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Decision No 092/20/COL

Ministry of Trade, Industry and Fisheries
PO Box 8090 Dep
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Norway

Subject: COVID-19 Amendments and prolongation of the compensation scheme for the cancellation of sports and volunteer events

1 Summary

- (1) The EFTA Surveillance Authority (“ESA”) wishes to inform Norway that, having assessed the notified amendments and prolongation of the compensation scheme for the cancellation or postponement of sports or volunteer events (“the measures”), it considers that the measures constitute state aid within the meaning of Article 61(1) of the EEA Agreement and decides not to raise objections¹ to the measures, as they are compatible with the functioning of the EEA Agreement, pursuant to its Article 61(2)(b). ESA has based its decision on the following considerations.

2 Procedure

- (2) The Norwegian authorities notified the measures on 14 July 2020.²

3 Description of the existing scheme and the measures

3.1 The compensation scheme for the cancellation or postponement of sports or volunteer events

- (3) By [Decision No 033/20/COL](#),³ ESA approved the compensation scheme for the cancellation or postponement of sports or volunteer events due to the COVID-19 outbreak (“the scheme”). Undertakings are eligible for grants under the scheme if they are registered in the Register of Non-Profit Organisations and have had to cancel or postpone sports or volunteer events as a consequence of the COVID-19 situation. The scheme applies to the whole territory of Norway and is open to organisers of sports or cultural events, or events to benefit the objective of the volunteer organisation.
- (4) The general conditions of the scheme are described in [Decision No 033/20/COL](#).

¹ Reference is made to Article 4(3) of the Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

² Document Nos 1144331, 1144332 and 1144333.

³ ESA’s [Decision No 033/20/COL](#) of 3 April 2020 on COVID-19 Compensation scheme for the cancellation or postponement of sports or volunteer events.

3.2 The notified prolongation and amendments

3.2.1 Objective

- (5) The objective of the scheme is to compensate for eligible losses caused by the cancellation or postponement of sports and volunteer events to combat the spread of COVID-19.
- (6) With restrictions due to COVID-19 still in place, the level of activity will be affected throughout the summer in the volunteer and sports sector. It will be very difficult for undertakings in the sector, with reference to e.g. restrictions on public gatherings, to be able to resume normal activity in the time to come and until 31 August, due to the prolonging of the restrictions. Therefore, the Norwegian authorities intend to compensate for eligible losses until 31 August 2020.
- (7) Furthermore, the scheme, in its original form, has been found to not sufficiently cover the activities affected by the restrictions in place. As a result, the objective of the measures is to incorporate damages related to a broader scope of events, to include other specified and time-limited activities affected by the COVID-19 outbreak.
- (8) Finally, the Norwegian authorities intend to reduce the aid intensity, in order to incentivise the sector to resume activity rather than rely on full loss coverage for cancellations.

3.2.2 The duration of scheme – prolongation

- (9) The existing scheme entered into force on 14 April 2020. It covered losses suffered from 5 March 2020 to 30 April 2020 included. The prolonged scheme will cover eligible losses suffered from 12 March 2020 until 31 August 2020 included. The deadline for applications will be 15 September 2020.

3.2.3 Beneficiaries

- (10) Under the existing scheme there was a requirement that the beneficiary was an organiser of sports and cultural events or events to benefit the objective of the volunteer organisations. However, the measures widen the scope of activities covered. Therefore, in addition to “events”, the beneficiary can also have provided “other specified activities”. The definition of “other specified activities” is: activities arranged by non-profit organisations that are registered in the Register of Non-Profit Organisations that were meant to be open to visitors in the period between 12 March 2020 and 31 August 2020, such as museums, aquariums or sports facilities. This also includes rental of buildings, rooms, facilities, cabins, boats and other rooms for rent.

3.2.4 Eligible costs and calculation methodology

- (11) The eligible costs of the measures have been changed. The measures now compensate for:
 - (a) net lost income from events, with explicit limitations set out in the Regulation (see paragraph (22) below);
 - (b) net lost ticket revenue and rental income related to “other specified activities”.
- (12) “Net loss of income” is defined as the difference between the budgeted income and the actual income. Avoided costs and costs covered by other aid amounts in

relation to COVID-19 shall be deducted. The net loss of income must be documented by referring to accounts from previous and comparable events or activities.

- (13) Eligible costs, when it comes to other specified activity mentioned in letter b, is net lost ticket revenue, related to activities open for visitors, offered by the beneficiaries, and beneficiaries' net lost rental income.
- (14) The losses must be directly linked to the Government's regulations limiting events or other specified activities due to the COVID-19 outbreak. The scheme applies to eligible net losses of income related to events or other specified activities, which by Government advice or order have been fully or partially cancelled or postponed.
- (15) Only loss that is related to COVID-19 and Government restrictions on number of people gathered will, by referring to net income from similar arrangements in 2019 or other previous years, be eligible costs under this scheme and entitled to compensation.
- (16) In the application form, the applicants must confirm that the loss of income, for which compensation is sought, is a consequence of a recommendation or decision by public authorities and that all conditions in the Regulation (see paragraph (22) below) are fulfilled.
- (17) The Norwegian Gaming and Foundation Authority ("NGFA") will perform *ex post* control, based on a risk assessment of the applicants and the information provided, included documented accounting from previous and comparable events and activities. With the exception of the relevant changes made under the measures, the *ex post* control under the measures will remain the same as in the existing scheme. The NGFA will also perform *ex ante* control of the application amount for all applicants, by comparing the amount with information they have on the organisations' total budget and costs.
- (18) When calculating the net losses that will be compensated, the beneficiary must also take into account and make use of any insurance agreements, contract clauses (for example that there is no obligation to refund tickets if the event is cancelled due to force majeure) or other relevant rights that may reduce the loss of income.
- (19) Losses not eligible for compensation are listed in Section 2-3 of the Regulation (see paragraph (22) below). Therefore, losses related to sponsorship and advertising revenues, donations, membership revenues, training fees and fund raisers will not be covered under the measures.

3.2.5 Aid intensity

- (20) The aid intensity of the scheme is reduced from 100% to 70% under the proposed amendments.

3.3 National legal basis and aid granting authority

- (21) The scheme is administered by the NGFA, on the basis of the budget proposition Prop. 127 S (2019–2020).

- (22) The national legal framework for the scheme is set out in the Regulation on a temporary compensation scheme for the volunteer- and sports sector due to the COVID-19 outbreak (“the Regulation”). The Regulation has been revised and simplified due to the notified amendments.

3.4 Budgetary implications

- (23) The total budget of the scheme is increased from NOK 700 million to NOK 1.87 billion (approx. EUR 175 million).⁴

3.5 Commitments from the Norwegian authorities

- (24) 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.
- (25) 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 their damages.
- (26) 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.
- (27) The Norwegian authorities commit to provide a report no later than 1 year after the date of the decision, specifying the amount of compensation and recoverable advances granted.

4 Presence of state aid

- (28) Article 61(1) of the EEA Agreement reads as follows: “Save as otherwise provided in this Agreement, 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.”
- (29) The qualification of a measure as aid within the meaning of this provision therefore 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.
- (30) ESA has concluded that the scheme constitutes state aid within the meaning of Article 61(1) of the EEA Agreement.⁵ There is nothing in the current notification which alters this conclusion. The prolonged scheme will cover eligible losses suffered from 12 March 2020 until 31 August 2020 included and it will widen the scope of activities covered.

⁴ Exchange rate: NOK 1 = EUR 0.094, 13.07.2020.

⁵ ESA’s [Decision No 033/20/COL](#) of 3 April 2020 on COVID-19 Compensation scheme for the cancellation or postponement of sports or volunteer events.

- (31) On this basis, ESA concludes that the measures constitute state aid within the meaning of Article 61(1) of the EEA Agreement.

5 Procedural requirements

- (32) 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."
- (33) The Norwegian authorities have notified the measures and have not let the amendments and prolongation enter into force yet. They have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3.

6 Compatibility

- (34) ESA must 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: "The following shall be compatible with the functioning of this Agreement: aid to make good the damage caused by natural disasters or exceptional occurrences". ESA has no discretion in assessing the compatibility of aid that falls within this category and meets the terms of Article 61(2)(b) of the EEA Agreement.
- (35) ESA concluded in [Decision No 033/20/COL](#) that the scheme is compatible with the functioning of the EEA Agreement pursuant to its Article 61(2)(b). The notified amendments and the prolongation of the scheme do not alter those conclusions.
- (36) The amended basis for loss calculations does not alter the finding that the scheme is compatible with the functioning of the EEA Agreement under its Article 61(2)(b). By further limiting the compensation to net lost income from events and other activities covered, i.e. net lost ticket revenue and rental income, as well as deducting avoided costs, sponsorship and advertising revenues, donations, membership revenues, training fees and fund raisers, the measures enhance the avoidance of overcompensation. The reduced aid intensity further facilitates the avoidance of overcompensation.
- (37) The notified amendments to the activities covered by the scheme, i.e. to include "other specified activities" as defined in Section 3.2.3, do not alter the previous finding of compatibility of the scheme. The included activities are only eligible for compensation for lost ticket revenue as a result of the COVID-19 outbreak. Moreover, the mechanisms and commitments in place contribute to the avoidance of overcompensation.
- (38) Furthermore, ESA considers that the notified prolongation is appropriate, given the challenges which it is meant to facilitate, due to the ongoing economic effects of the COVID-19 outbreak.
- (39) In light of the above, ESA finds that the notified measures are consistent with the logic of the scheme and that they are proportionate under the circumstances, caused by the exceptional occurrence of the COVID-19 outbreak.

7 Conclusion

- (40) On the basis of the foregoing assessment, ESA considers that the measures constitute state aid within the meaning of Article 61(1) of the EEA Agreement. Since no doubts are raised that this aid is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(2)(b), ESA has no objections to the implementation of the measures.
- (41) The Norwegian authorities have confirmed that the notification does not contain any business secrets or other confidential information that should not be published

For the EFTA Surveillance Authority,

Yours faithfully,

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*This document has been electronically authenticated by Bente Angell-Hansen,
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