Brussels, 26.10.2021
C(2021) 7852 final

PUBLIC VERSION
This document is made available for information purposes only.

Subject: State Aid SA.63373 (2021/N) – Italy
Tax credit for the production of video games of ‘Italian nationality’ with cultural value

Excellency,

1. **PROCEDURE**

(1) On 8 June 2021, the Italian authorities notified to the Commission a State aid scheme for the support of the production of Italian video games (‘the Scheme’). The Commission requested additional information from Italy on 27 July 2021, to which Italy replied on 23 September 2021. On 8 October 2021, the Commission sought further clarification that was provided by Italy on 13 October 2021.

2. **DETAILED DESCRIPTION OF THE MEASURE**

2.1. **Context**

(2) The Scheme aims at supporting the production of video games of Italian nationality in order to reinforce Italy’s multifaceted cultural landscape. The digital game industry is an industry that is rapidly growing worldwide. By increasing Italy’s international competitiveness in the sector, the Scheme contributes to the strengthening of Europe’s digital audiovisual sector.

Onorevole Luigi Di Maio
Ministro degli Affari esteri e della Cooperazione Internazionale
Piazzale della Farnesina, 1
00135 Roma
ITALIA
According to Italy, State aid is necessary, as the current market conditions are not sufficient to incentivise the production of video games of ‘Italian nationality’. Italy considers that video games with Italian cultural content are high-risk productions compared to productions characterised by content in line with international market trends, and thus by predominantly North American and Asian content. The current market situation, demonstrated by market surveys, such as one conducted by the Italian Association of Developers for Video Games, indicating that the total turnover of the video game market in Italy amounted to EUR 2.2 billion in 2020, makes it considerably more risky for private parties to invest in production that departs from market trends. The direct consequence of this development is the exponential increase in the difficulty for Italian developers to access private funding sources that support the creation of video games with Italian cultural content.

2.2. Legal basis, duration, and budget


The Scheme will be in place until 31 December 2026. The Scheme will not enter into force before the notification of the Commission’s decision approving the Scheme.

The overall budget of the Scheme is EUR 120 000 000, and the annual budget is EUR 20 000 000. The Scheme is financed from the general State budget.

2.3. Aid form, eligible costs and intensities

The Scheme provides for the granting of a tax credit equal to 25% of the eligible costs of the production budget to production undertakings in respect of investments made in the production of video games, up to EUR 1 000 000. The final benefit is calculated by the tax administration as part of the annual tax calculation procedure.

1 Italy refers to studies from 2017 that shows that the percentage of games for console platforms carried out by production companies possessing Italian nationality compared to supply on the international market was around 1.5%, while the percentage of games per PC platform was around 0.5%. AESVI data — Associazione Editori Developatori Videogames Italiani 2017; processing of data published on: https://en.wikipedia.org/wiki/List_of_PlayStation_4_games

2 The study “I videogiochi in Italia nel 2020 – dati sul mercato e sui consumatori” indicates that there is no Italian work among the 20 most popular games in the Italian videogames market, which is overwhelmingly dominated by American and Asian made works. https://tideassociation.com/dati/mercato-e-consomatori.kl
For the production undertakings to benefit from the Scheme, the video games must:

(a) be of “Italian nationality”, as defined in recital (9)\(^3\) and assessed by a committee appointed by the Director-General of Cinema and Audiovisual of the Ministry of Culture; and

(b) have been recognised by an examination committee as works of cultural value on the basis of the criteria laid down in Table A (annexed to the Interministerial Decree No 187) and contribute to the development of Italian and European creativity in video games through elements of quality, originality as well as technological and artistic innovation\(^4\) (see details in recital 10).

Video games of Italian nationality are works which, in relation to the fulfilment of the requirements set out in the list below, achieve a minimum score of 60 out of a 100, on the basis of the following parameters:

(a) at least half of the game producers are of Italian nationality or nationals of a country in the European Economic Area (‘EEA’): 15 points;

(b) at least half of the game designers are of Italian nationality or nationals of a country in the EEA: 9 points;

(c) at least half of the programmers are of Italian nationality or nationals of a country in the EEA: 9 points;

(d) at least half of the game artists are of Italian nationality or nationals of a country in the EEA: 9 points;

(e) at least half of the game writers are of Italian nationality or nationals of a country in the EEA: 9 points;

(f) at least half of the game composers/sound designers are of Italian nationality or nationals of a country in the EEA: 9 points;

(g) at least half of the development team members are of Italian nationality or nationals of a country in the EEA: 10 points;

(h) the original texts and dialogues are also in Italian or Italian dialects: 10 points;

(i) development (i.e. production) activities are carried out, at least to the extent of 80 %, in the EEA and at least to the extent of 25 % in Italy: 20 points.

Games are considered to have cultural value, after assessment based on the criteria set out in Table A annexed to Decree No 187 of 12 May 2021\(^5\). The

---

\(^3\) Pursuant to “Table D” annexed to the Prime Ministerial Decree of 11 July 2017 as amended by the Prime Ministerial Decree of 11 August 2020.

\(^4\) Article 2(2) of Decree No. 187.

\(^5\) Articles 5 and 6 of Law No 220 of 2016.
minimum total score 70 out of a 100 for the recognition of cultural value within the meaning of Article 2 of this Decree, including at least 35 points generated by Section A, are presented in the Table below.

<table>
<thead>
<tr>
<th>Table A: cultural value of video games</th>
<th>Requirement</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>(A) CONTENTS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A.1 video game inspired by a work of European historical, artistic, literary, audiovisual or scientific heritage</td>
<td>up to 15</td>
<td></td>
</tr>
<tr>
<td>A.2 video game on European historical, legend, social, artistic, cultural, sporting or scientific issues</td>
<td>up to 15</td>
<td></td>
</tr>
<tr>
<td>A.3 video game characterised by elements of originality and creative individuality</td>
<td>up to 15</td>
<td></td>
</tr>
<tr>
<td>A.4 video game characterised by narrative development or progression of play experience</td>
<td>up to 10</td>
<td></td>
</tr>
<tr>
<td>A.5 Original version of the video game in at least two European languages, including Italian</td>
<td>up to 5</td>
<td></td>
</tr>
<tr>
<td><strong>Total score A)</strong></td>
<td></td>
<td>up to 60</td>
</tr>
<tr>
<td><strong>(B) INNOVATION</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B.1 Technological innovation in software development/programme</td>
<td>up to 10</td>
<td></td>
</tr>
<tr>
<td>B.2 Innovation of video experience</td>
<td>up to 10</td>
<td></td>
</tr>
<tr>
<td><strong>Total points B)</strong></td>
<td></td>
<td>up to 20</td>
</tr>
<tr>
<td><strong>(C) PRODUCTION</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C.1 Development activities of at least 80% in the European Economic Area</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>C.2 Artistic expenditure exceeding 50% of the total cost</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td><strong>Total score C)</strong></td>
<td></td>
<td>20</td>
</tr>
<tr>
<td><strong>TOTAL GENERAL</strong></td>
<td></td>
<td>100</td>
</tr>
</tbody>
</table>

(11) The type of eligible costs are as follows: production costs, including

(a) acquisition rights;

(b) development costs;

(c) costs of art team, including graphics, special effects, animation;

(d) costs of programming and development team,

(e) costs of production and development support team;

(f) depreciation costs,

(g) overhead and contingency.
2.4. Other conditions

(12) An amount at least equalling the amount of the recognised tax credit must be spent in the EEA.

(13) Funding under the Scheme may be cumulated with State aid from other sources but aid intensity cannot exceed 50% of the eligible costs of the production budget if other support is also granted.

2.5. Beneficiaries

(14) Video games production undertakings are eligible for aid under the Scheme if they:

- have their registered office in the EEA;
- at the time the advantage under the Scheme is used, are taxed in Italy because of their tax residence or because of the presence of a permanent establishment in Italy, to which the product to which the benefits relate can be attributed; and
- have a share capital or net worth of at least EUR 10 000.

2.6. Transparency

(15) The following information will be published on a website: the full text of the approved aid Scheme, including its implementing rules, name of the granting authority, name of the aid beneficiary, aid instrument and the aid amount per beneficiary, the objective of the aid, the date of granting, and the number of the aid measure at the Commission6.

(16) Pursuant to European transparency requirements, each individual aid of EUR 500 000 will be published.

3. Assessment of the Measure

3.1. Lawfulness of the measure

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

3.2. Existence of aid

(18) According to Article 107(1) of the Treaty on the Functioning of the European Union (‘TFEU’), "Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market".

6 http://www.cinema.beniculturali.it
The Scheme is financed from the state budget (see recital 6), and is imputable to the State.

Under the Scheme, undertakings active in the video games production sector can receive an economic advantage in the form of a tax advantage that reduces their production costs (see recital 7).

The support under the Scheme is limited to a particular sector, i.e. companies in the digital games sector, and is therefore selective (see recital 7).

The measure distorts competition and affects trade between Member States, as the video games sector has an international character (see recital 3).

Therefore, the Scheme constitutes State aid within the meaning of Article 107(1) TFEU. The Italian authorities do not contest this conclusion.

3.3. **Compatibility of the aid measure**

3.3.1. **General legality**

Beneficiaries are not required to be undertakings established in Italy under national law. A registered office, permanent establishment or branch office must be in Italy only at the time the advantage under the Scheme is used (see recital 14).

The eligibility and selection criteria that ensure the ‘Italian nationality’ and the cultural character of the games do not require team members to have the Italian nationality or residence (see recitals 9-10).

There are no direct territorial spending conditions attached to the Scheme requiring the beneficiaries to spend a certain amount of the aided expenditure in the Italian territory. Although carrying out 25% of development work in Italy earns 20 points (out of 100), applicants can qualify their work as one of ‘Italian nationality’ without any territorial spending.

3.3.2. **Promotion of culture in line with Article 107(3)(d) TFEU**

The Commission has not developed guidelines for the application of Article 107(3)(d) TFEU to aid to games. Paragraph 24 of the 2013 Cinema Communication\(^7\) states that aid measures to support games are addressed on a case-by-case basis. Nevertheless, the Commission applies the aid intensity criteria of the Cinema Communication by analogy to aid schemes targeted at games that serve a cultural or educational purpose. Accordingly, the assessment of digital games support that serve such purpose takes place on the basis of Article 107(3)(d) TFEU and in line with Commission practice\(^8\) in this sector.

---

\(^7\) Communication from the Commission on state aid for films and other audiovisual works, OJ C 332, 15.11.2013, p. 1.

(28) Article 107(3)(d) of the TFEU states that ‘aid to promote culture and heritage conservation [may be considered to be compatible with the internal market] where such aid does not affect trading conditions and competition in the Union to an extent that is contrary to the common interest’.

(29) The Scheme aims to support the production of Italian video games that serve a cultural purpose. In order to ensure that the selected projects fit this goal, a selection procedure has been set up, with detailed criteria assessed by an examination committee referred to in recital 8(a). That procedure emphasises the cultural content of the game and its affiliation with the European and/or the Italian culture (see recital (8)).

(30) The Scheme therefore ensures that the aid be granted to promote culture in line with Article 107(3)(d) TFEU.

3.3.3. Appropriateness, necessity and proportionality of the measure

Appropriateness

(31) The Italian authorities explained that culturally valuable games have difficulties to obtain upfront financing on the capital market and depend on support to be realised (see recital 3). The aid is an appropriate instrument as it provides the necessary economic incentive to the minimum but capable of producing an effect.

(32) The design of the Scheme, in particular the eligibility and selection criteria, allows public support to be channelled to Italian cultural games. It therefore makes the Scheme appropriate for the achievement of the cultural objectives of the Italian authorities.

(33) The Scheme is therefore appropriate in view of its stated objectives of and the inherent difficulties for the market to achieve those objectives.

Necessity

(34) The Italian authorities have explained that the current market conditions are not sufficient to incentivise the production of video games of Italian nationality. They have pointed out the difficulty for Italian developers to access private funding sources that support the creation of video games with Italian cultural content (see recital 3).
(35) Therefore, the aid can be considered necessary in order to foster the production of Italian video games. Taking into account the commercial market pressures, fewer Italian or European cultural elements would be present in the produced games in the absence of aid.

(36) The Scheme is therefore necessary to incentivise the production of Italian cultural video games.

Proportionality

(37) The aid is proportionate since support under the Scheme is limited to 25 % of the eligible costs (see recital 7). If aid under the Scheme is cumulated with aid from other sources, the aid intensity cannot exceed 50 % of the eligible costs of the production budget. (See recital 13.) Those aid intensities respect the limits set out in paragraph 52(2) of the Cinema Communication, which, according to paragraph 24 of that Communication, apply to aid schemes targeted at games serving a cultural purpose by analogy. The overall aid amount cannot exceed EUR 1 000 000 per beneficiary.

3.3.4. Limited distortion of competition and effect on trade

(38) The total turnover of the video game market in Italy amounted to EUR 2.2 billion in 2020. A recent market survey carried out by the Italian Association of Developers for Video Games showed that the percentage of games for console platforms carried out by production companies possessing Italian nationality compared to supply on the international market has recently been around 1.5 %, while the percentage of games per PC platform has been around 0.5 % (see recital 3). Those figures show the that the volume of the aid under the Scheme is very limited in view of the total turnover of the Italian market on which a serious competitive imbalance exists between domestic and foreign production. The Scheme therefore has a limited impact on competition and trade between Member States.

3.3.5. Transparency

(39) The commitments of the Italian authorities with regard to the publication of information on the Scheme (see recitals (15)(16)) are in line with the transparency provisions contained in several Communications\(^9\).

3.3.6. Conclusion

(40) Overall, the Commission takes the view that the aid will not unduly strengthen the market power of beneficiary firms or hamper the dynamic incentives for market operators, but, on the contrary, will increase the diversity of supply on the games market. The possible distortions of competition are outbalanced by the expected positive cultural results of the Scheme. The Commission therefore concludes that the Scheme is compatible with the internal market pursuant to Article 107(3)(d) TFEU.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid because it is compatible with the internal market pursuant to Article 107(3)(d) of the Treaty on the Functioning of the European Union.

If this letter contains confidential information that 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 authentic 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