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**Subject: State Aid SA.63067 (2021/N) – Ireland
COVID-19: Live Performance Support Scheme 2021**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 12 May 2021, Ireland notified *aid in the form of limited amounts of aid* (“Live Performance Support Scheme 2021”, “the measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework”).¹

2. DESCRIPTION OF THE MEASURE

- (2) Ireland considers that the COVID-19 outbreak affects the real economy. The measure forms part of an overall package of measures and aims 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.

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 Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1) and C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

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- (3) Since the first case of COVID-19 was confirmed in Ireland on 29 February 2020, the Irish government has progressively introduced a series of public health measures, including, among others, the closure of all schools, colleges, crèches and non-essential retail facilities, closure or restriction of service industries (e.g. restaurants, hairdressers), restrictions on non-essential travel, including to places of work, and social distancing measures, restrictions on social gatherings, and prohibition on any large gatherings. Those measures have a negative impact on the viability of enterprises, creating acute liquidity needs.
- (4) The Irish authorities explained that the culture sector is particularly vulnerable to the economic effects of the COVID-19 outbreak. Many commercial venues, producers and promoters, even while closed or without work, continue to incur costs including fixed costs without being able to generate revenues. Those businesses will also incur costs in preparing for live performances to meet the needs of their customers.
- (5) The measure aims to assist commercial venues, producers and promoters of live performances in the cultural sector to employ artists and musicians of all genres, performers, technicians and other support staff in the live performance sector. It will help to de-risk the costs of preparing for new productions, which may subsequently have to be postponed, cancelled or curtailed due to restrictions to safeguard public health caused by COVID-19. The objective of the measure is to provide employment and wellbeing opportunities in the performance sector and allow commercial organisers of live performances to commence preparations immediately and go ahead in the near future while also complying with public health measures.
- (6) The Irish authorities confirmed that the aid under the measure is 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.
- (7) The compatibility assessment of the measure 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

- (8) The measure is a scheme that provides aid in the form of direct grants. Those direct grants will contribute to the eligible costs of live performance events that will take place until 30 September 2021.
- (9) The overall nominal value of the direct grants under the measure will range between a minimum of EUR 10 000 and up to a maximum of EUR 1.8 million per undertaking (all figures used must be gross, that is, before any deduction of tax or other charge).

2.2. Legal basis

- (10) The legal basis for the measure is the Ministers and Secretaries Act 1924 as amended by S.I. 403 of 2020.²

2.3. Administration of the measure

- (11) The Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media is responsible for administering the measure with the consent of the Minister for Public Expenditure and Reform.

2.4. Budget and duration of the measure

- (12) The estimated budget of the measure is EUR 25 million. The measure will be financed from the general budget of the State.
- (13) Aid may be granted under the measure as from the notification of the Commission's approval until no later than 31 December 2021.

2.5. Beneficiaries

- (14) The beneficiaries of the measure are undertakings active as commercial venues, promoters, or producers of live performances in Ireland, irrespective of their size. Financial institutions are excluded as eligible beneficiaries.
- (15) Aid may not be granted under the measure to medium³ and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")⁴ on 31 December 2019.
- (16) Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the GBER 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 aid⁵ or restructuring aid⁶.

2.6. Sectoral and regional scope of the measure

- (17) The measure is open to the cultural sector and excludes undertakings operating in the coal or steel sector, in the primary production, processing and marketing of

² <http://www.irishstatutebook.ie/eli/1924/act/16/enacted/en/print#sec2> and <http://www.irishstatutebook.ie/eli/2020/si/403/made/en/pdf>.

³ 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, OJL 187, 26.6.2014, p. 1.

⁴ As defined in Article 2(18) of the GBER.

⁵ 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.

⁶ 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.

agricultural products, fishery or aquaculture sectors or the financial sector. It applies to the whole territory of Ireland.

2.7. Basic elements of the measure

- (18) The Irish authorities have explained that main objective of the measure is to provide employment opportunities in the live performance sector and allow commercial organisers of live performances to commence preparations immediately and productions to go ahead in the near future while also complying with public health protection measures.
- (19) Eligibility criteria under the measure are:
- (a) The applicant must be a commercial venue, promoter or producer which has not received public funding from 2018-2020 other than Covid-19 support over the said period;
 - (b) The applicant must have a proven track record of live performance undertaken in the period 2018-2020;
 - (c) The applicant must plan to hold a live performance event that will conclude on or before 30th September 2021.
- (20) The eligible costs are costs related to the creation / production of a live performance, in particular:
- (a) Venue costs including crew, overhead, staff costs incurred as a result if and for the duration of production only;
 - (b) Contracts for Service for Artists Fees; Performer Fees; Musician Fees; Crew Fees; as well as Services from Creative Industries. Costs of purchase of equipment and contract of employment not relevant to the production are not eligible.
- (21) The overall nominal value of the direct grants under the measure will range between a minimum of EUR 10 000 and up to a maximum of EUR 1.8 million per undertaking (all figures used must be gross, that is, before any deduction of tax or other charge) (see recital (9)). The criteria taken into account to set the amount of the grant are in particular the employment opportunities created, the quality of the event, whether the event has reasonable chance of proceeding in the current environment, whether the costs are reasonable and whether there is an element of matched funding available. The closing date for receipt of applications under the measure was 14 April 2021.
- (22) The Irish authorities confirm that the maximum overall aid amount per undertaking (gross, i.e. before any tax deduction or other charge) of EUR 1.8 million set out at point 22(a) of the Temporary Framework is respected.

2.8. Cumulation

- (23) The Irish authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations⁷ or the GBER provided the provisions and cumulation rules of those Regulations are respected.
- (24) The Irish authorities confirm that aid granted under the measure 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.
- (25) The Irish authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure 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 point 22(a) of that framework, will be respected.

2.9. Monitoring and reporting

- (26) The Irish 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 measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting⁸).

3. ASSESSMENT

3.1. Existence of State aid

- (27) 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.
- (28) The measure is imputable to the State, since it is administered by the Irish Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media (see recital (11)) and is based on the Ministers and Secretaries Act 1924 as amended by S.I. 403 of 2020 (see recital (10)). It is financed through State resources, since it is financed by public funds (see recital (12)).
- (29) The measure confers an advantage on its beneficiaries in the form of direct grants (see recital (8)) providing a contribution to the eligible costs (see recital (20)) of

⁷ 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) 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).

⁸ Referring to information required in Annex III to the GBER.

live performance events, which they would not have had under normal market conditions.

- (30) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular commercial venues, promoters, and producers of live performances (see recital (14)) and excludes undertakings operating in the coal or steel sector, in the primary production, processing and marketing of agricultural products, fishery or aquaculture sectors or the financial sector (see recital (17)).
- (31) 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.
- (32) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Irish authorities do not contest that conclusion.

3.2. Compatibility

- (33) 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.
- (34) 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*”.
- (35) 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*”.
- (36) The measure aims at de-risking the costs of preparing for new productions which may subsequently have to be postponed, cancelled or curtailed due to restrictions to safeguard public health caused by COVID-19, 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.
- (37) The measure is one of a series of measures conceived at national level by the Irish authorities to remedy a serious disturbance in their economy. The importance of the measure to preserve employment and economic continuity in the cultural performance sector is widely accepted by economic commentators. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“Limited amounts of aid”) described in section 3.1 of the Temporary Framework.

(38) 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:

- The aid takes the form of direct grants (recital (8)).

The overall nominal value of the direct grants shall not exceed EUR 1.8 million per undertaking; all figures used must be 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 measure on the basis of a scheme with an estimated budget as indicated in recital (12). The measure therefore complies with point 22(b) of the Temporary Framework;
- Aid may not be granted under the measure to medium⁹ and large enterprises that were already in difficulty on 31 December 2019 (see recital (15)). The measure therefore complies 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 aid¹⁰ or restructuring aid¹¹ (see recital (16)). The measure therefore complies with point 22(c)bis of the Temporary Framework;
- Aid will be granted under the measure no later than 31 December 2021. The measure therefore complies with point 22(d) of the Temporary Framework.

(39) The Irish authorities confirm that the aid under the measure is 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 (recital (6)). The Irish authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (26)). The Irish authorities further confirm that the aid under the measure 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 (recitals (23) to (25)).

⁹ 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, OJL 187, 26.6.2014, p. 1.

¹⁰ 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.

¹¹ 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.

(40) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it 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.

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

