

Ministry of Trade, Industry and Fisheries
P.O. Box 8090
Dep 0032 Oslo
Norway

Subject: 2022 Prolongation of the production grant scheme for news and current affairs media

1 Summary

- (1) The EFTA Surveillance Authority (“ESA”) wishes to inform Norway that, having assessed the 2022 prolongation of the production grant scheme for news and current affairs media (“the measure” or “the notified 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.

2 Procedure

- (2) The Norwegian authorities notified the measure on 20 May 2021.² The notification falls under the simplified notification procedure for certain alterations to existing aid.³

3 Description of the measure

3.1 Background

- (3) By Decision No [112/14/COL](#), ESA approved a production grant scheme for news and current affairs media in Norway (“the scheme”). ESA approved the scheme for 6 years (from 12 March 2014 to 12 March 2020). The scheme was amended by Decision No [126/16/COL](#) of 15 June 2016.
- (4) The scheme provides production grants for eligible news media. Different grant levels apply depending on the size and the competitive position of news media in their respective markets.
- (5) In its 2014 decision, ESA concluded that the scheme was compatible with the functioning of the EEA Agreement.
- (6) By Decision [006/20/COL](#), ESA approved a prolongation of the scheme until 31 December 2020. By Decision [066/20/COL](#), ESA approved an additional prolongation of the scheme until 31 December 2021. As described in those Decisions, the Norwegian authorities have been working on adjustments to the scheme, with the aim of following up on the Government’s white paper of March

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 Documents No 1202496, 1202498 and 1202500.

³ Article 4 of ESA Decision No [195/04/COL](#) *implementing provisions* (amended several times, most recently 4.7.2017).

2019,⁴ in particular to ensure that a larger part of the aid is awarded to smaller local media.

- (7) However, the Norwegian authorities now plan to make substantial adjustments to the scheme after a full review. The Norwegian authorities face challenges completing this review before the scheme lapses at the end of the year. Therefore, they have notified a one-year extension to the scheme, in order to ensure predictability and legal certainty for the current beneficiaries.

3.2 The notified measure

- (8) The measure is a temporary prolongation of the current production grant scheme until the end of 2022.
- (9) The measure does not entail any substantive changes to the current scheme and contains no alterations, except for the duration and the budget. Therefore, reference is made to ESA's Decisions concerning the current scheme for a more detailed description.⁵

3.3 Budget and duration

- (10) The measure will extend the duration of the current scheme by one year, until 31 December 2022. The budget for the year 2022 is NOK 382 million.

4 Presence of state aid

- (11) 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."
- (12) The qualification of a measure as aid within the meaning of this provision therefore 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.
- (13) ESA has already concluded that the scheme constitutes state aid.⁶ The notified measure is a simple prolongation of the scheme. Therefore, the notified measure constitutes state aid within the meaning of Article 61(1) of the EEA Agreement.

5 Lawfulness of the aid

- (14) 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."

⁴ Meld. St. 17 (2018–2019) *Mangfold og armlengds avstand – Mediepolitikk for ei ny tid*, available here: <https://www.regjeringen.no/no/dokumenter/meld.-st.-17-20182019/id2638833/>.

⁵ See ESA's Decisions No 112/14/COL, 126/16/COL, 006/20/COL and 066/20/COL.

⁶ Ibid.

- (15) 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

- (16) 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 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.
- (17) 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.⁷
- (18) 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.
- (19) By the decisions referred to in paragraph (3) of this Decision, ESA concluded that the scheme is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(c). The notified measure is a temporary prolongation of the existing scheme.
- (20) A goal of the media policy in Norway is to ensure a pluralistic media landscape that provides the population access to a diverse and open public discourse, news and information. An important prerequisite to obtain this objective is the production of content reflecting the Norwegian language, culture, identity and society. The production grant scheme contributes to maintaining diversity of newspaper publications throughout Norway and stimulates local newspaper competition.
- (21) A large number of media outlets in Norway rely on the production grant scheme. Consequently, it is according to the Norwegian authorities vital that the production grant scheme remains in place for the duration of 2022, or until the Norwegian authorities finalise a new scheme. Such a prolongation secures predictability and legal certainty for the current beneficiaries. ESA moreover considers that the reasons underpinning its decisions referred to in paragraphs (3) and (6) of this Decision will continue to apply during the envisaged temporary prolongation period.
- (22) Therefore, ESA considers it justified to declare the notified measure compatible with the functioning of the EEA Agreement.

⁷ Judgment of 22 September 2020, *Austria v Commission (Hinkley Point C)*, C-594/18 P, EU:C:2020:742, paragraphs 18–20.

7 Conclusion

- (23) On the basis of the foregoing assessment, ESA considers that the measure constitutes state aid with 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.
- (24) 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, acting under [Delegation Decision No 068/17/COL](#),

Yours faithfully,

Bente Angell-Hansen
President
Responsible College Member

For Carsten Zatschler
Countersigning as Director,
Legal and Executive Affairs

This document has been electronically authenticated by Bente Angell-Hansen, Catherine Howdle.