



EUROPEAN COMMISSION

Brussels, 4.8.2020
C(2020) 5269 final

PUBLIC VERSION

This document is made available for
information purposes only.

**Subject: State Aid SA.57495 (2020/N) – Italy
Broadband vouchers for certain categories of families**

Excellency,

1. PROCEDURE

- (1) Following pre-notification contacts, the Italian Authorities notified the measure “*Broadband vouchers for certain categories of families*” (hereafter: ‘the scheme’ or ‘the measure’) on 26 June 2020.
- (2) By letter submitted on 30 June 2020, Italy agreed exceptionally to waive its rights deriving from Article 342 TFEU in conjunction with Article 3 of Regulation 1/1958 and to have the present decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

2.1. Objective of the Measure

- (3) The measure is a voucher scheme which aims to cover the cost of the procurement of NGA – Next Generation Access - broadband internet services as well as of the supply of a tablet or a personal computer by households in a fragile economic situation (see recital (11)). The measure thus aims to support families that encounter difficulties in benefiting from broadband internet services.

Onorevole Luigi Di Maio
Ministro degli Affari esteri e della Cooperazione Internazionale
P.le della Farnesina 1
I - 00194
Roma

2.2. Legal basis

- (4) The measure is based on the resolution N.71/2017 adopted by the Inter-ministerial Committee on Economic Programming (CIPE) which assigned to the Ministry of Economic Development (MiSe) EUR 1.3 billion to be used to finance demand side measures for broadband services.
- (5) The Italian authorities confirmed that a standstill clause will apply. Pursuant to the standstill clause of Article 108(3) TFEU, and to Article 3 of Council Regulation (EU) 2015/1589¹, new aid measures must not be put into effect before the Commission has taken a decision authorising it.
- (6) The present State aid decision is an integral part of the legal basis.

2.3. Context of the measure

- (7) The Italian authorities consider that computer and internet usage has significant benefits for families and businesses. This has become even more apparent in the emergency caused by the COVID-19 outbreak. The Italian government seeks to ensure that all citizens and companies can have access to adequate broadband connections which in turn will allow access to fundamental services with optimal performance.
- (8) Italy is developing comprehensive strategies to address the digital needs of families, schools and businesses. The notified measure is the first of these initiatives. It addresses low-income families that have an equivalent economic situation (ISEE) below EUR 20,000 (see recital (11)). Italy considers that these families are likely to face difficulties in subscribing to broadband internet services in particular in the context of the economic crisis caused by the pandemic which has severely affected Italy.²
- (9) Italy considers the measure a strategic priority as it aims to ensure that low-income families have the possibility to exercise essential, constitutionally guaranteed rights, such as the possibility of learning and working. Adequate broadband connections will allow these families to have access to remote educational services and teleworking, this way enabling them to exercise the above mentioned fundamental rights also in the context of the emergency caused by the COVID-19 pandemic. According to Italy, access to adequate broadband services at home is also fundamental to allow citizens, students and workers to have access to essential services. Italy considers adequate equipment is also indispensable to access the services provided through Internet by schools, universities, providers of public services and businesses. For these reasons, the Italian authorities have designed the measure to cover the cost of the broadband connections as well as the cost of leasing a tablet or a personal computer.

¹ Council Regulation No 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union OJ L 248 of 24.9.2015, p.9.

² European economy forecast.
https://ec.europa.eu/economy_finance/forecasts/2020/summer/ecfin_forecast_summer_2020_it_en.pdf

2.4. Detailed description of the measure

2.4.1. Eligible families

- (10) Eligible families will be low-income families (households) residing in Italy that wish to subscribe to NGA broadband services based on speeds of at least 30 Mbps download.
- (11) The Italian authorities indicated that in the context of this measure, eligible low-income families are those with ISEE below EUR 20,000. ISEE is the indicator used to assess and compare the economic situation (income and assets) of households wishing to receive social benefits.³ In particular, the ISEE is calculated on the basis of the income, assets and property of the members of the household as well as the number of family members, of underage children, etc..⁴
- (12) A family (household) is eligible only if no member of the household subscribed to an NGA broadband service in the same real estate unit, in which case vouchers would be available for new NGA subscriptions. The voucher can also be used to migrate from basic broadband services (below 30 Mbps download speed) to NGA services (above 30 Mbps download speed).

2.4.2. Granting authority and implementing body

- (13) The granting authority is the Ministry of Economic Development (MiSe) to which the CIPE has assigned the funds to implement the measure by means of resolution N.71/2017 (see recital (4)).
- (14) The MiSe will implement the measure through Infratel Italia S.p.A (hereafter Infratel), an in-house company of the MiSe, that will perform the activities described from recital (25) to (32).

2.4.3. Budget

- (15) The total budget of the measure amounts to EUR 200 million. Italy estimates that about 5 million families (households) out of the total 26 million in Italy will be eligible to receive vouchers. The available budget will be able to satisfy requests by about 400,000 families.

2.4.4. Duration

- (16) The aid will be paid as from the approval of the scheme by the Commission and will last until the exhaustion of the budget and, in any case, no later than one year starting from the implementation of the measure.
- (17) Should the implementation of the measure not absorb completely the available budget, the remaining funds will be allocated to new voucher schemes that will follow and that will be notified to the Commission.

³ Decree No 159 of 5 December 2013 on “Regulation on the revision of the calculation methods and the fields of application of the Equivalent Economic Situation Indicator (Indicatore della Situazione Economica Equivalente - ISEE)”

⁴ www.inps.it

2.4.5. *Eligible services, form and amount of the voucher*

- (18) The voucher amounts to EUR 500, to be used by eligible families to cover the activation costs (if applicable) and the monthly connection fees of NGA broadband internet services. The voucher covers the costs of the provision of the end-user equipment (CPE), a tablet or a personal computer. The voucher cannot be used for the procurement of a tablet or a personal computer unless it is combined with the procurement of an NGA broadband service.
- (19) Italy clarified that the value of the voucher is based on a survey of the average market price for NGA broadband services including the provision of a tablet or computer. In particular, Italy considers the amount suitable to subsidize a time period of 10 months. However, since the prices offered by the various telecommunications providers active on the market may vary to some extent, the voucher may result in covering only part of the cost of the service for this time period or, on the contrary, exceed the needed amount. In the first case the end-user will have the possibility to pay the difference not covered by the voucher while, in the second case, the voucher will cover a subscription longer than 10 months.
- (20) If after the subscription of the service, the beneficiary of the voucher will decide to move to another telecommunications provider, the amount of the voucher which has not been used will be transferred to the new subscription. For the transfer to be allowed, the new subscription will have to provide the same speed or a higher speed than the previous one.
- (21) The voucher can be used to subscribe to an NGA broadband service or to migrate from a basic broadband service to an NGA service. The voucher can be used to enter into a new contractual agreement or to modify the existing one for an upgrade from basic to NGA broadband services.
- (22) If more than one NGA infrastructure is available, the voucher can only be used to subscribe to the service with the highest possible speed (e.g. if two NGA infrastructures are available, one able to provide ultra-fast broadband services with download speed above 100 Mbps while the other one, while being able to provide download speed above 30 Mbps, will not be able to reach ultra-fast speeds, the voucher can only be used to subscribe to the ultra-fast broadband service). Italy clarified that this is intended to encourage families to benefit of advanced telecommunications services also in view of the fact that in Italy the prices for NGA services are largely similar irrespective of the speed supported. Furthermore, Italy clarified that the above is consistent with the Government's commitment to reducing the digital divide resulting from the insufficient take-up of ultra-fast broadband services, as clarified in the Italian strategy for ultra-broadband⁵. The Italian authorities consider that this is in line with the objectives

⁵ The Italian strategy for ultra-broadband aims at developing a high-speed access network to maximise the take-up of an infrastructure able to guarantee services of 100 Mbps for at least 85% of households by 2020. The (Strategia Nazionale per la Banda Ultra-Larga), was approved by the Council of Ministers in March 2015. It aims at developing a high-speed access network to reach the 2020 Digital Agenda targets. <https://bandaultralarga.italia.it/strategia-bul/strategia/>

set out by the Commission in its Digital Agenda for Europe and in the Gigabit Society Communication.⁶

- (23) The telecommunications providers that will provide the services for which the vouchers will be spent must commit to continue providing those services for at least one year at the same conditions. This is meant to avoid that telecommunications providers will adopt aggressive marketing strategies with particularly advantageous offers to induce eligible families to spend the vouchers with them while reverting to less advantageous prices immediately after the expiration of the vouchers.

2.4.6. *Technology neutrality*

- (24) The voucher will be technologically neutral. The beneficiary will be able to use the voucher to procure any available NGA broadband service providing at least 30 Mbps download speed as well as the required end-users equipment (CPE), a tablet or a PC.

2.4.7. *Implementing procedure*

- (25) Every telecommunications provider capable of providing eligible families with NGA broadband services and the required end-users equipment will have the possibility to request to be included in the ‘*Accreditation Platform*’ which will be developed and managed by Infratel.
- (26) The Italian authorities clarified that there will be no discrimination based on the origin of the telecommunications provider or the origin of the products.
- (27) The telecommunications provider will be required to commit to comply with the minimum requirements for the provision of the services above described. After having checked the fulfilment of the eligibility criteria (e.g. the availability of the necessary administrative qualifications for the provision of communication services), Infratel will grant to the telecommunications provider access to a dedicated platform, the ‘*Infratel service portal*’ through which it will have the possibility to request the activation of vouchers on behalf of eligible end-users.
- (28) The eligible end-users will submit their requests for vouchers directly to the telecommunications providers of their choice via any of the available sales channels (e.g. website, shop, etc.).
- (29) The telecommunications provider will check the availability of funds by accessing the ‘*Infratel services portal*’. In case of availability, the

⁶ The Digital Agenda for Europe sets among others the following targets for broadband development in Europe by 2020 for all Europeans to have access to much higher internet speeds of above 30Mbps and for 50% or more of European households to subscribe to internet connections above 100Mbps (Communication from the Commission to the European Parliament, the Council, the Social Committee and the Committee of the Regions, COM (2010) 245 final *A Digital Agenda for Europe*). The Digital Agenda for Europe was complemented in 2016 by the Gigabit Communication, which defines, among others, as a strategic objective for 2025 100% coverage of all households with download speeds of at least 100Mbps, upgradeable to 1Gbps (Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Connectivity for a Competitive Digital Single Market - Towards a European Gigabit Society - COM(2016)587).

telecommunications provider will enter all the necessary information for the activation of the voucher (e.g. beneficiary's ID, ISEE, etc.) and will conclude the contract with the end-user.

- (30) On a daily basis, the telecommunications providers will transfer to Infratel through the *'Infratel service portal'* the relevant information concerning the voucher transactions that took place during the day.
- (31) Infratel, after having performed checks on the admissibility of the requests, will proceed with the payment of the vouchers to the telecommunications providers.
- (32) The Ministry, in cooperation with Infratel and AGCOM (the NRA) will perform checks on the fulfilment of eligibility criteria concerning end-users, as well as the compliance with the conditions concerning telecommunications providers.

3. ASSESSMENT OF THE MEASURE

3.1. Existence of the aid

- (33) There is State aid within the meaning of Article 107(1) TFEU when there is an intervention by the State or through State resources in any form whatsoever which confers a selective economic advantage on the recipient, distorts or threatens to distort competition and is liable to affect trade between Member States.

3.1.1. State resources

- (34) The scheme is set-up by the Italian authorities and funded directly from the budget of Italy (see recital (4)). The vouchers under the scheme will be disbursed by a public entity to the eligible telecommunications providers that thereby will receive partial reimbursement of the costs of provisioning the services described at recitals (18) to (23) (the "eligible services"). Hence, these funds can be considered as State resources and the measure is imputable to the State.

3.1.2. Economic advantage and selectivity

- (35) Article 107(1) TFEU only applies to public support granted to recipients carrying out an economic activity. The recipients must therefore be undertakings⁷ performing an economic activity⁸ and offering goods or services on a market in order for State aid rules to apply. On the other hand, Article 107(2)(a) TFEU states that State aid may also be granted to consumers.
- (36) The direct beneficiaries of the scheme are individual consumers, i.e. certain families (households) that will use the vouchers to procure the eligible services.
- (37) The aid is granted in consideration of the economic situation of the eligible families that, according to the Italian authorities, without the measure may not be in the position to acquire the eligible services. According to the Italian authorities, insufficient access to such services would risk preventing or restricting the ability of eligible families to continue to learn, socialise, work and purchase goods and

⁷ As defined by the European courts case-law. See in particular judgment of 12 September 2000, *Pavlov and Others*, joined Cases C-180/98 to C-184/98, ECLI:EU:C:2000:428, recital 74.

⁸ Judgment of 12 September 2000, *Pavlov and Others*, joined Cases C-180/98 to C-184/98, ECLI:EU:C:2000:428, recital 75.

services, especially in the context triggered by the COVID-19 crisis (see recitals (7) to (9)).

- (38) Consequently, in the context of the measure the eligible families cannot be considered as undertakings performing an economic activity falling within the scope of Article 107(1) TFEU and thus assistance to them falls outside the scope of State aid rules.
- (39) In cases where the aid is granted to individual consumers, the case law of the European court confirms that advantages granted to undertakings may constitute State aid within the meaning of Article 107(1) of the Treaty.⁹
- (40) The scheme provides for the vouchers to be directly paid to the eligible telecommunications providers serving the eligible families. Telecommunications providers are considered undertakings and thus fall within the scope of State aid rules. Participating eligible telecommunications providers under the scheme are able to receive all or part of the amount due by the eligible families, that without the intervention of the State may have been unable to subscribe to the eligible services, or may have postponed such subscriptions due to economic considerations. The measure will therefore pursue its social objectives by contributing effectively to overcome the digital divide in the benefit of low-income families, at a time where their access to remote educational services and telework is crucial. At the same time, the measure may stimulate demand for these services by lowering their costs for the eligible families. Thus, the scheme may strengthen the market position of telecom providers, thereby providing them with an economic advantage. That advantage is selective because it applies to undertakings that are active only in one industry sector (telecommunications) and only in certain segments of the overall electronic communications sector (provisioning of NGA services), to the exclusion of other electronic communications services.¹⁰ Amongst telecommunications providers the vouchers scheme is only open to those which can ensure offers that fulfil the eligibility criteria identified in the scheme (as described in recitals (25) to (32)). The compliance of the telecommunications providers with the minimum requirements for the provision of the eligible services is assessed by the Italian authorities and the eligible telecommunications providers are enlisted by the Italian authorities in the ‘*Infratel service portal*’ (see the implementing procedure described in recitals (25) to (32)).
- (41) It follows that the aid granted via the vouchers scheme confers a selective economic advantage to the service providers able to provide the eligible services to consumers.

3.1.3. *Distortion of competition and impact on trade*

- (42) State measures fall within the scope of Article 107(1) of the Treaty in so far as they distort or threaten to distort competition and affect trade between Member

⁹ Judgment of the General Court of 4 March 2009, *Italy v Commission*, T-424/05, ECLI:EU:C:2007:367, recital 108; judgment of the Court of 28 July 2011, *Mediaset v Commission*, C-403/10 P, recital 81.

¹⁰ Judgement of the Court of 15 June 2006, *Air Liquide Industries Belgium SA v Ville de Seraing (C-393/04) and Province de Liège (C-41/05) “Air Liquide”*, joined cases C-393/04 and C-41/05, European Court Reports 2006 I-05293, ECLI:EU:C:2006:403, recital 31.

States. According to the case-law of Union courts, the concept of “effect on trade between Member States” is linked to the notion of distortion of competition and both are often inextricably linked. In this regard, the Court has stated that “*In particular, where State financial aid strengthens the position of an undertaking as compared with other undertakings competing in intra-Community trade, the latter must be regarded as affected by that aid*”¹¹.

- (43) The measure applies to the telecommunications sector, which is subject to intra-EU and international competition. As the scheme gives an economic advantage to the participating eligible telecommunications providers, the measure may distort competition between European telecommunications providers benefitting from the measure and those who do not.
- (44) Regarding trade between Member States, the Commission notes that intra-Union trade should be considered affected once a national measure reinforces the position of an undertaking as regards its competitors. It is not necessary that the beneficiary undertaking takes part itself in intra-Union trade. The circumstance that an economic sector, such as that of telecommunications services, has been the object of a significant process of liberalisation at the level of the Union, which has accentuated competition, gives rise by its nature to a real or potential effect of aid, such as the scheme, on trade between Member States.

3.1.4. Conclusion on the existence of aid

- (45) In view of the above, the Commission considers that as the measure is imputable to the State, involves State resources, provides a selective advantage to certain beneficiaries engaged in an economic activity, distorts or threatens to distort competition in the internal market and affects trade between Member States, the notified measure constitutes State aid within the meaning of Article 107(1) of the TFEU.

3.2. Compatibility the aid

- (46) It is necessary to examine the scheme's compatibility with respect to the indirect aid to the participating eligible telecommunications providers in the light of Article 107 TFEU.
- (47) The measure provides for vouchers to support low-income families (see recitals from (10) to (12)) to procure the eligible services. Hence, the measure targets individual consumers (see recital (10)). Article 107(2)(a) of the TFEU states that: “*aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned*” shall be compatible with the internal market.

3.2.1. Aid to individual consumers

- (48) The vouchers are granted exclusively to low-income families that are individual consumers (see recital (10)).

¹¹ Judgment of 4 April 2001, *Regione Friuli Venezia Giulia v Commission*, T-288/97, ECLI:EU:T:2001:115, recital 41.

3.2.2. *Aid of social character*

- (49) The measure has a social character as it is reserved for low-income families whose financial situation justifies the payment of aid for social reasons. The measure responds to a social necessity to ensure that low-income families have access to suitable broadband services to continue learning, socialising, working and purchasing goods and services. Italy has clarified that as an effect of the economic consequences triggered by the COVID-19 outbreak, it is likely that without the measure the eligible families may face difficulties to bear the costs of acquiring the eligible services which consequently may prevent them from continuing to learn, socialise, work and purchase goods and services. To the extent that the scheme aims at ensuring that low-income families can access services which allow them to exercise essential, constitutionally guaranteed rights, such as the possibility of learning and working, it reflects both short-term and long-term social concerns.

3.2.3. *Aid, which does not discriminate regarding the origin of the products or the services*

- (50) As explained in recital (24), the measure is technological neutral since the eligible families may purchase services of adequate quality irrespective of the underlying technology. As described in recitals (25) and (26) the aid can be used to acquire the eligible services from any telecommunications provider capable of providing them without any discrimination on the basis of its origin or the origin of the products.
- (51) As described in recital (22), if more than one NGA infrastructure is available, the voucher can only be used to subscribe to the service with the highest possible speed, in order to encourage families to benefit of advanced telecommunications services. While preference is granted to the best available network/speeds, this is an integral part of efforts aimed at bridging the digital divide, in line with the objectives pursued by the measure of enabling and encouraging low-income families to enjoy the benefits of the best available networks and services in order to be able to continue their work and education and to participate in social life while coping with social-distancing restrictions. This is supported by the fact that, as explained by the Italian authorities, in Italy the prices are similar for NGA services, without significant differences depending on the speeds provided. Where prices are similar, a preference given to the better service is not discriminatory, considering that higher speeds, such as ultrafast speeds, would ensure better access to the various applications and platforms relevant for teleworking and e-learning. This is also in line with the Italian strategy for ultra-broadband aims at developing a high-speed access network to maximise the take-up of an infrastructure able to guarantee services of 100 Mbps for at least 85% of households by 2020, in line with the objectives of the Digital Agenda for Europe and the Gigabit Society Communication.
- (52) In the light of all the foregoing, the Commission concludes that the aid to the participating eligible telecommunications providers can be deemed compatible with the internal market pursuant to Article 107(2)(a) 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)(a) of the Treaty on the Functioning of the European Union.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the English language on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

