrito electoral del sur, distrito electoral del Noroeste y distrito electoral del Noreste
Denominación (y/o nombre del beneficiario):	Incentivos para inversiones iniciales en Islandia
Base jurídica:	Ley nº 99/2010 sobre incentivos para inversiones iniciales en Islandia
Tipo de medida:	Régimen de ayudas
Objetivo:	Desarrollo regional
Forma de la ayuda:	Subvención directa, reducción de impuestos y cánones, y venta y arrendamiento de tierras por debajo del valor de mercado.
Presupuesto:	Decisiones presupuestarias anuales sobre subvenciones directas. Los ingresos no percibidos por medidas fiscales se estiman en 17 millones de EUR al año.
Intensidad:	15 % (25 % para empresas medianas y 35 % para pequeñas empresas)
Duración:	Desde la publicación del texto final del régimen tras la adopción de la decisión del Órgano hasta el 31 de diciembre de 2013.
Sectores económicos:	Todos los sectores excepto el sector financiero
Nombre y dirección del organismo que concede las ayudas:	Ministerio de Industria Arnarhvoli 150 Reykjavik ICELAND
Otros datos:	El texto final del régimen se publicará en: http://www.idnadarraduneyti.is

El texto de la decisión en la lengua auténtica, suprimidos los datos confidenciales, se encuentra en el sitio web del Órgano de Vigilancia de la AELC:

http://www.eftasurv.int/state-aid/state-aid-register/

No constituye ayuda estatal en el sentido del artículo 61 del Acuerdo EEE

(2011/C 34/08)

El Órgano de Vigilancia de la AELC considera que la siguiente medida no constituye ayuda estatal en el sentido del artículo 61, apartado 1, del Acuerdo EEE:

Fecha de adopción de la decisión:	9 de noviembre de 2010
Asunto nº:	62275
Número de la Decisión:	438/10/COL
Estado AELC:	Noruega
Tipo de medida:	Subvención cruzada y aportación de capital

El texto de la decisión en la lengua auténtica, suprimidos los datos confidenciales, se encuentra en el sitio web del Órgano de Vigilancia de la AELC:

http://www.eftasurv.int/state-aid/state-aid-register/

Invitación a presentar observaciones de conformidad con el artículo 1, apartado 2, de la parte I del Protocolo 3 del Acuerdo entre los Estados de la AELC por el que se instituyen un Órgano de Vigilancia y un Tribunal de Justicia sobre ayudas estatales por lo que se refiere a la venta por parte del municipio de Oppdal de la parcela gbnr 271/8

(2011/C 34/09)

Mediante Decisión nº 417/10/COL, de 3 de noviembre de 2010, reproducida en la versión lingüística auténtica en las páginas siguientes al presente resumen, el Órgano de Vigilancia de la AELC incoó el procedimiento establecido en el artículo 1, apartado 2, de la parte I del Protocolo 3 del Acuerdo entre los Estados de la AELC por el que se instituyen un Órgano de Vigilancia y un Tribunal de Justicia. Las autoridades noruegas fueron informadas mediante una copia de la Decisión.

El Órgano de Vigilancia de la AELC invita a los Estados de la AELC, a los Estados miembros de la UE y a los terceros interesados a que presenten sus observaciones sobre la medida en cuestión en un plazo de un mes a partir de la fecha de publicación de la presente comunicación, enviándolas a:

EFTA Surveillance Authority
Registry
Rue Belliard/Belliardstraat 35
1040 Bruxelles/Brussel
BELGIQUE/BELGIË

Dichas observaciones serán comunicadas a las autoridades noruegas. Los interesados que presenten observaciones podrán solicitar por escrito, exponiendo los motivos de su solicitud, que su identidad sea tratada de forma confidencial.

RESUMEN

El 7 de febrero de 2007, Strand Drift Oppdal AS propuso al municipio de Oppdal la construcción de una instalación de servicio para los clientes de la estación de esquí en la propiedad 271/8. Era necesaria una enmienda de la reglamentación municipal para poder utilizar esa superficie como instalación pública de estacionamiento. En una carta al municipio con fecha de 19 de febrero de 2007, Strand Drift Oppdal AS expresó su interés en comprar la propiedad. El municipio contestó en una carta con fecha de 30 de noviembre de 2007 que, hasta que hubiera tomado una decisión sobre la enmienda de la reglamentación municipal, la propuesta de Strand Drift Oppdal AS de compra de la propiedad quedaría en suspenso.

El 30 de junio de 2008, el municipio de Oppdal decidió obtener dos tasaciones distintas de la propiedad y, posteriormente, proceder a las negociaciones de la venta con Strand Drift Oppdal AS. Así, el municipio obtuvo dos informes distintos. El valor de la propiedad se tasó respectivamente en 850 000 y 800 000 NOK.

El 15 de julio de 2008, el municipio invitó a Strand Drift Oppdal AS por primera vez a una reunión para discutir un proyecto de contrato de venta de la propiedad. El municipio informó a Strand Drift Oppdal AS de las tasaciones y que el precio de venta sería de 850 000 NOK.

Las tasaciones se enviaron a Oppdal Booking AS a petición suya el 21 de julio de 2008. Por carta con fecha de 23 de julio, Oppdal Booking AS protestó sobre las tasaciones, alegando que no reflejaban el valor de mercado real. OB mantuvo entre otras cosas que estaba dispuesta a pagar un precio mucho más alto. Ese mismo día Oppdal Booking AS envió una carta al municipio con una oferta de 3,1 millones NOK. La oferta se describió como «oferta de partida» y se hizo a condición de que se concedieran los permisos necesarios para construir en la propiedad y que se concediera a Oppdal Booking AS suficiente tiempo para diseñar el edificio que se iba a erigir.

El 31 de julio de 2008, el municipio firmó el contrato con Strand Drift Oppdal AS. Tal y como entiende los hechos el Órgano, no fue hasta ese momento que se constituyó un acuerdo vinculante conforme a la legislación noruega.

El Órgano evaluará la venta de terrenos por parte de las autoridades públicas de conformidad con las Directrices sobre ayudas estatales sobre elementos de ayuda en las ventas de terrenos y construcciones por parte de los poderes públicos. Las Directrices hacen referencia a dos posibles situaciones: en primer lugar, al empleo de un procedimiento de licitación; en segundo lugar, al empleo de la tasación por peritos independientes. Sin embargo, no tratan la situación consistente en que se reciba una oferta vinculante tras la recepción de una tasación por peritos, pero anterior a la celebración de un contrato vinculante. En el caso que nos ocupa, la oferta era cerca de cuatro veces superior al precio que los peritos consideraban que era el precio de mercado.

El Órgano considera que, en una situación como esta, la presentación de una oferta puede suscitar dudas sobre si las tasaciones reflejan el precio de mercado real de la propiedad. Generalmente, una oferta creíble y vinculante parecería constituir una base mejor para determinar el precio de mercado, pues refleja el importe que alguien está realmente dispuesto a pagar por la propiedad. El Órgano observa que las autoridades noruegas no han presentado ninguna información que justificara que la oferta no era creíble o que no reflejaba fehacientemente el valor de mercado de la propiedad, entre otras cosas, debido al especial interés del ofertante en adquirir la propiedad.

Las medidas de apoyo contempladas por el artículo 61, apartado 1, del Acuerdo EEE, son generalmente incompatibles con el funcionamiento del Acuerdo EEE, a menos que puedan acogerse a alguna de las excepciones previstas en el artículo 61, apartados 2 o 3, del Acuerdo EEE. No obstante, el Órgano duda que la transacción objeto de evaluación pueda justificarse en virtud de las disposiciones sobre ayudas estatales del Acuerdo EEE.

Conclusión

A la vista de las consideraciones anteriores, el Órgano ha decidido incoar el procedimiento formal de investigación previsto en el artículo 1, apartado 2, del Acuerdo EEE. Se invita a las partes interesadas a que presenten sus observaciones en el plazo de un mes a partir de la publicación de la presente Decisión en el *Diario Oficial de la Unión Europea*.

EFTA SURVEILLANCE AUTHORITY DECISION

No 417/10/COL

of 3 November 2010

to initiate the formal investigation procedure provided for in Article 1(2) in Part I of Protocol 3 to the Surveillance and Court Agreement with regard to the sale by Oppdal municipality of the plot of land gbnr 271/8

(Norway)

THE EFTA SURVEILLANCE AUTHORITY (the Authority),

Having regard to the Agreement on the European Economic Area (the EEA Agreement), in particular to Article 61 and Protocol 26,

Having regard to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (the Surveillance and Court Agreement), in particular to Article 24,

Having regard to Protocol 3 to the Surveillance and Court Agreement (Protocol 3), in particular to Article 1(3) of Part I and Articles 4(4) and 6 of Part II,

Having regard to the consolidated version of the Authority's Decision No 195/04/COL of 14 July 2004 on the implementing provisions referred to under Article 27 of Part II of Protocol 3 (the Implementing Provisions Decision) [1],

Having regard to the State Aid Guidelines on State aid elements in sales of land and buildings by public authorities [2],

Whereas:

I. FACTS

1. Procedure

By letter dated 3 July 2008 (Event No 484519), Oppdal Booking AS (OB) filed a complaint against Oppdal municipality's intended sale of the property 271/8 in Oppdal to Strand Drift Oppdal AS (SDO).

By letter dated 9 July 2008 (Event No 485146), the Authority requested additional information from the Norwegian authorities. The Norwegian authorities replied in a letter dated 9 August 2008 (Event No 490114).

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(1) Available at: http://www.eftasurv.int/media/decisions/195-04-COL.pdf

(2) This chapter of the Guidelines corresponds to the Commission communication on State aid elements in sales of land and buildings by public authorities (OJ C 209, 10.7.1997, p. 3) also available at: http://www.eftasurv.int/state-aid/legal-framework/state-aid-guidelines/

By letter dated 8 September 2008, the buyer, SDO, submitted comments to the Authority (Event No 491369).

On 1 October 2008, OB provided supplementing information in a letter to the Authority (Event No 493593).

2. **Chronology of events**

On 7 February 2007, SDO had, through an application, proposed to the municipality the building of a service facility for ski resort customers on property 271/8. An amendment of the municipal regulations would be necessary to use the area as a public parking facility. In a letter to the municipality dated 19 February 2007, SDO expressed their interest in buying the property. The municipality replied in a letter dated 30 November 2007, that until it had decided on the amendment of the municipal regulations, SDO's proposal to buy the property would be put on hold.

On 31 March 2008, the municipality approved the application. OB then filed a complaint on the municipality's decision. By letter dated 5 May 2008, the municipality informed SDO of the complaint, and that the request to buy the property could not be considered before a decision on the complaint was taken. On 26 May 2008, the municipality referred OBs' complaint to the regional regulations authority (Fylkesmannen) for processing.

By letter dated 30 May 2008, OB expressed its interest in buying the property to the municipality, in case their complaint was not sustained by the regional authority. By letter dated 6 June 2008, the municipality informed SDO that the municipality would not consider the request to buy the property until the complaint on the municipality's decision had been dealt with by the regional authority. The municipality also explicitly denied that SDO had any option on buying the property.

On 30 June 2008, Oppdal municipality decided to obtain two separate evaluations of the property, and thereafter proceed with sale negotiations with SDO ([1]).

Oppdal municipality obtained two separate reports which assessed the value of the property. The first report dated 7 July 2008, was made by Ragnar Lian, and the second report, dated 9 July 2008, was made by Geir Husebø. The property's value was assessed respectively as NOK 850 000 and 800 000. Both experts had estimated a 'normal sales value', defined as the price the property could be sold for on the day of appraisal, meaning a price that more than one buyer would be willing to pay. One of the experts, Geir Husebø, also added to this definition in his report, that the assessment disregarded potential buyers who due to exceptional circumstances were willing to pay a particularly high price.

On 15 July 2008, the municipality invited SDO to a meeting to discuss a draft sales contract for the property for the first time. The municipality informed SDO of the appraisals, and that the sales price would be NOK 850 000. According to the municipality's minutes from the meeting, the municipality planned to decide on the result of the negotiations on 24 July 2008. SDO signed the contract on 18 July.

The appraisals were sent to OB at their request on 21 July 2008. By letter dated 23 July, OB complained about the appraisals, alleging that they did not reflect the proper market value. OB maintained, inter alia, that they were willing to pay a far higher price, based solely on a calculation of the profit they could derive from the property. The same day OB, forwarded a letter to the municipality with an offer of NOK 3,1 million. The offer was described as a 'starting offer' and was made on conditions that the necessary permits for developing the property would be granted, and that OB would be given sufficient time to design the building that was to be erected.

On 31 July 2008, the Municipality signed the contract with SDO. As the Authority understands the facts, it was only at this moment that a binding agreement under Norwegian law was entered into.

3. **The complaint**

In July 2008, OB complained to the Authority alleging that Oppdal municipality was going to sell property 271/8, which served as a parking area for customers of a nearby ski resort, without notifying the sale.

OB owns and operates a number of ski resorts in the Norwegian municipality Oppdal. The buyer of the plot in question, SDO, is a competitor who had previously leased an area from OB for use in its business related to ski equipment and ski instructor services. After OB increased the lease, SDO was looking for new premises.

([1]) Minutes from meeting 30 June 2008 in Oppdal Municipality (Formannskapet).

In its complaint, OB alleged that the property would be sold without conducting an unconditional bidding procedure, as described in the Authority's guidelines for sales of land and public buildings, paragraph 2.1 ([1]). OB also argued that the municipality had not acted in accordance with the alternative procedure described in paragraph 2.2 in the Authority's guidelines, since it had started sale negotiations with the potential buyer prior to obtaining an independent evaluation of the property. Moreover, OB maintained that it was unclear on which principles the evaluation reports are based. OB alleged that its own NOK 3,1 million offer, based on the same exploitation of the property as the buyer, showed that the market price was not reflected in the sales price, and that OB could not be considered to be a buyer with a particular interest in the property.

4. **Comments by the Norwegian authorities**

The Norwegian authorities consider that the procedure described in paragraph 2.2 in the Authority's guidelines for sales of land and public buildings had been followed, and that no State aid was involved in the transaction. The Norwegian authorities argue that the expert evaluations were obtained prior to any sale negotiations with SDO and reflected the market price. Oppdal municipality has in addition produced an overview dated 29 August 2008, of prices on sales of land in Oppdal, which shows that the price obtained for the property involved is the highest price per square meter known to the municipality.

The authorities further maintain that when assessing the market price the expert should consider which price regular buyers would pay for the property by voluntary sale. Speculative buyers, and buyers with particular needs should be disregarded. Thus, the experts in this case have assessed the market price correctly.

The offer of NOK 3,1 million from OB must in any case be regarded as coming from a party with a particular need, since OB has a dominant position in the local ski service market, and is willing to go far in eliminating it's competitors.

II. **ASSESSMENT**

1. **The presence of State aid within the meaning of Article 61(1) EEA Agreement**

Article 61(1) of the EEA Agreement reads as follows:

> 'Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Contracting Parties, be incompatible with the functioning of this Agreement'.

In the following, the Authority will assess whether the municipality of Oppdal has granted State aid to SDO in connection with the sale of the plot of land gbnr 271/8. If the transaction was carried out in accordance with the market economy investor principle, i.e. if the municipality sold the land for its market value and the conditions of the transaction would have been acceptable for a private seller, the transaction would not have involved the grant of State aid. On the contrary, State aid could be involved if the sale was not carried out at market price.

1.1. *Market investor principle*

As a point of departure, the assessment of whether a property has been sold at market value should be assessed at the time of the conclusion of the contract.

The State Aid Guidelines on State aid elements in sales of land and buildings by public authorities give further information on how the Authority interprets and applies the provisions of the EEA Agreement governing State aid when it comes to assessing sales of public land and buildings. Section 2.1 describes a sale through an unconditional bidding procedure, while Section 2.2 describes a sale without an unconditional procedure (by way of an independent expert valuation).

In this case, the municipality did not organise an unconditional bidding procedure but the sale took place on the basis of two value assessments carried out by independent experts. The assessments were obtained by the municipality on 7 and 9 July 2008, respectively.

([1]) State aid elements in sales of land and building by public authorities, published on the Authority's website: http://www.eftasurv.int/?1=1&showLinkID=15142&1=1

Section 2.2 of the State Aid Guidelines on State aid elements in sales of land and buildings by public authorities, regarding sale without an unconditional bidding procedure, provides that 'if public authorities intend not to use the procedure described under Section 2.1, an independent evaluation should be carried out by one or more independent asset values prior to the sale negotiations in order to establish the market value on the basis of generally accepted market indicators and valuation standards. The market price thus established is the minimum purchase price that can be agreed without granting State aid.' (Emphasis added)

Although SDO had already contacted the municipality in February 2007 and applied for an amendment of the use of property 271/8, and later the same month, signalled its interest in purchasing the property, the correspondence submitted by the Norwegian authorities indicates that the municipality refused to discuss a sale until the regulatory issues regarding the property were decided upon. This is the reason why it was not until 30 June 2008 that Oppdal municipality decided to obtain two value assessments, and then to proceed with the sale negotiations. According to the information provided by the Norwegian authorities, no discussions on the price or other conditions of the sale had taken place between the municipality and SDO prior to the value assessments.

Both reports estimated a very similar market value for the property: NOK 800 000 and 850 000. The price paid by the purchaser was determined by reference to the valuation report which indicated the highest price, i.e. NOK 850 000.

However, as the information has been presented to the Authority, before a binding contract was concluded on the basis of these value assessment, Oppdal municipality received a substantially higher offer of NOK 3,1 million from OB. Nevertheless, the municipality sold the land to SDO for NOK 850 000 on the basis of the price determined by the independent experts.

It would appear that a situation such as the one in the present case is not explicitly foreseen by the Guidelines. The Guidelines refer to two possible scenarios: first, the use of a bidding procedure; second, the use of independent expert valuation. However, they do not deal with the situation that a binding offer is received after the receipt of the expert evaluation but prior to the conclusion of a binding contract. In the case at hand, the offer was close to four times higher than the price considered to be market price by the experts.

The Authority considers that in a situation such as this, the submission of an offer is liable to cast doubts on whether the evaluations reflect the actual market price of the property. Generally, a credible and binding offer would seem to be a better basis for the determination of market price as it reflects what someone is actually prepared to pay for the property. The Authority notes that the Norwegian authorities have not presented any information substantiating that the offer was not credible or that it did not accurately reflect the market value of the property, inter alia, due to the special interest of the bidder in acquiring the property.

The Commission has in a decision of 30 January 2008, in Case C 35/06, dealt with a similar issue, i.e. the situation that an offer is made after the receipt of the expert evaluation. In its decision, the Commission stated:

> 'Even if the expert evaluation had been carried out in accordance with the communication [1], i.e. an evaluation of the actual plot of land that was to be sold carried out just before the sale and on the basis of generally accepted evaluation standards, this evaluation would only be a second best instrument to determine the market price of the land, in the absence of real price offers. From the moment that a credible and binding bid is submitted and provided that this bid is directly comparable to and higher than the price estimate according to the evaluation, the former must be preferred. The bid establishes a real market price and should be considered as a better proxy for the foregone State resources than an expert evaluation [2].

(1) Section 2.2 of the State Aid Guidelines on State aid elements in sales of land and buildings by public authorities corresponds to the Commission communication on State aid elements in sales of land and buildings by public authorities (OJ C 209, 10.7.1997, p. 3).

(2) Commission Decision of 30 January 2008 in Case C 35/06, OJ 2008, 14.5.2008, L 126/3, paragraph 59.'

On the basis of the above, the Authority cannot exclude that the sale of the concerned plot of land gbnr. 271/8 to Strand Drift Oppdal AS for the sales price of NOK 850 000 involved State aid within the meaning of Article 61(1) of the EEA Agreement, provided that the other conditions of the Article are fulfilled.

1.2. *The presence of State aid*

1.2.1. State resources

In order to qualify as State aid, the measure must be granted by the State or through state resources. The concept of the State does not only refer to the central government but embraces all levels of the state administration (including municipalities) as well as public undertakings.

If the municipality sold the land below its market price, it would have foregone income. In such circumstances, SDO should have paid more for the land and therefore there is a transfer of resources from the municipality.

For these reasons, the Authority considers that if the sale did not take place in accordance with market conditions, state resources within the meaning of Article 61(1) of the EEA Agreement would be involved.

1.2.2. Favouring certain undertakings or the production of certain goods

First, the measure must confer on SDO advantages that relieve the undertaking of charges that are normally borne from its budget. If the transaction was carried out under favourable terms, in the sense that SDO would most likely have had to pay a higher price for the property if the sale of land had been conducted according to the market investor principle, the company would have received an advantage within the meaning of the State aid rules.

Second, the measure must be selective in that it favours 'certain undertakings or the production of certain goods'. There is only one possible beneficiary of the measure under assessment, i.e. SDO. The measure is thus selective.

1.2.3. Distortion of competition and effect on trade between Contracting Parties

The aid must threaten to distort competition and be liable to affect trade between the Contracting Parties of the EEA Agreement.

A support measure granted by the State would strengthen the position of SDO vis-à-vis other undertakings that are competitors active in the same business areas. Any grant of aid strengthens the position of the beneficiary vis-à-vis its competitors and accordingly distorts competition within the meaning of Article 61(1) of the EEA Agreement. It appears that SDO operates in the market for ski rental and related services, economic activities which are subject to competition from other undertakings.

To the extent that the company is active in areas subject to intra-EEA trade, the requirements of Article 61(1) of the EEA Agreement for a measure to constitute State aid appear to be fulfilled [1]. It appears from the complaint that the ski resort in Oppdal competes for its customers particularly with ski resorts in Sweden. Also, the Swedish company, Skistar, is a large operator in the Norwegian market. Therefore, any state support granted in this case seems likely to affect trade between member states within the meaning of Article 61(1) of the EEA Agreement.

1.3. *Conclusion*

For the above mentioned reasons, the Authority has doubts as to whether or not the transaction concerning the sale by Oppdal Municipality of the plot of land gbnr 271/8 to SDO as laid down in the agreement between the parties signed 31 July 2008 entails the grant of State aid.

2. **Procedural requirements**

Pursuant to Article 1(3) of Part I of Protocol 3, 'the EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. […] The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision'.

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[1] Cf. Commission Decision 2003/521/EC 'Bolzano' paragraph 32, where it is stated that '… cableways used to support an activity capable of attracting non-local users will generally be regarded as having an effect on trade between Member States.' In this case, the intended use of the land was to erect a service center in support of the ski-sport activities in Oppdal. OB's web pages seem to indicate that its activities in Oppdal are capable of attracting customers from Sweden, cf. http://www.oppdalbooking.no/Index.aspx?PageID=276 and its rating among international ski resorts http://www.oppdalbooking.no/Index.aspx?PageID=248

The Norwegian authorities have not submitted a notification of the sale of land and the measure has been enacted. Therefore, the Authority concludes that if the measure constitutes State aid, the Norwegian authorities have not respected their obligations pursuant to Article 1(3) of Part I of Protocol 3.

3. **Compatibility of the aid**

Support measures caught by Article 61(1) of the EEA Agreement are generally incompatible with the functioning of the EEA Agreement, unless they qualify for a derogation in Article 61(2) or (3) of the EEA Agreement.

The derogation of Article 61(2) is not applicable to the aid in question, which is not designed to achieve any of the aims listed in this provision. Neither Article 61(3)(a) nor Article 61(3)(b) of the EEA Agreement applies to the case at hand. The area where the property is located can benefit from regional aid within the meaning of Article 61(3)(c) of the EEA Agreement, according to the Authority's Decision No 227/06 ([1]). However, the Authority's guidelines on National Regional Aid 2007-2013 at paragraph 30 require that the beneficiary has applied for aid and the authority responsible for administering the aid scheme has confirmed in writing that, subject to detailed verification, the project in principle meets the conditions of eligibility laid down by the scheme before the start of work on the project ([2]). Thus, the Authority has doubts regarding whether aid could be granted according to the above mentioned guidelines.

The Authority therefore doubts that the transaction under assessment can be justified under the State aid provisions of the EEA Agreement.

4. **Conclusion**

Based on the information submitted by the Norwegian authorities, the Authority has doubts as to whether or not SDO has received unlawful State aid within the meaning of Article 61(1) of the EEA Agreement in the context of the transaction regarding the sale of a plot of land.

The Authority has moreover doubts that this State aid can be regarded as complying with Article 61(3)(c) of the EEA Agreement.

Consequently, and in accordance Article 4(4) of Part II of Protocol 3, the Authority is obliged to open the procedure provided for in Article 1(2) of Part I of Protocol 3. The decision to open proceedings is without prejudice to the final decision of the Authority, which may conclude that the measures in question do not constitute State aid or are compatible with the functioning of the EEA Agreement.

In light of the foregoing considerations, the Authority, acting under the procedure laid down in Article 1(2) of Part I of Protocol 3, invites the Norwegian authorities to submit their comments within one month of the date of receipt of this Decision.

Within one month of receipt of this Decision, the Authority request the Norwegian authorities to provide all documents, information and data needed for assessment of the compatibility of the said transaction.

It invites the Norwegian authorities to forward a copy of this Decision to SDO immediately.

The Authority would like to remind the Norwegian authorities that, according to the provisions of Protocol 3, any incompatible aid unlawfully put at the disposal of the beneficiaries will have to be recovered, unless this recovery would be contrary to the general principles of law,

HAS ADOPTED THIS DECISION:

Article 1

The formal investigation procedure provided for in Article 1(2) of Part I of Protocol 3 is opened into the sale of the plot of land gbnr 271/8 in Oppdal, by Oppdal municipality.

Article 2

The Norwegian authorities are invited, pursuant to Article 6(1) of Part II of Protocol 3, to submit their comments on the opening of the formal investigation procedure within one month from the notification of this Decision.

([1]) The Decision is available at http://www.eftasurv.int/?1=1&showLinkID=10177&1=1

([2]) The Guidelines are available at http://www.eftasurv.int/?1=1&showLinkID=15125&1=1

Article 3

The Norwegian authorities are requested to provide within one month from notification of this Decision, all documents, information and data needed for assessment of the compatibility of the aid measure.

Article 4

This Decision is addressed to the Kingdom of Norway.

Article 5

Only the English version is authentic.

Done at Brussels, 3 November 2010.

For the EFTA Surveillance Authority

Per SANDERUD
President

Sverrir Haukur GUNNLAUGSSON
College Member

V

(Anuncios)

PROCEDIMIENTOS ADMINISTRATIVOS

COMISIÓN EUROPEA

Formación de los jueces nacionales en derecho de la competencia europea y cooperación judicial entre jueces nacionales

(2011/C 34/10)

Una nueva convocatoria de propuestas sobre la formación de los jueces nacionales en derecho de la competencia europea y cooperación judicial entre jueces nacionales fue publicada en

http://ec.europa.eu/competition/calls/index.html

Fecha límite de presentación de propuestas: 4 de abril de 2011.

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