


EFTA SURVEILLANCE AUTHORITY

Doc. No: 00-779-I
Ref. No: SAM030.99.008
Dec. No: 59/00/COL

EFTA SURVEILLANCE AUTHORITY DECISION

OF 15 MARCH 2000

ON STATE AID TO MILJØBIL GRENLAND AS

(NORWAY)

THE EFTA SURVEILLANCE AUTHORITY,

HAVING REGARD TO the Agreement on the European Economic Area¹, in particular Articles 61 to 63 thereof,

HAVING REGARD TO the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice², in particular Article 1 of Protocol 3 thereof,

HAVING REGARD TO the Authority's Guidelines³ on the application and interpretation of Articles 61 and 62 of the EEA Agreement and Article 1 of Protocol 3 to the Surveillance and Court Agreement,

WHEREAS:

I. FACTS

1. The notification

By letter from the Mission of Norway to the European Union of 18 June 1999, received and registered by the Authority on 22 June 1999 (Doc. No. 99-4581-A), the Norwegian authorities notified pursuant to Article 1 (3) of Protocol 3 of the Surveillance and Court Agreement, State aid of NOK 1.000.000 regarding a project for leasing electrically powered cars by Miljøbil Grenland AS (MBG).

¹ Hereinafter referred to as the EEA Agreement.

² Hereinafter referred to as the Surveillance and Court Agreement.

³ Published in O J L 231 on 03.09.94, and in the EEA Supplement thereto No 32 on the same date, last amendment (25th) adopted by Decision No 52/00 COL of 01.03.00 (not yet published).

By letter dated 13 July 1999 (Doc. No. 99-5246-D), the EFTA Surveillance Authority acknowledged the receipt of the letter dated 18 June 1999 and requested additional information.

By letter of 15 October 1999 and by telefax of 3 November 1999, received and registered by the Authority on 18 October 1999 (Doc. No. 99-7758-A) and 9 November 1999 (Doc. No. 99-8364-A), the Norwegian Authorities submitted additional information.

2. Miljøbil Grenland AS

The Grenland Region, which is part of the Telemark county, has traditionally been viewed as a heavily industrialised and polluted area. During the last decades major efforts and sizeable investments have been made, both by industry and local authorities, to reduce emissions and clean up the environment.

Vekst i Grenland AS (ViG), a fund for restructuring of the region of Grenland owned by the four municipalities and enterprises located in the region, developed a trial project for leasing environmentally friendly cars to undertakings in the region. The purpose was to contribute to the achievement of a satisfactory quality of the local environment in the Grenland region by reducing emission levels from motor vehicles, on the one hand, and to improve the tarnished environmental image of Grenland, on the other. Through the project contact was established with Electricité de France (EDF), which had experience from a leasing project for electrically powered cars in La Rochelle in France.

Subsequently, MBG was established in 1997 to launch the business plan. The equity was NOK 5.000.000 owned 40% by Skiensfjordens kommunale kraftselskap (municipally owned supplier of electricity), 40% by EDF, 15% by Grenland Industriutvikling owned by Norsk Hydro (industrial conglomerate), the remaining 5% by Gjensidige Forsikring (insurance company), ViG and Miljøstiftelsen Bellona (environmental lobbyist organisation). MBG has one full time employee and two half time employees and had a gross turnover of some NOK 1 million in 1998 and of some NOK 3.8 million in 1999 (estimated). In the budget for the year 2000, MBG has calculated an estimate gross turnover of some 6.4 million.

MBG's competitors are mainly leasing companies, offering small and medium sized cars with combustion engines.

3. Business concept and State aid according to the notification

While providing benefits to the environment, electrically powered cars face several handicaps in comparison with cars with combustion engines:

- Electrically powered cars have a limited operating range. After about 100 km the batteries have to be recharged, and it takes longer time to recharge the batteries than to refuel a car with a combustion engine. There are also uncertainties concerning the availability of recharging stations and other service facilities.

- Lack of consumer experience/knowledge with electrically powered cars implies significant uncertainty with respect to the quality and the durability of the product. The consumer may also take account of the fact that the second-hand value is uncertain.
- The total costs of using an electrically powered car are significantly higher than a comparable ordinary car with a combustion engine. (During a period of 42 months with a driving distance of 12.857 km per year, the expenses will be about 45% higher, incl. acquisition costs, fuel/electricity, services, insurance and depreciation).

Despite the mentioned disadvantages, it is MBG's opinion that there is a market for such cars assuming:

- that MBG uses efforts to increase the general knowledge for electrically powered cars,
- that MBG builds up an adequate network of charging stations and competent service stations so that, to some extent, it can reduce uncertainty in the market for such cars, and
- that MBG makes potential users/firms aware of how they can, by using electrically powered cars in their businesses, contribute to an improvement of the environmental situation and that such users will benefit from an environmental friendly attitude in marketing their own businesses.

MBG started its business in 1998 and at the end of 1999 the company had entered into 110 leasing contracts, each contract with 42 months duration. According to the company, it is likely that it will enter into 140 more leasing contracts before the end of 2000. The company needs 300 leasing contracts to break even. This means that MBG so far runs with a deficit. MBG is neutral in relation to car producers. So far MBG offers Peugeot cars, but the company is considering both Renault and the new Think Nordic, produced in Norway and acquired by Ford Motor Company.

At the outset the idea of MBG was that its business should only cover the region of Grenland. However, the company changed its plans and has now entered into leasing agreements in other areas/cities.

MBG has, for the initial three-year period, calculated the expenses connected to the necessary marketing/strategy activities to be NOK 3.000.000. The major part of the amount is covered by money received from external resources:

EDF	NOK	1.000.000
ViG	“	850.000
GreKoNi (Grenlandskommunenes Nærings- og Infrastrukturfond)	“	1.000.000

GreKoNi is a local fund for development of enterprises of the Grenland region owned by the four municipalities of the region. The contribution from GreKoNi is the subject of the notification.

The grant of NOK 850.000 from ViG has not been notified as it was considered to fall under the *de minimis* rule. The aid from GreKoNi, NOK 1.000.000, was disbursed to MBG in 1998, before the Authority received the notification in 1999.

II. APPRECIATION

1. The presence of State aid

The grants from GreKoNi and ViG are aids awarded by local government, i.e. through State resources in the meaning of Article 61 (1) of the EEA Agreement. The transfer of State resources will favour MBG, that is a certain undertaking in the meaning of Article 61 (1) of the EEA Agreement. The benefiting enterprise is actually or potentially in competition with other car leasing companies in Norway and other EEA states. The aid threatens to distort competition and affect trade within the EEA, and therefore constitutes State aid in the meaning of Article 61 (1) of the EEA Agreement. The grants exceed the *de minimis* threshold⁴.

The Norwegian authorities have notified, by letters dated 18 June 1999 (Doc. No. 99-4581-A), 15 October 1999 (Doc. No. 99-7758-A) and 3 November 1999 (Doc. No. 99-8364-A) their grant of aid. Consequently the EFTA Surveillance Authority is obliged to assess whether any of the exemption clauses under Article 61 (2) or (3) of the EEA Agreement are applicable in order to exempt the aid measure from the general prohibition of aid under Article 61 (1) of the EEA Agreement.

2. Procedural obligations

Article 1 (3) of Protocol 3 to the Surveillance and Court Agreement states that “[t]he 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 last sentence of the same paragraph provides that “[t]he State concerned shall not put its proposed measures into effect until this procedure has resulted in a final decision.”

In the present case the aid from GreKoNi was already disbursed to MBG in September 1998, and the aid from ViG was disbursed in two equal instalments on 1 March 1999 and 1 September 1999. This means that the Norwegian authorities have failed to comply with the procedural obligations.

3. Application of the relevant State aid rules

Consistent with the information above, MBG has received State aid amounting to NOK 1.850.000 in connection with the introduction of environmentally friendly cars on the market.

⁴ State Aid Guidelines chapter 12.

According to section 23.3.5 (1) of the State Aid Guidelines regarding aid to the motor vehicle industry, aid to combat pollution in general may be compatible with the EEA Agreement provided that it complies with the guidelines on aid for environmental protection (Chapter 15 of the State aid Guidelines).

Chapter 15 of the State aid Guidelines prescribes a strict approach towards operating aid. Under certain circumstances, however, the provisions provide the possibility of exemptions for such aid.

To the extent measures fall within Article 61 (1) of the EEA Agreement, sections 15.4.2 – 4 of the State Aid Guidelines lay down that:

- aid for publicity campaigns to increase general environmental awareness and provide specific information about environmentally friendly products will normally be exemptible,
- operating aid may be accepted for a limited time period in certain well-defined circumstances provided that the aid only provide for extra production costs by comparison to traditional costs,
- aid to encourage final consumers (firms and individuals) to purchase environmentally friendly products may be authorized provided that they are granted without discrimination as to the origin of the products and do not exceed 100 % of the extra environmental costs.

The Guidelines also state that individual cases will be assessed on their own merits.

The electrically powered cars are considered to be “*environmentally friendly products*”, since they have no emission which contribute to the green house effect, make very little noise, and their batteries are subject of recycling.

MBG is not linked to a particular car company and thus free to choose any purveyor.

A major part of MBG’s activities relate to various information and publicity activities like participation in international conferences about electrically powered cars, dissemination of knowledge about electrically powered cars through their home-page on the internet, arranging conferences locally about electrically powered cars, holding lectures at conferences on the subject, participation in the forming of an environmental policy for Telemark county, etc. These activities contribute to increasing consciousness concerning environmentally friendly products and in particular electrically powered cars. Moreover, the aid is likely to facilitate and stimulate other suppliers/competitors to put electrically powered cars on the market.

The nature of the mentioned information and publicity activities is different from what other ordinary car leasing companies are engaged in. It represents an additional cost for MBG going beyond traditional marketing expenses for car leasing companies. During 1998, 1999 and 2000 MBG’s marketing expenses are calculated to be NOK 3 million. This represents about 26.7 % of the company’s estimated gross turnover, NOK 11.2 million, for the three-year period.

The Authority takes the view that for a limited time period, in the case at hand, three years from the start of the project, the extra marketing costs can be calculated by

comparing MBG's marketing expenses with the corresponding expenses of other ordinary car leasing companies. Based on information from an international car leasing company in Norway, one can presume that it is common to use some 5–10 % of such a company's gross turnover to cover marketing and selling expenses. During an initial stage of a new business, the level will likely be closer to 10 % than 5 %.

Against the information provided above, the Authority has estimated the extra marketing costs for MBG to be:

Total marketing/selling expenses	NOK 3.000.000
- Ordinary marketing and selling expenses (NOK 11,2 mill. x 10 %)	<u>NOK 1.120.000</u>
= Extra marketing costs	NOK 1.880.000

Thus, it appears that the State aid to MBG doesn't exceed the calculated extra marketing costs.

NOK 1.000.000 of MBG's marketing expenses are covered by EDF in its capacity of shareholder. There is not reason to believe that EDF's involvement in and contributions to MBG are not based on commercial principles.

MBG's project of putting a large number of electrically powered cars onto the market, is the first one of its kind in Norway, and can be characterised as a pilot project. If the introduction of electrically powered cars becomes a success, other leasing companies would benefit from the work that has been done by MBG. Besides the benefits from the marketing activity, the infrastructure built up will also be of importance in this respect.

Any adverse competitive impact of the aid to MBG is considered to be currently negligible.

With reference to the above considerations, the Authority concludes that the aid to MBG qualifies for exemption under Article 61(3)(c) of the EEA Agreement, as aid to facilitating the development of certain economic activities, without adversely affecting trading conditions to an extent contrary to the common interest.

HAS ADOPTED THIS DECISION:

1. The EFTA Surveillance Authority has decided not to raise objections to the financing of Miljøbil Grenland AS, as notified by the Norwegian authorities by letters of 18 June 1999 (Doc. No. 99-4581-A) and 15 October 1999 (Doc. No. 99-7758-A), as well as by telefax of 9 November 1999 (Doc. No. 99-8364-A).

Done at Brussels, 15 March 2000
For the EFTA Surveillance Authority

Knut Almestad
President

Bernd Hammermann
College Member