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5th February 2016

STRICTLY PRIVATE & CONFIDENTIAL

Ms Siv Jensen
Minister of Finance
Ministry of Finance
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Norway

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Dear Minister

Please find enclosed a copy of Ryanair's submission to the Norwegian Government on the proposed Amendment for the Excise Duty Regulation – Air Passenger Tax.

We are available to discuss Ryanair's submission with you should you wish.

Yours sincerely

David O'Brien
Chief Commercial Officer

c.c. Mr Ketil Solvik-Olsen, Minister of Transport and Communications
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3rd February, 2016

Consultation paper – amendment of the excise duty regulations – air passenger tax – Ryanair's response

Ryanair, Europe's largest airline will account for 39% of all new EU short haul capacity in the next ten years, and delivers 2m passengers per annum to Norway, yet the Government has failed to consult in advance on this tax. Ryanair's submission follows however questions arise as to the bona fides of this consultation:

a. Consultation document originally distributed to 3 Norwegian Airlines
b. The Consultation document was originally published only in Norwegian
c. Norway's Prime Minister has already made public comments dismissing Ryanair's contribution by referring to letters submitted Privately and Confidentially

The Consultation Document fails to provide any rationale for the tax, although it has publically been justified as an environmental measure. Airlines already pay environmental taxes under the EU's Emissions Trading Scheme (ETS). We also note that IATA have forecast a 5% reduction in traffic in Norway, far greater than the 1% estimated in the consultation document.

The Government has approved a 0% VAT rate for media because it promotes "media pluralism and diversity". We can only assume that this new, unjustified, tax intends to prevent such diversity in Norway's aviation sector, and reduce competition for the benefit of the state owned airline, and Norway's "home" carriers.

Summary response:

1. The proposed tax is discriminatory and will distort competition
    - Transfer and transit passengers are exempt
    - 70mNOK p.a. Government subsidy to Norwegian airlines
    - Affects low fares airlines and private airports disproportionately

2. The proposed tax will cause environmental harm
    - Favours flights on half-empty, fuel guzzling aircraft
    - Encourages transit and transfer flights – i.e. two flights for one journey

3. The proposed tax will damage Norwegian economic growth
    - Experience of Netherlands, Ireland, UK, Germany Governments (absent from Consultation)
    - Prolong and intensify the economic downturn in Norway
    - Further extend growing aviation gap between Norway and Denmark

4. The tax is open to legal challenge
    - Double taxation – airlines already pay ETS taxes
    - State aid
    - Distortion of competition between airlines and between airports
    - No justification or rationale to exempt transit and transfer passengers

5. The consultation document is factually incorrect and contradictory
    - The document assumes that traffic will, in fact, grow, when all evidence shows it will shrink, in real terms

Detailed response:

Reference to specific sections of the consultation document are in italics

1. The proposed tax is discriminatory and will distort competition

- Transit and transfer passengers are exempt (*1.2.c; 5.4.3*): which discriminates in favour of (Norwegian) airlines with a hub at Gardermoen:
    - Transfer / transit passengers are less environmentally friendly because they use 2 or more flights to reach their destination.
    - There is no environmental rationale to exempt transit and transfer passengers
    - Airlines will be incentivised to carry transfer passengers to reduce tax on a per passenger basis
- Norwegian Government proposes to pay the tax for passengers covered by Government contracts (*6*) – see table 1, below.
    - Estimated 70mNOK subsidy to airlines which already enjoy guaranteed passengers without offering lowest fares
    - State aid to Government owned airline and/or Government owned airport – Government pays Government owned airline to pay tax at Government owned airport, to be returned to the Government
    - No guarantees of fare increases or market share maintenance provided to any other airlines
- Tax disproportionately affects low cost airlines - 80NOK is a higher percentage of both ticket price and airport fees (*6*).
    - 80NOK tax represents 17% of Ryanair's average fare, but only 10% of Norwegian's
    - More than 100% of Rygge and Torp's charges, yet only 36% of Oslo Gardermoen
    - 80NOK represents a 28% increase on Ryanair's costs, vs 13% of Norwegian (source: latest annual reports)
- The tax will reduce hard earned cost advantage of private airports and the ability of airlines to offer direct flights from less central airports
- Low cost airlines and private airports carry more leisure passengers which are forecast to be more affected (*6*)
- The Government tax will create a monopoly for Government-owned Avinor, since Rygge and possibly Torp may be forced to close since the tax exceeds their current charges.

Table 1:
The following table demonstrates the approximate average tax per departing passenger which will be paid by SAS, Norwegian and Ryanair, once exemptions and subsidies are taken into account.

	SAS	Norweiga	Ryanair
Dep seats p.a. (m)[1]	14.20	12.20	1.10
Load factor[2]	70%	75%	80%
Total departing pax p.a. (m)	9.94	9.15	0.88
Transfer pax p.a. (m)[3]	4.10	3.30	0.00
Eligible pax for tax p.a. (m)	10.10	8.90	1.10
Tax p.a. (mNOK)	808	712	88
Government subsidy p.a. (mNOK)[4]	35	35	0
Total tax p.a. (mNOK)	773	677	88
Tax per dep passenger (NOK)	54	55	80

1. Source: Capstats
2. Source: annual reports / estimation of actual flown pax
3. Source: capstats, estimation of 40% domestic passengers are transfer
4. Estimation: SK and DY receive 50% each of Government 70mNOK subsidy

2. The proposed tax will cause environmental harm

- The tax will reduce the ability of all airlines to offer low fares and fill direct flights, which is more environmentally friendly
- The "environmental" tax fails to differentiate between environmentally friendly airlines and assumes the same level of pollution by all *(5.1)*
    - o Airlines which carry a larger number of passengers (one class, high load factor, high seat density), and operate newer, cleaner aircraft, pay the same per passenger as those which are inefficient.
    - o Treating these different situations equally creates discrimination in favour of the state owned airline, which operates smaller aircraft and lower load factors than Ryanair.
- A tax of 80NOK will not change the environmental behaviour of airlines: aircraft are moveable assets, cost upwards of $100m and have to be ordered at least 5 years in advance
    - o It will simply move capacity elsewhere and not reduce pollution
    - o Airlines are already incentivised to reduce fuel burn and therefore pollution since this would reduce fuel costs, the largest cost line of any airline
    - o Ryanair, for example, has ordered 200 737-800 MAX aircraft, which deliver fuel burn saving of 18%, which on the basis of our 2015 published accounts, would reduce costs by €360m p.a.

The tax therefore favours environmentally unfriendly airlines such as SAS, who ranked last (20th) in the Brighter Planet report attached, and discriminates against FR who ranked 1st.

3. The proposed tax will damage Norwegian economic growth

- The consultation document fails to consider available evidence of implementation and abolition of Air Passenger Tax ain other European jurisdiction: *(4)*:

    - o Holland (omitted from consultation document):
        - ▪ Abolished aviation tax in 2009, one year after its introduction as the tax had stifled growth and resulted in a loss to the economy of €1.2bn
        - ▪ The tax was introduced during an economic downturn (similar conditions to those currently developing in Norway), and was abolished because it prolonged the downturn and obstructed recovery
        - ▪ The Dutch aviation tax generated €88m and lost €1.3bn, an overall loss of €1.2bn per annum, and prolonged the Netherlands' economic downturn
        - ▪ The following excerpts are taken from a report for the Ministry of Infrastructure and Environment by the KiM Netherlands Institute for Transport Policy Analysis ("Effects of the Air Passenger Tax, Behavioural responses of passengers, airlines and airports")

"Passenger volumes at Schiphol were expected to drop by 8 to 10%. (*Note: Norway expects only 0.6-1.5% reduction*). Passenger volumes at Schiphol immediately decreased following implementation of the air passenger tax.

"As part of the Dutch government's 'Economic Crisis and Recovery Plan' the air passenger tax was initially set at zero and then subsequently abolished.

"As a direct result of the air passenger ticket tax, SEO (Economic Research Organisation) estimated the loss of business for airlines, airports, tour operators and the tourism industry in the Netherlands at approximately 1.2 to 1.3 billion euros (SEO, 2009)

"The income generated by the air passenger tax was lower than expected. As stated in the Coalition Agreement, a structural income of 350 million euros per year as of 2008 was envisioned. The draft budget of 2008 was 152 million euros. According to the 2008 Annual Financial Report of the State, the actual income generated was 88 million euros"

- Ireland (omitted from consultation document):
  - Introduced €10 air travel tax in 2009, reduced to €3 in 2011, abolished in 2014
  - Capacity in 2014 represented a 20% reduction from 2010, (last year before tax)
  - In 2015, the first full year since its abolition, Dublin airport has grown 12% (2.5m passengers), in comparison to EU average of 5%
  - Michael Noonan, Ireland's Minister for Finance said in his 2015 budget speech:

"...the abolition of the air travel tax improved Ireland competitiveness. The benefit of these policies can be seen in tourist numbers, new businesses, the survival of established businesses and, most of all, in employment."

- UK:
  - Air Passenger Duty ("APD") in UK was doubled from £5 to £10 per departing passenger in 2007
  - Total capacity at EU airports has grown 24% during 2006-2015 whereas total capacity at UK airports has grown by just 5% due to imposition of APD
  - In the UK regions, there has been no capacity growth in the same period
  - The Scottish Government has confirmed plans to abolish APD to stimulate economic growth and business connections to its cities
  - The Northern Irish Government was forced to abolish long haul APD to maintain its Belfast-Newark route, but short haul APD remains in place and Government bodies now provide "marketing support" equal to the tax to airlines which will generate new EU city connections
  - 900,000 people from Northern Ireland travel to Dublin each year, where there is no APD, to avail of lower fares, superior choice and schedules
  - Airports in the UK are privately owned and competitive, and have been able to partially offset some of the tax impact by cost reduction in a competitive environment. 54 out of 56 Norwegian airports are owned by the state owned monopoly Avinor.

- Germany:
  - €7.50 aviation tax introduced in January 2012
  - Traffic has grown just 3% since then, in comparison with EU average of 10%
  - Germany outperformed the European growth average until 2012, since when it has underperformed
  - The tax has disproportionately impacted smaller, regional airports, which rely on hard earned cost efficiency advantage to attract efficient airlines which can generate passenger demand for travel from smaller population centres
  - Since 2011, the largest 9 airports in Germany have grown by 5%, and the remaining 23 have reduced by on average 11%
  - 7 airports have closed completely.

- Not only is the real impact of aviation taxes far greater than the 0.6-1.5% forecast by Norway, but Holland, Northern Ireland, Scotland and Ireland have all abolished, amended, or plan to abolish aviation taxes in response to significant economic damage

4. The tax is open to legal challenge

- Double taxation: the EU Emissions Trading Scheme (ETS), in place since 2005, already taxes emissions. Companies must monitor and report CO_2 emissions and purchase allowances if emissions exceed the permitted amount. The ETS scheme is a major pillar of EU climate change policy, and Norway is a participant.
- State aid: the Government will subsidise airlines carrying Government passengers with 70mNOK p.a., which will reduce the amount of tax paid by these airlines.
- Distortion of competition: transfer and transit passengers are excluded, to the benefit of legacy carriers and the Government owned airports. The tax places a higher cost burden on low cost airlines and private airports.
- Airlines typically plan capacity and schedules 9-12 months in advance. Just 4 months' notice has been provided of the Government's *intention* to include the tax in its budget from April. The Airport Charges Directive (2009/12/EU) obliges airports to publish decisions, after consultation, no less than 2 months before they enter into force. The Government, the owner of more than 90% of Norwegian airports, should therefore delay its introduction until one full season after the consultation is complete and specific tax collection measures are finalised.
- The tax applies to passengers already booked to travel, yet the consultation document claims the levy is "passed on" *(6)*. Airlines cannot pass the tax on to passengers who have already booked, yet expects airlines to pay the tax.

5. The consultation document is inaccurate and factually incorrect

- No evidence is provided to support factually inaccurate claims
- The document references a reduction of 0.6-1.5% in capacity (*6*) if the tax is introduced
    - IATA have confirmed traffic will fall by at least 5%
    - Ryanair will close its Rygge base and reduce overall capacity by c.600k seats or 2% of total Norwegian traffic
    - A 1% overall reduction would therefore require all other carriers to <u>grow</u> by 1%
    - As set out in above, the impact of other aviation taxes has been well in excess of a 1% reduction.
- An increase of 1% in ticket prices is foreseen:
    - 80NOK represents a 17% price increase for Ryanair. 1% would cover just 6% of the aviation tax.
    - If Ryanair largely exits the market, resulting fares of the state owned SAS and Nowegian duopoly will increase well in excess of 1% through lack of competition.
- The document claims, without evidence, that fares for summer 2016 are expected to increase at a fast rate for summer 2016. The fact is that average fares in April in Oslo are lower than those in April 2015.
- Ryanair's capacity transfer from Norway would reduce the average aircraft size at Norway's airports to reduce from current 112 to 110. Since Ryanair also has highest load factors in Europe (average 93%), there would be at least 2% fewer passengers per flight. The consultation document fails to consider the impact on efficiency and increase in associated pollution on a per passenger basis also been considered?