



EUROPEAN COMMISSION

Brussels, 19.12.2013
C (2013) 9675 final

PUBLIC VERSION

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Subject: State aid SA.36882 (2013/N) – Italy
Support for skiing areas of local interest in Tuscany

Sir/Madame,

I. Procedure

- (1) By letter dated 21 June 2013, the Italian authorities notified a support in favour of local interest skiing areas in Tuscany for reasons of legal certainty.
- (2) On 11 July 2013, the Commission sent the first request of information to the Italian authorities to which they replied by letter dated 25 July 2013.
- (3) On 30 July 2013, the Commission sent a second request of information and it received the reply by letter dated 8 August 2013.
- (4) On 20 September 2013, a meeting was organised between the Commission's case team and the Italian authorities to discuss outstanding issues.

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- (5) On 11 October 2013, the Italian authorities sent their additional clarifications to the questions raised during that meeting.

II. Description of the measure

- (6) **Objective:** The measure concerns the financing of interventions in favour of Garfagnana, Montagna Pistoiese and Amiata which are skiing areas of local interest in the region of Tuscany (separated and unrelated to each other).
- (7) **Legal basis:** The relevant legal basis for the scheme is based on Law 135/2001, "legal framework for tourism"; on Law 363/2003 "rules on winter sports and downhill skiing safety"; on Law 93/1993 "rules on the ski slopes and facilities connected to them"; on Law 35/2000 "regional interventions in the field of production activities" and on Law 59/2012 which approved the regional economic development plan-PRSE 2012-2015.
- (8) **Budget and Form support:** Specifying the budget and form of support, the measure was notified as an aid scheme with a total budget for the 2013-2015 three-year periods not exceeding EUR 20,000,000. The current year attribution will not be superior to EUR 3,000,000 and the predictable maximum expenses will amount to EUR 8,000,000 million in 2014 and EUR 9,000,000 million in 2015. The aid should be provided in the form of direct grants.
- (9) **Beneficiaries:** The aid is designed as a "dual track" support as the beneficiaries will be both local SMEs and local public bodies located in the areas mentioned in point (1), which operate ski and related sport centers. The beneficiaries can be in an estimated range number from 11 to 50 to be selected through public tenders published in the Regional Official Bulletin as well as online on the website of the regional Government. The mentioned tenders will comply with the reporting, transparency, monitoring and evaluation criteria set out in EU Public Procurement Law. The beneficiaries defined as "local" are exclusively local municipalities, their unions and local public bodies operating in the affected areas and SMEs which are operators of ski lifts or ski slopes and respond to specific requirements as to be managers of equipped areas, to exercise the related activities and to invest in those areas.
- (10) **Aim of the support, selection process and transparency:** The aid addressing local public bodies has the purpose to acquire, upgrade, expand, extend, secure and realize the ski lifts and snow-making as well as tracks and related facilities. On the other hand, the aid intended for the SMEs concerns investment, upgrading, modernization and safety of cableways and associated structures including supply of the control systems; as well as other expenses, such as such as rescue, security, energy, depreciation mortgages, leasing needed and typing slopes, that are necessary for the maintenance of the cableways or associated structures and ancillary to the eligible activities. Those interventions that are related to an economic activity must be entrusted to third parties selected by public tenders. These tenders will indicate the beneficiaries, the intervention location, the types of eligible actions, the assistance amount, the cost validity period, the type of

eligible costs, the submission procedures, the deadlines with the subsequent region investigation and other relevant selection and award criteria based on the transparency principle. In order to ensure maximum transparency, the selection list will also identify eligible interventions, the beneficiary local authority with the amount both of the contribution and of the investment subjected to the funds availability allocated by the tender and the eligible but not funded interventions. The list of not eligible interventions, accompanied with reasons, will also be public.

- (11) **Intensity:** The maximum intensity will be of 60% for SMEs and of 50% for local public bodies. The increase up to 100% of the regional contribution will be used solely for public local bodies' intervention considered as "strategic". The latter interventions are those that due to their location and type can have positive effects on the mentioned areas demonstrated with specific master plan and feasibility studies. The resources which can be assigned to strategic interventions in the context of public tenders may not exceed EUR 3,000,000.
- (12) **Eligibility:** The interventions will be dedicated to the three mentioned local interest areas which have the following specific characteristics:

	Garfagnana	Montagna Pistoiese	Amiata
Weekly ski passes	0%	5,13%	0,91%
Beds available	422	1568	1220
Length of sky runs	less than 3 km	37 km	10 km
Economics activities	Agriculture, forestry, transformation of local food, winter and summer tourism.		
Development variables	Essentially incentives to tourism on the snow.		
Possible positive impact of the public intervention	Maintenance of tourism by ensuring the adjustment or replacement of structures for safety purposes (public bodies and SMEs investments); maintenance of the status quo of the affluence and of the tourist efficiency (SMEs operating expenses).		
Intervention methodology	Transparent and open public tenders.		

III. Assessment of the measure

- (13) According to Article 107(1) TFEU "any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favoring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market".

- (14) The Commission adopted several decisions concerning aid for investment intended to mechanical lifts and to other facilities of winter sports resorts. In particular, the Commission has had the opportunity to present its legal analysis in decisions concerning previous similar State aid cases which Italy has implemented in favor of cableway installations, such as in the Autonomous Province of Bolzano¹, Valle d'Aosta², Prada-Costabella³ and Veneto⁴. These decisions recognize that "installations for sports activities in areas with few facilities for the practice of winter sports and tourism capability tend to have a limited purely local catchment and are not capable of attracting users who have the option to opt for sport facilities located in other Member States." Consequently, the aid concerning this type of facilities is generally not able to affect trade between the Member States and therefore does not fall within the scope of Article 107(1) TFEU.
- (15) Indeed, in its decisions related to the above cases the Commission concluded that the aid for the construction of this type of sport facilities does not constitute State aid within the meaning of EU State aid law. The Commission argued more specifically that cableway installations of local interest are those made in winter sports resorts with a number of facilities less than or equal to three, with overall length of not more than 3 km, or those with a number of hotel beds available less than or equal to 2000 and with a number of weekly pass sold not superior to the 15 % of the total number of passes sold. The criteria used in these decisions to identify the winter sports resorts with purely local interest or where the aid is not likely to affect trade between the Member States are identical to that invoked in the present case.
- (16) Accordingly, the Commission concludes that the measure in question, being limited to winter local sports resorts, is generally not able to affect trade between the Member States and therefore does not constitute State aid within the meaning of Article 107(1) TFEU.

IV. Decision

- (17) In the light of the foregoing assessment, the Commission considers that the measure does not constitute State aid within the meaning of Article 107(1) TFEU.
- (18) If this letter contains confidential information, which should not be published, please inform the Commission services within 15 working days after receipt of this letter by providing reasons. If the Commission does not obtain a reasoned request within this delay, it will presume that you agree with the publication towards third parties and with the publication of the entire wording in the authentic language on the following internet website <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

¹ Decision 9 April 2002, OJ 2003 L 183/19.

² Decision 7 May 2004, OJ 2005 C 131.

³ Decision 14 December 2004, OJ 2005 C 131.

⁴ Decision 27 February 2008, OJ 2009 C 699.

(19) Your request should be sent by registered letter or fax to:

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B-1049 Brussels
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Yours faithfully,

For the Commission

Joaquín ALMUNIA
Vice-President