



Commission closes State aid investigation into Danish and Swedish public financing of Øresund fixed rail-road link

Brussels, 13 February 2024

The European Commission has concluded that the State guarantee model granted by Denmark and Sweden for the construction of the Øresund fixed rail-road link does not constitute new aid within the meaning of EU State aid rules. The Commission has also found that part of the tax support implemented by Denmark constitutes new aid that is disproportionate and therefore not compatible with the Treaty. Denmark must now recover the incompatible aid, including interest.

The Commission's investigation

In [October 2014](#), following a complaint by a ferry company, the Commission found that Denmark and Sweden's support to the consortium owning and operating the Øresund fixed rail-road link, Øresundsbro Konsortiet I/S, was in line with EU State aid rules.

Denmark and Sweden's support took the form of a State guarantee on the loans taken out by the consortium to finance the link. Denmark also provided the Danish parent company of the consortium, A/S Øresund, with special tax treatment as concerns depreciation of assets and fiscal loss carry forward.

In September 2018, the General Court partially annulled the Commission's 2014 decision on procedural grounds. The General Court found that the Commission should have opened a formal investigation to assess the State guarantee and the special tax treatment in depth before adopting its State aid decision. Following the General Court ruling, the Commission opened an in-depth investigation in [February 2019](#).

The Commission's assessment

The Commission re-assessed the two measures under [Article 107](#) of the Treaty on the Functioning of the European Union ('TFEU'). Based on its in-depth assessment, the Commission concluded that:

- The **State guarantee** implemented by Denmark and Sweden amounts to State aid. The aid was granted to support the investment into the Fixed Link which was intended to be commercially exploited. However, as the aid was granted in 1992, long before the complaint was filed and before Sweden joined the EU, the aid is deemed to be existing and therefore there is no need for the Commission to carry out a compatibility assessment.
- The **special tax treatment** only partly constitutes new State aid. This is because part of those special tax rules were awarded more than 10 years before the complaint was filed. In addition, even if the Danish tax rules changed several times since 1992, the rules applicable to A/S Øresund were not always more advantageous. As a result, the special tax treatment is only considered as new aid with regards to certain periods. For those periods, the measures are incompatible with State aid rules given that they were not proportional. Denmark must now recover the incompatible aid.

As a matter of principle, EU State aid rules require that incompatible State aid is recovered without delay, to remove the distortion of competition the aid creates. There are no fines under EU State aid rules, and recovery does not penalise the companies in question. It simply restores equal treatment with other companies.

Denmark will determine the amount to be recovered, in line with the methodology set out in the Commission decision adopted today. Therefore, the total aid amount to be recovered is not known, at this stage.

Background

The Øresund fixed rail-road link is 16 kilometres long, consisting of a toll-funded bridge, an artificial island, and a tunnel for road and railway traffic from the Swedish coast to the Danish island of Amager. It connects Copenhagen, in Denmark, to Malmö, in Sweden. The Link was built between 1995 and 2000, and has been in operation since July 2000. The Øresundsbro Konsortiet, a

consortium formed by the Danish and Swedish States on the basis of an intergovernmental agreement, owns and operates the Øresund fixed link.

Traditionally, public support for the construction and operation of infrastructure projects was considered not to involve State aid. However, there have been important market developments, which led to increasingly commercial use of such infrastructures. The Court of Justice of the EU confirmed in 2012 that public funding of infrastructure investment projects is subject to EU State aid rules when the infrastructure is intended to be commercially exploited. Therefore, public funding for projects like the Øresund link must be assessed under EU State aid rules, to the extent they are confirmed to be economic in nature.

EU State aid rules allow Member States to grant support for infrastructure investments to stimulate economic growth, subject to certain conditions – they include, in particular, the need to avoid overcompensation and to ensure a level playing field in the Single Market.

The non-confidential version of the decision will be made available under the case numbers [SA.52162](#) and [SA.52617](#) in the [State Aid Register](#) on the [competition](#) website, once any confidentiality issues have been resolved. New publications of State aid decisions on the internet and in the Official Journal are listed in the [State Aid Weekly e-News](#)

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Quotes:

"The Øresund Link has been in operation for more than 20 years and has fostered regional integration bringing significant benefits to citizens and business. Following an in-depth investigation, we have decided to close the investigation into the Danish and Swedish public financing."

Margrethe Vestager, Executive Vice-President in charge of competition policy - 13/02/2024

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