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NORWAY

**Subject: Production grant scheme for news and current affairs
media 2023 – 2029**

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1 Summary

- (1) The EFTA Surveillance Authority (“ESA”) wishes to inform Norway that, having assessed the scheme for production grant for news and currents affairs media 2023 – 2029 (“the measure”), it considers that it constitutes State aid within the meaning of Article 61(1) of the EEA Agreement and decides not to raise objections¹ to the measure, as it is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(c). ESA has based its decision on the following considerations.

¹ Reference is made to Article 4(3) of the Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

2 Procedure

- (2) The Norwegian authorities notified the scheme on 24 November 2022.²

3 Description of the measure

3.1 Background and previously approved measures

- (3) By Decision [112/14/COL](#) of 12 March 2014, ESA approved a production grant scheme for news and current affairs media (“the existing scheme”) for a period of six years. In contrast to previous direct press subsidies, the existing scheme was opened up to digital publishers of news by making eligibility independent from the publication platform. The existing scheme, managed by the Norwegian Media Authority, was set up to support both local media in markets that are too small to be sustainable and secondary nationwide media that represent views and interests that are different from those of their leading competitors.
- (4) By Decision [126/16/COL](#) of 15 June 2016, ESA approved the introduction of national weekly news and current affairs media, as a new group of beneficiaries under the existing scheme. The objective of the existing scheme, to promote media pluralism and media diversity, remained unchanged.
- (5) In September 2015, the Norwegian Government appointed the Media Pluralism Committee (“the Committee”) to review the use of economic media policy instruments. The Committee published its report in March 2017.
- (6) The Committee found that the existing scheme has contributed to ensure stability and a geographically differentiated media structure, and growth in the number of local media outlets. However, the Committee also pointed out that a large part of the aid under the existing scheme is awarded to the ten largest beneficiaries, and that this could be challenging for the scheme's legitimacy going forward. Following up the Committee's report, the Norwegian Government brought a white paper to the Parliament in March 2019, which among other measures proposed a new Act on economic support for the media, which was passed in December 2020.³ The revision of the production grant scheme through the notified measure is meant to reflect the objectives of the grant scheme as codified in the Act on economic support to the media.
- (7) The Norwegian authorities have for some time been working on a revision of the existing scheme, with the aim of following up on the white paper of March 2019. Awaiting this revision of the scheme to be finalised, the existing scheme has been prolonged three times. By Decision [006/20/COL](#) of 10 February 2020, ESA approved a prolongation of the scheme until 31 December 2020. By Decision [066/20/COL](#) of 26 June 2020, ESA approved a prolongation of the scheme until 31 December 2021 and by Decision No [120/21/COL](#) of 11 June 2021, ESA approved a prolongation until 31 December 2022.
- (8) According to the Norwegian authorities, the purpose of the notified measure is also to update the existing scheme, in order to keep up with the development in the media sector. Also, the criteria for qualification and allocation have been changed to be best suited to the developments in the media market. The

² Document Nos 1331597, 1331599, 1331595, 1331593 and 1331591.

³ [Lov om økonomisk støtte til mediene \(mediestøtteloven\)](#) - LOV-2020-12-18-153.

technological development, new user habits and changes in the competitive market have given the media new opportunities and challenges. The physical and geographical limitations associated with printed publications do not apply to digital production and distribution. Readers can be reached on multiple platforms, and news and current affairs material is produced and distributed in new and more efficient ways. Furthermore, global actors have increased the competition for the readers' time and attention, thus affecting the advertisement market. In recent years, the Norwegian media companies have experienced significant drops in advertising revenue.

- (9) In the existing scheme, there are three important parameters used to qualify for and allocate the grant: circulation, editions and competitive position. Circulation is a measurement for how widespread the publication is. Number of editions is a measurement for the publication's frequency. Competitive position gives information about the relative position for a media company in the relevant market. When the grant scheme became platform neutral in 2014, it was assumed that these parameters could also be applied to digital news media. However, the Norwegian authorities submit that "circulation" and "editions" are terms not suited to digital media, and that they have proven complicated to use when it comes to allocating the grants. The notified measure therefore introduces new criteria for circulation and publication frequency that is better adjusted to the current media market and the digital area.

3.2 Objective

- (10) According to the Norwegian authorities, the objective of the measure is to maintain diversity in written news and current affairs media throughout Norway, with a broad editorial content targeted to the general public. Furthermore, the scheme shall promote independent journalism characterised by high quality, especially news and current affairs media in markets that are too small to be sustainable or which are alternatives to the leading media in the different media markets.
- (11) The economic activity that will be affected under the proposed scheme is publishing of newspapers, code 58.13 of [the NACE system](#). Publishing can be done in print or online.

3.3 National legal basis

- (12) The national legal basis for the measure is the Act No. 153 of 18 December 2020 on economic support to the media,⁴ sections 4 and 5. The legal framework for the measure will be set out in a new Regulation on production grant for news and current affairs media ("the Regulation").

3.4 Aid granting authority

- (13) The grant scheme will be administered by the Norwegian Media Authority ("the Media Authority"). The Media Authority is a regulatory authority operating under the Ministry of Culture. The tasks of the Media Authority include, *inter alia*, administration of grant schemes to news and current affairs media, and supervision, according to legislation, of audiovisual media services and radio.

⁴ [Lov om økonomisk støtte til mediene \(mediestøtteloven\)](#) - LOV-2020-12-18-153.

3.5 Beneficiaries

(14) A news and current affairs media undertaking must be organised either, as a limited liability company, according to the Limited Liability Companies Act,⁵ or as a public limited liability company, according to the Public Limited Liability Companies Act,⁶ to be eligible for aid under the scheme. According to the Norwegian authorities, this condition ensures that grants go to support the production and publication of a news and current affairs medium and thus fulfils the objective of the scheme. Limited and public limited liability companies are obligated to follow established rules in areas such as accounting, transactions, dividends as further described in 3.6.3 to 3.6.6 below. This enables more effective control and ensures that the grants are not directed to the owners in the form of excessive dividends and is not channelled into other businesses or activities.

(15) The following four categories of news and current affairs media are eligible for aid:

3.5.1 *Leading and sole local media*

(16) A leading local medium is defined as a local medium that has the largest circulation at a publishing site. A sole local medium is defined as a local medium without any competition at a publishing site.⁷

(17) A local medium is defined as a news and current affairs medium that has more than 75% of its subscribers in its county of production/publication, or a news and current affairs medium that has more than 75% of its subscribers in its county of production/publication and a neighbouring county combined.⁸

(18) Leading and sole local media are only eligible if their number of subscriptions are above 700,⁹ but do not exceed 5 700.

3.5.2 *Local secondary media*

(19) A local secondary medium is defined as a local medium that has a competitor with a greater number of subscriptions at the publishing site.

(20) Local secondary media are only eligible if their number of subscriptions exceed 700. Local secondary media which exceed 50 000 subscriptions are not eligible for aid.

⁵ [Lov om aksjeselskaper \(aksjeloven\)](#) - LOV-1997-06-13-44.

⁶ [Lov om allmennaksjeselskaper \(allmennaksjeloven\)](#) - LOV-1997-06-13-45.

⁷ Publishing site is defined as a municipality in which the medium has its main editorial office. The publishing site must be located within the geographical area at which the medium is aimed. A city district may be regarded as a publishing site if the actual geographic market for the medium is smaller than the municipality.

⁸ Subscription is defined as prepayment for delivery of a news and current affairs medium for a limited time period. A subscription shall be individually requested, ordered and paid by the recipient.

⁹ The rules for calculating the number of subscriptions is regulated in detail in the Regulation. In the notified scheme, free copies are excluded in the stipulation of subscription numbers, which is in line with the definition of a subscription as prepayment for delivery of a news and current affairs medium. The threshold levels for qualifying for the scheme and for allocation of grants are therefore reduced corresponding to the amount of free copies allowed in the current regulation. Hence, there will be no changes for the media that receive grants, and no new media will qualify for the scheme as a result of the changed threshold levels.

3.5.3 National secondary media

- (21) A national secondary medium is defined as a secondary medium which has at least:
- 700 subscriptions,
 - 500 of its subscriptions in minimum four of the counties in Norway, and
 - 25% of its subscriptions outside its county of production/publication.
- (22) National secondary media which exceed 50 000 subscriptions are not eligible for aid.

3.5.4 National niche media

- (23) A national niche medium is defined as a secondary medium which has at least:
- 700 subscriptions,
 - 200 of its subscriptions in minimum four of the counties in Norway, and
 - 25% of its subscriptions outside its county of production/publication.
- (24) National niche media which exceed 50 000 subscriptions are not eligible for aid.

3.6 Aid instrument, intensity, eligible costs, overlap with other schemes

3.6.1 Aid instrument

- (25) Aid under the measure is operating aid and awarded in the form of direct grants.

3.6.2 General eligibility conditions

- (26) Under the notified scheme, media may only receive grants if, for at least one year before the grant is provided, they:
- 1) Have as their primary objective to engage in continuous journalistic production and distribution of news, current affairs and social debate to the general public. Grants are not awarded to media that have a primary objective of engaging in advertising or marketing. In addition, grants are not awarded to media that are aimed primarily at members or employees of specific organisations, associations or companies.
 - 2) Have news, current affairs and public debate as their main content and do not have a main emphasis on advertisements. Current affairs mean content about ongoing socially relevant issues and events, including investigative journalism.
 - 3) Fulfil either a) or b) below as relevant.
 - a) Applicable to all eligible groups of media, except for national niche media: Contain a broad range of news, current affairs and debate content from different areas of society. Grants are not awarded to media that primarily contain material from just one or a few areas of society, or which primarily contain material aimed at a specific professional, political, ideological, religious or ethnic background.

b) Applicable only to national niche media:¹⁰

Contain a broad range of news, current affairs and debate material on politics, economics or society to the general public.

The criterion of broad range underlines that the objective of the scheme is to promote the dissemination of a broad editorial content targeted to the general public. Broad range refers to both different journalistic genres and to content from different areas of society or different areas within politics, economics or society.

- 4) Are editorially independent. In the assessment of whether a medium is editorially independent, emphasis shall be placed on inter alia ownership, organisation, whether the medium has its own editor, editorial collaboration, appearance, name and layout.
- 5) Have appointed an editor according to the Media Liability Act Section 4.¹¹ A media company may apply for a production grant for several news and current affairs media published by the company that are not editorially independent. The news and current affairs media must in such cases meet all the other eligibility criteria. If the criteria are fulfilled, the company will receive calculated grants as a single medium.
- 6) Receive genuine payment for news, current affairs and debate content, and advertising, according to a publicly available price list.
- 7) Calculated single sales constitute less than half of the medium's calculated subscriptions amount.
- 8) Publish at least five in-house produced articles per week for a minimum of 48 of the year's weeks and publish a total of at least 480 in-house produced articles per year. An in-house produced editorial article may only include journalistic content and is separated from commercial content. News reports from news agencies, shared articles produced by other media, content created by other media without any journalistic editing will not be considered in-house produced. News and current affairs media that are published as a paid numbered product on paper can qualify with 48 issues per calendar year up to and including the grant year 2025 as a transitional arrangement.
- 9) Have at least 700 subscriptions, or 450 subscriptions if the media is a sole media located in municipalities with fewer than 5 000 inhabitants, and with centrality 5 or 6 according to the SSB (Statistics Norway). Statistics Norway's centrality index divides the country's municipalities into six classes, where one is the most centrally located and six is the least.

¹⁰ The rationale for the separate eligibility criteria for national niche media is to codify a long practice by the Media Authority in awarding grants to nationwide niche publications covering economy, politics or society. These publications are an important contribution to media diversity and debate within their areas of topic. This practice has historically been based upon media diversity objectives.

¹¹ [Lov om redaksjonell uavhengighet og ansvar i redaktørstyrte journalistiske medier \(medieansvarsloven\)](#) - LOV-2020-05-29-59.

3.6.3 Conditions related to organisation and use of the grant

- (27) Media companies in which public institutions or authorities have a genuine right to manage, financial responsibility or have more than a 49% ownership interest are not entitled to aid.
- (28) Grants may only be used for the production and publication of the news and current affairs medium for which production grants are awarded.
- (29) The media company may not conduct business other than the production and publication of the news and current affairs medium for which grants are awarded. The media company may nevertheless conduct “other activities” if income from this activity constitutes less than one third of the media company's revenue in the grant year.
- (30) “Other activities” refer to services and products like printing press services, gift certificates, tickets to the cinema, events etc., that are not part of a media company's core business, i.e. to produce and publish editorial content. Media companies eligible for grants under the scheme must have written current affairs and public debate as their main content and may in addition offer other types of editorial content. Consequently, offering access to other editorial content, for example streaming of sports content or podcasts, is considered part of a media's editorial offering and not considered as “other activities” in this relation.
- (31) In cases where access to other products and other services not targeted by the scheme are included in a subscription, only the subscription income for that newspaper will be counted as subscription income stemming from production and publication of the news and current affairs media. Income from products or services not covered by the scheme will count as income from other activities. Income stemming from these products or services needs to be split from subscription income, as appropriate according to the accounting rules, to ensure that the condition restricting revenue from other activities will be working properly and preventing cross-subsidisation as intended.
- (32) Historically, the reason for media companies having the possibility to conduct other activities was related to use of printing presses owned by the companies. Media companies were allowed to generate revenue by printing for others. According to the Norwegian authorities, a few media companies still generate income from printing presses. To the knowledge of the Norwegian authorities, none of the grant beneficiaries have significant revenue from other activities. On average, income from other activities has not exceeded 5% of the grant receiving media's total income in any year from 2013 to 2020.
- (33) In addition, other conditions related to transactions between media companies and others also contribute to prevent cross-subsidisation, see 3.6.6. below.

3.6.4 Conditions related to operating profits, margins and revenue

- (34) Like the existing scheme, the new measure will exclude media companies that exceed certain thresholds related to economic performance.
- (35) Media companies with average profits after taxes of more than NOK 2 million for the last accounting year, or more than NOK 6 million over the last three accounting years, are excluded from the scheme.

- (36) The beneficiaries are not meant to become more profitable than media not receiving aid under this scheme. This is ensured by having a threshold for how high the operating margin can be. Beneficiaries should not have a higher operating margin than the average operating margin the previous five years for media not receiving aid. The average operating margin for media not receiving grants between the years of 2017 to 2021 was 10.5%. Therefore, media companies that have an average operating margin of over 10% in the last three years, including the production grant, get a corresponding reduction in the grant. The first year of the scheme is not included in the calculation of the operating margin. The reduction of the grant shall bring the average operating margin down to 10%. The reduction of the grant is either carried out by a reduction in next year's grants or, where the medium is not qualified to receive grants, by a repayment of the grant.
- (37) Grants will be reduced if the media company's operating income, excluding grants, exceeds NOK 225 million for the last accounting year, or NOK 675 million over the last three accounting years. For media that exceeds the threshold, there will be a gradual reduction in grants. Media that exceeds the threshold of 300 million for the last accounting year, or NOK 900 million in operating income over the last three years, will not receive grants. The thresholds for reducing the grants is as follows:
- a) 12.5% reduction, if operating income for the last accounting year amounts to up to NOK 240 million or NOK 720 million over the last three years;
 - b) 25% reduction, if operating income for the last accounting year amounts to up to NOK 255 million or NOK 765 million over the last three years;
 - c) 37.5% reduction, if operating income for the last accounting year amounts to up to NOK 270 million or NOK 810 million over the last three years;
 - d) 50% deduction, if operating income for the last accounting year amounts to up to NOK 285 million or NOK 855 million over the last three years; and
 - e) 75% deduction, if operating income for the last accounting year amounts to up to NOK 300 million or NOK 900 million over the last three years.
- (38) The gradual reduction ensures a more stable and predictable financial situation for the media companies. Furthermore, according to the Norwegian authorities, this would also give media companies less of an incentive to adapt their business model to stay within a certain threshold and avoid losing the production grant in its entirety.

3.6.5 Conditions related to dividends

- (39) Companies that receive production grants may distribute dividends to shareholders on the following conditions:

- Dividends per year may not exceed 25% of the production grant received for the previous year before the dividend is decided by the general assembly.
 - Dividends per year may not exceed NOK 500 000.
- (40) The principal purpose for permitting a limited amount of dividend is to make it more attractive to invest in news and current affairs media, in particular in smaller companies which otherwise may have difficulties raising capital. Dividends up to 500 000 NOK may not be of great relevance to a large secondary news media company, but it might prove vital to a sole or leading news media companies with a limited circulation.
- (41) For a company that is part of a group of companies, group contributions shall be regarded as dividends. Companies that grant dividends in violation of this provision lose their entitlement to the grant and will be excluded from the grant scheme without any transitional grant and will be excluded from the grant scheme for a period of three years. However, where an insignificant amount has been distributed as dividends a result for an error, not exceeding NOK 20 000 or 5% of the maximum dividend permitted, the Media Authority may decide that the company will still be entitled to production grant or decide that the company may be given a transitional grant.

3.6.6 Conditions related to transactions between media companies and others

- (42) The scheme will exclude media companies that cross-subsidise companies within the same group of companies.
- (43) If the media company is part of a group of companies, transactions between the media company and other companies in the group shall be based on commercial rationale in the recipient medium's interest, and be made on normal commercial terms.¹² The media company may be charged for a portion of the parent company's operating expenses in accordance with best practices, taking into account the company's commercial interest in the scheme.¹³ The media company's share of the parent company's operating expenses may not exceed 1% of the company's revenue, excluding grants.
- (44) Agreements between the media company and the company's shareholders or members of the company management and certain others, shall be based on commercial rationale in the recipient medium's interest and be made on normal commercial terms.¹⁴ If the media company is part of a group of companies, the same condition applies correspondingly in relation to other companies that are part of the group.
- (45) The Media Authority may require a media company to provide a specified list of significant transactions referred to above, and that the media company's CEO, chairman and external auditor confirm that such transactions are commercially

¹² Cf. Section 3-9 first paragraph of the Limited Liability Companies Act, and the Public Limited Liability Companies Act.

¹³ Cf. Section 3-9 of the Limited Liability Companies Act and the Public Limited Liability Companies Act.

¹⁴ Cf. Section 3-8 of the Limited Liability Companies Act and the Public Limited Liability Companies Act.

justified, in the recipient medium's interest and made on normal commercial terms.

- (46) Media companies that lose their entitlement to a grant on this basis will be excluded from the scheme for a period of three years, without any transitional grant. However, where the media company's share of the parent company's operating expenses exceeds 1% of the company's revenue due to error, the Media Authority may decide that the company will still be entitled to production grant or decide that the company may be given a transitional grant. However, any error may not exceed NOK 20 000 or 1.5% of the company's revenue.

3.6.7 Media companies that may not receive grants

- (47) In certain situations, a media company will not be eligible for receiving grants, even if the company fulfils the general eligibility criteria.
- (48) Media companies subject to an outstanding recovery order following a previous ESA decision regarding unlawful and incompatible State aid, may not receive any grants.

3.6.8 Allocation of grants

- (49) The total yearly allocation provided is first allocated between the four different categories of media eligible under the scheme, that is: a) leading and sole local media, b) local secondary media, c) national secondary media and d) national niche media. The grant amounts allocated to the four categories are decided by the Ministry of Culture. Before the Ministry of Culture decides the allocation of grants between the grant categories and determines the fixed grants, it receives a recommendation from the Media Authority. In its recommendation, the Media Authority assesses whether the distribution of grants between grant categories should be altered from the previous year. This assessment is based on the size of the total allocation provided, the beneficiaries' financial performance and the objective of the grant scheme.
- (50) If changes to the budget of the scheme and/or the financial situation of the media indicate a need for adjustments in the allocations, the distribution between leading/sole media and the different categories of secondary media may be altered. The aim of such alterations will be to keep the grant scheme well targeted to the scheme's objective. A minor increase or decrease in the budget allocation will normally lead to a corresponding increase/decrease in grants distributed proportionally between the four categories. If the budget allocation is changed significantly, the Media Authority will normally consult industry organisations for advice on the adequate allocation of grants between the leading/sole media and the three categories of secondary media. The allocation of grants to the four categories of media is ultimately a political decision.
- (51) The grants are then allocated between the media within the same category as described in the following.
- (52) Leading and sole local media will receive a fixed base grant. Like the existing scheme, leading and sole local media with less than 3 700 subscriptions will receive an additional fixed grant amount under the new scheme due to their vulnerable financial position compared to leading and sole media with higher circulations. The Norwegian authorities have documented that media with less

than 3 700 subscriptions over time have had a weaker financial performance than media with subscriptions between 3 700 and 5 600. Furthermore, a majority of the media with less than 3 700 subscriptions do not belong to media groups and consequently have access to fewer resources and means of digitisation than media belonging to a media group.

- (53) Leading and sole media with a publishing site in Nordland, Troms and Finnmark receive a double fixed base grant if they are published on paper in a minimum of 48 weeks. This rule has historically been justified with consideration to the extra costs associated with publishing newspapers in this region. These extra costs are related to publishing and distribution of paper copies, as it is not more costly to publish on electronic platforms in northern Norway than in other locations. The digitisation is changing the way news media are produced and distributed, and hence changing the distribution costs as number of paper copies declines. This may, however, lead to a higher distribution cost per paper copy at the same time as the media in general experience a decline in advertisement revenue linked to the decline in paper copies.
- (54) Secondary media receive grants as follows:
- 1) Secondary media within the same category will receive a fixed base grant. The fixed base grant may differ between the three different categories of secondary media.
 - 2) Nationwide secondary media published in Nynorsk will receive an additional fixed grant. This is part of the Norwegian culture and language policy.
 - 3) Secondary media in the four largest cities in Norway (Oslo, Bergen, Trondheim and Stavanger) receive an additional fixed grant, divided in two grades based on the size of their editorial staff. This is due to secondary media in the largest cities cover a larger local community than other local secondary media.
 - 4) Local secondary media will not receive a grant smaller than they would have been granted as leading and sole local medium.
 - 5) Local secondary media with the same owner as the leading media on the publishing site will receive a grant calculated as a leading and sole local medium.
 - 6) City district media and media with content covering only a part of a municipality with less than 75 000 inhabitants, will receive a grant calculated as a leading and sole local medium.
 - 7) If all media on the publishing site have between 700 to 5 560 subscriptions, they will all receive grant as calculated as a leading and sole local medium.
 - 8) The remaining part of the allocation for each grant category is distributed among the secondary media in the same grant category. The remaining part is allocated so that it corresponds to the share of the medium's user revenue among the media in the same category.¹⁵

¹⁵ The allocation of grants shall reflect the operating conditions related to the distribution of the medium and the frequency of news production. The Media Authority has found that there is a correlation between the media's user revenue and the media's number of circulation and editions. In that manner, the medium's share of user revenue among the media in the same category corresponds with the medium's need for aid.

- 9) Secondary media with 5 560 subscriptions or more, receive a reduced grant if the number of subscriptions is 45% or more of the total number of subscriptions of the leading medium. The grant is reduced by 2.25% for each percentage point the subscription number exceeds 45% of the leading medium's total number of subscriptions.
- (55) The size of all fixed grants and extra grants are decided by the Ministry of Culture after a proposal from the Media Authority.
- (56) Like the existing scheme, newly established news and current affairs media will receive an extra grant the first year, that corresponds to the fixed base grant to leading and sole local media. The extra grant is a compensation for the costs the medium had the year prior to the first year in the grant scheme, when they did in fact meet all the eligibility criteria. This provision can facilitate greater media diversity and the establishment of more new media businesses by making it easier to secure financing.

3.6.9 Aid intensity and maximum amounts of aid

- (57) A grant may not exceed 40% of the company's total operating costs the year prior to when the grant is awarded.
- (58) A grant may not exceed the company's user revenue from subscriptions/single sales the year prior to when the grant is awarded.
- (59) For the smallest media eligible for grants (media with between 450 and 1 700 subscriptions) the measure will have a maximum aid intensity of 75%.
- (60) The grant cannot exceed the company's user revenue from subscriptions/single sales the year prior to when the grant is awarded. The smallest media eligible for grants (media with between 450 and 1 700 subscriptions), can receive grants that are up to double the company's user revenue from subscriptions/single sales, the year prior to when the grant is awarded.
- (61) The maximum grant amount per company per year is NOK 40 million. The maximum grant amount for a media company that owns a national niche medium is NOK 15 million.

3.6.10 Cumulation and overlap with other schemes

- (62) The aid intensity for this scheme is 40% of the company's total operating costs. Prospective beneficiaries applying for the production grant may be eligible for aid under other schemes. If the other schemes cover the same eligible costs, that is, production grants covering costs associated with the production and publishing of a news and current affairs medium, the cumulated production grant amount received from different schemes shall not exceed the aid intensity allowed under this grant scheme.¹⁶
- (63) Aid received from other schemes that do not cover the same eligible costs, such as the Norwegian innovation and development scheme for news and current affairs media, may be cumulated with aid from the production grant scheme.

¹⁶ As outlined in section 14 of the Regulation.

3.7 Budget and duration

- (64) The yearly budget of the scheme is decided annually by the Parliament. For 2023 the budget proposal for the scheme is 400 million NOK. The scheme is notified for a period of six years and will enter into force on 1 January 2023.

3.8 Control mechanism and recovery

- (65) The scheme requires that the beneficiaries disclose all relevant information to the Media Authority. The documentation provided by the applicant must be verified by a statutory auditor. The applicants will be required to provide the Media Authority, or a third party assisting the Media Authority in the applications process, access to any business papers or other information deemed necessary with respect to the execution and control of the grant scheme. Failure to disclose such information or providing incorrect information may result in the medium losing its eligibility to the grant scheme for a certain amount of time.
- (66) The Media Authority, or a third party approved by the Media Authority, shall conduct a yearly control the first two years a medium is covered by the scheme, and control all media companies that receive grants at least every six years. The control that is carried out entails overseeing the media company's systems and routines for registration and reporting of required information to the Media Authority.
- (67) Grants that have been disbursed in violation with the regulation shall be repaid to the Media Authority. Grants that are not used in accordance with the prerequisites of the scheme, shall be refunded. Grants received during a period when nothing is published shall also be refunded. Grants to be repaid may be deducted from a future grant.

3.9 Transitional rules

- (68) Given that the eligibility criteria and the allocation of grants in the new scheme differ from those in the existing scheme, some media might lose their entitlement to grants. In order to allow these companies sufficient time to adapt their business to these changes, the measure foresees that affected companies may benefit from a transitional period of three years during which they will receive a reduced grant. In order for the beneficiaries to adapt to the new regulation, the following transitional provision will apply:
- 1) The first year after the new scheme has entered into force, the medium will receive a grant corresponding to two-thirds of the grant it received in 2022 and one-third calculated in accordance with the new scheme.
 - 2) The second year after the new scheme has entered into force, the medium will receive a grant corresponding to one-half of the grant it received in 2022 and one-half calculated in accordance with the new scheme.
 - 3) The third year after new scheme has entered into force, the medium will receive a grant corresponding to one-third of the grant it received in 2022 and two-thirds calculated in accordance with the new scheme.

(69) There is also a transitional provision of three years in the new scheme for media that have received production grant and lose their entitlement to aid because they no longer fulfil certain eligibility conditions:¹⁷

- 1) The first year the medium will receive a grant corresponding to two-thirds of the grant amount they received the last year it was eligible for aid.
- 2) The second year the medium will receive a grant corresponding to one-half of the grant amount they received the last year it was eligible for aid.
- 3) The third year the medium will receive a grant corresponding to one-third of the grant amount they received the last year it was eligible for aid.

4 Presence of State aid

4.1 Introduction

(70) Article 61(1) of the EEA Agreement reads as follows: “Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States 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 Contracting Parties, be incompatible with the functioning of this Agreement.”

(71) The qualification of a measure as aid within the meaning of this provision requires the following cumulative conditions to be met: (i) the measure must be granted by the State or through State resources; (ii) it must confer an advantage on an undertaking; (iii) favour certain undertakings (selectivity); and (iv) threaten to distort competition and affect trade.

4.2 Presence of State resources

(72) The measure must be granted by the State or through State resources.

(73) The scheme will be financed from the State budget and is therefore provided through State resources within the meaning of Article 61(1) of the EEA Agreement. As decisions on grants are taken by the Media Authority, a State body operating under the authority of the Norwegian Ministry of Culture, the measure is imputable to the State.

4.3 Conferring an advantage on an undertaking

(74) The measure must confer on an undertaking an advantage that relieves it of charges that are normally borne from its budget

(75) The measure confers an advantage on the beneficiaries, since it provides them with an economic advantage that they would not have obtained under normal market conditions. As the beneficiaries are engaged in economic activities by providing media services/products, an advantage is conferred on undertakings.

¹⁷ This transitional provision is relevant for media that lose their entitlement to aid because they either:

- 1) do not meet the requirement of publishing at least five in-house produced articles per week for a minimum of 48 of the year's week, and a total of at least 480 in-house produced articles per year; or
- 2) have average profits after taxes of more than NOK 2 million for the last accounting year, or more than NOK 6 million over the last three accounting years; or
- 3) exceed the threshold of 5700 subscriptions for leading or sole media, and 50 0000 subscriptions for secondary media.

4.4 Selectivity

- (76) The measure must be selective in that it favours “certain undertakings or the production of certain goods”.
- (77) The measure is selective, because the grant will be awarded only to certain undertakings in the Norwegian media sector.

4.5 Effect on trade and distortion of competition

- (78) The measure must be liable to distort competition and to affect trade between the Contracting Parties to the EEA Agreement.
- (79) The measure strengthens the financial position of certain undertakings in the Norwegian media sector, while other undertakings in the same sector do not receive such aid. Furthermore, even though undertakings in the Norwegian media sector mainly focus their activity on the Norwegian market, some of the sectors in which they are active, such as the selling of advertisements etc., are subject to intra-EEA trade. The measure is therefore liable to distort competition and to affect trade between EEA States.

4.6 Aid scheme or individual aid

- (80) ESA notes that the legal basis of the measure is an act which does not require further implementing measures for the granting of the aid, and which identifies the beneficiaries in a general and abstract manner.¹⁸ The aid is therefore granted on the basis of an aid scheme.

4.7 Conclusion

- (81) The measure is an aid scheme that constitutes State aid within the meaning of Article 61(1) of the EEA Agreement.

5 Lawfulness of the aid

- (82) Pursuant to Article 1(3) of Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (“Protocol 3”): “The EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. ... The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision.”
- (83) The Norwegian authorities have notified the measure and have yet to let it enter into force. They have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3.

6 Compatibility of the aid

6.1 Introduction

- (84) In derogation from the general prohibition of State aid laid down in Article 61(1) of the EEA Agreement, aid may be declared compatible if it can benefit from one of the derogations enumerated in the EEA Agreement. The Norwegian authorities invoke Article 61(3)(c) of the EEA Agreement as the basis for the assessment of the compatibility of the aid measure.

¹⁸ See Article 1(d) of Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (“Protocol 3”).

- (85) Article 61(3)(c) of the EEA Agreement provides that ESA may declare compatible “aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest”. Therefore, in order to declare the aid compatible, first, the aid must be intended to facilitate the development of certain economic activities or of certain economic areas and, second, the aid must not adversely affect trading conditions to an extent contrary to the common interest.¹⁹
- (86) Under the first condition, ESA examines how the aid facilitates the development of certain economic activities or areas. Under the second condition, ESA weighs up the positive effects of the aid for the development of said activities or areas and the negative effects of the aid in terms of distortions of competition and adverse effects on trade.
- (87) In the present case there are no existing State aid guidelines applicable to the measure at hand, ESA will therefore assess the scheme for production grants for news and current affairs media directly under Article 61(3)(c) of the EEA Agreement.

6.2 Facilitation of development of certain economic activities or areas

6.2.1 Economic activities or areas supported

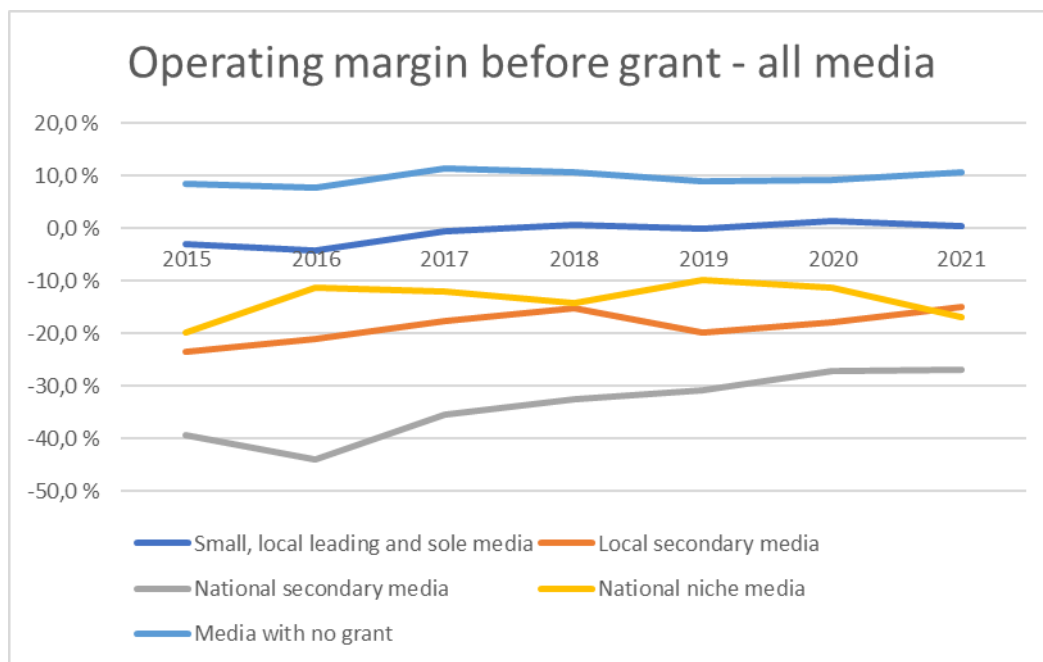
- (88) Under Article 61(3)(c) of the EEA Agreement, in order to be considered compatible, the measure must contribute to the development of certain economic activities or areas.
- (89) The scheme facilitates development in the market for news and current affairs media. The provision of written news and current affairs media services/products constitutes an economic activity. The economic activity that will be affected under the proposed scheme is publishing of newspapers, code 58.13 of the NACE system. Publishing can be done in print or online.
- (90) The measure contributes to maintaining a diversity in written news and current affairs media through Norway, with a broad editorial content targeted to the general public. Furthermore, the measure promotes independent journalism characterised by high quality, especially news and current affairs media in markets that are too small to be sustainable or which are alternatives to the leading media in the different media markets.
- (91) In view of the above, ESA considers that the measure constitutes aid to facilitate the development of a certain economic activity, as required by Article 61(3)(c) of the EEA Agreement.

6.2.2 Incentive effect

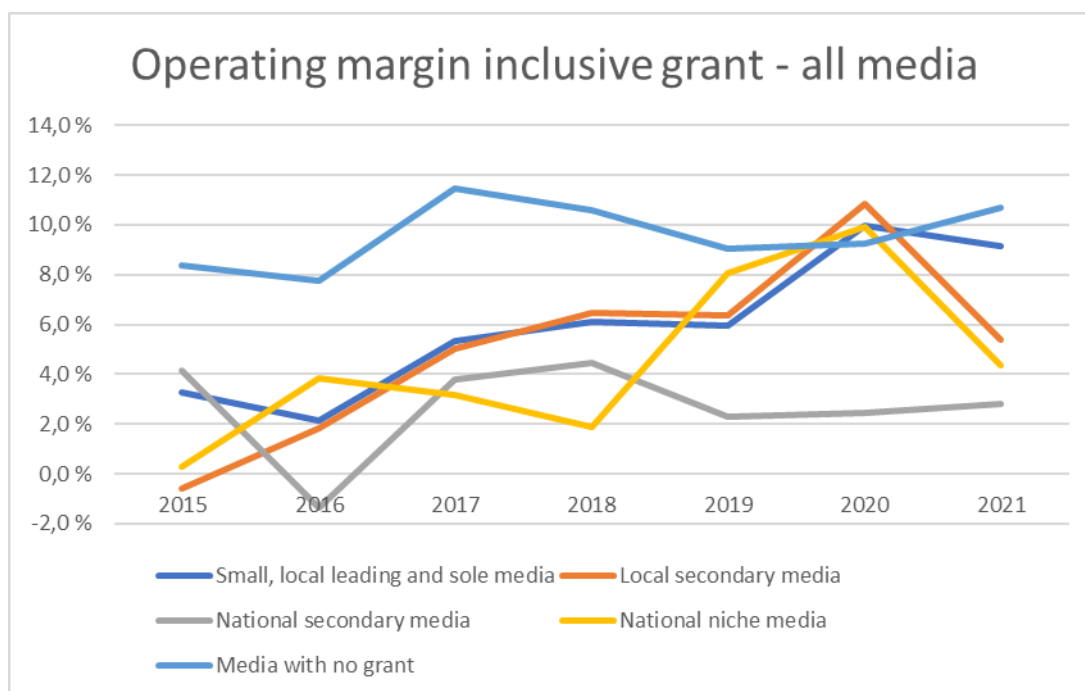
- (92) State aid is only compatible with the functioning of the EEA Agreement if it has an incentive effect and so effectively facilitates the development of certain economic activities. To establish whether the measure has an incentive effect, it must be demonstrated that it changes the behaviour of the undertakings concerned in such a way that it engages in an activity which it would not carry out without the aid or which it would carry out in a restricted or different manner.

¹⁹ Judgment of 22 September 2020, *Austria v Commission (Hinkley Point C)*, C-594/18 P, EU:C:2020:742, paragraphs 18–20.

(93) The incentive effect may be demonstrated by a counterfactual analysis, that is, by comparing the potential outcome with and without the aid. As demonstrated in the following graphs, a large majority of the beneficiaries of the existing scheme exhibit total net losses before aid. Consequently, beneficiaries, if the grant scheme were abolished, would have to replace the aid with other sources of income or reduce costs to stay in business.



Source: The Norwegian Media Authority



Source: The Norwegian Media Authority

(94) The local leading and sole media companies, specifically those part of a group of companies, are currently financially relatively strong. However, individual media

companies within the group are weaker financially than the group as a whole. Although some of these media companies currently show operating profits before grants, the Norwegian authorities assess that these companies will also face a more demanding advertising market in the near future. According to economic forecasts for the media market 2023 to 2026, the eligible media, including the local media part of a group, will go from having a positive operating profit to a negative operating profit in the next few years.²⁰ This indicates that the financial situation may deteriorate over time.

- (95) The main sources of income in the media sector are user payment and advertisements. According to the Norwegian authorities, there is a limit to the potential increase of income from user payment or advertising. The Media Authority's annual report on the economic development in the media market, shows that over the past five years, the newspapers have lost a total of NOK 583 million or 4.9% in operating revenue. The decline in revenue stems mainly from a decrease in advertising and user income from paper editions, as more and more newspapers are digitized. Digital advertising and user income are increasing. However, the increase from digital revenue does not fully compensate for the decrease in income from the paper editions. An important factor is the global competition on the digital market. In 2020 Facebook (now called Meta) and Google had almost twice as high advertising revenue from the Norwegian market as the Norwegian newspapers.²¹ In addition, today user income mainly stems from digital products or so called "complete subscription", which include access to both online and paper editions. Only 2.1% of the total circulation was sold as paper subscriptions without access to digital editions in 2020. Furthermore, in recent years, many subscribers have replaced the more expensive complete subscriptions with the more inexpensive purely digital subscriptions. Consequently, it does not seem likely that the beneficiaries would be able to increase their income sufficiently without aid.
- (96) It seems likely that an absence of aid would lead to a reduction in publication frequency or a reduction of staff and human resources allocated to the production of journalistic content. This can, in turn, affect the quality of the journalism and editorial coverage. The risk of commercial failure or uncertain profitability may also force some of the most economically challenged media companies to discontinue their operations.
- (97) In view of the above, ESA considers that in the absence of the notified measure, the publishing activities facilitated by the scheme would have been carried out in a restricted or different manner, or in some cases not have taken place at all, and consequently the development of the economic activities would not have been facilitated. Therefore, the aid measure has an incentive effect.

6.2.3 Compliance with relevant EEA law

- (98) If a State aid measure, the conditions attached to it (including its financing method when the financing method forms an integral part of the state aid measure), or the

²⁰ [De direkte mediestøtteordningene. En utredning fra Medietilsynet](#), page 112.

²¹ These figures from the Norwegian Media Authority are based on estimates from media agencies and media industry organizations, as well as statistics from IRM (Institutet för reklam- och mediestatistik).

activity it finances entail a violation of relevant EEA law, the aid cannot be declared compatible with the functioning of the EEA Agreement.²²

- (99) ESA has no indications that the measure, the conditions attached to it, or the activity it finances entail a violation of relevant EEA law.

6.3 Whether the aid adversely affects trading conditions to an extent contrary to the common interest

6.3.1 Introduction

- (100) ESA has not only identified positive effects of the planned aid for the development of the abovementioned economic activities and economic areas, but also possible negative effects that it may have in terms of distortions of competition and adverse effects on trade. These positive and negative effects must then be weighed up.

6.3.2 Markets affected by the aid

- (101) According to the Norwegian authorities, the measure mainly has an effect on the national and regional/local media markets in Norway. Since the beneficiaries of the measure also have income from advertisement, indirectly the measure may also affect the related markets for advertisement.
- (102) The geographical market for local leading and sole media is primarily local and to some extent regional, as these media per definition operate in small, local markets. The secondary media are divided into three groups according to their competitive positions in the media market, that is local secondary media, national secondary media and national niche media.
- (103) The Norwegian authorities submit that the product market for the sole and leading media and for secondary local media is limited to other local news media that operate in the same geographical area as the recipients of the grant.
- (104) Both the national secondary media and the national niche media operate in the national media market. The Norwegian authorities submit that the product market is limited to other national media.

6.3.3 Positive effects of the aid

- (105) According to the Norwegian authorities, the measure will contribute to maintaining a diversity in written news and current affairs media through Norway, with a broad editorial content targeted to the public. Furthermore, the scheme promotes independent journalism characterised by high quality, especially news and current affairs media in markets that are too small to be sustainable or which are alternatives to the leading media in the different media markets.
- (106) The main objectives of the measure contribute to media pluralism and freedom of speech, and to strengthen the written news media's democratic function in the society. News media play a pivotal role in securing democratic debates,

²² Judgments of 19 September 2000, *Germany v Commission*, C-156/98, EU:C:2000:467, paragraph 78; 22 December 2008, *Régie Networks*, C-333/07, EU:C:2008:764, paragraphs 94–116; 22 September 2020, *Austria v Commission (Hinkley Point C)*, C-594/18 P, EU:C:2020:742, paragraph 44; 14 October 2010, *Nuova Agricast*, C-390/06, EU:C:2008:224, paragraphs 50–51.

scrutinizing political processes and producing content reflecting national language, culture and identity.

- (107) The importance of media pluralism and diversity has been confirmed by ESA as an objective of common interest in several decisions, for example in Decision No [112/14/COL](#) and Decision No [061/18/COL](#). The importance of freedom of speech is emphasised in [ESA's State aid guidelines on public service broadcasting](#).²³ The Court of Justice also ensures the respect for this general principle of law, embodied in Article 10 of the European Convention on Human Rights.²⁴
- (108) The eligible beneficiaries under the scheme play an important part of ensuring media pluralism and diversity, with regard to the pluralism of media outlets and the pluralism of media output. According to the Norwegian authorities, these factors are in sum an important prerequisite for a well-functioning democracy nationally, regionally and locally that cannot be overstated.
- (109) Based on the above, ESA concludes that the measure will have important societal effects.

6.3.4 Limited negative effects of the aid

6.3.4.1 Introduction

- (110) Article 61(3)(c) of the EEA Agreement requires an assessment of any negative effects on competition and on trade. The aid must not adversely affect trading conditions to an extent contrary to the common interest.
- (111) According to the Norwegian authorities, news and current affairs media are in general subject to very limited cross-border trade due to the inherent national character of such products. With a particular view to the fact that the Norwegian language area is small, Norwegian written news and current affairs media, whether printed or online, cannot, in general, be considered substitutable with foreign news and current affairs media. It is unlikely that news and current affairs media in another language would be real substitute, and that subscribers or advertisers would switch from foreign media to Norwegian media as an effect of the notified grant scheme. On this basis, ESA concludes that the measure has very limited effects on intra-EEA trade.
- (112) Further, the measure's potential impact on competition, vary for the different categories of eligible beneficiaries under the scheme.
- (113) As submitted by the Norwegian authorities, for leading and sole media the geographical market is primarily local and to some extent regional, as these media per definition operate in small, local markets. Consequently, the potential impact on competition is limited to other local news media that operate in the same geographical area as the recipients of the grant.
- (114) The secondary media in the local areas operate in a market for news services where local private broadcasting and regional services by the NRK and other commercial news media are available. The beneficiaries in this group are per

²³ OJ L 124, 11.5.2012, p. 40, and EEA Supplement No 26, 11.5.2012, p. 1.

²⁴ Judgment of 18 June 1991, *Elliniki Radiophonia Tileorassi*, C-260/89, EU:C:1991:254, paragraphs 41–45.

definition not leaders in their respective markets and the grants to local secondary media could therefore contribute to a healthy competitive environment in the areas where they are present.

- (115) The daily nationwide secondary media companies operate in the same geographical market as nationwide broadcasters (such as NRK and TV 2) and nationwide newspapers that do not qualify for the production grant (such as Aftenposten and VG). Even though it is not a requirement under the scheme, the nationwide media companies covered by the scheme provide news and current affairs content with distinct ideological, social or religious perspectives, and hence are alternatives to the leading national media. Because of the distinct perspectives of the content that these recipients provide, they have few substitutes within their product markets.
- (116) The national niche media compete on the national market. These types of media publish less frequently than the daily nationwide secondary media. As they have specialised editorial contents, this may indicate that they operate in separate product segments and are not close competitors. In addition, the beneficiaries in this group are per definition not leaders in their respective markets and the measure could therefore contribute to a healthy competitive environment
- (117) On this basis, ESA concludes that measure's potential negative effects on competition are limited.

6.3.4.2 Necessity of the aid

- (118) State aid should be targeted towards situations where aid can bring a material improvement that the market alone cannot deliver, for example by remedying a well-defined market failure.
- (119) The Norwegian authorities submit that the production of high-quality news media is subject to the market failure of positive externalities, in the sense that these media do not fully internalise the benefits of their actions for society. First, journalistic content produced by the media is to a large extent republished and further developed by others. Hence, the external value of editorial content will not be fully internalised by the media companies that originally produced the content. Consequently, this may lead to sub-optimal investments in editorial content. Secondly, besides giving individuals information and a basis for their decisions, news media play a pivotal role in securing democratic debates, scrutinizing political processes and producing content reflecting national language, culture and identity. The value of content provided by the news media may therefore be said to not only be of value to those consuming and paying for it, but for society as a whole.
- (120) Furthermore, the Norwegian authorities submit that it could be argued that Norwegian demographics – characterised by sparse population and many small communities do not provide a sufficient market basis to sustain economically viable local news media. These small societies do not have enough potential buyers nor advertisers to finance local news production. Still, it is an explicitly stated political goal to maintain a diversity of news media publications throughout Norway. The production grant enables the publication of news media in small local markets that otherwise probably would not have been able to sustain such news media.

- (121) Given the limited audience of sole and leading local media eligible for aid, their ability to attract advertising and subscription income is small, according to the Norwegian authorities. Also, given the small circulation, it is difficult for these media to dilute fixed costs and to reach economies of scale. Local media companies that are part a group of companies can to a certain extent dilute fixed costs and reach economies of scale. However, only one independent media eligible for aid, Varingen, has been acquired by a large group after 2015. Varingen's accounting shows that administrative costs and total operating costs were somewhat lower after the acquisition. It is difficult to determine how much of the cost reduction can be attributed to diluted fixed costs and economies of scale, and how much is due to other factors. Furthermore, group participation may also entail new administrative costs. An example of this are costs associated with digitisation in the groups. Small newspapers that are not part of a group of companies are often to a small extent digitised and thus have limited costs in this relation. Given their limited income potential, all local media companies, both those part of a group of companies and independent media companies, seem to need aid to maintain their level of activity or even to remain in business at all.
- (122) In the case of secondary media, the main issue addressed by the scheme is related to the market failure that a disproportionately high share of advertisement accrues to the largest publication in any given market.
- (123) State aid can be awarded in cases where markets produce or reinforce inequalities. The Norwegian authorities submit this to be relevant in the case of the secondary news media. News media, as most other journalistic media, operate in two separate markets: the consumer market and the advertising market. Holding a second position in any given market (nationally, regionally or locally) is economically difficult. The leading medium with the largest circulation will on account of its reach also be the most attractive advertising channel. As a consequence, it will receive a disproportionate share of local advertisement spending. Secondary media in the same market will on the other hand receive less advertising income. This leads to them having a weaker economy than of their competitors – which in turn will influence the media product – and eventually further reduce readership and sales (the so-called circulation spiral theory).²⁵ This means that the underlying dynamic in the advertising market acts in the direction of less pluralism than what would be the case if advertising revenues corresponded more closely to actual readership or user payment. The production grant for news media is constructed to counteract this market failure.
- (124) The market failures of the production and consumption of news and current affairs content have expanded in the transition to the digital market. Findings from the Media Pluralism Committee²⁶ imply that substantial structural changes caused by the rapid technological development, the global competitive situation and changes in media consumption make it challenging to develop sustainable business models to finance significant parts of the socially important Norwegian journalism. The digitisation has led to convergence of services, networks and markets and radically changed the way in which media are produced, published and consumed. News and current affairs media are facing significant challenges competing in the digital sphere. In competition with global actors, like Meta and

²⁵ [NOU 2010:14 Lett å komme til orde, vanskelig å bli hørt – en moderne mediestøtte.](#)

²⁶ [NOU 2017:7 Det norske mediemangfoldet](#)

Google, traditional media experience a decrease in revenue from advertisement. These global companies do not produce content themselves, but benefit from journalistic production from Norwegian media, at the same time as they weaken the income base for the media that produce the journalistic content. In addition, the competition for the consumers' attention has never been greater. The use of social media and media streaming services take up a significant portion of the consumers' time, meaning the traditional media outlets must fight for the public's attention, as well as advertising revenue as never before.²⁷ Social media, search engines and streaming services are owned by large multinational corporations with limited investments in new editorial and original news and current affairs content. The Media Pluralism Committee found that "social media, search engines and aggregators have become the most important arenas for communication in many groups, especially for younger users, and has thus become increasingly important as sources of news."²⁸

- (125) These developments increase the difference between optimal social welfare (in this case the production and consumption of a plurality of news and current affairs content) and consumers' perceived utility of using news and current affairs media, as well as the perceived utility of producing such content.
- (126) The characteristics of the digital market, as described above, hence favour large businesses, and especially multinational corporations, due to increased economics of scale and the need of investments in innovation and development. While local news and current affairs media traditionally competed in a limited geographical market, they now compete for the attention of the customer base against some of the largest media companies in the world. Small, local news and current affairs media are especially vulnerable competing in the digital market. The low population base makes it challenging to put in place financially realistic development projects without aid, especially in areas with few companies that can share the development costs.
- (127) A media market characterised by market failure would not produce an optimal level of news and current affairs content without aid. Furthermore, the overreaching goals of ensuring a pluralistic media landscape and an open public discourse would be undermined. The measure contributes in correcting for existing positive externalities for production, consumption and distribution of written news and current affairs media
- (128) Based on the above, ESA concludes that market failures exist which necessitate State support.

6.3.4.3 Appropriateness of the aid

- (129) EEA EFTA States can make different choices with regard to policy instruments and State aid control does not impose a single way to intervene in the economy. However, State aid under Article 61(1) of the EEA Agreement can only be justified

²⁷ [210129-mediemangfold Bruksperspektiv 2021.pdf](#)

²⁸ [NOU 2017:7 Det norske mediemangfoldet](#), p. 153. Translated from Norwegian by the Norwegian authorities. The Norwegian text reads: "Sosiale medier, søkemotorer og aggregatorer har blitt de viktigste arenaene for mange, særlig yngre brukere, og utvikler seg dermed til viktige nyhetsplattformer."

by the appropriateness of a particular instrument to contribute to the development of the targeted economic activities or areas.

- (130) ESA normally considers that a measure is an appropriate instrument where the EEA EFTA State can demonstrate that alternative policy options would not be equally suitable to contribute to the development of economic activities or areas and where it can demonstrate that alternative, less distortive, aid instruments would not deliver equally efficient outcomes.
- (131) According to the Norwegian authorities, possible alternative non-aid as well as aid instruments have been assessed.
- (132) The Act on Economic Support to the Media²⁹ is already in place to ensure media pluralism and the Media Liability Act³⁰ safeguards editorial freedom. However, although these non-aid instruments also aim at promoting plurality, they are insufficient to create a financial basis for a pluralistic media sector.
- (133) The Norwegian authorities have also assessed alternative aid measures:
- Grants to media development projects, that is, projects where several market players co-operate, for example in developing new publication platforms.
 - Grants for the education of journalists.
 - Grants calculated according to the beneficiary's operating costs.
 - Establishment grants, in order to facilitate and facilitate the market entry of new media companies.
- (134) First, a project-based aid scheme may promote specific types of journalistic or other projects but will not have the desired broad and general effect of promoting plurality and quality in the news media sector as a whole and is therefore less appropriate.
- (135) Secondly, grants for the education of journalists could contribute to quality in news rooms, but would not promote general plurality and quality in the media sector or secure financially viable media companies.
- (136) Thirdly, the Norwegian authorities have assessed a State aid model where the grant is calculated according to the beneficiary's operating costs. This model may, to some extent, deliver the policy goals concerned. However, a calculation of the aid according to the beneficiary's operating costs may provide beneficiaries of aid with incentives to inflate operating costs. Furthermore, since the aid under this model is calculated exclusively on the basis of the beneficiaries' costs, there is no direct link to the value and quality of media as experienced by the users, as opposed to a model related to frequency and number of subscriptions.
- (137) Finally, establishment grants could facilitate market entry of new media companies, but as media consumption in Norway is increasingly digital, the

²⁹ [Lov om økonomisk støtte til mediene \(mediestøtten\) - LOV-2020-12-18-153.](#)

³⁰ [Lov om redaksjonell uavhengighet og ansvar i redaktørstyrte journalistiske medier \(medieansvarsloven\) - LOV-2020-05-29-59.](#)

market entry barriers in the media sector are relatively low. What is costly, is sustaining viable newsrooms that can provide high quality journalism.

- (138) The scheme will be, as the existing production grant scheme, a part of an existing package of media policy measures. Even though all the existing measures aim to fulfil the overall media policy objectives, they are designed to tackle different problems. For instance, the main objectives of the zero VAT rate are to support the demand and the use of news and current affairs content among consumers. The objectives of the innovation and development scheme for news and current affairs media is to support media pluralism and an enlightened open discourse through promoting innovation and development of editorial content and processes (such as new technical solutions) in news and current affairs media. The aid scheme for local broadcasting, on the other hand, strengthen the democratic function that local broadcasting contributes to society.
- (139) In summary, the Norwegian authorities submit that there exist no alternative measures supporting the objectives of the production grant. It is furthermore their view that the objectives of the scheme cannot be achieved through less distortive types of policy instruments or aid instruments.
- (140) The measure will be complementary to existing schemes and beneficiaries under the measure will not be able to also receive grants from existing schemes, which cover the same eligible costs as explained in 3.6.10 above.
- (141) In view of the above, ESA considers that the State aid is the appropriate instrument to facilitate the development of the economic activities.

6.3.4.4 Proportionality of the aid

- (142) State aid is proportionate if the aid amount per beneficiary is limited to the minimum needed to incentivise the additional investment or activity in the area concerned.
- (143) On the basis of the category specific eligibility criteria, taking into account the competitive position, locations and distribution of publications, the measure targets four different categories of news and current affairs media that are either too small to be sustainable or which are alternatives to the leading media in the relevant media markets. In addition, the measure contains general eligibility criteria that are designed to ensure that the eligible publications are characterised by independent journalism, high quality and broad editorial content targeted at the public. As the grants may only be used for the publication for news and current affairs media, these eligibility criteria assure that the grants effectively incentivise the activities promoting the objective of the scheme.
- (144) Further, the measure contains rules on allocation of aid that differentiate between the four categories of beneficiaries and also within the different categories, reflecting differences in need for aid across the categories.
- (145) The scheme also contains safeguards to ensure that the aid is actually used within the eligible media company and for the purpose to which it is granted. The scheme limits the possibility of media companies to cross-subsidise other companies within the same group of companies, as well as the payment of

dividends. In addition, there are safeguards in place to limit the risk of cross-subsidisation within the beneficiary companies.

- (146) In order to target the aid at those in real need for aid and limit the risk for overcompensation, the scheme also excludes media companies that show an average profit after taxes of more than NOK 2 million per year or more than NOK 6 million over the last three accounting years or an average operating margin of over 10%. In these cases, there should be no need for any State aid given their profitability. In the same vein, grants will be reduced if the media company's operating revenue, excluding grants, exceeds certain thresholds, see paragraph (37) above. The scheme is also restricted to leading and sole media companies having 5 700 calculated subscriptions or less, as well as local and national secondary and national niche media companies having 50 000 calculated subscriptions or less, as media with higher subscription numbers should provide large enough income to be financially sustainable without grant.
- (147) As concerns State aid to written media, ESA has not adopted guidelines that define the maximum aid intensities. However, the EU Commission has approved a Swedish scheme for aid to the press, which allowed for an aid intensity of 40% and a maximum annual aid cap of SEK 40 million.³¹ The measure will, like the existing scheme, have a maximum aid intensity of 40% of total production cost of the beneficiary. In addition, maximum amount per copy cannot exceed the media's average subscription price. The new production grant will also introduce, similar to Swedish aid to the press, an annual aid cap per beneficiary of NOK 40 million.
- (148) Regarding the transitional rules, ESA notes that the transitional grants are phased out over three years. This should ensure that the aid is limited to the amount necessary to assist the affected media in adapting to their new situation.
- (149) On this basis, ESA considers that the measure is proportionate as the aid is limited to what is needed to incentivise the activities it targets and there are sufficient safeguards in place to ensure that the aid is used in line with the objectives of the measure.

6.3.5 *Balancing positive and negative effects of the aid*

- (150) For the aid to be compatible with the functioning of the EEA Agreement, the limited negative effects of the aid measure in terms of distortion of competition and adverse impact on trade between Contracting Parties must be outweighed by positive effects, in terms of contribution to the facilitation of the development of economic activities or areas. It must be verified that the aid does not adversely affect trading conditions to an extent contrary to the common interest. As set out in 6.3.3 above, ESA notes, on the positive side of the balance, that the measure helps ensure a diversity in written news and current affairs media through Norway, with a broad editorial content targeted to the public. Furthermore, the measure promotes independent journalism characterised by high quality, especially news and current affairs media in markets that are too small to be sustainable or which are alternatives to the leading media in the different media markets. ESA also notes that media pluralism and freedom of speech, as promoted by the measure,

³¹ [State Aid SA.42308 \(2015/N\) – Sweden, Amendments to the Swedish Press Aid Scheme](#) and [State Aid E 4/2008 \(ex-N 450/2008\) – Sweden, Aid to the press.](#)

play a pivotal role in securing democratic debates, scrutinizing political processes and producing content reflecting national language, culture and identity.

- (151) It follows from 6.3.4.2 to 6.3.4.4 above, that the aid is considered proportionate, necessary and appropriate to achieve the targeted development of the economic activity at stake. Where aid is proportionate, its negative effects in terms of distortion of competition and adverse impact on intra-EEA trade is in principle softened. Further, as set out in paragraphs (111) to (117) above, the measure has very limited effects on intra-EEA trade and limited potential negative effects on competition.
- (152) ESA concludes that the positive effects of the measure outweigh the possible distortions of competition and adverse impact on trade, since it in a proportionate manner targets production of high-quality news and current affairs media subject to the market failure of positive externalities, in the sense that the involved media companies do not fully internalize the societal benefits of their actions. By correcting for this market failure, the measure contributes, *inter alia*, to media pluralism and freedom of speech in Norway, and to strengthen the written news media's democratic function in the society. Therefore, the aid does not unduly affect trading conditions to an extent contrary to the common interest.

6.4 Transparency

- (153) The Norwegian authorities have confirmed that they will publish the full text of the measure and any individual aid awards exceeding EUR 100 000 in the [national transparency register](#).
- (154) Therefore, the measure fulfils the transparency requirements

7 Conclusion

- (155) On the basis of the foregoing assessment, ESA considers that the scheme for production grants to news and current affairs media constitutes State aid within the meaning of Article 61(1) of the EEA Agreement. Since ESA has no doubts that this aid is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(c), it has no objections to the implementation of the measure.
- (156) The Norwegian authorities have confirmed that the notification does not contain any business secrets or other confidential information that should not be published.

For the EFTA Surveillance Authority,

Yours faithfully,

Arne Røksund
President
Responsible College Member

Stefan Barriga
College Member

Árni Páll Árnason
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This document has been electronically authenticated by Arne Roeksund, Melpo-Menie Josephides.