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**Subject: State Aid SA.57051 (2020/N) – Sweden – COVID-19 Aid for cancelled or postponed cultural events**

Excellency,

**1. PROCEDURE**

- (1) Following pre-notification contacts, by electronic notification of 17 April 2020, registered by the Commission on the same day, Sweden notified the above-mentioned scheme (“the measure” or “the scheme”), in compliance with Article 108(3) of the Treaty on the Functioning of the European Union (“TFEU”).
- (2) The Commission requested additional information by email of 17 April 2020, provided by Sweden on the same date.
- (3) The Swedish authorities have confirmed that the notification does not contain confidential information.
- (4) Sweden exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958<sup>1</sup>, and to have this Decision adopted and notified in English.

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<sup>1</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 SCHEME**

### **2.1. COVID-19 outbreak in Sweden and the official reaction of the Swedish authorities**

- (5) The outbreak of the COVID-19 has had a significant impact on the Swedish economy. Reduced demand in affected areas, reduced travelling and disruptions in transport and supply chains are affecting companies active in Sweden, resulting in an unprecedented amount of notices of layoffs and short-term layoffs as well as loss of income for most companies.
- (6) According to the Swedish authorities, economic activity in Sweden is expected to decline sharply in 2020. They expect the Swedish economy to be in a recession in 2020. Sweden's GDP is expected to fall by 4%. Furthermore, unemployment is estimated to rise to 9% this year, compared to 7.4% in 2019.<sup>2</sup>
- (7) In the context of the COVID-19 outbreak and its subsequent developments, since the first half of March 2020 the Swedish Government issued numerous recommendations and prohibitions to citizens and undertakings, suspending several activities, including public gatherings and events. In particular, on 12 March 2020 the Swedish Government issued Ordinance (2020:114) on the prohibition on holding public gatherings and public events of more than 500 people. On 27 March 2020, the Government decided to extend the prohibition by amending Ordinance (2020:114) to cover public gatherings and public events of more than 50 people. Moreover, a number of additional recommendations directly linked to the organisation of events have been progressively issued by the Swedish Public Health Agency in order to prevent the spread of the virus.
- (8) The containment measures taken by the Swedish authorities have resulted in a large number of public cultural events being cancelled or postponed in Sweden. When events are cancelled, organisers and artists who worked on the event or would have participated in the event lose revenue, for example in the form of ticket revenue, but they still have to bear costs. Likewise, when events are postponed many organisers have to bear additional costs.
- (9) The Swedish authorities explained that the measure may be granted to compensate the damage in the form of loss of revenue resulting from the cancellation of an event or additional costs incurred as a result of the postponement of an event. For the purpose of calculating the loss of revenue, reductions in costs resulting from the cancellation of the event as well as costs that could have been avoided when the event was cancelled, had the organiser taken the mitigating measures in his power and other public support, shall be deducted from the damage to compensate.

### **2.2. Objective of the measure**

- (10) As explained in recital (8) above, the spread of COVID-19 has resulted in a large number of public cultural events being cancelled or postponed in Sweden. The

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<sup>2</sup> *In addition, the Swedish authorities highlight that from 1 March 2020 to 10 April 2020, notices of layoffs in the cultural sector (culture, pleasure and leisure) has been more than six times higher than for the whole 2019. The registered number of unemployed in culture and media increased with 65% in March 2020 compared to March 2019.*

objective of the scheme is therefore to financially compensate organisers and artistically active operators who worked or would have participated in an event, which has been cancelled or postponed in response to the spread of the virus.

### **2.3. Form of aid and aid intensities**

- (11) The aid will take the form of direct grants.
- (12) The measure will compensate for 75% of the loss of revenue or additional costs up to SEK 1 million (approx. EUR 90 600)<sup>3</sup> and 50% of loss of revenue or additional costs over SEK 1 million, subject to available funds. Aid to an organiser or other operator may be granted up to a maximum amount of SEK 10 million (approx. EUR 906 000).

### **2.4. National legal basis**

- (13) The national legal basis for the measure is the *Förordning om statligt stöd för kulturevenemang som har ställts in eller skjutits upp med anledning av spridningen av sjukdomen covid-19* (Regulation on State aid for cultural events which have been cancelled or postponed due to the spread of the disease COVID-19, “the Regulation”).
- (14) The Swedish authorities indicated that the Regulation is notified pursuant to 7 § of the Act (1992:318) on the transmission of administrative tasks in the field of activity of the Ministry of Culture in respect of 9 §, first paragraph (1), and pursuant to Chapter 8, 7 §, of the Instrument of Government in respect of other provisions.
- (15) The scheme is intended to enter into force on 27 April 2020.

### **2.5. Main elements of the measure**

- (16) The Swedish authorities indicated that pursuant to 6 § of the Regulation, the conditions for granting of aid are the following:
  - i. the event has been cancelled or postponed due to the spread of the virus that causes the disease COVID-19;
  - ii. the event has been organised for the public or the public would have had access to it;
  - iii. the event has been announced or laid down in a plan for activities;
  - iv. the event should have been held by 31 May 2020 and will not be held before that date.<sup>4</sup>

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<sup>3</sup> Exchange rate: SEK 1 = EUR 0.0906, average of April 2020 from: <https://ec.europa.eu/budget/graphs/inforeuro.html>.

<sup>4</sup> The measure provides compensation for events that were scheduled to be held between 12 March 2020 and 31 May 2020 (see recital (29) below).

- (17) Pursuant to 7 § of the Regulation, aid may be granted for loss of revenue resulting from the cancellation of an event or additional costs incurred as a result of the postponement of an event. Aid may not cover compensation for loss of profits.
- (18) For the purpose of calculating the damage to be compensated, deductions shall be made for reduced costs resulting from the cancellation of the event. Costs that could have been avoided when the event was cancelled had the organiser taken the mitigating measures in his power, and other public support and compensation provided for the reason of the cancellation of the event shall be deducted as well for the purpose of calculating the damage to be compensated. The Swedish authorities confirmed that the payments to the beneficiaries shall be net of any amount recovered by insurance, litigation, arbitration or other source for the same damage.
- (19) The granting authority may also decide that aid shall not be paid in whole or in part in the following cases:
- i. the recipient, by incorrect information or otherwise, has caused the aid to be determined incorrectly or excessively;
  - ii. the aid for any other reason has been determined incorrectly or excessively and the beneficiary should have reasonably realised this;
  - iii. the conditions to be eligible for aid under 6 § of the Regulation (see recital (16) above) are not fulfilled.
- (20) Furthermore, pursuant to 14 § of the Regulation, the operator who has received aid is liable for repayment if there are sufficient grounds according to 13 § of the Regulation (as explained in recital (18) above). In such cases, the granting authority may recover the aid in whole or in part.
- (21) If an amount that has to be recovered is not paid in due time, interest on late payment under the Interest Act (1975:635) shall be charged on that amount.

## **2.6. Administration of the measure**

- (22) The Swedish Arts Council and the Swedish Film Institute Foundation shall be the authorities responsible for handling applications for aid (individually, “the authority”). The Swedish Arts Council may, after giving the Swedish Film Institute Foundation the opportunity to comment, issue regulations on the enforcement of the Regulation that can be applied by both authorities.<sup>5</sup>
- (23) Applications for aid must be submitted in writing. The applicant must submit evidence that the conditions for aid are met (see recital (16) above). The application will need to include evidence of lost income and incurred expenses for the cancelled or postponed event, revenue and expenses budgeted by the applicant in relation to the event, evidence of the measures taken by the applicant to limit its costs as a result of the cancellation of the event and evidence of any other State aid or remuneration of any other source which has been or will be received as a

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<sup>5</sup> According to 7 § of the Act (1992:318) on the transmission of administrative tasks in the field of activity of the Ministry of Culture, the Swedish Film Institute Foundation is competent to handle applications but is not competent to issue regulations.

result of the event being cancelled. A confirmation that the information provided is accurate will also be required.

- (24) The applications and the evidence provided will be verified by the authority. If the authority assesses that the evidence submitted does not prove the actual loss of revenue or additional costs as indicated in the application, it should request additional evidence from the applicant. If such evidence is not submitted to the authority, the application shall be denied.
- (25) The time period in which beneficiaries can submit applications for aid will be decided by the authority and will not go beyond 30 June 2020. Once the application period has expired, the authority shall examine and decide on all applications received. When examining the applications, the authority shall take into account the applicant's need for financial support and ensure that the funds are allocated to a variety of cultural expressions.
- (26) The authority may decide that the aid shall not be paid in whole or in part or that the aid shall be recovered if the beneficiary has by false information or otherwise caused the aid to be determined incorrectly or excessively or if the conditions for aid are not met (see recital (19) above).
- (27) The Swedish authorities confirmed that the benefit of the aid is excluded for any applicant who is responsible for the damage suffered and/or did not conduct its activities with due diligence or in compliance with applicable legislation or did not take any measure to mitigate its damages. As laid out in recital (18) above, the Swedish authorities also confirmed 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 aid is paid out before insurance, the authority will recover the insurance amount from the beneficiary.

## **2.7. Budget and duration of the scheme**

- (28) The Swedish authorities indicated that the estimated budget of the scheme amounts to SEK 420 million (approx. EUR 38 million).
- (29) The measure provides compensation for events that were scheduled to be held between 12 March 2020, i.e. the date the first Government prohibition entered into force (see recital (7) above), and 31 May 2020.

## **2.8. Beneficiaries**

- (30) According to 5 § of the Regulation, compensation under the scheme may be given to an organiser of a concert, performing arts performance, cinema performance, exhibition, lecture or other similar cultural event in Sweden (see recital (31) below). Support may also be given to an artistically active operator who has worked or would have participated in the cancelled or postponed event. Only organisers and artists who carry out or arrange cultural activities of a professional nature may be eligible for support.
- (31) The Swedish authorities indicated that the scheme is intended to apply to the following sectors: motion picture, video and television programme production, sound recording and music publishing activities; creative, arts and entertainment activities; and libraries, archives, museums and other cultural activities.

- (32) Support may not be granted to operators that receive funding directly from the Swedish Government and operators receiving funding through a cultural cooperation model governed by Regulation (1996:1598) on State aid for regional cultural activities and Regulation (2010:2012) on the allocation of certain state grants to regional cultural activities.
- (33) The Swedish authorities estimate the number of beneficiaries between 1200 and 2000 operators. The types of beneficiaries will include large enterprises, small and medium-sized enterprises as well as non-profit associations.
- (34) The measure will apply to cultural events of all sizes, open to the public, that have been affected by the spread of the COVID-19.
- (35) The Swedish authorities indicated that in most cases aid will amount to less than SEK 1 million (approx. EUR 90 600) per beneficiary. Only a few beneficiaries are deemed to have suffered such a loss of revenue that compensation can be provided with amounts equal to the ceiling amount of SEK 10 million (approx. EUR 906 000) (see recital (14)).

## **2.9. Cumulation**

- (36) The Swedish authorities confirmed that the aid provided for under the scheme cannot be cumulated with other State aid granted for the same eligible costs.

## **2.10. Monitoring and reporting**

- (37) Provisions on publication, reporting and records keeping are contained in Section 12 (a) of the Act (2013:388) on the application of the European Union State aid rules and in Regulation (2016:605) on the application of the European Union State aid rules.
- (38) The Swedish authorities committed to provide a report no later than one year after the date of the present Commission decision, specifying the amount of compensation and recoverable advances granted per company.

## **3. ASSESSMENT**

### **3.1. Lawfulness of the measure**

- (39) By notifying the scheme before putting it into effect, the Swedish authorities have respected their obligations under Article 108(3) TFEU.

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

- (40) For a measure to be categorised as State 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.
- (41) The measure is imputable to the State as it is based on the Regulation referred to in recital (13) above. The compensation envisaged by the Swedish authorities will

be paid from the State budget and is therefore provided through State resources within the meaning of Article 107(1) TFEU.

- (42) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (11) above). The advantage corresponds to the amount of compensation paid under the measure. The measure thus relieves those beneficiaries of costs, which they would have to bear under normal market conditions.
- (43) The advantage granted by the measure is selective, since it is awarded only to organisers of events and artistically active operators for cultural events in Sweden, in the sectors referred to in recital (31) above.
- (44) 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.
- (45) In view of the above, the Commission concludes that the measure constitutes State aid within the meaning of Article 107(1) TFEU.

### **3.3. Compatibility**

- (46) 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. Following the notification of Sweden, the Commission has examined the notified measure pursuant to Article 107(2)(b) TFEU.
- (47) This assessment has led to the following observations:

#### **The notion of exceptional occurrences with the meaning of Article 107(2)(b) TFEU**

- (48) Article 107(2)(b) TFEU stipulates that aid to make good damage caused by natural disasters or exceptional occurrences shall be compatible with the internal market. Neither the TFEU nor other Union legislation contains a precise definition of the notion of 'exceptional occurrence'. As they constitute exceptions to the general prohibition of State aid within the internal market laid down in Article 107(1) TFEU, the Commission, in line with the consolidated Union case-law<sup>6</sup> has consistently held that the notions of 'natural disaster' and 'exceptional occurrence' referred to in Article 107(2)(b) TFEU must be interpreted restrictively.
- (49) The characterisation of an event as being an exceptional occurrence is made by the Commission on a case-by-case basis, having regard to its previous practice in the field<sup>7</sup>. In this regard, the following indicators relating to the event concerned

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<sup>6</sup> *Judgement of the Court of Justice of 11 November 2004, Spain v. Commission, C-73/03, ECLI:EU:C:2004:711, paragraph 37 and judgment of the Court of Justice of 23 February 2006, Giuseppe Atzeni and others, in joined cases C-346/03 and C-529/03, ECLI:EU:C:2006:130 paragraph 79.*

<sup>7</sup> *Exceptional occurrences which have been accepted in the past by the Commission include war, internal disturbances and strikes, and, with certain reservations and depending on their extent, major industrial accidents which result in widespread economic loss, see Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020, paragraph 330 (OJ C 204, 1.07.2014, p. 53),*

must be cumulatively met: (i) unforeseeable or difficult to foresee<sup>8</sup>; (ii) significant scale/economic impact<sup>9</sup>, and (iii) extraordinary<sup>10</sup>.

### **COVID-19 as an exceptional occurrence**

- (50) Following the first reports of cases of acute respiratory syndrome (COVID-19) in the Chinese Wuhan municipality at the end of December 2019, the Chinese authorities have identified a novel coronavirus (SARS-CoV-2) as the main causative agent, which had not been previously identified in humans. The outbreak has rapidly evolved affecting not only other parts of China but has also spread to the majority of countries worldwide. Specific sectors and areas are particularly affected by the outbreak, be it because of national outbreak control measures, travel restrictions or supply chain disruptions.
- (51) The WHO declaration of a pandemic<sup>11</sup>, associated with the public health risk deriving from the absence of therapeutics or vaccines for the novel COVID-19 determine the exceptional nature of the circumstances. The rapidity of the spread can cause enormous consequences both in terms of fatal outcomes in high-risk groups and in terms of economic and societal disruption<sup>12</sup>. The necessity to adopt and encourage the respect of measures aimed at interrupting transmission chains stems from this acknowledgement. Such measures can result in far-reaching disruption of various economic sectors. This disruption is thus clearly outside the normal functioning of the market.
- (52) In view of the above, this event qualifies as an exceptional occurrence as it was not foreseeable, as it clearly distinguishes itself from ordinary events by its

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<sup>8</sup> *Commission Decision of 1 August 2008 in case SA.32163, Remediation of damage to airlines and airports caused by seismic activity in Iceland and the volcanic ash in April 2010, Slovenia, recital 31.*

<sup>9</sup> *Elements taken into account by the Commission to consider that the occurrence reached a significant scale: negative consequences cannot be contained (Commission Decision of 4 October 2000 in case NN 62/2000, Régime temporaire d'aides aux entreprises victimes des intempéries et de la marée noire – France), or because of the number of dead or injured people (Commission Decision of 11 April 2012 in case SA.33487, Agricultural and fisheries aid to compensate for damage due to exceptional occurrence (red mud "Aluminium accident"), Hungary, recital 35; Commission Decision of 2 May 2002 in case N241/2002, Régime en faveur des entreprises victimes de la catastrophe industrielle de Toulouse, France, recital 19), the immense ecological and economic damage (Commission Decision of 11 April 2012 in case SA.33487, recital 36), the amount of material damage despite the local character of the industrial accident (Commission Decision of 2 May 2002 in case N 241/2002, recital 19).*

<sup>10</sup> *In its Decision of 19 May 2004 in case C-59/2001 (OJ L 32, 6.2.2007, p. 14), the Commission considered that the (alleged) fall in sales of poultry meat in a Member State not directly affected by the dioxin contamination, did not constitute in itself an exceptional occurrence. It was yet an unforeseeable event, but formed part of the normal commercial risks to which an undertaking is exposed.*

<sup>11</sup> *WHO Director-General's opening remarks at the media briefing on COVID-19 on 11 March 2020, <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>.*

<sup>12</sup> *ECDC's Rapid Risk Assessment, Outbreak of novel Coronavirus disease 2019 (COVID-19): increase transmission globally – fifth update, 2 March 2020.*



character and by its effects on the affected undertakings and the economy in general and therefore lies outside of the normal functioning of the market.<sup>13</sup>

- (53) In this context, the COVID-19 can be considered as an exceptional occurrence within the meaning of Article 107(2)(b) TFEU.

#### **Causal link between COVID-19 outbreak and damage compensated by the measure**

- (54) As an immediate consequence of the COVID-19 outbreak in Sweden, the Swedish authorities have adopted various containment measures (recitals (5) *et seq.* above) to limit the spread of the virus, including measures targeting directly the organisation of public cultural events.
- (55) These measures have resulted in events being cancelled or postponed, with a direct negative impact for the events' organisers and other artistically active operators, as laid out in recital (8) above.
- (56) To financially compensate damage to the concerned operators, Sweden has notified the measure at stake.
- (57) In addition, as described in recitals (16) and (23) above, only beneficiaries establishing a direct link between the damage suffered from the cancellation or postponement of events and the COVID-19-related mitigation measures shall be entitled to compensation.
- (58) The direct link between the damage caused by the exceptional occurrence and the aid is therefore ensured.

#### **Proportionality of the aid**

- (59) In order to be compatible with Article 107(2)(b) TFEU, the aid must be proportional to the damage caused by the exceptional occurrence. Aid must not result in overcompensation of damage; it should only make good the damage caused by the exceptional occurrence.
- (60) As explained in recital (12) above, compensation under the measure is capped at 75% of the loss of revenue or additional costs and this cap is brought down to 50% above a certain threshold (SEK 1 million) (approx. EUR 90 600).
- (61) The Swedish authorities have put in place the following additional safeguards, so that the compensation under the scheme does not exceed what is necessary to make good the actual damage suffered and thus meets the above-mentioned criteria.
- (62) First, the damage to be compensated will be calculated by deducting from the loss of revenue the reduced costs resulting from the cancellation of the event and the costs that could have been avoided when the event was cancelled had the organiser taken the mitigating measures in his power (this is, the loss of revenue net of avoided and avoidable costs), as well as other public support and

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<sup>13</sup> See also Commission Decision of 12 March 2020, SA.56685 - Denmark - Compensation scheme for cancellation of events related to COVID-19, OJ C 125, 17.4.2020, p. 8.

compensation provided for the reason of the cancellation of the event (recital (18) above).

- (63) Second, applications need to be accompanied by the relevant evidence, verified by the authority. Such evidence includes *inter alia* evidence of lost income and incurred expenses for the cancelled or postponed event, revenue and expenses budgeted by the applicant in relation to the event, and measures taken by the applicant to limit its costs as a result of the cancellation of the event, as well as evidence of any other State aid or remuneration of any other source which has been or will be received as a result of the event being cancelled. If the authority concludes that the evidence submitted is insufficient, it should request additional evidence from the applicant. If such evidence is not submitted to the authority the application shall be denied (recitals (23) and (24) above).
- (64) Third, as described in recitals (18) and (27) above, payments made to beneficiaries are net of any amount recovered by insurance, litigation, arbitration or other source of compensation for the same damage. If the aid is paid before the insurance, the authority will recover the insurance amount from the beneficiary.
- (65) Fourth, as described in recital (27) above, the benefit of the aid is excluded for any applicant who is responsible for the damage suffered and/or did not conduct its activities with due diligence or in compliance with applicable legislation or did not take any measure to mitigate its damage.
- (66) Finally, as explained in recitals (19) and (26) above, the authority may decide that the aid shall not be paid in whole or in part or that the aid shall be recovered if the beneficiary has by false information caused the aid to be determined incorrectly or excessively or if the aid has been determined incorrectly or excessively and the beneficiary should reasonably have realised this.
- (67) In view of the above, the Commission considers that the measure is compatible with the internal market in accordance with Article 107(2)(b) TFEU.

#### **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(2)(b) TFEU.

Yours faithfully,

For the Commission

Margrethe VESTAGER  
Executive Vice-President

**CERTIFIED COPY**  
For the Secretary-General,

**Jordi AYET PUIGARNAU**  
Director of the Registry  
EUROPEAN COMMISSION