

EUROPEAN COMMISSION
Competition DG

State Aid General Scrutiny and Enforcement
Infrastructure and Regional Aid

Brussels, 11/07/2016
COMP H1/KDM-BPI/ma 2016-067973

Permanent Representation of the
United Kingdom to the EU
10 Avenue d'Auderghem
1040 Brussels

Subject: SA.45479 - Alleged aid to West Ham for the use of the London Olympic Stadium

Dear Sir/Madam,

In the above mentioned matter and further to cases SA.33604 and SA.36401, the Commission has received a formal complaint concerning the granting of alleged state aid to West Ham. Please find attached the non-confidential version of the complaint. You will notice that the complaint brings forward some additional elements that were not dealt with in your earlier submissions of 16 October 2012 (non-paper), 9 April 2013 (supplementary non-paper), 2 May 2013 and 4 February 2014 (replies to questions from the Commission).

The Commission services would welcome if your authorities could analyse the potential presence of state aid to West ham for the use of the London Olympic Stadium, as presented by the complainant, also in the light of section 7.4. of the recently adopted Commission Communication on the Notion of Aid¹. Paragraph 226 of this document states that, *in accordance with the general principles explained in section 4.2., an advantage to users in such cases can be excluded where the fees for the uses of the infrastructure have been set through a tender that meets all the relevant conditions set out in paragraphs 90 to 96*. Please provide us with an analysis taking into account those criteria.

In addition, we would also like to hear your views on the points listed below. For each of those elements, please explain what was foreseen a) in the invitation to tender (ITT) of

¹ http://ec.europa.eu/competition/state_aid/modernisation/notice_of_aid_en.pdf

Please specify the name of the case and the case number in all correspondence.

December 2011, b) in the West Ham bid responding to that ITT and c) in the concession agreement of 22 March 2013 between E20 Stadium and West Ham. Please also explain whether there are any differences between the situation on the ground and the provisions of the concession agreement.

- a) The total conversion cost mentioned in the complaint is £272 million. The total conversion costs mentioned in your previous submissions were lower. As presented by the complainant, also the amount communicated at the time of the signing of the concession agreement, would have been lower. Please clarify indicating, for instance, whether anything has changed as to the stadium specifications.
- b) As mentioned by the complainant, the seating capacity would have increased.
- c) The complainant alleges that West Ham would receive additional facilities and services, estimated between £1.4 and £2.5 million. Please also comment on the costs of stadium maintenance, repair and lifecycle costs and on any other provision of benefits (such as the staff provision to ensure the safe and efficient operation and management of the stadium, the spectators and the public; the police services; the services related to unauthorised products offering).
- d) West Ham usage fees are reimbursed / reduced in case another concessionaire also uses the stadium as its home ground for the playing of football.
- e) The complaint raises several points as to priority usage and ground sharing agreements.
- f) Please comment on the appearance of the stadium and the allegations on the seating as discussed in the complaint. Please clarify whether this is in line with the multi-functional character of the stadium.

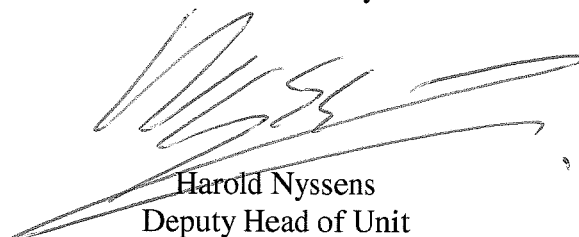
Should your authorities be of the opinion that the issue does not involve unlawful aid, it would be appreciated if your authorities could provide their own summary of the facts, as well as the reasons why they do not consider the alleged aid to be unlawful aid. The Commission could then forward this assessment to the complainant, if it is plausible, in order to allay his previous suspicion. To this end, we will assume your agreement that your answer could be forwarded to the complainant. Should this not be the case, please indicate the precise issues that you consider confidential and provide a non-confidential version. Please also indicate to what extent the documents provided by your authorities in cases SA.33604 and SA.36401 could be provided to the complainant. Should it be useful, and for certain elements of the complaint, please feel free to refer to those non-confidential versions of your previous submissions.

I would appreciate to receive clarification of the above issues within 40 working days from the date of receipt of this letter.

Please note that if the Commission does not receive sufficient information, the Commission's services might be obliged to propose an information injunction pursuant to Article 12 (3) of the Council Regulation (EU) 2015/1589 of 13 July 2015 laying down

detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union.² Moreover, if the Commission's services are not able to clarify these issues, a formal investigation procedure might have to be opened on the basis of the information available.

Yours faithfully



Harold Nyssens
Deputy Head of Unit

Contacts: Ms Katrien De Marez (☎ 32-2 29 64482) katrien.de-marez@ec.europa.eu;
Ms Barbara Pirchner (☎ 32-2 29 99848) barbara.pirchner@ec.europa.eu.

² OJ L 248 of 24.9.2015.

