

**From:** [Moore, Stephen \(DfE\)](#)  
**To:** [Stephen.Clark-Foulquier@fco.gsi.gov.uk](#)  
**Cc:** [Irrelevant information redacted by the RHI Inquiry](#); [Murphy, Shane](#); [McCausland, Fiona](#); [Wightman, Stuart](#); [Marten, Lucy](#); [Wilson, Karen \(DfE\)](#); [Murray, Amanda](#); [McCormick, Andrew \(DFE\)](#); [Rooney, Eugene](#); [Stewart, Chris \(DFE\)](#)  
**Subject:** Re: Derry SGEI & RHI  
**Date:** 07 December 2016 12:15:54

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Stephen

Many thanks for this feedback.

On Derry SGEI - not at all sure what Comp means by "substitutability".

Before I feed this back to the council, to pre-empt the obvious question, could you ask them to clarify?

On RHI - we will consider the Commission advice.

For our records, who all was present at the meeting, UK side as well as DG Comp?

Thanks

Stephen

Sent from my BlackBerry 10 smartphone.

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**From:** Stephen.Clark-Foulquier@fco.gsi.gov.uk  
**Sent:** Wednesday, 7 December 2016 12:03  
**To:** Stephen.Moore@economy-ni.gsi.gov.uk  
**Cc:** [Irrelevant information redacted by the RHI Inquiry](#)  
**Subject:** Derry SGEI & RHI

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Hi Stephen,

## **Derry – SEGI**

At the meeting this morning COMP mentioned recent decisions on SGEI Airports relating to Swedish airports. COMP said these would be useful for NI to consider to get a sense of the key criteria and logic the Commission use when assessing SGEIs for airports.

[http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_38892](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_38892)

[http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_38757](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_38757)

There will be another decision out shortly which COMP will forward as soon as it is public. On the monitoring we should hear from COMP in January and COMP said probable outcome is more questions on the substitutability of the air routes Derry airport serves.

## **RHI**

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61987CJ0106> – Asteris 1988 case law  
COMP mentioned that the key question if NI go for option 1 in the non paper of revoking the scheme is there a general legal provision in UK law that means the beneficiaries need to be compensated in a fair and reasonable manner – the Asteris case law should be considered. If the criteria in the Asteris case law is met we do not need to formally notify the revocation to COMP as it is non-Aid. If they are not met we will need to notify as COMP will have to consider if the compensation counts as compatible aid.