Subject: State Aid SA.100581 (2021/N) – Germany
Amendment and prolongation of the Bavarian game support measure SA.46572 (2017/N)

Excellency,

I. PROCEDURE

(1) By notification of 9 November 2021, Germany notified amendments as well as a prolongation until 30 June 2025 of the aid scheme SA.46572 (2017/N)\(^1\), which the Commission approved (“the initial decision”), Bayerische Computerspielförderung (Bavarian game support measure) (“the existing aid scheme”).

(2) The Commission found the existing aid scheme, aiming to support the development of high quality, culturally or pedagogically valuable digital games and innovative, interactive media projects with a games element, compatible with the internal market in accordance with Article 107(3)(d) TFEU and in light of the Cinema Communication\(^2\).

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\(^2\) Communication from the Commission on State aid for films and other audiovisual works (OJ C332, 15.11.2013, p. 1).

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(3) On 23 September 2021, the Commission approved a prolongation of the existing aid scheme until 30 June 2022 in case SA.64615 (2021/NN). The existing aid scheme, as amended, will apply following the notification of this Commission decision approving the notified amendments.

2. DETAILED DESCRIPTION OF THE NOTIFIED AMENDMENTS

(4) The measure under the existing aid scheme consists of support for a) concept development, b) prototype development and c) production, as described in recital 12 of the initial decision.

(5) The notified amendments aim at changing the existing aid scheme in the following manner:

(a) Increase of the maximum amount of direct grant per project for concept development to EUR 30 000 (see recital 14 of the initial decision);

(b) Increase of the maximum amount of aid for prototype development in the form of interest-free, repayable loans of up to 80% of the estimated development costs to a maximum of EUR 200 000 per project (see recital 15 of the initial decision);

(c) The provision of a maximum of EUR 100 000 direct grant per project for prototype development, whereas pursuant to the existing aid measure, direct grants were not available for prototype development (see recital 15 of the initial decision).

(6) The total budget of the scheme will be EUR 7 500 000 for the period 2022-2025 and the annual budget will be EUR 2 500 000.

(7) The legal basis of the notified amendments is the draft Guidelines of Bavarian games support ("Bayerische Richtlinien für die Förderung digitaler Speile") in combination with articles 23 and 44 of the Bavarian Budgetary Regulation (Bayerische Haushaltsordnung). The draft Guidelines have not yet been adopted and will enter into force following the notification of this Commission decision to Germany. The duration of the scheme will end on 30 June 2025.

(8) The remaining elements of the scheme are described in detail in recitals (11) to (23) of the initial decision.

3. LAWFULNESS OF THE MEASURE

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

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4 Point 5.1.1. of the draft Guidelines of Bavarian games support.
5 Point 5.2.1.2. of the draft Guidelines of Bavarian games support
6 Point 5.2.1.1. of the draft Guidelines of Bavarian games support.
4. **Assessment of the Measure**

4.1. **Presence of State aid**

(10) 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.

(11) The existing aid scheme constitutes State aid within the meaning of Article 107(1) TFEU for the reasons set out in recitals (27) to (31) of the initial decision. The prolongation and the notified amendments to the scheme do not alter that conclusion. The Commission therefore refers to the assessment of the initial decision and concludes that the aid scheme, as extended, constitutes State aid in the meaning of Article 107(1) TFEU.

4.2. **Compatibility**

(12) The Commission assessed the existing aid scheme on the basis of Article 107 (3)(d) TFEU and the Cinema Communication. The Commission also took into account its decisional practice with regard to digital games and concluded that the existing aid scheme fulfilled the relevant compatibility conditions.

(13) The Commission refers to its analysis of compatibility as set out in recitals (32) to (57) of the initial decision.

(14) The Commission considers that the amendments to and the extension of the duration of the original scheme do not alter the conclusion reached by the Commission as to the compatibility of the scheme as set out in its initial decision (see recitals 32-58) with Article 107 (3) (d) TFEU. In particular, the scheme has a limited budget (see recital 6) and the aid amounts (including the notified increases) are also relatively small (recital 5). The aid is proportional since support under the scheme is limited to 50% of production costs. The aid can be cumulated with other types of support, within the limits set by German and Union law. There are no further amendments to the scheme that affect eligibility of projects (see recital 8).

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7 The increase of the maximum amount of direct grant per concept development project to 30 000, the increase to 200 000 of the interest-free, repayable loans of up to 80% of the estimated prototype development costs, as well as the newly introduced availability of direct grants for prototype development.
CONCLUSION

The Commission has decided, on the basis of the foregoing assessment, not to raise objections to the aid on the grounds that 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:

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Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President