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**Subject: State Aid SA.58801 (2020/N) – Italy
COVID-19: Aid to small book publishers
State Aid SA.58847 (2020/N) – Italy
COVID-19: Aid to music publishers**

Excellency,

1. PROCEDURE

- (1) By electronic notifications of 30 September 2020 and 2 October 2020, Italy notified two aid schemes in the form of limited amounts of aid (distribution of part of the fund established by Article 183, paragraph 2, of the decree-law of 18 May 2020, no. 34 (converted, after amendment, into law of 17 July 2020, n. 77), by the ministerial decree of 30 July 2020, n. 364; and by the executive decree of 3 September 2020, n. 573, in support of small publishers; and distribution of part of the fund established by Article 89 of the decree law of 17 March 2020, n.18, the ministerial decree of 5 August 2020, no. 380 and decree of 24 August 2020, n. 1667, in support of the music, recording and phonographic industry; hereinafter jointly referred to as the “measures”, and individually referred to as “small publishers measure” and “music measure”, respectively) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”).¹

¹ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 91I, 20.3.2020, p. 1, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19

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- (2) Italy exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with Article 3 of Regulation 1/1958² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) Italy considers that the COVID-19 outbreak has started to affect the real economy. The measures form part of an overall package of measures and aim to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the outbreak, to ensure that the disruptions caused by the outbreak do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the outbreak.
- (4) Italy confirmed that the aids under the measures are not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.
- (5) The compatibility assessment of the measures is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.1 of the Temporary Framework.

2.1. The nature and form of aid

- (6) The measures provide aids in the form of direct grants.

2.2. Legal basis

- (7) The legal bases for the small publishers measure are Article 183, paragraph 2, of the decree-law of 18 May 2020, no. 34 (converted, after amendment, into law of 17 July 2020, n. 77), the ministerial decree of 30 July 2020, n. 364, and the executive decree of 3 September 2020, n. 573. The legal bases for the music measure are Article 89 of the decree law of 17 March 2020, no. 18, the ministerial decree of 5 August 2020, no. 380 and decree of 24 August 2020, no. 1667. Copies of these provisions have been provided in the notifications.

outbreak, OJ C 112I , 4.4.2020, p. 1, by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3, by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Third Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 218, 2.7.2020, p. 3 and by Communication from the Commission C(2020) 7127 final of 13 October 2020 on the Fourth Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak and amendment to the Annex to the Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance, OJ C 340 I, 13.10.2020, p. 1.

² Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

2.3. Administration of the measure

- (8) The Ministry of Culture and Tourism is responsible for administering the measures.

2.4. Budget and duration of the measure

- (9) The estimated budget of the small publishers measure is EUR 10 million. The estimated budget for the music measure is EUR 10 million.
- (10) Aid may be granted under the measures as from its approval until no later than 30 June 2021.

2.5. Beneficiaries

- (11) The final beneficiaries of the small publishers measure are book publishers with less than ten employees and an annual turnover not exceeding EUR 2 million. The beneficiaries are therefore micro enterprises.³ The beneficiaries will have a registered office in Italy and have published at least ten new book titles in 2019. The estimated number of beneficiaries is 500. Financial institutions are excluded as eligible final beneficiaries.
- (12) The final beneficiaries of the music measure are companies active in the recording, publishing and reproduction of music.⁴ The beneficiaries will have a registered office in Italy. The estimated number of beneficiaries is 400. Financial institutions are excluded as eligible final beneficiaries.
- (13) Aid may not be granted under the measures to medium⁵ and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)⁶ on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)⁷ on 31 December 2019, if those enterprises, at

³ As defined in Article 2.3 of Annex I to 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, 26.6.2014, p. 1.

⁴ Corresponding to the following ATECO codes: 59.20.10 (sound recording publishing), 18.20.00 (reproduction of recordings), 59.20.20 (publishing of printed music) and 59.20.30 (sound recording).

⁵ As defined in Annex I to 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, 26.6.2014, p. 1.

⁶ As defined in Article 2(18) of 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, 26.6.2014, p. 1[, Article 2(14) of Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 193, 1.7.2014, p. 1, and Article 3(5) of Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 369, 24.12.2014, p. 37.]

⁷ As defined in Article 2(18) of 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 moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid⁸ or restructuring aid.⁹

2.6. Sectoral and regional scope of the measure

- (14) The measures are open to small book publishers and to companies active in the recording, publishing and reproduction of music. The measures apply to the whole territory of Italy and exclude the financial sector.

2.7. Basic elements of the measure

- (15) Both the small publishers measure and the music measure will take the form of direct grants.
- (16) The aids to small publishers will amount to 1% of each beneficiary's turnover in 2019 and, in any event, the aid cannot exceed EUR 20.000.
- (17) The aids to companies active in the recording, publishing and reproduction of music are calculated and allocated as follows:
- (a) EUR 5 million will be granted in support of companies active in the publishing of sound recordings.¹⁰ The benefits will be distributed among the beneficiaries in proportion to the total annual turnover in the relevant business, in accordance with the following bands:
- For a total annual turnover of between EUR 1000 to EUR 5000, a contribution of EUR 500.
 - For a total annual turnover of between EUR 5001 to EUR 20 000, a contribution of EUR 2000.
 - For a total annual turnover of between EUR 20 001 to EUR 100 000, a contribution of EUR 5000.
 - For a total annual turnover of between EUR 100 001 to EUR 500 000, a contribution of EUR 15 000.
 - For a total annual turnover exceeding EUR 500 000, a contribution of EUR 40 000.

the Treaty, OJ L 187, 26.6.2014, p. 1[, Article 2(14) of Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 193, 1.7.2014, p. 1, and Article 3(5) of Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 369, 24.12.2014, p. 37.]

⁸ Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

⁹ Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

¹⁰ ATECO code 59.20.10.

- (b) EUR 5 million will be granted in support of companies active in the reproduction of recordings, publishing of printed music and sound recording.¹¹ The benefits will be distributed, within the limits of the budget, among the beneficiaries in proportion to the lower revenue recorded in the period from 23 February 2020 to 31 July 2020 as compared to the period from 23 February 2019 to 31 July 2019. However, the contribution may not exceed the difference between the revenues obtained during the period under review in 2020 and in 2019.

2.8. Cumulation

- (18) The Italian authorities confirm that aids granted under the measures may be cumulated with aid under de minimis Regulations¹² or the General Block Exemption Regulation¹³ provided the provisions and cumulation rules of those Regulations are respected.
- (19) The Italian authorities confirm that aid granted under the measures may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.
- (20) The Italian authorities confirm for both measures that if the beneficiary receives aid on several occasions or in several forms under the measures or aid under other measures approved by the Commission under section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in points 22(a) of that framework, will be respected.

¹¹ ATECO codes 18.20.00, 59.20.20 and 59.20.30.

¹² Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p. 1), Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 8).

¹³ 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, Commission Regulation (EC) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1 and Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union OJ L 369, 24.12.2014, p. 37.

2.9. Monitoring and reporting

- (21) The Italian authorities confirm that they will respect the monitoring and reporting obligations laid down in section 4 of the Temporary Framework (including the obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measures on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting¹⁴).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (22) By notifying the measures before putting it into effect, the Italian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (23) 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.
- (24) The measures are imputable to the State, since they are administered by the Ministry of Culture and Tourism and they are based on based on the legal bases listed above in recital (7). They are financed through State resources, since they are financed by public funds.
- (25) The measures confer an advantage on their beneficiaries in the form of direct grants. The measures thus confer those beneficiaries an advantage, which they would not have had under normal market conditions.
- (26) The advantages granted by the measures are selective, since they are awarded only to certain undertakings, in particular, small book publishers and companies active in the recording, publishing and reproduction of music, excluding the financial sector.
- (27) The measures are liable to distort competition, since they strengthen the competitive position of its beneficiaries. They also affect trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (28) In view of the above, the Commission concludes that the measures constitute aid within the meaning of Article 107(1) TFEU. The Italian authorities do not contest that conclusion.

¹⁴ Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014.

3.3. Compatibility

- (29) Since the measures involve aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether those measures are compatible with the internal market.
- (30) 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*”.
- (31) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in 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*”.
- (32) The measures aim at compensating the significant revenue reduction in 2020 and at allowing the beneficiaries to continue with their activities, at a time when the normal functioning of credit markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (33) The measures are part of a series of measures conceived at national level by the Italian authorities to remedy a serious disturbance in their economy. The importance of the measures to preserve employment and economic continuity is widely accepted by economic commentators and the measures are of a scale, which can be reasonably anticipated to produce effects across the entire Italy’s economy. Regarding the small publishers measure, Italy has provided estimates of a loss of 32% of all titles published and indicated that 30% of small publishers was seriously concerned about or even considering the termination of their businesses. Moreover, the production and sale of books businesses were not listed among the essential activities, which were allowed to continue their activities during the COVID-19 outbreak. Regarding the music measure, Italy indicated that according to best estimates, the potential damage in terms of copyright collections not received in 2020 due to the lockdown in Italy amount approximately to EUR 200 million. This amount is expected to grow depending on the duration of the health emergency and the timing of gradual reopening of the relevant activities. In addition, sales of physical products (CDs and vinyl records) fell by more than 70% between March 2020 and October 2020, and sales of digital products cannot compensate for this sales decline, due to contraction of new releases. Lost revenues of over EUR 100 million are expected in 2020. The shutdown of activities produced very serious negative effects on the level of employment of the sector. Furthermore, the measures have been designed to meet the requirements of a specific category of aid (“*Aid in the form of limited amounts of aid*”) described in section 3.1 of the Temporary Framework.

(34) The Commission accordingly considers that the measures are 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:

- The aid takes the form of direct grants (recital (15)).

The overall nominal value of the direct grants will not exceed EUR 800 000 per undertaking; all figures used are gross, that is, before any deduction of tax or other charges. The measure therefore complies with point 22(a) of the Temporary Framework;

- Aid is granted under the measures on the basis of a scheme with estimated budgets as indicated in recital (9). The measures therefore comply with point 22(b) of the Temporary Framework;
- Aid may not be granted under the measures to medium¹⁵ and large enterprises that were already in difficulty on 31 December 2019 (see recital (13)). The measures therefore comply with point 22(c) of the Temporary Framework. Aid may be granted to micro and small enterprises that were in difficulty on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid¹⁶ or restructuring aid¹⁷ (see recital (13)). The measures therefore comply with point 22(c)bis of the Temporary Framework;
- Aid will be granted under the measures no later than 30 June 2021. The measures therefore comply with point 22(d) of the Temporary Framework;

(35) The Italian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (21)). The Italian authorities further confirm that the aid under the measures may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework are respected and the cumulation rules of the relevant Regulations are respected (recital (18)).

(36) The Commission therefore considers that the measures are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since they meet all the relevant conditions of the Temporary Framework.

¹⁵ As defined in Annex I to 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, 26.6.2014, p. 1.

¹⁶ Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

¹⁷ Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

4. CONCLUSION

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

The decision is based on non-confidential information and is therefore published in full on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

