

EUROPEAN ECONOMIC AREA

STANDING COMMITTEE OF THE EFTA STATES

Ref. 17-3736

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SUBCOMMITTEE II ON FREE MOVEMENT OF CAPITAL AND SERVICES

EEA EFTA COMMENT

on the Proposal for a Regulation of the European Parliament and of the Council establishing the Body of European Regulators for Electronic Communications (COM(2016) 591)

1. The EEA EFTA States (Norway, Iceland and Liechtenstein) welcome the Commission proposal for a revision of the telecom regulatory framework (the “Connectivity Package”). A sound and future-proof regulatory framework is fundamental for the development of a true Digital Single Market in Europe. The EEA EFTA States therefore support the review and the need to update the regulatory framework, taking account of both technological developments and developments in markets for electronic communications and services in Europe and globally. The EEA EFTA States will follow the legislative process closely and may forward further comments on the various issues covered in packages that are of interest to them.
2. The proposed revision includes a new regulation establishing the Body of European Regulators for Electronic Communications (BEREC), repealing Regulation (EC) No 1211/2009. The EEA EFTA States welcome the changes proposed in the new BEREC Regulation regarding the participation of third countries, c.f. Article 26(2), where it is stated that “BEREC shall be open to the participation of regulatory authorities of third countries competent in the field of electronic communications that have entered into agreements with the Union to that effect”.
3. The proposed new wording by the Commission on the participation of third countries is in line with the standard provision on the participation of third countries in a number of EU acts, and meets the concerns previously raised by the EEA EFTA States.
4. The EEA EFTA States participate in the Internal Market through the EEA Agreement. The institutional and procedural setup of the EEA Agreement provides that the terms of incorporation of acts into the EEA Agreement and participation in EU agencies/bodies are to be negotiated and agreed upon in the EEA Joint Committee.

5. The EEA EFTA States have not been in a position to accept Article 4(3) of Regulation (EC) No 1211/2009 stating that “NRAs from European Economic Area (EEA) States and from those States that are candidates for accession to the European Union shall have observer status”, as observer status would not secure the EEA EFTA States’ participation in BEREC on an equal footing with the EU Member States. BEREC has an important role in harmonising the application of electronic communications legislation in the EEA (EU and EEA EFTA States). The current wording has prevented the EEA EFTA States from incorporating the BEREC Regulation into the EEA Agreement, to the detriment of the homogeneity of the Internal Market. In the current regulation, the EU side unilaterally decides upon the terms of participation in BEREC, precluding any negotiations on the need for an adaptation text.
 6. Whilst welcoming the Commission’s proposed changes, the EEA EFTA States encourage the European Parliament and the Council to take the same position and secure that the new BEREC Regulation lays the groundwork for satisfactory participation by the EEA EFTA States in BEREC.
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