EUROPEAN COMMISSION

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C(2022) 8798 final

SENSITIVE[*]: *COMP Operations*

Subject: **State Aid SA.104469 (2022/N) – Prolongation of measure SA.57496 Broadband vouchers for SMEs**

Excellency,

1. Procedure

(1) On 4 October 2022, Italy notified to the Commission pursuant to Article 108(3) TFEU, a one year prolongation ('the notified measure') of an authorised aid scheme SA.57496 (the "initial aid scheme"), which the Commission had approved on 15 December 2021[1] (the "initial decision").

(2) By letter submitted on 15 November 2022, Italy exceptionally agreed 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 1/1958[2] and to have this decision adopted and notified in English.

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[1] Commission Decision C(2021) 9549 final of 15 December 2021 in case State Aid SA.57496 (2021/N) – Italy – Broadband vouchers for SMEs, (OJ C 33, 21.1.2022, p. 1).

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

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2. DESCRIPTION OF THE MEASURE

2.1. Objective

(3) The initial aid scheme aimed to stimulate demand for Next Generation Access (NGA) broadband services by small and medium enterprises ('SMEs') by providing vouchers to partially cover the costs for such services (see recital (5) of the initial decision). The initial aid scheme expires on 31 December 2022.

(4) The present notification seeks to prolong the scheme for one year, i.e. until 31 December 2023. The activation of the vouchers will be possible until no later than 31 December 2023. In addition, some amendments as regards the submission of an evaluation report are necessary in light of this prolongation.

(5) Apart from the modifications presented in recital (4) no other modification to the scheme is envisaged.

(6) The Italian Authorities consider that the prolongation of the scheme is necessary to exploit the full potential of the measure. As set out in recital (20) of the initial decision, the Italian authorities had anticipated that a prolongation of the scheme could be considered at a later point in time subject to the availability of funds. The budget approved under the initial aid scheme has not yet been fully spent due to delays in implementation. Italy considers that this prolongation is appropriate to continue to support take up of the eligible broadband services by SMEs.

(7) The Italian authorities clarified that SMEs' initial response has been weaker than expected concerning the two vouchers with a lower amount (EUR 300 and EUR 500) (see recital (25) of the initial decision).

(8) Italy has explained that the low take up, which was encountered in the start-up phase, resulted in delays to the implementation of the scheme.

(9) Without the prolongation of the measure, the Italian authorities will not be able to address SMEs requests.

(10) The Italian authorities confirm that no further amendments are proposed to the initial aid scheme, as amended, as part of the notified measure and that all other conditions of those schemes are unaltered.

2.2. Legal basis and standstill obligation

(11) The Measure is based on the resolution N. 71/2017 adopted by the Interministerial Committee on Economic Programming (CIPE), which assigned to the Ministry of Economic Development ('MiSe') approx. EUR 1.3 billion to be used to finance demand side measures for broadband services, including EUR 610 million allocated to the voucher scheme for SMEs.

(12) The present decision is an integral part of the legal basis.

(13) Italy is still implementing the initial aid scheme (expiring on 31 December 2022) and committed not to grant aid under the notified measure before the adoption of the Commission's decision approving it, in compliance with the standstill clause of

Article 108(3) TFEU, and to Article 3 of Council Regulation (EU) 2015/1589, according to which new aid measures must not be put into effect before the Commission has taken a decision authorising them~~.~~

2.3. Evaluation reports

(14) In accordance with recital (54) of the initial decision, on 28 October 2022 Italy submitted an evaluation plan of the initial aid scheme.

(15) Italy commits to submit the final evaluation report by 31 December 2023. Given the timeline of the measure, this report will be mainly methodological and contain a preliminary analysis of the available evidence.

(16) Italy commits to submit an additional evaluation report by 30 June 2026. The additional evaluation report will describe the results of the overall evaluation on the effectiveness of the scheme.

3. ASSESSMENT OF THE MEASURE

3.1. Existence of the aid

(17) 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.

(18) The initial aid scheme constitutes State aid within the meaning of Article 107(1) TFEU for the reasons set out in recitals (61) to (68) of the initial decision. The amendments referred to in recital and (5) do not affect that conclusion. Consequently, the notified prolongation of the initial aid scheme and corresponding changes to the evaluation report mechanism, do not alter the Commission's previous conclusion. The Commission therefore refers to the assessment of the initial decision and concludes that the notified measure constitutes State aid within the meaning of Article 107(1) TFEU.

3.2. Lawfulness of the Measure

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

3.3. Compatibility

(20) According to recitals (80) to (106) of the initial decision, the initial aid scheme is compatible with the internal market pursuant Article 107(3)(c) TFEU as it facilitates the development of an economic activity and does not adversely affect competition to an extent contrary to the common interest.

(21) As explained in recitals (7) and (8), Italy explains that delays in implementation occurred due to the a slower than originally anticipated take-up of the two vouchers with a lower amount, which did not allow SMEs to fully benefit from the voucher scheme within the originally foreseen time period.

(22) Regarding the reporting obligations steaming from recitals (54) and (56) of the initial decision, the Italian authorities will submit a final report to the Commission on the implementation of the measure by 31 December 2023 and an additional evaluation report in June 2026.

(23) Apart from the change to the duration of the initial scheme, and the corresponding changes to the timing of the evaluation report, the notified measure does not introduce further amendments to the initial aid scheme (see recital (10)).

(24) The notified measure does not affect the conclusion of the compatibility assessment made under the initial decision. In particular, the Commission considers that the prolongation of the initial aid scheme for one year will allow the Italian authorities to keep fostering the take-up of NGA broadband services by SMEs in line with the initial decision. In this regard, the Commission notes that the low take up at the start of the implementation of the scheme resulted in delays which did not allow SMEs to take advantage of the measure, in particular of the vouchers of a lower value. As a result, the prolongation is necessary to achieve the measure’s objectives, namely to enable as many SMEs as possible to have access to effective Internet access connections, which in turn will allow them to access online services with optimal performance.

(25) The Commission has taken due consideration of the fact that the notified measure facilitates the development of certain economic activities and of the positive effects of that measure on tackling the take up of NGA broadband services by SMEs when balancing those effects against the potential negative effects of the measure on the internal market. The Commission considers that the positive effects of that measure outweigh its potential negative effects on competition and trade.

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)(c) of the Treaty on the Functioning of the European Union.

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Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
mailto:Stateaidgreffe@ec.europa.eu

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General

Martine DEPREZ
Director
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EUROPEAN COMMISSION