



DET KONGELIGE  
SAMFERDSSELSDEPARTEMENT

Jernbanedirektoratet  
Postboks 16 Sentrum  
0101 OSLO

Deres ref

Vår ref

Dato

19/2652-6

22. juli 2020

## Supplerende tildelingsbrev nr. 5 for 2020 – forvaltning av tilskuddsordning for kommersielle buss- og båtruter

Det vises til tildeingsbrev for 2020 fra Samferdselsdepartementet til Jernbanedirektoratet. Dette brevet supplerer tildelingsbrevet.

Samferdselsdepartementet viser til Prop. 127 S (2019–2020) hvor det bl.a. står:

*Regjeringen foreslår å opprette en tilskuddsordning for kommersielle buss- og båtruter. Ordningen skal avhjelpe inntektsreduksjon som følge av smitteverntiltak. Regjeringen vil utarbeide nærmere retningslinjer for tildeling av midlene.*

Stortinget behandlet saken 19. juni 2020 og bevilget 100 mill. kr til formålet på kapittel 1330 post 71 Tilskudd til kommersielle buss- og båtruter som følge av smitteverntiltak, og hadde ingen merknader i komiteinnstillingen (Innst. 360 S (2019–2020)).

Samferdselsdepartementet har på denne bakgrunn fastatt en forskrift for tilskuddsordning for kommersielle buss- og båtruter.

Samferdselsdepartementet ber med dette Jernbanedirektoratet forvalte tilskuddsordningen i tråd med *Forskrift om midlertidig tilskudd til operatører av kommersielle buss- og passasjerbåtruter som har tapt omsetning som følge av utbruddet av covid-19* (se <https://lovdata.no/dokument/LTI/forskrift/2020-07-20-1577>).

I tillegg til forskriften vil følgende vedlagte dokumenter være nyttige i forvaltningen av ordningen:

- Høringsbrev datert 30.6.2020

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- Notifikasjon til ESA: Notification of aid to long-distance bus and passenger boat services experiencing a loss in turnover due to the COVID-19 outbreak, pursuant to the EEA Agreement article 61 (2) b – exceptional occurrences – COVID-19

Vi viser til forskriftens § 6 hvor det står at søknad om tilskudd sendes [...] på det formatet departementet bestemmer. Departementet delegerer herved denne retten til Jernbanedirektoratet, som heretter bestemmer hvilket format søknaden skal sendes på.

Vi gjør oppmerksom på at første søknadsfrist er mandag 17. august, som er fire uker etter at forskriften ble kunngjort. Dette innebærer at formatet søknaden skal sendes på, må være klart og bekjentgjort i god tid før det.

I samsvar med § 7 i Reglement for økonomistyring i staten stiller Samferdselsdepartementet bevilgningen på kap. 1330, post 71 til disposisjon for Jernbanedirektoratet i 2020. Bevilgningen skal brukes i samsvar med de styringssignalene som er gitt i dette tildelingsbrevet, og i tråd med prinsippene som følger av Stortingets bevilgningsreglement. Vi viser også til *Bestemmelser om økonomistyring i staten kapittel 6 – Utforming og forvaltning av tilskuddsordninger*.

#### *Retting av feil i supplerende tildelingsbrev nr. 4*

I supplerende tildelingsbrev nr. 4 fikk Jernbanedirektoratet til disposisjon endret bevilgning under kap. 1352 Jernbanedirektoratet som følge av Stortingets behandling av Prop. 117 S (2019–2020), Prop. 127 S (2019–2020) og Innst.360 S (2019–2020) 19. juni 2020. Bevilgningen under kap. 1352 Jernbanedirektoratet, post 01 Driftsutgifter ble redusert med 10 mill. kroner fra 365,6 mill. kroner til 355,6 mill. kroner. I oversiktstabellen i supplerende tildelingsbrev nr. 4 står det imidlertid at bevilgningen på posten er redusert til "355 000 000 kroner". Jernbanedirektoratet disponerer 355 600 000 kroner på posten i tråd med Stortingets vedtak.

Med hilsen

Herman Westrum Thorsen (e.f.)  
fung. avdelingsdirektør

Ole Rasmus Owe  
seniorrådgiver

*Dokumentet er elektronisk signert og har derfor ikke håndskrevne signaturer.*

Vedlegg

Kopi  
Riksrevisjonen

**Notification of aid to long-distance bus and passenger boat services experiencing a loss in turnover due to the COVID-19 outbreak, pursuant to the EEA Agreement article 61 (2) b – exceptional occurrences – COVID-19**

## **1 Introduction**

- (1) In accordance with Article 1(3) of Part I of Protocol 3 to the Surveillance and Court Agreement ("SCA"), the Norwegian authorities hereby notify the EFTA Surveillance Authority (the Authority) of its intention to grant state aid in support of commercial long-distance bus and passenger boat services.

## **2 Description of the measure(s)**

### **2.1 Objective**

- (2) The objective of the scheme is to compensate for damages caused by the COVID-19 outbreak and the Norwegian authorities infection control measures, in order to ensure the continuity of commercial long-distance bus and passenger boat services. Several of these services constitute the only public transport on the specified routes.

### **2.2 Impact of COVID-19 on the sector of commercial scheduled long-distance bus and boat services in Norway**

- (3) The sector of long-distance bus services experienced a significant fall in demand for services after the outbreak of COVID-19, due to the Norwegian authorities' advice to limit social contact and travel activities, and the requirements to keep distance between passengers on public transport.<sup>1</sup> This was and is consistent with all other reports from the public transport sector, which should apply also to the passenger boat services. The authorities' advice regarding health infection measures in public transport has been up until now that only up to 50 percent of capacity should be used in order to accommodate for sufficient distance between passengers. Furthermore, there should be routines to ensure cleanliness. Passengers are advised to consider whether it is necessary to travel, and if it possible to travel by other means of transport than public transport.<sup>2</sup> Although some prohibitions and recommendations that suspended activities are now being lifted, some are still in force and will continue to cause negative effects in the public transport sector. The authorities has introduced a "traffic light" system in public transport (as of 2 July), which different measures at the green, yellow and red levels, respectively. All of Norway is now on "yellow". The actual changes from previous levels are that the maximum capacity is no longer strictly limited to 50 %, and there may be less than one meter between passengers on shorter jounies (less than one hour, as of 7 July). However, operators shall make it easy for passengers to sit and stand scattered, and avoid face-to-face contact. They shall aim for a one meter distance between passengers and not use the entire capacity of the vehicle/car/boat. As more of the capacity may be used, the economic damage/loss may be less.

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<sup>1</sup> Letter from NHO Transport to the Ministry of Communications 15 May 2020.

<sup>2</sup> <https://helsenorge.no/koronavirus/reise> (as of 6 July 2020)

However, travellers are still advised to consider whether the journey is necessary. This will still have an impact on the demand for public transport.

- (4) Long-distance bus services in Norway do not receive compensation from public authorities and are therefore entirely dependent on revenues from ticket sales. Long-distance passenger boat services that are equally operated on a commercial basis should be entitled to the same support mechanisms as commercial bus services. These commercial services are run solely by business interests, and not by public funding of any kind.
- (5) With the drop in income due to the public health infection measures in connection with the outbreak of COVID-19, the operators of these services risk reduction in turnover. This can lead to reduction of scheduled departures or discontinuation of important public transport services.
- (6) There is still uncertainty regarding the full impact of the COVID-19 outbreak on people's travel patterns, and how long the authorities' health infection measures and advise regarding limitation on travel will be in place.
- (7) The aid scheme is intended to cover part of the loss in turnover of the eligible operators due to the COVID-19 outbreak.

### **2.3 Type of measure**

- (8) Under the notified scheme, eligible undertakings may apply for coverage of 80 percent for June and July, and 60 percent for August 2020, of net loss in transport operations on a given transport route, when the loss is a direct consequence of the authorities' infection control measures, adjusted for the growth rate from January/February 2019 to January/February 2020. The aid takes the form of a direct grant. Calculated grants less than 5000 NOK per transport route per month will not be covered.

### **2.4 Aid granting authority and national legal basis**

- (9) The scheme is implemented in accordance with the Parliament's budget resolution No 739 of 19 June 2020 and will be further specified in a temporary regulation from the Norwegian Ministry of Transport, which is currently on a public hearing. Please find the draft regulation enclosed to this notification.
- (10) The Norwegian Ministry of Transport is the responsible authority for the compensation scheme. Applications for grants under the scheme will be handled by the Norwegian Railway Directorate.

### **2.5 Beneficiaries**

- (11) The beneficiaries of the scheme are all operators of year-round scheduled bus or passenger boat services with a licence in accordance with § 6 or § 7 of the Act of Occupational Transport for services with a minimum scheduled distance of 80 kilometres one way that do not receive public grants for the operation of the service in question, cf. § 2 of the draft regulation. For boat services the distance shall be calculated on the basis of the actual sailing route, not the km of the relevant distance by road.
- (12) The Norwegian authorities confirm that the scheme is designed in an open and non-discriminatory manner and that the beneficiaries are all operators of commercial bus

or passenger boat services that fall under the criteria described in section (11) above that have suffered direct damage resulting from the COVID-19 outbreak.

- (13) Local authorities (the County Councils) are responsible for grants to local public transport. Long-distance services are normally wholly commercial and not financed by local authorities. The aid scheme is designed to cover the losses of operators of long-distance bus and passenger boat services that do not receive compensation from local or other public authorities for public services obligations. Furthermore, long-distance services do not receive compensation from other levels of public authorities. Therefore, it is necessary to have a separate scheme to secure the operators of commercial long-distance services, and to ensure the continuation of these vital services, as there is normally no alternative for travelling by public transport on the routes in question.

## **2.6 Eligible costs, aid intensity and support mechanism**

### **2.6.1 Eligible costs**

- (14) The eligible costs of the scheme is net loss in transportation operations on specific bus or boat routes during the compensation period as a direct consequence of the authorities' infection control measures due to the outbreak of COVID-19. The compensation is calculated for each bus/boat transportation route. The operator's loss not connected to the transportation operation itself, such as loss in the stock market, catering or sales of goods not necessary for the transport operation, will not be covered. When calculating the net loss, both the lost income and the saved costs should be related to transport operations. Net losses are defined as loss in turnover minus avoided costs. The compensation for each bus or boat route will be limited to 80 % for June and July, and 60 % for August 2020, of the eligible costs. Aid amounts of less than 5 000 NOK for each bus and boat route will not be paid out.
- (15) Compensation will only be granted to operators when the net loss for a specified route is more than 15 percent compared to the same calendar month in 2019.
- (16) Net loss is loss in turnover on the service for which compensation is granted, with reductions for avoided costs. The avoided costs will be a comparison between cost in a given calendar month in 2019 and the equivalent month in 2020. The largest contributors to avoided costs, will probably be salaries if the employees (such as drivers and cleaners) are on temporary leave because of the COVID-19 outbreak on the route(s) in question for the month of June, July and August respectively. Cost savings related to drivers and cleaners that are temporarily laid off due to other reasons than the COVID-19 outbreak are not deducted. Other examples are fuel, road toll and ferry tickets. The operator has a duty to reduce costs as much as possible and shall in the application declare that he/she has done so. The Norwegian authorities confirm that aid is excluded for any applicant that is responsible for the damage suffered and/or did not conduct their activities with due diligence or in compliance with applicable legislation, or did not take any measure to mitigate its damages.
- (17) The reference period in order to calculate the damage/loss for a calendar month in 2020 is the corresponding calendar month in 2019. The demand for these long-distance services varies throughout the year and is normally higher during the summer

season. It is therefore appropriate to use the corresponding calendar month in 2019 as a reference period.

- (18) For businesses that are reorganized / newly established, and for start-up routes where there are no adequate accounts for 2019, the calculation is made based on a comparison with February 2020. For routes with seasonal fluctuations, the calculation may also be based on comparable routes.
- (19) No grant will be paid for new routes where a route license has been applied for after 12 March 2020.
- (20) The Norwegian authorities consider that the method of calculation of the damage allows for compensating only the loss due to damage linked to COVID-19 and that it excludes any overcompensation. The operator must declare, in the application form, that he/she does not receive compensation for the same losses from other sources.

### **2.6.2 Assessment of damage**

- (21) The eligible operators must apply for grants according to procedures laid down by the Ministry of Transport. The decline in turnover will be calculated by comparing the actual revenue of the transportation operation on specific bus and passenger boat routes during the period for which compensation is sought, to the turnover of a reference period. The reference period, in order to calculate the damage/loss for each calendar month of the compensation period in 2020, is the corresponding calendar month in 2019, adjusted for the growth rate from January/February 2019 to January/February 2020. The demand for these long-distance services varies throughout the year and is normally higher during the summer season. The Norwegian authorities therefore consider it appropriate to use the corresponding calendar month in 2019 as a reference period. Application for grants under the scheme must be submitted after the expiry of the relevant calendar month, but no more than 4 weeks after the last day of that month. For June, applications must be submitted 4 weeks after the regulation is published. Applications for compensation for loss in turnover suffered in July 2020 shall, as an example, be submitted after 31 July, and before 29 August. The application shall be submitted in a form as decided by the Ministry of Transport.
- (22) The application shall include accounts that show the turnover for the relevant service in the calendar month for which the compensation is granted, as well as accounts that show the turnover for the same service in the same calendar month of 2019. The content of the application must be confirmed by an auditor or by a certified accountant.
- (23) As the compensation is only granted in back payments, the succeeding follow ups will be based on random checks of audited financial statements, especially in regards to any other types of state aid covering the same eligible costs due to COVID-19. Operators who receive grant in the scheme for long-distance bus and passenger boat services cannot receive aid from the large grant scheme for the same time period. The beneficiaries are obligated to declare this.

### **2.6.3 Form of the compensation**

- (24) Compensation is awarded in the form of direct grants.

#### **2.6.4 Reimbursement method**

- (25) After the approval of the scheme by ESA, the beneficiaries may submit applications and substantiating documentation for the damage in accordance with the procedure described in paragraph (22).

#### **2.7 Budget, duration, aid intensity and cumulation**

- (26) The affected companies will be compensated to a maximum of 80 percent for June and July, and 60 percent for August 2020, adjusted for the growth rate from January/February 2019 to January/February 2020, of the eligible costs. The compensation will in any event never be higher than the absolute ceiling for 2b, which is 100% of net.
- (27) The total budget of the scheme is 100 MNOK, as granted in accordance with the Parliament's budget resolution No 739 of 19 June 2020.
- (28) The scheme enters into force as soon as possible, subject to ESAs approval, and expires on 31 December 2020. Applicants can apply for grants covering the period June, July and August 2020. If the applications for one month exceed the funds available, the grants will be reduced accordingly.
- (29) The aid cannot be cumulated with other types of state aid covering the same eligible costs.
- (30) The Norwegian authorities confirm that the payment made to beneficiaries shall be net of any amount recovered by insurance, litigation, arbitration or other source for the same damage. If the aid is paid out before the insurance, the authorities will recover the insurance amount from the beneficiary.

#### **2.8 Commitments**

- (31) The Norwegian authorities commit to ensure that beneficiaries repay any overcompensation, should the ex post assessment show that the total aid received by an individual beneficiary to compensate the damage caused by the COVID-19 outbreak exceeds the total amount of the damage suffered by the beneficiary.
- (32) The Norwegian authorities commit to provide a report no later than 1 year after the date of the Authority's decision, specifying the amount of compensation and recoverable advances granted.

### **3 Presence of state aid**

- (33) Article 61(1) of the EEA Agreement reads as follows:

*“[...] any aid granted by EC Member States, EFTA States 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 Contracting Parties, be incompatible with the functioning of this Agreement.”*

- (34) The qualification of a measure as aid within the meaning of this provision requires the following cumulative conditions to be met: (i) the measure must be granted by the state

or through State resources; (ii) it must confer an advantage on an undertaking; (iii) favour certain undertakings (selectivity); and (iv) threaten to distort competition and affect trade.

### **3.1 Presence of state resources**

- (35) The measure is financed through the State Budget and granted by public authorities. Hence, the aid is granted by the State and/or through state resources.

### **3.2 Confer an advantage on an undertaking**

- (36) The measure compensates the beneficiaries for loss in turnover as a result of the authorities' infection control measures. Hence, the measure confers on the aid recipient an advantage that relieves it of charges that are normally borne from its budget.

### **3.3 Selectivity**

- (37) The measure targets companies active in commercial, scheduled, long-distance bus and passenger boat services which have suffered more than 15 percent decline in turnover due to the COVID-19 outbreak. Hence, it is selective in that it favours "certain undertakings or the production of certain goods".

### **3.4 Effect on trade and distortion of competition**

- (38) The beneficiaries are active in the land and sea transport sectors, which are subject to intra-EEA competition and trade. Hence, the measure is liable to distort competition and to affect trade between the Contracting Parties to the EEA Agreement.

### **3.5 Conclusion**

- (39) *All the conditions in Article 61 (1) are met. Therefore, the Norwegian authorities consider that the measure constitutes state aid.*

## **4 Procedural requirements**

- (40) Pursuant to Article 1(3) of Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ("Protocol 3"): *"The EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. .... The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision."*
- (41) The Norwegian authorities have submitted a notification of the aid measure and have not yet let the scheme enter into force. The Norwegian authorities have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3.

## **5 Compatibility of the aid measure**

### **5.1 Introduction**

- (42) ESA shall declare state aid compatible with the functioning of the EEA Agreement under its Article 61(2)(b) provided that certain compatibility conditions are fulfilled. That provision reads as follows: *"The following shall be compatible with the functioning of this Agreement: aid to make good the damage caused by natural disasters or*

*exceptional occurrences*". The Norwegian authorities take the position that the notified measure falls within that category.

- (43) The Norwegian authorities understand that ESA does not have any discretion in assessing the compatibility of the aid that falls within this category and meets the terms of Article 61(2)(b) of the EEA Agreement.
- (44) Neither the EEA Agreement, nor any EEA relevant legislation contains a precise definition of "exceptional occurrence".<sup>3</sup> At the outset it is worth noting that Article 61(2)(b) is an exception to the general principle as stated in Article 61(1), and that the exception must be interpreted narrowly.<sup>4</sup>
- (45) The characterization of an event as being an exceptional occurrence is made by ESA on a case-by-case basis. In this regard, the following indicators relating to the event concerned must be cumulatively met: (i) unforeseeable or difficult to foresee;<sup>5</sup> (ii) significant scale/economic impact,<sup>6</sup> and (iii) extraordinary.<sup>7</sup>
- (46) Norwegian authorities understand that only damage caused by an exceptional occurrence may be compensated for under that provision. There must be a direct link between the damage caused by the exceptional occurrence and the state aid. Moreover, the assessment of the damage suffered must be as precise as possible.

## **5.2 COVID - 19 as an exceptional occurrence**

- (47) The Norwegian authorities take note of the fact that on 9 March 2020, European Commission President von der Leyen made a statement that companies hurt by the COVID-19 outbreak would in principle be eligible for state aid on the basis of Article 61(2)(b). Moreover, on 11 March 2020, the COVID-19 outbreak was classified as a

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<sup>3</sup> See also See Commission Decision in case SA.56685 C(2020) 1698 final (Denmark) Compensation scheme for cancellation of events related to COVID-19, paragraph 24.

<sup>4</sup> See Commission Decision in case [SA.32523, C\(2012\) 4218 final](#) (Cyprus) Compensation scheme for air carriers registered in Cyprus for additional costs linked to the impossibility to overfly the Turkish airspace, at paragraph 50. See Commission Decision in case SA.56685 C(2020) 1698 final (Denmark) Compensation scheme for cancellation of events related to COVID-19, paragraph 24.

<sup>5</sup> Commission Decision in case SA.32163 [C\(2011\) 5495 final](#) (Slovenia) Rectification of consequences of the damage caused to air carriers and airports by earthquake activity in Iceland and the resulting volcano ash in April 2010, paragraph 31.

<sup>6</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 on case NN 62/2000, Régime temporaire d'aides aux entreprises victimes des intempéries et de la marée noire – France), or because of the number of dead or injured people (Commission Decision of 11 April 2012 on case SA.33487, Agricultural and fisheries aid to compensate for damage due to exceptional occurrence (red mud "Aluminium accident"), Hungary, paragraph 35; Commission Decision of 2 May 2002 on case N241/2002, Régime en faveur des entreprises victimes de la catastrophe industrielle de Toulouse, France, paragraph 19), the immense ecological and economic damage (Commission Decision of 11 April 2012 on case SA.33487, paragraph 36), the amount of material damage despite the local character of the industrial accident (Commission Decision of 2 May 2002 on case N 241/2002, paragraph 19).

<sup>7</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 constitute in itself an exceptional occurrence. It was yet an unforeseeable event, but formed part of the normal commercial risks to which an undertaking is exposed.

pandemic by the World Health Organisation.<sup>8</sup> On 12 March 2020, the Commission adopted a decision concluding that the Covid-19 outbreak qualifies as an exceptional occurrence for the purpose of Article 107(2)(b)<sup>9</sup> of the Treaty on the Functioning of the European Union, as it is an extraordinary, unforeseeable event having a significant economic impact.<sup>10</sup> The Norwegian authorities have also recognised that the COVID-19 outbreak is an exceptional occurrence.<sup>11</sup> As a result, the Norwegian authorities consider that exceptional interventions by the Contracting Parties are justified to compensate for the damages linked to the outbreak.

- (48) On 26 February 2020, the first incident of COVID-19 was reported in Norway. On 19 March 2020, 1552 persons were confirmed infected by the virus. At the time of this notification, 8930 persons in Norway have been confirmed infected by the virus.<sup>12</sup>
- (49) In Norway, as in most other countries, the outbreak of COVID-19 led to a general fall in economic activities, and a sharp fall in demand for goods and services in many sectors. The result is that turnover has dropped, businesses have closed or limited their activities and staff has been temporarily dismissed.
- (50) In the public transport sector demand dropped by up to 80–90 percent following the outbreak of COVID-19.
- (51) Several long-distance services were discontinued after the outbreak of COVID-19, buses were parked and drivers were temporarily dismissed. The fall in demand was consistent for the public transport sector in general, which should extend to passenger boats. Some services continued their operations with a reduced number of departures. The industry has signaled that the prospect of having some of the loss in turnover covered by this aid scheme will allow them to take up and continue services on a more normal level during the summer season, with the aim of returning to the state of fully commercial operation when the demand is back to normal. If the services are discontinued there is a fear that passengers will find other ways to travel, and that it will take a long time to build up the service level to pre-COVID-19 levels.
- (52) The requirement to keep distance between passengers on public transport continues to affect the turnover in the sector even after demand, to some extent, has increased again. It is uncertain when demand and turnover will be back to normal levels. Public service obligation in local transport is financed by local authorities (the county councils). The market of long-distance bus services is fully commercial and does not receive compensation for public service obligations. The same applies to long-distance passenger boat services.

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<sup>8</sup> <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19--11-march-2020>

<sup>9</sup> Which corresponds to the EEA Agreement article 61 (2) (b).

<sup>10</sup> Commission Decision in SA.56685, Compensation scheme for cancellation of events related to COVID-19, paragraphs 26 - 30.

<sup>11</sup> GBER preamble 69. See also Commission Decision in case SA.48678, [C\(2018\)1291 final](#) (Czech Republic) Framework program for risk and crisis management in agriculture, at paragraph 22.

<sup>12</sup> <https://www.fhi.no/sv/smittsomme-sykdommer/corona/dags--og-ukerapporter/dags--og-ukerapporter-om-koronavirus/>

(53) In order to stop the spread of COVID-19, and to contribute to the maintenance of necessary health care and care services, the Norwegian authorities decided to close the following public arenas with effect from 12 March 2020:

- Kindergartens
- Primary schools
- Lower secondary schools
- Upper secondary schools
- Universities and colleges
- Other educational institutions.
- Cultural events
- Sports events and organised sports activities, both indoors and outdoors
- All establishments in the hospitality industry, except for eating places where food is distributed, i.e. canteens and eating places that can ensure visitors to keep at least 1 metre distance from each other. Buffets are not allowed. The hospitality industry includes restaurants, bars, pubs and nightclubs.
- Gyms
- Companies that provide hairdressing services, skin care, massage and body care, tattooing, piercing, etc.
- Swimming pools, water parks, etc.

Most of these arenas have been gradually re-opened, but health infection measures still apply.

(54) The Norwegian Directorate of Health published national guidelines on health infection measures in public transport on 5 May 2020. According to the guidelines the basic health infection measures are; 1) sick persons must stay at home, 2) Good hand and cough hygiene and strengthened cleaning, and 3) contact-reducing measures. Operators of public transport, including operators of long-distance bus and passenger boat services, must consider their cleaning routines, and implement contact-reducing measures.

(55) As regards contact-reducing measures, the Norwegian Directorate of Health and the Norwegian Institute of Public Health recommend a minimum of 1 meter distance between persons. It follows from the guidelines on public transport that it should be accommodated for distance between passengers and between passengers and drivers. As a main rule it was the assessment of the Norwegian Institute of Public Health that sufficiently distance between passengers may be safeguarded by using only half of the passenger capacity in the means of transport, cf. Chapter 3 of the Guidelines.

(56) It also follows from the Guidelines that passengers should consider if travel is necessary. This may lead to less demand for the service than without to COVID-19 outbreak and this advice of the Health authorities to the passengers. Norway confirms that, while some prohibitions and recommendations suspending activities to avoid further transmission of the virus are now being lifted, some are still in force and will continue to cause negative effects in the public transport sector. The authorities has introduced a "traffic light" system in public transport (as of 2 July), with different measures at the green, yellow and red levels, respectively. All of Norway is now on "yellow". The actual changes from previous levels are that the maximum capacity is no

longer strictly limited to 50 %, and there may be less than one meter between passengers on shorter journeys (less than one hour, as of 7 July). However, operators shall make it easy for passengers to sit and stand scattered, and avoid face-to-face contact. They shall aim for a one meter distance between passengers and not use the entire capacity of the vehicle/car/boat. As more of the capacity may be used, the economic damage/loss may be less. However, travellers are still advised to consider whether the journey is necessary. This will still have an impact on the demand for public transport. The duration of the compensation period until 31 August 2020 and the entirety of the notified compensation period of the measure is considered directly linked to the COVID-19 outbreak.

- (57) The contact-reducing measures have direct effects on the operators' income as it is only possible for the operator to achieve a maximum of 50 percent of the ticket revenues with the use of the same transport material compared to the situation without the health infection measures.
- (58) The Norwegian authorities understand that only damage caused by the exceptional occurrences (COVID-19) may be compensated for under Article 61(2)(b). In the case at hand, there is a direct link between the damage caused by the exceptional occurrence and the state aid. The Norwegian authorities will in the following provide the Authority with our assessment of the damage suffered as precise as possible.<sup>13</sup>
- (59) Operators of long-distance bus or passenger boat services with a scheduled distance of more than 80 kilometers one way that have had a reduction in turnover of more than 15 percent compared to the same calendar month in 2019 are eligible to aid under the scheme. The aid will cover 80 percent for June and July, and 60 percent for August 2020, of loss in turnover on the service in question with a reduction for avoided costs. Net losses of less than 5000 NOK per transport route per month will not be covered.
- (60) Only loss in turnover that is a direct consequence of the authorities' health infection measures due to the COVID-19 outbreak will be covered. The advice of the health authorities that limit the use of capacity, and advise passengers to limit travel activity, will have a direct effect on the income of the operators. The loss in turnover will be calculated by comparing the operators' turnover of June, July and August 2020 to the turnover in the same calendar months in 2019. Losses in turnover will typically cover losses in ticket revenues and/or extra costs due to the use of more buses and drivers, caused by the restricting travel advice and requirement for distance between passengers. Operators have a duty to reduce costs as much as possible and shall declare in the application that they have done so. Avoided costs will be deducted from the aid.
- (61) The Norwegian Railway Directorate will make sure that the compensation is calculated accurately and objectively by comparing the turnover for each calendar month, starting from June 2020, with the corresponding calendar month in 2019. Moreover, the aid granted will be non-discriminatory as it will be granted to all operators of commercial bus- and passenger boat year-round services with a minimum distance of 80

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<sup>13</sup> See Commission Decision in case SA.32163 [C\(2011\) 5495 final](#) (Slovenia) Rectification of consequences of the damage caused to air carriers and airports by earthquake activity in Iceland and the resulting volcano ash in April 2010, see also Joined Cases C-346/03 and C-529/03 *Atzeni and Others* [2006] ECR I-1875, paragraph 79 and the case-law cited, see also Case T-268/02 *Olympiaki Aeroporia Ypiresies v Commission* [2008] ECR p. II-1091, paragraph 52.

kilometres one way. The aid will not result in over-compensation of the damage suffered, as only 80 percent of loss in turnover in June and July, and 60 percent in August 2020, is covered, and any grants from other schemes or arrangements to cover the same loss will be deducted under the scheme. The aid granted will not be used as a circumvention of ESA's policy on rescue and restructuring aid. It will in no way be used to remedy undertakings' problems which are not related to COVID-19.

### **5.3 Reference period/limited duration**

- (62) The measure is of a limited duration applying from 1 June 2020, and covering loss incurred in the months of June, July and August 2020. The Regulation applies until 31 December 2020.]. The measure will not be in force longer than necessary to attain the goal of helping the supported undertakings to overcome the exceptional occurrence.<sup>14</sup>
- (63) The scheme provides for compensation for part of the period during which the companies could not operate normally, starting from 1 June 2020 until 31 August 2020. The scheme will also be limited to the Parliaments' grant of 100 MNOK. Thus, in line with the scheme conditions, the damage incurred during this period may be compensated, provided that there is a direct causal connection between the event and the damage, and the claim is supported by substantiating documentation.

### **5.4 Calculation of incurred damage and mechanism to rule out overcompensation**

- (64) The costs to be covered by the aid will have a direct causal link to the exceptional occurrence, i.e. the COVID-19 outbreak.<sup>15</sup> The aid will not result in overcompensation of damage; it will only make good the damage caused by the exceptional occurrence. The direct link between the compensation and the COVID-19 outbreak is established in § 1 and § 3 of the regulation. Furthermore, it is stated in § 4 of the draft regulation that operators may not be compensated for loss that is compensated through other aid schemes or arrangements.<sup>16</sup>
- (65) Aid can cover up to 80 % of the net loss for June and July, and 60 % for August 2020, provided that they are not covered by the beneficiaries insurance, as set out in § 3 and § 4 of the draft regulation.<sup>17</sup> The Ministry of Transport is not aware that loss in income/ticket revenues will be covered by the operators insurance in this case.
- (66) The Norwegian authorities understand that in order to be compatible with the functioning of the EEA Agreement, the aid must be proportional to the (damage) caused by the exceptional occurrence. Aid must not result in overcompensation of the eligible costs.<sup>18</sup> The Norwegian Railway Directorate will make sure that the aid under

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<sup>14</sup> [ESA Decision 315/01/COL](#) at page 13.

<sup>15</sup> GBER preamble 69. See also Commission Decision in case SA.48678, [C\(2018\)1291 final](#) (Czech Republic) Framework program for risk and crisis management in agriculture, at paragraph 23.

<sup>16</sup> [ESA Decision 315/01/COL](#) at page 9. See also Commission Decision in case SA.48678, [C\(2018\)1291 final](#) (Czech Republic) Framework program for risk and crisis management in agriculture, at paragraph 24 and Commission Decision SA.56685 (2020/N) – DK – Compensation scheme for cancellation of events related to COVID-19 para 36.

<sup>17</sup> See Commission Decision in case SA.56685 C(2020) 1698 final (Denmark) Compensation scheme for cancellation of events related to COVID-19, paragraph 15.

<sup>18</sup> See Commission Decision in case [SA.35413](#), [C\(2012\) 9853 final](#) (Italy) Aid to compensate for damage caused by the earthquakes of May 2012 in Emilia-Romagna, Lombardy and Veneto (all sectors except agriculture, fisheries and aquaculture), at paragraph 31.

the scheme and compensation from other sources, including insurance payments, will not exceed the value of the damage suffered by the individual beneficiary. This will be avoided as only a maximum compensation of 80 percent of the net loss for June and July, and 60 percent for August 2020, is compensated, and the clause that costs covered by other schemes or arrangements may not be compensated, cf. in particular § 4 of the draft regulation. Furthermore, as the compensation will be in back payments, the competent authority will, by comparing the accounts for the service in 2019 and 2020 make sure that the compensation does not exceed the net loss on the transport route, for which compensation is granted. The operators must also deliver a statement to this effect upon application.

(67) Hence, the scheme contains appropriate mechanisms to rule out overcompensation.

### **5.5 Non-discrimination/Uniform application**

(68) The Norwegian authorities confirm that the measure to combat the exceptional occurrence will be provided in a non-discriminatory manner.<sup>19</sup> The draft regulation applies to all businesses that are covered by the objective requirements in § 2 of the draft regulation. The draft regulation does not open for discretion in this regard.

(69) The scheme beneficiaries are all operators of commercial bus or passenger boat year-round services with a minimum distance of the service of 80 kilometres one way, cf. § 2 of the draft regulation. The draft regulation does not open for discretion as to which operators fall under the aid scheme. These companies are the only companies in the sector/industry of public transport which operate routes that do not fall under the scope of other support mechanisms, such as public procurement and compensation for PSO. The measure is therefore non-discriminatory.

## **6 Conclusion**

(70) Based on the reasoning set out in the sections above, the Norwegian authorities conclude that the notified measure is compatible with the EEA Agreement.

(71) The present notification does not contain confidential information.

## **7 Annex**

### The 80 km limit

(72) The 80 km limit for commercial bus routes comes from the Norwegian Act of Occupational Transport. In general, a bus route has to be longer than 80 km one way in order for a commercial operator to get a route licence. Basically, the counties are responsible for the local public transport. Whether a commercial operator will get a route licence on shorter routes, is decided by the counties. In this scheme we have chosen to focus the limited funds on the longer routes as there is normally no alternative for travelling by public transport on the routes in question.

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<sup>19</sup> [ESA Decision 315/01/COL](#) at page 13.

(73) The 80 km limit does not apply for boats in the Act of Occupational Transport. However, by applying the same definition of long-distance also to boat services under the notified scheme, equal treatment of bus and boat routes is ensured.

#### The expected number of beneficiaries

(74) Nor-Way Bussekspress is a marketing and a ticket sales cooperation for nine smaller operators. We expect, however, one application from Nor-Way, who will apply on behalf of the nine. In addition there are two other operators which we know about, which makes a total of three expected applications from bus operators.

(75) We are not aware of any boat routes above 80 km although we cannot disprove the existence of such route. They are included in the scheme to secure equal treatment between bus and boat routes.

#### Routes excluded from the scheme

(76) Most public transport bus and boat routes are bought by counties and municipalities and are not commercial routes. Hence, they would not be eligible for grant under the notified scheme. We know of one "long distance" commercial bus route which fails to meet the 80 km threshold. In addition, the airport shuttle buses are excluded, as they are shorter than 80 km. We are not aware of any such which is longer than 80 km, but if there are any, they will be eligible for grant. Several bus and boat routes are designated for tourists. They are expected not to meet the criteria of 80 km, and they are usually not offering a year-round service. Some routes may not meet the criterion of having a minimum 15 % loss in turnover and therefore not be entitled to support under the scheme.

#### Ex ante assessments

(77) The potential beneficiaries must apply for each month within 4 weeks after the end of the month. The application will consist of a form and accounts for the month and route(s) in question. The content of the application must be confirmed by an auditor or by a certified accountant. The operator must declare, in the application form, that

- the loss is a direct consequence of the authorities' infection control measures due to the outbreak of COVID-19
- the costs has been limited as far as possible
- he/she does not receive compensation for the same losses from other sources
- he/she has conducted their activities with due diligence and in compliance with applicable legislation

(78) The applicant will receive grant for a given route if all of the below conditions are met:

- the route is a year-round scheduled bus or passenger boat service
- the operator has a licence in accordance with § 6 or § 7 of the Act of Occupational Transport
- the service has a minimum scheduled distance of 80 kilometres one way
- the service does not receive public grants for the operation
- the loss in turnover is more than 15 percent
- the calculated grant exceeds 5000 NOK
- the loss is related to transport operations
- the operator has reduced the costs as much as possible

- the loss is a direct consequence of the authorities' infection control measures due to the outbreak of COVID-19
- the loss is not covered by other types of state aid

The grant will be 80 percent of net loss for June and July, and 60 percent for August 2020, adjusted for the growth rate.

#### Random checks

- (79) The application must be confirmed by an auditor or by a certified accountant. The meaning of random checks after this, is mainly to confirm that no other aid is paid out for the same damage. If so, the Norwegian authorities will recover the given amount from the beneficiary. The checks will be made by controlling a number of the beneficiarie's accounts at the end of the year.
- (80) We expect a low number of applications, and the known businesses involved are fairly large operators with much experience in the business. The accounts shall be confirmed by an auditor or by a certified accountant. On this basis we estimate the risk to be low.
- (81) If the applicants follow the rules stated in the draft regulation, over-compensation should not be possible. This means that over-compensation only can occur if something is wrong with the application and/or the accounts. Ex post control will therefore also confirm that the compensation does not exceed the damage.



DET KONGELIGE  
SAMFERDSELSDEPARTEMENT

Ifølge liste

Deres ref

Vår ref

Dato

20/1598-

30. juni 2020

**Utkast til forskrift om midlertidig tilskudd til operatører av kommersielle buss- og passasjerbåtruter som har tapt omsetning som følge av utbruddet av covid-19 – Høring**

Vedlagt følger utkast til midlertidig forskrift om tilskudd til operatører av kommersielle buss- og passasjerbåtruter som har tapt omsetning som følge av utbruddet av covid-19.

Stortinget har i budsjettvedtak 739 19. juni 2020, etter forslag fra regjeringen, jf. pkt. 6.10 i Prop. 127 S (2019–2020), avsatt 100 millioner kroner til en midlertidig tilskuddsordning for operatører av kommersielle buss- og passasjerbåtruter.

Formålet med ordningen er å opprettholde tilbudet av kommersielle langdistanse buss- og passasjerbåtruter ved å kompensere for tapte billettinntekter som følge av smitteverntiltak som er innført for å bekjempe covid-19.

Alle kommersielle operatører som har løyve for rutetransport med buss eller passasjerbåt på en rute som er lengre enn 80 km, kan søke om tilskudd etter ordningen så lenge ruten har helårsdrift og det ikke mottas kompensasjon for offentlig tjenesteytelse på ruten. Operatørene må ha hatt et omsetningstap på minimum 15 prosent sammenlignet med samme periode i 2019 for å kunne motta tilskudd. Tilskuddet skal dekke 60 prosent av netto omsetningstap sammenlignet med samme periode i 2019, og skal ikke føre til overkompensasjon.

For å sikre kontinuiteten i transporttilbudet er det viktig å få ordningen raskt på plass.

**Departementet ber om eventuelle merknader til forslaget og utkastet til forskrift innen tirsdag 7. juli 2020 kl. 12.00.**

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Høringssaken er tilgjengelig på departementet sine nettsider: <https://tinyurl.com/y9usepny>.

Vi ber om at høringsuttalelsen blir sendt elektronisk ved bruk av den digitale løsningen for høringsuttalelser (under "Send inn høringssvar" på denne siden). Ved spesielle behov for innsending på annen måte, kan hørings svar sendes til Samferdselsdepartementet per e-post til: [postmottak@sd.dep.no](mailto:postmottak@sd.dep.no). Alle høringsuttalelser er offentlige etter offentleglova og blir publisert sammen med andre høringsuttalelser.

Tilskuddsordningen skal også notiseres til EFTAs overvåkinsorgan, ESA, og det skjer parallelt med denne høringen. Det gjøres oppmerksom på at eventuelle endringer i ordningen som følge av høringen må godkjennes av ESA. Slike vil eventuelt bli ettersendt ESA etter høringsfristens utløp.

## **Bakgrunn**

### Næringen

Kommersielle bussruter, og da særlig ekspressbussene, har en sentral rolle som kollektivtilbud i store deler av distriktsnorge, og de binder byer, bygder og landsdeler sammen. Nor-Way Bussekspress, Vy Ekspress og Unibuss Ekspress har 175 busser som kjører 25 ruter rundt om i Sør-Norge. Dette rutetilbudet er et supplement til tog- og flyruter. På mange strekninger er ekspressbussene det eneste kollektivtilbudet.

Tilbud av kommersielle båtruter, det vil si båtruter som ikke mottar offentlig støtte, er offentlig eid eller der rutetilbudet blir kjøpt av det offentlige, har ikke like stort omfang, men er også tenkt omfattet av ordningen.

### Utbruddet av covid-19

Etter at myndighetene stengte ned flere offentlige arenaer og innførte omfattende smitteverntiltak fra 12. mars 2020, sank etterspørselen etter de aktuelle transporttjenestene med mellom 85 og 95 %, ifølge bransje- og arbeidsgiverforeningen NHO Transport. Ruter ble lagt ned på midlertidig basis, og mange av sjåførene ble permittert eller omdisponert til annet arbeid. Fortsatt drift av de resterende rutene påførte næringen betydelige tap.

### Smitteverntiltak – veileder for smittevern i kollektivtransport

Fra 12. mars ble befolkningen oppfordret til å unngå å reise med kollektivtransport dersom det ikke var nødvendig. Helsedirektoratet publiserte 5. mai 2020 en nasjonal veileder for smittevern i kollektivtransport (buss, tog, trikk mv.). Både veilederen og anbefalingen om å begrense bruk av offentlig transport gjelder fortsatt, men vil kunne endres dersom smittesituasjonen i landet forandrer seg. Det følger av kapittel 3 i veilederen at de grunnleggende smitteverntiltakene er:

- Syke personer skal holde seg hjemme
- God hånd- og hostehygiene og forsterket renhold
- Kontaktreducerende tiltak

Folkehelseinstituttet og Helsedirektoratet anbefaler minimum én meters avstand mellom personer, og legger føringer på kollektivtrafikken:

- Opptil 50 % av passasjerkapasitet bør benyttes for å ivareta avstand.
- Passasjerer bør stå/sitte spredt, for eksempel på annethvert sete.

I veilederens kapittel 7 gis også råd om ekstra renhold av transportmidler og andre områder der de reisende oppholder seg.

Videre i kapittel 7 gis blant annet følgende råd til passasjerer:

- Ikke reis hvis du er syk: Hvis du er syk eller mistenker at du er syk bør du ikke reise med offentlig kommunikasjon.
- Er reisen nødvendig? Vurder nødvendigheten av å gjennomføre reisen.
- Bruk sykkel og andre transportmidler: Hvis mulig, oppfordres du til å sykle, gå eller bruke andre transportmidler istedenfor å bruke offentlig kommunikasjon.

Smitteverntiltakene vil ha innvirkning på inntektene og kostnadene til kollektivtransportoperatørene. I verste fall kan nedgangen i omsetning føre til at tilbudet til de reisende reduseres eller faller bort som følge av at operatørene går konkurs eller innstiller ruter og avganger for å begrense omsetningstap.

Lokal kollektivtransport kompenseres ved at fylkeskommunene kjøper kollektivtransporttjenester. Dette finansieres av fylkeskommunenes frie inntekter. Stortinget har bevilget 3,1 mrd. kr over rammetilskuddet for å sette fylkeskommunene i stand til å opprettholde det lokale kollektivtransporttilbudet etter utbruddet av covid-19 og innføring av smitteverntiltakene. Kommersielle langdistanseruter blir ikke kompensert gjennom disse midlene.

For å opprettholde tilbudet av kommersielle langdistanseruter, har Stortinget derfor vedtatt å opprette en egen tilskuddsordning for disse rutene.

#### Rammene i statsstøtteregelverket

Mulighetene for å gi tilskudd til virksomheter er begrenset av EØS-avtalens regler om statsstøtte. I henhold til artikkel 61 (1) i EØS-avtalen er enhver støtte gitt av statsmidler i enhver form, som vrir eller truer med å vri konkurransen ved å begunstige enkelte foretak eller produksjon av enkelte varer, uforenelig med EØS-avtalen i den utstrekning støtten påvirker samhandelen mellom avtalepartene.

Regelverket er ikke endret grunnet det pågående covid-19 utbruddet. Det er imidlertid åpnet for å bruke hjemlene i EØS-avtalen artikkel 61 (2) og 61 (3), som normalt ikke brukes ved notifikasjon av støttetiltak, for å gi støtte. Tilskuddsordninger som hjemles i disse bestemmelsen må notifiseres til EFTAs overvåkningsorgan (ESA), også når ordningen er begrunnet i covid-19-utbruddet.

EØS-avtalen artikkel 61 (2) bokstav b sier at "støtte som har til formål å bøte på skader som skyldes naturkatastrofer eller andre eksepsjonelle hendelser" skal være forenlig med EØS-avtalen. Hva som utgjør "eksepsjonelle hendelser" må vurderes konkret. Det er signalisert at utbruddet av covid-19 er en eksepsjonell hendelse.

Kostnadene som dekkes må være direkte knyttet til covid-19-utbruddet, og det er viktig å sikre at støtten ikke innebærer overkompensasjon. For å unngå overkompensasjon, bør støtteordninger inneholde en mekanisme for å hindre dette.

## **Forslag til utforming av tilskuddsordning**

Formålet med tilskuddsordningen er å bidra til å opprettholde tilbudet av kommersielle langdistanse buss- og passasjerbåtruter ved å kompensere for tapte billettinntekter som følge av smitteverntiltak som er innført for å bekjempe Covid-19, jf. § 1 i forskriftsutkastet.

### Hvem kan få tilskudd – virkeområde

Samferdselsdepartementet legger opp til at ordningen rettes inn mot ekspressbusser og båtruter som fyller en tilsvarende rolle som ekspressbusser. Det er her behovet er meldt, og det er her departementet ser det som viktigst å sette inn tiltak for å sikre kollektivtilbudet på hovedtransportårene i landet.

Tilskuddet kan gis til søker som har løyve etter yrkestransportloven §§ 6 eller 7 til å drive persontransport i rute med motorvogn eller passasjerbåt, når ruten er over 80 kilometer en vei. Det er et krav at det er helårsdrift på ruten, og at rutene er kommersielle – dvs. at operatøren ikke mottar kompensasjon for offentlig tjenesteytelse på hele eller deler av ruten, jf. § 2 i forskriftsutkastet.

Kommersielle ruter som er kortere enn 80 km og sesongruter er dermed ikke omfattet av ordningen. Dette gjør at mange flybussruter og turistruter ikke vil være omfattet. Avgrensningen skal sørge for at tilskuddet går til å kompensere langdistansetilbud hvor det ofte ikke er alternative transporttilbud på strekningen.

Med båt menes passasjerbåt. Det ytes ikke tilskudd til operatører av ferjeruter.

I vurderingen der det er lagt til grunn at det er lengre ruter som bør støttes, har Samferdselsdepartementet også lagt vekt på at fylkeskommunene har ansvar for den lokale kollektivtransporten. Fylkeskommunene kan vurdere på selvstendig grunnlag om de finner det påkrevd å støtte kortere kommersielle ruter.

### Vilkår for å motta tilskudd

Søker som faller inn under § 2 kan få kompensasjon i henhold til beregningen i § 4, når tapet er en direkte følge av smitteverntiltakene som er innført i forbindelse med covid-19-pandemien. Tapet kan således være en følge både av det generelle reiserådet om å begrense bruken av kollektivtransport og at bare halvparten av setene om bord kan benyttes.

For å komme inn under ordningen må søker ha et omsetningstap på ruten som utgjør mer enn 15 prosent sammenlignet med tilsvarende periode i 2019.

Det er et vilkår for å motta tilskudd at ruten det søkes tilskudd for blir kjørt i henhold til planlagt rutetabell slik den ville vært uten utbruddet av Covid-19-pandemien.

Vilkårene skal sikre at mottaker ikke får tilskudd for inntektsbortfall som skyldes andre forhold enn covid-19-utbruddet, og sikre at det faktisk blir utført transport på strekningen.

#### Beregning av støtte

Beregning gjøres for hver rute og per kalendermåned.

Samferdselsdepartementet legger opp til at for å kunne få tilskudd, må netto omsetningstap (tapte inntekter minus sparte kostnader) overstige 15 % av omsetningen i samme måned i 2019. Når dette inngangskravet er oppfylt, ytes tilskudd tilsvarende 60 % av netto omsetningstap. Eksempelvis sammenlignes omsetningen på rute X i juni 2019 med omsetningen på samme rute i juni 2020. Differansen er omsetningstapet. Deretter må man trekke fra sparte kostnader. Dette omfatter også inntekter operatøren kan ha mottatt gjennom andre kompensasjonsordninger. Da står man igjen med netto omsetningstap, og tilskuddsbeløpet blir da 60 % av dette, gitt at alle planlagte avganger kjøres.

Dersom en eller flere avganger ikke er kjørt i henhold til planlagt rutetabell slik den ville vært uten utbruddet av covid-19, foreslår departementet et trekk i tilskuddsbeløpet. Formålet er at man ikke skal yte tilskudd for avganger som ikke kjøres. Beregnet tilskuddsbeløp fra avsnittet over divideres med antall avganger i rutetabellen og multipliseres med antall kjørte avganger.

Begrunnelsen for satsen på 60 % er å opprettholde insentivet i næringen til å tiltrekke seg kunder, ved at man får høyere inntekt ved å selge en billett enn man kan få i tilskudd for et tomt sete.

Det foreslås ellers at det ikke utbetales tilskudd for beløp under 5 000 kroner per kalendermåned per rute, og at det ikke utbetales tilskudd for nye ruter hvor det er søkt om ruteløyve etter 12. mars 2020.

#### Varighet og saksbehandlingsregler

Forskriften skal tre i kraft straks. Det kan søkes om tilskudd for månedene juni, juli og august 2020. Ettersom ordningen er rammestyrte i henhold til Stortingets bevilgning, må tilskuddet avkortes forholdsvis den siste måneden det utbetales dersom det ikke er tilstrekkelige midler i ordningen. Dersom det ved en søknadsbehandling ikke er nok midler igjen, vil de resterende midlene fordeles på søkerne forholdsmessig etter søknadsbeløp. Det kan ikke tildeles mer midler enn det som er bevilget.

For søknadsbehandling etter forskriften gjelder reglene i forvaltningsloven. Søknad sendes etterskuddsvis, innen 4 uker etter utgangen av måneden det søkes om tilskudd for. På bakgrunn av at forskriften vil bli fastsatt i juli, vil søknadsfristen for juni 2020 være 4 uker etter at forskriften er kunngjort.

Søknad om tilskudd skal utformes på det formatet departementet bestemmer.

Jernbanedirektoratet er ansvarlig for søknadsbehandling. Samferdselsdepartementet er klageinstans.

Innholdet i søknaden skal bekreftes av revisor eller autorisert regnskapsfører. Søker skal også legge frem slik bekreftelse ved fastsetting av årsregnskapet for 2020.

Søker skal ved søknad erklære at kostnader ved virksomheten/ruten er begrenset så langt som mulig, og at vedkommende ikke mottar kompensasjon eller dekning for tilsvarende tap fra andre ordninger.

Dersom det er utbetalt tilskudd i strid med bestemmelsene i denne forskriften, skal det uriktig utbetalte beløpet tilbakebetales Jernbanedirektoratet.

## **Samferdselsdepartementets vurderinger**

### Alternative løsninger

Fylkeskommunene har ansvar for den lokale kollektivtransporten. De er dermed nærmest til å vurdere behovet for kollektivtruter innad i og ut av eget fylke. Det er også fylkeskommunene gir løyve til kommersielle buss- og båttruter. De kan videre kjøpe tjenester på hele eller deler av kommersielle ruter, og de kan velge å opprette en rute selv (anbud) dersom en kommersiell rute skulle bli avvirket. På denne bakgrunn har det blitt vurdert om fylkeskommunene burde yte støtte eller foreta kjøp av de kommersielle rutene i inneværende kriseperiode.

Samferdselsdepartementet er ikke kjent med at fylkeskommuner faktisk har bidratt med støtte til kommersielle ruter i kriseperioden. Fylkeskommunene har på sin side hatt betydelige utfordringer med å holde driften oppe i den delen av kollektivtrafikken som faller direkte inn under det fylkeskommunale ansvaret. De har også mottatt betydelige summer for å gjøre dette. Ettersom dette ikke har kommet den kommersielle delen av kollektivtilbudet til gode, har departementet ansett det som mer treffende med en egen tilskuddsordning for ekspressbussruter og tilsvarende passasjerbåttruter.

Samferdselsdepartementet har også vurdert andre beregningsmetoder for tilskudd. Det har bl.a. blitt vurdert å gi tilskudd for tapte billettinntekter, eller et tilskudd som står i direkte forhold til de stengte setene i bussen. Netto omsetningstap, som ligger til grunn for den valgte beregningsmodellen, tilsvarer det staten lovlige kan gi i tilskudd innenfor statsstøttereguleringen. På den bakgrunn må dette uansett beregnes, selv om man skulle foretrekke en annen beregningsmetode.

En modell hvor man dekket tapte billettinntekter, kunne ført til overkompensasjon. Det samme gjelder om man skulle dekket et gitt inntektstap per rutekilometer eller passasjerkilometer. Både hensynet til overkompensasjon og tanken om at det samme tapet

ikke bør dekkes flere ganger gjennom ulike ordninger, taler for at kompensasjon fra andre ordninger må trekkes fra et gitt støttebeløp. Departementet legger også opp til å trekke fra sparte utgifter. I motsatt fall kan tilskuddsmottakerne i gitte tilfeller tjene på en slik modell (overkompensasjon), mens dersom man trekker fra sparte utgifter, er man i praksis tilbake til å beregne netto omsetningstap. Det er derfor vurdert som både en hensiktsmessig og treffende løsning.

Dersom staten skulle betale billettprisen til de stengte setene, ville man også risikert overkompensasjon. Gitt at operatøren klarer å fylle bussene halvveis opp, og staten kjøper de resterende setene, tilsvarer det å stadig kjøre med fulle busser, noe som neppe var tilfellet før covid-19, og som igjen betyr overkompensasjon. Det ble også vurdert å gi et tilskudd tilsvarende en gjennomsnittsbillett for hver billett operatøren solgte. Regneeksempler viste imidlertid at avganger med få passasjerer ville komme svært dårlig ut, mens avganger med mange passasjerer ville komme for godt ut. Ordningen var m.a.o. ikke treffende, samtidig som den ikke tok hensyn til det faktum at det er svikt i etterspørselen pga. covid-19.

Forslag i retning av å registrere av alle på- og avstigende på ulike holdeplasser med ulike reiselengder er forkastet fordi det ville blitt en for krevende jobb både å søke og behandle søknadene.

## **Økonomiske og administrative konsekvenser**

For offentlige myndigheter innebærer tilskuddsordningen at det blir satt av 100 millioner kroner i statsbudsjettet til kompensasjon under ordningen. For Jernbanedirektoratet vil ordningen innebære at de må sette av ressurser til administrasjon av ordningen. Fordi ordningen er begrenset i tid, og tallet på ruter som potensielt er omfattet av ordningen er begrenset, vil ordningen kunne administreres innenfor gjeldende budsjettmessige rammer.

For næringen vil ordningen bidra til å redusere omsetningstap som følge av utbruddet av covid-19, og legge til rette for at de kan opprettholde det planlagte transporttilbudet i sommermånedene. Ordningen kan bidra til å unngå konkurser for de selskapene som er mest presset av omsetningsnedgang som følge av smittevernstiltak.

For de reisende vil ordningen gi positive virkninger i form av at transporttilbudet på de kommersielle langrutene kan opprettholdes.

Med hilsen

Cecilie Taule Fjordbakk (e.f.)  
avdelingsdirektør

Ole Rasmus Owe  
seniorrådgiver

*Dokumentet er elektronisk signert og har derfor ikke håndskrevne signaturer.*

Adresseliste  
Agder fylkeskommune  
Arbeids- og sosialdepartementet  
Arbeidsgiverforeningen Spekter  
Barne- og familiedepartementet  
Fagforbundet  
Finans Norge  
Finansdepartementet  
Forbrukerrådet  
Forbrukertilsynet  
Forsvarsdepartementet  
Funksjonshemmedes Fellesorganisasjon  
Helse- og omsorgsdepartementet  
Hovedorganisasjonen Virke  
Hurtigbåtenes Rederiforbund  
Innlandet fylkeskommune  
Justis- og beredskapsdepartementet  
Klima- og miljødepartementet  
Kollektivtrafikkforeningen  
Kommunal- og moderniseringsdepartementet  
Konkurransetilsynet  
KS  
KS Bedrift  
Kulturdepartementet  
Kunnskapsdepartementet  
Landbruks- og matdepartementet  
Landsorganisasjonen i Norge  
Likestillings- og diskrimineringsombudet  
Møre og Romsdal fylkeskommune  
NAV - Arbeids- og velferdsdirektoratet  
NHO Reiseliv  
NHO Transport  
Nordland fylkeskommune  
Norges Blindforbund  
Norges Handikapforbund  
Norges Ingeniør- og Teknologorganisasjon -  
NITO  
Norges Turbileierforbund  
Nærings- og fiskeridepartementet  
Næringslivets Hovedorganisasjon  
Olje- og energidepartementet  
Oslo kommune - Byrådsavdeling for miljø og  
samferdsel  
Pasientreiser HF

Pensjonistforbundet  
Politidirektoratet  
Regelrådet  
Regjeringsadvokaten  
Rogaland fylkeskommune  
Samarbeidsforumet av funksjonshemmedes  
organisasjoner - SAFO  
Skattedirektoratet  
Standard Norge  
Statens råd for likestilling av  
funksjonshemmede  
Statistisk Sentralbyrå  
Statsministerens kontor  
Troms og Finnmark fylkeskommune  
Trøndelag fylkeskommune  
Utenriksdepartementet  
Vestfold og Telemark fylkeskommune  
Vestland fylkeskommune  
Viken fylkeskommune  
Yrkesorganisasjonenes Sentralforbund  
Yrkestrafikkforbundet