

3 May 2018

PR(18)13

Fact Sheet: Statement of Objections sent to Widerøe

Background

In June 2014, the EFTA Surveillance Authority (ESA) conducted an unannounced inspection at the premises of the airline company Widerøe's Flyveselskap AS and collected a significant amount of data, including electronic data.

In June 2016, ESA [opened formal antitrust proceedings](#) against Widerøe to investigate whether the company may have infringed the EEA competition rules.

Widerøe is an airline that operates on public service obligation routes (PSO routes) in Norway. The routes are publicly financed to ensure adequate transportation in Norwegian regions. For safety reasons, a satellite-based approach system (called SCAT-1) is installed at several regional airports on the PSO routes. It was previously required that aircraft have SCAT-1 receivers installed on board to operate the PSO routes at airports with this system in place. As Widerøe owns all of the available on-board receivers, the company appears to be the only airline that could win public tenders for PSO routes affected by that requirement during the period under investigation.

ESA takes the preliminary view that Widerøe has abused a dominant position in breach of Article 54 of the EEA Agreement by refusing to supply SCAT-1 receivers to possible competitors. This view has been communicated to Widerøe in a Statement of Objections today.

Next steps

A Statement of Objections is a formal step in ESA's investigations into suspected breaches of the EEA antitrust rules. ESA informs the parties concerned, in writing, of the objections raised against them. The addressees can examine the documents in ESA's investigation file and reply in writing to the Statement of Objections. They may also request an oral hearing to present their comments on the case.

ESA takes a final decision only after the parties have exercised their rights of defence. Sending a Statement of Objections does not prejudice the final outcome of the procedure.

Widerøe is invited to comment on the Statement of Objections by 3 July 2018. If ESA's preliminary conclusions are confirmed, ESA may adopt a decision requiring Widerøe to cease the conduct identified as restrictive of competition and may also impose a fine.

ESA has the power to impose fines of up to 10% of global turnover on undertakings that act in contravention of the EEA rules. Fines are calculated in accordance [with ESA's guidelines](#).

Competition rules in the EEA Agreement

The competition rules in Articles 53 and 54 of the EEA Agreement correspond to those in the Treaty on the Functioning of the European Union (TFEU):

Article 53 EEA prohibits agreements or concerted practices which restrict competition between undertakings, such as price-fixing and market-sharing arrangements.

Article 54 EEA prohibits dominant undertakings from abusing their market power. That may be the case, for example, for certain practices aimed at eliminating competitors from the market.

The EEA competition rules are enforced across the EEA by ESA and by the European Commission. Responsibility for handling individual cases is divided between ESA and the Commission on the basis of rules laid down in the EEA Agreement. ESA's main task in the field of competition is to ensure that undertakings active in the EFTA States (Norway, Iceland and Liechtenstein) comply with the EEA competition rules.

Further information about the EEA competition rules and the role of ESA can be found on ESA's website: <http://www.eftasurv.int/competition/>

The EFTA Surveillance Authority (ESA)

- Ensures that Norway, Iceland and Liechtenstein respect the EEA Agreement
- Protects the rights of individuals and market participants
- Ensures timely implementation of EEA law
- Pursues breaches of EEA law
- Enforces the rules concerning state aid
- Takes action against breaches of the EEA competition rules