COMMISSION

COMMISSION DECISION
of 25 April 2001
on the State aid implemented by Finland for Ojala-Yhtymä Oy

(notified under document number C(2001) 1139)

(Only the Finnish and Swedish texts are authentic)

(Text with EEA relevance)

(2001/803/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above [1],

Whereas:

I. PROCEDURE

(1) Finland notified the Commission of the abovementioned aid pursuant to Article 88(3) of the EC Treaty by letter dated 23 September 1999. The Commission requested additional information from Finland by letters dated 11 October 1999 and 8 December 1999. Finland replied by letters dated 12 November 1999 and 12 January 2000.

(2) According to the information received from Finland, part of the planned aid had already been granted to the company at the time of the notification. Therefore, the case was registered as non-notified aid.

(3) By letter dated 17 April 2000, the Commission informed Finland that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid. Finland submitted its comments by letters dated 17 May 2000 and 19 May 2000. Supplementary information was provided by letters dated 22 December 2000 and 20 March 2001.

(4) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* [2] The Commission invited interested parties to submit their comments on the aid.

(5) The Commission received no comments from interested parties.

II. DETAILED DESCRIPTION OF THE AID

(6) The assisted project in question is to locate a new aluminium pressure foundry in Haapajärvi to be built by Ojala-Yhtymä Oy. Haapajärvi is classified as area 2 for 2000 to 2006 for regional aid. The production facility is to have the latest state-of-the-art technology, which is not in use anywhere else in the Nordic countries. The facility will produce various components using the aluminium pressure-casting method. It will have total capacity of […] (*) and should be operational by the end of 2001 at the latest. Ojala-Yhtymä Oy is to employ 80 people by the end of 2001 and 100 people by the end of 2003. The investment started in 1999 and should be complete by the end of 2003.

(7) In 1998/1999 Ojala-Yhtymä Oy had a turnover of FIM 212 million (EUR 36 million) and made a profit of FIM 17 million (EUR 2,8 million). Finland accounts for around 95 % of the turnover. The company employed 260 people in 1999.

[1] OJ C 162, 10.6.2000, p. 9.

[2] See footnote 1.

(*) Confidential information.

(8) Ojala-Yhtymä Oy belongs to the Ojala Group. The Ojala Group produces metal components made of thin plate. The companies belonging to the Ojala Group also design, manufacture and assemble electrical, electronic and telecommunications components that incorporate the thin metal components for specific customers in the electronics and telecommunications industries. The Ojala Group operates in four locations in Finland and new production facilities are to be built in two other locations (Haapajärvi and Piippola). The Group has 620 employees and the budgeted turnover for 1999 was FIM 500 million. The Group's most important clients are [...] and its most important markets other than Finland are [...].

(9) Total investment in the assisted project is FIM 101,5 million (EUR 16,9 million). It is made up of investment in machinery and equipment and investment in buildings. The machinery and equipment investment is FIM [...] million, while the buildings investment is FIM […] million.

(10) The aid as notified by Finland is as follows:

Haapajärvi (loan to be converted to a grant)	FIM 15 million
Haapajärvi (grant)	FIM 10 million
Total	FIM 25 million (EUR 4,15 million)

(11) The FIM 15 million is a loan which will not be paid off during the five-year loan period. If the company carries out the investment as planned, it does not have to pay the loan back. As security for the loan, Haapajärvi has a mortgage on the land and the buildings to be built on it by the company.

(12) FIM 10 million of the aid is a grant paid directly to the company by Haapajärvi. It is channelled through the Elinkeinoelämän kehittämisrahasto, an industrial development fund.

(13) By the end of 1999 the company had been paid the whole amount of the FIM 25 million aid.

(14) In its decision initiating the formal investigation procedure, the Commission noted that the company had applied for FIM 21 million of investment aid (investointituki) from the state and that the application was still pending. Therefore, the Commission stated that it would not take the existence of this application into account for the purposes of the procedure, unless, in the course of the procedure, new information relevant for the assessment of the case came to light on the basis of the decision taken by the Finnish authorities on the pending application.

(15) In its decision initiating the procedure, the Commission also noted that Haapajärvi had sold the company 14 hectares of land for FIM 140 000 (FIM 10 000/ha, FIM 1/m^2) for the production facility.

(16) In this connection, the Commission noted that sales of land by the authorities should comply with the Commission communication on state aid elements in sales of land and buildings by public authorities ([3]). In accordance with this communication, the sale should be carried out through an open bidding procedure or the market price should be established by an independent expert valuer.

(17) In its decision initiating the procedure, the Commission noted that the sale had not been carried out through an open bidding procedure. This being the case, the market price should have been established by an asset valuer fulfilling the conditions laid down in point 2(a) of the communication. In the absence of such an evaluation, the Commission was unable to be sure that the sale of land by Haapajärvi to Ojala-Yhtymä had not included any state aid elements.

(18) The Commission noted that the aid was ad hoc aid. According to the third paragraph of point 2 of the guidelines on national regional aid ([4]) (hereinafter referred to as 'the regional aid guidelines'), ad hoc aid does not as a rule fulfil the requirements of the regional aid guidelines and the derogations under Article 87(3)(a) and (c) will normally be allowed only for aid granted under approved schemes. For this reason, there needed to be a separate examination of whether the aid was compatible with the regional aid rules.

(19) In its decision initiating the procedure, the Commission noted that the information on the market and region concerned did not allow it to conclude that the balance stipulated in the regional aid guidelines between the resulting distortions of competition and the advantages of the aid in terms of the development of a less-favoured region could be guaranteed.

(20) Consequently, for the reasons explained above, the Commission questioned whether the aid was compatible with the regional aid guidelines and whether the sale of the land by the municipality of Haapajärvi to Ojala-Yhtymä Oy might contain an element of state aid.

III. **COMMENTS FROM FINLAND**

(21) According to Finland, the aid should be considered justified on the basis of Article 87(3) of the EC Treaty. The aid complies with the principles of the regional aid guidelines. The question of whether the aid was granted on the basis of an approved scheme or as ad hoc aid is irrelevant from the point of view of its actual impact. What is relevant is the fact that, regardless of its source, the aid complies with the standard principles applicable for regional aid in the Community.

([3]) OJ C 209, 10.7.1997, p. 3.
([4]) OJ C 74, 10.3.1998, p. 9.

(22) Finland notes that the regional ceiling for large companies in Haapajärvi for 2000 to 2006, as approved by the Commission, is 20 % NGE. This is 25 %-26 % GGE. The aid intensity of the notified aid, i.e. the grant and the loan, is less than 25 % GGE and, therefore, below the regional ceiling.

(23) Regarding the market situation, Finland notes that more than 60 % of Ojala-Yhtymä's exports go to countries outside the EEA, i.e. the United States (47,74 %), Australia (8,12 %) and China (2,76 %). The aluminium components to be produced in Haapajärvi will replace imports of these products from third countries, particularly from China.

(24) Finland explains that, logistically speaking, Ojala-Yhtymä's location in Haapajärvi makes it 10 %-15 % weaker than its competitors owing to the higher transport costs for its products. Therefore, the production costs need to be correspondingly lower in order for the company to remain internationally competitive. This is to be achieved by increasing productivity and rationalising production. The production facility to be built in Haapajärvi uses the latest state-of-the-art technology available and is particularly environmentally friendly. The aluminium used in production will be recycled and the air-conditioning and watering systems are closed, which means that no pollutants are discharged into the environment. According to Finland, the aid will help the company keep up with its competitors, but does not distort competition in the relevant market.

(25) Finland points out that Haapajärvi is classified as an objective No 2 aid area for 2000 to 2006. The region is clearly worse off than the average for the regions and, therefore, the granting of regional aid is justified. Haapajärvi has been in a weak financial position for the past three years. The accounting period deficit was FIM 9,1 million in 1997, FIM 8,3 million in 1998 and FIM 0,5 million in 1999.

(26) Finland points out that Haapajärvi is a small town with a population of 8 232 at 1 January 2001. The population of Haapajärvi is falling as educated young people move away from the area owing to poor job prospects (129 people left in 1999). Unemployment is well above the national average (17,3 % at 31 December 2000). Of the unemployed total, 18 % are young people under the age of 25, while 19 % are long-term unemployed.

(27) According to Finland, the assisted project contributes to the development of the region by creating a new kind of economic activity and new jobs. It will create 100 new jobs for the area directly and 200 new jobs indirectly. It will alleviate the impact of structural change in the region and help diversify its industrial structure. The project will help reduce the unemployment rate and improve job prospects for the young and the long-term unemployed. It will also bring tax revenue of FIM 3 million to the town, thereby easing Haapajärvi's financial straits. The project will also bring new know-how to the region and promote the creation of new service activities.

(28) Finland also sent the Commission an asset valuer's evaluation ([5]) of the sales price of the land, together with a map showing the land sold. According to the evaluation, the land is forestry land, of which 11 hectares are forest and 3 hectares abandoned arable land. The land is not situated in a zoning area and has no infrastructure.

(29) The soil is mainly forest soil and the arable land is peat soil. The land has 830 m^2 of tree stand, which is mainly pulpwood. The tree stand was evaluated on the basis of the stumpage prices for Haapajärvi as announced by the Nivala-Haapajärvi Forestry Management Association. The evaluation concerns the following tree stand: pine timber (30 m^2), spruce timber (60 m^2), pine pulpwood (150 m^2), spruce pulpwood (490 m^2) and birch pulpwood (100 m^2). The value of 3 hectares of sapling stand and the value of the soil were also assessed. The evaluation concludes that the value of the land is FIM 133 500. The accuracy of the evaluation is 5 % either way.

IV. **ASSESSMENT OF THE AID**

(30) Under Article 87(1) of the EC Treaty, 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 is, in so far as it affects trade between Member States, deemed incompatible with the common market. In accordance with the established case-law of the Court of Justice and the Court of First Instance, the criterion of trade between Member States being affected is met if the recipient firm is engaged in a line of business that involves trade between Member States.

(31) The Commission notes that the aid is being granted through state resources to a single company, conferring an advantage on it by reducing the costs it would otherwise have to bear in order to be able to carry out the investment project. Moreover, the recipient of the aid, Ojala-Yhtymä Oy, is a company producing metal components for the electricity and electronics industry, which is a line of business involving trade between Member States. Therefore, the aid in question falls within the scope of Article 87(1) of the EC Treaty.

([5]) Kalajokilaakson Kiinteistöpiste Ky LKV, Tuomo Junttila, notary public, qualified real estate broker.

(32) The aid consists of direct grants from the municipality of Haapajärvi for an investment in the area. Haapajärvi is an assisted area within the meaning of Article 87(3)(c) of the EC Treaty. However, in 1999 when the aid contrary to the rules was granted and paid to the company, Haapajärvi was an assisted area within the meaning of Article 87(3)(a) of the EC Treaty ([6]).

(33) Point 2 of the regional aid guidelines states that they apply to regional aid granted in every sector of the economy, apart from the sectors for which specific rules apply. Since manufacturing of metal components is not covered by any specific rules, the aid is to be assessed according to the provisions of the regional aid guidelines.

(34) The Commission notes that the aid has already been paid to the beneficiary Ojala-Yhtymä Oy and that it was not granted under any approved regional scheme. Therefore, the aid is deemed to be non-notified ad hoc aid.

(35) According to the second paragraph of point 2 of the regional aid guidelines, a derogation for regional aid under Article 87(3)(a) or Article 87(3)(c) may be granted only if the balance between the resulting distortions of competition and the advantages of the aid in terms of the development of a less-favoured region can be guaranteed.

(36) According to the third paragraph of point 2 of the regional aid guidelines, ad hoc aid does not, unless shown otherwise, count as fulfilling the requirements of the guidelines and derogations under Article 87(3)(a) and Article 87(3)(c) will normally be applied only to aid granted under approved schemes.

(37) For this reason, there needs to be a separate examination of whether the aid is compatible with the regional aid rules.

Aid intensity

(38) The Commission notes that in its decision initiating the formal investigation procedure it observed that Ojala-Yhtymä had applied for FIM 21 million of investment aid and that the application was still pending.

(39) By letter of 22 December 2000, Finland informed the Commission that the company's application for investment aid had been rejected. Therefore, the Commission notes that there is no additional aid arising from the application that would need to be taken into account in the present decision.

([6]) At the time of the aid notification Haapajärvi was classified as an objective No 1 assisted area. For 2000 to 2006 it has been classified as an objective No 2 assisted area.

(40) The Commission further notes that in its decision initiating the formal investigation procedure, it suspected that the sale of land by Haapajärvi to Ojala-Yhtymä included state aid elements since the sales price was not established by an independent expert evaluation in accordance with the Commission communication on state aid elements in sales of land and buildings by public authorities ([7]).

(41) According to the Commission's information, the land is forestry land not situated in a zoning area. The land has no infrastructure. The infrastructure requires investment of FIM 1,3 million, which is to be financed by the company. Therefore, if there is any additional aid to the company, it can only be in the sales price of the land.

(42) In the course of the proceedings, Finland sent the Commission an evaluation of the land price by a private company dealing in real estate sales and evaluations in the region. The evaluation was carried out by a notary public working in the company.

(43) According to the evaluation, the land is forestry land, of which 11 hectares is forest and 3 hectares abandoned arable land. The land is situated outside the municipal zoning area and has no infrastructure. The soil is mainly forest soil and the arable land is peat soil. The land has 830 m^2 of tree stand, which is mainly pulpwood. The tree stand was evaluated on the basis of the stumpage prices for Haapajarvi as announced by the Nivala-Haapajärvi Forestry Management Association.

(44) The total value of tree stand, sapling stand and soil was given as FIM 118 650. In order to assess the market price, the aggregate sum of the valued items needs to be corrected. The correction factor generally used is 25 % and this is also being applied in the present case. This gives the corrected value of 118 650 x 0,75 = FIM 89 000. Since the land is outside the zoning area, but is classified as a reserve area A in the master plan, a value weighting of 1,5 is used to determine the final market value. This gives 89 000 x 1,5 = FIM 133 500. The accuracy of the evaluation is 5 % either way.

(45) According to the information available, the value of a plot of forest land in Finland depends mainly on the value of the trees growing in the area in question. In general, forest land without trees has virtually no value. The value of the trees growing in a certain area depends on the quality of the land and the trees.

(46) The Commission notes that the evaluation was carried out by a private company using the public stumpage prices for tree stands as announced by the area Forestry Management Association. The Commission, therefore, has no reason to doubt the impartiality and accuracy of the evaluation in question.

([7]) See footnote 3.

(47) The Commission further notes that the value of the trees growing in the area, namely FIM 118 650, is lower than the sales price of FIM 140 000 FIM paid by Ojala-Yhtymä Oy. The market value of the land, however, was determined as FIM 133 500 with an accuracy margin of 5 %.

(48) The Commission notes that even if the estimated value were increased by 5 % (to FIM 140 175), the sales price of FIM 140 000 paid by Ojala-Yhtymä still corresponds to the market value of the land and, therefore, does not contain additional aid to the company that would have to be taken into account in the present decision.

(49) For the reasons explained above under points 35 to 48 the aid to be assessed in the present decision is the FIM 25 million paid to the company by Haapajärvi. The intensity of this aid is 24,6 %.

(50) The Commission notes that Haapajärvi is an assisted area within the meaning of Article 87(3)(c) of the EC Treaty. It is classified as an objective 2 area for 2000 to 2006 with the regional ceiling of 20 % NGE, which corresponds to 26 % GGE. The Commission further notes that in 1999 when the aid contrary to the rules was granted and paid to the company, Haapajärvi was classified as an objective No 1 area with a regional ceiling of 35 % GGE, making it an assisted area within the meaning of Article 87(3)(a) of the EC Treaty.

(51) The Commission notes that the aid intensity of 24,6 % in the case in hand is below the regional ceiling.

(52) However, since the aid in question is ad hoc aid, separate consideration needs to be given to whether the balance between the resulting distortions of competition and the advantages of the aid in terms of the development of a less-favoured region can be guaranteed, as stipulated in the second paragraph of point 2 of the regional guidelines.

Balance between the distortions of competition and the advantages of the aid for the development of a less-favoured region

(53) On the question of the distortion of competition, the Commission notes that Ojala-Yhtymä produces aluminium components for the electrical and electronics industry, including telecommunications equipment. Its biggest clients are [...].

(54) According to the Commission's information, the electrical machinery and electronics manufacturing industry has experienced strong growth over the past decade. Between 1993 and 1998 production grew by almost 30 % in real terms to 361 billion. This corresponds to an annual growth rate in excess of 5,3 %. Exports to non-EU countries almost trebled over the ten-year period to 1998, reaching EUR 107 billion in that year. The trade balance remained negative, as imports from non-EU countries reached EUR 131 billion ([8]).

(55) The two most important subsectors for assessment of the present case are electronic components and components for telecommunications equipment.

(56) Electronic components are used in virtually all equipment and the portion of the cost of the electronic equipment they account for has risen continuously over the past decade. According to the European Electronic Component Manufacturers Association (EECA), it has increased from less than 18 % in 1988 to more than 24 % in 1998. This trend is expected to continue because of the ever-increasing complexity of electronic components. In 1998 EU production of electronic components was worth EUR 25 billion. Growth in the industry is driven mainly by the market for active components and, in particular, semiconductors. In the area of passive components, telecommunications has always been a large consumer, a situation that has been further reinforced with the explosion in mobile telephony.

(57) In 2000 EU production of telecommunications equipment was worth EUR 75 billion. This is a sector that has enjoyed vigorous growth in recent years, with output rising by 9,7 % in 1999 and 2000. The European Information Technology Observatory (EITO) has forecast annual growth in the region of 30 % over the period 1997 to 2002 and that the number of mobile phone connections would reach nearly 200 million in western Europe ([9]). This is one of the few high-tech industries in Europe with a trade surplus. In 2000 the surplus was EUR 17 billion. The surplus rose at the rate of 23 % per annum between 1994 and 1998.

(58) The Commission notes that, according to the information at its disposal, growth in the industries in question is strong ([10]) and heavily focused on exports to countries outside the Community. Since the industries have registered growth averaging more than 5 % over the last five years and the growth prospects remain positive, it can be concluded that they are not suffering from structural overcapacity.

(59) The Commission further notes that Ojala-Yhtymä's turnover in 1998 was FIM 212 million (EUR 36 million), while the turnover of the Ojala Group in 1999 was FIM 500 million (EUR 84 million). Although the company's turnover figures are based on sales and the market information in the possession of the Commission is expressed in production values, the turnover figures for both the company and the group indicate that they account for less than 1 % of the relevant markets referred to above.

([8]) Eurostat: Panorama of European industry 1999.
([9]) Eurostat: Panorama of European industry 1999.
([10]) Average growth in industrial production between 1995 and 2000 was 2,54 % (Eurostat).

(60) On the issue of the state of the region concerned, the Commission notes that Haapajärvi was in a weak financial position over the period 1998 to 2000 with the balance sheet showing a deficit. The unemployment rate was 17,3 % at 31 December 2000. The population of Haapajärvi fell by 129 in 1999 because of educated young people moving away from the area owing to poor job prospects. The population currently stands at 8 232. For these reasons the Commission considers that the region can be considered a less-favoured region within the meaning of the regional aid guidelines.

(61) On the matter of the advantages of the aid in terms of less-favoured region development, the Commission notes that the assisted project will be the only major industrial establishment in this region which is sparsely populated and suffers from high unemployment. The project will create 100 jobs directly and may indirectly contribute to creating a significant number of other jobs in the region, thereby helping to reverse the trend of population loss in the region, which appears to be continuing because of the lack of job opportunities there. The assisted project, which will be the only significant company in the area, will, therefore, have a vital effect on improving the social and economic situation of the region within the meaning of the regional aid guidelines.

(62) In addition, the Commission notes that the project concerned is also in principle eligible for regional investment aid under an approved investment aid scheme. Without the ad hoc aid granted by the municipality of Haapajärvi, the aid to the project could have been granted through this approved scheme. Therefore, the positive effect of the aid on the region concerned is equivalent to the effect aid granted under the approved scheme would have had, regardless of whom the aid was granted by (the municipality of Haapajärvi in the case of ad hoc aid and the state in the case of aid under an approved scheme). The fact that, in the absence of the ad hoc aid granted by the municipality of Haapajärvi, the aid for investment would have been granted under the approved scheme means that the advantages of the aid in terms of less-favoured region development are considered equivalent to the effects of the aid granted under an approved scheme and, as such, are guaranteed in the manner intended in the regional aid guidelines.

(63) Considering the above, and the moderate share of both Ojala-Yhtymä and the Ojala Group in the relevant market segments, which are not suffering from structural overcapacity, but are, on the contrary, experiencing strong growth, the Commission considers that the advantages of the aid to the region concerned outweigh any distortion of competition resulting from it. For this reason the aid is deemed to be compatible with the regional aid guidelines.

V. **CONCLUSION**

(64) The Commission regrets that Finland unlawfully granted the aid in question in breach of Article 88(3) of the EC Treaty. However, since the aid complies with the guidelines on national regional aid, it is considered compatible with Article 87(3) of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The state aid which Finland has implemented for Ojala-Yhtymä Oy, amounting to EUR 4,15 million, is compatible with the common market within the meaning of Article 87(3) of the Treaty.

Article 2

This Decision is addressed to the Republic of Finland.

Done at Brussels, 25 April 2001.

For the Commission

Mario MONTI

Member of the Commission