



REGIÃO AUTÓNOMA DOS AÇORES  
Secretaria Regional das Finanças, Planeamento e Administração Pública

Sua Excelência O Presidente da  
Assembleia Legislativa da Região  
Autónoma dos Açores  
Rua Marcelino Lima 9901- 858 Horta

<b>S/Referência</b>	<b>S/Comunicação</b>	<b>N/Referência</b>	<b>Data</b>
S/598/2022	01/03/2022	Sai-AP/2022/45	14/06/2022

**ASSUNTO:** Requerimento n.º 308/XII – “PS/Açores solicita divulgação do Plano de Reestruturação da SATA, com urgência” apresentado pelos Senhores Deputados Carlos Silva, Sandra Dias Faria, Vilson Ponte Gomes, Miguel Costa, e Tiago Branco, do Grupo Parlamentar do PS

Em resposta às questões colocadas no requerimento referido em epígrafe, subscrito pelos Senhores Deputados Carlos Silva, Sandra Dias Faria, Vilson Ponte Gomes, Miguel Costa, e Tiago Branco, do Grupo Parlamentar do Partido Socialista, cumpre-me informar V. Ex<sup>a</sup>. do seguinte:

**1. Quantas versões do Plano de Reestruturação do Grupo SATA foram apresentadas à Comissão Europeia?**

O Plano de Reestruturação, que se remete em anexo, é o epílogo de um processo negocial para salvar a SATA, que o XIII Governo Regional encontrou em falência.

**2. As alterações efetuadas ao Plano de Reestruturação do Grupo SATA foram discutidas e aprovadas em sede de Conselho de Governo Regional dos Açores?**

Não.

**3. Qual o impacto financeiro do plano de reestruturação da SATA no Orçamento da Região Autónoma dos Açores de 2022 e anos seguintes?**

Nenhum.



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- 4. Solicita-se cópia integral da versão original e respetivas alterações ao Plano de Reestruturação do Grupo SATA, apresentado à Comissão Europeia e que está a ser negociado.**

Remete-se para a resposta à pergunta 1.

Com os melhores cumprimentos,

O Secretário Regional das Finanças, Planeamento e Administração Pública

Assinado por: **DUARTE NUNO D'ÁVILA MARTINS  
DE FREITAS**

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Brussels, 18.8.2020  
C(2020) 5764 final

<p>In the published version of this decision, some information has been omitted, pursuant to articles 30 and 31 of 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, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus [...]</p>		<p>PUBLIC VERSION</p> <p>This document is made available for information purposes only.</p>
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**Subject: State aid SA.58101 (2020/N) – Portugal - Rescue aid to SATA Group**

Excellency,

The European Commission ("the Commission") wishes to inform the Portuguese Republic that, having examined the information supplied by your authorities regarding past and planned public financing in favour of SATA Air Açores - Sociedade Açoriana de Transportes Aéreos S.A. ("SATA Air Açores" or "SATA" or "the beneficiary"), it has decided to initiate the procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union ("TFEU").

The Commission also wishes to inform the Portuguese Republic that it has decided not to raise any objections to individual aid to SATA Air Açores related to the provision of public service obligations or services of general economic interest related to air transport to the Region Azores and to the management of the airports in the same Region, on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) and Article 106 (2) of the TFEU.

The Commission has based its decision on the following considerations:

S. Ex.<sup>a</sup> o Ministro dos Negócios Estrangeiros

Augusto Santos Silva

Largo do Rilvas

P – 1399-030 – Lisboa

Commission européenne, B-1049 Bruxelles – Belgique, Europese Commissie, B-1049 Brussel – België

Telephone: +32 2 299. 11. 11

## 1. PROCEDURE

- (1) Following pre-notification contacts<sup>1</sup>, on 13 August 2020, Portugal notified to the Commission its plans to grant rescue aid in favour of SATA. Portugal amended and completed the notification on 14 August 2020.
- (2) Portugal agreed exceptionally to waive the rights deriving from Article 342 TFEU in conjunction with Article 3 of the EC Regulation 1/1958<sup>2</sup> and to have the decision adopted and notified pursuant to Article 297 TFEU in English.

## 2. DESCRIPTION

### 2.1. The beneficiary: activities and operating subsidiaries

- (3) SATA Air Açores is a *Sociedade Anónima* (limited liability company)<sup>3</sup> and holding of other companies that is based in the Azores Autonomous Region of Portugal (“the Region”). SATA Air Açores was incorporated in 1941 and is fully owned by the Government of the Region. SATA employs 1.400 persons, of which 1150 locally in the Region and 250 in Lisbon. SATA Air Açores controls various companies: SATA Internacional - Azores Airlines, S.A. (“Azores Airlines”), SATA – Gestão de Aeródromos, S.A. (“SATA Gestão de Aeródromos” or “SGA”) and Azores Vacations America and Azores Vacations Canada.
- (4) SATA Air Açores provides air transport passenger and cargo services with routes under public service obligations (“PSO”) <sup>4</sup>, or on commercial basis. SATA Air Açores serves the nine islands of the Region through inter-island air transport of the Azores Archipelago, for a total of 14 routes, under PSO entrusted exclusively to SATA Air Açores by means of a 5-year public service contract expiring on 30 September 2020. SATA Air Açores was the only airline that submitted a bid for these routes in 2015. In 2019, SATA Air Açores operated more than 15 000 flights, with six Dash Bombardier planes which carried around 766 000 passengers.
- (5) Azores Airlines was incorporated in December 1990 and has an administrative hub in Ponta Delgada and one operational base in Lisbon. Azores Airlines operates without compensation i) 3 PSO routes connecting the five gateways of the Azores

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<sup>1</sup> The contacts started on 20 July 2020 and involved, until the notification, four technical discussions in videoconferences and exchanges about the draft submissions and analyses of financial and business data in connection with Portugal’s pre-notified plans.

<sup>2</sup> Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ L 7, 6.10.1958, p. 385, p. 58).

<sup>3</sup> *Sociedade Anónima* is listed in Annex I (Types of undertaking referred to in point (a) of Article 1(1)) to Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC, OJ L 182, 29.6.2013, p. 19.

<sup>4</sup> See list of 176 PSO routes reported to the Commission (DG Transport and Mobility) as of September 2019, including SATA [https://ec.europa.eu/transport/sites/transport/files/pso\\_inventory\\_table.pdf](https://ec.europa.eu/transport/sites/transport/files/pso_inventory_table.pdf)

(São Miguel, Terceira, Santa Maria, Horta and Pico islands) to mainland Portugal, ii) a PSO route linking Ponta Delgada to Funchal (Madeira island) and iii) international flights for regular routes in the North Atlantic to Boston, Oakland, Toronto and Montreal. Azores Airlines also operates niche tourist markets and charter services. Even if the abovementioned PSO routes are open to all operators willing to comply with the PSOs imposed on the routes, Azores Airlines is the only airline operating these PSO routes. In 2019, Azores Airlines operated around 7 000 flights, through six medium course Airbus 320 planes serving around 946 000 passengers.

- (6) SATA Gestão de Aeródromos, incorporated in 2005, is dedicated to the management of the aerodromes of Pico, Graciosa, Corvo and São Jorge, as well as the Flores island terminal. Portugal alleges that the management of these airports is not economically attractive for private parties, contrary to the airports of São Miguel and Terceira, which are operated by the Vinci Group.
- (7) The Portuguese authorities consider that the management and operation of the airports of these islands Pico, Graciosa, Corvo and São Jorge, as well as the Flores island terminal are services of general economic interest (“SGEI”)<sup>5</sup>. Air traffic in each of these airports has been below 200 000 passengers per year in the last three years<sup>6</sup>. Portugal reported to the Commission the SGEI of these five airports in 2016-2017<sup>7</sup>. Indeed Portugal considers that the need to ensure connectivity of an isolated area of the European Union justifies the SGEI, in view of the lack of alternative means of transport available and in light of the criteria set out in the Guidelines on State aid to airports and airlines (“Aviation Guidelines”)<sup>8</sup>.
- (8) SATA also owns two tour operators in North America since 1985: Azores Vacations America and Azores Vacations Canada. Their business focus is on connecting North America, mainland Portugal and the Region throughout the year.
- (9) SATA handles all of the air-cargo within the Azores islands, that is around 2 900 tonnes per year, and around 1 500 tonnes per year from Azores to other destinations, that is nearly 60% of total air-cargo outside Azores, including fish (around 60%), mail (around 10%) and medical supplies.
- (10) At present, Transportes Aéreos Portugueses S.A. Ryanair, Arkefly and Jetairfly serve commercial, non PSO routes between the Azores archipelago and the rest of the territory of the Union. As to direct routes, Ryanair connects the Azores with

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<sup>5</sup> The concession relating to airport public services in support to civil aviation in Graciosa, Pico, São Jorge and Corvo islands was awarded to SGA by contract of 1 of July 2005, executed under the terms of Regional Government Resolution no. 102/2005, of 16 of June, for a period of 10 years, renewable for periods of 5 years, up to a maximum duration of 20 years.

<sup>6</sup> In 2019, when the number of passengers (departing and arriving) between 2017 and 2019 was the highest in all five airports, the number of passengers was as follows: Pico (144 787), Graciosa (57 013), Corvo (8 825) São Jorge (80 629) and Flores (63 568).

<sup>7</sup> Report at [https://ec.europa.eu/competition/state\\_aid/public\\_services/2016\\_2017/portugal\\_en.pdf](https://ec.europa.eu/competition/state_aid/public_services/2016_2017/portugal_en.pdf)

<sup>8</sup> Guidelines on State aid to airports and airlines, point 72, OJ C99 of 4.4.2014, p.3.

London, Manchester and Frankfurt. Jetairfly has a route connecting Azores with Brussels. Arkefly connects Azores with Amsterdam and Tenerife in the Canary Islands (Kingdom of Spain).

## 2.2. Financial situation of the beneficiary and past public financial support

- (11) SATA experienced increasing financial difficulties at least over the past seven years. Portugal informs that SATA Air Açores fulfils at present the criteria under domestic law for being placed in collective insolvency proceedings: around [...] % of total debt to suppliers in 2019 is overdue; in 2019, the amount of EUR 464 million the liabilities exceeded by far assets worth EUR 234 million.
- (12) Between 2014 and 2019, despite annual turnover growing at ca. 5.1%, SATA posted continuous net income losses, worsening since 2017. Accordingly, SATA's equity that was already negative in 2014 decreased to become deeply negative by 31 December 2019, whilst net debt increased by 63% in the same period.

**Table 1–SATA: main consolidated figures 2014-2019 (EUR million)**

	2014	2015	2016	2017	2018	2019
<b>Turnover</b>	185.1	180.5	205.4	216.6	211.1	232.6
<b>Net income</b>	-34.78	-22.18	-14.19	-41.22	-63.79	-53.43
<b>Debt to Suppliers</b>	-21.3	-34.2	-45.3	-55.8	-48.3	-47.5
<b>Cash &amp; equivalents</b>	9.6	6.3	6.7	3.8	5.7	6.7
<b>Financial Debt</b>	-162.3	-161.1	-160.8	-167.2	-214.1	-256.1
<b>Net Debt</b>	-152.7	-154.8	-154.1	-163.4	-208.4	-249.4
<b>Own Funds (Equity)</b>	-55.8	-78.5	-94.6	-135.6	-156.3	-230.3

*Source: Consolidated annual accounts and Annex 2.2 of Notification*

- (13) Among other measures supporting liquidity such as guarantees or credit facilities that SATA Air Azores regularly serviced and reimbursed when fallen due, the Regional Government partly addressed the shortfall of own funds and solvency and approved three capital increases in SATA Air Azores since 2017, of which EUR 72.6 million were already paid to the company (“the capital increases”):
- EUR 21 580 735 were provided in 2017;
  - EUR 27 000 000 were provided in 2018;
  - EUR 80 000 000 were approved in 2020, from which EUR 24 000 000 have already been paid, the remaining amount being due by 2023.
- (14) In respect of the capital increases, Portugal explains that they aimed at complying with the Portuguese Companies Code regarding situations of loss of half of paid-in share capital due to accumulated losses. This situation requires shareholders to deliberate on and consider providing fresh capital to remedy the losses.

\* Confidential information

### **2.3. Air transport services and contribution to economic development**

- (15) The Region is an archipelago composed of nine volcanic islands, located in the North Atlantic Ocean, about 1 400 km away from mainland Portugal and populated with 245 000 inhabitants. The Region has a small and dispersed market with limited economies of scale: six islands are below 250 km<sup>2</sup> and seven islands have less than 15 000 inhabitants each. The islands can be reached from the mainland in two to three days by sea or two hours by plane. The Region is totally dependent of air transport, especially during winter, when weather conditions often render unavailable maritime transport. The gross domestic product per capita in the Region amounts to 68% of the Union average. Portugal stresses that the Azores is one of the ultra-peripheral outermost regions of the European Union.
- (16) According to the Portuguese authorities, PSO flights guaranteeing air connections inter-island and between the Region and Portugal mainland provided by SATA Air Açores and Azores Airlines are services of general economic interest (“SGEI”). The public tenders for the provision of SGEI typically do not attract other bidders. In the last public tender for the entrustment of those SGEIs in 2015, SATA Air Açores was the only company bidding for the inter-island connection PSOs. This is also the case for Azores Airlines, which is the only company serving the other inter-island connection PSO (Funchal – Ponta Delgada) and the 3 PSO routes connecting the Region and the mainland. Yet these four routes are open to all airlines complying with the PSO imposed by Portugal on the routes. TAP Air Portugal has not bid for the PSOs routes to connect Lisbon with Horta and Pico Island since April 2015. EasyJet ceased to fly on a PSO route in 2017, as the company could not ensure the requested frequency.
- (17) According to Portugal, the international routes operated by Azores Airlines are particularly important for the Region, considering the spread around the world of the Azorean migrant communities. The Azorean diaspora is estimated at 1.5 million people, most of them in North America. SATA ensures connections with diaspora communities, which are key for the region’s economy. Around 113 000 passengers came from North America in 2019 and the number of passengers from that continent has been increasing significantly in the last few years.
- (18) Finally, SATA is the largest company and one of the most important employers of the Region. According to Portugal, SATA generates around 5.2% of the regional GDP and participates in the development of tourism in the region, carrying c.a. 40% of the passengers arriving to Azores. The tourism sector has been increasing and now represents over 10% of the regional GDP, with related effects on direct and indirect jobs in Azores.

### **2.4. Impact of the COVID-19 outbreak on SATA’s results, liquidity prospects**

- (19) SATA faces the impacts of the legal and regulatory restrictions imposed on companies and individuals within the aviation sector. The public policy measures or recommendations taken on health grounds to address the COVID-19 outbreak in Portugal or other countries - government travel restrictions and quarantine orders -

caused numerous flight cancellations and route suspensions<sup>9</sup>, which worsened an already critical situation:

- On 19 March 2020, SATA Azores Airlines had to focus its operational activity at Ponta Delgada airport, and SATA Air Açores had to suspend PSO connections from all Azores islands to Terceira island, and viceversa;
  - On 25 March 2020, SATA Air Açores’ regional inter-island PSO flights and all flights providing connections outside the Region were suspended except for PSO flights concerning cargo transport or cases of *force majeure*, provided that they were authorized by the Regional Health Authority;
  - On 4 May 2020, air connections to and from Azores Islands were suspended until 31 May 2020.
  - On 29 May 2020, SATA Air Açores’ air connections between all the islands of the Region under the PSOs were gradually restarted; from 1 July 2020, SATA Air Açores, inter-island connections could be fully resumed.
- (20) Portugal alleges that all these measures or recommendations had a major impact on SATA and aggravated its financial situation. SATA’s revenues were drastically reduced in March, April and May 2020, resulting in a negative cash flow position.
- (21) SATA’s financial situation is at present characterised by pressing and immediate obligations falling due: i) the group owes EUR [0-50] million debt to suppliers, of which over [...] % is overdue; ii) a considerable financial effort is required to repay EUR [0-100] million bank debt including capital and interests due in 2020, of which SATA already paid EUR [0-80] million by June 2020, and is expected to pay the remaining EUR [0-20] million during the second half of 2020.

## **2.5. Description of the notified rescue aid**

- (22) The objective of the notified rescue aid is to provide temporary liquidity to SATA to maintain its viability. The rescue aid will take the form of a public guarantee to a bank loan of EUR 169 million maximum (“the guaranteed rescue loan”), which corresponds to SATA’s liquidity needs in the next six months. Portugal will determine the amount(s) of loan and the financial institutions concerned following the consultation of the market by SATA.
- (23) The prospective liquidity plan of SATA for all of its current activities drawn up by the Portuguese authorities shows indeed that SATA urgently needs liquidity to meet a cash shortfall of EUR 169 million until end January 2021. The cash forecasts are built on expected operating revenues and costs, including wage and other normal costs, accumulated backlog payments, fuel or airplane lease, impact from vouchers and reimbursement policies, etc.

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<sup>9</sup> Portugal adopted a state of emergency on 18 March 2020, having effect as of 19 March, extended twice until 2 May, then succeeded by the state of calamity, which was in force until 31 May 2020.



- (24) In the amendment provided to the notification (recital (1)), Portugal submits that the amount of State aid necessary to guarantee continuity of the provision of the essential services by the SATA Group is EUR 133 million. This covers the projected liquidity needs until end January 2021 that are critical to maintain the essential functions of connectivity provided by the beneficiary, namely intra-islands PSOs, PSOs routes with mainland<sup>10</sup> and the SGEI provided by the airports<sup>11</sup>. This amount excludes the costs of commercial routes of SATA and liquidity needs of Azores Vacations America and Azores Vacations Canada.
- (25) Projections in the liquidity plan were made in the context of current uncertainty and widespread disruption of normal patterns of business activity about future projections of the airline business. Indeed Portugal stresses that it is impossible for any liquidity plan to fully identify and quantify the impact of all COVID-19 related uncertainties and implications on SATA Group's activity and projections.
- (26) The financial cost of the guaranteed rescue loan, including the interest rate and the guarantee premium, will not be lower than the reference rate 12-month EURIBOR plus 400 basis points. The loan guarantee will be terminated within 6 months of the date of the rescue authorised by the Commission, unless a restructuring plan is submitted for approval before. In this case, the loan guarantee will be automatically extended until the Commission decides on the restructuring plan.
- (27) Whilst Portugal prefers presenting to the Commission a restructuring plan [...]

## **2.6. Observations of the Portuguese authorities**

### *2.6.1. Counterfactual to the rescue measure*

- (28) Portugal claims that, in the absence of the guaranteed rescue loan, the beneficiary would fail to meet immediate and significant payments falling due. SATA's failure would in turn disrupt territorial continuity of Portugal mainland and the Azores (recital (16)). Since transport by sea from the mainland to the Region depend on weather conditions and are no alternative to air transport, Portugal indicates a risk of disruption of an important service which is hard to replicate and where it would be difficult for any competitor to step in quickly.
- (29) Portugal stresses that, before the COVID-19 outbreak, tenders opened to ensure PSO flights within the Region were not attractive to other airlines. Competing airlines did not show durable interest in ensuring complementary or alternative connections to and from destinations operated by SATA in the mainland and North America either. Examples show that lack of profitability made unsustainable the

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<sup>10</sup> The liquidity needs include the 14 PSO routes serviced by Sata Air Açores, Airport Services (SGA) and the PSO Sata Azores Airlines (four PSO routes: PDL-FNC-PDL / PDL-LIS-SMA / LIS-PIX-LIS / LIS-HOR-LIS), excluding commercial routes of Sata Azores Airlines.

<sup>11</sup> Airports in Pico, Graciosa, Corvo and São Jorge, as well as the Flores island terminal.

business case of maintaining new routes<sup>12</sup>. In the past five years, 14 airlines tried to operate in the Azores, mostly by providing charter flights, unsuccessfully.

- (30) Portugal points out that the Azores is an economy on a development path but with critical challenges to overcome. In that context, SATA has an important systemic role for the Region and its tourism in particular, so that its exit would have severe negative consequences. An important segment of companies - namely hotels, restaurants, social and cultural events, retail shops and other tourism-related activities - would have increased difficulties without support to the operations of SATA in bringing tourists and people from the diaspora. Most of those companies that may survive COVID-19 crisis only due to support of the Portuguese government through temporary subsidized work and measures which allow them to defer due payments, need tourism to ramp up.

#### 2.6.2. *Recent public financial support to SATA*

- (31) Portugal considers that the capital increases funded by the Region since 2017 (recitals (13) and (14)) should not be qualified as State aid. The Regional Government of Azores is the sole shareholder of SATA and acted as a private investor operating in normal market conditions<sup>13</sup>. The analysis was driven by the conduct of a private holding company or a private group of undertakings pursuing a structural policy and guided by prospects of profitability in the longer term<sup>14</sup>. As the only relevant counterfactual would have been the default of SATA, the financial impact for the sole shareholder would have been greater than the costs of the supporting measures. Therefore, a comparable shareholder with similar economic exposure to the undertaking concerned would have acted in the same terms as the Regional Government of Azores.
- (32) Portugal also argues that SATA does not operate under normal market conditions by reason of the provision of SGEIs through the PSO routes. Therefore, since the situation of SATA's shareholder cannot be compared with that of a private group not operating under such obligations, market conditions should be assessed by reference to the objective assigned to SATA.<sup>15</sup>
- (33) Portugal argues that, should the capital increases entail State aid, any such aid would in any case be compatible with the internal market. The measures allegedly contribute to well-defined objectives of common interest related to socio-economic cohesion of the internal market, by increasing the mobility of Union citizens and the connectivity of the regions and promoting regional development. Services provided by SATA are essential for an outermost region of the Union characterized

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<sup>12</sup> Delta cancelled its route from New York (JFK) to Ponta Delgada (PDL), launched in 2018.

<sup>13</sup> Portugal refers to the Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (2016/C 262/01), para. 66 and 74.

<sup>14</sup> Cases Italy v. Commission (Alfa) (C-305/89) and Italy v. Commission (Lanerossi) (C-303/88) EU:C:1991:142.

<sup>15</sup> Joined Cases *Chronopost SA*, (C-83/01 P, C-93/01 P and C-94/01 P), paragraph 38, EU : C2003:388.

by higher unemployment and lower economic growth in relation to both the Union and Portugal, which is highly dependent on air transport for economic activity, tourism, imports and exports and for mobility.

### 2.6.3. *Compatibility of the rescue measure*

- (34) Portugal considers that the guaranteed rescue loan can be declared compatible with the internal market pursuant to the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty<sup>16</sup>. In that respect, the Portuguese authorities consider that the beneficiary has received no rescue or restructuring aid in the past ten years. As a subsidiary argument, Portugal also stresses that the rescue aid aims to remedy a serious disturbance in its economy (Article 107 3 b) TFEU). Portugal does not allege, however, that SATA would be eligible to aid under the Temporary framework for state aid measures to support the economy in the current COVID-19 outbreak<sup>17</sup>

## 3. ASSESSMENT OF THE MEASURES

- (35) The Commission first assesses whether the envisaged guaranteed rescue loan and the past capital increases under scrutiny entail State aid to the beneficiary under Article 107(1) TFEU, and then whether such aid is lawful and compatible with the internal market.

### 3.1. Existence of State aid

- (36) According to Article 107(1) TFEU, "[s]ave as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market".
- (37) Portugal has notified the guaranteed rescue loan to SATA as constituting State aid. In the meantime, Portugal considers that the increases of capital of SATA funded by the Region since 2017 should not be qualified as State aid (recitals (31) and (32)).
- (38) The qualification of a measure as aid within the meaning Article 107(1) TFEU requires the following cumulative conditions to be met: (i) the measure must be imputable to the State and financed through State resources; (ii) it must distort or threaten to distort competition and affect trade between Member States; (iii) the

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<sup>16</sup> OJ C 249, 31.7.2014, p. 1.

<sup>17</sup> Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I, 4.4.2020, p. 1, and Communications from the Commission C(2020) 3156 final of 8 May 2020 and C(2020) 4509 final of 29 June 2020 on the 2nd and 3rd Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3, and OJ C 218, 2.7.2020, p. 3.

measure must confer an advantage on its recipient; and (iv) that advantage must be selective. It is therefore appropriate to examine separately whether the guaranteed rescue loan and the capital increases qualify as aid.

### *3.1.1. Measures imputable to the State financed through State resources*

- (39) The guaranteed rescue loan is to be granted by the government of the Autonomous Region of Azores, with resources from its budget. The capital increases of the beneficiary were also subscribed by the Region from resources of the same budget. For the purposes of Article 107(1) TFEU, resources of regional local authorities such as regions are State resources and decisions of such authorities should be regarded as “imputable to the State”<sup>18</sup>. The guaranteed rescue loan and the capital increases are thus imputable to the State and financed through State resources.

### *3.1.2. Measures distorting or threatening to distort competition and affect trade between Member States*

- (40) The air passenger transport and cargo services sector in which the beneficiary is active is open to competition and trade between Member States. Other airlines licensed in the European Union such as Ryanair, Jetairfly, and Arkefly provide air transport services connecting the Azores Region with a few cities of the Union (recital (10)). Therefore, the guaranteed rescue loan and the capital increases are liable to affect trade between Member States.
- (41) By granting access to funding at conditions which it would not otherwise obtain on the market, the guaranteed rescue loan and the capital increases are liable to improve the position of the beneficiary in relation to actual or potential competing undertakings such as Ryanair, Jetairfly, and Arkefly, that have not had access to similar State support from Portugal or that have to finance their operations at market conditions. The guaranteed rescue loan and the capital increases consequently distort or threaten to distort competition.

### *3.1.3. Selective measures*

- (42) The guaranteed rescue loan is to be granted through the exercise of discretion in favour of the beneficiary for an ad hoc amount determined by reference to its specific liquidity needs. The capital increases were also granted through the exercise of similar discretion for ad hoc amounts. Neither the loan nor the capital increases were part of a broader, general, economic policy measure to provide support to undertakings active in the air transport or other economic sectors, in a comparable legal and economic situation. As the Court has stated, where individual aid is at issue, the identification of the economic advantage is, in principle, sufficient to support the presumption that a measure is selective<sup>19</sup>. This is so regardless of whether there are operators on the relevant markets that are in a comparable factual and legal situation. Therefore, the Commission concludes that guaranteed rescue loan and the capital increases are selective.

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<sup>18</sup> T-267/08 and T-279/08 *Région Nord-Pas-de-Calais / Commission*, EU:T:2011:209.

<sup>19</sup> See judgment of 4 June 2015 *Commission v MOL*, Case C-15/14 P, EU:C:2015:362, paragraph 60.

### 3.1.4. Measures must confer an advantage on its recipient

- (43) The Commission has to examine whether the rescue loan and the capital increases qualify as aid in that they confer an advantage on the beneficiary. That would be the case if a market operator holding the shares of the beneficiary in a situation as close as possible to that of the Region would not take similar decisions and grant the loan and the capital increases at the same conditions in the same circumstances. The market operator in question ought to leave aside any benefits expected in its situation as public authority.<sup>20</sup>

#### *The capital increases*

- (44) When the Region subscribed the capital increases as of 2017, the beneficiary had posted continuous negative earnings in the past three years at least (Table 1). As a result, no dividends could be distributed to the shareholder. Likewise, in the absence of absorption of the cumulated losses reducing the value of the shares that the Region had already paid in, the fresh capital entered the negative equity base of the beneficiary.
- (45) By that moment, the beneficiary had relatively significant negative equity by reference to its turnover and to its net debt (Table 1). It follows that the book value of the assets of the beneficiary would have been insufficient to meet the repayment of the debt, if the creditors had requested so. As a result, unless the assets would have been sold above their book value, it is excluded that the shareholder could expect any residual proceeds ensuing from the liquidation of the beneficiary. Given the corporate status of limited liability company of the beneficiary (*sociedade anónima*), a hypothetical liquidation of the beneficiary as of 2017 or thereafter would not have caused the shareholder to be held liable to pay any residual liability left unpaid. In other words, the exposure that an alternative market shareholder in the same situation as the Region was in 2017, would have been nihil, if one leaves aside the consequences that the Region could expect in its capacity as public authority.
- (46) In the circumstances, the shareholder of the beneficiary could not expect a market conform return of the capital increases of 2017 unless based on unrealistic or unreasonable assumptions. As a precondition for any possible expectation of positive return, the beneficiary would have needed to generate net earnings of a sufficient magnitude so as to bring its EUR 94.6 million negative equity to a positive figure (Table 1). With respect to possible assumptions, it does not appear at this stage that the decision to carry out the capital increases in 2017 and thereafter was taken on the basis of economic evaluations comparable to those which, in similar circumstances, a rational market economy operator with characteristics similar to those of the Regional Government of Azores would have had carried out to determine the profitability or economic advantages of the capital increases, before deciding on the purported investment.

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<sup>20</sup> Case C-300/16 P Commission v Frucona Košice, EU:C:2017:706, paragraph 59; and Case C-124/10 P Commission v EDF, EU:C:2012:318, paragraphs 78, 79 and 103.

- (47) Moreover, in the absence of such ex ante evaluations, it is patent that the expected return whether in dividends or in appreciation of the value of the shareholding would have needed to be higher than a market benchmark of the (opportunity) cost of the equity. As a matter of fact, by way of illustration, in 2017, market conform remuneration or opportunity cost of equity injected into Portuguese companies in general could be estimated around 11.83%<sup>21</sup>. It is established that SATA did not provide any annual return on capital invested to the shareholder between 2014 and 2016. It seems therefore excluded that, without a sizeable restructuring and a credible business plan accompanying the fresh capital, a market shareholder would have subscribed to the increases of SATA capital with a reasonable expectation of obtaining a market conform return.
- (48) It follows that, subject to any further evidence that Portugal should provide to sustain its claim that the capital increases would have been subscribed by a market investor, at this stage, the capital increases in question appear to have conferred an advantage on its recipient.

#### *The guaranteed rescue loan*

- (49) The effect of the public measures affecting air traffic in connection with the COVID-19 outbreak have worsened the prospects of the beneficiary's already critical financial situation, as evidenced by the current and expected operating results until January 2021 (recital (23)). The financial situation and prospects of the beneficiary mean that it cannot likely reimburse the guaranteed rescue loan, thus excluding that it could obtain a similar loan at market terms without a public guarantee of the Region.
- (50) The assessment of whether a market operator in a situation as close as possible to that of the Region would grant the same guaranteed rescue loan does not contradict that the guarantee in question provides an advantage to the beneficiary with regard to market conditions. First, there is no prima facie evidence that the granting of the guarantee can be ascribed to behaviour and decisions which a market shareholder would follow. In that regard, Portugal only puts forward reasons which, however pertinent for a public authority would be irrelevant for a market shareholder (section 2.6.1). Second, Portugal does not assess the loan as being necessary to preserve or increase the value of and/or return from the shareholding in the beneficiary, based on a solid and credible financial assessment of expected returns thereof for the risk taken. The guaranteed rescue loan is being considered in order to allow time to the beneficiary to draw-up a restructuring plan, the contents and result of which are unknown before granting it.
- (51) Therefore, the guaranteed rescue loan provides funding at a lower cost than the beneficiary could obtain on the market, if at all. Therefore, a market operator in a

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<sup>21</sup> The 7.6% equity risk premium in Portugal 2017 is added to Government 10 year bond yields of 4.23% in January 2017. The estimate of cost of equity is a market estimate for all Portuguese companies based on the capital asset pricing model, disregarding the volatility of individual shares. A more refined estimation for a particular company should be based on a company-specific ( $\beta$ ) indicator of volatility. The remuneration of volatile shares, i.e. with  $\beta > 1$ , should normally be higher than 11.83% (e.g. 15.38% with  $\beta = 1.3$ ) and the remuneration of less volatile shares should be lower, with  $\beta < 1$ .

situation as close as possible to that of the Region would not provide a similar loan. The guaranteed rescue loan thus appears, at this stage to confer an economic advantage on the beneficiary.

### **3.2. Conclusion on the existence of aid**

- (52) In light of the above, the Commission preliminarily concludes that the guaranteed rescue loan in favour of SATA Air Açores involves State aid under Article 107(1) TFEU and that, at this stage, the capital increases appear to involve State aid under the same article.
- (53) The Commission will therefore assess their lawfulness and compatibility with the internal market.

### **3.3. Lawfulness of the aid**

- (54) The guaranteed rescue loan has not yet been granted to the beneficiary and Portugal has thus observed the stand-still obligation laid down in Article 108(3) TFEU. Therefore, the guaranteed rescue loan does not constitute unlawful State aid.
- (55) However, since the capital increases – which at this stage are considered to involve State aids- have been granted to the beneficiary without being notified, they constitute unlawful State aid.

### **3.4. Compatibility of the aid with the internal market**

- (56) Under Article 107(3)(c) TFEU, the Commission can authorise aid if it is granted to promote the development of certain economic sectors and if that aid does not adversely affect trading conditions to an extent contrary to the common interest.
- (57) In view of the nature and aims of the State aid at stake and the claims of the Portuguese authorities in the notification, the Commission will assess whether the rescue loan complies with the provisions on rescue aid laid down in the R&R Guidelines.
- (58) Before that, given the observations of the Portuguese authorities that if the capital increases constituted State aid, any such aid is compatible with the internal market, the Commission will also assess this claim. As noted in the R&R Guidelines, rescue aid can only take the form of loans or guarantees, which excludes an injection of fresh capital (R&R Guidelines, point 55). Likewise, restructuring aid must be conditional on the implementation of a restructuring plan restoring the long-term viability of the beneficiary within a reasonable timescale and on the basis of realistic assumptions as to future operating conditions that should exclude any further State aid (R&R Guidelines, points 46 to 52). The Portuguese authorities have not presented a restructuring plan nor argued that SATA or the Region had drawn up or implemented any such plan in connection with the capital increases. Therefore, if the capital increases amounted to unlawful rescue or to restructuring aid, the compatibility thereof under the R&R Guidelines is doubtful.
- (59) Likewise, in the absence of specific rules derogating to the application of the R&R Guidelines to aid granted in the form of capital increases in outermost regions

enacted by the Union legislator, the Commission also doubts that such aid in the form of capital injections could be declared compatible with the internal market with a view to promoting regional development or cohesion in outermost regions, as Portugal argues (recital (33)).

- (60) As regards the guaranteed rescue loan, rescue aid is by nature urgent and temporary assistance for the short time needed to work out a restructuring plan after analysing the circumstances which gave rise to the difficulties and develop an appropriate plan to remedy those difficulties (R&R Guidelines, point 26). The notified rescue aid adheres to that general principle as it arises in a situation of particular urgency in the airline sector that affects the beneficiary's ability to meet its payment and financial obligations.

#### *3.4.1. Eligibility*

- (61) In order to be eligible for rescue aid, an undertaking must qualify as an undertaking in difficulty for the purposes of section 2.2 of the R&R Guidelines. In particular, point 20 of the R&R Guidelines explains that an undertaking is considered to be in difficulty when, without intervention by the State, it will almost certainly be condemned to going out of business in the short or medium term. This would be the case when at least one of the circumstances described in letters a) to d) of point 20 of the R&R Guidelines occurs.
- (62) As explained in recital (28) and Table 1, SATA Air Açores presented a negative total equity amount of EUR 230 million in 2019, decreasing every year from EUR 55.8 million negative equity in 2014 which shows that at least half of its subscribed share capital had disappeared since 2014. It follows that, based on the equity position, SATA Air Açores was also in difficulty in 2015, 2016, 2017 and 2018. Likewise, as explained in recital (11), SATA Air Açores fulfils at present the criteria under domestic law for being placed in collective insolvency proceedings at the request of its creditors.
- (63) It follows that, the beneficiary, at present and since 2014 at least, qualifies as an undertaking in difficulty pursuant to points 20(a) and (c) of the R&R Guidelines.
- (64) According to point 21 of the R&R Guidelines, a newly created undertaking is not eligible for rescue aid. The beneficiary is not a newly created undertaking for the purposes of the R&R Guidelines since it was established in 1941, so more than three years ago (see recital (3)).
- (65) According to point 22 of the R&R Guidelines, a company belonging to or being taken over by a larger business group is not normally eligible for rescue aid, except where it can be demonstrated that the company's difficulties are intrinsic and are not the result of an arbitrary allocation of costs within the group, and that the difficulties are too serious to be dealt with by the group itself. The beneficiary is not part of a larger business group, as it is fully owned by the Azorean regional government. In the case of SATA, it is apparent that the difficulties at issue have been aggravated by the unprecedented public measures taken by Portugal and other countries with respect to air transport (see recital (19)).



### 3.4.2. *Contribution to an objective of common interest*

- (66) Under point 38(a) of the R&R Guidelines, in assessing whether the rescue aid can be declared compatible with the internal market, the Commission examines whether the State aid contributes to a well-defined objective of common interest in accordance with Article 107(3) TFEU. In that respect, the Member State must demonstrate that the aid aims to prevent social hardship or address a market failure. Under point 44 of the R&R Guidelines, this can be demonstrated in particular by showing that one of the circumstances listed from letter a) to g) are met.
- (67) In that regard, Portugal refers to circumstances mentioned under point 44(b), (c) and (d) of the R&R Guidelines, namely that there is a risk of disruption to an important service which is hard to replicate and where it would be difficult for any competitor simply to step in, that the exit of SATA would have potential negative consequences given its important systemic role in the Azores Region and that such exit would risk interrupting the SGEI that SATA provides.
- (68) The notified rescue aid seeks to prevent the immediate failure of the beneficiary to meet its payment obligations at present and in the most immediate future, with the possible immediate impact of disrupting or halting some of the activities referred to in recitals (16) to (18). On the basis of the information provided by Portugal, [...]
- (69) Since the beginning of the COVID-19 outbreak, SATA Air Açores has never completely stopped providing PSO flights (cargo and passengers) authorised by the Regional Health Authority because of indispensable supply activities linked to the ultra-peripheral location of the Açores islands. Two aircrafts ensured the supply of medical equipment and other necessary supplies from the mainland to the islands.
- (70) In the present circumstances triggered by the COVID-19 outbreak, it is not possible for any competitor, including those already active on the Portuguese market, to step in and fully or significantly replicate the role of SATA Air Açores. The continued connectivity on the routes from and to Azores and, a fortiori, in-between islands in the Açores which SATA Air Açores serves would thus vanish or be drastically reduced without the rescue aid.
- (71) As Portugal stresses, the PSO flights provided by SATA Air Açores and Azores Airlines are SGEI provided to the Region and Portugal. This is an important and predominant part of SATA activities (recital (24)). It is therefore established that potential failure of SATA Air Açores would lead to an interruption of the continuity of provision of the SGEI to the Region and Portugal.
- (72) Likewise, the Commission considers that the management of an airport may be considered an SGEI if part of the area potentially served by the airport would, without the airport, be isolated from the rest of the Union to an extent that would prejudice its social and economic development. Certain airports thus have an important role in terms of regional connectivity of isolated, remote or peripheral regions, in particular, in outermost regions of the Union. The Commission thus considers in principle that certain airports in the Union such as those in Azores can provide a SGEI, under certain conditions depending on the presence of other

modes of transport, and in particular of high-speed rail services or maritime links served by ferries (Aviation Guidelines, point 72).

- (73) Based on the information provided by Portugal with respect to the size, location, alternative means of transport and services provided by SATA in the five airports which it manages, the Commission concludes that those five airports provide a SGEI for the Region, without which the connectivity and territorial continuity of Portugal and the Union would be curtailed (recitals (15) and (16)).
- (74) It is therefore established that, in the circumstances, the activity of management of the island airports which SATA carries out through SGA appears to provide a SGEI that is indispensable for the continuous provision of essential services of connectivity to the Region.
- (75) The Commission also notes that the failure of SATA, in the absence of a rescue aid, would cause a situation of severe hardship to the economy of Azores, which is an outermost region of the EU, facing several challenges imposed by its geographic distance from the Portuguese mainland and its socio-economic gap in relation to Portugal and the EU (recital (18) and (30)).
- (76) The consequences of a failure of the SATA would be particularly serious in the context of the social and economic crisis generated by the COVID-19 outbreak and would therefore greatly hinder the economic recovery path of the region. Many other companies in the value chain, particularly in the archipelago, would be affected by SATA's failure. A failure of SATA would lead to severe social and economic hardship for the Region and significant negative spill-over effects on important segments of the economy concerning tourism-related activities.
- (77) The Commission concludes that the information provided by Portugal demonstrates that, by allowing the beneficiary to meet its payment obligations in the near future, the rescue aid contributes to a well-defined objective of common interest as provided by points 44(b), (c) and (d) of the R&R Guidelines.

### *3.4.3. Appropriateness*

- (78) Under point 38(c) of the R&R Guidelines, the Commission will not consider an aid measure to be compatible with the internal market if other, less distortive, measures allow the same objective to be achieved. In that respect, rescue aid must fulfil the conditions laid down in point 55 from letter a) to e) and point 56 of the R&R Guidelines.
- (79) As to letters a), c) and d) of point 55 of the R&R Guidelines, the Commission notes that the guaranteed rescue loan, covering net cash flow needs up to EUR 169 million is temporary in nature and serves the purpose of providing finance to all the activities currently carried out by SATA. Portugal committed to communicating to the Commission, no later than six months after the rescue aid measure has been authorised, a restructuring plan or, in any event, proof that that the rescue loan has been repaid or a liquidation plan has been adopted.
- (80) According to Portugal, the rate of the guaranteed rescue loan, including the guarantee fee and the interest rate of the underlying loan shall not be lower than the

reference rate 12-month EURIBOR plus 400 basis points. Accordingly, the interest rate is at least equal to the reference rate set out in the Reference Rate Communication for weak undertakings offering normal levels of collateralisation, which is currently 1-year IBOR plus 400 basis points<sup>22</sup> (see recital (25)), which is in line with requirements of points 55(b) and 56 of the R&R Guidelines.

- (81) The Commission notes the declaration by Portugal that the loan will be used only to meet the identified urgent liquidity needs of the beneficiary, and in particular will cover normal operating costs (see recital (23)). Accordingly, the beneficiary will not use the rescue aid to finance structural measures or other activities than its current operations (point 55(e) of the R&R Guidelines).
- (82) In view of the information provided by Portugal, the Commission concludes that the guaranteed rescue loan meets the conditions laid down in points 38(c), 55 and 56 of the R&R Guidelines and therefore the form of the aid allows the rescue of the beneficiary in the least distortive way.

#### *3.4.4. Proportionality of the aid / aid limited to the minimum*

- (83) Under point 38(e) of the R&R Guidelines, aid must not exceed the minimum needed to achieve the objective of common interest. As specified in point 60 of the R&R Guidelines, rescue aid must be restricted to the amount needed to keep the beneficiary in business for six months. In determining that amount, the Commission takes into account the outcome of the calculation under the formula set out in Annex I to the R&R Guidelines. The Commission will authorize any aid exceeding the result of that calculation only if it is duly justified by the provision of a liquidity plan setting out the beneficiary's liquidity needs for the coming six months.
- (84) The EUR 169 million amount of the guaranteed rescue loan required by Portugal to be approved as rescue aid exceeds the result of the formula set out in Annex I to the R&R Guidelines. Therefore, in line with point 60 of the R&R Guidelines, Portugal provided a liquidity plan setting out the beneficiary's liquidity needs for the coming six months, from August 2020 to January 2021.
- (85) The Commission has reviewed the liquidity plan and found that it reasonably reflects the liquidity needs of the beneficiary, to the extent they can be reasonably and prudently anticipated in the business and financial environment into which the beneficiary will be operating until January 2021.
- (86) In particular, the liquidity includes cash outflows related to legitimate expenses, such as wage and other operating costs, accumulated backlog payments, fuel hedging or plane lease costs etc. The aid does therefore not exceed the minimum necessary to keep the beneficiary in business with the same economic activities for the coming six months with a view to providing assistance for the time needed to analyse the circumstances which gave rise to the difficulties and to devise a restructuring plan to address them (see also point 26 of the R&R Guidelines). The

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<sup>22</sup> Communication from the Commission on the revision of the method for setting the reference and discount rates, OJ C 14, 19.1.2008, p. 6

fact that only EUR 133 million amount cash shortfall are required to cover liquidity needs which are critical to maintain the essential functions of connectivity provided by the beneficiary does not contradict this finding since the perimeter of (loss-making) operations covered is bigger (recital (24)).

- (87) The Commission therefore concludes that the notified rescue aid is restricted to a minimum amount, in line with point 60 of the R&R Guidelines and is consequently proportional.

#### *3.4.5. Negative effects*

- (88) Under point 38(f) of the R&R Guidelines, the negative effects of the aid on competition and trade between Member States must be sufficiently limited, so that the overall balance of the measure is positive. In the case of rescue aid, the Commission considers that this condition is met when recipients of aid under those R&R Guidelines are not in recurrent difficulties over time that were not properly addressed with rescue or restructuring aid granted earlier or are still recipients of previous unlawful aid which the Commission has declared to be incompatible with the internal market and ordered recovery thereof.
- (89) In that respect, under points 70 and 71 of the R&R Guidelines, aid can be granted to undertakings in difficulty in respect of only one rescue or restructuring operation. Therefore, where less than ten years have elapsed since rescue aid, restructuring aid or temporary restructuring support were granted to the beneficiary in the past, including any such aid granted before the entry into force of the R&R Guidelines and any non-notified aid, the Commission will not allow further aid (the 'one time, last time' principle).
- (90) The Commission has not identified unlawful aid to SATA in respect of which the Commission has adopted a negative decision and Portugal also informed in the notification that the beneficiary has not benefited from such earlier unlawful aid, which is in line with requirements of point 94 of the R&R Guidelines.
- (91) However, the Commission considers at this stage that the capital increases involve unlawful State aid to SATA (recital (55)). If the formal investigation confirms this preliminary finding, such an aid amounts to unlawful rescue or restructuring aid, given the situation of difficulty characterised by negative equity in which SATA was in 2017 and thereafter when the aid was granted (recital (12) and Table 1). The compatibility of any such unlawful aid is also doubtful at this stage (recital (58)).
- (92) The R&R Guidelines permit exceptions to the one time last time principle in exceptional and unforeseeable circumstances for which the beneficiary is not responsible (point 72 c) of the R&R Guidelines).
- (93) Portugal claimed in the notification that the beneficiary has not benefited from any rescue aid, restructuring aid or temporary restructuring support in the past ten years. In addition, Portugal alleges that the guaranteed rescue loan also serves to remedy a serious disturbance of its economy and that it meets an objective of common interest by maintaining air transport connectivity in an outermost region of the Union. However Portugal has not explicitly alleged that a possible exception

to the one time last time principle would be justified due to exceptional and unforeseeable circumstances for which SATA is not responsible or that the constraints of the activity of SATA in the Region constitute such circumstances owing to Azores being an outermost region.

- (94) It is apparent at this stage that the losses of SATA in its operations between, at the earliest, 2014 and 2017 which caused the capital increase, were recurrent and structural and not due to exceptional and unforeseeable circumstances. Portugal seems to acknowledge this given its intention to remedy henceforth through a restructuring of SATA, announcing a plan in the next six months at the latest.
- (95) On the other hand, the COVID-19 outbreak is an exceptional and unforeseeable occurrence and has undoubtedly impacted the operating results of the beneficiary since March 2020, prompting the notification of urgent rescue aid. However the magnitude of the losses incurred seems to be relatively limited in terms of decrease of turnover (section 2.4), and, in any event, does not match the urgent liquidity needs expected for the next six-months nor sufficient to justify the recurrent operating losses of the beneficiary since at least 2014.
- (96) In addition, Portugal mentions that the Azores is an outermost region, without specifying further whether this territorial status in the TFEU and the costs borne by SATA would have prompted the capital increases in 2017 or whether this status would justify a breach of the one time last time principle or constitute exceptional and unforeseeable circumstances for which the beneficiary would not be responsible. In effect, the Azores is listed in Article 355(1) TFEU, so that the TFEU fully applies in accordance with Article 349 TFEU<sup>23</sup>. Moreover, there is at present no specific provision enacted by the Council (and the Parliament as appropriate) derogating to State aid rules in the ambit of the R&R Guidelines for the territories listed in Article 355 TFEU.
- (97) According to the case law of the Court of Justice, it is up to the Member State to invoke possible grounds of compatibility and to demonstrate that the conditions for such compatibility are met<sup>24</sup>. It follows that, at this stage, in the absence of specific observations of Portugal in this respect, the ‘one time, last time’ principle does not seem to be satisfied so that the guaranteed rescue aid loan does not meet the conditions of compatibility set out in points 70 and 71 of the R&R Guidelines, as qualified by point 72 c) thereof.
- (98) It is therefore for Portugal to demonstrate that the capital increases since 2017 do not involve State aids, so that the condition that more than ten years have elapsed since rescue aid, restructuring aid or temporary restructuring support were granted to the beneficiary in the past, including any non-notified aid, is met. In addition, if the capital increases amounted to State aid, Portugal could still invoke an exception

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<sup>23</sup> Pursuant to Article 349 TFEU, the Council may adopt specific measures aimed, in particular, at laying down the conditions of application of the Treaties to those regions, including State aids, without undermining the integrity and the coherence of the Union legal order, including the internal market and common policies.

<sup>24</sup> C-364/90 Italy v Commission, EU:C:1993:157, paragraph 20.

owing to the fact that there would exist exceptional and unforeseeable circumstances for which the beneficiary would not be responsible. It is therefore for Portugal to identify such circumstances and demonstrate that the beneficiary would not be responsible and why they are exceptional and unforeseeable.

#### 3.4.6. Application of section V of the R&R Guidelines regarding SGEIs

- (99) In assessing State aid to SGEI providers in difficulty under the R&R Guidelines, the Commission considers that the specific application of the principles therein should be adapted where necessary to take account of the specific nature of SGEI and, in particular, of the need to ensure continuity of service provision in accordance with Article 106(2) of the Treaty (R&R Guidelines, point 14). In that respect, where the Commission finds that R&R aid cannot be found compatible, the Commission may authorise the payment of such aid and for a limited duration as is necessary to ensure continuity of the SGEI until a new provider is entrusted. (points 99 and 103 of the R&R Guidelines).
- (100) While at this stage there is no definitive finding that the guaranteed rescue loan is incompatible with the internal market, it is established that SATA manages five airports which provide SGEI in the Region and also operates SGEI for PSO routes that are essential for air transport connectivity (recitals (71), (73) and (74)). Therefore point 103 of the R&R Guidelines calls for the performance of these particular tasks and services assigned to SATA is not obstructed until the Commission takes a final view on the compatibility of the guaranteed rescue loan with the internal market.
- (101) Indeed, point 103 of the R&R Guidelines may apply where the Commission has already concluded that the unlawful aid under scrutiny cannot be found compatible with the internal market and it is sufficient condition for its application that there is a risk that the Commission may find that an SGEI provider is not able to comply with the conditions of these guidelines<sup>25</sup>.
- (102) In the present case, the Commission has doubts on compatibility, which *a fortiori* calls for the performance of the tasks and provision of the essential services in question is preserved during the formal investigation. For otherwise, on the one hand, without the indispensable liquidity, the beneficiary could be put in an irreversible situation and be obstructed from ensuring the performance of the SGEI. On the other hand, the users could be irremediably deprived of all or some of the SGEI in question. And this could likely happen given the liquidity situation of SATA (recitals (23) and (24)) when there is strong likelihood that no alternative

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<sup>25</sup> The (2004) R&R Guidelines (Communication from the Commission — Community guidelines on State aid for rescuing and restructuring firms in difficulty, OJ C 244, 1.10.2004, p. 2-17) that predated the present R&R Guidelines, did not contain a specific section on rules applicable to providers of SGEI, such as those now set out in section V thereof. In case practice under the earlier (2004) R&R Guidelines, the Commission, whilst raising doubts on compatibility of R&R aid, authorised continuation of rescue aid during formal proceedings, in circumstances where discontinuation of the aid could have obstructed the performance of a public service, based on *prima facie* evidence of a genuine SGEI. See Commission Decision (2009)5088 final of 2.7.2009 in case No C19/2009 (ex N 64/2009)- Denmark - Restructuring aid to TV2 Denmark A/S, point 77 and conclusion, OJ C 207 02.09.2009, p. 2.

provider would, at this point in time, minimally provide, let alone replicate, the services (recitals (10) (68) and (76)), thus risking a serious threat to the connectivity of the islands of an outermost region.

- (103) The Commission therefore applies point 103 of the R&R Guidelines so as to avoid an irreversible situation of discontinuation of essential air transport connectivity SGEI in the Azores Region during the conduct of formal proceedings, since there is there is a risk that the Commission may find that SATA is not able to comply with the conditions of these guidelines.
- (104) In the present case, the Commission takes into account the submission of Portugal regarding the PSOs that SATA discharges. The Commission also notes the evidence that Portugal submits to the effect that the PSOs discharged by Azores Airlines on the four PSO routes open to all airlines have not so far attracted any alternative service providers; that alternative airlines exited routes connecting the Region (recital (10)); that only an extremely limited number of routes connecting Azores with the rest of the Union are being served by four other airlines licensed in the European Union (recital (10)). Continuous service provision in those PSO routes provide indispensable air transport connectivity.
- (105) The air transport services under PSO are combined in this case with the SGEI provided through the five airports which SATA guarantees in an outermost Region, which is *a fortiori* especially sensitive and even vital in the context of the COVID-19 outbreak and its induced effects on essential passenger and cargo transport (see recitals (6) and (9) for recent role of SATA).
- (106) Likewise, in addition to the estimated liquidity which are indispensable to maintaining the connectivity of the Region without covering other liquidity needs of the beneficiary, the Commission takes into account the stated intention of Portugal to submit a restructuring plan within such relatively limited period or otherwise liquidate the beneficiary (recital (27)) and the terms of the notified guaranteed rescue loan, which are in line with the R&R Guidelines (recital (82)).
- (107) At this stage, the Commission cannot conclude on the compatibility of the guaranteed rescue aid loan with the internal market, because of its doubts on the compliance with the ‘one time, last time’ principle, and on whether exceptional and unforeseeable circumstances of which SATA is not responsible can be validly claimed in respect of the capital increases.
- (108) Nevertheless, pursuant to point 103 of the R&R guidelines, the Commission considers justified to provide at this stage for authorisation of the payment of rescue aid strictly limited to the amount up to EUR 133 million and for a duration of six months as it is necessary to ensure continuity of the SGEI in the air transport services and the airport management services provided at present by SATA and its subsidiaries (recitals (3) to (7), (71) and (77)). The Commission notes in that respect the amendment which Portugal provided to the notification, submitting that the minimum amount of state aid necessary to guarantee continuity of the provision of the essential services by the SATA Group is EUR 133 million (recital (24)).

- (109) The Commission considers that the interest rate that Portugal commits to applying is an appropriate interest rate, since the guaranteed loan will cover normal operating costs for a definite and short period. It is thus appropriate that the costs of the guaranteed loan to SATA be no lower than the reference rate 12-month EURIBOR plus 400 basis points and that the loan guarantee will be terminated within six months of the date of the present decision.
- (110) However, the Commission must verify that any aid to SATA is effectively proportionate and used to cover only the liquidity needs which are critical to maintain the essential functions of connectivity provided by the beneficiary in the next six months. To that effect, it is necessary that Portugal provides without delay any information requested by the Commission regarding the payment of the aid and the use to which it is put. Moreover, it is necessary that Portugal reports every month starting from the date of the present decision showing the use to which the guaranteed loan has been put and providing, if appropriate, an updated plan of liquidity needs for the next month and until the end of the six month period.

#### *3.4.7. Transparency*

- (111) According to point 38(g) of the R&R Guidelines, Member States, the Commission, economic operators and the public must have easy access to all relevant acts and pertinent information about the aid awarded. This means that Portugal must respect the provisions on transparency laid down in point 96 of the R&R Guidelines. The Commission notes that Portugal undertakes to respect those obligations. The relevant information will be made available on the website:

<https://www.portaldiplomatico.mne.gov.pt/sobre-nos/gestao-e-transparencia/documentos-legais>

### **3.5. Conclusion on the compatibility of the notified aid**

- (112) In the light of the findings above, the Commission concludes that, at this stage, neither the capital increases nor the guaranteed rescue loan appear to meet the conditions of compatibility with the internal market, in particular those set out in the R&R Guidelines. The Commission cannot therefore consider at the present stage that those aids, and in particular the rescue aid provided to the beneficiary as notified, are compatible with the internal market.
- (113) However, pursuant to Article 106(2) TFEU in conjunction with points 99 and 103 of the R&R Guidelines, the Commission deems compatible with the internal market the aid that is necessary to ensure continuity of the SGEI provided by SATA and its subsidiaries, in the form of a guaranteed loan limited to a maximum amount of EUR 133 million, for a duration of six months from the adoption of the present decision, provided that it is remunerated with an appropriate interest rate and that the aid only covers liquidity needs and costs related to ensuring essential air transport connectivity of the Azores Region. Portugal should report every month starting from the date of the present decision showing the use to which the guaranteed loan has been put, providing if appropriate an updated liquidity plan until the end of the six-month period and supply without undue delay any information which the Commission would require in that respect.



#### 4. CONCLUSION

In the light of the foregoing considerations, the Commission has accordingly decided:

- not to raise objections to individual aid to SATA Air Açores for a period of six months in an amount not exceeding EUR 133 million of liquidity needs of its essential activities related to the provision of public service obligations related to air transport to the Region Azores and to the management and operation of services of general interest in the airports in the same Azores Region, on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) and Article 106(2) TFEU and
- acting under the procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union, request the Portuguese Republic to submit, within one month of the date of receipt of this letter, its comments and to provide all such information as may help to assess the compatibility of the capital increases of SATA Air Açores subscribed by the Region of Azores since 2017 and of the guaranteed rescue loan to SATA Air Açores with all the conditions applicable to the rescue aid. The information should include, in particular:
  1. evidence showing that the decision to carry out the capital increases in 2017 and thereafter was taken on the basis of economic evaluations comparable to those which, in similar circumstances, a rational market economy operator with characteristics similar to those of the Regional Government of Azores would have had carried out to determine the profitability or economic advantages of the capital increases;
  2. in the absence of such economic evaluations, objective and verifiable evidence dating back to the period before or simultaneous to the capital increases and showing i) that the capital increases fall to be ascribed to the Regional Government of Azores acting as a private market operator, and not as public authority, ii) that it took a decision to make an investment in SATA, iii) the nature and subject-matter of the capital increases, the context, the objective pursued and the rules to which capital increases of the kind at issue are subject; evidence or information post-dating the decision to increase capital will not be taken into account;
  3. observations with supporting evidence to the effect that the capital increases since 2017 were granted in exceptional and unforeseen circumstances of which SATA is not responsible or that such circumstances thereafter should be taken into account to assess the compatibility of the rescue aid; or observations with supporting evidence to the effect that the capital increases remedied a shortfall of adequate ex ante determination of a compensation for the services of general interest that SATA provided and/or obligations that had to SATA discharge.
  4. a detailed explanation of the circumstances and concrete steps to be taken to ensure and maintain the continuity of the PSO air transport services that

SATA provides, if SATA would no longer be entrusted with the provision thereof, and of the airport management services that SATA provides, including the duration necessary to select one or various alternative providers for the air transport and airport management services concerned;

5. the conditions and time-frame in which an open call for expression of interest of alternative providers bidding for various SGEI or PSO services or bundles thereof could be organised with a view to launching a procedure to select one or various tenderers capable of providing these SGEI or PSO services at the least cost to the Region, with a compensation properly defined objectively in advance that cannot exceed what is necessary to cover all or part of the costs incurred in the discharge of public service obligations, taking into account the relevant receipts and a reasonable profit.

The Commission requests your authorities to forward a copy of this letter to the potential recipient of the aid immediately and wishes to remind the Portuguese Republic that Article 108(3) of the Treaty on the Functioning of the European Union has suspensory effect, and would draw your attention to Article 16 of Council Regulation (EU) 2015/1589, which provides that all unlawful aid may be recovered from the recipient.

The Commission warns the Portuguese Republic that it will inform interested parties by publishing this letter and a meaningful summary of it in the Official Journal of the European Union. It will also inform interested parties in the EFTA countries which are signatories to the EEA Agreement, by publication of a notice in the EEA Supplement to the Official Journal of the European Union and will inform the EFTA Surveillance Authority by sending a copy of this letter. All such interested parties will be invited to submit their comments within one month of the date of such publication.

Yours faithfully,

For the Commission

Margrethe VESTAGER  
Executive Vice-President





Brussels, 30.04.2021  
C(2021) 3228 final

<p>In the published version of this decision, some information has been omitted, pursuant to articles 30 and 31 of 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, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus [...]</p>		<p style="text-align: center;">PUBLIC VERSION</p> <p>This document is made available for information purposes only.</p>
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**Subject: State Aid SA.61771 (2021/PN) – Portugal - COVID - 19 – SATA - Compensation of damages resulting from extraordinary events**

Excellency,

**1. PROCEDURE**

- (1) Following pre-notification contacts,<sup>1</sup> on 30 March 2021, Portugal notified aid in the form of a State grant (“the measure”) in favour of SATA Air Açores - Sociedade Açoriana de Transportes Aéreos S.A. (“**SATA Air Açores**”) and its wholly-owned subsidiary, SATA Internacional – Azores Airlines, S.A. (“**Azores Airlines**”) for the period from 19 March to 30 June 2020. Both SATA Air Açores and Azores Airlines (together the “**SATA airlines**” or “the beneficiaries”) are air transport service providers. The SATA airlines belong to SATA Group<sup>2</sup>, itself based in the Autonomous Region of Azores (“ARA”) and which is fully owned by the Regional Government of Azores (“RGA”). The measure was notified as damage compensation falling under Article 107(2)(b) of the Treaty on the Functioning of the European Union (“TFEU”) (“the damage compensation”).

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<sup>1</sup> The pre-notification occurred on 19 January 2020. During the pre-notification phase, Portugal held calls on the measure with the Commission services on 19 January and on 1 March 2021. The Commission sent requests for information on 12 February and on 8 and 23 March 2021. Portugal replied to those requests and submitted additional information on 22 February and on 4, 8 and 23 March 2021.

<sup>2</sup> The SATA Group includes SATA Air Açores, Azores Airlines and Sata Gestão de Aeródromos.

S. Ex.<sup>a</sup> o Ministro dos Negócios Estrangeiros  
Augusto Santos Silva  
Largo do Rilvas  
P – 1399-030 – Lisboa

- (2) Portugal exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958<sup>3</sup> and to have this Decision adopted and notified in English.

## 2. DESCRIPTION OF THE MEASURE

### 2.1. Objective of the measure

- (3) The objective of the measure is to make good the damage suffered by the SATA airlines as a consequence of the COVID-19 outbreak due to the imposition of travel restrictions and other containment measures imposed to contain the spread of the pandemic.

#### 2.1.1. *The travel restrictions linked to the COVID-19 outbreak*

- (4) Further to the evolution of the COVID-19 outbreak and the declaration on 11 March 2020 of the pandemic by the World Health Organization (“WHO”), on 16 March 2020 the Commission recommended<sup>4</sup> to the Member States to apply a coordinated restriction on non-essential travel from third countries into the Union, for an initial period of 30 days, subsequently extending it twice until 15 June 2020. That recommendation, as well as the one issued by the Commission on 11 June 2020<sup>5</sup> to prolong it until 30 June 2020, applied to all Schengen Member States (as well as Bulgaria, Croatia, Cyprus, and Romania) and the four Schengen Associated States (Iceland, Liechtenstein, Norway, and Switzerland).<sup>6</sup>
- (5) On 18 March 2020, the President of the Portuguese Republic declared a state of emergency, under Decree no. 14-A/2020 of 18 March 2020, with effect as of 19 March 2020. It was extended twice until 2 May 2020, by means of Decrees no. 17-A/2020 and 20-A/2020. That state of emergency was immediately succeeded by the declaration of a state of calamity on 2 May 2020, which was in force until 31 May 2020<sup>7</sup>. The state of emergency was regulated by the Portuguese Government, under Decrees no. 2-A/2020, 2-B/2020 and 2-C/2020. In addition, on 29 May 2020 in the Autonomous Region of Azores, the RGA also declared a state of calamity for some of the islands, including São Miguel and Terceira, which was in force until 15 July 2020.<sup>8</sup>
- (6) The measures imposed by the RGA and the Portuguese Government with regard to air traffic, as well as measures imposed by third countries where the SATA

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<sup>3</sup> Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

<sup>4</sup> Communication from the Commission COM(2020) 115 final of 16 March 2020 – COVID-19: Temporary Restriction on Non-Essential Travel to the EU.

<sup>5</sup> Communication from the Commission COM(2020) 399 final of 11 June 2020 on the third assessment of the application of the temporary restriction on non-essential travel to the EU.

<sup>6</sup> Source: [https://ec.europa.eu/info/live-work-travel-eu/health/coronavirus-response/travel-and-transportation-during-coronavirus-pandemic\\_en](https://ec.europa.eu/info/live-work-travel-eu/health/coronavirus-response/travel-and-transportation-during-coronavirus-pandemic_en)

<sup>7</sup> Resolution of Council of Ministers no.33-A/2020, of 30 of April, extended by Resolution of Council of Ministers no.38/2020, of 17 May 2020.

<sup>8</sup> Regional Government Council Resolutions no. 159/2020 of 29 May 2020, no. 165/2020 of 15 June 2020 and no. 185/2020 of 1 July 2020.

airlines have operations had a direct effect on the operation of the SATA airlines, as evidenced in Table 1. Some of the restrictions affected services on routes under public service obligations (“PSOs”<sup>9</sup>). For the purposes of the measure, the relevant period covered by such restrictions is between 19 March and 30 June 2020.

**Table 1 – Measures affecting the SATA airlines**

	Company	Routes	Period	Restrictive measures and measures lifting the restrictions
1	Azores Airlines	All flights to/from USA	14.03.2020 to 31.03.2021	USA travel ban to all non-Americans citizens who have been in the Schengen area.
2	Azores Airlines	All flights to/from USA and Canada	19.03.2020 to 30.06.2020	Order no. 3427-A/2020 of 18 March; Order no. 4698-C/2020 of 17 April; Orders no. 5503-C/2020 of 13 May and 6251-A/2020 of 16 June 2020 adopted by the Portuguese Government imposing a <u>general prohibition of air traffic to and from Portugal for all flights to and from countries outside the European Union.</u>
3	Azores Airlines	All routes involving Azores with exception of flights to/from Ponta Delgada	14.03.2020 to 18.03.2020	Regional Government Council Resolution no. 64/2020 of 19 March 2020, with effect on/after 14 March 2020: as sole shareholder, the RGA <u>instructs Azores Airlines to concentrate all operations at Ponta Delgada airport.</u>
4	Azores Airlines	All routes involving Azores	19.03.2020 to 15.06.2020	Regional Government Council Resolution no. 76/2020 of 25 March 2020: as sole shareholder, the RGA <u>instructs Azores Airlines’ Board of Directors to suspend all flights operating into the Azores.</u> This suspension was then extended until 15 June 2020 as per Regional Government Council Resolution no. 159/2020 of 29 May 2020.
5	Azores Airlines	All 4 PSO routes connecting ARA to continental Portugal	15.06.2020 to 15.07.2020	Regional Government Council Resolution no. 165/2020 of 15 June 2020, which set forth the <u>gradual resumption of air transport operations connecting ARA with continental Portugal,</u> depending on the company’s operational capacity, as of 15 June 2020 and until 15 July 2020.
6	SATA Air Açores	PSO Routes between the Azores Islands	14.03.2020 to 18.03.2020	Regional Government Council Resolution no. 64/2020 of 19 March 2020 (adopted on 16 March 2020), with effect as of 14 March 2020, <u>suspended all air services between all Azores islands and Terceira islands.</u>
7	SATA Air Açores	PSO Routes between the Azores Islands	19.03.2020 to 28.05.2020	Regional Government Council Resolution no. 76/2020 of 25 March 2020 (as approved on 18 March 2020), with effect as of 19 March 2020 <u>suspended all air services between all Azores islands.</u>
8	SATA Air Açores	PSO Routes between the Azores Islands	From 29.05.2020 until 01.07.2020	Regional Government Council Resolution no. 159/2020 of 29 May 2020 approved the gradual <u>resumption from 00:00 hours on 29 May 2020 of SATA Air Açores air connections between all the islands in the Region.</u>

Source: Notification of Portugal, Annexes 1 and 3.

<sup>9</sup> See details in recitals (35) and (36).

- (7) As evidenced in Table 1, the SATA airlines were obliged to halt their flights from 19 March to 29 May 2020.
- (8) Furthermore, the operations of the SATA airlines continued to be affected to various degrees by a number of restrictions during the month of June 2020.
- (9) Specifically, Azores Airlines' operations were first affected by a general prohibition on air traffic imposed by the Portuguese Government with regard to air travel to and from destinations outside of the Union (imposed by Orders no. 3427-A/2020 of 18 March, 4698-C/2020 of 17 April, 5503-C/2020 of 13 May and 6251-A/2020 of 16 June 2020). That prohibition was implemented from 19 March to 30 June 2020 and affected the international routes of Azores Airlines to the USA and Canada.<sup>10</sup>
- (10) Furthermore, pursuant to the Regional Government Council Resolution no. 76/2020 of 25 March 2020, as sole shareholder, the RGA instructed the Board of Directors of Azores Airlines to suspend all flights operating into the Azores. Afterwards, the Regional Government Council Resolution no. 159/2020 of 29 May 2020 extended the instruction by the RGA to suspend connections to destinations outside of the region until 15 June 2020. That recommended suspension affected all the routes of Azores Airlines.
- (11) Lastly, the Regional Government Council Resolution no. 165/2020 of 15 June 2020 set forth the gradual resumption of air transport operations connecting the ARA with continental Portugal. That gradual resumption began on 15 June and was fully completed as of 15 July 2020. As a result, the operations of Azores Airlines on its four PSO routes from ARA to continental Portugal were fully resumed by 15 July 2020.
- (12) With regard to SATA Air Açores, the Regional Government Council Resolution no. 159/2020 of 29 May 2020 foresaw a gradual resumption, starting on 29 May 2020, of SATA Air Açores' air connections between all the islands of the Region, under the PSO contract. It also foresaw that as of 1 July 2020 the operation of SATA Air Açores, within the scope of the PSO contract between the islands of the ARA, would be fully resumed.
- (13) However, the same legal act of 29 May 2020 extended until 1 July 2020 the suspension of all work-related travel by regional administration workers, including public institutes and public companies, outside the ARA.<sup>11</sup> Portugal submits that the suspension of the regional administration workers' mobility outside the ARA had an impact on the demand for SATA Air Açores flights, as

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<sup>10</sup> In particular, the routes PDL-BOS-PDL; TER-BOS-TER; TER-OAK-TER; PDL-YYZ-PDL; TER-YYZ-TER; PDL-YUL-PDL; and TER-YUL-TER.

<sup>11</sup> Point 10 of the Resolution of the Council of the Regional Government of Azores No. 159/2020, of 29 May 2020 (approved on 28 May 2020) determines, for the entire ARA the maintenance until 1 July at 00:00 a.m. of the following measures: (a) Suspension of all missions by regional administration workers, including public institutes and public enterprises, outside the ARA; (b) Suspension of all visits to the ARA of external bodies requested by the Regional Administration, including public institutes and public undertakings, unless absolutely necessary, provided that they are authorised by the Regional Health Authority; (c) Recommendation to other public and private bodies of the ARA to adopt the same procedure as regards the movement of their workers outside the ARA.

the number of passengers working for the public sector make up a significant part of the overall number of passengers transported within the ARA. According to Portugal, those measures also affected the demand for other passenger segments, as the same legal act included a recommendation to the private sector to adopt similar restrictions regarding the travel of its employees. Furthermore, while the mandatory rule for telework as a work organization regime was eliminated as of 1 June 2020<sup>12</sup>, the Portuguese government adopted a strategy of “partial teleworking”<sup>13</sup>, with restrictions remaining in place for certain categories of population<sup>14</sup> and allowing for derogations from normal labour rules through agreements with the labour force. The recommendations to encourage teleworking combined with the measures in place in the ARA until 1 July 2020 affected the workers mobility and, thus, the operations of the beneficiaries during the month of June 2020.

- (14) In view of the above, the restrictions on air travel enacted by the RGA and the Portuguese Government, as well as other countries (namely the USA), forced a generalized halt on air traffic between 19 March and 29 May 2020, causing a severe reduction in the number of flights and passengers, a corresponding loss in flight revenue, and continued to affect the SATA airlines with partial restrictions also during the month of June 2020, as shown in Tables 2.a and 2.b and illustrated in Figures 1 to 3.

Table 2.a – Number of flights and passengers transported in 2020, compared with the same period in 2019

#### **Azores Airlines**

<i>No. of flights</i>	<b>Jan.</b>	<b>Feb.</b>	<b>Mar.</b>	<b>Apr.</b>	<b>May</b>	<b>Jun.</b>	<b>Jul.</b>
2019	438	378	452	585	618	724	766
2020	474	435	278	71	74	124	481
<i>Variation</i>	8.2%	15.1%	-38.5%	-87.9%	-88.0%	-82.9%	-37.2%
<i>Passengers</i>	<b>Jan.</b>	<b>Feb.</b>	<b>Mar.</b>	<b>Apr.</b>	<b>May</b>	<b>Jun.</b>	<b>Jul.</b>
2019	[...]	[...]	[...]	[...]	[...]	[...]	[...]
2020	[...]	[...]	[...]	[...]	[...]	[...]	[...]
<i>Variation</i>	14.2%	21.4%	-52.3%	-99.8%	-99.5%	-94.6%	-77.4%

#### **SATA Air Açores**

<sup>12</sup> As per Resolution of the Council of Ministers No. 40-A/2020. The document is available at <https://data.dre.pt/web/guest/pesquisa/-/search/134889278/details/maximized> .

<sup>13</sup> <https://www.publico.pt/2020/05/15/economia/noticia/teletrabalho-partir-junho-implica-acordo-empresa-costa-1916825> .

<sup>14</sup> As per Communication of the Portuguese Council of Ministers of 29 May 2020, the mandatory rule of telework as a work organization regime is eliminated, remaining exclusively in the following situations: i) workers who, upon medical certification, are covered by the exceptional regime of protection of immunosuppressed and chronically ill; ii) workers with a degree of disability equal to or greater than 60%; iii) workers with a child or other dependent under 12 years of age or with a disability or chronic disease who need to provide assistance due to suspension of school activities and non-teaching face-to-face; iv) when the physical spaces and the organization of work do not allow safe compliance with the guidelines of the DGS and ACT. The document is available at <https://www.portugal.gov.pt/pt/gc22/governo/comunicado-de-conselho-de-ministros?i=349>.

<b>No. of flights</b>	<b>Jan.</b>	<b>Feb.</b>	<b>Mar.</b>	<b>Apr.</b>	<b>May</b>	<b>Jun.</b>	<b>Jul.</b>
2019	947	846	976	1 253	1 341	1 628	1 877
2020	915	860	649	348	386	581	1 338
<i>Variation</i>	<i>-3.4%</i>	<i>1.7%</i>	<i>-33.5%</i>	<i>-72.2%</i>	<i>-71.2%</i>	<i>-64.3%</i>	<i>-28.7%</i>
<b>Passengers</b>	<b>Jan.</b>	<b>Feb.</b>	<b>Mar.</b>	<b>Apr.</b>	<b>May</b>	<b>Jun.</b>	<b>Jul.</b>
2019	[...]	[...]	[...]	[...]	[...]	[...]	[...]
2020	[...]	[...]	[...]	[...]	[...]	[...]	[...]
<i>Variation</i>	<i>0.0%</i>	<i>5.0%</i>	<i>-51.5%</i>	<i>-97.9%</i>	<i>-96.3%</i>	<i>-78.0%</i>	<i>-58.8%</i>

Source: Notification of Portugal

Table 2.b - Flight revenue in 2020, compared with the same period in 2019

### Azores Airlines

<b>Flight revenue (million EUR)</b>	<b>19-31 Mar.</b>	<b>Apr.</b>	<b>May</b>	<b>01-14 Jun.</b>	<b>15-30 Jun.</b>	<b>01-15 Jul.</b>
2019	[...]	[...]	[...]	[...]	[...]	[...]
2020	[...]	[...]	[...]	[...]	[...]	[...]
<i>Out of which</i>						
2019	[...]	[...]	[...]	[...]	[...]	[...]
USA	[...]	[...]	[...]	[...]	[...]	[...]
Canada	[...]	[...]	[...]	[...]	[...]	[...]
2020	[...]	[...]	[...]	[...]	[...]	[...]
USA	[...]	[...]	[...]	[...]	[...]	[...]
Canada	[...]	[...]	[...]	[...]	[...]	[...]

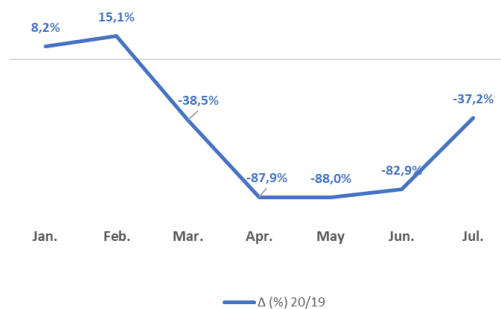
### SATA Air Açores

<b>Flight Revenue (in '000 Euros)</b>	<b>19-31 Mar.</b>	<b>Apr.</b>	<b>May</b>	<b>01-14 Jun.</b>	<b>15-30 Jun.</b>	<b>01-15 Jul.</b>
<b>2019</b>	[...]	[...]	[...]	[...]	[...]	[...]
<b>2020</b>	[...]	[...]	[...]	[...]	[...]	[...]

Source: Notification of Portugal

Figure 1 – Variation in the number of flights in 2020, compared with the same period in 2019

### Azores Airlines



### SATA Air Açores

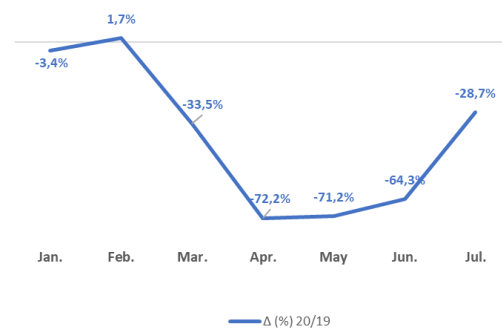




Figure 2 - Variation in the number of passengers in 2020, compared with the same period in 2019

**Azores Airlines**



**SATA Air Açores**

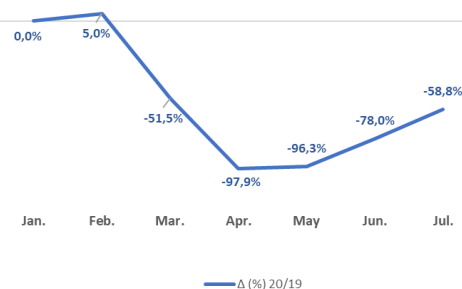
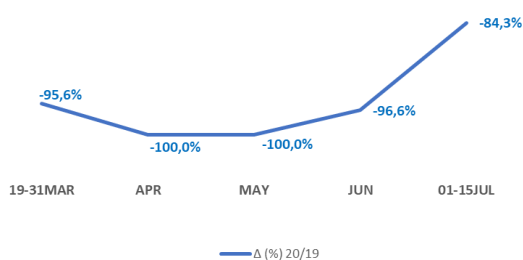
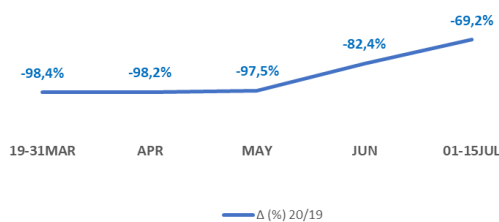


Figure 3 – Variation in the flight revenue in 2020, compared with the same period in 2019

**Azores Airlines**



**SATA Air Açores**



Source: Notification of Portugal

- (15) Based on the information provided by Portugal, during the period from 19 March to 30 June 2020, Azores Airlines carried only 7 181 passengers, in contrast with the 294 910 passengers carried during the same period in 2019 (decrease by 98%), and SATA Air Açores carried 21 830 passengers as opposed to the 228 668 passengers carried in 2019 (decrease by 90%). At a more granular level, figures 1 and 2 show a sharp fall in the number of flights and number of passengers for both of the SATA airlines in the second part of March 2020 compared to the previous year, corresponding to the period following the declaration of the state of emergency on 19 March 2020. As regards the month of June 2020, Azores Airlines registered a drop of 94.6% in the number of passengers (very similar to the 99.5% in May 2020 compared to May 2019), while SATA Air Açores registered a drop of 78.0% in the number of passengers (compared to a 96.3% drop in May 2020), showing that the SATA airlines resumed their activities gradually, at a very reduced level, with only a few flights to and from certain destinations. The strong reduction in the number of passengers translated into a dramatic drop in the flight revenues for both airlines: there was a more than 95% drop in monthly flight revenues in the case of Azores Airlines and a more than 80% drop in the case of SATA Air Açores between mid-March and June 2020 compared to the previous year.

- (16) In addition, the Commission notes that both SATA airlines were providing services under PSO contracts. In that context, the SATA airlines had a legal obligation to provide flight services once the resumption of such services was allowed by the government, notably between 15 and 30 June 2020 for the PSO routes of Azores Airlines and between 1 and 30 June 2020 for the PSO routes of SATA Air Açores.
- (17) The more granular evolution of each of the PSO and non-PSO flights operated by the SATA airlines immediately after the lifting of the ban is illustrated in Table 3.

Table 3: Evolution of SATA airlines' scheduled flight operations in the period immediately after the lifting of the ban on flights – 1 June to 15 July 2020 (compared to the same period in 2019).

#### Azores Airlines

<i>No. of flights 2019</i>	<i>June 1-14</i>		<i>June 15-30</i>		<i>July 1-15</i>	
	<b>PSO</b>	<b>Non-PSO</b>	<b>PSO</b>	<b>Non-PSO</b>	<b>PSO</b>	<b>Non-PSO</b>
Inter-Islands	[...]	[...]	[...]	[...]	[...]	[...]
Inter-Portugal	[...]	[...]	[...]	[...]	[...]	[...]
International	[...]	[...]	[...]	[...]	[...]	[...]
<b>Total</b>	[...]	[...]	[...]	[...]	[...]	[...]
<i>No. of flights 2020</i>	<i>June 1-14*</i>		<i>June 15-30</i>		<i>July 1-15</i>	
	<b>PSO</b>	<b>Non-PSO</b>	<b>PSO</b>	<b>Non-PSO</b>	<b>PSO</b>	<b>Non-PSO</b>
Inter-Islands (ban lifted on 15 June 2020)	[...]	[...]	[...]	[...]	[...]	[...]
Inter-Portugal (gradual resumption of air connections between ARA and continental Portugal as of 15 June until 15 July 2020)	[...]	[...]	[...]	[...]	[...]	[...]
International (ban lifted on 1 July 2020)	[...]	[...]	[...]	[...]	[...]	[...]
<b>Total</b>	[...]	[...]	[...]	[...]	[...]	[...]

\*exceptions to the ban represented by flights related to PSOs or cargo transport or cases of *force majeure*, providing those have previously been authorised by the Regional Health Authority.

#### SATA Air Açores

<i>No. of flights 2019</i>	<i>June 1-14</i>		<i>June 15-30</i>		<i>July 1-15</i>	
	<b>PSO</b>	<b>Non-PSO</b>	<b>PSO</b>	<b>Non-PSO</b>	<b>PSO</b>	<b>Non-PSO</b>
Inter-Islands	[...]	na	[...]	na	[...]	na
<i>No. of flights 2020</i>	<i>June 1-14</i>		<i>June 15-30</i>		<i>July 1-15</i>	
	<b>PSO</b>	<b>Non - PSO</b>	<b>PSO</b>	<b>Non PSO</b>	<b>PSO</b>	<b>Non - PSO</b>
Inter-Islands (gradual resumption as of 29 May 2020 of air connections between all the islands in the ARA)	[...]	na	[...]	na	[...]	na

Source: Commission's calculation based on Annex 4 of Notification by Portugal.

- (18) The data provided by the Portuguese authorities show that, despite the gradual lifting of the travel bans as of 29 May 2020 for SATA Air Açores and on 15 June 2020 for Azores Airlines on inter-islands and inter-Portugal flights, the flight operations of the SATA airlines did not significantly resume during the month of June 2020. Specifically, SATA Air Açores started with only 31% of the number

of flights in the first half of June 2020 ([...] flights compared to [...] flights in the first part of June 2019), reaching only 37% of the number of flights in the second part of June 2020 ([...] flights in the second part of June 2020 against the same period in 2019), all on inter-island PSO routes. Even in the first part of July 2020, SATA Air Açores was operating only 70% of the number of flights operated in the same period in 2019. Similarly, Azores Airlines started by operating only 40% of the non-PSO flights in the second part of June 2020 and almost 50% of the PSO flights against the similar period in 2019. In addition, all international flights to USA and Canada were still banned through the whole month of June, which would amount for almost half of Azores Airlines' normal revenues during the similar period in 2019. Portugal explains that, based on historic information, domestic demand tends to recover faster than international travel, the average period of advance purchase for an international trip being approximately 75 days and approximately 21 days for domestic trips. Such a time gap would explain the difficulty for demand to take off even after the lifting of travel restrictions, causing an inevitable ramp-up period for the airline industry.

- (19) In addition, with respect to the PSO routes only, based on the information provided by Portugal:
- (a) despite the lifting of the flights ban, other restrictions remained in place in June 2020 (such as travel warning against non-essential travel abroad);
  - (b) those measures kept passenger numbers and ticket revenues low compared to the same period in 2019, including in the weeks following the lifting of the strictest containment measures and continued to have a significant impact on the revenues of the beneficiaries as PSO operators;
  - (c) the SATA airlines, as PSO operators, could not immediately react to a changed market environment and to the reduced demand for tickets, as the PSOs required them to continue providing transport services in order to ensure connectivity, despite the very low number of passengers. Unlike other companies, the SATA airlines did not have the choice to reduce frequency of flights on resumed PSO routes beyond a certain level to react to the reduced demand.
- (20) In light of the above, Portugal envisages the compensation of damages for the SATA airlines for the period from 19 March to 30 June 2020.

*2.1.2. The impact of the travel restrictions on the SATA airlines from 19 March to 30 June 2020*

- (21) As a consequence of the containment measures restricting air travel in the ARA and in the rest of Portugal, and the imposition of travel restrictions and other containment measures put in place by other countries (see recitals (5) to (12)), SATA Air Açores and Azores Airlines had to cancel part or all passenger transport scheduled flights during the period between 19 March and 30 June 2020. In particular, during the periods of the states of emergency and calamity (*i.e.* between 19 March and 31 May 2020), the SATA airlines could only provide flights related to public service obligations of cargo transport or cases of *force majeure*, and could do so only if they were authorized by the regional health authority. Furthermore, during the month of June 2020, gradual resumption of

SATA airlines flights took place but still at a slow pace due to the previous as well as on-going restrictions (see recitals (9) to (13)).

- (22) As a response to the developments of the COVID-19 outbreak and the restrictions imposed in the aviation sector, Azores Airlines cancelled 86% of all planned flights during the period of 19 March until 30 June 2020, while SATA Air Açores cancelled about 68% of all planned flights during the same period.
- (23) Those restrictions severely affected the SATA airlines. Despite their good performance in January and February of 2020<sup>15</sup>, the drop in the number of flights in the following months hit the SATA airlines' financial situation hard.
- (24) In addition, there has been a decrease of Revenue Passenger Kilometres ("RPK")<sup>16</sup> by 98% in Azores Airlines and 91% in SATA Air Açores, when compared to the same period in 2019. As shown by the indicators in Table 4, there was a significant reduction in air traffic due to the COVID-19 outbreak, which generated a decrease of 95% in Available Seat Kilometre ("ASK")<sup>17</sup> for Azores Airlines and of 72% for SATA Air Açores, when compared to the same period of 2019.

Table 4 – Variation in RPK and ASK, compared with the same period in 2019, by month (in thousands)

Azores Airlines					SATA Air Açores				
	15-31 Mar.	Apr.	May	Jun.		15-31 Mar.	Apr.	May	Jun.
<b>RPK</b>					<b>RPK</b>				
2019	[...]	[...]	[...]	[...]	2019	[...]	[...]	[...]	[...]
2020	[...]	[...]	[...]	[...]	2020	[...]	[...]	[...]	[...]
Δ (%)	-93.9%	-99.8%	-99.4%	-96.3%	Δ (%)	-96.80%	-97.8%	-96.3%	-80.9%
<b>ASK</b>					<b>ASK</b>				
2019	[...]	[...]	[...]	[...]	2019	[...]	[...]	[...]	[...]
2020	[...]	[...]	[...]	[...]	2020	[...]	[...]	[...]	[...]
Δ (%)	-83.5%	-99.3%	-99.1%	-92.2%	Δ (%)	-79.7%	-79.0%	-71.9%	-66.4%

Source: Notification of Portugal

- (25) As a consequence of the travel restrictions imposed in the aviation sector, the passenger load factor of Azores Airlines decreased by [...] percentage points down from the [...] % recorded in 2019, to [...] % in the period from 19 March to 30 June 2020. For SATA Air Açores, it decreased by [...] percentage points,

<sup>15</sup> Azores Airlines registered an increase of flights by 8.2% in January 2020 and by 15.1% in February 2020; SATA Air Açores registered a slight decrease of flights by -3.4% in January 2020 and an increase by 1.7% in February 2020.

<sup>16</sup> RPK is an airline industry metric that shows the number of kilometres travelled by paying passengers. It is calculated as the number of revenue passengers multiplied by the total distance travelled. Also, RPK measures the passenger volume carried by the aircraft.

<sup>17</sup> Available seat kilometres (ASK) is a measure of passenger carrying capacity. It is equal to the number of seats available multiplied by the number of miles or kilometres flown.

down from the [...] % recorded in 2019, to [...] % in the period from 19 March to 30 June 2020.

- (26) The restriction measures imposed in aviation had a major impact on the SATA airlines' financial situation. In 2020, the SATA Group saw its receivables (revenue sold) reduced in comparison with the same months of 2019 by circa [...] % in March, [...] % in April and [...] % in May, since all commercial flights were cancelled and only inter-island flights for cargo purposes were operated. Despite the lifting of the ban on flights, figures show that the resumption of flight operations was slow in June 2020 (see recital (18)), registering a drop of 85% of the revenues against June 2019.
- (27) Regarding the impact of the COVID-19 pandemic on the financial situation of the SATA airlines, the key financial indicators are presented in comparison with the 2019 data for the corresponding months, which will serve as the reference period for the damage calculation. Table 5 shows the severe impact of the restrictions stemming from the COVID-19 outbreak in the operational performance and, as a result, in the financial indicators of SATA Air Açores and Azores Airlines.

**Table 5 – Key Financials – The SATA airlines**

**Azores Airlines**

<i>Values in '000 Euros</i>	<i>Mar.*</i>	<i>Apr.</i>	<i>May.</i>	<i>Jun.</i>	<i>Mar.*-Jun.</i>
<b>Revenues</b>					
2019	[...]	[...]	[...]	[...]	[...]
2020 (with COVID-19)	[...]	[...]	[...]	[...]	[...]
<b>Total Costs</b>					
2019	[...]	[...]	[...]	[...]	[...]
2020 (with COVID-10)	[...]	[...]	[...]	[...]	[...]
<b>Indirect costs as a result of active management measures</b>					
2019	[...]	[...]	[...]	[...]	[...]
2020 (with COVID-19)	[...]	[...]	[...]	[...]	[...]
<b>EBITDA</b>					
2019	[...]	[...]	[...]	[...]	[...]
2020 (with COVID-19)	[...]	[...]	[...]	[...]	[...]

Source: Notification of Portugal \*full month data

**SATA Air Açores**

<i>Values in '000 Euros</i>	<i>Mar.*</i>	<i>Apr.</i>	<i>May.</i>	<i>Jun.</i>	<i>Mar.*-Jun.</i>
<b>Revenues</b>					
2019	[...]	[...]	[...]	[...]	[...]
2020 (with COVID-19)	[...]	[...]	[...]	[...]	[...]
<b>Total Costs</b>					
2019	[...]	[...]	[...]	[...]	[...]
2020 (with COVID-19)	[...]	[...]	[...]	[...]	[...]

Indirect costs as a result of active management measures					
2019	[...]	[...]	[...]	[...]	[...]
2020 (with COVID-19)	[...]	[...]	[...]	[...]	[...]
EBITDA					
2019	[...]	[...]	[...]	[...]	[...]
2020 (with COVID-19)	[...]	[...]	[...]	[...]	[...]

Source: Notification of Portugal \* full month data

## 2.2. National legal basis

- (28) The legal basis for the granting of the financial compensations to companies is set out in the draft Resolution of Council of Government granting the compensation for COVID-19 damages to the SATA airlines, under the terms of article 90 (1), e) and h) of the Political-Administrative Statute of the ARA.<sup>18</sup>

## 2.3. Form, budget and duration of the measure

- (29) The measure provides aid in the form of a direct grant. The purpose of the aid is to make good the damage of EUR 11.96 million resulting from the COVID-19 outbreak.
- (30) The aid will be granted in May 2021 and will cover the total damages directly caused by the COVID-19 outbreak to the SATA airlines during the period of the COVID-19 restrictions, *i.e.* from 19 March to 30 June 2020.
- (31) Moreover, Portugal confirms that it will annually submit to the Commission the reports provided for by Article 26 of Council Regulation (EU) 2015/1589<sup>19</sup> and maintain for at least 10 years from the date of granting of the aid detailed records containing the information and supporting documentation necessary to establish that all compatibility conditions are met, and provide them, on a written request, to the Commission within a period of 20 working days or such longer period as may be fixed in the request.
- (32) Finally, Portugal indicates that relevant information on the aid measure<sup>20</sup>, including the full text of the aid granting decision and its implementing provisions

<sup>18</sup> Enacted by Law no. 39/80 of 5 August 1980, as amended by Laws no. 9/87 of 26 March 1987, 61/98 of 27 August 1998, and 2/2009, of 12 January 2009, and articles 10 and 11 of Regional Legislative Decree no. 7/2008/A of 24 March 2008, as amended by Regional Legislative Decrees no. 17/2009/A of 14 October 2009, no. 17/2011/A of 22 March 2011, no. 2/2014 of 29 January 2014, no. 20/2014/A of 30 of October 2014 and no. 3/2017/A of 13 April 2017.

<sup>19</sup> 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, OJ L 248, 24.9.2015, p. 9.

<sup>20</sup> The information published will include: the identity of the granting authority; the identity of the individual beneficiary, the aid instrument and amount; the objective of the aid, the date of granting, the type of undertaking; the Commission's aid measure reference number; the region where the beneficiary is located (at NUTS level 2) and the principal economic sector of the beneficiary.

or a link to it, will be published on a dedicated website<sup>21</sup>, in line with the requirements of the Commission's communication on transparency.<sup>22</sup>

#### **2.4. Administration of the measure**

- (33) The direct (non-refundable) grant will be provided by the ARA, which is responsible for administering the measure.

#### **2.5. Beneficiaries**

- (34) The beneficiaries of the aid measure are the SATA airlines, which belong to the SATA Group, based in the ARA. The SATA Group was incorporated in 1941 and is fully owned by the RGA.
- (35) SATA Air Açores provides air transport passenger and cargo services with routes under PSOs or on commercial basis. SATA Air Açores serves the nine islands of the region through inter-island air transport of the Azores Archipelago, for a total of 14 routes, under PSOs entrusted exclusively to SATA Air Açores by means of a public service contract. SATA Air Açores was the only airline that submitted a bid for those routes in 2015 and its initial 5-year contract had expired on 30 September 2020. In the context of the disruptions of the tender process during the COVID-19 outbreak, it was awarded a new PSO contract by the RGA for a period of 6 months as of 1 October 2020<sup>23</sup>. In 2019, SATA Air Açores operated more than 15 000 flights, with six Dash Bombardier planes which carried around 766 000 passengers.
- (36) Azores Airlines was incorporated in December 1990 and has an administrative hub in Ponta Delgada and one operational base in Lisbon. Azores Airlines operates without compensation: (i) three PSO routes connecting the five gateways of the Azores (São Miguel, Terceira, Santa Maria, Horta and Pico islands) to continental Portugal, (ii) one PSO route linking Ponta Delgada to Funchal (Madeira island) and (iii) international flights for regular routes in the North Atlantic to Boston, Oakland, Toronto and Montreal. Azores Airlines also operates niche tourist markets and charter services. Even if the four PSO routes are open to all operators willing to comply with the PSOs imposed on the routes, Azores Airlines is the only airline operating them. In 2019, Azores Airlines operated

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<sup>21</sup> <https://www.portaldiplomatico.mne.gov.pt/sobre-nos/gestao-e-transparencia/documentos-legais> .

<sup>22</sup> Communication from the Commission amending the Communications from the Commission on EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks, on Guidelines on regional State aid for 2014–2020, on State aid for films and other audiovisual works, on Guidelines on State aid to promote risk finance investments and on Guidelines on State aid to airports and airlines, OJ C 198, 27.6.2014, p. 30.

<sup>23</sup> In line with Regulation No. 1008/2008, those PSOs were awarded by means of a 5-year public service contract, following a tender procedure for a concession period of 5 years from 1 October 2015 to 30 September 2020. The Portuguese authorities explain that, even though a public tender had been launched in 28 January 2020, the impact of the COVID-19 outbreak, and the consequent severe disruptions and restrictions to the provision of airline services, prevented the RGA from completing the launch of the public tender for the award of the public service concession of such inter-island PSOs. Therefore, in order to avoid the interruption of those PSOs, the RGA awarded those PSO routes to SATA Air Açores, for a period of 6 months (from 1 October 2020 to 31 March 2021), which would also be extended for a further period of 6 months until October 2021, at which time the international tender procedure regarding those PSOs is expected to be finished.

around 7 000 flights, through six medium-course Airbus 320 planes serving around 946 000 passengers.

- (37) SATA Air Açores has benefited from a liquidity support in the form of a loan guarantee of up to EUR 133 million granted by the ARA, that the Commission approved under the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty ("R&R Guidelines") on 18 August 2020 ("the liquidity support")<sup>24</sup>. The aid was meant to allow the company to fulfil its public service obligations, provide essential services and ensure the connectivity of the Azores outermost region. At the same time, the Commission opened an investigation to assess whether earlier capital increases of EUR 72.6 million provided by the Region to the SATA Group since 2017 are compatible with State aid rules and whether such funding amounts to unlawful restructuring aid. Furthermore, on 19 January 2021, Portugal submitted a draft restructuring plan for the Commission's assessment. Neither the investigation on the past aid, nor the assessment of the restructuring aid are part of the present decision. Instead, they will be the object of separate Commission decisions.

## **2.6. Eligible costs and methodology for the estimation of the damage compensation under Article 107(2)(b) TFEU**

- (38) According to Portugal, the eligible costs correspond to the damage suffered by the SATA airlines during the period running from 19 March until 30 June 2020 ("the compensation period") due to the COVID-19 outbreak as a result of the official prohibitions or recommendations affecting the beneficiary. The compensation period falls entirely within the period during which Portugal and other countries had put in place containment measures that affected the ability of the SATA airlines to operate their business, and it is conservative given that the SATA airlines had to cancel a substantial number of international flights even before the declaration of the state of emergency by Portugal on 19 March 2020 (see Table 1).
- (39) Portugal defines the damage as the net losses due to the containment measures taken by governments as a consequence of the COVID-19 outbreak. The net losses in that period are quantified using the loss of revenues and avoided costs during the compensation period (19 March 2020 to 30 June 2020), by comparing the results of the SATA airlines during that period with the results that they would have expected to achieve absent the COVID-19 restrictions. The proxy for those net losses is the difference between the EBITDA<sup>25</sup> results of the SATA airlines in the compensation period in 2020 and their EBITDA results for the reference period in 2019. There was no profit registered in 2019, so that the compensation does not cover profit losses.
- (40) Table 7 summarizes the damages suffered by each of the SATA airlines and both combined, which are eligible for compensation. The evaluation of the damage directly suffered by them due to the COVID-19 outbreak is done by comparing

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<sup>24</sup> See Commission decision in case SA.58101 – Rescue aid to SATA group, published in the OJ C/294/2020 of 4 September 2020.

<sup>25</sup> EBITDA stands for earnings before interest, taxes, depreciation and amortisation.



the EBITDA figures of the company concerned from 19 March to 30 June 2020 to the same period in 2019.

- (41) To reach those figures, Portugal adjusted the calculation of the EBITDA-based damage to the period from 19 March to 30 June 2020. Since no daily EBITDA data were available, it calculated the EBITDA loss for the second half of March (*i.e.* between 19 and 31 March 2020), and the corresponding total damage estimation for the period between 19 March and 30 June 2020. Portugal calculated that 79.9% and 82.0% of the losses suffered in March 2020 by Azores Airlines and respectively by SATA Air Açores could be allocated to the second half of March 2020. The determination of the allocation factors in % is presented in Table 6.

**Table 6: Determination of the allocation factors based on the relative change in number of passengers during the second part of March 2020**

<b>Azores Airlines</b>			
No. of passengers	1 to 18 Mar.	19 to 31 Mar.	1 to 31 Mar.
2019	[...]	[...]	[...]
2020	[...]	[...]	[...]
Absolute difference	[...]	[...]	[...]
<i>Relative change</i>	-20.01%	-79.90%	-100.00%

<b>SATA Air Açores</b>			
No. of passengers	1 to 18 Mar.	19 to 31 Mar.	1 to 31 Mar.
2019	[...]	[...]	[...]
2020	[...]	[...]	[...]
Absolute difference	[...]	[...]	[...]
<i>Relative change</i>	-18.00%	-82.00%	-100.00%

Source: Notification of Portugal

- (42) As reflected in Table 7, the SATA airlines suffered an estimated operating revenue loss of EUR [...] million, as a consequence of the decrease in the number of flights operated as well as the reduced load factor for the few remaining flights. As a result, the total net losses eligible for compensation amount to EUR 11.96 million.

**Table 7: Damage estimation based on EBITDA variation against the previous year (per company and overall)**

<b>Azores Airlines</b>					
<i>Values in '000 Euro</i>	<i>Var. Mar.19-Mar.20</i>	<i>Var. Apr.19-Apr.20</i>	<i>Var. May.19-May.20</i>	<i>Var. Jun.19-Jun.20</i>	<i>Total Damage 15 Mar.20 - 30 Jun.20</i>
Revenues	[...]	[...]	[...]	[...]	
Total operating costs*	[...]	[...]	[...]	[...]	
EBITDA	[...]	[...]	[...]	[...]	8 127.34

**SATA Air Açores**

<i>Values in '000 Euro</i>	<i>Var. Mar.19- Mar.20</i>	<i>Var. Apr.19- Apr.20</i>	<i>Var. May.19- May.20</i>	<i>Var. Jun.19- Jun.20</i>	<i>Total Damage 15 Mar.20 - 30 Jun.20</i>
Revenues	[...]	[...]	[...]	[...]	[...]
Total operating costs*	[...]	[...]	[...]	[...]	[...]
EBITDA	[...]	[...]	[...]	[...]	3 832.85

#### **The SATA airlines combined (Azores Airlines and SATA Air Açores)**

<i>Values in '000 Euro</i>	<i>Var. Mar.19- Mar.20</i>	<i>Var. Apr.19- Apr.20</i>	<i>Var. May.19- May.20</i>	<i>Var. Jun.19- Jun.20</i>	<i>Total Damage 15 Mar.20 - 30 Jun.20</i>
Revenues	[...]	[...]	[...]	[...]	[...]
Total operating costs*	[...]	[...]	[...]	[...]	[...]
EBITDA	[...]	[...]	[...]	[...]	11 960.19

\* Includes the savings in fixed costs due to measures related to COVID-19

#### **Individual and total EBITDA-based damage estimations for the SATA airlines during the compensation period**

<i>Values in '000 Euro</i>	<i>Var. Mar.19- Mar.20</i>	<i>Var. Apr.19- Apr.20</i>	<i>Var. May.19- May.20</i>	<i>Var. Jun.19- Jun.20</i>	<i>Total Damage 19 Mar.-30 Jun.20</i>
Azores Airlines	[...]	[...]	[...]	[...]	8 127.35
SATA Air Açores	[...]	[...]	[...]	[...]	3 832.85
SATA airlines	[...]	[...]	[...]	[...]	11 960.19

Source: Notification of Portugal

- (43) In addition, Portugal committed that the damage quantification will be audited and certified by an independent expert at the end of the accounting year based on the SATA airlines' financial accounts. SATA Air Açores, as the holding company, committed to provide Portugal with a full report of all the revenues and costs related to its passenger transport activities operated by the SATA airlines during the compensation period (*i.e.* 19 March – 30 June 2020) by 31 May 2021<sup>26</sup> at the latest. Any overcompensation that may potentially result from such auditing will be paid back by the beneficiaries to Portugal with interest (see recital (44)).

### **2.7. Commitments**

- (44) As regards the damage compensation, Portugal committed to put in place the following safeguards to avoid overcompensation:
- (a) Portugal will provide a report by 30 June 2021 on the implementation of the aid and the final calculation of the damage suffered by the SATA airlines, based on audited accounts in accordance with point 4 of the draft legal basis.

<sup>26</sup> As established under Article 376 of the Portuguese Companies Code.

- (b) If that final calculation indicates that the aid leads to an overcompensation, any payment exceeding the damage suffered as a direct consequence of the COVID-19 outbreak will be recovered from the SATA airlines, including interest from the date when the aid was granted until the date of effective recovery.
- (c) The amount of the grant in favour of the SATA airlines will be net of any amount recovered by insurance, litigation, arbitration or other source for the same damage. If the aid in form of a grant is granted before any such amount is recovered by other measure (insurance, litigation, etc.) the authorities will recover the respective amount from the SATA airlines, including interest.
- (d) The benefit of the aid is excluded to the extent that the SATA airlines are responsible for the damage suffered or did not conduct their activities with due diligence or in compliance with applicable legislation or did not take any measure to mitigate its damage. Portugal also confirms that it has verified that the SATA airlines are not in such a situation.
- (e) The aid may not be cumulated with other aid for the same eligible costs.

### **3. ASSESSMENT**

#### **3.1. Lawfulness of the measure**

- (45) By notifying the measure before putting it into effect, Portugal have respected its obligations under Article 108(3) TFEU.

#### **3.2. Existence of State aid**

- (46) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.
- (47) The Commission notes that Portugal notified the measure as State aid and does not dispute the State aid character of the measure.
- (48) The measure is imputable to the State, since it granted and administered by the ARA and is based on the draft Resolution of Council of Government referred to in recital (28). The aid is financed through State resources, since the grant will be granted by the RGA and funded by the budget of the ARA.
- (49) The measure consists in a non-refundable grant, which confers an advantage on the SATA airlines by compensating them for damage directly caused by the COVID-19 restrictions. Non-refundable grants are not financial instruments available on the market at market conditions. Moreover, it follows from recital (37) and the financial indicators presented in Table 5 that the SATA airlines cannot get financing from the market. The measure therefore gives them access to finance that, given the specific situation and the circumstances resulting from the

COVID-19 outbreak, they would not have been able to obtain on the market. The advantage is equal to the amount of the grant.

- (50) The advantage granted by the measure is selective, since it is awarded to two beneficiaries, the SATA airlines.
- (51) The measure is liable to distort competition, since it strengthens the competitive position of the SATA airlines. It also affects trade between Member States, since the SATA airlines are active in the aviation sector, in which intra-Union trade exists.
- (52) In view of the above, the Commission concludes that the measure constitutes State aid within the meaning of Article 107(1) TFEU.

### **3.3. Compatibility of aid under Article 107(2)(b) TFEU**

- (53) Since the damage compensation involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that aid is compatible with the internal market.
- (54) Article 107(2)(b) TFEU covers aid which is, in law, compatible with the internal market, provided that it satisfies certain objective criteria. Since this is an exception to the general principle stated in Article 107(1) TFEU that State aid is incompatible with the internal market, Article 107(2)(b) TFEU must be interpreted narrowly. Therefore, only damage caused by natural disasters or exceptional occurrences may be compensated for under that provision. There must be a direct link between the damage suffered by an undertaking and the exceptional occurrence, and the compensation must not exceed the amount of damage.
- (55) Where those criteria are satisfied, the Commission is bound to declare such aid compatible with the internal market, and it has no discretion in that regard. The principle of ‘one time last time’ of the Rescue and Restructuring Guidelines does not cover aid that the Commission declares compatible under Article 107(2)(b) TFEU, since such aid is not “rescue aid, restructuring aid or temporary restructuring support” within the meaning of point 71 of the Rescue and Restructuring Guidelines.<sup>27</sup> Therefore, under Article 107(2)(b) TFEU, Portugal may compensate the damage directly caused by the COVID-19 outbreak to undertakings that have received aid or liquidity support under the Rescue and Restructuring Guidelines.

#### *3.3.1. The notion of exceptional occurrences with the meaning of Article 107(2)(b) TFEU*

- (56) Article 107(2)(b) TFEU provides that aid to make good damage caused by natural disasters or exceptional occurrences shall be compatible with the internal market. Neither the TFEU nor Union legislation contains a precise definition of the notion of exceptional occurrence. As they constitute exceptions to the general prohibition of State aid within the internal market laid down in

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<sup>27</sup> See section 3.6.1 of the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, OJ C 249, 31.7.2014, p. 1.

Article 107(1) TFEU, the Commission, in line with the consolidated Union case-law<sup>28</sup> has consistently held that the notions of ‘natural disaster’ and ‘exceptional occurrence’ referred to in Article 107(2)(b) TFEU must be interpreted restrictively.

- (57) The characterisation of an event as being an exceptional occurrence is made by the Commission on a case-by-case basis, having regard to its previous practice in the field<sup>29</sup>. In that regard, the following indicators relating to the event concerned must be cumulatively met: (i) unforeseeable or difficult to foresee<sup>30</sup>; (ii) significant scale/economic impact<sup>31</sup> and (iii) extraordinary, i.e. differing sharply from the conditions under which the market normally operates.<sup>32</sup>

### 3.3.2. COVID-19 as an exceptional occurrence

- (58) Following the first reports of cases of acute respiratory syndrome (COVID-19) in the Wuhan municipality in China at the end of December 2019, the Chinese authorities identified a novel coronavirus (SARS-CoV-2) as the main causative agent, which had not been previously identified in humans. The outbreak rapidly evolved, affecting not only other parts of China but also spreading to a majority of countries worldwide, including all Member States. Outbreaks of novel virus infections among people are always a public health concern and can have a significant economic impact. Specific sectors and areas are particularly affected by the outbreak, be it because of national outbreak control measures, travel restrictions or supply chain disruptions.

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<sup>28</sup> Judgment of the Court of Justice of 11 November 2004, *Spain v Commission*, C-73/03, EU:C:2004:711, paragraph 37 and judgment of the Court of Justice of 23 February 2006, *Atzeni and others*, in Joined Cases C-346/03 and C-529/03, EU:C:2006:130, paragraph 79.

<sup>29</sup> Exceptional occurrences which have been accepted in the past by the Commission include war, internal disturbances and strikes, and, with certain reservations and depending on their extent, major industrial accidents which result in widespread economic loss, see Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020, paragraph 330, OJ C 204, 1.07.2014, p. 53.

<sup>30</sup> Commission decision of 1 August 2008 in case SA.32163, Remediation of damage to airlines and airports caused by seismic activity in Iceland and the volcanic ash in April 2010, Slovenia, paragraph 31, OJ C 135, 9.5.2012, p. 1.

<sup>31</sup> Elements taken into account by the Commission to consider that the occurrence reached a significant scale: negative consequences cannot be contained (Commission decision of 4 October 2000 in case NN 62/2000, Régime temporaire d'aides aux entreprises victimes des intempéries et de la marée noire –France, OJ C 127, 29.05.2003, p. 32), or the number of dead or injured people (Commission decision of 11 April 2012 in case SA.33487, Agricultural and fisheries aid to compensate for damage due to exceptional occurrence (red mud "Aluminium accident"), Hungary, paragraph 35, OJ C 120, 25.04.2012, p. 1; Commission decision of 2 May 2002 in case N241/2002, Régime en faveur des entreprises victimes de la catastrophe industrielle de Toulouse, France, paragraph 19, OJ C 170, 16.07.2002, p. 16), the immense scale of ecological and economic damage (Commission decision of 11 April 2012 in case SA.33487, paragraph 36, OJ C 120, 15.04.2012, p. 1), the amount of material damage, despite the local character of the industrial accident (Commission decision of 2 May 2002 in case N 241/2002, paragraph 19, OJ C 170, 16.07.2002, p. 16).

<sup>32</sup> In its decision of 19 May 2004 in case C-59/2001, OJ L 62, 2007, p. 14, the Commission considered that the (alleged) fall in sales of poultry meat in a Member State not directly affected by the dioxin contamination did not in itself constitute an exceptional occurrence. Even though it was an unforeseeable event, it formed part of the normal commercial risks to which an undertaking is exposed.

- (59) The WHO warned about the very high risk that COVID-19 would spread and have a global impact. The subsequent spread of COVID-19 ultimately resulted in far-reaching disruption of various economic sectors. That disruption was thus clearly outside the normal functioning of the market. In order to avoid an exponential increase in the number of cases, accompanied by social alarm and severe economic consequences, containment measures needed to be adopted.
- (60) On 11 March 2020, the WHO characterised the COVID-19 disease as a pandemic. The public health risk deriving from the absence of therapeutics or vaccines for the novel COVID-19 virus determined the exceptionality of the circumstances. The rapidity of the spread caused enormous consequences both in terms of fatal outcomes in high-risk groups and in terms of economic and societal disruption<sup>33</sup>. The necessity to adopt and encourage the respect of measures aimed at interrupting transmission chains stemmed from that acknowledgement.
- (61) In March and April 2020, Member States adopted various measures that aimed to limit the spread of the coronavirus, e.g. travel restrictions for non-essential travels, closure of borders, closure of non-essential shops, obligation for companies to organise working from home for every position where this was possible and various social distancing measures.
- (62) In view of the above, the COVID-19 outbreak qualifies as an exceptional occurrence, as it was not foreseeable and is clearly distinguishable from ordinary events, by its character and its effects on the affected undertakings and the economy in general, and therefore falls outside the normal functioning of the market.
- (63) In this context, the COVID-19 outbreak can be considered as an exceptional occurrence within the meaning of Article 107(2)(b) TFEU<sup>34</sup>.

### 3.3.3. *Causal link between the damage compensation and the COVID-19 outbreak*

- (64) The Commission has examined the measure pursuant to Article 107(2)(b) TFEU, which requires a direct causal link between the damage and the exceptional occurrence for which the State aid measure provides compensation.
- (65) The notified aid measure aims to compensate the SATA airlines for the damage suffered following the imposition of travel restrictions and other containment measures linked to the COVID-19 outbreak (see recital (3)). For the calculation of the damage, Portugal has considered the travel restrictions imposed in the ARA, in the continental Portugal and other countries during the period from 19 March to 30 June 2020 (see section 2.1.1) and their impact on the SATA airlines' operations (see section 2.1.2).

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<sup>33</sup> ECDC's Rapid Risk Assessment, Outbreak of novel Coronavirus disease 2019 (COVID-19): increase transmission globally – fifth update, 2 March 2020.

<sup>34</sup> See Commission decision of 12 March 2020 in case SA.56685 (2020/N) – *Denmark – Compensation scheme for cancellation of events related to COVID-19*, OJ C 112, 03.04.2020, and Commission decision of 31 March 2020 in case SA.56765 (2020/N) – *France – COVID-19 Moratoire sur le paiement de taxes et redevances aéronautiques en faveur des entreprises de transport public aérien sous licences d'exploitation délivrées par la France*, OJ C 294, 04.09.2020.

- (66) As described in section 2.1.1, the COVID-19 outbreak has resulted in travel restrictions all over the world and the closing down of the vast majority of passenger air transport. Those containment measures aimed to avoid the spread of the virus, but they negatively affected the aviation sector.
- (67) During the full lockdown period, as of the starting of the emergency state on 19 March until the lifting of the strictest restrictions on 29 May 2020, the vast majority of the SATA airlines' planes were grounded, the only exception being flights concerning public service obligations of cargo transport or cases of force majeure, providing that they were authorized by the regional health authority (see recitals (6) and (21)).
- (68) As explained in recital (15) and shown in figures 1 and 2, the level of operations of both airlines dropped drastically from mid-March 2020. As shown in figure 3, the flight revenue of Azores Airlines dropped by 95.6% in-between 19 and 31 March 2020 compared to the same period of 2019, and by 100% in April and May 2020. The flight revenue of SATA Air Açores dropped by 98.4% in-between 19 and 31 March 2020 compared to the same period of 2019, by 98.2% in April and by 97.5% in May 2020.
- (69) On 29 May 2020, Portugal lifted the restrictions imposed by the state of calamity. However, international traffic from/to the ARA remained fully suspended until 30 June 2020, while flights between ARA and Portugal remained suspended until 15 June 2020. In addition, most Member States maintained their borders closed until approximately mid-June 2020 following the recommendation issued by the Commission to lift borders not before 15 June 2020.
- (70) Furthermore, the state of calamity was imposed at regional level in some islands until 15 July 2020. Other travel restrictions remained in place also during the month of June 2020 (see recitals (8) to (14)). Those measures kept passenger numbers and ticket revenues low (compared to the same period in 2019), including in the weeks following the lifting of the strictest containment measures (see recitals (15) to (17)), and continued to have a significant impact on the revenues of the beneficiaries as PSO operators (see recitals (16) to (19)).
- (71) Data provided for June 2020 (see Tables 2.a and b. with corresponding illustrations 1 to 3) show that the SATA airlines continued to be strongly affected by the existing restrictions in place in the region, intra-Portugal and internationally, despite the easing on domestic inter-islands travel as of 29 May 2020 for SATA Air Açores and as of 15 June for the inter-island and intra-Portugal flights for Azores Airlines. The ban on international flights from/to ARA that lasted until 30 June 2020 (see recital (69)) sharply affected the activities of Azores Airlines. Indeed, a large part of the airline's revenues stemmed from scheduled flights on the international routes to/from the US and Canada, as reflected in the benchmark figures for the previous year. Indeed, in June 2019, while only [...] % of its flights were on USA and Canada routes, those direct routes from/to the ARA represented an important fraction of the total flight revenues of Azores Airlines (ca. [...] % in June 2019). In addition, Azores Airlines' number of flights and corresponding revenues for intra-Portugal flights did not significantly resume as of 15 June when the ban was lifted (see Table 3). As shown in figures 1 and 2, the number of flights was still lower by 83% in June 2020 compared to June 2019 and started to increase as of July 2020 (when there was still a decrease of 37.2% compared to July 2019) for Azores Airlines, while

the same numbers for SATA Air Açores show a decrease of 64.3% in June 2020 compared to June 2019 and 28.7% in July 2020 compared to July 2019. The number of passengers demonstrate the same low level of traffic, as 94.6% less passengers were transported by Azores Airlines in June 2020 (-99.5% in May 2020) compared to June 2019 and 78% by SATA Air Açores (-96.3% in May 2020). For both companies, passenger levels improved only from July 2020 (-77.4% for Azores Airlines and -58.8% for SATA Air Açores variation compared to July 2019).

- (72) In terms of performance, the ASK indicator dropped by 92.2% for Azores Airlines (-99.1% in May 2020) and by 66.4% for SATA Air Açores in June 2020 (-71.9% in May 2020) compared to June 2019. Although some travel restrictions have been lifted in the course of June 2020, the SATA airlines' operations were still at a very low level.
- (73) The SATA group saw its receivables (revenue sold) reduced by circa [...]% in March, [...]% in April, [...]% in May and [...]% in June. Throughout the compensation period until the lifting of the first ban on intra-island flights, that loss mainly stems from losses of each of the two airlines, since all commercial flights were cancelled and only inter-island flights for cargo purposes were operated after 19 March until the lifting of bans as of 26 May 2020 for the inter-island flights for SATA Air Açores and as of 15 June for the inter-island and intra-Portugal flights for Azores Airlines. In June 2020 flights resumed only gradually, with demand still low in a period when some travelling restrictions remained in place.
- (74) Specifically, as shown in figure 3, Azores Airlines lost 95% of flight revenues in the second part of March, 100% of its flight revenues in both April and May, a trend that continued after the lifting of the ban on intra-Portugal and inter-island flights as of 15 June, with a revenue loss of 97% in June. The same trend is shown by the figures after the lifting of the ban on international flights to the US and Canada, with a revenue loss of 84% in the first part of July compared with the same period in 2019. Similarly, SATA Air Açores lost on average 98% of its flight revenues in the second part of March, in April and May, a trend that continued even after the gradual resumption of flights on 29 May 2020, with a revenue loss of 92% in June and almost 70% in the first part of July, compared with the same period in 2019. The containment measures caused a dramatic drop of demand for air passenger travel in the ARA and from the ARA to continental Portugal, with a significant reduction of flights and a sharp drop in the number of passengers. In addition, the lifting of the measures could not be instantaneously be followed by a resumption of the flights. Portugal has shown that, in the case of SATA airlines, it is appropriate to take into account the longer time it takes to demand for long-haul or international air travel to resume compared to domestic travel demand (recital (18)). A ramp-up period of two to three weeks after the lifting of the measures is thus justified.
- (75) Lastly, the beneficiaries, as PSO operators, could not immediately react to a changed market environment and to the reduced demand, as they were obliged by their PSOs to continue to provide a certain level of transport service in order to ensure connectivity, despite the very low number of passengers (see recitals (17) to (19)). The beneficiaries did not have the choice to reduce frequency beyond a certain level to react to the reduced demand. That specificity of the business



model of the SATA airlines contributed to decrease their capability of reducing fixed and variable costs during the pandemic, as they could have done without public service obligations. As a result, the companies had to sustain higher costs during the compensation period than they would have had to sustain, if they had had the commercial ability to discontinue their services. As a consequence, the Commission considers that, for the purposes of calculating the damage subject to possible compensation under Article 107(2)(b) TFEU, the net losses suffered by the SATA airlines in the period from 19 March to 30 June 2020 can be directly attributed to governmental restrictions resulting in the grounding and cancellation of nearly all of SATA airlines' flights.

- (76) Therefore, the Commission concludes that there is a direct causal link between the damage suffered by the SATA airlines during the compensation period and the exceptional occurrence, i.e. the COVID-19 outbreak. As a result, the Commission accepts that the damage caused to SATA airlines between 19 March and 30 June 2020 can be considered as eligible to be compensated under Article 107(2)(b) TFEU.

#### *3.3.4. Proportionality of the damage compensation*

- (77) In order to be compatible with Article 107(2)(b) TFEU, the aid must be proportional to the damage directly caused by the exceptional occurrence. Aid must not result in overcompensation of damage. It should only make good the damage caused by the exceptional occurrence.
- (78) To effectively ensure proportionality, it is necessary to analyse the assumptions and evidence on which the calculation of damage for the factual scenario is based. In particular, it is necessary to look at how the exceptional occurrence has actually and directly affected the operations of the SATA airlines (e.g. SATA airlines have been prevented from operating) and what actual impact it has had on the costs and revenues of the companies.
- (79) The damage to be compensated corresponds to the net loss, defined as EBITDA difference. The loss of revenue is the difference between the revenue that the SATA airlines would have expected during the compensation period (19 March to 30 June 2020), had the containment measures linked to the COVID-19 outbreak not occurred, and the revenue that the SATA airlines have actually generated during that period. To approximate counterfactual revenues, figures for the same period of 2019 are used.
- (80) Avoided costs correspond to costs that the SATA airlines would have had during the compensation period had its operations not been affected by the COVID-19 restrictions, but which it did not have to bear as a result of the cancelled operations (e.g. fuel, staff costs, etc.). The avoided costs have been quantified by comparing the costs in the corresponding period in 2019 and the actual costs borne by SATA during the compensation period.
- (81) As stated in section 2.6, Portugal assessed the overall net losses on the basis the difference in EBITDA indicators for the periods between 19 March and 30 June in 2019 and 2020, evaluating the total damage at EUR 11.96 million. As explained in recital (49) the aid is equal to the grant in compensation of that amount.

- (82) In addition, the Commission notes that those calculations are based on the SATA airlines' financial accounts and will be subject to auditing and verification by an independent expert. By 31 May 2021, the SATA airlines will provide Portugal with the full reports including audited revenues and costs during the compensation period.<sup>35</sup> Portugal committed to submit to the Commission by 30 June 2021 the results of the ex-post assessment of the damage suffered by the SATA airlines during the compensation period, based on the SATA airlines' audited accounts. If the ex-post assessment were to show that any of the SATA airlines had been overcompensated, Portugal undertook to ensure that the SATA airlines repay any such overcompensation including interest. Furthermore, Portugal agreed to put in place a number of additional safeguards to avoid overcompensation of damage (see recital (44)).
- (83) Thirdly, based on the information provided by Portugal, the SATA airlines took measures in order to act diligently and to minimize the damage suffered due to the COVID-19 outbreak. They implemented mitigation measures included: (i) measures enabling the continuity of employment, while reducing certain personnel costs<sup>36</sup>; (ii) application for the easing of payment of taxes and social contributions announced by the government to assist companies in response to COVID-19<sup>37</sup>, (iii) deferral of some loan repayments of the SATA airlines until March 2021 further to a moratorium in certain bank loans, which is a general measure implemented by the Portuguese Government<sup>38</sup> to minimize the effects of the COVID-19 pandemic, (iv) negotiations with suppliers [...].
- (84) Lastly, Portugal confirmed that the notified aid may not be cumulated with other aid for the same eligible costs, so it will not be possible to have overcompensation arising from any potential restructuring aid that may be found compatible with the internal market.
- (85) In view of the above, the Commission concludes that the damage compensation is proportionate and does not exceed what is necessary to make good the damage directly suffered by the SATA airlines as a result of the COVID-19 restrictions in the compensation period.

### 3.3.5. *Conclusion on compatibility of aid with Article 107(2)(b) TFEU*

- (86) In view of the above, the Commission considers that the damage compensation to the SATA airlines in the form of a direct grant in value of EUR 11.96 million is compatible with the internal market in accordance with Article 107(2)(b) TFEU.

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<sup>35</sup> Resolution of Council of Government granting the compensation for COVID-19 damages to SATA airlines.

<sup>36</sup> a) [...]; b) [...]; c) [...]; d) [...]; e) [...]; f) [...]; g) [...]; h) [...]; i) [...]; j) [...]; and k) [...].

<sup>37</sup> The following measures were implemented: a) [...]; b) [...]; and c) [...].

<sup>38</sup> In accordance with Decree-Law no. 10-J / 2020 of 26 March 2020, which established exceptional measures for the protection of credits to companies, in the context of the pandemic disease COVID-19, and Decree-Law no. 26/2020 of 16 June 2020 extending the validity of moratorium until 31 March 2021.

#### 4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the ground that it is compatible with the internal market pursuant to Article 107(2)(b) of the Treaty on the Functioning of the European Union.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Your request should be sent electronically to the following address:

European Commission,  
Directorate-General Competition  
State Aid Greffe  
B-1049 Brussels  
[Stateaidgreffe@ec.europa.eu](mailto:Stateaidgreffe@ec.europa.eu)

Yours faithfully,

For the Commission

Margrethe VESTAGER  
Executive Vice-President



EUROPEAN COMMISSION

Brussels, 30.4.2021  
C(2021) 3234

<p>In the published version of this decision, some information has been omitted, pursuant to articles 30 and 31 of 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, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus [...]</p>		<p>PUBLIC VERSION</p> <p>This document is made available for information purposes only.</p>
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**Subject: State aid SA.58101 (2020/C) and SA.62043 (2021/C) – Portugal - Rescue aid and Restructuring aid to SATA Group**

Excellency,

The European Commission ("the Commission") wishes to inform the Portuguese Republic that, having examined the information supplied by your authorities regarding the planned restructuring aid in favour of SATA Air Açores - Sociedade Açoriana de Transportes Aéreos S.A. ("SATA" or "the beneficiary"), it has decided to extend the procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union ("TFEU"), which it initiated on 18 August 2020, in relation to the new measures notified to it as restructuring aid to SATA, namely: a capital increase of EUR [180-250] million and a public guarantee on loans of up to EUR [140-200] million.

The Commission also wishes to inform the Portuguese Republic that it has decided not to raise any objections to the individual aid to SATA related to the provision of public service obligations or services of general economic interest related to air transport to the Azores Region and to the management of the airports in the same Region, on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) and Article 106 (2) of the TFEU.

S. Ex.<sup>a</sup> o Ministro dos Negócios Estrangeiros

Augusto Santos Silva

Largo do Rilvas

P – 1399-030 – Lisboa

Commission européenne, B-1049 Bruxelles – Belgique, Europese Commissie, B-1049 Brussel – België  
Telephone: +32 2 299. 11. 11

The Commission has based its decision on the following considerations:

## 1. PROCEDURE

- (1) By letter dated 18 August 2020, the Commission informed Portugal that it had decided to initiate the procedure laid down in Article 108(2) of the TFEU in respect of public financing of past capital increases of SATA and of planned rescue aid (the "Opening Decision"). The Opening Decision was published in the Official Journal of the European Union<sup>1</sup>. The Commission invited interested parties to submit their comments on the aid.
- (2) By the same letter dated 18 August 2020, the Commission informed Portugal that it had decided not to raise objections to individual aid to SATA in the form of public guarantees or loans in an amount not exceeding EUR 133 million of liquidity needs related to the provision of public service obligations related to air transport to the Azores Region and to the operation of services of general interest in the airports in the same Region, on the grounds that it was compatible with the internal market pursuant to Article 107(3)(c) and Article 106(2) TFEU.
- (3) On 17 February 2021, Portugal submitted a restructuring plan for SATA, which was updated on 10 March 2021. On 14 April 2021, Portugal notified its intention to grant restructuring aid supporting the restructuring plan.
- (4) By letters dated 29 March 2021 and 16 April 2021, the Regional Government of Azores requested that the guarantees on loans that the Commission authorised on 18 August 2020 continue until 18 November 2021 and that more guarantees up to an additional amount of EUR 122.5 million be authorised for a seven-month period, pending the assessment of the restructuring plan.
- (5) Portugal agreed exceptionally to waive the rights deriving from Article 342 TFEU in conjunction with Article 3 of the EC Regulation 1/1958<sup>2</sup> and to have the decision adopted and notified pursuant to Article 297 TFEU in English.

## 2. DESCRIPTION

### 2.1. The beneficiary: activities and operating subsidiaries

- (6) SATA is a *Sociedade Anónima* (limited liability company)<sup>3</sup> and holding of other companies based in the Azores Autonomous Region of Portugal (the "Region"). SATA employs 1.400 persons, of which 1150 locally in the Region and 250 in

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<sup>1</sup> OJ C 294, 4.9.2020, p.41.

<sup>2</sup> Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385, p. 58).

<sup>3</sup> *Sociedade Anónima* is listed in Annex I (Types of undertaking referred to in point (a) of Article 1(1)) to Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC, OJ L 182, 29.6.2013, p. 19.

Lisbon. SATA was incorporated in 1941 and is fully owned by the Government of the Region. SATA controls SATA Internacional - Azores Airlines, S.A. (“Azores Airlines”), SATA – Gestão de Aeródromos, S.A. (“SATA Gestão de Aeródromos” or “SGA”), as well as Azores Vacations America and Azores Vacations Canada (now closed).

- (7) SATA provides air transport passenger and cargo services on routes under public service obligations (“PSO”)<sup>4</sup>, or on a commercial basis. SATA serves the nine islands of the Region through inter-island air transport of the Azores Archipelago, for a total of 14 routes, under a PSO entrusted exclusively to SATA by means of a 5-year public service contract including compensation. SATA was the only airline that submitted a bid for these routes in 2015. The contract has been prolonged several times<sup>5</sup> and expires on 30 September 2021<sup>6</sup>. In 2019, SATA operated more than 15 000 flights, with six Dash Bombardier planes which carried around 766 000 passengers.
- (8) Azores Airlines was incorporated in December 1990 and has an administrative hub in Ponta Delgada and one operational base in Lisbon. Azores Airlines operates i) three PSO routes connecting to mainland Portugal the five gateways of the Azores (São Miguel, Terceira, Santa Maria, Horta and Pico islands)<sup>7</sup>, ii) a PSO route linking Ponta Delgada to Funchal (Madeira island)<sup>8</sup> and iii) international flights for regular routes in the North Atlantic to Boston, Oakland, Toronto and Montreal. Azores Airlines also operates niche tourist markets and charter services. In 2019, Azores Airlines operated around 7 000 flights, through eight medium course Airbus 320 planes –two in ACMI agreement- and one Airbus 330 serving around 946 000 passengers.
- (9) Even if the abovementioned four PSO routes are open to all operators willing to comply with the obligations imposed<sup>9</sup>, Azores Airlines is the only airline fulfilling

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<sup>4</sup> See list of 176 PSO routes reported to the Commission (DG Transport and Mobility), including SATA [https://ec.europa.eu/transport/sites/transport/files/ps\\_inventory\\_table.pdf](https://ec.europa.eu/transport/sites/transport/files/ps_inventory_table.pdf)

<sup>5</sup> See ultimately notice with the invitation to tender published at OJ C 29, 28.1.2020, p. 9.

<sup>6</sup> The routes defined as inter-island PSOs, being operated by SATA, include 14 routes, which are essentially organized in three clusters of main urban centres that correspond to Ponta Delgada, Terceira e Horta: a) Ponta Delgada-Santa Maria-Ponta Delgada (PDL-SMA-PDL), b) Ponta Delgada-Terceira-Ponta Delgada (PDL-TER-PDL), c) Ponta Delgada-Horta-Ponta Delgada (PDL-HOR-PDL), d) Ponta Delgada-Pico-Ponta Delgada (PDL-PIX-PDL), e) Ponta Delgada-São Jorge-Ponta Delgada (PDL-SJZ-PDL), f) Ponta Delgada-Flores-Ponta Delgada (PDL-FLW-PDL), g) Terceira-Graciosa-Terceira (TER-GRW-TER), h) Terceira-São Jorge-Terceira (TER-SJZ-TER), i) Terceira-Pico-Terceira (TER-PIX-TER), j) Terceira-Horta-Terceira (TER-HOR-TER), k) Terceira-Flores-Terceira (TER-FLW-TER), l) Horta-Flores-Horta (HOR-FLW-HOR), m) Horta-Corvo-Horta (HOR-CVU-HOR) and n) Flores-Corvo-Flores (FLW-CVU-FLW).

<sup>7</sup> See ultimately information notice published at: OJ C 27, 27.1.2015, p. 5.

<sup>8</sup> See ultimately information notice published at: OJ C 27, 27.1.2015, p. 4.

<sup>9</sup> Namely continuity and punctuality of services; number of minimum frequencies; seat capacity and minimum cargo offered per IATA station; flight schedules; flight commercialization; aircraft category; the setting of maximum tariffs for resident passengers and students, as well as for cargo.

them. Portugal explains that the decision to fulfil the PSOs on these routes is not based on economic profitability, but rather on the sole shareholder's interest in ensuring the continuity of such routes for reasons of public interest. Although Azores Airlines has been experiencing operational deficits in these four PSO routes, it continues to operate these routes without compensation. At present, the Portuguese Republic, together with the Region, is assessing the situation of these four PSO routes and their possible modifications in the future whilst ensuring compliance with Regulation 1008/2008<sup>10</sup>. In addition, on 27 March 2021, an emergency COVID PSO was imposed on two routes (Lisbon – Horta - Lisbon and Lisbon - Santa Maria – Lisbon) for 2021 the IATA summer season.

- (10) SATA Gestão de Aeródromos, incorporated in 2005, manages the airports of Pico, Graciosa, Corvo and São Jorge, as well as the Flores island terminal. Portugal alleges that the management of these airports is not economically attractive for private parties, contrary to the airports in Azores that the Vinci Group operates. The concession awarded to SGA in relation to the services of operation and management of the airfields of Graciosa, Pico, São Jorge and Corvo, sets forth a compensation for its service of general economic interest ('SGEI') to be paid to SGA for each year of duration of the contract. The compensation for the period from 2020 until 2025 has been set at EUR 17 million.
- (11) SATA also owns two tour operators in North America since 1985: Azores Vacations America and Azores Vacations Canada –now closed-. Their business focus is on connecting North America, mainland Portugal and the Region throughout the year.
- (12) In addition to SATA, Transportes Aéreos Portugueses S.A. and Ryanair serve commercial routes between the Azores archipelago and the rest of the territory of the Union, whilst Arkefly and Jetairfly operate seasonal charter flights. As to direct routes, Ryanair connects the Azores with Lisbon, London, Manchester and Frankfurt. Jetairfly has a route connecting Azores with Brussels. Arkefly connects Azores with Amsterdam and Tenerife in the Canary Islands (Kingdom of Spain).

## **2.2. Financial situation of the beneficiary and immediate liquidity prospects**

- (13) In the opening decision, the Commission concluded that SATA presented a total negative equity amount of EUR 230 million in 2019, decreasing every year from EUR 55.8 million negative equity in 2014. This showed that at least half of its subscribed share capital had disappeared [ ]. The Commission also concluded that SATA fulfilled the criteria [ ]. The opening decision thus concluded that at the time of its adoption and since [ ], the beneficiary qualified as an undertaking in difficulty pursuant to points 20(a) and (c) of the R&R Guidelines<sup>11</sup>. The equity position and financial situation of SATA has further deteriorated since August 2020. Revenues in 2020 [ ] compared to 2019 and SATA's equity as at end 2020

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<sup>10</sup> Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008, on common rules for the operation of air services in the Community, OJ L 293, 31.10.2008, p. 3.

<sup>11</sup> Opening decision, recitals 62 and 63.

is expected to have amounted to EUR -[ ] million. Likewise, Portugal confirms that SATA continues to fulfil [ ].

- (14) SATA's financial situation is at present characterised by [ ]. In that context, the Portuguese authorities requested that the guarantees on EUR 133 million loans authorised in the opening decision continue until 18 November 2021 and that more guarantees up to an amount of EUR 122.5 million be authorised, pending the assessment of the restructuring plan. This covers the projected liquidity needs that are critical to maintain the essential functions of connectivity provided by the beneficiary, namely intra-islands PSOs, PSOs routes with mainland<sup>12</sup> and the SGEI provided by SGA in managing the airports<sup>13</sup>. This amount excludes the costs of commercial routes of SATA and of the Azores Airlines, as well as the liquidity needs of Azores Vacations America and Azores Vacations Canada –now closed-.

### **2.3. Description of the restructuring plan and restructuring aid**

- (15) The restructuring aid supports the implementation of a restructuring plan that is already being implemented, coming to an end in 2025. The plan is premised on market recovery of pre-COVID levels by 2023 (Western Europe, regional and international) and the Azores being an increasingly attractive destination for tourism, with boosted demand from the Portuguese diaspora in North America.

#### *2.3.1. The restructuring of operations*

- (16) In terms of fleet capacity and use, SATA would phase out legacy planes and reduce the number of aircrafts [ ]. By 2025, the SATA group would be operating [ ] (through Azores Airlines) [ ] and [ ] (through SATA) [ ]. The plan mentions however that the regional fleet of SATA [ ]. Azores Airlines will [ ]. Azores Airlines would [ ], improving connectivity within the network in the archipelago responding to a steady increase in demand. In the shorter term until demands recovers, SATA would [ ].
- (17) Complementary to improved operations and schedules, the restructuring plan rests on four pillars that would contribute to reducing the operating cost base: [ ]. These measures combined would lead to [ ]. The aggregate cost reductions expected to be realised by 2025 from restructuring measures are quantified at recital (21).

#### *2.3.2. Funding of the restructuring plan and own contribution*

- (18) The implementation of the restructuring plan triggers total net costs of EUR [ ] million until 2028 including repayment of bank loans, operating costs and capital expenditure for parts of aircraft. The projections show an aggregated amount of shortage of operational net cash flow in the amount of EUR [ ].

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<sup>12</sup> The scope of liquidity needs related to the routes operated by the group includes: (i) the 14 PSO routes serviced by SATA (see footnote 6) and (ii) the four PSO routes of SATA Azores Airlines (PDL-FNC-PDL / PDL-LIS-SMA / LIS-PIX-LIS / LIS-HOR-LIS).

<sup>13</sup> Airports managed by SGA in Pico, Graciosa, Corvo and São Jorge, as well as the Flores island terminal, see recital (10).



- (19) Portugal stresses that due to the deteriorated financial situation and the severe impact of the COVID-19 outbreak in the sector and in the economy, SATA is unable to proceed to any debt reorganisation and private capital raising without support from the State. However, Portugal considers that, [ ].
- (20) The funding of the restructuring aid will be provided by the Azores Region from its budget to finance the restructuring plan, and requires the necessary acts of implementation, including corporate approval of modifications to share capital and loan and guarantee agreements to be concluded. The funding consists of a total capital increase of EUR [180-250] million, to be provided in 2021 and 2022 and public guarantees on EUR [140-200] million loans with [ ].
- (21) According to the restructuring plan, the contribution of SATA to the restructuring costs will consist of EUR [ ] million spread over the period from 2020 to 2028 and integrating the following:
- a) Increased operating efficiency, including [ ];
  - b) suppliers negotiation, including [ ];
  - c) fleet restructuring, renegotiations with lessors, extension of contacts with lower rents, negotiation of new aircraft and delivery [ ];
  - d) staff salary reductions [ ];
  - e) other savings, [ ].
  - f) proceeds from [ ];
  - g) proceeds from [ ].
- (22) The Portuguese authorities take the view that any requirement of absorption of losses by subordinated creditors, SATA bond holders, via a debt write-down or a debt-to-equity conversion, would send a negative signal to the market, especially considering the situation stemming from the COVID-19 outbreak. Even if SATA were able to negotiate and implement such measures, this would likely impact the prospects of raising financing on its own by the end of the restructuring period.
- (23) On that basis, Portugal estimated the own contribution corresponding to [ ]. Portugal submits that the level of own contribution is significant as it corresponds to the maximum level that the beneficiary is able to undertake, in view of the particular circumstances related to the COVID-19 pandemic, the specificity of SATA as a wholly publicly-owned regional company and the conditions of Azores as an outermost region of the EU.

### 2.3.3. *Solvency and liquidity needs: prospective return to viability*

- (24) The restructuring plan evidences that both liquidity and solvency issues need to be addressed to resolve the financial problems of SATA. In the short term, the SATA

group companies are not able to ensure the continued provision of essential air transport and comply with financial obligations. In the long term, given the sheer negative equity of SATA, which will continue for a prolonged period, the Group is also unable to fulfil its financial obligations.

- (25) The projections provided by Portugal in the baseline scenario of the restructuring plan show that earnings before interest and tax (EBIT) would [ ]. It is only after the restructuring period, [ ].

**Table 1 : Financial projections of the restructuring plan (baseline scenario)**

SATA GROUP	Restructuring period						post-Restructuring*			
	EUR million	2020	2021	2022	2023	2024	2025	2026	2027	2028
Revenues	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
EBIT	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Net income	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Financial debt (ex.leases)	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Equity	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]

Source : Notification "SATA Funding requirements" IMAP April 2021 (\* assumes [ ])

- (26) In an adverse scenario in which revenues [ ]. In the adverse scenario, [ ].
- (27) Portugal considers that the financial and operational measures supporting the restructuring plan are devised to allow the SATA group to achieve by [ ]. Portugal submits that other combinations of aid instruments or amounts would compromise the objectives or imply an unbearable financial cost, hampering the long-term viability of SATA [ ].

#### 2.3.4. Measures limiting distortion of competition

- (28) In terms of divestments of assets, reduction of capacity or market presence committed to be undertaken, Portugal puts forward [ ]. SATA will also decrease the number of aircraft [ ] during the restructuring period. SATA will also discontinue [ ].
- (29) Moreover, the beneficiary agrees to refrain from publicising State support as a competitive advantage when marketing its products and services. Likewise, the beneficiary will refrain from acquiring shares in any company during the restructuring period, except where indispensable to ensure its long-term viability and subject to Commission approval.

### 3. ASSESSMENT OF THE MEASURES

- (30) The Commission first assesses whether the notified capital increase of EUR [180-250] million and the public guarantee on loans (as mentioned in recital (20)) to be provided in support of SATA's restructuring plan entail State aid to the beneficiary under Article 107(1) TFEU, and if so, whether such aid is lawful and compatible with the internal market.

### 3.1. Existence of State aid

- (31) According to Article 107(1) TFEU, "[s]ave as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market".
- (32) The qualification of a measure as aid within the meaning Article 107(1) TFEU requires the following cumulative conditions to be met: (i) the measure must be imputable to the State and financed through State resources; (ii) it must distort or threaten to distort competition and affect trade between Member States; (iii) the measure must confer an advantage on its recipient; and (iv) that advantage must be selective. It is therefore appropriate to examine separately whether the guaranteed rescue loan and the capital increases qualify as aid.

#### 3.1.1. *Measures imputable to the State financed through State resources*

- (33) The capital increase and the guarantee on loans are to be granted by the government of the Autonomous Region of Azores, with resources from its budget (recital (20)). For the purposes of Article 107(1) TFEU, resources of local authorities such as regions are State resources and decisions of such authorities should be regarded as imputable to the State<sup>14</sup>. The capital increase and the guarantee on loans are thus imputable to the State and financed through State resources.

#### 3.1.2. *Measures must confer an advantage on its recipient*

- (34) The Commission has to examine whether the capital increase and the guarantee on loans qualify as aid in that they confer an economic advantage on the beneficiary. The presence of such an advantage can be inferred and established from the fact that the beneficiary cannot obtain capital or raise debt finance at market conditions without a public guarantee (recitals (13), (14) and (19)) and is at present expected to access such finance only by 2028 (recitals (19) and (26)).
- (35) Moreover, the capital increase and the guarantee on loans provide an economic advantage to the beneficiary if a market operator in a situation as close as possible to that of the Region would not grant them in the same circumstances. The market operator in question ought to leave aside any benefits expected in its situation as public authority.<sup>15</sup>
- (36) The assessment of whether a market operator in a situation as close as possible to that of the Region would provide the same funding ("market economy operator test") shows that the public funding in question provides an advantage with regard to market conditions.

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<sup>14</sup> Joined Cases T-267/08 and T-279/08 *Région Nord-Pas-de-Calais v Commission*, EU:T:2011:209, paragraph 110.

<sup>15</sup> Case C-300/16 P *Commission v Frucona Košice*, EU:C:2017:706, paragraph 59; and Case C-124/10 P *Commission v EDF*, EU:C:2012:318, paragraphs 78, 79 and 103.

- a) First, there is no *prima facie* evidence that the funding can be ascribed to behaviour and decisions which a market shareholder would take. The funding is premised on reasons of public policy to guarantee air transport connectivity of the Region which, however pertinent for a public authority, would not be relevant for a market shareholder (recitals (7) to (10)). Therefore, the market economy operator test appears not to be applicable.
  - b) Second, the funding cannot be assessed as being necessary to preserve or increase the value of the shareholding of the Region, or as being capable to provide a shareholder return commensurate with the risk taken. The market value of the shareholding of the Region in SATA is likely [ ]. If the market economy operator test was applicable, *-quod non-*, the application of the test appears to evidence that no market operator would provide the funding without any expectation of positive return on the investment in the long term.
- (37) Therefore, the capital increase and the guarantee on loans provide funding that the beneficiary cannot and could not obtain on the market. A market operator in a situation as close as possible to that of the Region would not provide similar funding. Therefore, the capital increase and the guarantee on loans appear to confer an economic advantage on the beneficiary.

### 3.1.3. *Selective measures*

- (38) The capital increase and the guarantee on loans are to be granted through the exercise of discretion for an *ad hoc* amount determined by reference to the specific needs of the beneficiary's restructuring plan. The public funding is, either by instruments or amount, not part of a broader, general, economic policy measure to provide support to undertakings in a comparable legal and economic situation that are active in the air transport or other economic sectors. As the Court has stated, where individual aid is at issue, the identification of the economic advantage is, in principle, sufficient to support the presumption that a measure is selective<sup>16</sup>. This is so regardless of whether there are operators on the relevant markets that are in a comparable factual and legal situation. Therefore, the capital increase and the guarantee on loans are selective.

### 3.1.4. *Measures distorting or threatening to distort competition and affect trade between Member States*

- (39) The air passenger transport and cargo services sector in which the beneficiary is active is open to competition and trade between Member States. Other airlines licensed in the European Union such as Ryanair, Jetairfly (seasonal charter flights), and Arkefly (seasonal charter flights) operate provide air transport services connecting the Azores Region with a few cities of the Union (recital (12)). Therefore, by sustaining the continued operation of the air transport services that the beneficiary provides, the capital increase and the guarantee on loans are liable to affect trade between Member States.

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<sup>16</sup> See Case C-15/14 P *Commission v MOL*, EU:C:2015:362, paragraph 60.

- (40) By granting access to funding at conditions which it would not otherwise obtain on the market, the public funding is liable to improve the position of the beneficiary in relation to actual competing undertakings or potential ones, that have not access to similar State support from Portugal or that have to finance operations at market conditions. The capital increase and the guarantee on loans consequently distort or threaten to distort competition.

### **3.2. Conclusion on the existence of aid**

- (41) In light of the above, the Commission preliminarily concludes that the capital increase and the guarantee on loans in favour of SATA involves State aid under Article 107(1) TFEU.
- (42) The Commission will therefore assess their lawfulness and compatibility with the internal market.

### **3.3. Lawfulness of the aid**

- (43) Portugal has not put into effect the capital increase or the guarantee on loans notified as restructuring aid by granting them to the beneficiary. The provision of the capital increase and of the guarantee on loans requires the adoption of executive and corporate acts and agreements with financial institutions which are not yet in place (recital (20)). Likewise, the temporary prolongation of individual aid to SATA in the form of public guarantees or loans in an amount not exceeding EUR 133 million of liquidity needs, and the increase up to an additional amount of EUR 122.5 million have not been put into effect and are notified in conjunction with the submission of the restructuring plan within six months of the Commission authorisation (recitals (2) to (4)). Portugal has thus observed the standstill obligation laid down in Article 108(3) TFEU. Therefore, the restructuring aid is lawful.

### **3.4. Compatibility of the aid with the internal market**

- (44) Under Article 107(3)(c) TFEU, the Commission can authorise aid if it is granted to promote the development of certain economic sectors and if that aid does not adversely affect trading conditions to an extent contrary to the common interest.
- (45) Thus, in order to be capable of being considered compatible with the internal market under that provision, State aid must meet two conditions, the first being that it must be intended to facilitate the development of certain economic activities or of certain economic areas and the second, expressed in negative terms, being that it must not adversely affect trading conditions to an extent contrary to the common interest<sup>17</sup>.
- (46) In the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty ('R&R Guidelines')<sup>18</sup>, the Commission sets out the

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<sup>17</sup> Judgement of the Court of Justice of 22 September 2020, *Austria/Commission (Hinkley Point C)*, C-594/18 P, ECLI:EU:C:2020:742, paragraphs 18-19.

<sup>18</sup> OJ C 249, 31.7.2014, p. 1.

conditions under which State aid for rescuing and restructuring non-financial undertakings in difficulty may be considered to be compatible with the internal market on the basis of Article 107(3)(c) TFEU.

- (47) It does not result from the notification that the restructuring aid or the conditions attached to it, or the economic activities facilitated by the aid, could entail a violation of a relevant provision of Union law. In particular, the Commission has not sent a reasoned opinion to Portugal on a possible infringement of Union law that would bear a relation to this case and the Commission has not received any complaints or information that might suggest that the State aid, the conditions attached to it or the economic activities facilitated by the aid might be contrary to relevant provisions of Union law.
- (48) Portugal considers that the restructuring aid can be declared compatible with the internal market pursuant to the R&R Guidelines.
- (49) In view of the nature and aims of the State aid at stake and the claims of the Portuguese authorities, the Commission will assess whether the planned funding supporting the restructuring aid complies with the relevant provisions laid down in the R&R Guidelines.

*3.4.1. Aid facilitates the development of an economic activity or an economic area*

*3.4.1.1. Eligibility*

- (50) In order to be eligible for restructuring aid, a beneficiary must qualify as being an undertaking in difficulty for the purposes of section 2.2 of the R&R Guidelines. In particular, point 20 of the R&R Guidelines explains that an undertaking is considered to be in difficulty when, without intervention by the State, it will almost certainly be condemned to going out of business in the short or medium term. This would be the case when at least one of the circumstances described in letters a) to d) of point 20 of the R&R Guidelines occurs.
- (51) As explained in recitals (6) and (13), SATA is a limited liability company that presented a negative total equity amount of EUR 230 million in 2019 and is expected to reach –[ ] million for 2020, which shows that [ ]. Likewise, as explained in recital (13), SATA [ ].
- (52) It follows that the beneficiary continues to qualify as an undertaking in difficulty pursuant to points 20(a) and (c) of the R&R Guidelines.
- (53) According to point 21 of the R&R Guidelines, a newly created undertaking is not eligible for rescue aid. The beneficiary is not a newly created undertaking for the purposes of the R&R Guidelines since it was established in 1941, so more than three years ago (see recital (6)).
- (54) According to point 22 of the R&R Guidelines, a company belonging to or being taken over by a larger business group is not normally eligible for restructuring aid. The beneficiary is not part of a larger business group, as it is fully owned by the Azorean regional government (see recital (6)).

3.4.1.2. Prevention of social hardship or market failure contributing to the development of economic activity

- (55) Under point 38(a) of the R&R Guidelines, in assessing whether the restructuring aid can be declared compatible with the internal market, the Commission examines whether the State aid is conditional on implementation of a restructuring plan that would restore the viability of the beneficiary and that it aims to prevent social hardship or address a market failure. Under point 44 of the R&R Guidelines, this can be demonstrated in particular by showing that one of the circumstances listed from points (a) to (g) are met.
- (56) In that regard, Portugal refers to circumstances mentioned under point 44(b), (c) and (d) of the R&R Guidelines, namely that there is a risk of disruption to an important service which is hard to replicate and where it would be difficult for any competitor simply to step in, that the exit of SATA would have potential negative consequences given its important systemic role in the Azores Region and that such exit would risk interrupting the SGEI that SATA provides.
- (57) In the opening decision, the Commission considered that the PSO flights operated by SATA and Azores Airlines are SGEIs provided to the Region and Portugal. A potential failure of SATA would thus interrupt the continuity of provision of the SGEIs<sup>19</sup>. The Commission also considered that the activity of management of the island airports which SATA carries out through SGA appears to provide a SGEI that is indispensable for the continuous provision of essential services of connectivity to the Region<sup>20</sup>.
- (58) The situation regarding the air connectivity of the Region has not fundamentally changed since the opening decision. In particular, the Commission has no indication that any additional airport or new airlines have started providing air transport services from or to other destinations that are alternative to or complementary with the services that SATA provides. It follows that in the short to medium term, in the uncertain situation and outlook created by the COVID-19 outbreak, the restructuring aid is essential to avert a serious and imminent risk of disruption to PSOs and SGEIs provided by SATA, whose role may not be fully replicated by alternative providers.
- (59) Portugal informs that the PSOs regarding connection with mainland Portugal and Madeira are being re-examined, whilst those concerning inter-island flights within the Azores are being prolonged temporarily. Likewise, the current concession contract with SGA expires in 2025. Based on the information provided, the Commission has doubts as to how the PSOs of SATA and Azores Airlines and the SGEIs of SGA will be defined, imposed and entrusted in compliance with the relevant Union law for the duration of implementation of the restructuring plan.

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<sup>19</sup> Opening decision, recitals 69 to 71.

<sup>20</sup> Opening decision, recitals 72 to 74.

- (60) In the opening decision, the Commission also considered that the bankruptcy of SATA would lead to severe social and economic hardship for the Region and significant negative spill-over effects on important segments of the economy concerning tourism-related activities. The bankruptcy of SATA would also cause a situation of severe hardship to the economy of Azores, which is an outermost region of the EU, aggravating challenges imposed by its geographic distance from the Portuguese mainland and its socio-economic gap in relation to Portugal and the EU<sup>21</sup>.
- (61) The Commission notes that the restructuring aid is conditional on the implementation of the restructuring plan and concludes, subject to the clarifications to be provided as to future plans on SGEIs and PSOs, that the information provided by Portugal demonstrates that, by allowing the beneficiary to continue and restructure operations whilst meeting its payment obligations in the next years, the aid contributes to a well-defined objective of common interest as provided by points 44(b), (c) and (d) and 46 of the R&R Guidelines, whilst contributing to developing the economic activity at hand.

*3.4.2. Aid does not unduly affect competition and trading conditions to an extent contrary to the common interest*

- (62) In order to assess whether the aid does not unduly affect the competition and trading conditions it is necessary to examine the necessity of the aid, its appropriateness and proportionality. It is also necessary to examine the effects of the aid on competition and trade and weight the positive effects of the aid on the development of activities that the aid intends to support against its negative effects of it on the internal market.

3.4.2.1. Appropriateness

- (63) Under points 38(c) and 54 of the R&R Guidelines, the Commission will not consider restructuring aid to be compatible with the internal market if other, less distortive, measures allow the same objective to be achieved. Restructuring aid must fulfil the conditions laid down in point 58 of the R&R Guidelines, so that the instruments chosen must be appropriate to the solvency or the liquidity issue that it is intended to address.
- (64) SATA faces problems of solvency and liquidity which the restructuring aid needs to address adequately to be considered as appropriate. The blending of fresh capital and guaranteed debt provided as restructuring aid address in parallel a situation of extreme deterioration of the equity of SATA, [ ]. After the provision of restructuring aid, by 2026-2028, [ ]. The restructuring plan would then significantly reduce [ ].
- (65) The Commission therefore concludes that by adequately addressing solvency and liquidity issues, the restructuring aid is appropriate.

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<sup>21</sup> Opening decision, recitals 75 and 76.



### 3.4.2.2. Proportionality of the aid / aid limited to the minimum

- (66) Under point 38(e) of the R&R Guidelines, aid must not exceed the minimum needed to achieve the objective of common interest. The amount and intensity of restructuring aid must be limited to the strict minimum necessary to enable restructuring to be undertaken, in the light of the existing financial resources of the beneficiary, its shareholders or the business group to which it belongs (point 61 of the R&R Guidelines). In particular, a sufficient level of own contribution to the costs of the restructuring and, where State support is given in a form that enhances the beneficiary's equity position, burden sharing must be ensured. The assessment of those requirements will take account of any rescue aid granted beforehand.
- (67) Regarding burden sharing, the enhancement of the beneficiary's equity position and any potential upsides envisaged from a successful restructuring supported by the aid provided by the Regional Government will fully accrue to the aid grantor in its capacity of sole shareholder. Burden sharing by existing shareholders is therefore irrelevant in the present case.
- (68) However, the same is not true with regard to existing creditors. The [ ] combined with additional State guarantees have the effect of adding new debt guaranteed by the Region whilst securing [ ]. Yet, the situation of difficulty of the beneficiary is characterised, [ ]. The amount of [ ]. In the circumstances of SATA, the absence of burden sharing results in a significant amount of State aid in relation to the costs of the restructuring plan.
- (69) To explain the absence of any burden sharing reducing the amount of aid, Portugal refers to the inability of the beneficiary to access market finance in the future. However, Portugal fails to give reasons and justify why any partial reduction of debt borne by current creditors that would be concomitant to the aid would, as a matter of principle not be adequate. Subject to concrete and detailed explanations from Portugal on this purported impossibility, it is doubtful that proper and satisfactory burden sharing accompanies the restructuring aid.
- (70) The own contribution of the beneficiary to the restructuring plan must be real and actual and should normally be comparable to the aid granted in terms of effect on the solvency or liquidity position of the beneficiary. Pursuant to point 63 of the R&R Guidelines, the Commission needs to assess whether the various sources of own contribution are actual and aid-free. According to point 64 of the R&R Guidelines, the Commission normally considers the own contribution to be adequate if it amounts to more than 50% of the restructuring costs.
- (71) On the nature of the own contribution to the expected restructuring costs from SATA, the Commission notes that all the measures envisaged for the five year duration of the restructuring plan have the common feature of freeing resources by reducing the beneficiary's operating costs but do not involve fresh finance at market terms. Portugal envisages proceeds from [ ] (recital (19)). In the current circumstances, with an uncertain outlook in which the air transport industry is and will remain heavily impacted by the direct and indirect effects of the COVID-19 outbreak, the Commission does not assess the absence of fresh finance provided at

market terms supporting the restructuring plan of SATA as evidence of insurmountable unviability of SATA.

- (72) In effect, cost reductions borne by stakeholders such as those that SATA provides may amount to real and actual sources of own contribution to the restructuring plan in the particular circumstances, provided they are effective, lasting and not reversible. Therefore, Portugal should establish without doubt that [ ] (points a) to e) of recital (21)) are committed in binding agreements with the respective parties or internal instructions that will produce lasting effects throughout the duration of the restructuring plan. Likewise, in the uncertain outlook until 2025, Portugal should commit to maintaining these measures and not withdrawing them if the operating results of the beneficiary improved faster or more than anticipated in the projections of the business plan, set out in Table 1.
- (73) With regard to [ ] that would allow considering them as real and actual sources of own contribution, the amounts [ ].
- (74) At this stage, Portugal has not produced [ ]. Only this type of evidence would allow concluding that the expected proceeds for an amount of EUR [ ] are real and actual sources of own contribution to the costs of the restructuring plan. [ ] of the costs of the restructuring plan. [ ].
- (75) Finally, Portugal does not single out and breakdown the expected compensations of the costs of provision of PSOs or SGEIs that SATA will be receiving during the restructuring plan. Whilst for the purposes of determination of the amount of own contribution the Commission will disregard any lawful public service compensation pursuant to the Aviation Guidelines and/or Regulation 1008/2008, the Commission needs to take into account all State aid received by SATA during the restructuring plan (R&R Guidelines, point 101).
- (76) The Commission therefore has doubts that the notified restructuring aid is restricted to a minimum amount, in line with point 60 of the R&R Guidelines, and is consequently proportional.

#### 3.4.2.3. Negative effects

- (77) Pursuant to point 38 f) of the R&R Guidelines, when restructuring aid is granted, measures must be taken to limit distortions of competition, so that adverse effects on trading conditions are minimised as much as possible and positive effects outweigh any adverse ones. To that effect, recipients of rescue or restructuring aid should in principle not have received similar aid in the past ten years. Moreover, when restructuring is granted, measures must be taken to limit distortions of competition, preferably structural in the form of divestments of self-standing activities favouring expansion of small competitors or cross-border activity.

##### (a) One time last time principle

- (78) Under points 70 and 71 of the R&R Guidelines, aid can be granted to undertakings in difficulty in respect of only one rescue or restructuring operation. Therefore, where less than ten years have elapsed since rescue aid, restructuring aid or temporary restructuring support were granted to the beneficiary in the past,

including any such aid granted before the entry into force of the R&R Guidelines and any non-notified aid, the Commission will not allow further aid (the 'one time, last time' principle).

- (79) In the opening decision, the Commission raised doubts whether EUR 72.6 million of increases of SATA's capital provided by the Azores Region since 2017 amounted to unlawful rescue or restructuring aid in breach of the one last time principle<sup>22</sup>. The Commission was not in a position to conclude whether an exception to the one time last time principle in exceptional and unforeseeable circumstances for which the beneficiary is not responsible was justified (point 72 c) of the R&R Guidelines).<sup>23</sup>
- (80) Portugal is planning to support a single rescue and restructuring operation of SATA with the already granted rescue aid, on which the Commission raised doubts, which is now followed by the notified restructuring aid. Therefore, the Commission doubts that the restructuring aid meets the one time last time principle.

(b) Measures limiting distortions of competition

- (81) As explained further in points 87 to 93 of the R&R Guidelines, compensatory measures should be set out in proportion to the distortive effects of the aid, and in particular: (i) to the size and the nature of the aid and the conditions and circumstances under which it is granted; (ii) to the size and relative importance of the beneficiary in the market and the characteristics of the market concerned and (iii) to the extent to which moral hazard concerns remain following the application of the own contribution and burden-sharing measures.
- (82) The structural measures might include divestment of assets, reducing capacity or market presence. They should favour the entry of new competitors, the expansion of existing small competitors or cross-border activity, taking into account the market or markets where the beneficiary will have a significant market position after the restructuring, in particular those with excess capacity. Behavioural measures should ensure that aid finances only the restoration of long-term viability.
- (83) After the implementation of the restructuring plan, SATA will be active in the management of small airports in the Azores in the provision of air transport services between the islands and with Madeira and mainland Portugal. Portugal commits that SATA will refrain from publicising State support when marketing its products and services. SATA will also refrain from acquiring shares in any company during the restructuring period, unless necessary to ensure its viability. No such acquisitions are notified at this stage.
- (84) The beneficiary has a relatively small size and a limited scope of operations predominantly consisting of discharging PSOs and providing genuine SGEIs in the Azores Region. The restructuring plan does not envisage diversification to

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<sup>22</sup> Opening decision, recitals 90 and 91.

<sup>23</sup> Opening decision, recitals 92 to 98.

new activities and is premised on a reduction of SATA's aircraft fleet. Likewise, the restructuring plan does not include specification of plans to open new routes between the Azores and mainland Europe that would compete with other airlines.

- (85) Also, Portugal alleges the crucial role of Azores Airlines in discharging essential PSO and more generally contributing to the economic development of the Region. The notification provides for structural measures in the form of [ ].
- (86) Provided that [ ] is implemented within the duration of the restructuring plan, the measure appears [ ]. However, [ ].
- (87) [ ]. Portugal points at the present difficulties of Azores Airlines being partly due to an insufficiently clear delineation of objectives of Azores Airlines' operation as PSO provider and its intrinsic commercial interest. In the meantime, some of the difficulties of SATA result from this unclear delineation between commercial operation and public interest missions. This situation of tension between conflicting objectives needs to be addressed to avoid similar difficulties in the future, [ ].
- (88) Therefore, in addition to clarifying whether [ ], Portugal should explain how [ ].
- (89) Accordingly, the Commission doubts that the [ ] and within the duration of the restructuring plan. Moreover, it is also doubtful that sufficiently clear governance conditions and agreements will be in place [ ].

#### 3.4.2.4. Application of section V of the R&R Guidelines regarding SGEIs

- (90) In assessing State aid to SGEI providers in difficulty under the R&R Guidelines, the Commission considers that the specific application of the principles therein should be adapted where necessary to take account of the specific nature of SGEI and, in particular, of the need to ensure continuity of service provision in accordance with Article 106(2) TFEU (R&R Guidelines, point 14). In that respect, where the Commission finds that rescue or restructuring aid cannot be found compatible, the Commission may authorise the payment of such aid and for a limited duration as is necessary to ensure continuity of the SGEI until a new provider is entrusted (points 99 and 103 of the R&R Guidelines).
- (91) While at this stage there is no definitive finding that the restructuring aid is incompatible with the internal market, it is established that SATA manages five airports which provide a SGEI in the Region and also operates a SGEI for PSO routes that are essential for air transport connectivity (recitals (7) to (10)). Therefore point 103 of the R&R Guidelines calls for the performance of these particular tasks and services assigned to SATA is not obstructed until the Commission takes a final view on the compatibility of the restructuring aid with the internal market.
- (92) Indeed, point 103 of the R&R Guidelines may apply where the Commission has already concluded that the unlawful aid under scrutiny cannot be found compatible with the internal market and it is sufficient condition for its application that there is

a risk that the Commission may find that an SGEI provider is not able to comply with the conditions of these guidelines<sup>24</sup>.

- (93) In the present case, the Commission has doubts on compatibility, which *a fortiori* calls for the performance of the tasks and provision of the essential services in question is preserved during the formal investigation. For otherwise, on the one hand, without the indispensable liquidity, the beneficiary could be put in an irreversible situation and be obstructed from ensuring the performance of the SGEI. On the other hand, users could be irremediably deprived of all or some of the SGEI in question. And this could likely happen soon given the liquidity situation of SATA (recitals (13) and (14)) when there is strong likelihood that no alternative provider would, at this point in time, minimally provide, let alone replicate, the services, thus risking a serious threat to the connectivity of the islands of an outermost region.
- (94) The Commission therefore applies point 103 of the R&R Guidelines so as to avoid an irreversible situation of discontinuation of essential air transport connectivity SGEI in the Azores Region during the conduct of formal proceedings, since there is there is a risk that the Commission may find that SATA is not able to comply with the conditions of these guidelines.
- (95) In the present case, the Commission takes into account the submission of Portugal regarding the PSOs that SATA discharges and which ensure essential air transport connectivity between the Azores islands. The Commission also notes the evidence that Portugal submitted to the effect that the PSOs discharged by Azores Airlines on the four PSO routes open to all airlines have not so far attracted any alternative service providers; that only an extremely limited number of routes connecting Azores with the rest of the Union are being served by four other airlines licensed in the Union (recital (12)). Continuous service provision in those PSO routes provide indispensable air transport connectivity.
- (96) The air transport services under PSOs are combined in this case with the SGEI provided through the five airports which SATA guarantees in an outermost Region, which is *a fortiori* especially sensitive and even vital in the context of the COVID-19 outbreak and its induced effects on essential passenger and cargo transport.

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<sup>24</sup> The (2004) R&R Guidelines (Communication from the Commission — Community guidelines on State aid for rescuing and restructuring firms in difficulty, OJ C 244, 1.10.2004, p. 2-17) that predated the present R&R Guidelines, did not contain a specific section on rules applicable to providers of SGEI, such as those now set out in section V thereof. In case practice under the earlier (2004) R&R Guidelines, the Commission, whilst raising doubts on compatibility of R&R aid, authorised continuation of rescue aid during formal proceedings, in circumstances where discontinuation of the aid could have obstructed the performance of a public service, based on *prima facie* evidence of a genuine SGEI. See Commission Decision (2009)5088 final of 2.7.2009 in case No C19/2009 (ex N 64/2009)- Denmark - Restructuring aid to TV2 Denmark A/S, point 77 and conclusion, OJ C 207 02.09.2009, p. 2.

- (97) Likewise, the Commission takes into account the estimated liquidity needs which are indispensable to maintaining the connectivity of the Region without covering other liquidity needs of the beneficiary (recital (65)).
- (98) At this stage, the Commission cannot conclude on the compatibility of the restructuring aid with the internal market, because of its doubts that the aid is proportionate and that negative effects on trade and competition are mitigated to sufficient extent.
- (99) Nevertheless, pursuant to point 103 of the R&R guidelines, the Commission considers justified to provide at this stage for authorisation of the prolongation and increase of aid strictly limited to the amount up to EUR 255.5 million and for a duration of six months as it is necessary to ensure continuity of the SGEI in the air transport services and the airport management services provided at present by SATA (recitals (6) to (7), and (61)).

#### 3.4.2.5. Transparency

- (100) According to point 38(g) of the R&R Guidelines, Member States, the Commission, economic operators and the public must have easy access to all relevant acts and pertinent information about the aid awarded. This means that Portugal must respect the provisions on transparency laid down in point 96 of the R&R Guidelines. The Commission notes that Portugal undertakes to respect those obligations. The relevant information will be made available on the website:

<https://www.portaldiplomatico.mne.gov.pt/sobre-nos/gestao-e-transparencia/documentos-legais>

#### 3.4.2.6. Weighing up the positive effects of the aid with the negative effect on the internal market

- (101) An aid measure is adequately designed when it facilitates the development of certain economic activities or of certain economic areas without adversely affecting trading conditions to an extent contrary to the common interest.
- (102) The Commission considers that restructuring aid not meeting all the criteria set out in the R&R Guidelines affects trading conditions to an extent contrary to the common interest (points 36, 38 and 39 of the R&R Guidelines).
- (103) At this stage, the Commission doubts that the aid is proportionate and that negative effects on trade and competition in the internal market are mitigated to sufficient extent.

### **3.5. Conclusion on the compatibility of the notified aid**

- (104) In the light of the findings above, the Commission concludes that, at this stage, the restructuring aid does not appear to meet the conditions of compatibility with the internal market pursuant to Article 107(3) c) TFEU, in particular those set out in the R&R Guidelines. Likewise, the Commission has not yet taken a final position on the proceedings opened on the rescue aid. The Commission cannot therefore consider at the present stage that those aids as notified, are compatible with the

internal market. The Commission has thus decided to extend the proceedings laid down in Article 108(2) TFEU, referred to in recital (1) in relation to the notified restructuring aid measures.

(105) However, pursuant to Article 106(2) TFEU in conjunction with points 99 and 103 of the R&R Guidelines, the Commission deems compatible with the internal market the aid that is necessary to ensure continuity of the SGEI provided by SATA and its subsidiaries, in the form of a prolongation of guaranteed loan limited to a maximum amount of EUR 133 million and, and of additional guarantees on EUR 122.5 million loans for a duration of six months from the adoption of the present decision or until the Commission adopts a decision closing the proceedings, whichever is the shortest, under the conditions and reporting set out in the opening decision<sup>25</sup>.

#### **4. CONCLUSION**

In the light of the foregoing considerations, the Commission has accordingly decided:

- not to raise objections to individual aid to SATA Air Açores - Sociedade Açoriana de Transportes Aéreos S.A in an amount not exceeding EUR 255.5 million of liquidity needs of its essential activities related to the provision of public service obligations related to air transport to the Azores Region and to the management and operation of services of general interest in the airports in the same Azores Region, on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) and Article 106(2) TFEU and
- acting under the procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union, request the Portuguese Republic to submit, within one month of the date of receipt of this letter, its comments and to provide all such information as may help to assess the compatibility of the restructuring aid with all the conditions applicable.

The Commission requests your authorities to forward a copy of this letter to the potential recipient of the aid immediately and wishes to remind the Portuguese Republic that Article 108(3) of the Treaty on the Functioning of the European Union has suspensory effect, and would draw your attention to Article 16 of Council Regulation (EU) 2015/1589, which provides that all unlawful aid may be recovered from the recipient.

The Commission warns the Portuguese Republic that it will inform interested parties by publishing this letter and a meaningful summary of it in the Official Journal of the European Union. It will also inform interested parties in the EFTA countries which are signatories to the EEA Agreement, by publication of a notice in the EEA Supplement to the Official Journal of the European Union and will inform the EFTA Surveillance Authority by sending a copy of this letter. All such interested parties will be invited to submit their comments within one month of the date of such publication.

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<sup>25</sup> Opening decision, recital 110.

If this letter contains confidential information which should not be published, please inform the Commission within ten working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to publication of the full text of this letter.

Your request should be sent electronically to the following address:

European Commission,  
Directorate-General Competition  
State Aid Greffe  
B-1049 Brussels  
[Stateaidgreffe@ec.europa.eu](mailto:Stateaidgreffe@ec.europa.eu)

Yours faithfully,

For the Commission

Margrethe VESTAGER  
Executive Vice-President





Brussels, 5.11.2021  
C(2021) 8128 final

<p>In the published version of this decision, some information has been omitted, pursuant to articles 30 and 31 of 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, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus [...]</p>	<p style="text-align: center;">PUBLIC VERSION</p> <p>This document is made available for information purposes only.</p>
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**Subject: State aid SA.58101 (2020/C) and SA.62043 (2021/C) – Portugal - Rescue aid and Restructuring aid to SATA Group - amendment concerning the approved liquidity support**

Excellency,

## 1. PROCEDURE

- (1) By letter dated 13 August 2020, amended and completed on 14 August 2020, Portugal notified the Commission of its intention to grant rescue aid to SATA Air Açores - Sociedade Açoriana de Transportes Aéreos S.A. (“SATA Air Açores” or “SATA” or “the beneficiary”) in the form of a public guarantee to a bank loan of EUR 169 million pursuant to Article 108(3) of the Treaty on the Functioning of the European Union (“TFEU”).
- (2) On 18 August 2020, the Commission initiated the procedure laid down in Article 108(2) TFEU with respect to notified rescue aid to SATA Air Açores (“the opening decision”)<sup>1</sup>. In that same decision, to ensure the continuity of the services of general economic interest ensured by SATA, the Commission

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<sup>1</sup> OJ C 294, 4.9.2020, p. 41.

S. Ex.<sup>a</sup> o Ministro dos Negócios Estrangeiros

Augusto Santos Silva

Largo do Rilvas

P – 1399-030 – Lisboa

Commission européenne, B-1049 Bruxelles – Belgique, Europese Commissie, B-1049 Brussel – België  
Telephone: +32 2 299. 11. 11

approved on the basis of Article 107(3)(c) and Article 106(2) TFEU, State aid of up to EUR 133 million in the form of liquidity support (guarantee on a loan), acting in accordance with point 103 of the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (“R&R Guidelines”)<sup>2</sup>, for a period of six months.

- (3) On 19 February 2021, Portugal notified a restructuring plan, which it subsequently amended on 15 July 2021, for SATA. By letter dated 30 April 2021, the Commission informed Portugal of its decision to extend the procedure laid down in Article 108(2) TFEU also to that restructuring aid (“the extension decision”)<sup>3</sup>. In that same decision, the Commission decided not to raise objections to continued liquidity support to ensure the continuity of SATA’s services of general economic interest, raising the maximum amount of that aid to EUR 255.5 million and extending its duration by another six months or until the Commission adopts a decision closing its formal investigation, should that occur earlier.
- (4) By letter dated 22 October 2021, in the context of the formal investigation, the Portuguese authorities informed the Commission that EUR 252 million out of the total EUR 255.5 million approved liquidity needs of SATA, fall due between 6 November and 18 November 2021. Those amounts relate to outstanding loans provided by financial institutions with the guarantee of the Regional Government of Azores.
- (5) In order not to trigger a default with negative consequences for the Region of Azores, the Regional Government of Azores, as shareholder of SATA, envisages in the short term to substitute guaranteed loans up to EUR 82.5 million by a shareholder loan. The shareholder loan would allow SATA to reimburse the equivalent amount of the guaranteed bank loans. At the same time, that shareholder loan would permit the Regional Government to comply with the planned execution of the Regional budget projection, since the budget line and appropriation, if not used, would be lost, because it cannot be rolled over to 2022. Portugal equally requests an extension of the liquidity support that was initially granted in the form of public guarantees for a maximum amount of EUR 255.5 million until the Commission’s formal investigation is closed.
- (6) Portugal agreed exceptionally to waive the rights deriving from Article 342 TFEU in conjunction with Article 3 of the EC Regulation 1/1958<sup>4</sup> and to have the decision adopted and notified pursuant to Article 297 TFEU in English.

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<sup>2</sup> Communication from the Commission — Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, OJ C 249, 31.7.2014, p. 1.

<sup>3</sup> OJ C 223, 11.6.2021, p. 37.

<sup>4</sup> Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385, p. 58).

## 2. DESCRIPTION

### 2.1. The beneficiary

- (7) As recalled in the opening and in the extension decisions, SATA Air Açores, fully owned by the Region of Azores, employs around 1400 persons, of which 1150 locally in the Region and 250 in Lisbon. It provides air transport passenger and cargo services on routes under public service obligations (“PSOs”) and on a commercial basis (North America) and airport management services. In particular, 14 routes that connect the islands of the Azores Archipelago are entrusted exclusively under PSO to SATA Air Açores by means of a five-year public service contract (“PSC”) including compensation. The PSC has been prolonged several times and was tendered out in June 2021 for a new five-year term, starting from 1 November 2021, in compliance with Regulation (EC) No 1008/2008<sup>5</sup>. As in previous tenders, SATA was the only airline bidding for those PSO routes. SATA also manages five small airports through a subsidiary, SATA Gestão de Aeródromos (“SGA”). Portugal regularly reports to the Commission the activities of services of general economic interest (“SGEI”) of these airports<sup>6</sup>.
- (8) The Region of Azores, located in the North Atlantic Ocean, about 1,400 km from mainland Portugal, is recognized as an outermost region of the European Union covered by Article 349 TFEU<sup>7</sup>. The nine volcanic islands and their 245,000 inhabitants can be reached from the mainland in two to three days by sea or two hours by plane. The Region is vitally dependent on air passengers and cargo transport, especially during the winter, when weather conditions often render maritime transport unavailable. SATA’s PSO and SGEI activities described in recital (7) are essential to maintain territorial continuity between the outermost Region of Azores and the territory of mainland Portugal and Madeira.

### 2.2. The measures notified by Portugal

- (9) To support its regional public airline, SATA, which is an undertaking in difficulty, Portugal notified rescue and restructuring aid<sup>8</sup>, which is currently under examination in the context of the formal investigation opened by the Commission. Pending that examination, SATA has been granted liquidity aid in accordance with point 103 of the R&R Guidelines to ensure the continuity of its SGEI. The authorisation of that aid expires on 30 November 2021, but since the

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<sup>5</sup> Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008, on common rules for the operation of air services in the Community, OJ L 293, 31.10.2008, p. 3.

<sup>6</sup> Report at [https://ec.europa.eu/competition/state\\_aid/public\\_services/2016\\_2017/portugal\\_en.pdf](https://ec.europa.eu/competition/state_aid/public_services/2016_2017/portugal_en.pdf). Air traffic in each of these airports has been below 200 000 passengers per year in the last three years and the need to ensure connectivity of an isolated area of the European Union justifies the SGEI, in view of the lack of alternative means of transport available and in light of the criteria set out in the Guidelines on State aid to airports and airlines (“Aviation Guidelines”), point 72, OJ C 99, 4.4.2014, p. 3.

<sup>7</sup> Article 349 TFEU recognises the specific constraints of the outermost regions and provides for the adoption of specific measures in Union legislation to help those regions address the major challenges they face due to their remoteness, insularity, small size, difficult topography and climate, and economic dependence on a reduced number of products.

<sup>8</sup> Described in recitals 11-21 of the opening decision and recitals 13-14 of the extension decision.

Commission's formal investigation is still underway, Portugal argues that the aid in question needs to remain in place until the Commission closes its investigation (see recital (13)).

#### *2.2.1. The rescue aid*

- (10) On 13 August 2020 Portugal notified the Commission of its intention to grant rescue aid to SATA in the form of a public guarantee for a bank loan of EUR 169 million. As it was already in difficulty on 31 December 2019, SATA was not eligible to receive support under the Commission's State aid Temporary Framework.<sup>9</sup> The Commission thus based the assessment on the R&R Guidelines and, on 18 August 2020, opened a formal investigation with regard to the compatibility of notified rescue aid in light of three capital increases (totalling EUR 72.6 million) subscribed by the Region of Azores since 2017 to partly address the company's capital shortfalls. In that same decision, the Commission recognised that SATA ensured essential air transport connectivity of the Azores Region through the provision of SGEI, and thus authorised aid of up to EUR 133 million in the form of liquidity support (guarantee on a loan) to ensure the continuity of those SGEI, in accordance with point 103 of the R&R Guidelines, pending the conclusion of the formal investigation into the rescue aid, for a six-month period.

#### *2.2.2. The restructuring aid*

- (11) The equity position and financial situation of SATA has further deteriorated since August 2020 and, in particular, its revenues in 2020 more than halved compared to 2019 and its equity at the end of 2020 amounted to EUR -[...] million. The Portuguese authorities, on 14 April 2021, requested a prolongation of the liquidity support approved in the opening decision and notified an additional EUR [...] million liquidity support in the form of a public guarantee on temporary loans or public loans to provide SATA much needed liquidities until 21 November 2021. That amount was to cover the projected liquidity needs critical to maintain the essential functions of connectivity provided by the beneficiary, namely intra-islands PSOs, PSOs routes with mainland<sup>10</sup> and the SGEI provided by SGA in managing the airports.<sup>11</sup> At the same time, Portugal notified a restructuring plan planned to be supported with restructuring aid in the form of a EUR [180-250] million capital increase and EUR [140-200] million public guarantee on loans.
- (12) In the extension decision, the Commission extended the formal investigation to the planned restructuring aid. In addition, pursuant to Articles 106(2) and

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<sup>9</sup> Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1) and C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

<sup>10</sup> The scope of liquidity needs related to the routes operated by the group includes: (i) the 14 PSO routes serviced by SATA and (ii) the four PSO routes of Azores Airlines (PDL-FNC-PDL / PDL-LIS-SMA / LIS-PIX-LIS / LIS-HOR-LIS).

<sup>11</sup> Airports managed by SGA in Pico, Graciosa, Corvo and São Jorge, as well as the Flores island terminal.

107(3)(c) TFEU and points 96 to 103 of the R&R Guidelines, in that decision the Commission approved the liquidity support in the total amount not exceeding EUR 255.5 million, which was needed for the continuation of its essential activities related to the provision of PSOs for the air transport to the Azores Region and to the management and operation of SGEIs in the airports in that region, for a period of six months (or until the Commission adopts a decision closing its formal investigation, should that occur earlier).

### 2.2.3. *The liquidity support*

- (13) In the context of the formal investigation procedure, and on grounds of the described financial situation of SATA, in order not to trigger a default with negative consequences for the Region of Azores, by submission of 22 October 2021 Portugal requested that the liquidity support granted to SATA to ensure the continuity of its SGEI remains in place until the Commission closes its investigation. Out of the EUR 252 million total amount of liquidity support falling due by 18 November 2021, the Regional Government of Azores, as shareholder of SATA, could substitute guaranteed loans up to EUR 82.5 million by a shareholder loan. The shareholder loan would allow SATA to reimburse the equivalent amount of the guaranteed bank loans. That loan would also allow the Regional Government to comply with the planned execution of the Regional budget projection, given that the budget line and appropriation cannot be rolled over to 2022 and, therefore, would be lost, if not used. The remainder of the liquidity support provided in the form of public guarantees on other outstanding bank loans up to the amount of EUR 169.5 million falling due by 18 November 2021 also needs to be either prolonged or refinanced through additional public loans. Portugal equally requests an extension of the liquidity support that was initially granted in the form of public guarantees for a maximum amount of EUR 255.5 million until the Commission's formal investigation is closed, that is beyond the six months authorised under the extension decision on 30 April 2021.

## 3. ASSESSMENT

- (14) The present decision only concerns the liquidity measures as described in recital (13). Furthermore, reference is made to the opening and extension decisions with regard to any factual and legal element of the investigation not expressly mentioned in the present decision.

### 3.1. Existence of State aid

- (15) According to Article 107(1) TFEU, "*[s]ave as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market*".
- (16) The Commission considers that the prolonged liquidity support to SATA, whether in the form of guarantees on loans or in the form of direct loans, is imputable to the State and financed through State resources, as it will be granted by the Azores Region and financed from its budget (see recital (12)). That support will distort or threaten to distort competition and affect trade between Member States as the air passenger transport and cargo services sector in which SATA is active

is open to competition and trade between Member States.<sup>12</sup> The Commission also considers that the liquidity support in question confers a selective advantage on SATA. An extension of the duration of public guarantees and the grant of new shareholder loans refinancing such guaranteed loans procure an advantage to SATA by granting the beneficiary access to financing, which, in the absence of State support, SATA would not be able to raise on the market on similar conditions; in granting that support, the Azores Region is not acting as a market operator but pursuing a public policy objective of ensuring the region's connectivity (recital (5))<sup>13</sup>.

### **3.2. Compatibility with the internal market**

- (17) In the opening decision, the Commission assessed as compatible with the internal market and decided not to raise objections to individual aid to SATA in an amount not exceeding EUR 133 million of liquidity needs of its essential activities related to the provision of public service obligations for air transport to the Azores Region and the management and operation of services of general interest in the airports in the Azores Region, on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) and Article 106(2) TFEU. In the extension decision, the Commission assessed as compatible with the internal market a prolongation of such aid with an increase of its budget up to a total of EUR 255.5 million.
- (18) The abovementioned aid was intended to ensure the continuity of the SGEI provided by SATA pending the completion of the formal investigation on the rescue and the restructuring aid notified by Portugal. The notified measure only seeks to uphold that liquidity support until the Commission's formal investigation is closed, without any increase in the aid amount compared to the amount approved in the extension decision. The planned substitution of a public guarantee with a public shareholder loan up to EUR 82.5 million, as well as any potential future substitution of that guarantee by further loans, up to the amount approved in the extension decision, does not change the nature of the aid which still addresses the liquidity needs of SATA linked to its essential activities related to the provision of public service obligations in air transport to the Azores Region and in the management and operation of services of general interest in the airports in the same Azores Region. In this context, the Commission's assessment set out at recitals 108-110 of the opening decision and recitals 91-99 of the extension decision, remains fully relevant also with respect to the notified measure.
- (19) Therefore, the planned measures are compatible with the internal market, pursuant to Article 107(3)(c) and Article 106(2) TFEU, until the Commission adopts a decision closing the proceedings.

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<sup>12</sup> See recitals 40-41 of the opening decision and recitals 39-40 of the extension decision.

<sup>13</sup> The reasoning set out in recitals 49-51 of the opening decision and in recitals 34-37 of the extension decision applies also to the notified measure.

#### 4. CONCLUSION

- (20) The notified measure consists of two elements. First, it involves a prolongation, for the duration of the Commission's formal investigation of the rescue aid and the restructuring aid to SATA, of the liquidity support approved in the opening decision and increased and prolonged in the extension decision. Second, it allows the Portuguese authorities to change the form of that liquidity support: the public guarantee would be replaced by a direct loan, for an amount of EUR 82.5 million currently contemplated, and potentially for further amounts within the budget of the measure. The maximum amount up to EUR 255.5 million of the liquidity support remains, however, unchanged, and the aid continues support the liquidity needs of SATA's essential activities related to the provision of public service obligations in the provision of air transport services to the Azores Region and in the management and operation of services of general economic interest in the airports in the Azores Region . The Commission finds that this measure is compatible with the internal market pursuant to Article 107(3)(c) TFEU and Article 106(2) TFEU.
- (21) This decision is without prejudice of the final view that the Commission may take on the notified rescue aid or restructuring aid that are being examined in the formal investigation proceedings pursuant to Article 108(2) TFEU.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site:

<http://ec.europa.eu/competition/elojade/isef/index.cfm>.

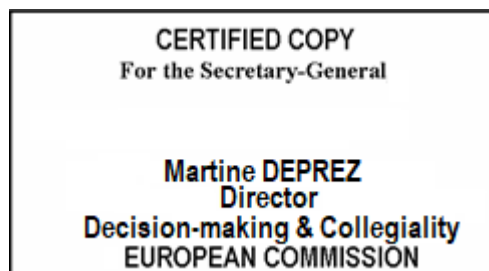
Your request should be sent electronically to the following address:

European Commission,  
Directorate-General Competition  
State Aid Greffe  
B-1049 Brussels  
[Stateaidgreffe@ec.europa.eu](mailto:Stateaidgreffe@ec.europa.eu)

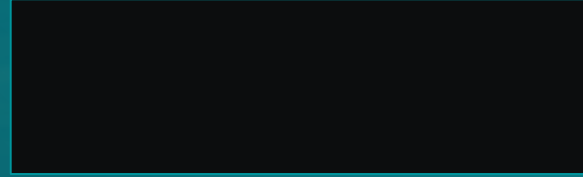
Yours faithfully,

For the Commission

Margrethe VESTAGER  
Executive Vice-President







# SATA Restructuring and Strategic Plan 2021-25

NOVEMBER 2021



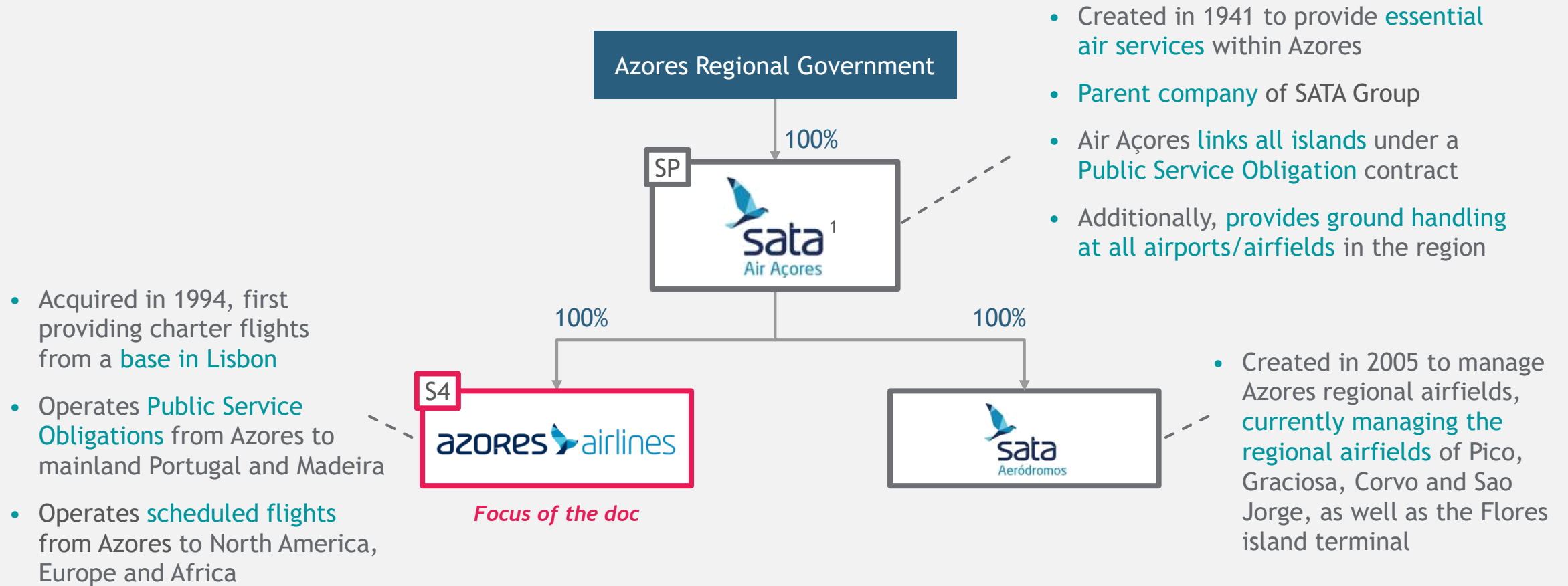
# Executive Summary

- SATA is a small airline fully owned by Azores Regional Government, with the group structured in 3 BUs: Air Açores (flying intra-islands), Azores Airlines (flying from Azores to Europe and North America) and Gestão de Aeródromos (managing regional airports). In 2019 SATA served 1.6 M pax in 20 destinations with 6 turboprops, 6 jets and 2 ACMLs
- SATA is focused in serving Azores - an outermost European region with 9 islands in the middle of the Atlantic - and plays a pivotal role in its economic development, supporting the growth of a sustainable tourism services sector
- Despite ~5% annual revenue growth between 2015-2019 SATA profitability deteriorated, driven by Azores Airlines' weak operational performance (leading to higher/add'l costs), fleet underutilization and market liberalization
- These negative results have placed SATA in a financially unsustainable position with negative cashflow generation and high levels of debt, further worsened by the COVID-19 crisis and leading to the need for financial assistance
- As SATA needs to restructure to become a sustainable business, the new management team proposes to:
  - Optimize network and adjust the terms of national connections PSOs, improving route profitability
  - Restructure fleet to increase fuel efficiency and reliability, correcting its profile for increased flexibility
  - Reduce costs by negotiating with suppliers, implementing operational savings and adjusting labor capacity
  - Maximize aircraft utilization through overnight flights and leveraging the winter season
  - Step-up operational performance by reducing irregularities to mitigate one-off extraordinary costs
- Despite challenging market context, Azores Airlines expects to break-even by 2023 becoming profitable by 2024:
  - Revenues expected to reach around █████ by 2025 with a fleet of 8 jets ...
  - ... with an EBIT of █████ by 2025, resulting in █████ EBIT margin, aligned with industry benchmarks



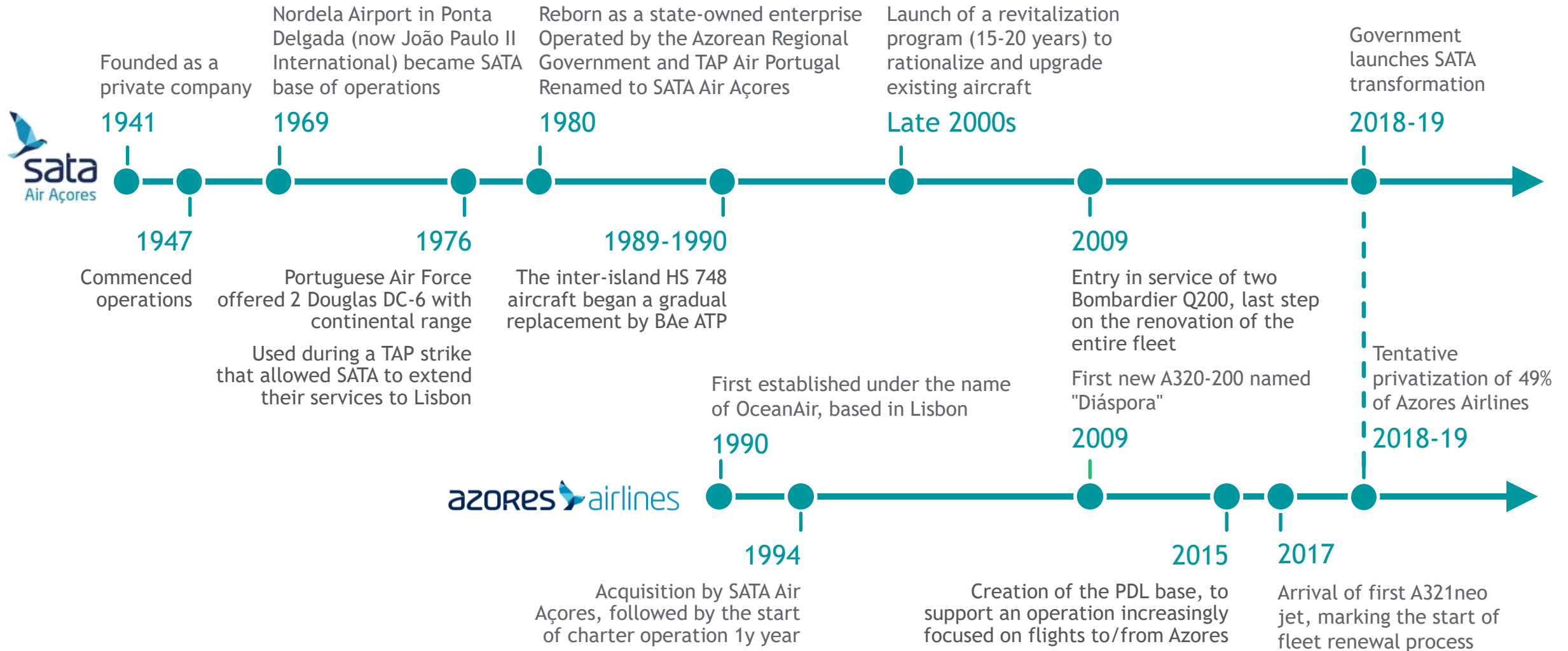
- 1 **SATA overview**
- 2 Strategic relevance of SATA
- 3 Vision & Sustainable Strategy
- 4 Business Plan

# SATA is currently structured around 3 businesses



1. SATA tour operations to be liquidated, with Canada already closed and US still functioning

# Long history of ~80 years since foundation, with Azores Airlines acquired in 94

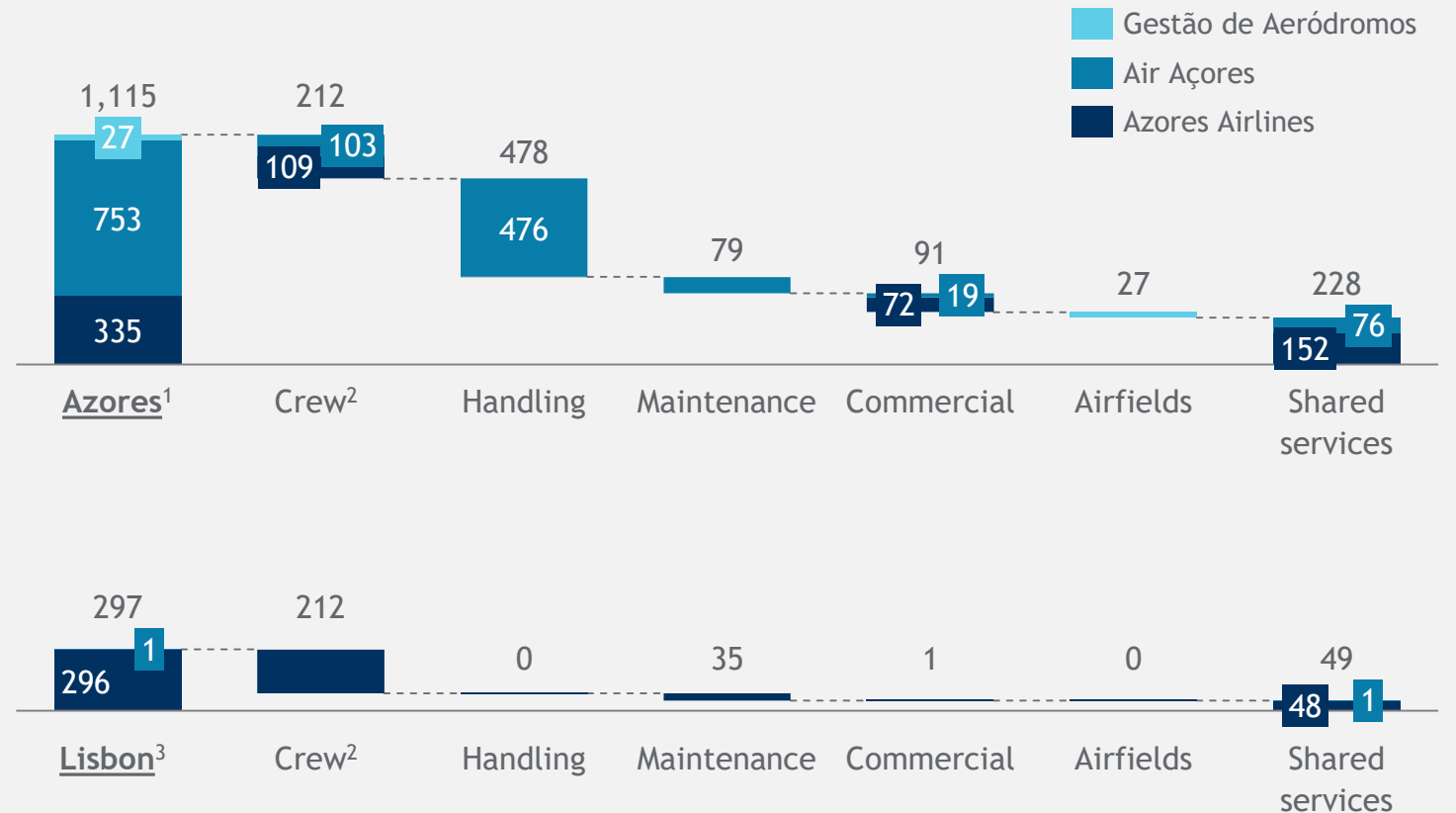


# SATA employs ~1,400 people in Azores & Lisbon, across all relevant activities

SATA personnel by company  
(number of FTEs in November 2020)



SATA personnel by location  
(number of FTEs in November 2020)



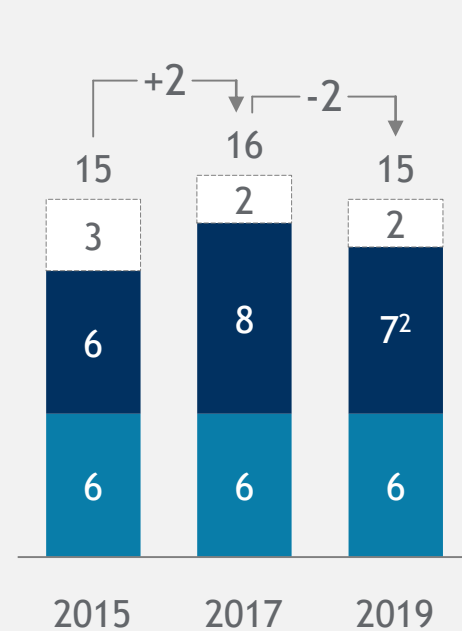
1. Includes all FTEs based on Azores islands, 1 FTE in Madeira 2. Includes cockpit crew and cabin crew 3. Includes 4 FTEs in Porto  
Source: Company data

# In 2019, SATA served 1.6 M pax with 15 aircraft, including 2 ACMI

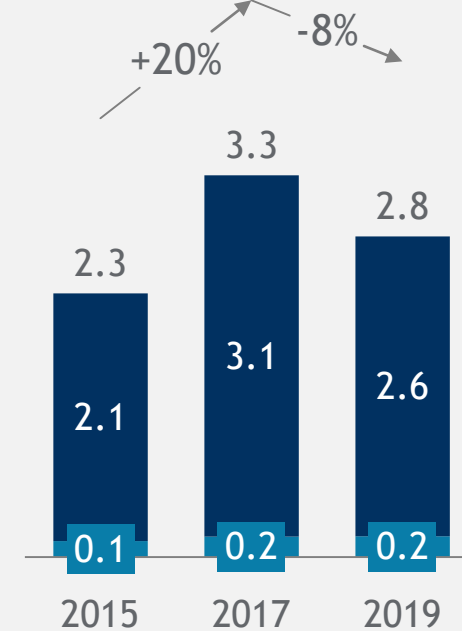
**Passengers**  
Million; CAGR



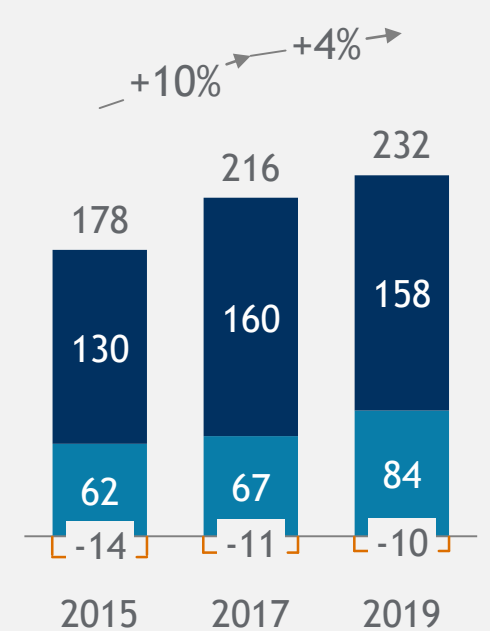
**Fleet size<sup>1</sup>**  
# of planes; CAGR



**ASK<sup>4</sup>**  
Billion; CAGR



**Revenues**  
Million €; CAGR



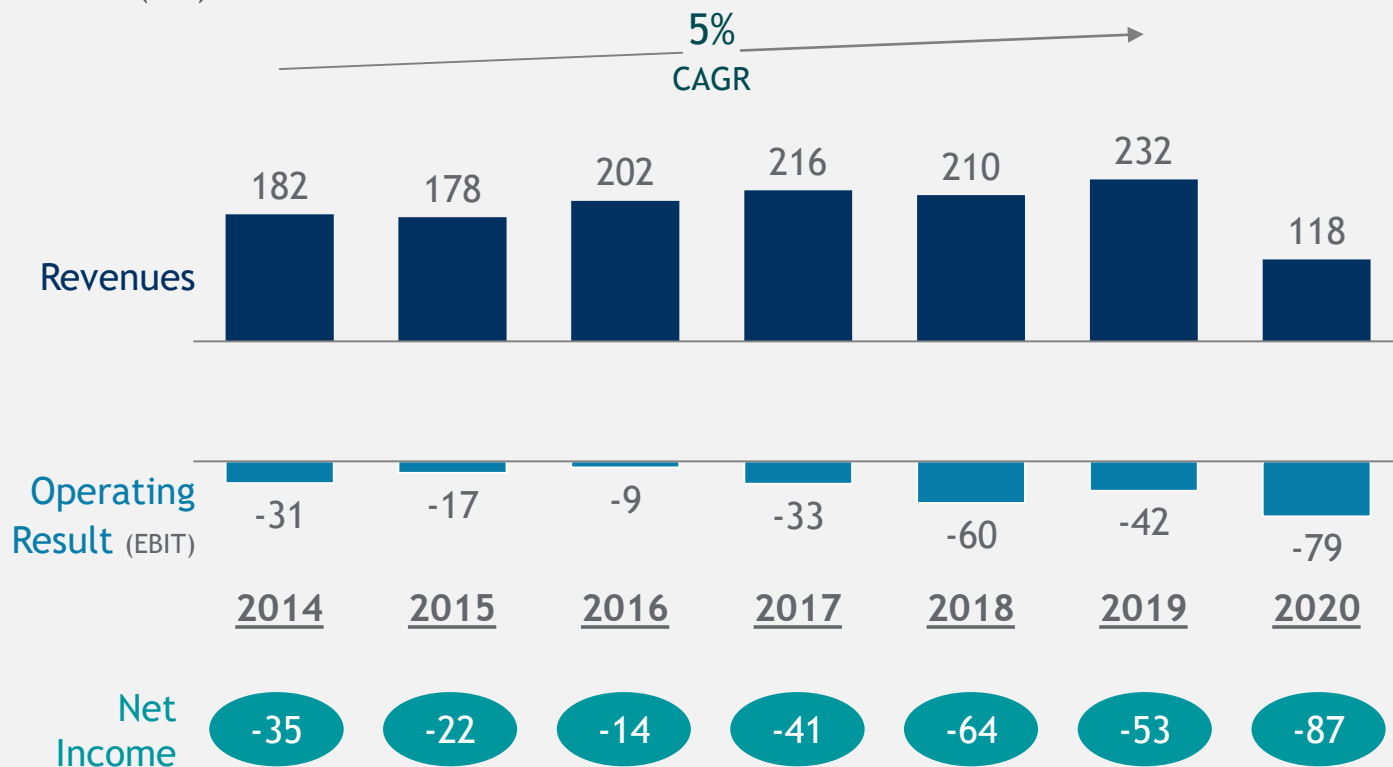
  ACMI<sup>3</sup>
 Azores Airlines
  Air Açores

  Intragroup adjustment<sup>5</sup>

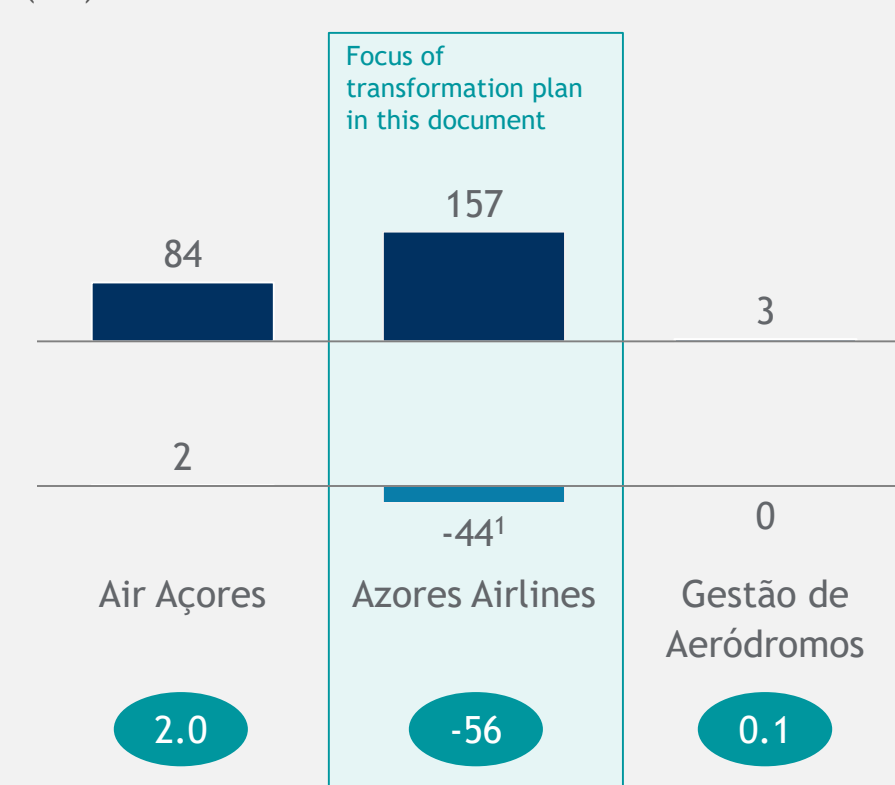
1. Total capacity in July/August 2. Includes A330 CS-TRY 3. Wet leases considered even if deployed only seasonally 4. Measure of passenger carrying capacity, equal to seats available multiplied by kilometers flown 5. Intragroup adjustment accounts for revenues/ costs assigned between group companies, commissions, intra-group ACMI, handling and other  
Source: Company data

# Despite its revenue growth, SATA Group profitability has deteriorated driven by Azores Airlines and Covid-19

SATA's 2014-2019 financial performance (€M)



Breakdown by BU in 2019 pre-pandemic (€M)



Note: Includes recurrent operating subsidies (e.g., regional PSO compensation), excludes non-recurrent aid & subsidies (e.g., Covid-19 financial aid)

1. Includes additional cost of 26 M€ in imparidades IFRS + proc judiciais

Source: Company data



# Last years have been challenging for Azores Airlines...

## Capacity & Production<sup>1</sup>

(Azores Airlines, Billion ASK/ RPK)

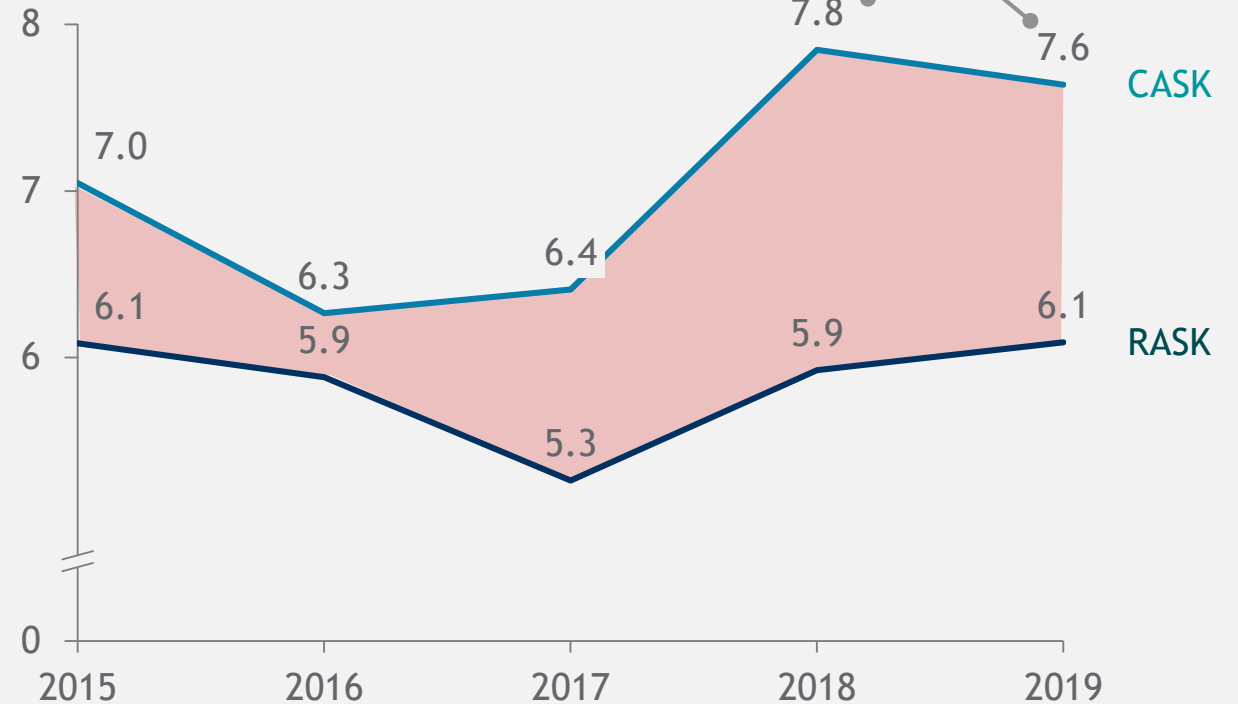
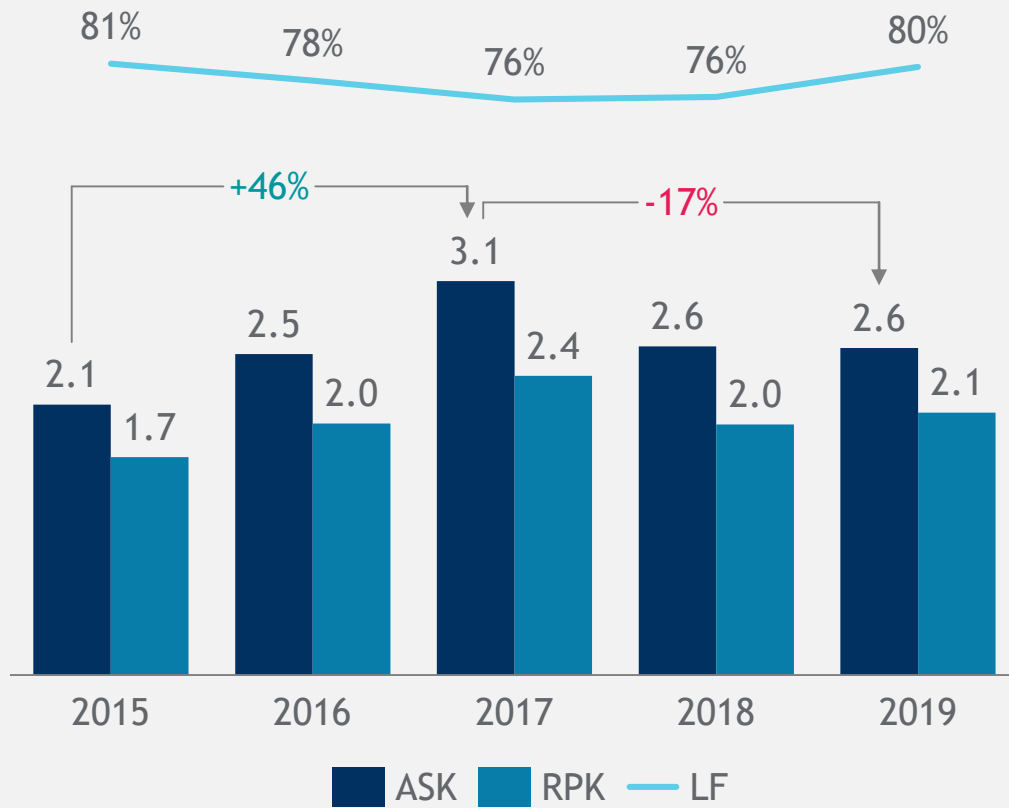
## Load factor<sup>2</sup>

(%)

## RASK & CASK<sup>3</sup>

(Azores Airlines, c€)

High CASK (above 5-6c€ in benchmarks) due to reduced capacity, high fixed costs not diluted and operating complications



1. ASK = Available Seat Kilometers, RPK = Revenue Seat Kilometers 2. Load factor = RPK/ASK 3. RASK = Revenue/ASK, CASK=Cost/ASK including fuel cost and D&A  
Source: Company data

# ... due to 6 key factors



## Reduced utilization

40-50% below benchmark block hours per plane<sup>1</sup>

- Network plan historically highly dependent on seasonal traffic and lack of overnight flights



## Operational disruptions

Increased ACMI and passenger compensation costs

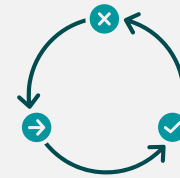
- Compensation costs rose from €1.5 M in 2015 to €4.5 M in 2019 due to irregularities
- In 2018 alone, ACMIs cost to solve disruptions<sup>2</sup> were over €15 M



## Maintenance extra costs

High non-recurring costs and recognized maintenance reserves

- Legacy fleet needed heavy corrective maintenance, in 2019 ~€3.2 M costs with extra repairs
- In addition, provisions in excess of €7.4 M required in 2019



## Fleet restructuring

Extra costs with the execution of fleet replacement process

- Late delivery of one A321 in 2019 led to need for an extra ACMI, thus increasing costs
- Delays in crew training for new fleet led to cancellations in the 2017 peak



## Historical PSOs<sup>3</sup> implications

Sub-par revenue & ops. performance given PSO requirements

- PSO regulated fares limit revenue potential
- Schedule limitations hinders network, fleet and crew optimization
- In 2019, the 4 routes resulted in -€13 M EBIT margin impact













## Increased competition

Increased pressure following market liberalization

- After 2015 liberalization of PDL-LIS route low cost carriers entered (e.g., Ryanair)
- TAP increasingly flying from SATA's PDL hub (e.g., to North America)

1. Benchmark of 12-14 block-hours per day, with Azores Airlines utilization lower 2. Need to contract ACMIs to operate regular schedule due to crew unavailability; and following an ACMI breakdown, Azores Airlines further increased costs by hiring a replacement ACMI 3. National PSOs  
Source: Company data

# Azores Airlines has been operating 4 public service obligations (PSO) routes which generated a negative EBIT impact of ~€13 M in 2019

	 <b>HOR-LIS</b>	 <b>LIS-PIX</b>	 <b>LIS-SMA</b>	 <b>PDL-FNC</b>
<b>Min. freq. requirements</b> 	Winter: 4 <sup>1</sup> flights/week Summer: 10 <sup>1</sup> flights/week	All year: 2 flights/week (higher historical volumes)		All year: 1 flight/week
<b>Schedule constraints</b> 	Flights in on-consecutive days; 1 freq. between 8 am & 9 pm	Both flights between Thursday and Monday		No requirements
<b>Fleet requirements</b> 	Mandatory jet operation			No requirements
<b>Revenue constraints</b> 	Fixed fares for residents and students			
<b>Operational impacts</b> 	<ul style="list-style-type: none"> <li>Requires crew and aircraft based in LIS to comply with schedule and frequency requirements</li> <li>Complicates network optimization, leading to lower crew and aircraft utilization</li> <li>Frequent weather disruptions in these routes require extra crew to supplement groundings (e.g., Frequent fog in Horta + no possibility for flights to depart without daylight)</li> </ul>			<ul style="list-style-type: none"> <li>No relevant negative impacts on operation</li> </ul>
<b>Impact in 2019 EBIT</b> 	-€6.6 M	-€3.1 M	-€2.4 M	-€0.6 M

1. Legal mandatory PSO requirements are lower, but historical commitment to deliver these frequencies  
Source: Company data

# COVID-19 placed further pressure on its business

## "Lockdown" (Mar-Jun 2020)



### Context:

Countries border closure and air traffic restrictions resulted in a sharp decline on demand and volumes

### Impact on SATA:

- Low impact at first ethnic traffic was returning home
- Higher impact as tourism cancelled (11/03-18/03)
- 19/03 SATA stopped all passenger operations by mandatory request of the Azores Regional Gvmt
- Repatriation and cargo-only flights (Azores to mainland and within the islands)
- Charter flights to foreign governments and private entities (including medical supply from China)

## "New normal" (Jul 2020-Now)



### Context:

Air traffic opened but fear of Covid travel restrictions limits travel demand, additionally pressured by downward prices

### Impact on SATA:

- Current recovery faster than competitors, as market share is growing in key airports
- First signs of tourism early recovery as Azores stands out as a safe destination in the post-Covid period
- US & Canada routes recovery is taking longer as the region is more impacted by Covid-19
- Price pressure on Azores-mainland market, but not expected to impact significantly

# SATA took all possible measures to address Covid



## Adjusted capacity

Azores Airlines cut ASK by ~56%, avoiding €65 M+ operational variable 2020 costs<sup>1</sup> (fuel, taxes, crew, etc.), while Air Açores continued to ensure connectivity within the region, operating regular schedule

Delayed entry in service<sup>2</sup> of two A321LR planned for 2020 & 2021, reducing lease costs, and cancelation of summer ACMI, saving €5M+ and operating only own fleet



## Minimized staff expenses

Total or partial layoff<sup>3</sup> for ~85% of group staff, exception for critical functions

Around ~8% of total group staff under early holidays, voluntary unpaid leaves or other types of absences

No temporary staff hired for peak Azores Airlines operation, avoiding costs with extra pilots and additional handling staff



## Negotiation of liabilities

Deferral of tax payments and debt repayments for 3m to sustain liquidity, exemption from staff Social Security contribution

Renegotiation of contracts with suppliers, defining payment plans

Deferral of real estate rents for utility buildings used by SATA

1. Only regular flights - operational variable costs include fuel, navigation/landing/parking taxes, variable crew salaries & accommodation, variable maintenance, handling, catering, insurances and passenger delays/cancellation compensations; figure was computed based on 2019 variable costs (MG1) 2. CS-TSI A321LR now scheduled to enter in service by 1<sup>st</sup> quarter 2021 3. Employees under total layoff have employment contracts suspended and are paid 2/3 of their usual base salary, of which the Portuguese Social Security pays 70%, and SATA pays the remaining 30%, while employees under partial layoff have a temporary reduction in their work schedule, receiving normal salary for the hours worked (e.g., base salary for 40h/week, reduced salary corresponds to 30h/week) plus a 2/3 compensation for the remainder of their base salary, paid in the same terms as the suspension of contract measure

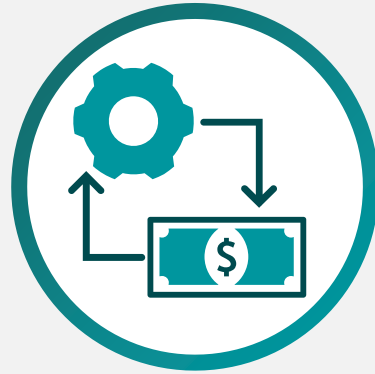
Source: Company data

# SATA is currently in a financially unsustainable position



## Negative results

Negative Operating Results (EBIT) of €214 M in the last 4 years (2015-19), weighting 28% of revenues



## Level of debt

Total debt of €301 M<sup>1</sup> limits SATA's ability to invest in its operations and competitiveness



## Negative equity

Negative equity of €369 M<sup>2</sup> hinders the company's attractiveness to private investors



## Treasury problems

Covid-19's impact on the airline industry sharply damaged cash-flow generation

1. Excludes taxes, provisions and flight tickets liabilities, includes bank debt, liabilities with contractual obligations and aircraft leaseback obligations

2. Equity includes annulation of capital increases from the shareholder

Note: EBIT last year results for 2017, 2018 and 2019. Debt and equity levels correspond to Q3 2020. All figures are consolidated SATA Group

Source: Company data

A new team  
with industry  
experience was  
brought in January  
2020 to transform SATA



Luís Rodrigues  
CEO

*Relevant experience*

- BSc Economics, MBA
- Board Member at TAP Air Portugal 2009-2014
- CEO Nova SBE Executive education 2015-2020



Mário Chaves  
COO/CCO

- A320 captain and flight instructor 2005-2012
- Head of Flight Efficiency at IATA 2013-2016
- Vice-President Ops at Icelandair 2016-2017
- CEO at Cabo Verde Airlines 2017-2019



Teresa Gonçalves  
CFO

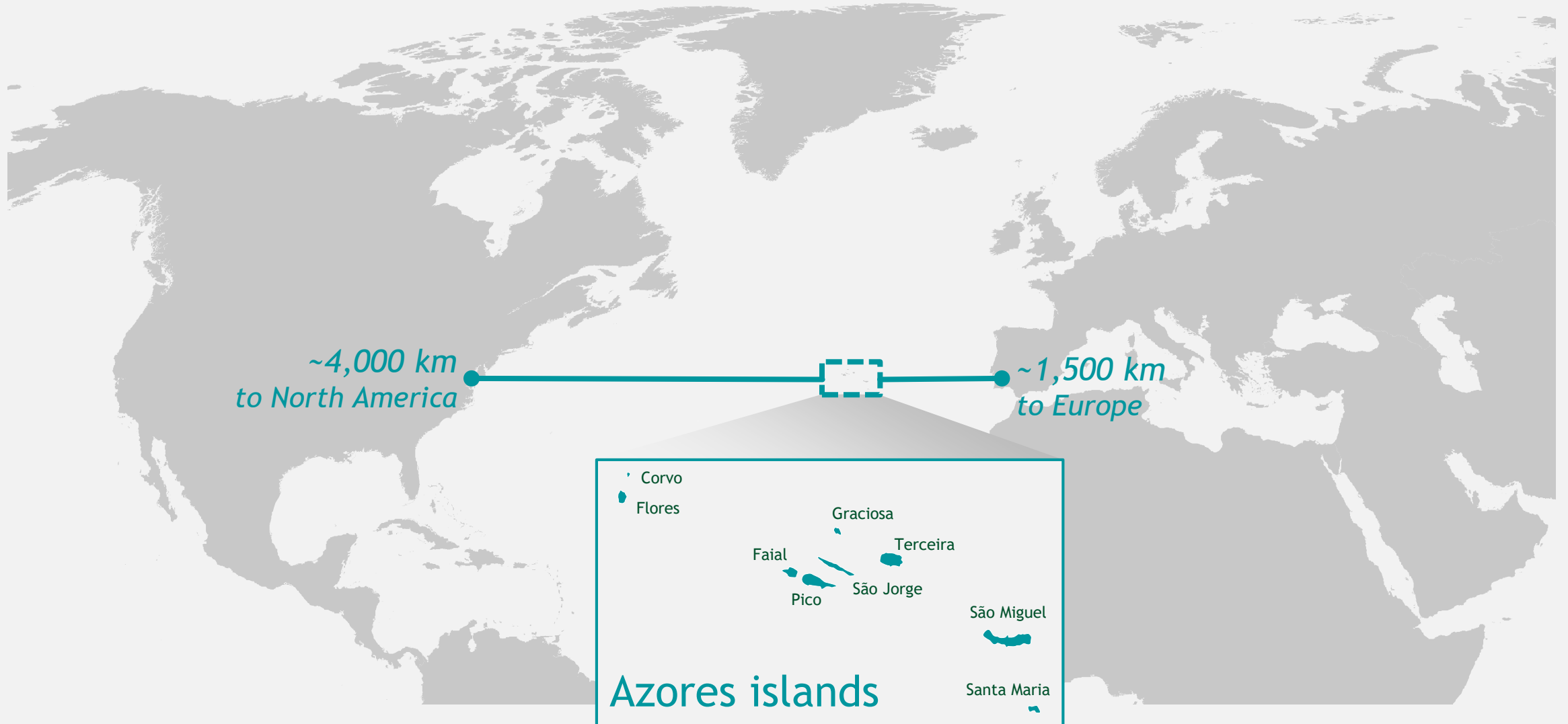
- BSc Economics, several post-grads
- Corporate Finance director at Portugal Telecom 2011-2015
- Director at the Mobility & Transport Regulatory Authority 2016-2020



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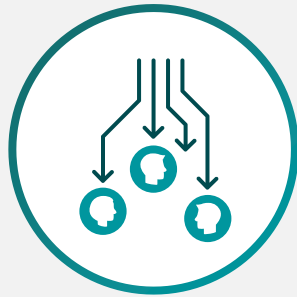
# Azores is an outermost European region



# Azores economy is on a development path having critical challenges to overcome



9 small islands with **limited economies of scale** (6 in 9 islands below 250 km<sup>2</sup>)



**Small and dispersed internal market** (243k inhabitants with 7 in 9 islands with less than 15k)



Mobility highly **dependent on aircraft** (e.g., sea transportation mostly in Summer)





**Income levels still catching up** with GDP per capita at 68% of European avg



**Economy in transition** to higher valued-added services and exports (e.g., 10% employment in primary sector)

# Diaspora are key supporters of the regional economy

 **243 k**  
Azores population


 **1.5 M**  
Azorean diaspora<sup>1</sup>

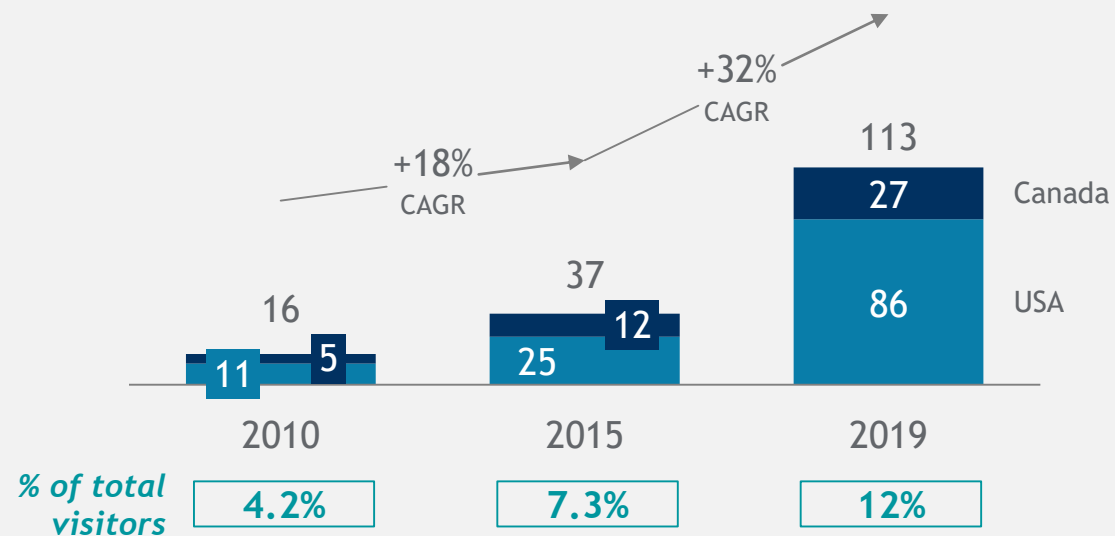
 **113 k**  
Visitors from North America

## Key Azorean diaspora communities (Azorean emigrants and descendants)

## USA and Canada guests in Azores (thousand annual visitors)



 Regions with selected relevant Azorean communities<sup>2</sup>



North America (Canada and USA) is the main international origin of guests (with 113k in 2019) with Germany in 2<sup>nd</sup> place (with 91k)

1. <http://observatorioemigracao.pt/np4/2656.html> 2. Based on locations with "Casas dos Açores" <https://casasdosacores.org/>  
Source: Observatório da Emigração, SREA, Press search

# Azores has beautiful natural attributes to leverage



# Azores has the potential to become a sustainable tourism destination

“We want to position Azores as a world-class nature touristic destination, leveraging sustainability and unique outdoor experiences”

2018 Azores Tourism Strategy,  
Azores Tourism Association

Azores product qualities aligned with trends ...



Sustainability



Nature (green)



Unique wonders



Active/outdoors

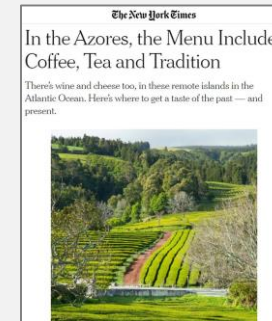


Adventure/islands



To be discovered

... and have started to become recognized by leading agents



The New York Times  
August 2018

New York Times explored the natural wonders but also Azores' rich agricultural heritage with local gourmet products

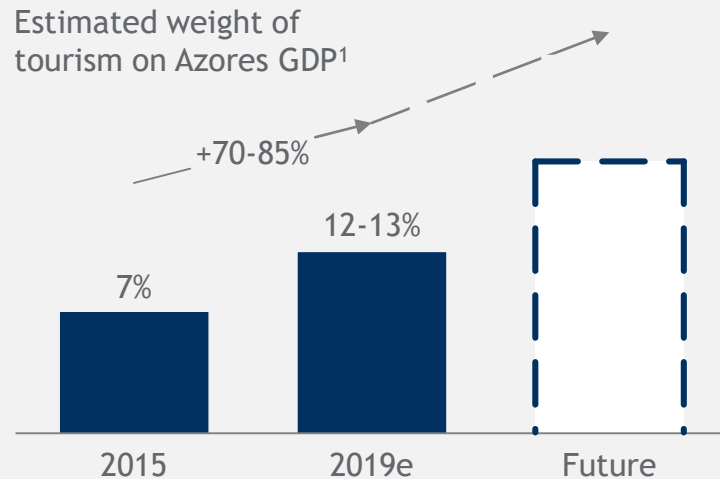


Condé Nast Traveller  
March 2020

Conde Nast Traveler dedicated a cover and 10 pages to detail the natural beauty and exclusive spas & hotels recently added to the region

# Tourism is a key development pillar for the Azores

Tourism with >10% share of Azores economy and growing, being an engine for progress



Tourism represents 12-15k jobs, direct and indirect (10% of total)<sup>2</sup>

There's an investment dynamic to improve product quality and diversify activities

- Capacity projected to **grow in the next years** with **+70 hotels** already approved by the local government (+70%)
- Most new units are boutique or premium hotels, **catering to higher-value segments**
- Sustainable activities being developed across 9 islands to **improve value proposition**

Tourism promotes and drives sales of Azorean original products and services



Nature activities (e.g., whale watching, trails)



Cheese & dairies



Local gastronomy



Handcraft products



Culture & ethnography



Traditional wine & spirits



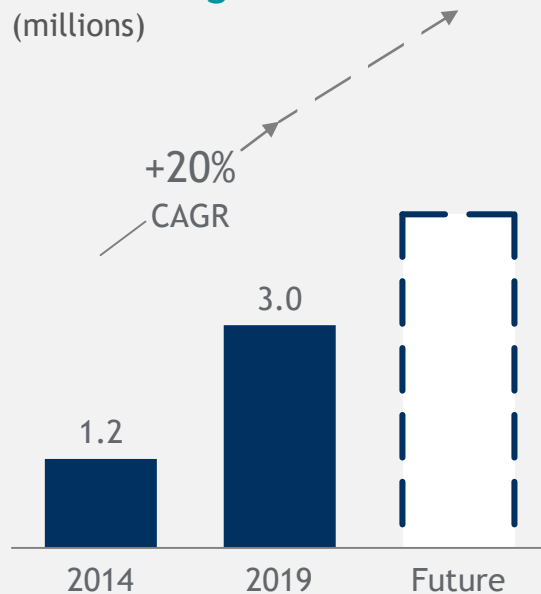
Bio-agriculture products

1. 6.7% computed for 2015 in Tourism Satellite Account (TSA), estimate for 2019 leverages accommodation revenues growth from €54 M to €105 M (+90%) in the same period 2. 12k & 10% computed for 2015 in TSA Source: SREA, Press search

# Azorean tourism sustainable growth trajectory just begun

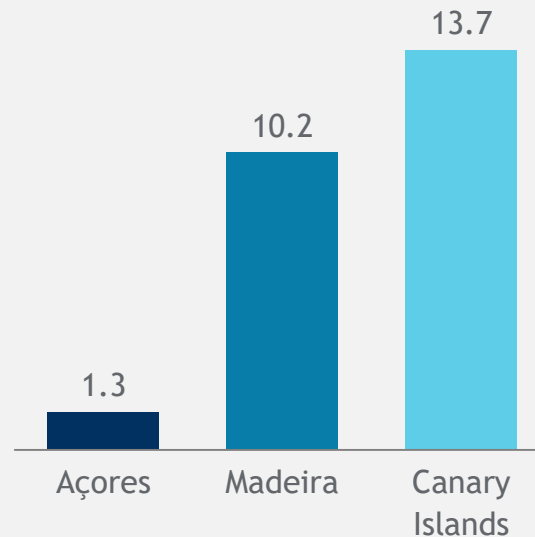
Despite recent growth ...

Tourists nights  
(millions)

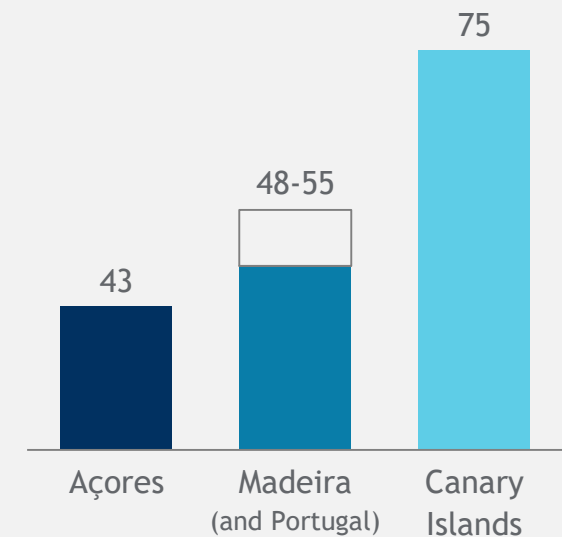


... there is still a long way to materialize potential

Tourism intensity  
(thousands nights per km<sup>2</sup>)



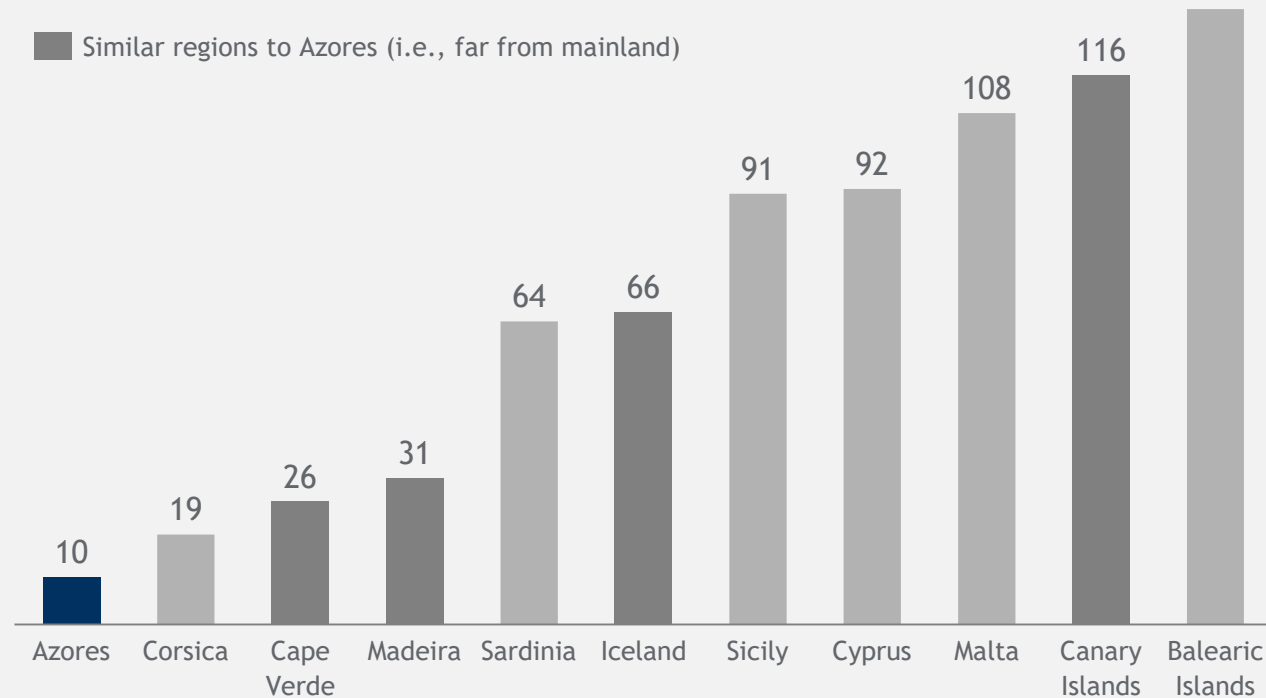
RevPAR  
(€/room, traditional lodging)



Note: Açores: surface = 2,346 km<sup>2</sup>; Madeira: nights = 8.1 M (2019) & surface = 801 km<sup>2</sup>; Canary Islands: nights = 102 M (2019) & surface = 7,447 km<sup>2</sup>  
Source: INE, SREA, DREAM, ISTAC

# Limited direct connectivity in this early stage impacts Azores tourism competitiveness

Direct "scheduled" connectivity<sup>1</sup>  
(direct destinations in 2019, # of airports)



Some examples of "lack of interest" in this early development phase from private players:

- TAP hasn't bid for the PSOs<sup>2</sup> routes to link PT mainland with Azores since April 2015
- EasyJet left the market in 2017 because they couldn't ensure quality offering (i.e., frequency), prioritizing other markets
- Delta canceled its route New York JFK to PDL one year after its launch in 2018
- Ryanair is reducing its capacity to the region following COVID impact

1. Includes all operations with 50 or more flights a year from each region to other destinations 2. Public Service Obligations  
Source: OAG, schedule of operating flights for published carriers from Jan. 1<sup>st</sup> 2019 to Dec 31<sup>st</sup> 2019 taking every single airport as destinations



# SATA is a foundational economic agent in Azores



## Public Service carrier

**100%** of the regional air transport managed by Air Açores

**100%** of public service to mainland Portugal (PSOs) managed by Azores Airlines



## Tourism key enabler

**~40%** of passengers transported to the islands from the outside are carried by Azores Airlines



## Air cargo and exports facilitator

**100%** of air-cargo within the islands is managed by Air Açores (~2,900 tons)

**>65%** of air cargo from or to outside Azores<sup>1</sup> is managed by Azores Airlines which in 2019 carried 1,300+ tons of cargo, including fish, mail and medical supplies



## Relevant value-added employer

**~1,100<sup>2</sup>** direct employees in Azores by SATA, of which 600+ specialized staff (e.g., maintenance, revenue management, commercial, operations management)

**~10%** of total tourism employment<sup>3</sup> and ~1% of total Azores employment

1. Azores Airlines market share in 1H 2020, liberalized routes Azores-Mainland 2. Total FTEs ~1,400, but ~300 based in Lisbon 3. Direct and Indirect Source: SREA, Company data

# Azores shows great potential for a Stopover

## Interesting region for a Stopover product



### Fantastic touristic destination

Azores present **natural wonders with world-leading sights**, creating an attractive opportunity for a short stop



### Advantageous location in the Atlantic

**Great latitude** to effectively connect passengers in the "Central and North America" to "Southern Europe" corridor



### Similar to other successful Stopover, Iceland

Icelandair also leveraged the Stopover product to **showcase Iceland's attributes** while differentiating its long-haul flights

## Stopover will "spread the word" about Azores



### Supports Azores product's competitiveness

Stopover is a lever to **develop Azores' connectivity** by improving SATA's flights value proposition



### Allows to communicate and differentiate

Travelers considering Azores as a Stopover will **put the islands in the world's minds** and empower its brand



### Accelerates potential materialization

Travelers converted to tourists **will boost local economy** helping it to more quickly achieve its potential



# SATA is instrumental for Azores future progress



## Ensure connectivity

Responsible for mobility within Azores, supporting social cohesion and tourism growth in smaller islands



## Key link to diaspora

Maintain links between key diaspora communities and the islands, unlocking social and economic benefits



## Improve competitiveness

Crucial role in creating direct connections to key markets, taking the "1<sup>st</sup> step" to open routes that improve the attractiveness of Azores's tourism



## Communicate Azores brand

Crucial agent in the promotion of flights and Azores tourism product, developing the Stopover as a critical lever to boost awareness



## Foster value added activities

Ensures qualified employment and looks for opportunities to partner and foster new value-added activities based in Azores

SATA has a crucial role in the connection and promotion of Azores supporting the social cohesion and economic development of an outermost European region





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- 4 Business Plan

# SATA mission

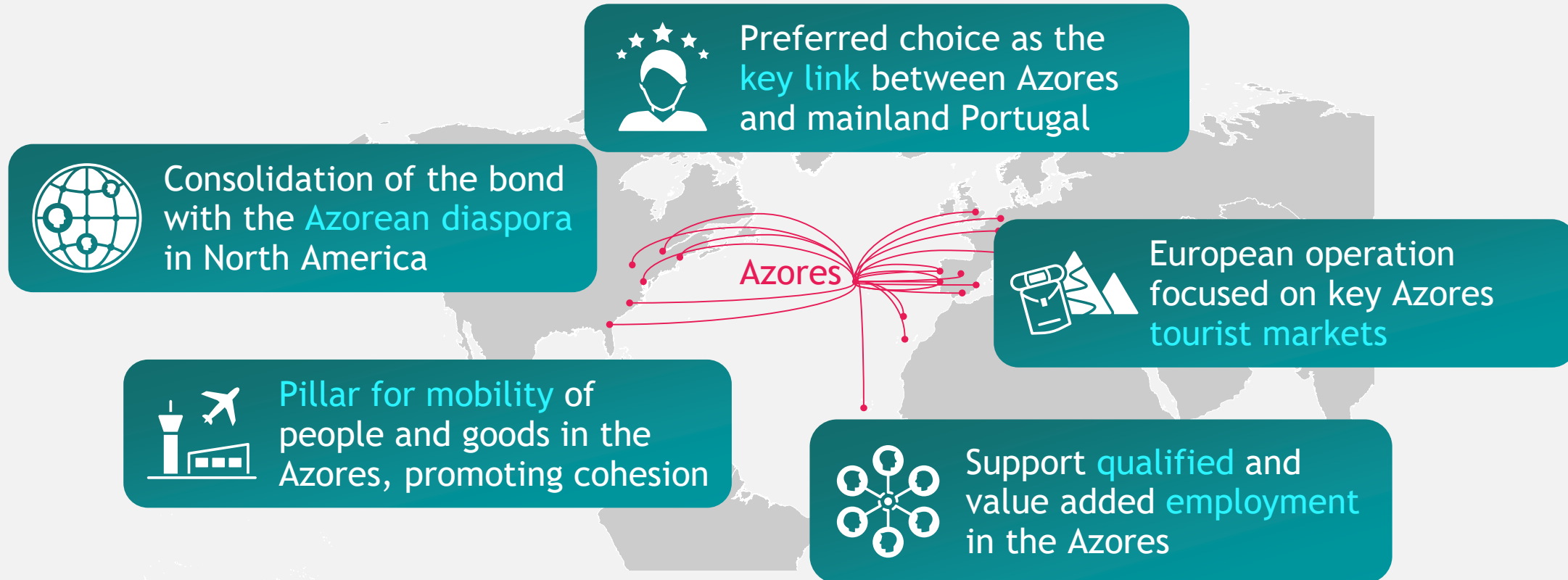
*Promote Azores social and economic development by providing a reliable flight experience and achieve financial balance, cost discipline while mitigating its environmental impact and developing an agile, engaging organization*

# 4 key pillars to deliver





# Azores at the center of SATA's mission





# Achieve financial balance and generate more value



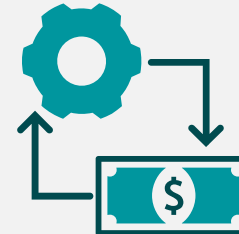
Increased asset utilization and achievement of minimum critical scale

Increased fleet utilization to standard levels, growing the operation for dilution of fixed costs



Efficient operation with lower costs and emissions per seat

Renewed fleet with lower fuel consumption, lower maintenance costs and greater flexibility



Resource optimization and cost base restructuring

Implementation of savings initiatives and negotiation with suppliers for greater competitiveness



Focus on passengers with an appealing value proposition

Modern and comfortable cabins, attentive and agile service, competitive prices and differentiating brand





# Environmental sustainability is an objective to pursue



Environmental considerations will be **integrated into business strategy** and management decisions



Focus on **climate change**, noise, waste management and supply chain efficiency

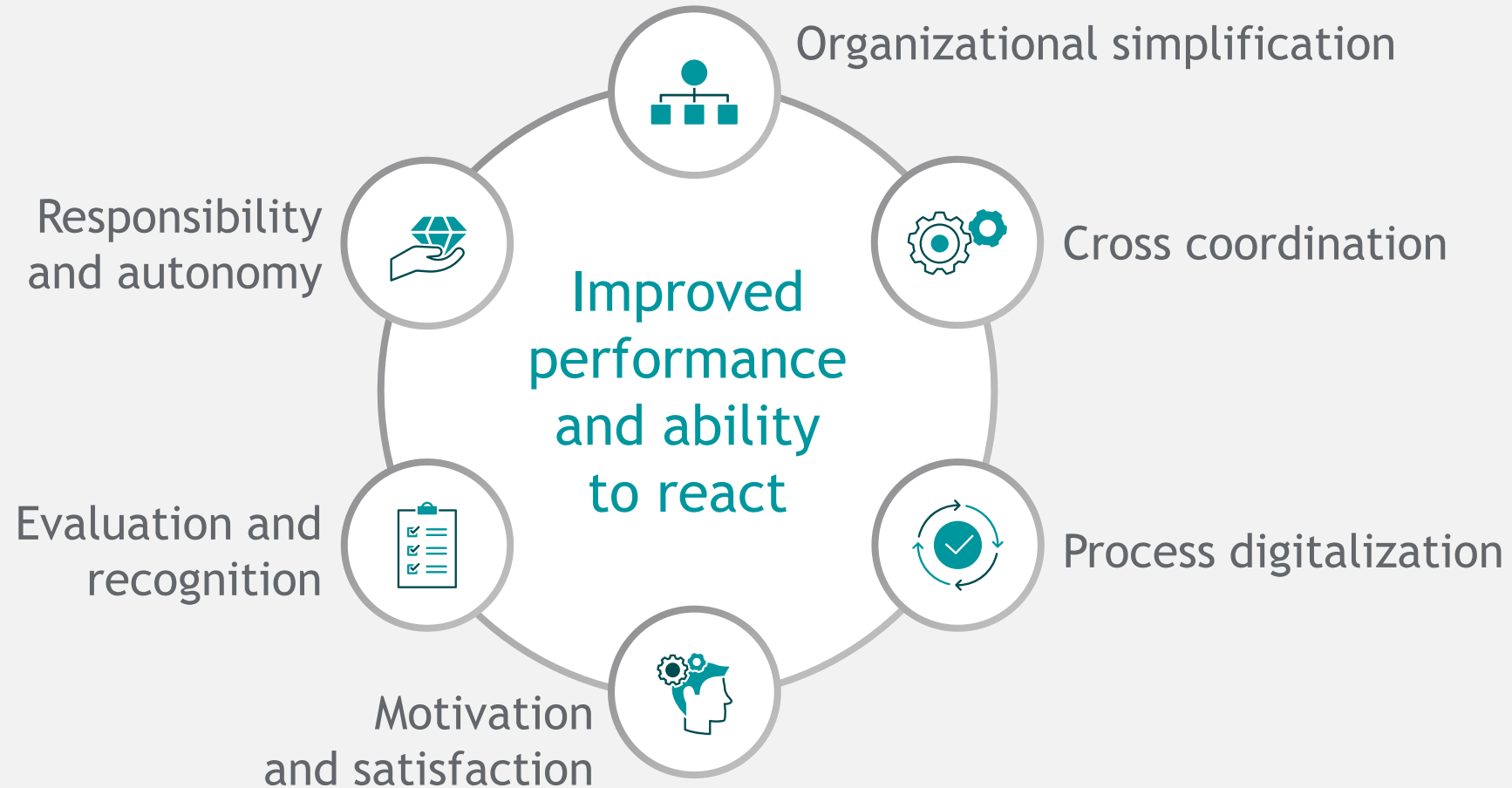


**Fleet renewal** as a major lever for significant improvement of environmental footprint



Promotion of **Azores credentials** as a “green”, “sustainable” and “low impact” destination

# SATA will have a more agile and efficient organization





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  - Capacity | Network & Fleet
  - Costs | Efficiency & Agility
  - Revenues | Commercial Approach
  - Financial performance
  - Other businesses

# Main assumptions underpinning the strategic plan



## Fleet restructuring

Minimum fleet proposed given existent commitments

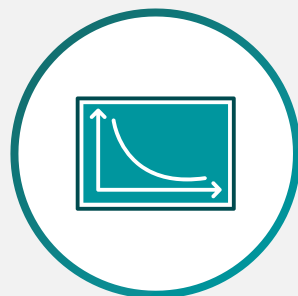
Delayed delivery of 2 A321LR already committed; legacy A320 fleet replaced with more efficient A320/21neo



## Network adjustments

Optimization of national PSOs<sup>1</sup>, improving requirements for financial sustainability

Capacity to be focused on essential operations; improving connectivity with relevant markets



## Demand recovery

Demand expected to recover in line with demand forecast model

Pressured context taken into account (e.g., lower avg. fare and a decrease of p.p. in load factor for 2021)



## Cost restructuring

Assumptions on possibility to restructure fleet, labor (LIS base streamlining), supplier agreements and operations

Savings included in the plan account for ~80% of total savings identified



## Fuel costs evolution

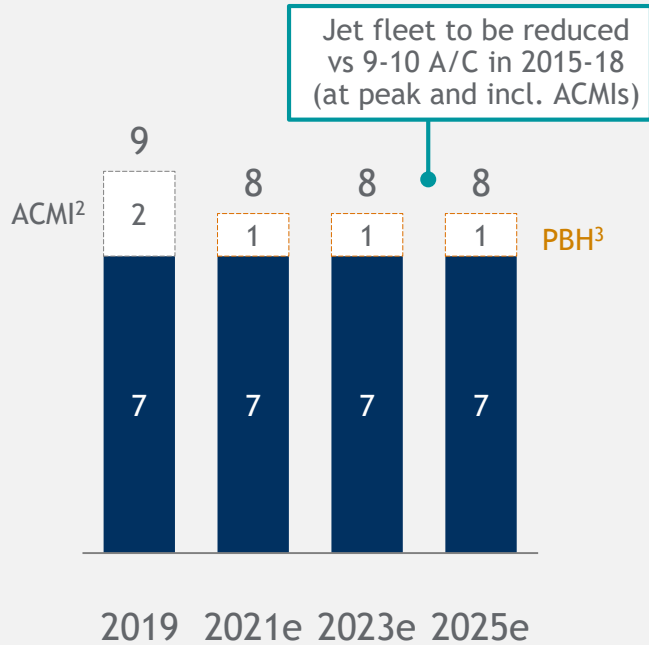
Fuel prices assumed at USD/barrel until 2025 from current price

Fuel consumption expected to drop by 33%<sup>2</sup> per seat.km with the renewed fleet

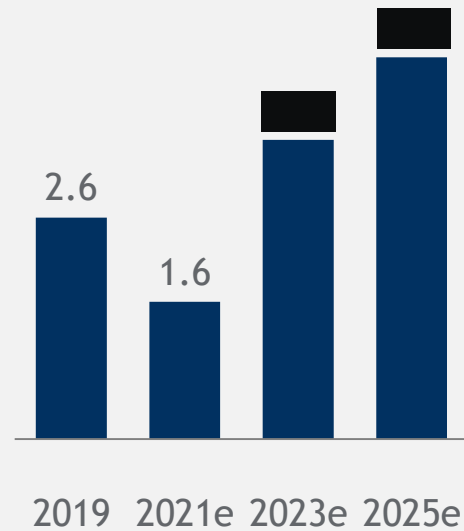
1. National PSOs (LIS-HOR, LIS-PIX, LIS-SMA, LIS-FNC) 2. Fuel consumption per ASK  
Source: Company data

# Azores Airlines expected to be financially sustainable from 2023 onwards, achieving █████ EBIT margin in 2025

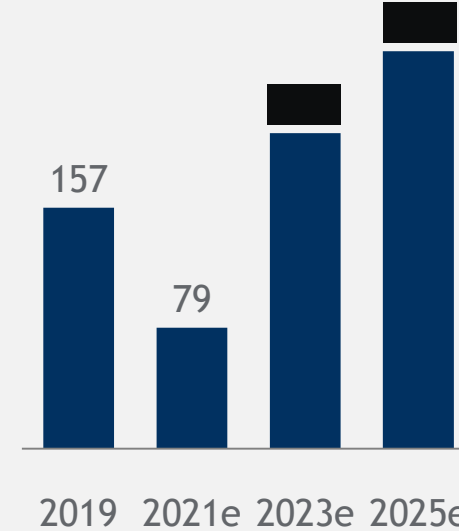
**Fleet size<sup>1</sup>**  
# of planes



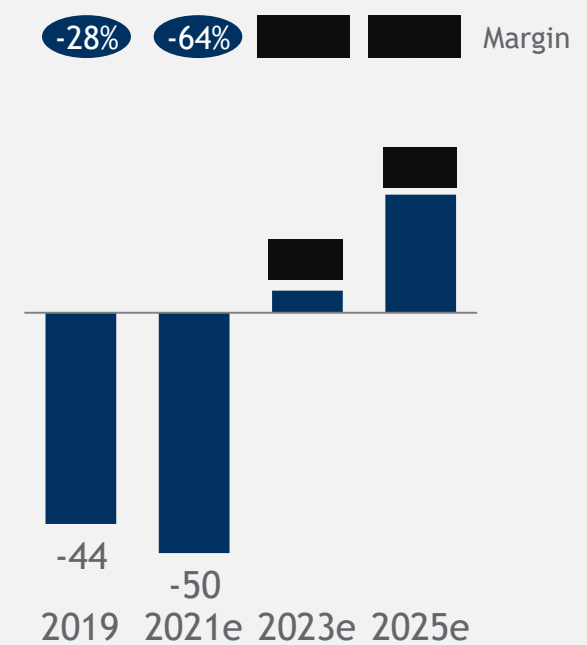
**ASK<sup>4</sup>**  
Billion



**Revenues**  
Million €



**EBIT**  
Million €

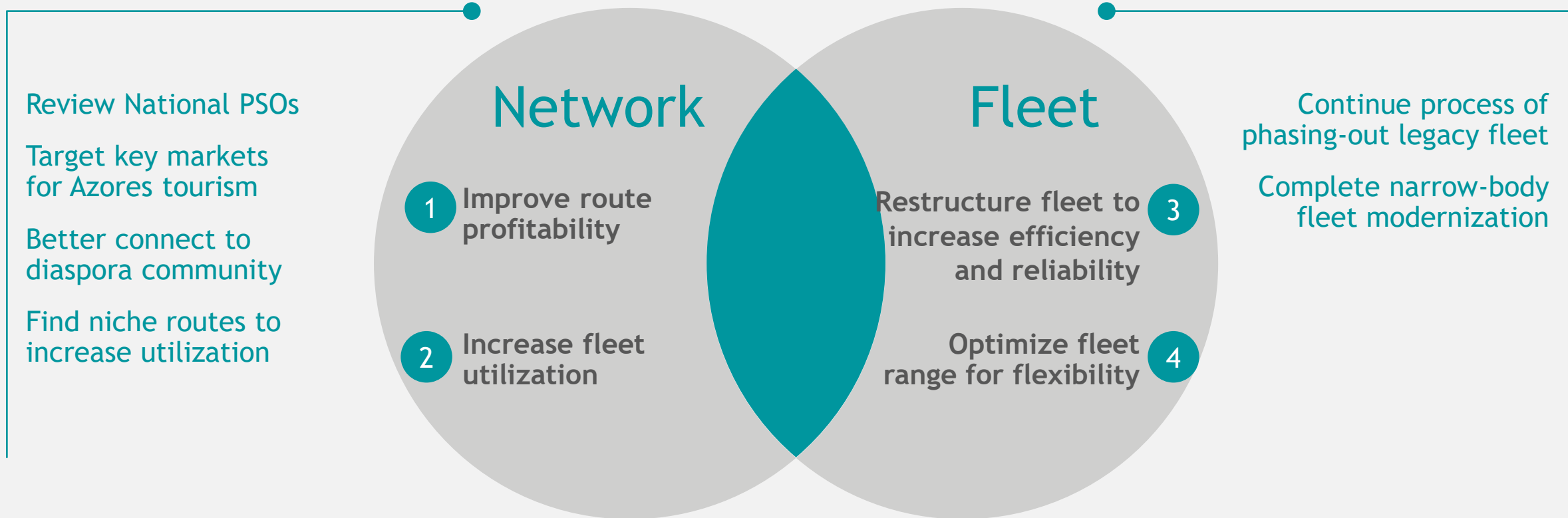


1. Total capacity in the months of July/August 2. Wet leases considered even if deployed seasonally 3. Power-by-the-hour agreements with lessors 4. Only regular operation ASK  
 Note: Includes recurrent operating subsidies (e.g., regional PSO compensation), excludes non-recurrent aid & subsidies (e.g., Covid-19 financial aid); All future projections considering IFRS16  
 Source: Company data, █████

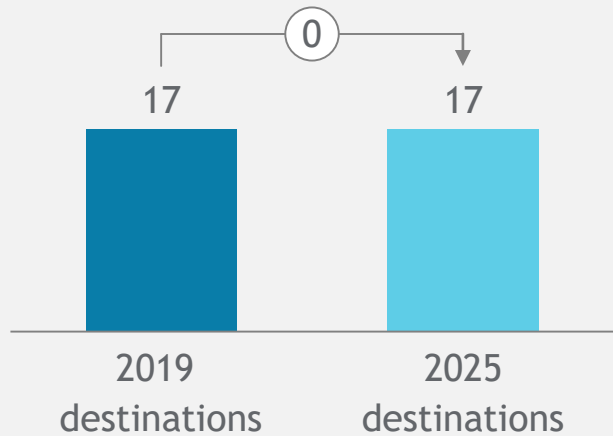


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  - Other businesses

# 4 goals for restructuring Azores Airlines Network & Fleet



# A network strategy focused on connecting Azores



## Review PSOs operating model

- *PSO routes: Lisbon to/from Horta, Pico and Santa Maria*
- Optimize PSO routes to allow LIS base to be streamlined
- Ensure new contract model for financial sustainability
  - With optionality to deviate capacity to other profitable uses



## Target key markets for Azores tourism

- Ensure service to key touristic markets for the region
- Leverage connecting traffic flows to support direct routes



## Better connect to diaspora community

- Strengthen connections with diaspora, ensuring essential operations with own fleet



## Leverage niche routes for utilization

- Operate new night flights, leveraging planes idle time
- Grow fleet utilization through optimized network & schedule

Note: Only regular operation considered  
Source: Company data; [REDACTED]



# National PSO routes operated by Azores Airlines must be optimized at operational & commercial levels to be viable



## Operational optimization

- Contract requirements (e.g., frequencies, seats, cargo) to be analyzed/discussed to understand potential for efficiency improvement
- Ensure aircraft well suited to the type of service required in the National PSO routes



## Commercial optimization

- A more flexible pricing policy to improve revenue from these routes is being studied
- Additionally, public service compensations negotiated with the Portuguese Government to secure breakeven of these routes



Azores Airlines considering **two scenarios**:  
(i) operation of national **PSO routes with compensation**  
or (ii) dedicating capacity to alternative **profitable uses**

## In case National PSOs terms are changed (or Azores Airlines is not the operator) the committed fleet capacity can be profitably deployed elsewhere



Azores Airlines has fleet and personnel required to operate National PSO routes

- National PSOs have required the allocation of 1-2 legacy A320 aircraft to ensure frequency and schedule needs, with corresponding crew and ground personnel resources
- These aircraft have lease contracts terminating in 2024 and were negotiated with a competitive rate, below market average to ensure Azores Airlines had the means to deliver on the PSO contract, ensuring the connectivity to Azoreans



Resources can be allocated to other purposes if not needed for this PSO

- 
- 
- 
-

Market has been showing strong demand for Azores Airlines charter services, which could absorb PSO capacity while ensuring a positive financial impact



# A fleet strategy focused on restructuring to achieve efficiency and flexibility



## Continue process of phasing-out legacy fleet

- SATA has already completed phase-out of legacy A310/A330 wide-body aircrafts
- Remaining 3 A320s with lease commitments will be phased-out in the next 2-4 years

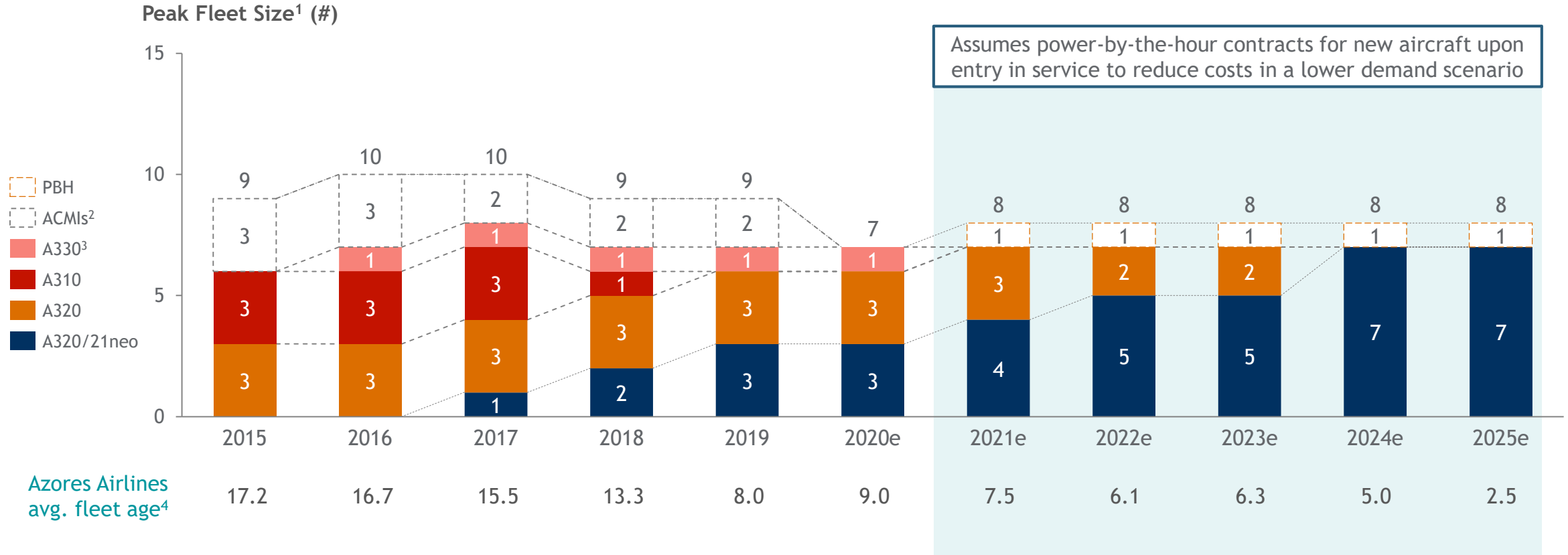


## Complete narrow-body fleet modernization

- Introduce 1 additional A321LR in 2021 (reducing 1 commitment through negotiation with lessor), add 3 other A320/21neo in 2022, stabilizing fleet size in SATA's *minimum critical scale* and replacing legacy A320ceo fleet
- Reduce dependency on ACMI, relying on own fleet to operate entire schedule

1. Includes 2 ACMI on the peak, excludes operation with Air Açores fleet

# Azores Airlines to have a reduced but more flexible & cost-efficient fleet



1. Total capacity in the months of July/August 2. Wet leases considered even if deployed only seasonally 3. A330 CS-TRY phased-out in 2018 but with operating costs until Q4 2020 (leasing, maintenance and parking costs) 4. Excludes ACMIs  
 Source: Company data, [REDACTED]

Power-by-the-hour agreements negotiated with lessors reduce risk from lower demand scenarios while allowing Azores Airlines to have capacity to deploy



# New fleet will be a game changer for Azores Airlines



## Lower fuel consumption

The newer-generation aircrafts burn less ~50% fuel per flight-hour than Azores Airlines legacy fleet average



## Higher reliability

Newer, more reliable planes reducing irregularities' costs (e.g., ACMLs, pax compensation, customer care)



## Lower emissions

Newer aircrafts also improve sustainability, with an estimated cut of ~60% in CO<sub>2</sub> emissions per seat



## Modern look-and-feel and comfort

More comfortable cabins with improved lighting & climate, ~50% less noise and up-to-date interiors



## Lower maintenance costs

With a fully renewed fleet, SATA will be able to cut maintenance costs per block-hour by ~75% vs 2019

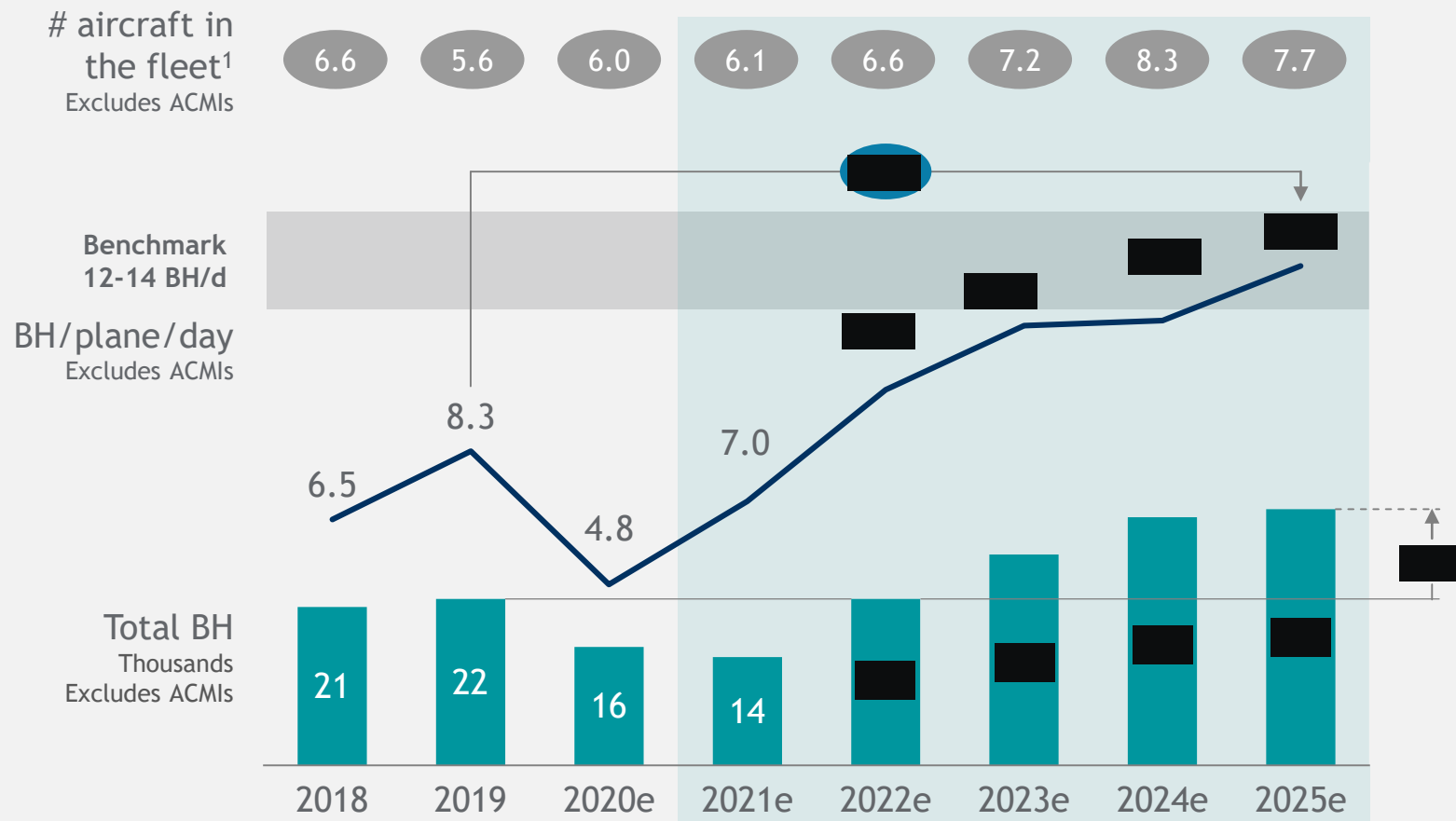


## More flexibility to optimize routes

Longer range of SATA's new narrow-bodies will allow for better network planning and route optimization

Fleet renovation is a key imperative for Azores Airlines given some of the old existing aircraft are leading to high volume of disruptions and fuel costs

# Azores Airlines fleet utilization increasing to best-in-class levels in 2024-2025



## Main improvement drivers

- New schedule with departure & arriving banks in PDL aligning the different feeder & long-haul routes
- New night flights that maximize aircraft use periods where it would otherwise be idle
- Increase Winter flying, with less focus on seasonal niche routes
- Occupation of white spaces created by other airlines that stop flying to Azores

Note: numbers exclude charter operations, ACMI and aircraft under Power-by-the-hour (PBH agreements)

1. Takes into account phase-in and phase-out dates, assumes ~1m margin on both, i.e., entry/end of service up to 1m from delivery/departure date; in 2024 fleet peaks due to significant number of phase-ins and phase-outs

Source: Company data, [REDACTED]



# Several factors will support Azores Airlines in ensuring operational reliability and resilience in a context of increased fleet utilization



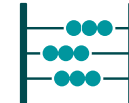
## Higher reliability of new aircraft

- Introduction of new aircraft will **reduce corrective and scheduled maintenance blocks**
- Modern aircraft are **intrinsically more reliable**, with lower disruptions by BH on average



## Schedule protective buffers

- New schedules have **protective buffers** to allow for compensation of **delays** during the day
- Arrival & departure **bank structure enables simple swaps of aircraft** in the event of punctual delays



## Safer aircraft spares policy

- **Virtual spare policy**, ensuring up to one **idle aircraft** at LIS or PDL hubs ready to enter in **service** to replace a plane with a mechanical or operational disruption
- Spare policy will **vary according to the season**
  - During **peak period** min. 25% of a plane
  - On **off-peak** min. of 100% of a plane



## No ACMI flights on base schedule

- ACMIs to be considered to **compensate for occasional disruptions**, which are expected to decrease due to higher reliability of new fleet
- Operation of base schedule with **own equipment gives more control to SATA** over scheduling, crews, ops, etc.

To optimize idle capacity, particularly in Winters, SATA has been approaching the charter market, which shows appetite for its product and has lower risk





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# 4 pillars to ensure cost efficiency and agility



## Fleet restructuring

- Cost optimization by incorporating new planes that have lower maintenance needs and lower fuel consumption as key efficiency drivers of the plan



## Operational efficiency

- Boost operational efficiency initiatives regarding fuel, catering, crew and distribution



## Supplier negotiation

- Negotiate main contracts with suppliers to obtain better conditions under current crisis



## Labor streamlining

- Implement productivity measures to adjust labor to SATA's current needs

# Restructuring plan tackles all relevant cost buckets to achieve €70 M+ savings until 2025

## Fleet restructuring

- Continuing to phase out older, end-of-lifecycle planes, replacing them by newer and more efficient aircraft, improving sustainability and reducing irregularities

## Operational efficiency

### Fuel usage savings

Operational efficiency program, to optimize flight planning & reduce ground fuel consumption

### Catering Buy-on-Board

Restructure catering introducing paid meals in economy class, relocating 0.5 cabin crew on A320-A321 fleet and saving on catering costs

### Distribution cost reduction

Increase direct sales through own channels, new GSA with lower fees, and end of commissions paid to NA tour operators

### Shared services optimization

Efficiencies through pooling of resources, and by simplifying and digitizing/ processes

## Supplier negotiation

### Procurement

Establish a structured procedure to optimize procurement to generate savings and leverage improved financial position to better negotiate

#### E.g.: Handling renegotiation

Renegotiation of handling contracts, possible with better financial capacity

#### E.g.: Accommodation cost cuts

Renegotiation of hotel contracts, possible with better financial capacity

### Maintenance review

### Leasing renegotiation

Renegotiate contracts to minimize costs and maximize flexibility through power-by-the-hour agreements & lower fees

## Labor streamlining

### Remuneration adjustment

10% pay cuts for all crew members during 2021 and 2022, on top of partial lay-off

### Labor agreements

Renegotiation of labor agreements with Unions to improve crew productivity

### Temporary layoff measures

-15% pay cut for crew during -6m of 2021

### Staff adjustments

### US & CA subsidiaries closure

of Azores Vacations America & Azores Vacations Canada tour operators in NA

# Azores Airlines created in Lisbon, PDL base created only in 2017 ...



## ... but its time to optimize

Covid is putting additional pressure on SATA Group, a reorganization is needed

To succeed, it is crucial for SATA to optimize costs

Early conversations show Union is open for discussion on relocation of part of the crew to PDL

# 2021 peak crew capacity will be [REDACTED] lower vs 2019

Streamlining LIS base, will improve reliability and crew productivity ...

- Historical foundation of Azores Airlines in Lisbon led to **unbalanced PDL base**
- FTEs will be **optimized between the two bases** (PDL and LIS) to operate PSO routes, improving **ops reliability and efficient fleet utilization**
- Crews will be **dimensioned for 2021 peak** implying -30/-35% FTEs in 2019-21 peak vs peak
  - Assumes acceptance by workers of placing all holidays and training in the Winter
- **Flexibilization of holidays under negotiation** with unions to avoid systemic seasonal hiring in peak

... being able to operate the peak in 2021 with similar headcount as today



# Several crew employment agreement changes under negotiation with Unions in order to boost productivity

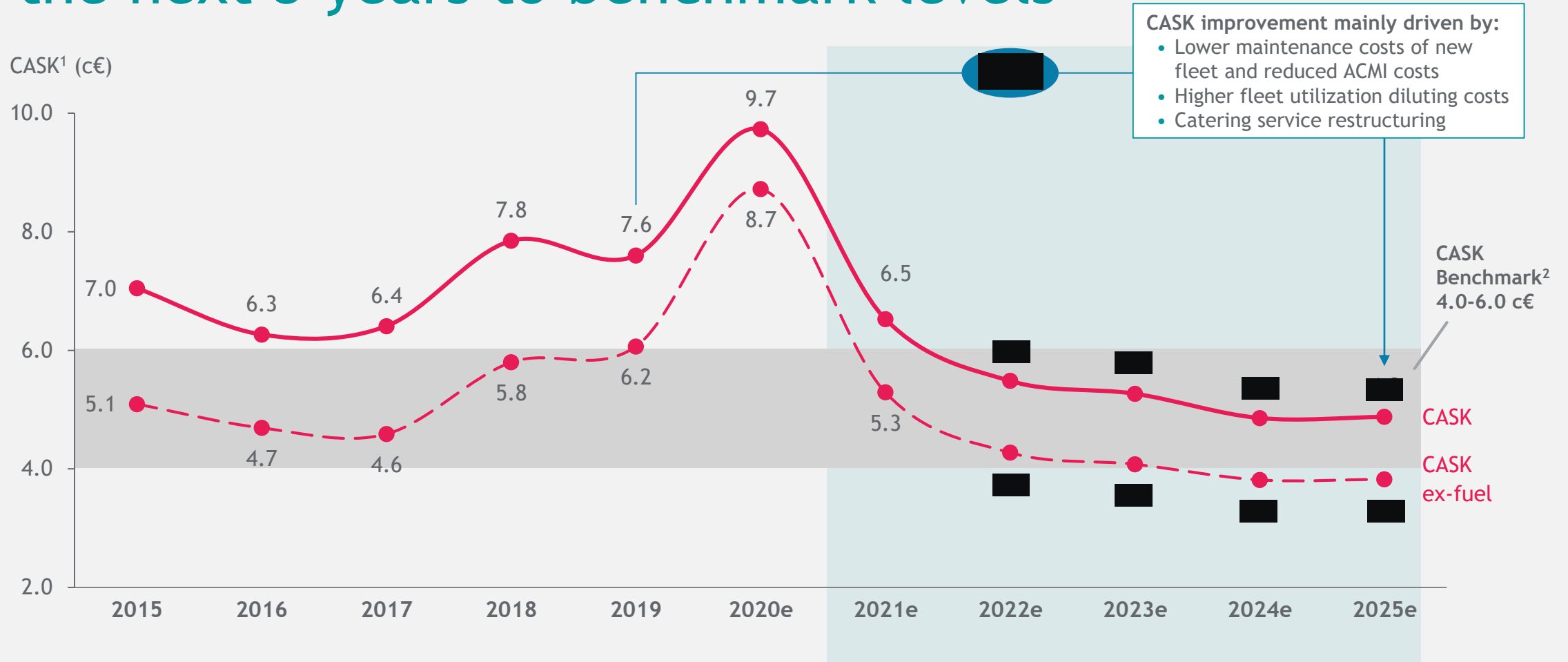
		<i>Applicable</i>
Implemented measures	<b>Absenteeism</b> Increase of variable share of compensation (reducing fixed in same proportion) to reduce high absenteeism	<ul style="list-style-type: none"><li>• PNT</li><li>• PNC</li></ul>
	<b>Days off</b> Adjustment of crew days off to less one day per month for both cabin crew and pilots, aligned with industry standards	<ul style="list-style-type: none"><li>• PNT</li><li>• PNC</li></ul>
Measures under negotiation	<b>A321 minimum crew</b> Reduction of 1 cabin crew element in A321 fleet, to align Azores Airlines operation with Airbus standard	<ul style="list-style-type: none"><li>• PNC</li></ul>
	<b>Holidays</b> Rules for pilot holidays to match cabin crew rules, reducing days allowance in Summer peak	<ul style="list-style-type: none"><li>• PNT</li></ul>



1. Includes short-term absenteeism (e.g., sick leaves, absences), excludes long-term absenteeism and holidays; considers peak crew capacity  
Source: Company data, [REDACTED]



# Azores Airlines to reduce CASK by ~36% in the next 5 years to benchmark levels



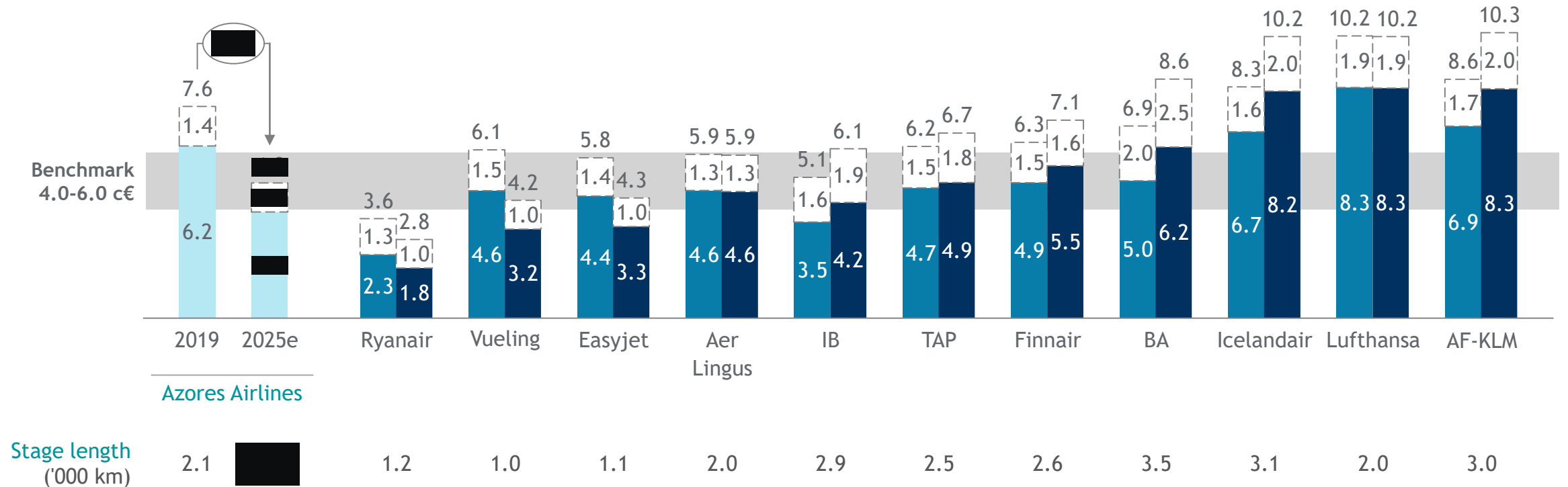
1. Includes charter operation in 2021-22 (0.18 Bn in 2021; 0.25 Bn in 2022) 2. CASK benchmark includes Ryanair, Vueling, Easyjet, Aer Lingus, Iberia, TAP, Finnair, BA, Icelandair, Lufthansa, AF-KLM  
 Note: All future projections considering IFRS16  
 Source: Company data, [REDACTED]

# After restructuring, Azores Airlines will become a competitive airline

## CASK benchmark

Opex, including D&A (c€)

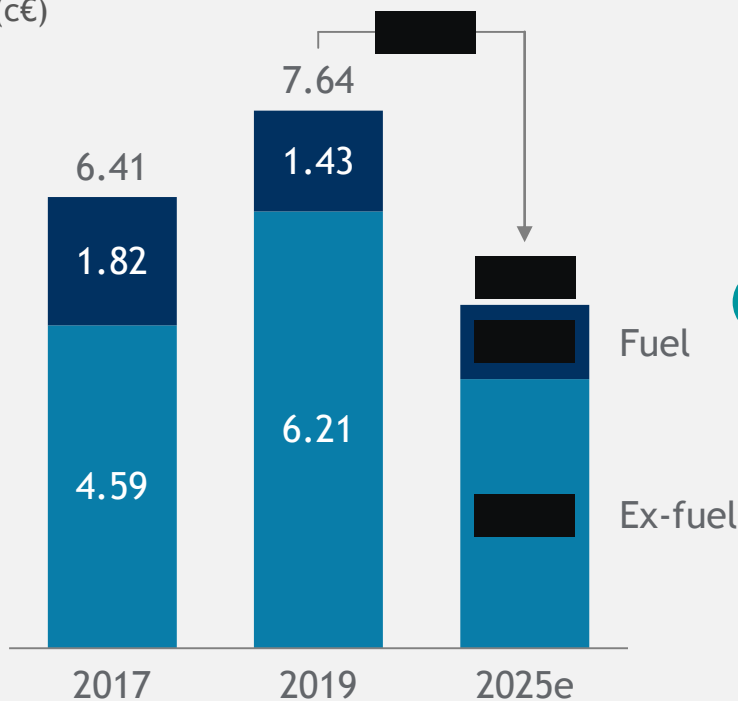
  CASK fuel (c€)
  CASK ex-fuel adjusted<sup>1</sup> (c€)
  CASK ex-fuel raw (c€)



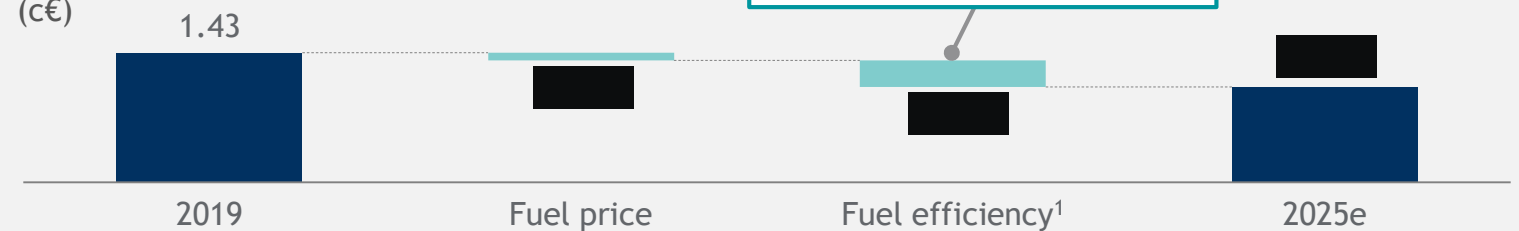
1. CASK of the company adjusted to the average flight length of Azores Airlines  
 Note: Norwegian, AF-KLM and Air Lingus calculated for 2018, the rest for 2019; All future projections considering IFRS16  
 Source: IATA, Companies data report, OAG data

# Azores Airlines will significantly reduce unitary costs through fleet renovation and increased utilization

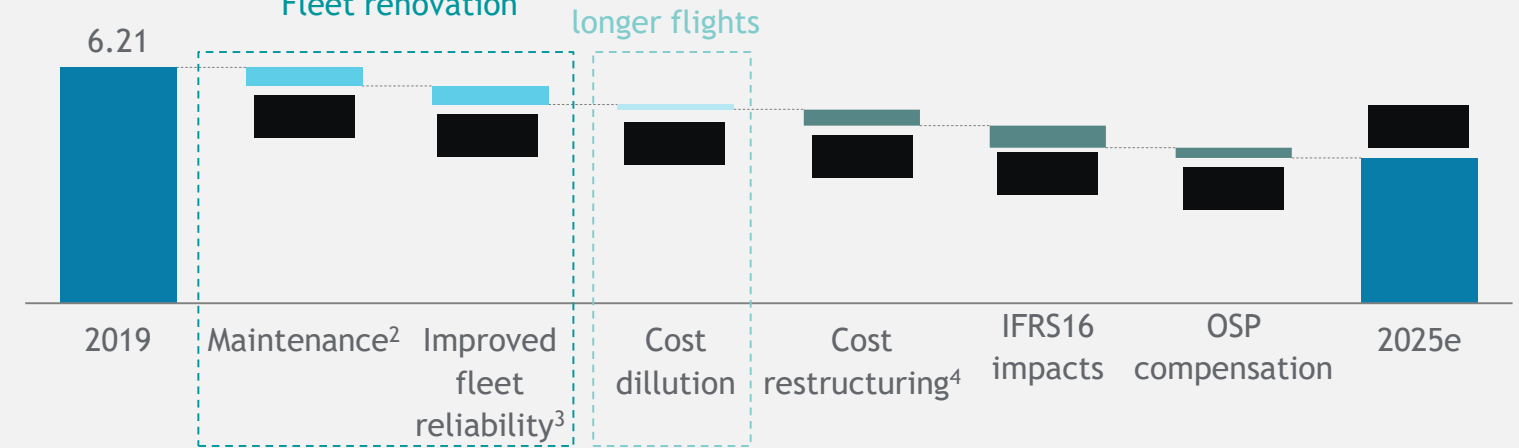
CASK Total (c€)



CASK Fuel (c€)



CASK Ex-fuel (c€)



1. Based on A320neo fleet efficiency compared with A320ceo, SATA figures 2. Includes costs with Maintenance Lines, Maintenance SP and Maintenance (fixed) 3. Minimization of operational disruptions due to the new fleet, namely ACMI costs 4. Restructuring measures also include impacts in fuel efficiency, which are accounted in CASK Fuel  
 Note: All future projections considering IFRS16  
 Source: Company data, [REDACTED]

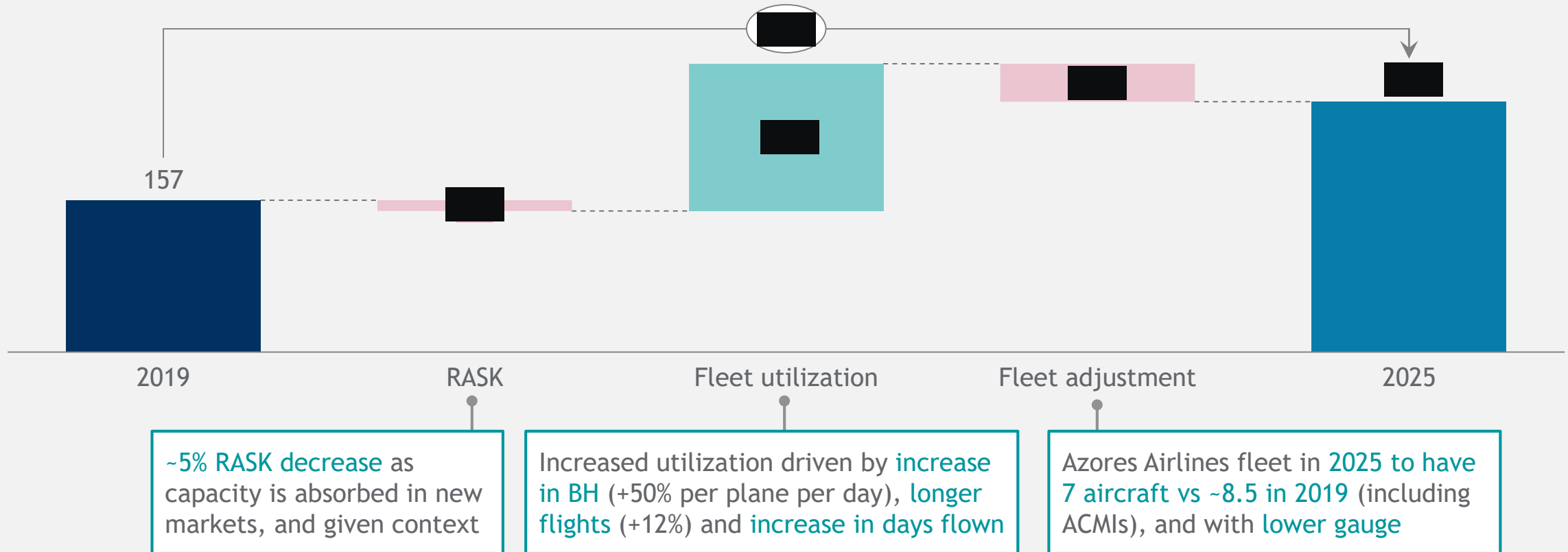


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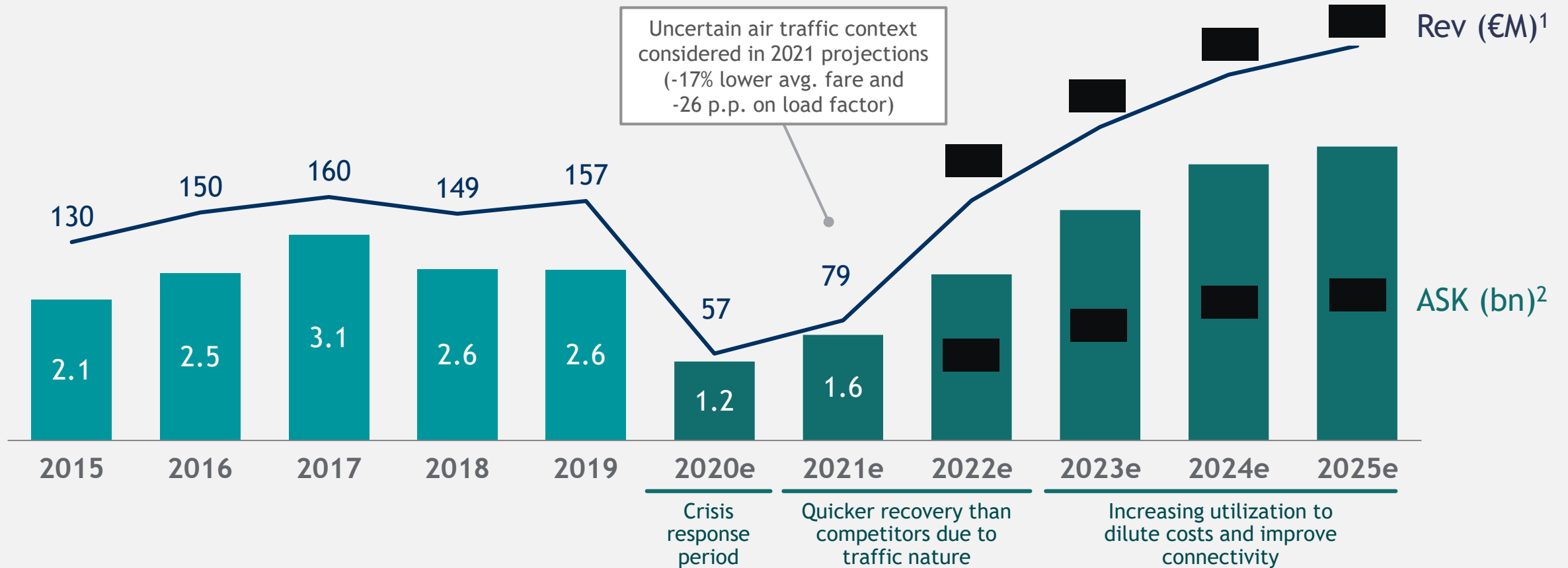
# Azores Airlines revenues to reach €260 M by 2025 mainly from increased fleet utilization

## Revenue drivers between 2019 and 2025

(€M, Azores Airlines)



# Operation rebound driven by ethnic traffic and attractiveness of Azores as safe touristic destination



1. Includes potential compensation from PT government to operate PSOs and expected revenues from charters in line with 2019 charter contracts 2. Excludes charter operation  
 Note: All future projections considering IFRS16  
 Source: Company data

# Azores Airlines passenger & revenue forecast done through well defined methodology...

## Methodology



Market sizing



Load factor



Avg. fare



Passenger & revenue forecast

- Analysis of **total market size** both for **point-to-point traffic** and **connecting flows** through entire network (current & new routes)
  - Study of growth drivers and **forecast of market evolution**
  - For current routes, assessment of **S4 seat & pax share**
- 
- Forecast of **pax share for point-to-point passengers**, considering **expected competition on the route** and **current share**
  - Assessment of **potential to leverage connecting traffic** within network, definition of **# of passengers & their 6<sup>th</sup> freedom ODs**
- 
- Definition of **avg. fare by route**, considering contribution from **point-to-point passengers & connecting traffic**
  - Forecast of **competition moves** through several scenarios, and draft of **competitive response** for each

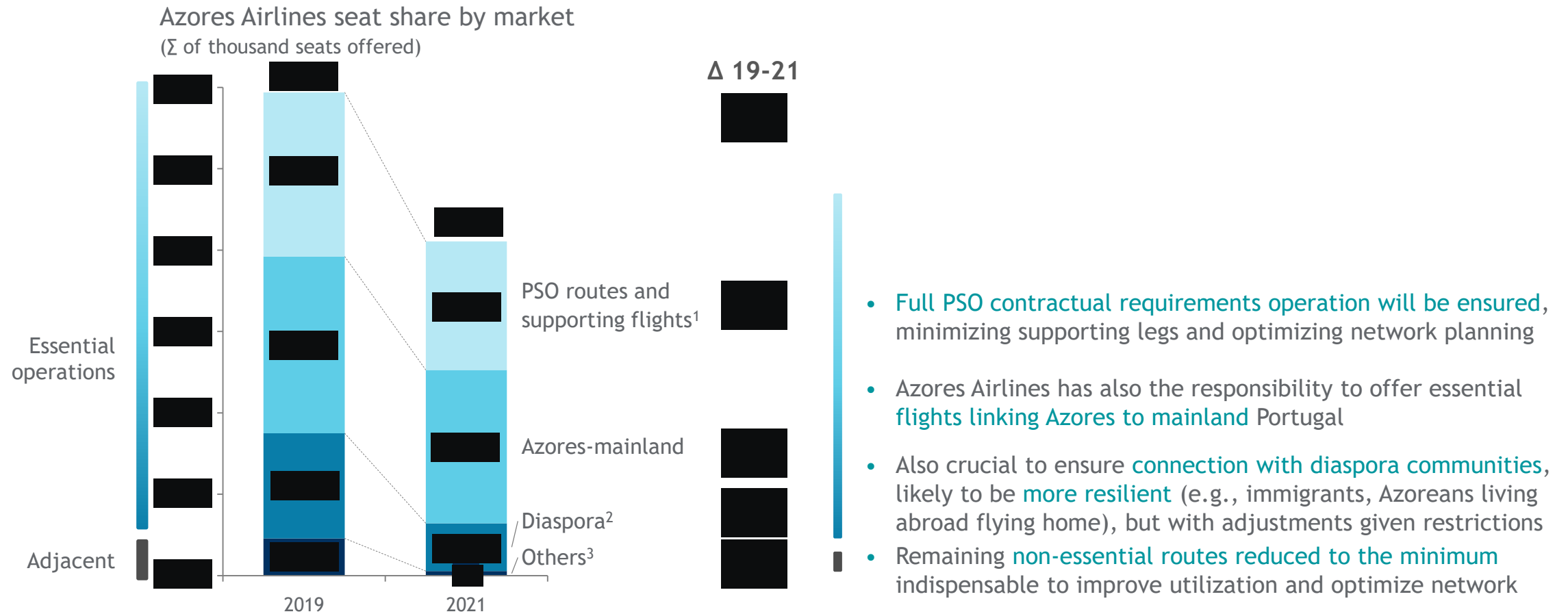
# ... and validated in four steps by several entities

## Validation steps

- 1 Design preliminary forecasts through Amadeus tools, and validate with external expert consultants
- 2 ██████████ high-level network & revenue review to fine tune, using DDS<sup>1</sup> & OAG<sup>2</sup> historical market data
- 3 ██████████ detailed review of the figures in the forecasts, considering IATA projections for market recovery
- 4 ██████████ on-the-ground GSA aligned sales forecasts with SATA team based on latest ██████████ numbers
- 5 Figures reviewed in Mar 2021 to incorporate new restrictions in Q1

1. Direct Data Solutions (DDS) is a global database of passenger traffic and revenue data provided by Amadeus  
 2. Official Aviation Guide (OAG) is a global travel data provider with a network of schedules and travel status data  
 3. Global Sales Agents are market agents hired to distribute fares  
 Source: Company data

# Capacity for 2021 will focus on essential operations which have lower flexibility to reduce given type of service and nature of traffic



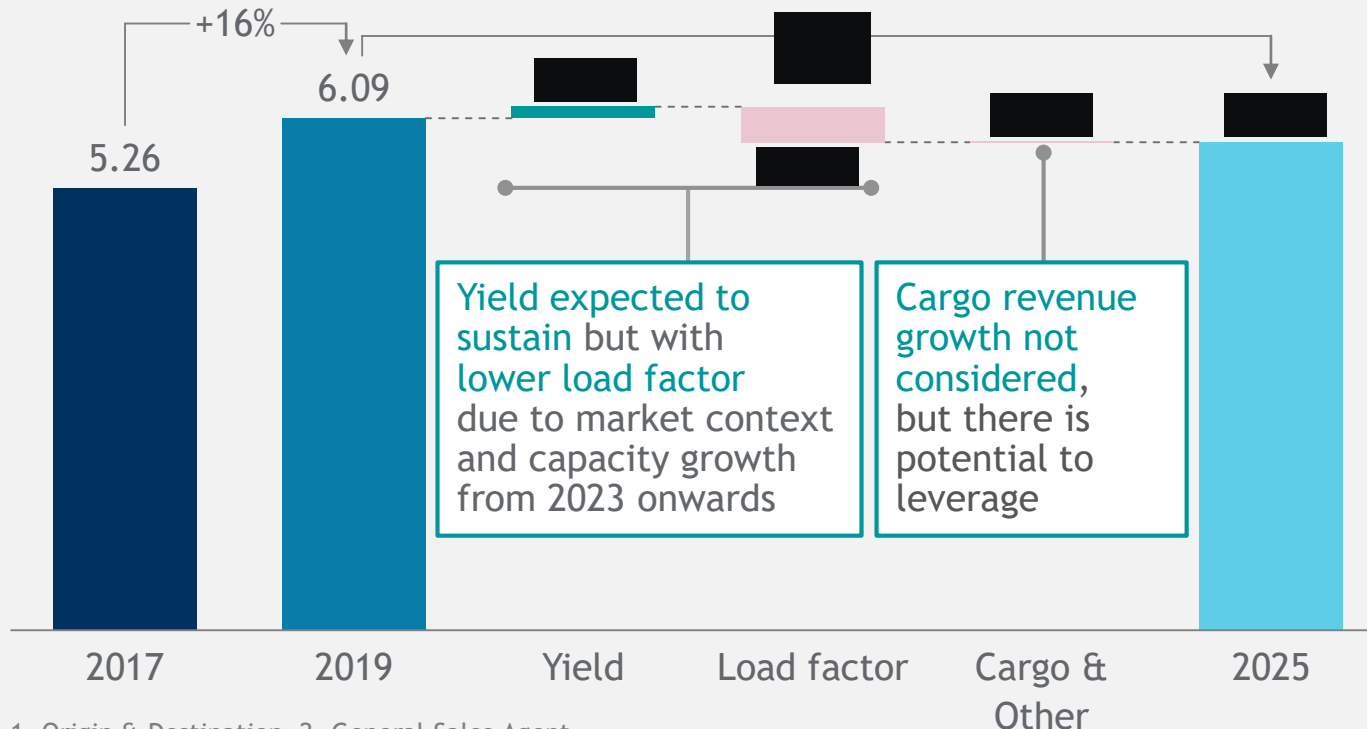
1. The operation of PSO routes requires aircraft to be positioned, flying an additional commercial segment which was considered supporting route (e.g., to operate LIS-PIX, required to operate TER-LIS to position the aircraft) 2. Diaspora routes include PDL-BOS, PDL-YYZ, TER-BOS, TER-YYZ 3. Remaining routes include PDL-JFK, PDL-FRA, PDL-CDG, PDL-BCN, PDL-STN, PDL-LPA, PDL-RAI  
Source: Company data, ██████████



# Azores Airlines RASK should slightly decrease due to the market context

## RASK bridge with key drivers

(€c, Azores Airlines)



Yield expected to sustain but with lower load factor due to market context and capacity growth from 2023 onwards

Cargo revenue growth not considered, but there is potential to leverage

## Key levers to sustain RASK

- Revenue Management mindset revamp to adapt to a new context, with higher competitiveness and LCC competition
- New O&D<sup>1</sup> system to maximize revenue from connecting traffic (historically, price logic focused on point-to-point traffic)
- Development point-of-sale strategy around the new GSAs and better OTA<sup>2</sup> positioning
  - Already contracted a new GSA<sup>2</sup> to provide a new market insight and help in crafting offer to demand
- Push new distribution channels to improve ancillary revenues and lower commissions
  - Target to increase % of sales through direct channels, and introduce private channel (NDC) with key agents to reduce commissions paid

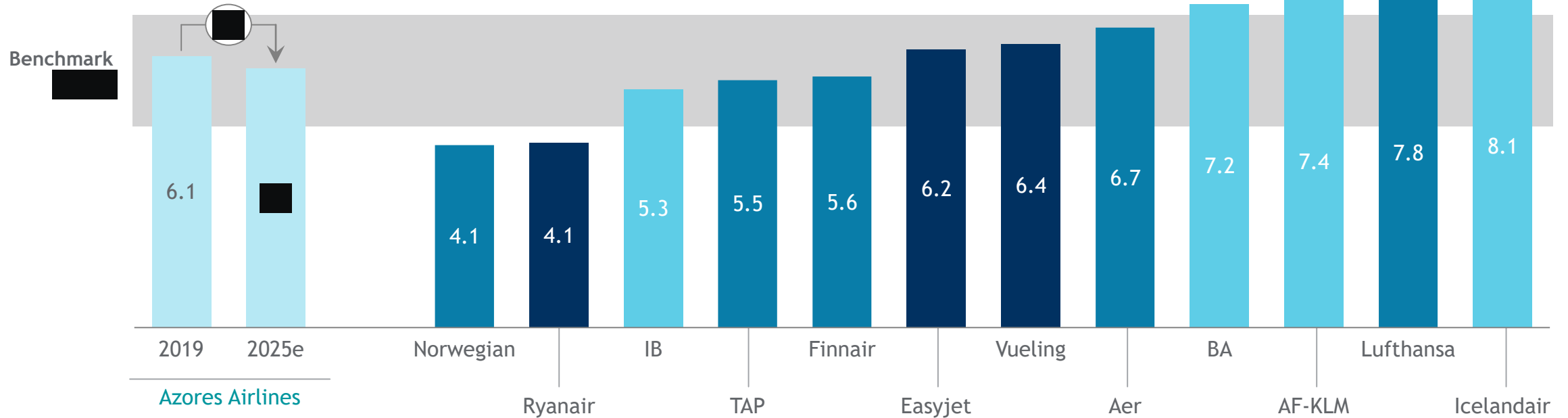
1. Origin & Destination 2. General Sales Agent  
 Note: All future projections considering IFRS16  
 Source: Company data, [redacted]

# Azores Airlines RASK target in 2025 in-line with peers

## RASK benchmark

Revenues over ASK (€c)

3,000km < Stage length <3,300km    2,000km < Stage length <2,600km    1,000km < Stage length <1,300km



	Azores Airlines	Norwegian	Ryanair	IB	TAP	Finnair	Easyjet	Vueling	Aer Lingus	BA	AF-KLM	Lufthansa	Icelandair
Stage length ('000 km)	2.1	2.3	1.2	3.0	2.5	2.6	1.1	1.0	2.0	3.3	3.0	2.0	3.1
Revenues (€bn)	0.16	4.1	7.7	4.2	2.9	2.7	7.2	2.4	2.0	13.5	21.7	28.1	1.5
ASK (bn)	2.6	99	186	78	53	47	116	38	29	186	292	360	17

Note: Norwegian, AF-KLM & Aer Lingus RASK is for 2018, rest for 2019, with all revenues incl. for Easyjet, Icelandair, Ryanair & Vueling, cargo and other revenues excluded for the rest  
 Source: IATA, Companies data report, OAG data, Capital IQ, [REDACTED]



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# Azores Airlines financials

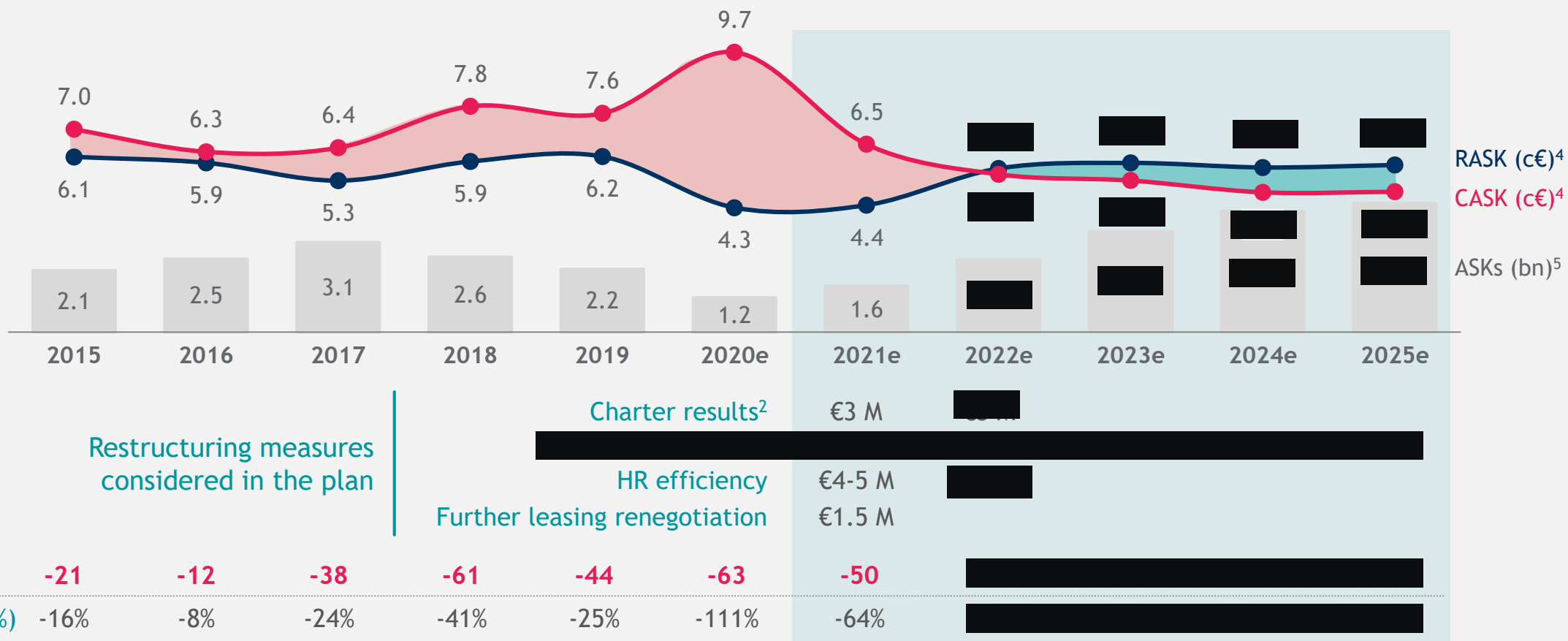
## Financial indicators

	2019	2020e	2021e	2022e	2023e	2024e	2025e CAGR <sub>25-19</sub>
Revenues (€M)	157.2	57.0	78.8				
EBITDA (€M)	-4.6	-36.3	-37.8				
EBITDA Margin (%)	-3%	-64%	-48%				
EBIT (€M)	-44.1	-63.3	-50.2				
EBIT Margin (%)	-28%	-111%	-64%				

Note: Includes recurrent operating subsidies (e.g., regional PSO compensation), excludes non-recurrent aid & subsidies (e.g., Covid-19 financial aid); All future projections considering IFRS16  
Source: Company data

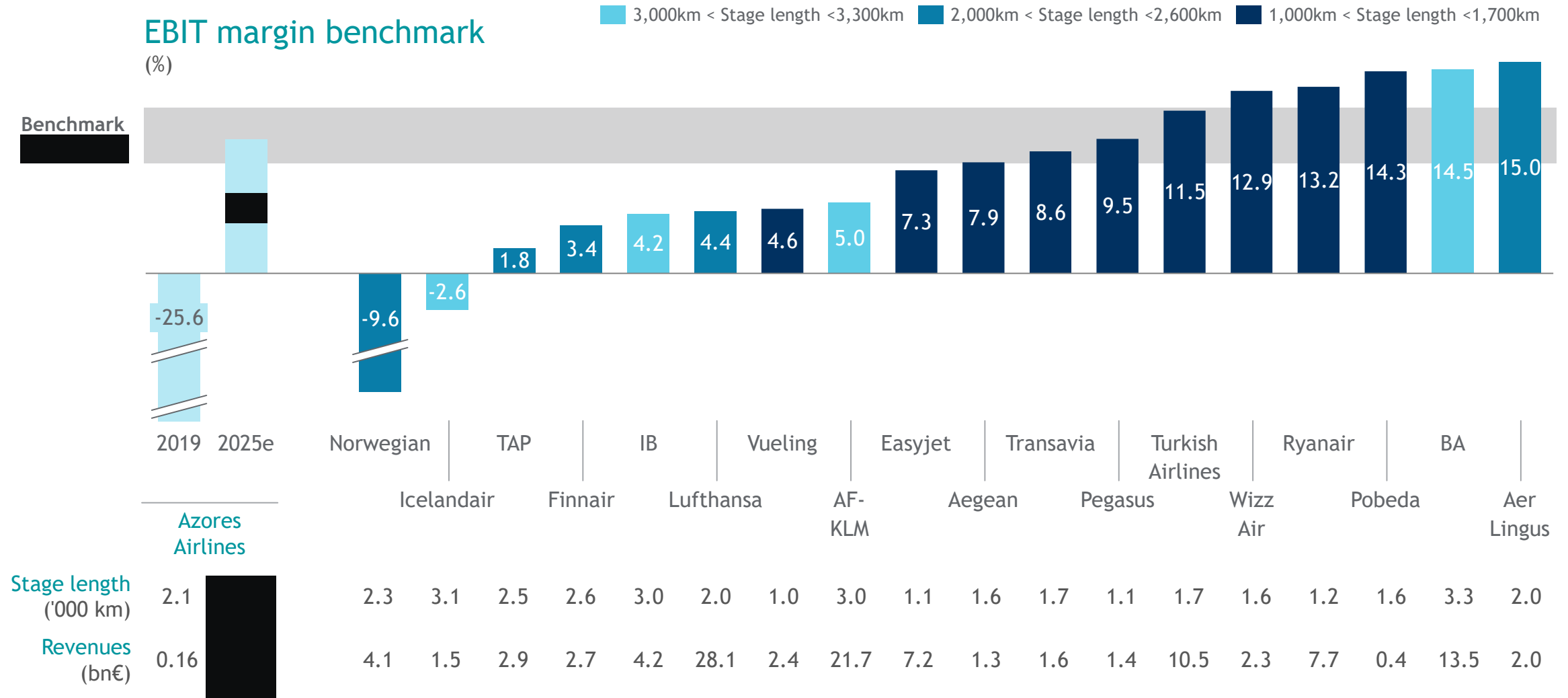


# Azores Airlines expected profitability by 2023 mainly driven by CASK reduction



1. Adjusted EBIT in 2019 was -€66 M due to additional €26 M in imparidades IFRS + proc judiciais 2. Expected results at MG1 level [Redacted]  
 [Redacted] 4. Includes charter revenues and costs, divides by ASK with charter operation in 2021-22 5. Excludes ASK from charter operation (0.18 Bn in 2021; 0.25 Bn in 2022)  
 Note: Includes recurrent operating subsidies (e.g., PSO compensation), excludes non-recurrent aid & subsidies (e.g., Covid-19 financial aid); All future projections considering IFRS16  
 Source: Company data, [Redacted]

# Azores Airlines EBIT margin target for 2025 aligned with benchmark in 2018/19

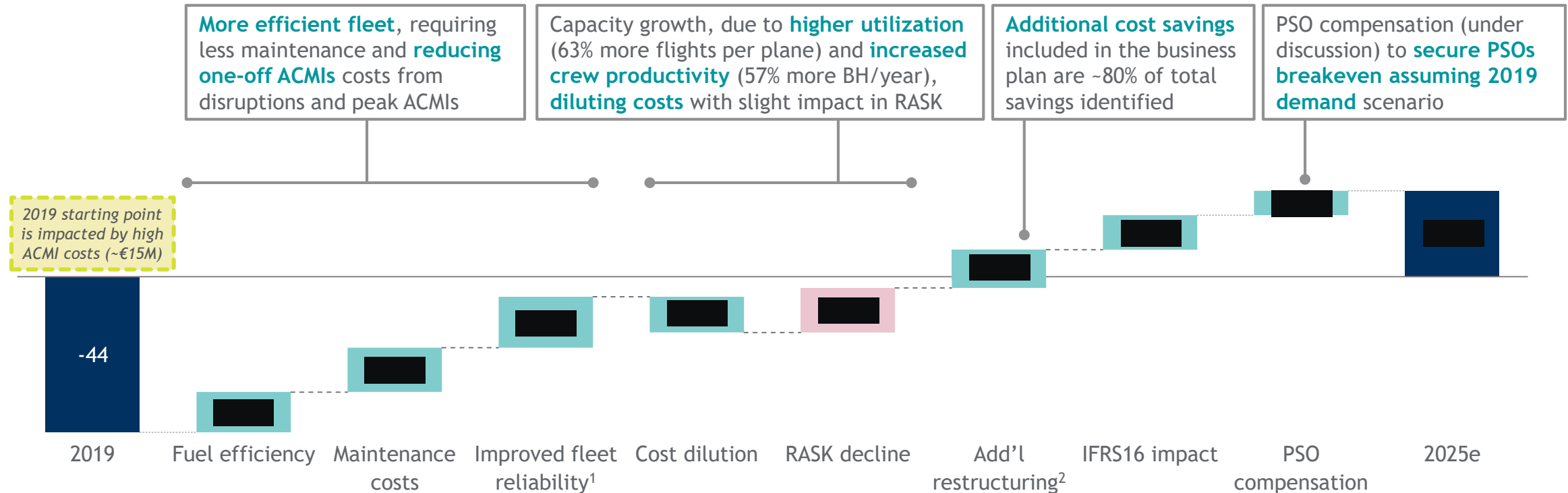


Note: Norwegian, AF-KLM, Aegean, Transavia, Pegasus, Turkish Airlines and Aer Lingus revenues from 2018, the rest for 2019; All future projections considering IFRS16  
 Source: Companies annual reports, S&P Capital IQ

# Azores Airlines EBIT improvement driven by fleet renewal and cost dilution

## EBIT bridge with key drivers

(€M, Azores Airlines)



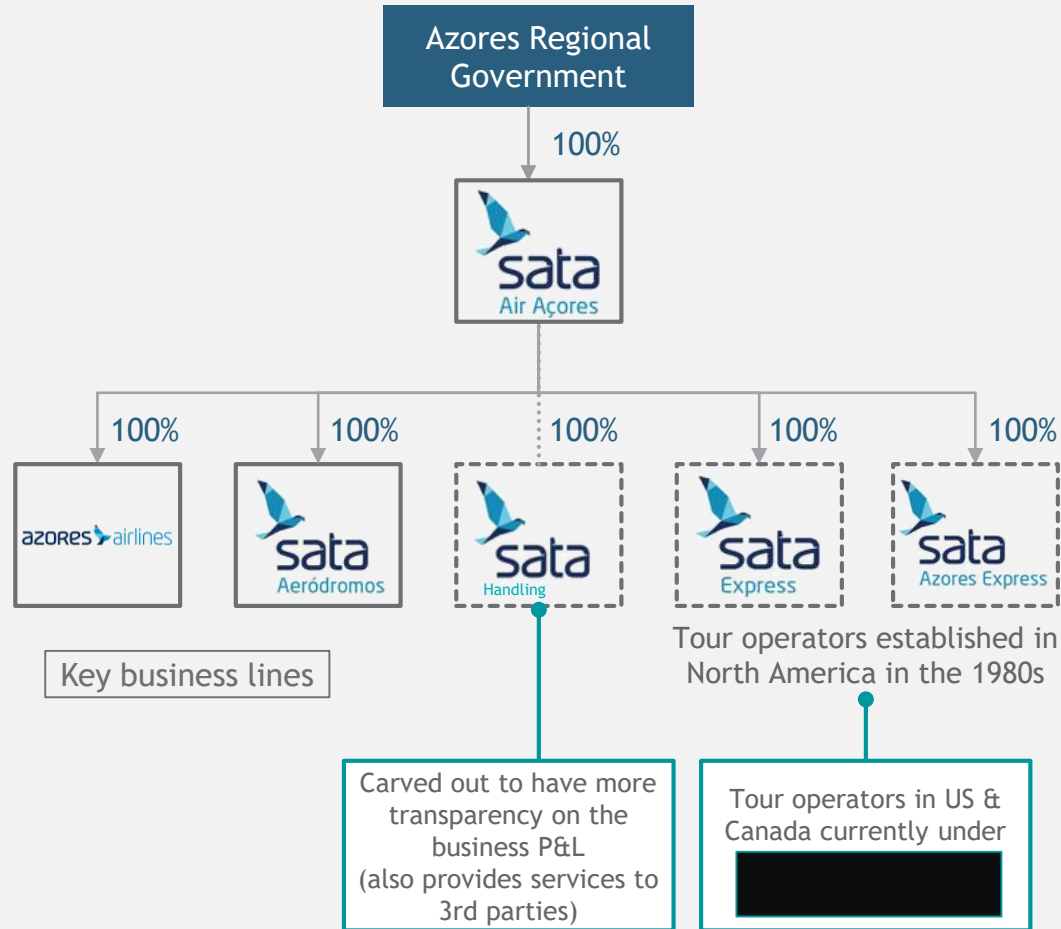
1. Minimization of operational disruptions due to the new fleet 2. Such as procurement, streamlining LIS base, operational efficiencies (e.g., BoB); cost savings identified (€8-14 M)  
 Note: EBIT bridge built comparing 2019 costs with 2025 costs considering 2019 ASKs; All future projections considering IFRS16  
 Source: Company data



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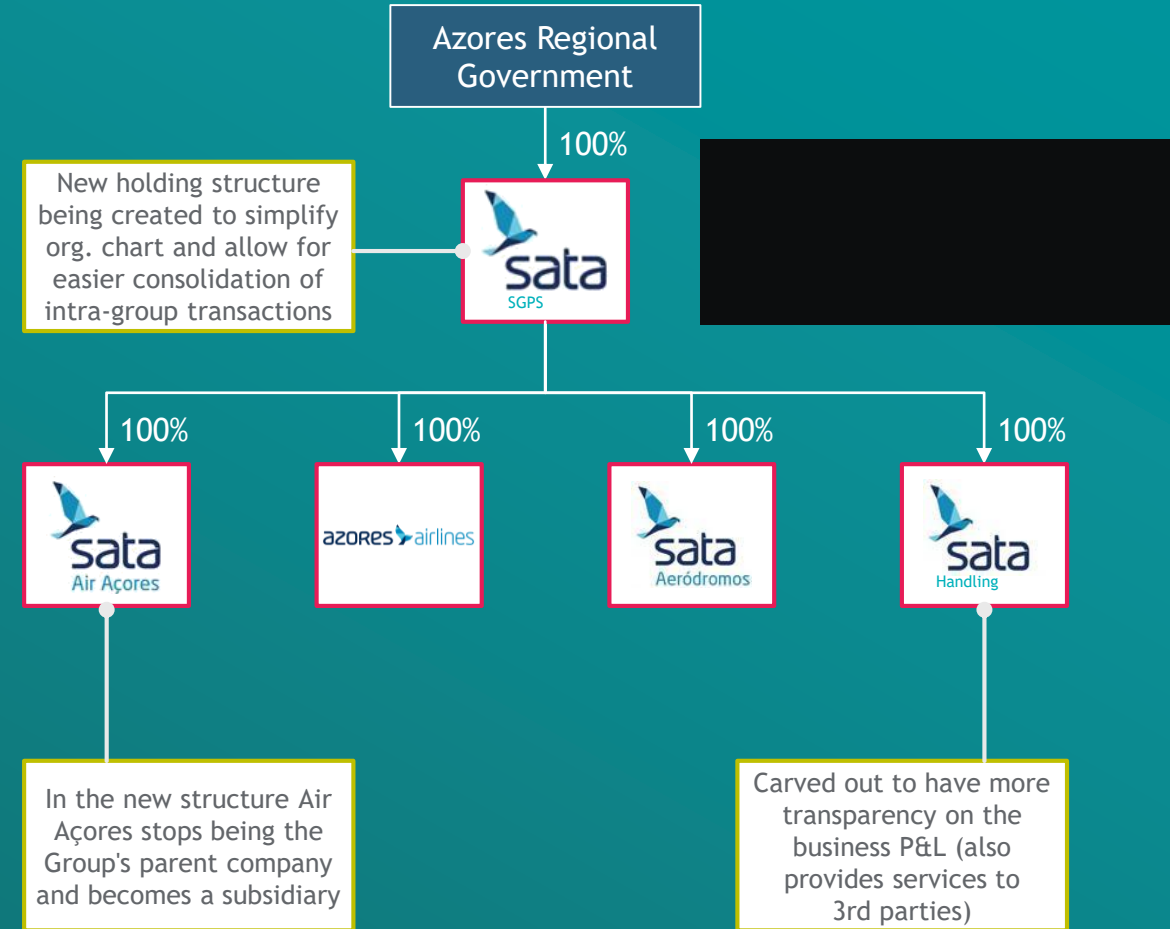


# SATA Group currently restructuring org. chart ...



Source: Company data

# ... towards a simpler and clearer holding structure



# In 2019 American subsidiaries accounted for ██████ of total SATA Group sales, closure enables yearly overhead cost savings of ██████ and lower commissions



## Subsidiaries created to ensure link to diaspora, selling tickets directly

- Azores Vacations America (US) and Azores Vacations Canada were established in 1986 as a key link to the Azorean diaspora
- Historically received ██████ own sales commission, and ██████ of commission on top of sales through other channels
- In 2019, the subsidiaries accounted for just ██████ of total sales in these markets and ██████ of total Group sales



## But with new GSA it is possible to close them & keep smaller sales team

- New GSA for US & Canada ensures access to these mkts with lower commissions
- Current management is closing the ██████ physical offices and replacing by just ██████ Azores Airlines ticket offices, in Toronto and Boston
- Total workforce is being cut from 21 total FTEs to just ██████ (█████ in each country) and being integrated into Azores Airlines sales team

## This transformation will ensure broader customer access in the region and lower overall costs & fees



SATA Group will continue to issue tickets for American and Canadian customers through its new GSA, and through local sales at the 2 Azores Airlines ticket offices in the region



Commissions will be reduced from ██████ to ██████ with new GSA, and new NDC contracts will be closed with key agents to lower distribution costs (GDS)



By reducing ██████ local FTEs and cutting rent and other SG&A costs, further ██████ yearly savings expected



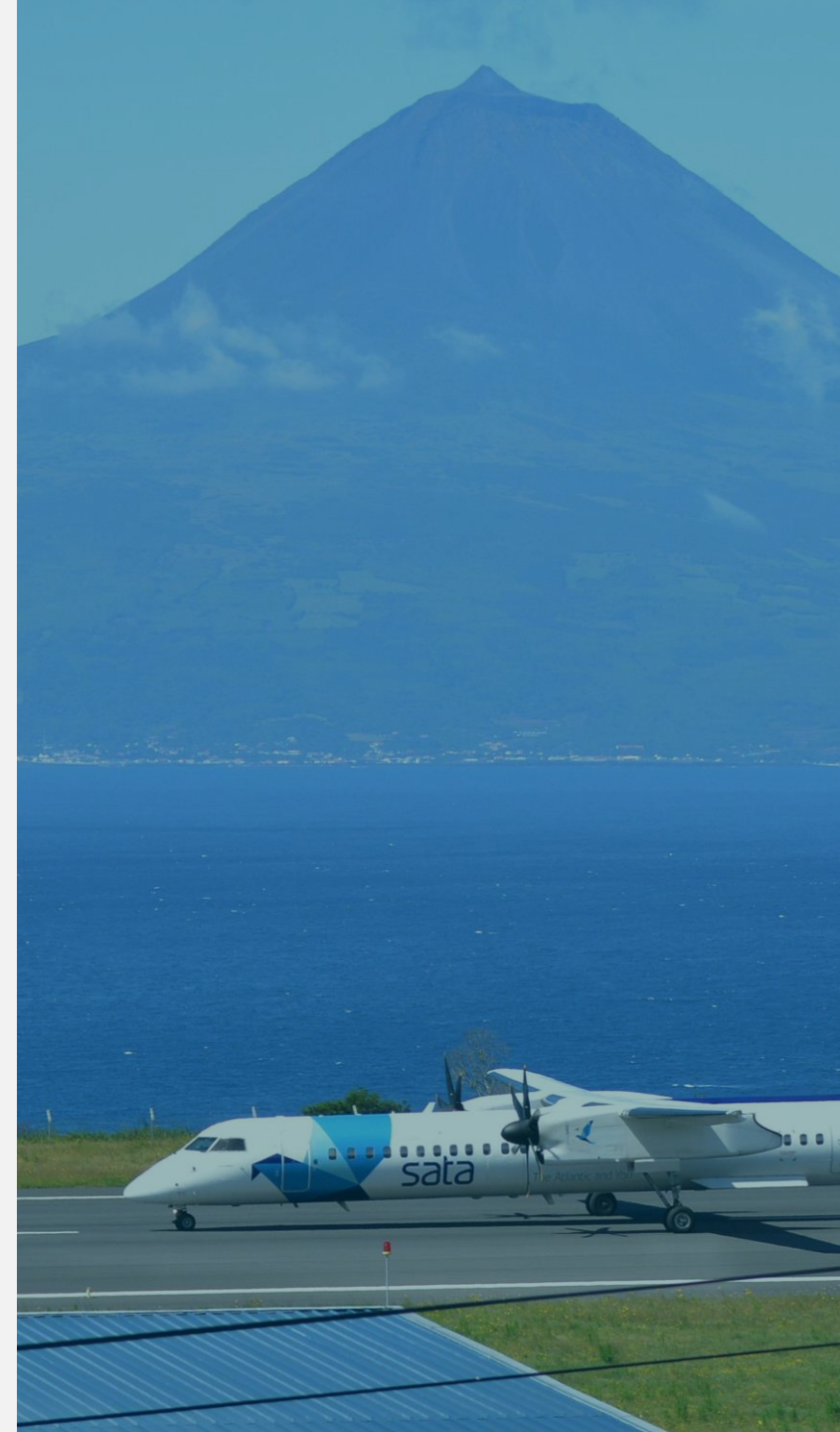
Savings from liquidation of these subsidiaries will be partly applied in marketing and commercial investment in the region to support growth of traffic from the Americas

# Air Açores to maintain revenues and costs in line with 2019

## Financial indicators

	2019	2020e	2021e	2022e	2023e	2024e	2025e CAGR <sub>25-19</sub>
Revenues (€M)	83.6	66.2	74.2				
EBITDA (€M)	15.2	10.8	22.2				
EBITDA Margin (%)	18%	16%	30%				
EBIT (€M)	2.3	-14.1	11.3				
EBIT Margin (%)	3%	-21%	15%				

Note: Includes recurrent operating subsidies (e.g., regional PSO compensation), excludes non-recurrent aid & subsidies (e.g., Covid-19 financial aid); All future projections considering IFRS16  
Source: Company data



# Gestão de Aeródromos to grow revenues from the increase in flights

## Financial indicators

	2019	2020e	2021e	2022e	2023e	2024e	2025e CAGR <sub>25-19</sub>
Revenues (€M)	3.2	3.3	5.3				
EBITDA (€M)	-0.4	-0.6	0.2				
EBITDA Margin (%)	-14%	-17%	3%				
EBIT (€M)	-0.4	-1.3	0.1				
EBIT Margin (%)	-13%	-39%	2%				

Note: All future projections considering IFRS16  
Source: Company data



# New Handling business unit expected to achieve breakeven by 2024

## Financial indicators

	2019 <sup>1</sup>	2020 <sup>1</sup>	2021e	2022e	2023e	2024e	2025e CAGR <sub>25-19</sub>
Revenues (€M)	10.8	5.9	18.3				
EBITDA (€M)	-8.6	-11.8	-2.5				
EBITDA Margin (%)	-80%	-199%	-13%				
EBIT (€M)	-9.0	-12.1	-2.8				
EBIT Margin (%)	-83%	-205%	-15%				

1. Figures for 2019 and 2020 are estimated, and do not include billing to SP since the Handling business is currently included in SATA Air Açores, which explains a steep increase in revenues after the split of the two business units by 2021

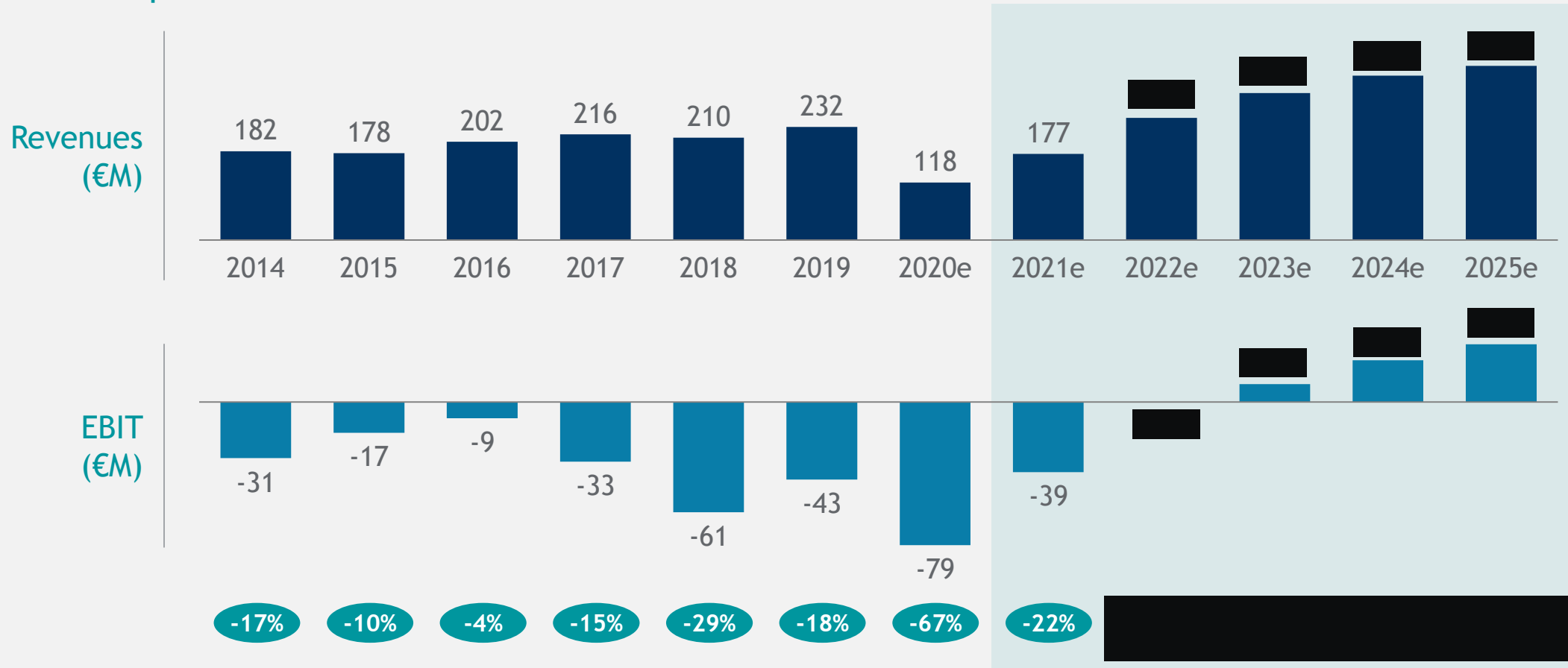
Note: All future projections considering IFRS16

Source: Company data



# Business Plan forecasts SATA's financial sustainability

## SATA Group consolidated



Note: Includes recurrent operating subsidies (e.g., regional PSO compensation), excludes non-recurrent aid & subsidies (e.g., Covid-19 financial aid);  
 All future projections considering IFRS16  
 Source: Company data



## Governance



## KPIs

SATA transformation will be **closely monitored by a Restructuring Office** to ensure its success

### Steering Committee *Monthly*

- Luís Rodrigues (CEO)
- Mário Chaves (COO/CCO)
- Teresa Gonçalves (CFO)
- Restructuring leader
- Initiatives leaders (presenting own progress)



- Supervise project progress
- Monitor evolution of key KPIs
- Validate reporting on plan to European Commission
- Approval of key decisions

### Restructuring Office *Fortnightly*

- Restructuring leader
- Initiatives leaders
- Team members (as needed)



- Monitor progress
- Calculate and review KPIs
- Anticipate and remove obstacles
- Coordinate transversal effort
- Identify needs for change (e.g., teams)

### 1 Financial

- Cash Flows
- EBIT
- Working Capital
- Debt
- Equity
- ...

### 2 Business

- Revenues
- RASK
- CASK (fuel & ex-fuel)
- ...

### 3 Operational

- Utilization
- Load Factors
- Savings
- NPS
- ...

This transformation and strategic plan sets the foundations for SATA to become a competitive and financially sustainable airline for the future, capable of attracting private investors







sata



azores



airlines

# Disclaimer



