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**Subject: State Aid SA.100526 (2021/N) – Ireland  
COVID-19: Commercial Entertainment Capital Grant Scheme**

Excellency,

## 1. PROCEDURE

- (1) By electronic notification of 29 October 2021, Ireland notified aid in the form of limited amounts of aid (“*Commercial Entertainment Capital Grant Scheme*”, the “measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 pandemic (the “Temporary Framework”).<sup>1</sup> Additional information was provided by the Irish authorities on 17, 18, 19 and 22 November 2021.

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<sup>1</sup> 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), C(2021) 564 (OJ C 34, 1.2.2021, p. 6) and C(2021) 8442 final (OJ C 473, 24.11.2021, p. 1).

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## **2. DESCRIPTION OF THE MEASURE**

- (2) Ireland considers that the COVID-19 pandemic 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 pandemic, to ensure that the disruptions caused by the pandemic do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the pandemic.
- (3) The Irish authorities submit that the COVID-19 pandemic and the resulting restrictive measures have had a negative impact on the activity of undertakings operating in the arts and culture sectors. As a result, many cultural venues, producers and promoters, even while closed or without work, continue to incur costs including fixed costs without being able to generate revenues.
- (4) With the measure, the Irish authorities aim to provide financial support to commercial businesses operating from premises in the arts, music and entertainment sector and, which have been significantly negatively impacted by restrictions introduced by the government under public health regulations to combat the effects of the COVID-19 pandemic.
- (5) Grants will be paid to successful applicants as a contribution to the capital costs associated with reopening after closures due to the COVID-19 pandemic.
- (6) Ireland confirms 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 an aid scheme through which aid is provided in the form of direct grants.

### **2.2. Legal basis**

- (9) The legal basis for the measure is the Ministers and Secretaries Act 1924, as amended by S.I. 403 of 2020.

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

- (10) The Department of Tourism, Culture, Arts, Gaeltacht, Sports 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**

- (11) The estimated budget of the measure is EUR 10 million originating from the State budget.

- (12) Aid may be granted under the measure as from the notification of the Commission’s decision approving the measure until no later than 30 June 2022.

## **2.5. Beneficiaries**

- (13) The final beneficiaries of the measure are undertakings operating in the arts and culture sectors including music, entertainment, live performance, drama, commercial classes in the arts<sup>2</sup>. However, financial institutions are excluded as eligible final beneficiaries.
- (14) Aid may not be granted under the measure to medium<sup>3</sup> and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)<sup>4</sup> on 31 December 2019. 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 aid<sup>5</sup> or restructuring aid.<sup>6</sup>

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

- (15) The measure is open to undertakings operating in the arts and culture sectors, as described above in recital (13).
- (16) The measure applies to the whole territory of Ireland.

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

- (17) The Irish authorities aim to provide financial aid in the form of direct grants to eligible undertakings operating in the arts and culture sectors, as described above in recital (13).
- (18) The measure seeks to support undertakings up to a maximum of EUR 25 000 to facilitate capital works<sup>7</sup> for reopening and continuing to operate safely for staff,

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<sup>2</sup> As defined by the Arts Act 2003, ‘arts’ means any creative or interpretative expression (whether traditional or contemporary) in whatever form, and includes, in particular, visual arts, theatre, literature, music, dance, opera, film, circus and architecture, and includes any medium when used for those purposes.

<sup>3</sup> 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.

<sup>4</sup> As defined in Article 2(18) of Commission Regulation (EU) No 651/2014.

<sup>5</sup> 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.

<sup>6</sup> 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.

<sup>7</sup> Capital works include works associated with reopening after closure due to COVID-19 pandemic. It includes installation of outdoor performance and audience facilities; weather protection for outdoor facilities; installation or modification of ventilation systems; modification works to improve ventilation; modification to premises to improve the safety of staff and customers; installation of facilities/structures that assist in crowd management or stewarding; security and Health and Safety equipment in accordance with the Work Safely Protocol; staging/streaming equipment.

classes and audiences. The support will be offered by way of a one-off payment equal to the value of 5% of the VAT-exclusive turnover of the arts and culture activity of the undertaking for 2019. The overall aid shall not exceed EUR 2.3 million per undertaking at any given point in time<sup>8</sup>.

- (19) To be eligible to receive aid under the measure, applicants must:
- intend to resume trading in full once government restrictions are eased – applicants will be required to declare this when applying;
  - be located in Ireland and have an address of the business for tax purposes located wholly within a geographical region for which COVID-19 restrictions are/were in operation;
  - have a current eTax Clearance Certificate from the Revenue Commissioners;
  - be able to demonstrate that their average monthly turnover was no more than 25% of their average monthly turnover for 2019 for any consecutive six months during the period 12 March 2020 and 30 September 2021. This must be confirmed by an Auditor's Certificate/Letter signed by an accountant.

## **2.8. Cumulation**

- (20) The Irish authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations<sup>9</sup> or the GBER provided the provisions and cumulation rules of those Regulations are respected.
- (21) 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.
- (22) 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**

- (23) 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

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<sup>8</sup> All figures used must be gross, that is, before any deduction of tax or other charge.

<sup>9</sup> 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).

000 granted under the measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting<sup>10</sup>).

### 3. ASSESSMENT

#### 3.1. Existence of State aid

- (24) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.
- (25) The measure is imputable to the State, since it is administered by the Department of Tourism, Culture, Arts, Gaeltacht, Sports and Media (recital (10)) and it is based on the Ministers and Secretaries Act 1924, as amended by S.I. 403 of 2020 (recital (9)). It is financed through State resources, since it is financed from the State budget (recital (11)).
- (26) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (8)). The measure thus confers an advantage on those beneficiaries, which they would not have had under normal market conditions.
- (27) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, i.e. undertakings operating in the arts and culture sectors, excluding the financial sector (recital (13)).
- (28) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (29) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Irish authorities do not contest that conclusion.

#### 3.2. Compatibility

- (30) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.
- (31) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid "*to remedy a serious disturbance in the economy of a Member State*".
- (32) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in section 2) that "*the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact*

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<sup>10</sup> Referring to information required in Annex III to the GBER.

*undertakings*”. The Commission concluded that “*State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs*”.

- (33) The measure aims at providing financial support to assist the eligible undertakings, which have experienced loss of turnover due to the COVID-19 restrictions, at a time when the normal functioning of markets is severely disturbed by the COVID-19 pandemic and that pandemic is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (34) 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 is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Irish economy. 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.
- (35) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:

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

The overall nominal value of the direct grants shall not exceed EUR 2.3 million per undertaking at any given point in time; all figures used must be gross, that is, before any deduction of tax or other charges (recital (18)). The measure therefore complies with point 22(a) of the Temporary Framework.

- Aid is granted under the measure based on a scheme with an estimated budget as indicated in recital (11). The measure therefore complies with point 22(b) of the Temporary Framework.
- Aid may not be granted under the measure to medium<sup>11</sup> and large enterprises that were already in difficulty on 31 December 2019 (recital (14)). 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 aid<sup>12</sup> or restructuring aid<sup>13</sup>

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<sup>11</sup> As defined in Annex I to the GBER.

<sup>12</sup> 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.

<sup>13</sup> 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.

(recital (14)). The measure therefore complies with point 22(c)bis of the Temporary Framework.

- Aid will be granted under the measure no later than 30 June 2022 (recital (12)). The measure therefore complies with point 22(d) of the Temporary Framework.
- 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)).

(36) The Irish authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (23)). 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 and the cumulation rules of the relevant Regulations are respected (recitals (20) to (22)).

(37) 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

