Brussels, 23.04.2019
C(2019) 2881 final

Subject: State aid / Hungary
SA.50848 (2018/N)
Animal welfare measures in the poultry sector

Sir,

The European Commission ("the Commission") wishes to inform Hungary that, having examined the information supplied by your authorities on the State aid scheme referred to above, it has decided not to raise any objections to the relevant scheme as it is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty on the Functioning of the European Union ("TFEU").

The Commission has based its decision on the following considerations:

1. **PROCEDURE**

(1) By letter of 10 April 2018, registered by the Commission on the same day, Hungary notified, according to Article 108(3) TFEU, the above-mentioned aid scheme. The Commission sent requests for additional information to the Hungarian authorities on 5 June 2018, 12 November 2018 and 25 January 2019, which the Hungarian authorities answered by letters of 17 September 2018, 22 November 2018 and 6 February 2019 and 28 February 2019 respectively, registered by the Commission on the same dates.

2. **DESCRIPTION**

2.1. **Title**

(2) Animal welfare measures in the poultry sector.

His Excellency Péter Szijjártó
Minister of Foreign Affairs and Trade
Bem rkp.47
HU-1027 Budapest
HUNGARY
2.2. Objective

(3) With the present notification the authorities of Hungary wish to improve the welfare of poultry\(^1\) by:

(a) reducing the level of undesirable substances in feed,
(b) ensuring the gentle movement and transport of animals,
(c) ensuring a better microclimate in the stalls and
(d) using feed with a lower crude protein content.

2.3. Legal basis

(4) The legal basis is the draft Decree of the Ministry of Agriculture about the conditions of animal welfare aid in the poultry sector (.../2019, (...) AM rendelet a baromfi ágazatban igénybe vehető állatjóléti támogatások feltételeiről).

2.4. Duration

(5) From its approval by the Commission until 31 December 2025.

2.5. Budget

(6) The overall budget amounts to HUF 85 222 million (EUR 274 million). The aid will be granted by the Hungarian State Treasury (hereinafter “the granting authority”). The scheme will be financed from the State budget.

2.6. Beneficiaries

(7) The beneficiaries are primary agricultural enterprises of all sizes keeping poultry. Their number is estimated to be above 1,000.

(8) Aid will not be granted to undertakings in difficulty, within the meaning of the definition stipulated in point 35 (15) of the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020\(^2\) (hereinafter "the Guidelines").

(9) The payment of the aid will be suspended if the beneficiary still has at its disposal an earlier unlawful aid that was declared incompatible by a Commission Decision (either concerning an individual aid or an aid scheme), until the beneficiary has reimbursed or paid into a blocked account the total amount of the unlawful and incompatible aid including the corresponding recovery interest.

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\(^1\) The word „poultry” is used in its wider sense in this decision. The different poultry species and age groups to which the scheme applies are detailed in Section 2.7.2.

2.7. Description of the aid scheme

2.7.1. General provisions

(10) The scheme aims to compensate for additional costs resulting from commitments towards the improvement of the welfare of poultry, made on a voluntary basis and going beyond the relevant mandatory standards established at EU level or current industry practices.

(11) The commitments will be undertaken for a renewable period of one year and the conditions of the present decision will be respected in any renewed commitment.

(12) The measure takes the form of a direct grant premium. This form has been chosen with respect to the objective of the aid scheme, which is to incentivise animal welfare commitments by providing compensations for additional costs incurred.

(13) Aid can be granted up to 100% of the eligible costs, i.e. the additional costs resulting from the welfare commitment. Transaction costs will not be eligible for aid. VAT will neither be eligible for aid except where it is not recoverable under the national VAT rules.

(14) The aid calculation is based on additional costs, on the basis of data provided by the Agricultural Economic Research Institute (Agrárgazdasági Kutatóintézet), the Poultry Product Board (Baromfi Terméktanács) as well as by invited independent experts. The Hungarian authorities provided a detailed description relating to the method of calculation of the aid amount for each of the sub-measures. They confirm that the calculation will take into account only elements that are verifiable and based on figures established by appropriate expertise, that clearly indicate the source of the figures used and that do not contain elements linked to investment costs.

(15) Aid will be granted annually by the granting authority and the eligible costs will be supported by clear, contemporary documentary evidence. For the purposes of calculating the aid amount and the eligible costs, all figures used will be taken before any deduction of tax or other charge.

(16) The aid amount is calculated per livestock unit (“LU”). The data provided by the Hungarian authorities show that if a beneficiary implements all the welfare measures, the maximum aid amount is HUF 105,456 (EUR 340) per LU.

(17) According to the Hungarian authorities, all the proposed measures go beyond the minimum mandatory legal requirements, as detailed below in Section 2.7.2.

(18) The Hungarian authorities undertook to adjust the animal welfare commitments of the present aid scheme in case of amendment of the relevant mandatory standards above the current standards.

(19) The Hungarian authorities confirmed that the primary objective of the aided activities is not to provide for an increase in the number of animals. Consequently, wastewater and manure output will not increase either.

(20) They have also confirmed their commitment to respect all obligations stemming from the environmental legislation in force. All the proposed measures must
therefore comply also with the mandatory legal requirements of Directive 2010/75/EU and Commission Implementing Decision 2017/302/EU. The implementation of this State aid scheme should not result in State aid being provided for measures designed to comply with the upper end of the BAT-AEL range e.g. for ammonia emissions set in Decision 2017/302/EU.

(21) Aid for the same eligible costs cannot be cumulated with aid received from other local, regional, national or Union schemes.

(22) The proposed welfare measures are not included in the Rural Development Program ("RDP") of Hungary 2014-2020. However, the scheme is consistent with the animal welfare objectives pursued by that RDP.

(23) The aid applications have to be submitted annually. No aid will be granted for costs incurred prior to the submission of the application.

(24) The aid application shall include *inter alia*: the applicant's name, the size of the undertaking, the location to which the commitment relates, the dates on which the aid-related commitment begins and ends, the amount of aid needed to carry it out and the eligible costs.

(25) In addition, large enterprises will also have to describe in the application the situation that would have occurred without the aid and to submit documentary evidence in support of that counterfactual scenario. The national authorities will carry out a credibility check of the counterfactual scenario in order to confirm that the aid has an incentive effect.

(26) The Hungarian authorities have committed themselves to adapt the scheme, if necessary, to the new State aid rules in force after the expiry of the Guidelines.

(27) Hungary has informed the Commission that in order to comply with the transparency requirement the publication of the aid scheme and the individual aid awards above EUR 60 000 will be done through the following web page: [https://webgate.ec.europa.eu/competition/transparency/public/search/home/](https://webgate.ec.europa.eu/competition/transparency/public/search/home/).

2.7.2. Specific welfare commitments

1. Reducing the level of undesirable substances in feed

(28) The aim of the sub-measure is to provide a lower level of the mycotoxin deoxynivalenol (hereinafter: DON) in poultry feed.

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The minimum basis requirement as regards DON level is laid down in the Annex to Commission Recommendation 2006/576/EC. The guidance value for DON in complementary and complete feedingstuffs for poultry is 5 mg/kg.

The draft decree sets the level at 2.5 mg/kg.

Poultry keepers must have the DON level checked by an accredited laboratory once per rotation. Alternatively, they can also obtain the results of the laboratory check from the feed manufacturer.

2. Ensuring the gentle movement and transport of animals

The aim of the sub-measure is to ensure the gentle movement and transport of animals by the following means: use of mobile cages placed one on the other for birds weighing less than 3 kg; only manual loading; training of the handlers, and existence of a feed and water deprivation plan.

There are no EU or national provisions for the above measures. However, Hungary has provided data about the proportion of broken limbs before the introduction of animal welfare measures and about their current prevalence, shown in the table below. According to the Hungarian authorities, the reduction is due to the introduction of animal welfare measures in the poultry sector (see SA.36364 (2013/N)). In order to receive the aid, the proportion of broken limbs cannot exceed the 2017 values.

<table>
<thead>
<tr>
<th>Proportion of broken limbs</th>
<th>2007</th>
<th>2017</th>
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<tbody>
<tr>
<td>Chicken (Broilers)</td>
<td>5.2%</td>
<td>2.0%</td>
</tr>
<tr>
<td>Turkeys</td>
<td>6.7%</td>
<td>2.9%</td>
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<tr>
<td>Ducks (&gt;8 weeks old)</td>
<td>6.5%</td>
<td>3.8%</td>
</tr>
<tr>
<td>Geese (&gt;9 weeks old)</td>
<td>6.5%</td>
<td>3.8%</td>
</tr>
<tr>
<td>Ducks (&lt;8 weeks old)</td>
<td>5.2%</td>
<td>2.9%</td>
</tr>
<tr>
<td>Geese (&lt;9 weeks old)</td>
<td>5.4%</td>
<td>2.5%</td>
</tr>
<tr>
<td>Hens</td>
<td>7.2%</td>
<td>4.9%</td>
</tr>
<tr>
<td>Free range chicken and guineafowl</td>
<td>5.2%</td>
<td>2.0%</td>
</tr>
</tbody>
</table>

Source: Poultry Product Board

Aid applications shall include a certificate of the veterinarian treating the stock that the conditions laid down in recital (32) are met and a certificate of the slaughterhouse and the veterinarian supervising the slaughterhouse that the percentages laid down in recital (33) are met.

3. Ensuring a better microclimate in the stalls

The aim of the sub-measure is to ensure a better stall environment (recitals (37) and (38)) through the provision of litter and a better microclimate in the stalls as regards carbon dioxide (CO₂) and ammonia (NH₃) levels (recitals (39) and (40)) through other means.

The minimum basis requirements for the different species are laid down in the following legislation:

(a) As regards broilers, Annex II to Council Directive 2007/43/EC provides, for the use of higher stocking densities, that the concentration of NH$_3$ does not exceed 20 ppm and the concentration of CO$_2$ does not exceed 3 000 ppm measured at the level of the chickens’ heads. There is no specific value laid down for laying hens.

(b) As regards domestic ducks, Article 13(2) of the relevant Recommendation of the Council of Europe provides that the ventilation system, and facilities for storing and handling litter and manure shall be designed, maintained and managed to prevent the exposure of birds to gases such as ammonia, hydrogen sulphide, carbon dioxide in concentrations which cause discomfort to the birds or which are detrimental to their health.

(c) As regards Muscovy ducks, Article 12(2) of the relevant Recommendation of the Council of Europe provides that the ventilation system, and facilities for storing and handling litter and manure shall be designed, maintained and managed to prevent the exposure of birds to gases such as ammonia, hydrogen sulphide, carbon dioxide in concentrations which cause discomfort to the birds or which are detrimental to their health.

(d) As regards geese, Article 13(2) of the relevant Recommendation of the Council of Europe provides that the ventilation system, and facilities for storing and handling litter and manure shall be designed, maintained and managed to prevent the exposure of birds to gases such as ammonia, hydrogen sulphide, carbon dioxide in concentrations which cause discomfort to the birds or which are detrimental to their health.

(e) As regards turkeys, Article 14(2) of the relevant Recommendation of the Council of Europe provides that the ventilation system, and facilities for storing and handling litter and manure shall be designed, maintained and managed to prevent the exposure of birds to gases such as ammonia, hydrogen sulphide, carbon dioxide in concentrations which cause discomfort to the birds or which are detrimental to their health.

(f) As regards guineafowl, there are no specific provision, but the Annex to Council Directive 98/58/EC of 20 July 1998 contains a general provision for all animals kept for farming purposes, saying that gas concentrations must be kept within limits which are not harmful to the animals.

According to the Hungarian authorities, the right quantity and quality of litter provides better humidity and microclimatic conditions.

Aid applicants shall provide, except for broilers kept in cages, 400 g/m$^2$ of litter after the age of 3 weeks, renewed every 3 weeks. Silica or phyllosilicate-based additives should also be added to the litter. Their quantity should be at least 150

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g/m²/week (given in 1 or 2 portions) for waterfowl, and at least 100 g/m²/week for other poultry species.

(39) Aid applicants shall ensure that the level of CO₂ is not more than 2,800 ppm and that of NH₃ is not more than 14 ppm. According to the scientific literature cited by the Hungarian authorities, all poultry species have a similar sensitivity to NH₃. According to the literature cited by the Hungarian authorities, chicken, if given a choice, prefer environments having an NH₃ concentration below 20 ppm. According to the Poultry Product Board, the concentration of NH₃ in poultry stalls is typically 18-20 ppm in Hungary.

(40) The Hungarian authorities have explained that the above concentrations can be reached by different means, depending on the type of the stall and the choice of the producer: improved ventilation, more and better feeders and drinkers, adjustable feeder and drinker technology, temperature control and sufficient litter.

(41) Compliance with the conditions of the sub-measure will be checked once per quarter. The measurement records shall be countersigned by the veterinarian treating the stock.

4. Using feed with a lower crude protein content

(42) The aim of the sub-measure is to reduce the crude protein content of feed, which improves the welfare of the animals by limiting or avoiding the problems related to protein overfeeding.

(43) There is no European or Hungarian legislation in force laying down minimum basis requirements concerning protein overfeeding. However, according to the Hungarian authorities, the problem is well known both in the poultry sector and in the scientific literature⁷.

(44) A lower protein content of the feed results in a lower amount of uric acid synthesis, which reduces the risk of gout. Gout reduces the mobility of animals, which, in turn, results in further health problems, in particular plantar ulcerations and breast blisters. A lower protein content also reduces the amount of undigested protein reaching the appendix, which reduces the risk of enteral diseases. Furthermore, excess nitrogen is mostly excreted by the urine. Less nitrogen excretion results in a better litter quality, which reduces the risk of plantar ulcerations. Finally, less nitrogen also results in a lower NH₃ concentration in the stall.

(45) According to the draft legislation, in order to receive the aid, the crude protein content of feed shall be 1 percentage point below the average crude protein content of finishing feed (laying hen feed in the case of laying hens) used in Hungary, as shown in the table below.

<table>
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<tr>
<th>Crude protein content of finishing (or laying hen) feed</th>
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(46) Compliance with the conditions of the sub-measure will be checked for each generation, using a sample taken by the veterinarian treating the stock sent to an accredited laboratory.

2.7.3. Aid amounts

(47) The aid amounts for the different sub-measures and poultry species are listed in the table below. The column headings follow the numbering used in Section 2.7.2. No aid is granted under sub-measure 1 for hens as they are already covered under SA.41621 (2015/N). The different age groups in the case of ducks and geese mean the age at slaughter; i.e. it is not possible to apply twice for aid for the same generation. Column 3/a. shows the aid amounts for ensuring a better stall environment (recitals (37) and (38)) through the provision of litter, and column 3/b. shows the aid amounts for a better microclimate in the stalls as regards carbon dioxide (CO\(_2\)) and ammonia (NH\(_3\)) levels (recitals (39) and (40)) through other means. No aid is granted to ducks and geese used for foie gras production through intensive feeding.

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</thead>
<tbody>
<tr>
<td>Chicken (Broilers)</td>
<td>2,285.80</td>
<td>696.30</td>
<td>1,641.00</td>
<td>3,047.60</td>
<td>9,475.70</td>
<td>17,146.40</td>
<td>55.31</td>
<td>55.31</td>
<td>55.31</td>
<td>55.31</td>
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<td>55.31</td>
</tr>
<tr>
<td>Free range chicken and guineafowl</td>
<td>3,074.50</td>
<td>939.90</td>
<td>2,093.40</td>
<td>3,564.50</td>
<td>10,903.80</td>
<td>20,576.10</td>
<td>66.37</td>
<td>66.37</td>
<td>66.37</td>
<td>66.37</td>
<td>66.37</td>
<td>66.37</td>
</tr>
<tr>
<td>Hens</td>
<td>N/A</td>
<td>132.00</td>
<td>363.40</td>
<td>847.80</td>
<td>4,069.20</td>
<td>5,412.40</td>
<td>17.46</td>
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<tr>
<td>Geese (&lt;9 weeks)</td>
<td>2,277.58</td>
<td>4,125.60</td>
<td>11,368.40</td>
<td>21,112.70</td>
<td>33,260.50</td>
<td>54,373.00</td>
<td>168.66</td>
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<tr>
<td>Geese (9-13 weeks)</td>
<td>3,299.72</td>
<td>3,906.20</td>
<td>13,662.68</td>
<td>23,263.50</td>
<td>36,926.10</td>
<td>57,263.80</td>
<td>184.72</td>
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<tr>
<td>Geese (&gt;13 weeks)</td>
<td>4,220.74</td>
<td>18,414.40</td>
<td>18,684.30</td>
<td>34,165.60</td>
<td>52,849.90</td>
<td>87,015.50</td>
<td>271.83</td>
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<tr>
<td>Ducks (&lt;8 weeks)</td>
<td>3,381.71</td>
<td>1,431.10</td>
<td>5,845.30</td>
<td>10,855.50</td>
<td>21,741.00</td>
<td>32,596.50</td>
<td>1,076.42</td>
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<td>1,076.42</td>
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<tr>
<td>Ducks (&gt;8 weeks)</td>
<td>3,378.01</td>
<td>4,666.20</td>
<td>13,878.30</td>
<td>26,940.20</td>
<td>30,318.50</td>
<td>34,977.71</td>
<td>1,128.34</td>
<td>1,128.34</td>
<td>1,128.34</td>
<td>1,128.34</td>
<td>1,128.34</td>
<td>1,128.34</td>
</tr>
<tr>
<td>Turkeys</td>
<td>4,867.50</td>
<td>2,556.40</td>
<td>3,695.00</td>
<td>6,028.70</td>
<td>26,395.60</td>
<td>34,443.20</td>
<td>140.14</td>
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3. ASSESSMENT

3.1. Existence of aid - Application of Article 107(1) TFEU

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

(49) 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 imputable to the State and financed through State resources; (ii) it must confer an advantage on its recipient; (iii) that advantage must be selective; and
(iv) the measure must distort or threaten to distort competition and affect trade between Member States.

(50) The scheme in question is imputable to the State and financed through State resources (recital (6)). The notified scheme is selective because other undertakings in a comparable legal and factual situation, such as agricultural producers implementing animal welfare measures, in the light of the objective pursued by the scheme are not eligible for aid and thus will not receive the same advantage. The notified scheme therefore gives only certain undertakings (recital (7)) a selective economic advantage, by strengthening their competitive position on the market. According to the case law of the Court of Justice, the mere fact that the competitive position of an undertaking is strengthened compared to other competing undertakings, by giving it an economic benefit, which it would not otherwise have received in the normal course of its business, points to a possible distortion of competition.\(^8\)

(51) Pursuant to the case law of the Court of Justice, aid to an undertaking appears to affect trade between Member States where that undertaking operates in a market open to intra-EU trade.\(^9\) The beneficiaries of aid operate on the market of poultry where intra-trade takes place. Hungary accounted for about 2% of the EU-28 chicken population, 3% of the turkey population and 9% of the duck and goose population\(^10\) in 2016. Intra-trade in live poultry between Hungary and the other Member States amounted to EUR 60 million for import and EUR 62 million for export in 2017.\(^11\) The sector concerned is open to competition at EU level and therefore sensitive to any measure in favour of the production in one or more Member States. Therefore, the present scheme is liable to distort competition and to affect trade between Member States.

(52) In light of the above, the conditions of Article 107(1) TFEU are fulfilled. It can therefore be concluded that the proposed scheme constitutes State aid within the meaning of that Article. The aid may only be considered compatible with the internal market if it can benefit from one of the derogations provided for in the TFEU.

### 3.2. Lawfulness of the aid – Application of Article 108(3) TFEU

(53) The aid scheme was notified to the Commission on 10 April 2018 (recital (1)). It has not been implemented yet. Therefore, Hungary has complied with its obligation under Article 108(3) TFEU.

### 3.3. Compatibility of the aid

#### 3.3.1. Application of Article 107(3)(c) TFEU

(54) Under Article 107(3)(c) TFEU, an aid may be considered compatible with the internal market, if it is found to facilitate the development of certain economic


\(^{9}\) See in particular the judgment of the Court of 13 July 1988 in Case 102/87 French Republic v Commission of the European Communities, ECLI:EU:C:1988:391.

\(^{10}\) Source: Faostat

\(^{11}\) Source: Eurostat
activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.

(55) For this derogation to be applicable, the aid must comply with the relevant Union State aid rules.

3.3.2. Application of the Guidelines

(56) As regards the notified aid scheme, Section 1.1.5.2 of Part II, Chapter 1 of the Guidelines – Aid for animal welfare commitments is applicable.

3.3.2.1. Common Assessment Principles

(57) Pursuant to point 38 of the Guidelines, the common assessment principles apply to aid granted in accordance with Article 107(3)(c) TFEU.

(58) This aid scheme respects the common assessment principles, in that:

• *It contributes to a common objective* in line with point 43 of the Guidelines. As described above, the objective of the present scheme is to encourage voluntary commitments improving animal welfare. Support is targeted to clearly defined objectives reflecting needs of the poultry-keeping sector, which is one of the sectors ensuring food production (recital (3)).

• Recital (22) shows that the scheme’s goals are also consistent with the rural development objectives referred to in point 10 of the Guidelines which reminds that animal welfare is one of the Union priorities contributing to the achievement of the rural policy objectives; in consequence, the scheme is also closely related to the CAP. Furthermore, the scheme is compatible with the rules on the common organisation of the markets in agricultural products. The scheme is therefore in line with point 44 of the Guidelines.

• The same measure is not co-financed under the RDP of Hungary 2014-2020; therefore, there is no risk of overlap or double funding. As the Hungarian authorities explained, the notified aid scheme is consistent with the objectives of the Hungarian RDP (recital (22)). The Commission thus considers that the conditions of point 47 of the Guidelines are met.

• As regards *environmental objectives*, as confirmed by the Hungarian authorities, the aid scheme is primarily designed to improve the welfare of poultry and not to increase the quantity of animals (recitals (3) and (19)). Furthermore, the Hungarian authorities have confirmed that they will respect the relevant environmental legislation in force (recital (20)). The measure is therefore not expected to have any adverse environmental impact within the meaning of point 52 of the Guidelines.

• *There is a need for State intervention*: pursuant to point 55 of the Guidelines, the Commission considers that the market does not deliver the expected objectives without State intervention regarding aid measures fulfilling the specific conditions set out in Part II of the Guidelines. This aid scheme meets the conditions of Section 1.1.5.2. of Part II of the Guidelines (recitals (59) to (66)). Therefore, the aid is considered necessary to achieve the objectives of common interest.
The aid is appropriate: pursuant to point 57 of the Guidelines, the Commission considers that aid granted in the agricultural and forestry sectors and in rural areas that meet the specific conditions laid down in the relevant Sections of Part II is an appropriate policy instrument. The proposed scheme satisfies the applicable criteria laid down in Part II of the Guidelines (recitals (59) to (66)); therefore, it is considered an appropriate policy instrument. In compliance with point 59 of the Guidelines, direct grants appear to be the most suitable form of aid for reaching the set goals of animal welfare and to compensate for the additional costs linked to the implementation of the welfare measures for poultry (recitals (10) and (12)). In addition, the grant is awarded in the form provided for animal welfare measures in Section 1.1.5.2 of Part II of the Guidelines (premium per livestock unit), in accordance with the provisions of point 60 of the Guidelines.

Incentive effect and need for aid is present: the Hungarian authorities have demonstrated that the scheme will have an incentive effect for the undertakings. As described in recitals (11), (24) and (25), the beneficiaries have to submit the application for the aid annually and the application must contain the data specified in point 71 of the Guidelines. No aid will be granted for costs incurred prior to the submission of the application (recital (23)). In compliance with point 72 of the Guidelines, in order to strengthen the incentive effect of the aid, large enterprises are required to submit a description of the situation without the aid (counterfactual scenario). In assessing the application, the granting authority will carry out a credibility check of the counterfactual scenario and confirm that the aid has an incentive effect (recital (25)).

The aid is proportional: the maximum amount of aid is below the limit laid down in point 240 of the Guidelines (recital (16)). It will be calculated by the granting authority when granting the aid. The eligible costs will be supported by clear, contemporary documentary evidence. For the purposes of calculating the aid amount and the eligible costs, all figures used will be taken before any deduction of taxes or other charges (recital (15)). Value added tax will not be eligible for aid, except where it is not recoverable under the national VAT rules (recital (13)). The aid under this aid scheme can therefore be considered limited to the minimum needed to achieve common objectives.

As mentioned by the Hungarian authorities in recital (14), the aid amount was fixed for all measures according to the requirements of point 93 of the Guidelines.

Furthermore, the draft legislation provides that aid for the same eligible costs cannot be cumulated with aid received from other local, regional, national or Union schemes (recital (21)). Hence, the criterion of proportionality is fulfilled.

The principle of transparency is respected: Hungary made a commitment to publish the information required under point 128 of the Guidelines. Therefore, in the course of the implementation of this aid scheme, transparency will be ensured (recital (27)).

3.3.2.2. Specific assessment according to the category of aid – Section 1.1.5.2 – Aid for animal welfare commitments

(59) According to point 231 of the Guidelines, the Commission will consider aid for animal welfare commitments compatible with the internal market under Article
107(3)(c) TFEU if it complies with the common assessment principles of the Guidelines and the conditions set out in Section 1.1.5.2 of the Guidelines.

(60) According to point 232 of the Guidelines, animal welfare payments must be granted to undertakings active in the primary agricultural production, which undertake, on a voluntary basis, to carry out operations consisting of one or more animal welfare commitments and which are active farmers. According to recitals (7) and (10), these conditions are fulfilled.

(61) According to point 233 of the Guidelines, aid can cover only the commitments going beyond the relevant mandatory standards established pursuant to Chapter I of Title VI of Regulation (EU) No 1306/2013 and other relevant mandatory requirements. The baseline mandatory requirements applicable to this aid scheme are detailed in recitals (29), (33), (36) and (43) respectively for the proposed sub-measures. The sub-measures go beyond these requirements as detailed below, therefore the notified scheme complies with point 233 of the Guidelines:

(a) As regards sub-measure 1, the draft legislation sets the level at 50% of the value laid down in Commission Recommendation 2006/576/EC for all poultry species (recital (30)).

(b) As regards sub-measure 2, there are no relevant EU or national provisions. However, Hungary has provided data about the prevalence of broken limbs before the introduction of the relevant animal welfare measure as a benchmark, and has demonstrated that a significant improvement took place (recital (33)). Furthermore, a reduction in the prevalence of broken limbs has a clear animal welfare benefit.

(c) As regards sub-measure 3, a quantitative limit of NH$_3$ and CO$_2$ is only laid down for broilers kept in higher stocking densities, but as they belong to the same species, it is reasonable to consider the same value as benchmark for laying hens as well. According to the literature, chicken, if given a choice, prefer environments having an NH$_3$ concentration below 20 ppm. According to the Impact Assessment concerning the proposal for a Council Directive laying down minimum rules for the protection of chickens kept for meat production, (COM(2005)221 final), even if CO$_2$ is rarely directly causing welfare problems, high concentrations of CO$_2$ are likely to be accompanied by the presence of harmful levels of other gases and can therefore be used as an indicator for the air quality. As regards the other species, the introduction of a quantitative limit is an improvement over the existing provision. Furthermore, the literature contains no specific

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values for these species; instead, the values established for chicken are suggested for use (recital (39)).

(d) As regards sub-measure 4, there are no relevant EU or national provisions. However, Hungary has provided data about the current industry practices as a benchmark, and laid down lower values for aid applicants. As protein overfeeding is a well-known animal welfare problem, the proposed sub-measure is expected to bring about an animal welfare benefit. (recital (45)).

(62) Point 234 of the Guidelines stipulates that animal welfare commitments eligible for aid must provide upgraded standards of production methods in one of the following areas:

(a) water, feed and animal care in accordance with the natural needs of animal husbandry;
(b) housing conditions, such as increased space allowances, flooring surfaces, enrichment materials, natural light;
(c) outdoor access;
(d) practices which avoid mutilation and/or castration of animals or in specific cases, when mutilation and/or castration of animals is deemed necessary, provide for the use of anaesthetics, analgesia and antiinflammatory medication or immunocastration.

(63) According to recitals (30), (33), (37), (39) and (45), the proposed sub-measures fall within the scope of points 234 (a) and (b) of the Guidelines. Therefore, all the commitments set out under this aid scheme fall entirely within the scope of point 234 of the Guidelines.

(64) The Hungarian authorities confirmed that in compliance with point 235 of the Guidelines, the animal welfare commitments will be undertaken for a renewable period of 1 year (recital (11)). The mechanism of renewal of the contract has been fixed in compliance with point 236 of the Guidelines - the application for aid must be submitted annually (recitals (11) and (23)), and the conditions of the present decision will be respected in any renewed commitment. Thus, the conditions of points 235 and 236 of the Guidelines are complied with.

(65) In compliance with point 237 of the Guidelines, the aid will be granted annually and will compensate farmers for all or part of the additional costs resulting from the voluntary commitment. The aid will not cover transaction costs (recital (13)).

(66) Point 240 of the Guidelines stipulates that the aid must be limited to EUR 500 per livestock unit. The Hungarian authorities provided detailed figures demonstrating that the maximum aid amount cannot exceed EUR 340 per livestock unit if all sub-measures are implemented by a beneficiary (recitals (16) and (47)). Point 240 of the Guidelines is therefore complied with.

(67) The Commission takes note that, in line with point 724 of the Guidelines, the Hungarian authorities made a commitment to adjust the animal welfare
commitments subject to the present State aid in case of amendment of the relevant mandatory standards beyond which the current commitments go (recital (18)).

(68) The Commission notes that in compliance with point 26 of the Guidelines aid will not be granted to undertakings in difficulty (recital (8)).

(69) The Commission takes note that in compliance with point 27 of the Guidelines the Hungarian authorities commit to suspend the payment of the notified aid if the beneficiary still has at its disposal an earlier unlawful aid that was declared incompatible by a Commission Decision (either concerning an individual aid or an aid scheme), until that beneficiary has reimbursed or paid into a blocked account the total amount of unlawful and incompatible aid including the corresponding recovery interest (recital (9)).

(70) The Commission takes note that the Hungarian authorities commit to adapt the scheme, if necessary, to the new State aid rules in force after the expiry of the Guidelines (recital (26)).

(71) In view of the above considerations, the Commission concludes that all the applicable requirements set out in the Guidelines are complied with.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the notified aid scheme on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) TFEU.

If any parts of this letter are covered by the obligation of professional secrecy according to the Commission communication on professional secrecy in State aid decisions and should not be published, please inform the Commission within fifteen working days of notification of this letter. If the Commission does not receive a reasoned request by that deadline, Hungary will be deemed to agree to the publication of the full text of this letter. If Hungary wishes certain information to be covered by the obligation of professional secrecy, please indicate the parts and provide a justification in respect of each part for which non-disclosure is requested.

Your request should be sent electronically via the secured e-mail system Public Key Infrastructure (PKI) in accordance with Article 3(3) of Commission Regulation (EC) No 794/2004, to the following address: agri-state-aids-notifications@ec.europa.eu.

For the Commission

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Phil HOGAN
Member of the Commission