



## **European Commission**

Directorate-General for Competition

1049 Bruxelles

BELGIQUE/BELGIË

stateaidgreffe@ec.europa.eu

Oldenburg, Lower Saxony, Germany, 28 May 2026

**Re:** Market information regarding SA.122175 (2026/N) – Football stadium, City of Oldenburg (Germany) – Non-confidential

Dear Sir or Madam,

The Directorate-General for Competition (DG Competition) submitted a list of questions in connection with case SA.122175 (PN), to which the City of Oldenburg replied within the deadline of 13 May 2026. Having received a briefing on those replies, we write to draw the Commission's attention to a number of material inaccuracies and misleading statements in the information provided by the Applicant. In light of the concerns set out below, we respectfully urge the Commission to bring this notification procedure to a close with a negative ruling, rather than continuing the process.

## **The Applicant and the Recipient**

The City of Oldenburg (Applicant) in Lower Saxony, Germany, is planning to construct a second football stadium to DFB 3. Bundesliga standards, with provision for future expansion to meet the requirements of a 2. Bundesliga licence. The recipient of the proposed state aid is Stadion Oldenburg GmbH & Co. KG (Recipient), which is wholly owned by the city council.

## **The Informant**

Initiative KEIN StadionBau is a non-profit campaign opposing excessive state aid to commercial football businesses and their infrastructure. We are concerned that SA.122175 (2026/N):

- confers a selective economic advantage upon the Beneficiary;
- involves a disproportionate, oversized second stadium, given that there is no entitlement to third-division football;
- grants the Beneficiary de facto exclusive use of the pitch, with alternative uses rendered highly restricted and prohibitively costly; and
- is operated by a wholly owned municipal vehicle, with a competitive tender for the operator deliberately avoided – in contrast to, for example, the approach taken in Dresden – thereby sheltering the Beneficiary from normal market forces.

## The Measures Distorts the European Football Market

The Applicant's position is: „The granting of aid is directed exclusively toward the stadium company (owner/operator level) for the construction and operation of the new stadium. VfB Oldenburg (user level) will pay a market rate fee for the use of the stadium. This ensures that the club cannot indirectly obtain an impermissible benefit—and thereby gain an advantage over potential competitors.“<sup>1</sup>

The Informants's position is, that in the case of the stadium envisioned by the Applicant, market distortion arises from the fact that VfB Oldenburg Fußball GmbH, by virtue of a municipal stadium, is placed in a financially stronger position than football clubs belonging to competitors such as Molenbeek (RWDM), Midtjylland or Metz. Whether a rental fee on a proportional basis could serve to remedy this situation under the "private investor principle" remains to be clarified. The operating aid will permanently and substantially exceed the total sum of the usage fees. We argue in the following, that the measure distorts the European Football Market.

We would very much welcome a clarifying statement by the Commission on this matter.

## Comparable Infrastructure: Private Investment in Germany and Neighbouring Countries

The provision of grassroots sports infrastructure is generally recognised as a public responsibility. Under the City of Oldenburg's sports promotion rules, clubs may receive up to 30 percent of the cost of infrastructure projects. The Hans-Prull-Stadion<sup>2</sup> – a 400-spectator ground and the privately owned home stadium of fifth-division club VfL Oldenburg e.V. – has benefitted from this rule.

The picture changes materially when it comes to commercial or professional sports infrastructure. Contrary to what the Applicant has asserted, German municipalities do not bear a general public duty to finance stadiums for professional football. In the Lord Mayor's own words, the project is “not about us engaging in sports there; rather, it is about professional football.”<sup>3</sup> This framing runs contrary to the position of the Bundesinstitut für Bau-, Stadt- und Raumforschung (BBSR), which has confirmed that facilities serving “exclusively or predominantly the needs of elite or professional sports, or that are operated on a commercial basis” are ineligible for the federal sports facilities renovation fund.<sup>4</sup>

Competitors directly affected by the proposed measure illustrate the disparity vividly. SV Jeddelloh II, which competes in the same league with the Beneficiary, plays on a public pitch in a nearby village. When the SSV Jeddelloh II Fußball Geschäftsbetrieb GmbH upgraded its floodlights at a cost of €75,000, it contributed more than half. At roughly the same time, the Applicant installed UEFA Category 3 floodlights at the Marschweg Stadion at a cost of €1.2 million, entirely from public funds. When the Jeddelloh clubhouse was destroyed by arsonists, the club raised funds to rebuild it independently. At around the same time, the Applicant replaced the seating at the Marschweg Stadion – because the DFB required higher seat backs for third-division matches – entirely at public expense and at no cost to the Beneficiary.

By contrast, a number of comparable stadiums in Germany have been financed wholly or substantially by private investors. The Recipient's Managing Director, Stefan Orth, was hired in

---

<sup>1</sup> Oldenburg City Council on 15 May 2026:

[https://cdn.website-editor.net/b293d33874454bbd87c8ed26bbeb994e/files/uploaded/Mail\\_15.05.26\\_Antwort\\_20260527\\_web.pdf](https://cdn.website-editor.net/b293d33874454bbd87c8ed26bbeb994e/files/uploaded/Mail_15.05.26_Antwort_20260527_web.pdf)

<sup>2</sup><https://www.europlan-online.de/hans-prull-stadion-kr/stadion-1237.html>

<sup>3</sup>See <https://youtu.be/JhTWkJPgwX0>

<sup>4</sup>Bundesamt für Bauwesen und Raumordnung (BBR), 2 February 2026.

part because of his experience as President of FC St. Pauli during the construction of the Millerntor-Stadion – a staged project largely privately funded, with a one-off municipal grant from the City of Hamburg of €5.5 million,<sup>5</sup> representing less than 10 percent of the total construction cost of €62 million. The contractor for that project was Walter Hellmich GmbH, which also submitted the sole qualifying bid in the public tender for the Oldenburg stadium.

When the Beneficiary qualified for the 3. Bundesliga, so did SV Elversberg. While the Beneficiary subsequently dropped back to the fourth division, SV Elversberg advanced to the 2. Bundesliga, requiring a €15 million stadium renovation borne entirely by the club.<sup>6</sup> SV Elversberg has recently qualified for the 1. Bundesliga and plans further stadium expansion. The Saarland may offer up to 50 percent match funding, yet even this falls far short of the arrangement proposed here, under which the Beneficiary pays usage fees of at most €1 million against operating aid of at least €3 million, with continuous operating losses absorbed by the Applicant.

VfL Osnabrück Stadion GmbH & Co. KG formerly owned the “An der Bremer Brücke” stadium outright; the city council has since taken it over and plans a refurbishment that it claims falls just below the GBER Article 55 thresholds. Dr. Thomas Groß of the European Legal Studies Institute has submitted market information to DG Competition alleging a breach of state aid rules.

Perhaps the most instructive comparison is the WIRmachenDRUCK Arena in Großaspach (capacity: 10,001), opened in 2011 as the home of SG Sonnenhof Großaspach, who have recently qualified for the 3. Bundesliga. This stadium was financed entirely by a group of private investors.

Most football stadiums in neighbouring Denmark are also largely privately funded. We therefore urge the Commission to treat SA.122175 as a “stop-line” case, to prevent Osnabrück and other municipalities in Germany, the Netherlands and Sweden from proceeding with potentially unlawful aid measures.

## **Policing Costs for High-Risk Matches**

The Beneficiary avoids alternative venues in the neighbouring city-state of Bremen for financial reasons. Bremen is, to date, the only federal state to have required the football industry to contribute to the costs of policing high-risk matches – a rule upheld by the highest courts<sup>7</sup> yet applied by only one state. This distorts competition. In the single season in which the Beneficiary played in the 3. Bundesliga, high-risk fixtures generated 20,000 additional police hours at a cost of €1.4 million to the Land of Lower Saxony.<sup>8</sup> Accordingly, the failure to recover these costs from the Beneficiary constitutes a material hidden subsidy to VfB Oldenburg Fußball GmbH, VfL Osnabrück GmbH & Co. KG aA and other football businesses.

## **Alternative Venues and Cross-Border Competition**

Also in the catchment area is the Euroborg Stadium in Groningen (Netherlands), which will shortly be connected by the “Wunderline” cross-border rail service. This project – which has received a €12.7 million grant from the EU’s Connecting Europe Facility – will offer a journey time of under two hours from Oldenburg. Once operational, the Euroborg Stadium and the planned Oldenburg stadium will be in direct, cross-border competition for events.

---

<sup>5</sup><https://www.kiezkicker.de/kiezkicker/2006/rekonstruktion-des-millerntorstadions-baubeginn-im-winter/>

<sup>6</sup>15 March 2023: <https://www.liga3-online.de/sv-elversberg-so-soll-das-stadion-nach-dem-umbau-aussehen/>

<sup>7</sup>Weser-Kurier, <https://www.e-pages.dk/weserkurier/369555/article/2533881/2/1/render/>

<sup>8</sup>Statement by the Ministry of the Interior of Lower Saxony concerning home games of VfB Oldenburg.

## Private Investor Principle

Against the backdrop of numerous privately planned and operated stadium projects in Germany (including, as we documented in Ares(2026)4852605 – comp(2026)5368556, the example in Jena), it is essential that this project be placed in private hands. This conclusion is reinforced by the usage plans submitted by the Applicant, which confirm that the football pitch is reserved exclusively for league fixtures, with all amateur sport remaining at the existing Marschweg Stadion.

When the Applicant refers to “amateur sport”, there is a risk of terminological confusion: fourth-division football (the former Amateur-Oberliga) is colloquially described as “amateur” in German, yet all players under contract with the Beneficiary are professional footballers for whom the sport is their principal source of income.

The Applicant’s suggestions that the arena could host equestrian events, freestyle motocross (FMX) or concerts are purely theoretical. The Managing Director of the Recipient himself has acknowledged that he is not aware of any stadium where equestrian tournaments actually take place, and has conceded that concerts and equestrian events are merely a possibility, not a commitment.<sup>9</sup> The cost of covering the heated pitch would be wholly disproportionate to the ticketing revenues of a 10,000-PAX venue. The infrastructure therefore fails to be genuinely multi-functional or accessible on transparent and non-discriminatory terms; it is de facto dedicated to the Beneficiary’s commercial football business.

## Market-Rate Rent

Even in the 3. Bundesliga scenario, the rent paid by the Beneficiary would cover only approximately one quarter of costs, with three quarters absorbed by the Applicant as operating aid. After the €15 million investment aid, the Recipient is expected to take a loan of €42.3 million at an interest rate of 3.97% (with an 80% loan guarantee by the Applicant). The first year interest payment of €1.68 million will far exceed the rent set for the beneficiary. The Recipient’s estimated annual revenue (4th division case) is less than €1.5 million. A private investor would never build an infrastructure, if the expected revenues are below the interest paid.

The Applicant is speculating that the GBER operating aid threshold may be raised in 2027, yet the Recipient’s own business plan “assumes static costs and revenues.” In practice, real losses will increase with inflation, making it very likely that operating aid will continue to exceed any revised threshold in 2027 or 2033.

The Applicant has acknowledged that the rent will be set through a political process rather than by independent experts. The Applicant claims to have commissioned the IFS Institut für Sportstättenberatung GmbH to establish a market-rate rent. However, the IFS is a management consultancy that has been advising the Applicant on this project since early 2024. Its independence is therefore compromised. Moreover, calculating the fee based on a 30% usage share is methodologically flawed: the Beneficiary occupies the fanshop, the office and stadium’s interiors are fitted in their colours. The stadium would not be constructed at all but for the Beneficiary’s need for a 3. Bundesliga-compliant ground.

The comparison with the Eintracht-Stadion in Braunschweig (which, like the Steigerwald-Stadion in Erfurt (SA.35135 (2012/N)) and the Applicant’s own Marschweg Stadion, is used for amateur, youth and grassroots sport 93 percent of the time, with commercial football as a secondary use) confirms the point. In SA.122175, the sole justification

---

<sup>9</sup>Instagram interview with Managing Director Orth: <https://www.instagram.com/p/DYyhA4pssYc/>. When asked how many stadiums host equestrian tournaments, Orth replied: "None at all." When asked about concerts, Orth stated: "I never said that concerts and equestrian tournaments would take place. I only ever said that they could take place."

for the infrastructure measure is commercial use by the Beneficiary, and the stadium is being built exclusively for that purpose. The rental conditions presented by the Applicant neither satisfy the private investor principle nor conform to market conditions.

*In the Lord Mayor’s own words:*

“Ultimately, the question is whether there is a viable economic foundation for professional football. And that entails – for instance – hospitality areas, as well as the ability to properly cater to sponsors. As things stand, they are forced to head out into the rain to reach a pagoda tent – which I believe, from the standpoint of comfort – is hardly what sponsors are willing to spend significant sums of money on. This means you are constantly burdened by a financial liability ... a burden you face when you are compelled to purchase mobile floodlights, or when you have to relocate your matches to Hannover simply because you require lawn heating. That weighs on the profitability [of the Beneficiary].”<sup>10</sup>

With the Applicant covering more than three-quarters of costs in the form of continuous operating aid, the economic advantage to the Beneficiary amounts to approximately €4 million per year within the meaning of state aid law.

### Undisclosed Cost Increases

The Applicant has declared to DG Competition a 10 percent risk contingency of approximately €5.7 million. However, the site presents significant additional risks. The upper half of the debris pile is undergoing only partial remediation. All construction work must be supervised by the Explosive Ordnance Disposal Service, and the removal of residual contamination will be billed on a time-and-materials basis. These factors expose the Applicant to considerable cost overruns beyond the stated contingency.

In addition, the following ancillary construction costs totalling €2,360,000 (Annex KSB 05) are not included in the reported construction cost of €57.3 million:

Item	Cost	Notes
Drainage (Weser-Ems Hall, Stadium and Kramermarkt site)	€1,270,000	Implementation per development plan; includes project management and fees.
Compensation measures	€365,000	Stipulated in the urban development agreement.
Traffic management measures	€125,000	Stipulated in the urban development agreement.
Administrative costs	€200,000	Material and personnel costs for land-use planning; per urban development agreement.
Permit fees	€400,000	Building permits, structural engineering reviews and building surveys.

<sup>10</sup>NWZ VfB-Talk, 1 June 2023: [https://youtube.com/clip/UgkxqpNA1rbfekzQDlv\\_JlgvcRvGCZRheLJR](https://youtube.com/clip/UgkxqpNA1rbfekzQDlv_JlgvcRvGCZRheLJR)

Item	Cost	Notes
<b>Total ancillary construction costs</b>	<b>€2,360,000</b>	Not included in the €57.3 million reported to the Commission.

## Recipient's Losses Twice as High as Projected

The annual financial statements of Stadion Oldenburg GmbH & Co. KG as at 31 December 2024, audited by FTSP FRISIA-TREUHAND Schmäddeke GmbH & Co. KG, Oldenburg, record total assets of €133,251.97 and an annual deficit of €179,711.25.<sup>11</sup>

The Recipient was originally projected to require operating aid of €240,000 in both 2025 and 2026, during the pre-construction phase. In practice, operating aid in 2025 amounted to approximately €438,500 – almost twice the projection – and the forecast loss for 2026 stands at €651,500.<sup>12</sup>

The Applicant has itself acknowledged that “due to the deficit situation of the stadium company [the Recipient] – which, according to planning forecasts, is expected to be permanent – no bids were submitted without a security model involving a municipal default guarantee” (Annex KSB 04, answer to question 4). If the auditors have not classified the Recipient as a firm in difficulty, it is solely because it is wholly owned by the city council with effectively unlimited public funding. That is precisely the circumstance in which state aid rules must apply with full rigour.

## The Beneficiary Exhibits Signs of Financial Distress

The Beneficiary will be the main – and in practice only – source of revenue from the infrastructure. It shows declining revenues, and its accumulated losses have consumed more than half of its subscribed share capital. Losses to date have been covered by two high-net-worth individuals, but no formal agreement obliges them to continue doing so. The Initiative KEIN StadionBau considers the Beneficiary to be a “company in difficulty” within the meaning of the relevant guidelines.

## Absence of Market Value: Restricted Tender

The tender notice for Competition 398960-2025<sup>13</sup> expressly required a minimum of three candidates to be invited to stage two. Yet, according to the Lord Mayor, only two bids were received in stage one and only two final offers in stage two. The tender was also structurally disadvantageous to construction firms from outside Germany: PORR GmbH & Co. KGaA, for example, having built stadiums in Salzburg and Innsbruck, would receive only half the qualifying score attributed to a comparable project in Ingolstadt. A tender attracting only two bidders does not constitute a market-conforming procurement and provides no assurance that public funds have achieved market value.

## Land Valuation

<sup>11</sup>From the minutes of the Finance Committee of the City of Oldenburg, 4 June 2026, p. 10:

<https://buengerinfo.oldenburg.de/getfile.php?id=296361&type=do>

<sup>12</sup>Erfolgsplan Stadion Oldenburg GmbH & Co KG, p. 3:

<https://buengerinfo.oldenburg.de/getfile.php?id=300524&type=do>

<sup>13</sup>Stadt Oldenburg – TU-Vergabe Stadionneubau Oldenburg: <https://ted.europa.eu/de/notice/-/detail/398960-2025>

For the purposes of valuation, the City of Oldenburg instructed the Gutachterausschuss für Grundstückswerte to take into account “restrictive factors present at the time (e.g., an open drainage ditch, a high-voltage power line) – as well as any restrictive factors that may have subsequently arisen.”<sup>14</sup> All of those restrictive factors are being removed prior to construction and are not included in the €57.3 million construction cost reported to the Commission. We therefore maintain, as set out in our previous submissions, that the Applicant has artificially suppressed the declared land value.

## **Absence of a European Dimension of Sport**

The declared objective of the infrastructure measure is to enable the Beneficiary to reach the 2. Bundesliga.<sup>15</sup> Capacity is limited to approximately 10,000 seats, in part because of difficulties in providing sufficient parking; expansion to meet second-division requirements would necessitate a costly multi-storey car park. As demonstrated in our previous submissions, the stadium’s catchment area overlaps with Emmen and Groningen in the Netherlands; the project does not qualify as a service of general economic interest; and it provides no space for youth or school sport.

The stadium is being constructed on a constrained site with insufficient space for the wider stands required for an all-seater ground to UEFA Category 3 or 4 standard. The Applicant has confirmed that VfB Oldenburg does not pursue the sporting objective of participating in UEFA competitions. The project therefore fails to serve an objective of common interest within the meaning of Article 165 TFEU (the European dimension of sport, intercultural understanding, or the understanding among peoples).

## **Investment Aid and Operating Aid Granted Prior to Commission Approval**

Lending institutions were informed that the Recipient would receive a plot of land valued at approximately €7.4 million and an additional €15 million equity contribution from the City of Oldenburg. The equity contribution was approved by the City Council on 28 October 2024.<sup>16</sup> Approximately one-third of that equity has already been transferred to the Recipient prior to formal pre-notification.

## **Apparent Intention to Breach the Prohibition on Implementation**

The Applicant is aware of the prohibition on implementing aid measures prior to Commission authorisation. It has represented to the Commission that the construction contract will be awarded expressly subject to Commission approval and that construction will not commence unless and until such approval is granted.

However, on 24 May 2026, the Lord Mayor stated publicly that “for economic reasons, therefore, the aim should be to place the order as quickly as possible – and on very short notice – following the Council decision on 1 June 2026” (Annex KSB 01, answer to question 4b). We expect the construction contract to be signed on or around 2 June 2026. An exit clause is set to expire on 30 September 2026, before the new administration is sworn in.

We have notified the Municipal Supervisory Authority at the Lower Saxon Ministry of the Interior of the competition law violation that occurred on 22 May 2026 (Annex KSB 03), on the following basis:

---

<sup>14</sup>Order by the City of Oldenburg to the Gutachterausschuss für Grundstückswerte, 17 September 2024.

<sup>15</sup>Press release by the City of Oldenburg, 18 September 2024:

<https://www.oldenburg.de/metanavigation/presse/pressemitteilung/news/tipps-der-anderen-erhoehen-die-eigene-treffsicherheit.html>

<sup>16</sup>Statement by the Lord Mayor to the elected representatives, 28 October 2025.

In the context of an ongoing state aid notification procedure, the only permissible suspensive effect is one that prevents implementation of the aid measure pending EU approval. A “revocatory effect” is not a recognised legal concept and does not satisfy the requirements of the prohibition on implementation. If the contract is awarded without such a suspensive condition, this constitutes a violation of the prohibition on implementation.

Local elections are imminent, and the Lord Mayor has stated publicly that if the project is not progressed now, he cannot envisage a successor taking it forward. The Applicant appears to be acting in bad faith in order to create a fait accompli.

## Request for a Negative Ruling

In light of the above, we respectfully request that the Commission end this notification procedure now with a negative ruling. Continuing the examination in circumstances where the Applicant appears unwilling to comply with its obligations under EU state aid law would risk large amounts of unlawful aid being expended on a disproportionate project designed exclusively to benefit a single commercial football business.

We also renew our request that the Commission require the Applicant to address the inconsistencies identified in our submission of [13 May 2026](#) (Ares(2026)4852605 – comp(2026)5368556).

## Previous Market Information Submitted

We have previously submitted non-confidential market information concerning the planned football stadium in Oldenburg on the following occasions:

- February 2023 (COMP/C4/AdS/mdr D(2023)911774 – SA.106365)
- February 2025 (Ares(2025)1455524 – comp(2025)2976646)
- [8 September 2025](#)
- [3 March 2026](#) (Ares(2026)2320566 – comp(2026)2597125)
- [13 May 2026](#) (Ares(2026)4852605 – comp(2026)5368556)

In all of those submissions we asked the Directorate-General for Competition to subject notification SA.122175 (PN) to thorough examination and to withhold approval of the aid on grounds of manifest market distortions and the absence of a legitimate public interest.

We consent to the publication of the market information contained in this submission and remain available to answer any questions or provide further clarification.

Thank you for your time and consideration.

Yours faithfully,

For the Initiative KEIN StadionBau

Klaas Brümman,      Gesa Gerding,      Andreas Kölling  
E-mail: [info@keinstadionbau.de](mailto:info@keinstadionbau.de)  
Holtzinger Str. 16, 26121 Oldenburg  
Tel. +49 441 72508