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**Subject: Railway undertakings transporting goods on Norwegian network  
infrastructure - compensation scheme for cancellations**  
- Letter concluding pre-notification contacts

Reference is made to information provided in the pre-notification submitted by the Norwegian authorities, on the proposed compensation scheme for network cancellations to undertakings transporting goods on Norwegian railway infrastructure.

The Competition and State Aid Directorate (“CSA”) of the EFTA Surveillance Authority has come to the preliminary conclusion that the scheme, as described by the Norwegian authorities, does not involve state aid within the meaning of Article 61 of the EEA Agreement. The compensation scheme appears to be comparable to an activity carried out by a market economy operator, and therefore does not confer an advantage on the undertakings benefitting from the scheme.

## Background

Jernbaneverket is the administrative body within the Norwegian Government responsible for managing the Norwegian railway infrastructure. As from 1 January 2017, a railway reform will be gradually implemented in Norway; Jernbaneverket will cease to exist, and a new state-owned enterprise will manage the railway network.

Under the current system, Jernbaneverket does not charge undertakings for railway track access, nor does it compensate undertakings for delays or cancellations. According to the Norwegian authorities, the new state-owned enterprise will adopt a more commercial approach by, *inter alia*, implementing a charging scheme for track access, increasing the service level and the reliability of the network, as well as providing financial compensation in the case of cancellations.

In the transitional period leading up to the full implementation of the reform, the Norwegian authorities plan to implement a temporary compensation scheme for cancellations on the railway network. The main motivation behind the scheme is to *i)* reduce the long-term decline in demand for transport by rail due to infrastructure failure, and *ii)* increase demand for rail freight services by lowering costs due to cancellations. Jernbaneverket asserts that a positive income potential under the new charging system cannot be realised if many of the operators currently transporting goods by railroad move their operations to the road network during the transitional period.

**Description of the proposed compensation scheme:**

The compensation scheme will apply to licensed railway undertakings carrying goods on the national railway network, that have entered into agreements on track access and use of services with Jernbaneverket. It will only apply to cancellations related to incidents on the Norwegian railway network, and will not apply to delays.

The proposed compensation scheme will consist of two parts: *i)* a lump-sum compensation covering the undertakings' fixed costs, which they are not able to reduce in the case of a cancellation, and *ii)* a variable sum covering the undertakings' costs related to booked cargo scheduled on trains that do not run. The scheme will last until March 2019.

**Assessment**

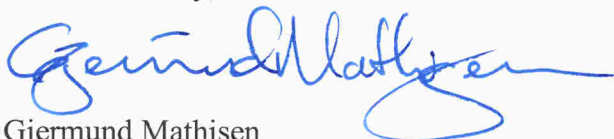
CSA understands that with the pre-notified scheme, Jernbaneverket seeks to incentivise undertakings to transport goods by rail, with a view to generate income from rail operations in the future. The profitability of the proposed scheme depends on the additional revenue generated by the increase in demand for track access, offset by the cost of the scheme.

The Norwegian authorities have not provided an exact estimate of expected additional revenues resulting from the scheme. However, they have provided net present value analysis with different sensitivities showing that the scheme, even with conservative assumptions on expected revenue, will generate a net profit. According to the Norwegian authorities, the scheme will be profitable if it prevents a market decline by 13-18%. Based on an analysis of demand patterns related to cancellations provided by Jernbaneverket, this is well within the expected effect of the scheme. The compensation scheme thus appears to be comparable to an activity carried out by a market economy operator, and therefore does not confer an advantage on the undertakings benefitting from the scheme.

**Final remarks**

This is a letter concluding the pre-notification contacts in the case at hand in accordance with paragraph 16 of the Authority's Guidelines on Best Practice for the conduct of state aid control procedures. It represents CSA's informal preliminary assessment, and it is as such not binding on the Authority. The Norwegian authorities remain free to notify the measure to the Authority should they deem it necessary to obtain a formal decision on the measure pursuant to Article 4 of Part II of Protocol 3 to the Surveillance and Court Agreement.

Yours faithfully,



Gjermund Mathisen  
Director

Competition and State Aid Directorate