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**Subject: State Aid SA.56915 (2020/N) – the Netherlands  
Direct grant scheme for e-Health services at home under the  
Temporary Framework for State aid measures to support the  
economy in the current COVID-19 outbreak**

Excellency,

**1. PROCEDURE**

- (1) By electronic notification of 2 April 2020, the Netherlands notified aid in the form of *direct grants* (Regeling van de Minister van Volksgezondheid, Welzijn en Sport houdende wijziging van de Stimuleringsregeling E-health Thuis in verband met de uitbraak van COVID-19<sup>1</sup>, “the measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework”).<sup>2</sup>
- (2) The Dutch authorities confirm that the notification does not contain confidential information.
- (3) The Netherlands exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958,<sup>3</sup> and to have this Decision adopted and notified in English.

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<sup>1</sup> Decree of the Minister of Health, Welfare and Sport amending the Regulation for stimulating E-health at home in response to the COVID-19 outbreak.

<sup>2</sup> Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1-9, as amended on 3 April 2020.

<sup>3</sup> Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

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## 2. DESCRIPTION OF THE MEASURE

- (4) The Netherlands considers that the COVID-19 outbreak has started to affect the real economy. The Netherlands Bureau for Economic Policy Analysis (*het Centraal Plan Bureau*) predicated the economic consequences of the COVID-19 outbreak based on four different scenarios. In each of the scenarios, the Netherlands will go into a recession, with a decrease of the GDP in 2020 of 1.2% to 7.7%.
- (5) As regard the health care sector, providers of social support services, health care services and youth care are confronted with the measures of social distancing and quarantine, which have led to the urgent need to invest in e-health applications to ensure the provision of these services at home. They need to incur extra and unforeseen costs to purchase and implement e-health applications and could therefore enter in financial difficulty. The providers need to invest within a short period of time, while at the same time they are confronted with loss of income because certain activities can no longer be provided. They are also required to invest in medical equipment such as protective clothing or disinfectant due to the COVID-19 outbreak.
- (6) In addition, in order to relieve the strain on the health care services provided in hospitals, the Dutch authorities have asked the providers of social support services, health care services and youth care to engage in additional home activities. This is to replace, as far as possible, ‘ordinary’ health care services (non-COVID-19 related health care services) provided within the premises of the hospitals with services that can be provided with e-health applications.
- (7) The extra costs required to provide these additional activities, such as the implementation of e-health applications to ensure the continuity of support or care at home, were unforeseen and therefore not calculated in the budget of the providers of these services. Such providers may therefore face insufficient liquidity as a result of the COVID-19 outbreak.
- (8) The measure is expressly based on Article 107(3)(b) of the Treaty on the Functioning of the European Union (“TFEU”), as interpreted by Section 1 of the Temporary Framework.

### 2.1. The nature and form of aid

- (9) The measure provides aid in the form of direct grants for the purchase, leasing, licensing and implementation of e-health applications.

### 2.2. National legal basis

- (10) The legal basis for the measure are Articles 3 and 5 of the “Kaderwet VWS-subsidies”<sup>4</sup> and Article 1.3 of the “Kaderregeling subsidies OCW, SZW en VWS”<sup>5</sup>.

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<sup>4</sup> Framework Act VWS subsidies.

<sup>5</sup> Framework Regulation OCW, SZW and VWS subsidies.

### **2.3. Administration of the measure**

- (11) The Ministry of Health, Welfare and Sport is the granting authority. The Netherlands Enterprise Agency (“*Rijksdienst voor Ondernemend Nederland*”) is responsible for administering the measure.

### **2.4. Budget and duration of the measure**

- (12) The budget of the measure is EUR 23 million.
- (13) The aid will be granted only after the Commission has authorised the measure.<sup>6</sup> Aid may be granted under the measure until 31 December 2020 but only for applications submitted between 25 March 2020 to 1 June 2020.

### **2.5. Beneficiaries**

- (14) The final beneficiaries of the measure are providers of social support services<sup>7</sup>, health care services<sup>8</sup> and youth care<sup>9</sup>. Aid may not be granted to undertakings that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)<sup>10</sup> on 31 December 2019.

### **2.6. Sectoral and regional scope of the measure**

- (15) The measure is open to providers of social support services, health care services and youth care. The scheme does not apply to e-health innovation clusters<sup>11</sup>. It applies to the whole territory of the Netherlands.

### **2.7. Basic elements of the measure**

#### *2.7.1. Nature of the eligible instrument*

- (16) The measure provides for direct grants for the purchase, lease, licensing and implementation of e-health applications. Examples of e-health applications are apps to ensure proper drug dosage and usage (managing medication) or apps for wound care management to enable digital wound care. E-health applications enable patients to stay at home longer. They contribute to the continuity of support or remote care for patients that have to stay at home.

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<sup>6</sup> The measure will enter into force only after it has been approved by the Commission but will be applied to applications for subsidies submitted as of 25 March 2020. It is understood that the aid will only be granted after approval of the measure by the European Commission.

<sup>7</sup> Providers of social support services as meant in the Social Support Act 2015 (*Wet maatschappelijke ondersteuning 2015*).

<sup>8</sup> Providers of health care services as meant in the Chronic Care Act (*Wet langdurige zorg*) and the Healthcare Act (*Zorgverzekeringswet*).

<sup>9</sup> Providers of youth care as meant in the Child Care Act (*Jeugdwet*).

<sup>10</sup> As defined in Article 2(18) of the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1.

<sup>11</sup> E-health innovation cluster are innovation cluster as meant in Article 2(92) of the GBER. The clusters can apply for grants to invest in e-health applications on the basis of the existing Regulation for stimulating E-health at home.

### *2.7.2. Period for granting the measure*

- (17) The grant can be awarded for activities related to the purchase, lease, licensing and implementation of e-health applications (“projects”) that started after 27 February 2020 and that do not last longer than 9 months. Beneficiaries can apply for the grant since 25 March 2020 until the maximum budget of EUR 23 million is reached and in any event before 1 June 2020 at the latest.

### *2.7.3. Maximum amount of the grant and other conditions*

- (18) The grant is limited to a lump sum of EUR 50 000 per project and can be requested twice by the same beneficiary. A maximum of 50% per grant can be used to cover the purchase, lease or licence e-health applications costs. The other 50% can be used to cover the implementation costs of e-health applications.
- (19) Beneficiaries can only apply for the second grant for a new project if the project for which the first grant has been provided has been completed and the COVID-19 outbreak is still on-going.
- (20) At the end of the period for which the subsidies are granted, the beneficiary is obliged to apply for a final determination of the subsidy by the Netherlands Enterprise Agency. This application must include a formal statement describing the activities that have taken place and detailing the corresponding costs. If based on the application for final determination it turns out that the actual costs were lower, the subsidy will be set lower (clawback mechanism).

## **2.8. Cumulation**

- (21) The Netherlands provides that the aid under this measure may not be cumulated with aid under Sections 3.2 or 3.3 of the Temporary Framework. It may be cumulated with other compatible aid, de minimis aid or with other forms of Union financing provided that the maximum aid intensities indicated in the relevant Guidelines or Block Exemptions Regulations are respected.

## **2.9. Monitoring and reporting**

- (22) The Dutch authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework.

## **3. ASSESSMENT**

### **3.1. Legality of the measure**

- (23) Pursuant to the standstill clause of Article 108(3) TFEU, new aid measures must not be put into effect before the Commission has taken a decision authorising such aid. The measure, i.e. the Decree of the Minister of Health, Welfare and Sport amending the Regulation for stimulating E-health at home in response to the COVID-19 outbreak, will be signed by the competent Minister only after it has been approved by the Commission. The Commission observes that the Netherlands committed not to grant any aid before the approval of the measure by the Commission. The Commission therefore considers that, by notifying the measure before putting it into effect, the Dutch authorities have respected their obligations under Article 108(3) TFEU.

### **3.2. Existence of State aid**

- (24) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.
- (25) The measure is imputable to the State, since it is granted by the Ministry of Health, Welfare and Sport, managed by the Netherlands Enterprise Agency and it is based on the Framework Act VWS subsidies and the Framework Regulation OCW, SZW and VWS subsidies (recitals (10) and (11)). It is financed through State resources, since it is financed by public funds.
- (26) The measure confers an advantage on its beneficiaries in the form of direct grants. The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.
- (27) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular providers of social support services, health care services and youth care that fulfil the conditions detailed in recital (14).
- (28) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (29) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Dutch authorities do not contest that conclusion.

### **3.3. Compatibility**

- (30) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.
- (31) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid “*to remedy a serious disturbance in the economy of a Member State*”.
- (32) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (Section 2) that “*the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings*”. The Commission concluded that “*State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs*”.
- (33) The measure seeks to address the sudden and unforeseen liquidity problems faced by the providers of social support services, health care services and youth care due to an acute increase in demand of e-health as a consequence of the COVID-19 outbreak but without the corresponding increase in financial means.

- (34) The measure is one of a series of measures conceived at national level by the Dutch authorities to remedy a serious disturbance in their economy. The measure addresses a sudden shortage or unavailability of liquidity and preserves the continuity of economic activity in the health care sector confronted with the measures of social distancing and quarantine, which have led to the urgent need to invest in e-health applications to ensure the provision of social support services, health care services and youth care at home. In addition, ensuring the provision of these services for non-COVID-19 related health care is of significant importance for relieving the strain on the services in hospitals. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“*Aid in the form of direct grants*”) described in Section 3.1 of the Temporary Framework.
- (35) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:
- Aid granted under the measure does not exceed EUR 800 000 per undertaking in the form of direct grants (recital (18)); it therefore complies with the condition of point 22(a) of the Temporary Framework;
  - The aid is granted on the basis of a scheme, with an estimated budget of EUR 23 million (recital (12)). Therefore, it complies with the condition of point 22(b) of the Temporary Framework;
  - the aid may not be granted to undertakings that were already in difficulty (within the meaning of the GBER) on 31 December 2019 (recital (14)); the measure therefore complies with point 22(c) of the Temporary Framework;
  - The aid will be granted no later than 31 December 2020 (recital (13)); it therefore complies with the condition set out in point 22(d) of the Temporary Framework;
  - The applicable cumulation rules are respected;
  - The Dutch authorities have confirmed that they will comply with all the monitoring and reporting provisions laid down in section 4 of the Temporary Framework (recital (22)). The Commission may request additional information regarding the aid granted, to verify whether the conditions laid down in this decision have been met;
- (36) The Commission considers therefore that the measure is necessary, appropriate and proportionate to remedy the serious disturbance in the economy of the Netherlands caused by the COVID-19 outbreak and meets all the relevant conditions of the Temporary Framework.

#### **4. CONCLUSION**

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

Yours faithfully,

For the Commission

Margrethe VESTAGER  
Executive Vice-President