

## ANNEX XI

### ELECTRONIC COMMUNICATION, AUDIOVISUAL SERVICES AND INFORMATION SOCIETY. <sup>{1}</sup>

#### List provided for in Article 36(2)

#### INTRODUCTION

When the acts referred to in this Annex contain notions or refer to procedures which are specific to the Community legal order, such as:

- preambles;
- the addressees of the Community acts;
- references to territories or languages of the EC;
- references to rights and obligations of EC Member States, their public entities, undertakings or individuals in relation to each other; and
- references to information and notification procedures;

Protocol 1 on horizontal adaptations shall apply, unless otherwise provided for in this Annex.

#### ACTS REFERRED TO

##### Telecommunication services<sup>{2}</sup>

1. **387 L 0372**: Council Directive 87/372/EEC of 25 June 1987 on the frequency bands to be reserved for the coordinated introduction of public pan-European cellular digital land-based mobile communications in the European Community (OJ No L 196, 17.7.1987 p. 85).
2. [ ]<sup>{3}</sup>
3. [ ]<sup>{4}</sup>
- 4.<sup>{5}</sup> **32005 L 0082**: Directive 2005/82/EC of the European Parliament and of the Council of 14 December 2005 repealing Council Directive 90/544/EEC on the frequency bands designated for the coordinated introduction of pan-European land-based public radio paging in the Community (OJ L 344, 27.12.2005, p. 38).

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<sup>{1}</sup> Title replaced by Decision No 45/2009 (OJ No L 162, 25.6.2009, p. 23 and EEA Supplement No 33, 25.6.2009, p. 8), e.i.f. 1.5.2010.

<sup>{2}</sup> Subheading inserted by Decision No 91/98 (OJ No L 189, 22.7.1999, p. 64 and EEA Supplement No 32, 22.7.1999, p. 141), e.i.f. 1.5.1999.

<sup>{3}</sup> Text of point 2 (Council Directive 90/387/EEC) deleted by Decision No 11/2004 (OJ No L 116, 22.4.2004, p. 60 and EEA Supplement No 20, 22.4.2004, p. 14), e.i.f. 1.11.2004.

<sup>{4}</sup> Point deleted with effect from 25 July 2003 by Decision No 153/2003 (OJ No L 41, 12.02.2004, p. 45 and EEA Supplement No 7, 12.02.2004, p. 32), e.i.f. 1.11.2004.

<sup>{5}</sup> Text of point 4 (Council Directive 90/544/EEC) replaced by Decision No 22/2007 (OJ No L 209, 9.8.2007, p. 40 and EEA Supplement No 38, 9.8.2007, p. 27), e.i.f. 28.4.2007.

5. **391 L 0287**: Council Directive 91/C 287/EEC of 3 June 1991 on the frequency band to be designated for the coordinated introduction of digital European cordless telecommunications (DECT) into the Community (OJ No L 144, 8.6.1991, p. 45).
- 5a. [ ]<sup>{6}</sup>
- 5b. [ ]<sup>{7}</sup>
- 5c. [ ]<sup>{8}</sup>
- 5ca. [ ]<sup>{9}</sup>
- 5cb. [ ]<sup>{10}</sup>
- 5cc. [ ]<sup>{11}</sup>
- 5cd. [ ]<sup>{12}</sup>
- 5ce.<sup>{13}</sup> **32000 R 2887**: Regulation (EC) No 2887/2000 of the European Parliament and of the Council of 18 December 2000 on unbundled access to the local loop (OJ L 336, 30.12.2000, p. 4).
- 5cf.<sup>{14}</sup> **32002 D 0676**: Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) (OJ L 108, 24.4.2002, p. 1).

The provisions of the Decision shall, for the purposes of the present Agreement, be read with the following adaptations:

The following paragraphs shall be added to Article 6:

4. Without prejudice to paragraphs 5 and 6, paragraphs 1 to 4 shall not apply to the EFTA States.
5. As regards the EFTA States, the EFTA States shall carry out the tasks of the Commission mentioned in paragraph 1 and inform the Standing Committee of any difficulties created, *de jure* or *de facto*, by third countries or international organisations for the implementation of this Decision, which shall draw up a report.
6. This Article shall be without prejudice to the EFTA States' rights and obligations under relevant international agreements.

- 5cg.<sup>{15}</sup> **32002 L 0077**: Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services (OJ L 249, 17.9.2002, p. 21)<sup>(1)</sup>.

<sup>{6}</sup> Text of point 5a (Council Decision 92/264/EEC) deleted by Decision No 11/2004 (OJ No L 116, 22.4.2004, p. 60 and EEA Supplement No 20, 22.4.2004, p. 14), e.i.f. 1.11.2004.

<sup>{7}</sup> Text of point 5b (Council Directive 92/44/EEC) deleted by Decision No 11/2004 (OJ No L 116, 22.4.2004, p. 60 and EEA Supplement No 20, 22.4.2004, p. 14), e.i.f. 1.11.2004.

<sup>{8}</sup> Text of point 5c (Directive 98/10/EC of the European Parliament and of the Council) deleted by Decision No 11/2004 (OJ No L 116, 22.4.2004, p. 60 and EEA Supplement No 20, 22.4.2004, p. 14), e.i.f. 1.11.2004.

<sup>{9}</sup> Text of point 5ca (Decision No 710/97/EC of the European Parliament and of the Council) deleted by Decision No 120/2006 (OJ No L 333, 30.11.2006, p. 47 and EEA Supplement No 60, 30.11.2006, p. 35), e.i.f. 23.9.2006.

<sup>{10}</sup> Text of point 5cb (Directive 97/33/EC of the European Parliament and of the Council) deleted by Decision No 11/2004 (OJ No L 116, 22.4.2004, p. 60 and EEA Supplement No 20, 22.4.2004, p. 14), e.i.f. 1.11.2004.

<sup>{11}</sup> Text of point 5cc (Directive 97/13/EC of the European Parliament and of the Council) deleted by Decision No 11/2004 (OJ No L 116, 22.4.2004, p. 60 and EEA Supplement No 20, 22.4.2004, p. 14), e.i.f. 1.11.2004.

<sup>{12}</sup> Text of point 5cd (Decision No 128/1999/EC of the European Parliament and of the Council) deleted by Decision No 120/2006 (OJ No L 333, 30.11.2006, p. 47 and EEA Supplement No 60, 30.11.2006, p. 35), e.i.f. 23.9.2006.

<sup>{13}</sup> Point inserted by Decision No 47/2001 (OJ No L 158, 14.6.2001, p. 62 and EEA Supplement No 30, 14.6.2001, p.42 (Norwegian) p. 20 (Icelandic)), e.i.f. 1.10.2001.

(1) Listed here for purposes of information only. For application, see Annex XIV.

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations:

In Article 7(2), the words “competition rules of the EC Treaty” shall read “the competition rules of the EEA Agreement”.

5ch.{<sup>16</sup>} **32002 D 0622**: Commission Decision 2002/622/EC of 26 July 2002 establishing a Radio Spectrum Policy Group (OJ L 198, 27.7.2002, p. 49).

Procedures for the association of Liechtenstein, Iceland and Norway in accordance with Article 101 of the Agreement:

Each EFTA State may, in accordance with Article 3 of Commission Decision 2002/622/EC, appoint persons to participate as observers in the meetings of the Radio Spectrum Policy Group.

The EC Commission shall, in due time, inform the participants of the dates of the meetings of the Group and transmit to them the relevant documentation.

5ci.{<sup>17</sup>} **32002 D 0627**: Commission Decision 2002/627/EC of 29 July 2002 establishing the European Regulators Group for Electronic Communications Networks and Services (OJ L 200, 30.7.2002, p. 38), as amended by:

-{<sup>18</sup>} **32004 D 0641**: Commission Decision 2004/641/EC of 14 September 2004 (OJ L 293, 16.9.2004, p. 30),

-{<sup>19</sup>} **32007 D 0804**: Commission Decision 2007/804/EC of 6 December 2007 (OJ L 323, 8.12.2007, p. 43).

Procedures for the association of Liechtenstein, Iceland and Norway in accordance with Article 101 of the Agreement:

Each EFTA State may, in accordance with Article 4(1) of Commission Decision 2002/627/EC, appoint persons to participate as observers in the meetings of the European Regulators Group for Electronic Communications Networks and Services.

The EC Commission shall, in due time, inform the participants of the dates of the meetings of the Group and transmit to them the relevant documentation.

5cj.{<sup>20</sup>} **32002 L 0019**: Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) (OJ L 108, 24.4.2002, p. 7).

<sup>{14}</sup> Point inserted by Decision No 79/2003 (OJ No L 257, 9.10.2003, p. 29 and EEA Supplement No 51, 9.10.2003, p.18), e.i.f. 1.8.2004.

<sup>{15}</sup> Point inserted by Decision No 153/2003 (OJ No L 41, 12.02.2004, p. 45 and EEA Supplement No 7, 12.02.2004, p. 32), e.i.f. 1.11.2004.

<sup>{16}</sup> Point inserted by Decision No 9/2004 (OJ No L 116, 22.4.2004, p. 56 and EEA Supplement No 20, 22.4.2004, p. 12), e.i.f. 7.2.2004.

<sup>{17}</sup> Point inserted by Decision No 10/2004 (OJ No L 116, 22.4.2004, p. 58 and EEA Supplement No 20, 22.4.2004, p. 13), e.i.f. 7.2.2004.

<sup>{18}</sup> Indent and words: “, as amended by:” , added by Decision No 38/2005 (OJ No L 198, 28.7.2005, p. 34 and EEA Supplement No 38, 28.7.2005, p. 20), e.i.f. 12.3.2005.

<sup>{19}</sup> Indent added by Decision No 67/2008 (OJ No L 257, 25.9.2008, p. 30 and EEA Supplement No 58, 25.9.2008, p. 12), e.i.f. 7.6.2008.

<sup>{20}</sup> Point inserted by Decision No 11/2004 (OJ No L 116, 22.4.2004, p. 60 and EEA Supplement No 20, 22.4.2004, p. 14), e.i.f. 1.11.2004.

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptation:

Whereas Liechtenstein and its national regulatory authority shall make all reasonable endeavours to apply the provisions of this Directive, the assessment of their compliance shall take due account of the specific situation of Liechtenstein and the particular circumstances of its very small telecommunications network, its market structure, its limited number of customers, its market potential and the possibility of market failure.

5ck.{<sup>21</sup>} **32002 L 0020**: Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) (OJ L 108, 24.4.2002, p. 21).

5cl.{<sup>22</sup>} **32002 L 0021**: Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ L 108, 24.4.2002, p. 33), as amended by:

-{<sup>23</sup>} **32007 R 0717**: Regulation (EC) No 717/2007 of the European Parliament and of the Council of 27 June 2007 (OJ L 171, 29.6.2007, p. 32),

-{<sup>24</sup>} **32009 R 0544**: Regulation (EC) No 544/2009 of the European Parliament and of the Council of 18 June 2009 (OJ L 167, 29.6.2009, p. 12).

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations:

- (a) In Article 5(2), the word ‘Treaty’ shall read ‘Agreement’.
- (b) In Article 5(3), the word ‘Commission’ shall read ‘Commission, Standing Committee, EFTA Surveillance Authority’.
- (c) The following sub-paragraph shall be added to Article 7(3):

‘The exchange of information between the national regulatory authorities of the EFTA States on the one hand and the national regulatory authorities of the EC Member States on the other hand shall pass through the EFTA Surveillance Authority and the Commission.’

- (d) The following sub-paragraphs shall be added to Article 15(4):

‘After consultation with national regulatory authorities the EFTA Surveillance Authority may adopt a Decision identifying transnational markets between two or more EFTA States.

If either the EFTA Surveillance Authority or the Commission intends to identify a transnational market, which affects both an EFTA State and an EC Member State, they shall co-operate with a view to agreeing on identical Decisions identifying a transnational market, which affects both an EFTA State and an EC State. Article 109 shall apply *mutatis mutandis*.’

5cm.{<sup>25</sup>} **32002 L 0022**: Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users’ rights relating to electronic communications networks and services (Universal Service Directive) (OJ L 108, 24.4.2002, p. 51).

<sup>{21}</sup> Point inserted by Decision No 11/2004 (OJ No L 116, 22.4.2004, p. 60 and EEA Supplement No 20, 22.4.2004, p. 14), e.i.f. 1.11.2004.

<sup>{22}</sup> Point inserted by Decision No 11/2004 (OJ No L 116, 22.4.2004, p. 60 and EEA Supplement No 20, 22.4.2004, p. 14), e.i.f. 1.11.2004.

<sup>{23}</sup> Indent and words “, as amended by:” , added by Decision No 143/2007 (OJ No L 100, 10.4.2008, p. 84 and EEA Supplement No 19, 10.4.2008, p.85), e.i.f. 22.12.2007.

<sup>{24}</sup> Indent added by Decision No 107/2009 (OJ No L 334, 17.12.2009, p. 4 and EEA Supplement No 68, 17.12.2009, p. 4), e.i.f. 1.4.2010.

{<sup>26</sup>}The transitional arrangements set out in the Annexes to the Act of Accession of 25 April 2005 or, as the case may be, to the Protocol of Accession of 25 April 2005 for Bulgaria (Annex VI, Chapter 9), shall apply.

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations:

Whereas Liechtenstein and its national regulatory authority shall make all reasonable endeavours to apply the provisions of this Directive, the assessment of their compliance shall take due account of the specific situation of Liechtenstein and the particular circumstances of its very small telecommunications network, its market structure, its limited number of customers, its market potential and the possibility of market failure.

Liechtenstein shall notify to the EFTA Surveillance Authority any factors that may need to be taken into account in applying the parameters, definitions and measurement methods set out in Annex III.

After the notification, the designated undertakings may refer to such factors in the publications required by Article 11(1).

5cn.{<sup>27</sup>} **32003 D 0548**: Commission Decision 2003/548/EC of 24 July 2003 on the minimum set of leased lines with harmonised characteristics and associated standards referred to in Article 18 of the Universal Service Directive (OJ L 186, 25.7.2003, p. 43), as amended by:

-{<sup>28</sup>} **32008 D 0060**: Commission Decision 2008/60/EC of 21 December 2007 (OJ L 15, 18.1.2008, p. 32).

5co.{<sup>29</sup>} **32003 H 0558**: Commission Recommendation 2003/558/EC of 25 July 2003 on the processing of caller location information in electronic communication networks for the purpose of location-enhanced emergency call services (OJ L 189, 29.7.2003, p. 49).

5cp.{<sup>30</sup>} **32004 R 0460**: Regulation (EC) No 460/2004 of the European Parliament and of the Council of 10 March 2004 establishing the European Network and Information Security Agency (OJ L 77, 13.3.2004, p. 1) as amended by:

-{<sup>31</sup>} **32008 R 1007**: Regulation (EC) No 1007/2008 of the European Parliament and of the Council of 24 September 2008 (OJ L 293, 31.10.2008, p. 1).

The text of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) Unless otherwise stipulated below, and notwithstanding the provisions of Protocol 1 to the Agreement, the term ‘Member State(s)’ and other terms referring to their public entities contained in the Regulation shall be understood to include, in addition to its meaning in the Regulation, the EFTA States and their public entities. Paragraph 11 of Protocol 1 shall apply.

{<sup>25</sup>} Point inserted by Decision No 11/2004 (OJ No L 116, 22.4.2004, p. 60 and EEA Supplement No 20, 22.4.2004, p. 14), e.i.f. 1.11.2004.

{<sup>26</sup>} Text added by the 2007 EEA Enlargement Agreement (OJ No L 221, 25.8.2007 and EEA Supplement No 39, 26.7.2008), provisionally applicable as of 1.8.2007, e.i.f. pending.

{<sup>27</sup>} Point inserted by Decision No 39/2004 (OJ No L 277, 26.8.2004, p. 8 and EEA Supplement No 43, 26.8.2004, p. 7), e.i.f. 24.4.2004.

{<sup>28</sup>} Indent and words “, as amended by:” , added by Decision No 82/2008 (OJ L 280, 23.10.2008, p. 16 and EEA Supplement No 64, 23.10.2008, p. 9), e.i.f. 5.7.2008.

{<sup>29</sup>} Point inserted by Decision No 74/2004 (OJ No L 349, 25.11.2004, p. 32 and EEA Supplement No 59, 25.11.2004, p. 8), e.i.f. 9.6.2004.

{<sup>30</sup>} Point inserted by Decision No 103/2005 (OJ No L 306, 24.11.2005, p. 36 and EEA Supplement No 60, 24.11.2005, p. 23), e.i.f. 1.2.2006.

{<sup>31</sup>} Text “ as amended by” and indent inserted by Decision No 46/2009 ( OJ No L 162, 25.6.2009, p. 27 and EEA Supplement No 33, 25.6.2009, p. 12), e.i.f. 25.4.2009.

- (b) As regards the EFTA States, the Agency shall, as and when appropriate, assist the EFTA Surveillance Authority or the Standing Committee, as the case may be, in the performance of their respective tasks.
- (c) The following paragraph shall be added to Article 6:
- ‘11. The EFTA States shall participate fully in the Management Board and shall within it have the same rights and obligations as EU Member States, except for the right to vote.’
- (d) The following paragraph shall be added to Article 14:
- ‘4. Regulation (EC) No 1049/2001 shall, for the application of this Regulation, apply to any documents of the Agency regarding the EFTA States as well.’
- (e) The following paragraph shall be added to Article 15:
- ‘12. The EFTA States shall participate in the contribution from the Community referred to in paragraph 1. For this purpose, the procedures laid down in Article 82(1)(a) and Protocol 32 to the Agreement shall apply *mutatis mutandis*.’
- (f) The following paragraph shall be added to Article 19:
- ‘3. By way of derogation from Article 12(2)(a) of the Conditions of employment of other servants of the European Communities, nationals of the EFTA States enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Agency.’
- (g) The following shall be added to Article 20:
- ‘EFTA States shall apply to the Agency and to its staff the Protocol on the Privileges and Immunities of the European Communities and applicable rules adopted pursuant to that Protocol.’
- 5cq.{<sup>32</sup>} **32004 D 0545**: Commission Decision 2004/545/EC of 8 July 2004 on the harmonisation of radio spectrum in the 79 GHz range for the use of automotive short-range radar equipment in the Community (OJ L 241, 13.7.2004, p. 66).
- 5cr.{<sup>33</sup>} **32005 D 0050**: Commission Decision 2005/50/EC of 17 January 2005 on the harmonisation of the 24 GHz range radio spectrum band for the time-limited use by automotive short-range radar equipment in the Community (OJ L 21, 25.1.2005, p. 15).
- 5cs.{<sup>34</sup>} **32005 D 0513**: Commission Decision 2005/513/EC of 11 July 2005 on the harmonised use of radio spectrum in the 5 GHz frequency band for the implementation of wireless access systems including radio local area networks (WAS/RLANs) (OJ L 187, 19.7.2005, p. 22), as amended by:
- {<sup>35</sup>} **32007 D 0090**: Commission Decision 2007/90/EC of 12 February 2007 (OJ L 41, 13.2.2007, p. 10).
- 5ct.{<sup>36</sup>} **32005 D 0928**: Commission Decision 2005/928/EC of 20 December 2005 on the harmonisation of the 169,4-169,8125 MHz frequency band in the Community (OJ L 344, 27.12.2005, p. 47), as amended by:
- {<sup>37</sup>} **32008 D 0673**: Commission Decision 2008/673/EC of 13 August 2008 (OJ L 220, 15.8.2008, p. 29).

<sup>32</sup> Point inserted by Decision No 148/2005 (OJ No L 53, 23.2.2006, p. 46 and EEA Supplement No 10, 23.2.2005, p. 20), e.i.f. 3.12.2005.

<sup>33</sup> Point inserted by Decision No 148/2005 (OJ No L 53, 23.2.2006, p. 46 and EEA Supplement No 10, 23.2.2005, p. 20), e.i.f. 3.12.2005.

<sup>34</sup> Point inserted by Decision No 61/2006 (OJ No L 245, 7.9.2006, p. 8 and EEA Supplement No 44, 7.9.2006, p. 7), e.i.f. 3.6.2006.

<sup>35</sup> Indent, and words ", as amended by:" , added by Decision No 11/2008 (OJ No L 154, 12.6.2008, p. 23 and EEA Supplement No 33, 12.6.2008, p. 18), e.i.f. 2.2.2008.

<sup>36</sup> Point inserted by Decision No 22/2007 (OJ No L 209, 9.8.2007, p. 40 and EEA Supplement No 38, 9.8.2007, p. 27), e.i.f. 28.4.2007.

5cu.<sup>{38}</sup> **32007 R 0717:** Regulation (EC) No 717/2007 of the European Parliament and of the Council of 27 June 2007 on roaming on public mobile networks within the Community and amending Directive 2002/21/EC (OJ L 171, 29.6.2007, p. 32), as amended by:

-<sup>{39}</sup> **32009 R 0544:** Regulation (EC) No 544/2009 of the European Parliament and of the Council of 18 June 2009 (OJ L 167, 29.6.2009, p. 12).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

The following subparagraphs shall be added in Article 1(4):

“In the absence of a published exchange rate of the euro to the Icelandic króna by the European Central Bank on the date of the entry into force of the Decision of the EEA Joint Committee No 107/2009 incorporating this Regulation into the EEA Agreement, the exchange rate published by the Icelandic Central Bank on that same date shall apply.

For the purposes of the subsequent reductions in those limits provided for in Article 3(2) and Article 4(2), the reference exchange rates applied to determine the revised values shall, in the case of the Icelandic króna and in the absence of a corresponding publication by the European Central Bank, be those published by the Icelandic Central Bank one month preceding the date from which the revised values apply.

5cv.<sup>{40}</sup> **32007 D 0098:** Commission Decision 2007/98/EC of 14 February 2007 on the harmonised use of radio spectrum in the 2 GHz frequency bands for the implementation of systems providing mobile satellite services (OJ L 43, 15.2.2007, p. 32).

5cw.<sup>{41}</sup> **32007 D 0131:** Commission Decision 2007/131/EC of 21 February 2007 on allowing the use of the radio spectrum for equipment using ultra-wideband technology in a harmonised manner in the Community (OJ L 55, 23.2.2007, p. 33).

5cx.<sup>{42}</sup> **32007 D 0116:** Commission Decision 2007/116/EC of 15 February 2007 on reserving the national numbering range beginning with ‘116’ for harmonised numbers for harmonised services of social value (OJ L 49, 17.2.2007, p. 30), as amended by:

-<sup>{43}</sup> **32007 D 0698:** Commission Decision 2007/698/EC of 29 October 2007 (OJ L 284, 30.10.2007, p. 31).

5cy.<sup>{44}</sup> **32007 D 0176:** Commission Decision 2007/176/EC of 11 December 2006 establishing a list of standards and/or specifications for electronic communications networks, services and associated facilities and services and replacing all previous versions (OJ L 86, 27.3.2007, p. 11), as amended by:

-<sup>{45}</sup> **32008 D 0286:** Commission Decision 2008/286/EC of 17 March 2008 (OJ L 93, 4.4.2008, p. 24).

5cz.<sup>{46}</sup> **32006 D 0771:** Commission Decision 2006/771/EC of 9 November 2006 on harmonisation of the radio spectrum for use by short-range devices (OJ L 312, 11.11.2006, p. 66) , as amended by:

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<sup>{37}</sup> Indent and words “as amended by” added by Decision No 96/2009 (OJ No L 304, 19.11.2009, p. 8 and EEA Supplement No 61, 19.11.2009, p. 3), e.i.f. 26.9.2007.

<sup>{38}</sup> Point inserted by Decision No 143/2007 (OJ No L 100, 10.4.2008, p. 84 and EEA Supplement No 19, 10.4.2008, p.85), e.i.f. 22.12.2007.

<sup>{39}</sup> Indent and words “as amended by “inserted by Decision No 107/2009 (OJ No L 334, 17.12.2009, p. 4 and EEA Supplement No 68, 17.12.2009, p. 4), e.i.f. 1.4.2010.

<sup>{40}</sup> Point inserted by Decision No 162/2007 (OJ No L 124, 8.5.2008, p. 28 and EEA Supplement No 26, 8.5.2008, p. 23), e.i.f. 8.12.2007.

<sup>{41}</sup> Point inserted by Decision No 162/2007 (OJ No L 124, 8.5.2008, p. 28 and EEA Supplement No 26, 8.5.2008, p. 23), e.i.f. 8.12.2007.

<sup>{42}</sup> Point inserted by Decision No 11/2008 (OJ No L 154, 12.6.2008, p. 23 and EEA Supplement No 33, 12.6.2008, p. 18), e.i.f. 2.2.2008.

<sup>{43}</sup> Indent, and words “”, as amended by:” , added by Decision No 83/2008 (OJ L 280, 23.10.2008, p. 17 and EEA Supplement No 64, 23.10.2008, p. 10), e.i.f. 5.7.2008.

<sup>{44}</sup> Point inserted by Decision No 11/2008 (OJ No L 154, 12.6.2008, p. 23 and EEA Supplement No 33, 12.6.2008, p. 18), e.i.f. 2.2.2008.

<sup>{45}</sup> Indent, and words “”, as amended by:” , added by Decision No 115/2008 (OJ No L 339, 18.12.2008, p. 105 and EEA Supplement No 79, 18.12.2008, p. 14), e.i.f. 8.11.2008.

<sup>{46}</sup> Point inserted by Decision No 84/2008 (OJ No L 280, 23.10.2008, p. 18 and EEA Supplement No 64, 23.10.2008, p. 11), e.i.f. 5.7.2008.

- <sup>{47}</sup> **32008 D 0432**: Commission Decision 2008/432/EC of 23 May 2008 (OJ L 151, 11.6.2008, p. 49), as corrected by OJ L 212, 7.8.2008, p. 15.
- 5cza.<sup>{48}</sup> **32006 D 0804**: Commission Decision 2006/804/EC of 23 November 2006 on harmonisation of the radio spectrum for radio frequency identification (RFID) devices operating in the ultra high frequency (UHF) band (OJ L 329, 25.11.2006, p. 64).
- 5czb.<sup>{49}</sup> **32007 D 0344**: Commission Decision 2007/344/EC of 16 May 2007 on harmonised availability of information regarding spectrum use within the Community (OJ L 129, 17.5.2007, p. 67).
- 5czc.<sup>{50}</sup> **32008 D 0294**: Commission Decision 2008/294/EC of 7 April 2008 on harmonised conditions of spectrum use for the operation of mobile communication services on aircraft (MCA services) in the Community (OJ L 98, 10.4.2008, p. 19).
- 5czd. <sup>{51}</sup> **32008 D 0411**: Commission Decision 2008/411/EC of 21 May 2008 on the harmonisation of the 3 400-3 800 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Community (OJ L 144, 4.6.2008, p. 77).
- 5cze. <sup>{52}</sup> **32008 D 0477**: Commission Decision 2008/477/EC of 13 June 2008 on the harmonisation of the 2 500-2 690 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Community (OJ L 163, 24.6.2008, p. 37).
- 5czf. <sup>{53}</sup> **32008 D 0671**: Commission Decision 2008/671/EC of 5 August 2008 on the harmonised use of radio spectrum in the 5 875-5 905 MHz frequency band for safety-related applications of Intelligent Transport Systems (ITS) (OJ L 220, 15.8.2008, p. 24).

### Postal services<sup>{54}</sup>

- 5d. **397 L 0067**: Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service (OJ L 15, 21.1.1998, p. 14), as amended by:

-<sup>{55}</sup> **32002 L 0039**: Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 (OJ L 176, 5.7.2002, p. 21).

<sup>{56}</sup> The transitional arrangements set out in the Annexes to the Act of Accession of 16 April 2003 for Poland (Annex XII, Chapter 12) shall apply.

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations:

- (a) in Article 5(2) "Treaty, in particular Articles 36 and 56 thereof" shall read "EEA Agreement, in particular Articles 13 and 33 thereof";

<sup>{47}</sup> Indent and words "as amended by" added by Decision No 83/2009 (OJ No L 277, 22.10.2009, p. 35 and EEA Supplement No 56, 22.10.2009, p. 12), e.i.f. 4.7.2009.

<sup>{48}</sup> Point inserted by Decision No 84/2008 (OJ No L 280, 23.10.2008, p. 18 and EEA Supplement No 64, 23.10.2008, p. 11), e.i.f. 5.7.2008.

<sup>{49}</sup> Point inserted by Decision No 84/2008 (OJ No L 280, 23.10.2008, p. 18 and EEA Supplement No 64, 23.10.2008, p. 11), e.i.f. 5.7.2008.

<sup>{50}</sup> Point inserted by Decision No 31/2009 (OJ No L 130, 28.5.2009, p. 25 and EEA Supplement No 28, 28.5.2009, p. 23), e.i.f. 18.3.2009.

<sup>{51}</sup> Point inserted by Decision No 96/2009 (OJ No L 304, 19.11.2009, p. 8 and EEA Supplement No 61, 19.11.2009, p. 3), e.i.f. 26.9.2009.

<sup>{52}</sup> Point inserted by Decision No 96/2009 (OJ No L 304, 19.11.2009, p. 8 and EEA Supplement No 61, 19.11.2009, p. 3), e.i.f. 26.9.2009.

<sup>{53}</sup> Point inserted by Decision No 96/2009 (OJ No L 304, 19.11.2009, p. 8 and EEA Supplement No 61, 19.11.2009, p. 3), e.i.f. 26.9.2009.

<sup>{54}</sup> Heading and point inserted by Decision No 91/98 (OJ No L 189, 22.7.1999, p. 64 and EEA Supplement No 32, 22.7.1999, p. 141), e.i.f. 1.5.1999.

<sup>{55}</sup> Indent, and words ", as amended by:" above, added by Decision No 168/2002 (OJ No L 38, 13.2.2003, p. 30 and EEA Supplement No 9, 13.2.2003, p. 21), e.i.f. 1.8.2003.

<sup>{56}</sup> Text added by the 2004 EEA Enlargement Agreement (OJ No L 130, 29.4.2004, p. 3 and EEA Supplement No 23, 29.4.2004, p. 1), e.i.f. 1.5.2004.

- (b) in Article 26 “Treaty” shall read “EEA Agreement”.

### **Data Protection<sup>{57}</sup>**

- 5e. **395 L 0046:** Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations:

- (a) The Contracting Parties shall, within the framework of the EEA Joint Committee, exchange the information to which reference is made in Articles 25(3) and 26(3) first paragraph;
- (b) If, pursuant to Articles 25(4), 25(6), 26(3) second paragraph or 26(4), the Commission intends to adopt measures in accordance with Article 31, the EFTA States shall be informed in the same way as the EU Member States. If the Commission communicates measures to the Council in accordance with Article 31, the EFTA States shall be kept informed in due time of such a procedure. Any measures adopted in accordance with Article 31 shall be notified to the EFTA States in the same way as to the EU Member States. Pending a decision by the EEA Joint Committee to incorporate such measures into the Agreement, the EFTA States shall decide, and inform the Commission before the entry into force of the measures adopted in accordance with Article 31, whether they will apply these measures or not.

If an EFTA State has not taken any such decision, it shall apply the measures adopted in accordance with Article 31 at the same time as EU Member States.

If an agreement on the incorporation into the EEA Agreement of measures adopted in accordance with Article 31 cannot be reached in the EEA Joint Committee within twelve months after the entry into force of the measures, an EFTA State may discontinue any application of such measures and shall inform the Commission thereof without delay.

The other Contracting Parties shall, by derogation from Article 1(2) of the Directive, restrict or prohibit the free flow of personal data to an EFTA State which does not apply the measures adopted in accordance with Article 31 in the same way as these measures prevent the transfer of such data to a third country;

- (c) Notwithstanding any negotiations by the Commission pursuant to Article 25(5), an EFTA State may enter into negotiations on its own behalf. The Commission and the EFTA States shall keep each other informed and, upon request, shall hold consultations regarding such negotiations within the framework of the EEA Joint Committee;

Procedures for the association of Liechtenstein, Iceland and Norway in accordance with Article 101 of the Agreement:

Each EFTA State may, in accordance with the second subparagraph of Article 29(2) of Directive 95/46/EC of the European Parliament and of the Council, appoint one person, who shall represent the supervisory authority or authorities designated by each EFTA State to participate as observer, without the right to vote, in the meetings of the Working Party on the Protection of Individuals with regard to the Processing of Personal Data.

The EC Commission shall in due time inform the participants of the dates of the meetings of the Working Party and shall transmit to them the relevant information.

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<sup>{57}</sup> **Heading and point inserted by Decision No 83/1999 (OJ No L 296, 23.11.2000, p. 41 and EEA Supplement No 43, 23.11.2000, p. 112 (I) and p. 81 Del 2 (N)), e.i.f. 1.7.2000.**

- 5ea.<sup>{58}</sup> **32000 D 0518**: Commission Decision 2000/518/EC of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data provided in Switzerland (OJ L 215, 25.8.2000, p. 1).
- 5eb.<sup>{59}</sup> **32000 D 0519**: Commission Decision 2000/519/EC of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data provided in Hungary (OJ L 215, 25.8.2000, p. 4).
- 5ec.<sup>{60}</sup> **32000 D 0520**: Commission Decision 2000/520/EC of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequacy of the protection provided by the safe harbour privacy principles and related frequently asked questions issued by the US Department of Commerce (OJ L 215, 25.8.2000, p. 7).
- 5ed.<sup>{61}</sup> **32001 D 0497**: Commission Decision 2001/497/EC of 15 June 2001 under Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 181, 4.7.2001, p. 19), as corrected by OJ L 253, 21.9.2001, p. 34, as amended by:
- <sup>{62}</sup> **32004 D 0915**: Commission Decision 2004/915/EC of 27 December 2004 (OJ L 385, 29.12.2004, p. 74).
- 5ee.<sup>{63}</sup> **32002 D 0002**: Commission Decision 2002/2/EC of 20 December 2001 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data provided by the Canadian Personal Information Protection and Electronic Documents Act (OJ L 2, 4.1.2002, p. 13).
- 5ef.<sup>{64}</sup> **32002 D 0016**: Commission Decision 2002/16/EC of 27 December 2001 on standard contractual clauses for the transfer of personal data to processors established in third countries, under Directive 95/46/EC (OJ L 6, 10.1.2002, p. 52).
- 5eg.<sup>{65}</sup> **32003 D 0490**: Commission Decision 2003/490/EC of 30 June 2003 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data in Argentina (OJ L 168, 5.7.2003, p. 19).
- 5eh.<sup>{66}</sup> **32003 D 0821**: Commission Decision 2003/821/EC of 21 November 2003 on the adequate protection of personal data in Guernsey (OJ L 308, 25.11.2003, p. 27).
- 5ei.<sup>{67}</sup> **32004 D 0411**: Commission Decision 2004/411/EC of 28 April 2004 on the adequate protection of personal data in the Isle of Man (OJ L 151, 30.4.2004, p. 48), as corrected by OJ L 208, 10.6.2004, p. 47.
- 5ej.<sup>{68}</sup> [ ]

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<sup>{58}</sup> Point inserted by Decisions No 108/2000 (OJ No L 45, 15.2.2001, p. 47 and EEA Supplement No 8, 15.2.2001, p. 47), e.i.f. 1.7.2001.

<sup>{59}</sup> Point inserted by Decisions No 108/2000 (OJ No L 45, 15.2.2001, p. 47 and EEA Supplement No 8, 15.2.2001, p. 47), e.i.f. 1.7.2001.

<sup>{60}</sup> Point inserted by Decisions No 108/2000 (OJ No L 45, 15.2.2001, p. 47 and EEA Supplement No 8, 15.2.2001, p. 47), e.i.f. 1.7.2001.

<sup>{61}</sup> Point inserted by Decisions No 4/2002 (OJ No L 88, 4.4.2002, p. 7 and EEA Supplement No 17, 4.4.2002, p. 5), e.i.f. 2.2.2002.

<sup>{62}</sup> Indent and words ", as amended by:" above, added by Decision No 9/2006 (OJ No L 92, 30.3.2006, p. 31 and EEA Supplement No 17, 30.3.2006, p. 10), e.i.f. 28.1.2006.

<sup>{63}</sup> Point inserted by Decision No 87/2002 (OJ No L 266, 3.10.2002, p. 54 and EEA Supplement No 49, 3.10.2002, p. 41), e.i.f. 26.6.2002.

<sup>{64}</sup> Point inserted by Decision No 87/2002 (OJ No L 266, 3.10.2002, p. 54 and EEA Supplement No 49, 3.10.2002, p. 41), e.i.f. 26.6.2002.

<sup>{65}</sup> Point inserted by Decision No 75/2004 (OJ No L 349, 25.11.2004, p. 33 and EEA Supplement No 59, 25.11.2004, p. 9), e.i.f. 9.6.2004.

<sup>{66}</sup> Point inserted by Decision No 105/2004 (OJ No L 376, 23.12.2004, p. 35 and EEA Supplement No 65, 23.12.2004, p. 25), e.i.f. 10.7.2004.

<sup>{67}</sup> Point inserted by Decision No 39/2005 (OJ No L 198, 28.7.2005, p. 36 and EEA Supplement No 38, 28.7.2005, p. 21), e.i.f. 12.3.2005.

<sup>{68}</sup> Point inserted by Decision No 104/2005 (OJ No L 306, 24.11.2005, p. 39 and EEA Supplement No 60, 24.11.2005, p. 25), e.i.f. 9.7.2005, and subsequently deleted by Decision No 47/2009 (OJ No L 162, 25.6.2009, p. 28 and EEA Supplement No 33, 25.6.2009, p. 13), e.i.f. 25.4.2009.

5ek.{<sup>69</sup>} **32008 D 0393**: Commission Decision 2008/393/EC of 8 May 2008 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data in Jersey (OJ L 138, 28.5.2008, p. 21).

5f. [ ]{<sup>70</sup>}

5g. [ ]{<sup>71</sup>}

5ga. [ ]{<sup>72</sup>}

5h. [ ]{<sup>73</sup>}

5ha.{<sup>74</sup>} **32002 L 0058**: Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations:

- (a) In Article 1(3), the words ‘the Treaty establishing the European Community’ shall be replaced with the words ‘EEA Agreement’.
- (b) In Article 15(1), the words ‘general principles of Community law, including those referred to in Article 6(1) and (2) of the Treaty on European Union’ shall be replaced with the words ‘general principles of EEA law’.

Procedures for the association of Liechtenstein, Iceland and Norway in accordance with Article 101 of the Agreement:

The person appointed by each EFTA State to participate as observer in the meetings of the Working Party on the Protection of individuals with regard to the Processing of Personal Data may, under the same terms and conditions as set out in point 5e (Directive 95/46/EC of the European Parliament and of the Council), also participate in the meetings when the Working Party on the Protection of individuals with regard to the Processing of Personal Data carries out the tasks laid down in Article 30 of Directive 95/46/EC of the European Parliament and of the Council with regard to matters covered by this Directive, namely the protection of fundamental rights and freedoms and of legitimate interests in the electronic communications sector.

### Information Society Services<sup>{75}</sup>

5i. **398 L 0034**: Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations (OJ L 204, 21.7.1998, p. 37), as amended by:

<sup>{69}</sup> Point inserted by Decision No 47/2009 (OJ No L 162, 25.6.2009, p. 28 and EEA Supplement No 33, 25.6.2009, p. 13 ), e.i.f. 25.4.2009.

<sup>{70}</sup> Text of point 5f (Directive 97/66/EC) inserted by Decision No 84/1999 (OJ No L 296, 23.11.2000, p. 44 and EEA Supplement No 54, 23.11.2000, p. 132 (I) and p. 103 Del 2 (N)), e.i.f. 1.7.2000, and subsequently deleted with effect from 31 October 2003 by Decision No 80/2003 (OJ No L 257, 9.10.2003, p. 31 and EEA Supplement No 51, 9.10.2003, p. 19), e.i.f. 1.8.2004.

<sup>{71}</sup> Text of point 5g (Directive 1999/93/EC of the European Parliament and of the Council) deleted by Decision No 120/2006 (OJ No L 333, 30.11.2006, p. 47 and EEA Supplement No 60, 30.11.2006, p. 35), e.i.f. 23.9.2006.

<sup>{72}</sup> Text of point 5ga (Commission Decision 2000/709/EC) deleted by Decision No 120/2006 (OJ No L 333, 30.11.2006, p. 47 and EEA Supplement No 60, 30.11.2006, p. 35), e.i.f. 23.9.2006.

<sup>{73}</sup> Text of point 5h (Directive 2000/31/EC of the European Parliament and of the Council) deleted by Decision No 120/2006 (OJ No L 333, 30.11.2006, p. 47 and EEA Supplement No 60, 30.11.2006, p. 35), e.i.f. 23.9.2006.

<sup>{74}</sup> Point inserted by Decision No 80/2003 (OJ No L 257, 9.10.2003, p. 31 and EEA Supplement No 51, 9.10.2003, p. 19), e.i.f. 1.8.2004.

<sup>{75}</sup> Heading and point inserted by Decision No 16/2001 (OJ No L 117, 26.4.2001, p. 16 and EEA Supplement No 22, 26.4.2001, p.10), e.i.f. 1.3.2001.

- **398 L 0048:** Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998 (OJ L 217, 5.8.1998, p. 18),
- <sup>{76}</sup> **1 03 T:** Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded adopted on 16 April 2003 (OJ L 236, 23.9.2003, p. 33).

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations:

- (a) the second subparagraph of Article 1(3) is replaced by the following:

"The term 'technical specification' also covers production methods and processes used in respect of products intended for human and animal consumption, and in medicinal products as defined in Article 1 of Directive 65/65/EEC (point 1 of Chapter XIII of Annex II to the Agreement), as well as production methods and processes relating to other products, where these have an effect on their characteristics.";

- (b) the following shall be added to the end of the first subparagraph of Article 8(1):

"A full text of the draft technical regulation notified shall be made available in the original language as well as in a full translation into one of the official languages of the European Community.";

- (c) the following shall be added to the fourth subparagraph of Article 8(1):

"The Community, on the one side, and the EFTA Surveillance Authority or the EFTA States through the EFTA Surveillance Authority, on the other side, may ask for further information on a draft technical regulation notified.";

- (d) the following shall be added to Article 8(2):

"The comments of the EFTA States shall be forwarded by the EFTA Surveillance Authority to the EC Commission in the form of a single coordinated communication and the comments of the Community shall be forwarded by the Commission to the EFTA Surveillance Authority. The Contracting Parties shall, when a six-month standstill is invoked according to the rules of their respective internal systems, and when a four-month standstill is invoked according to the internal system of the European Community or, in respect of the EFTA States, according to the following two paragraphs, inform each other thereof in a similar manner.

The competent authorities of the EFTA States shall postpone for four months the adoption of any draft rule on services, from the date of receipt of the text of the draft regulation by the EFTA Surveillance Authority, if another EFTA State delivers a detailed opinion, within three months, to the effect that the measure envisaged may create obstacles to the free movement of services or to the freedom of establishment of service operators within the markets of the EFTA States.

With regard to draft rules on services, detailed opinions from EFTA States may not affect any cultural policy measures, in particular in the audiovisual sphere, which EFTA States might adopt in accordance with EEA law, taking account of their linguistic diversity, their specific national and regional characteristics and their cultural heritages.";

- (e) Article 9 shall be replaced by the following:

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<sup>{76}</sup> Indent added by the 2004 EEA Enlargement Agreement (OJ No L 130, 29.4.2004, p. 3 and EEA Supplement No 23, 29.4.2004, p. 1), e.i.f. 1.5.2004.

- "1. The competent authorities of the EC Member States and the EFTA States shall postpone the adoption of draft technical regulations notified for three months from the date of receipt of the text of the draft regulation
  - by the EC Commission in case of drafts notified by Member States of the Community
  - by the EFTA Surveillance Authority for drafts notified by the EFTA States.
2. The standstill periods of paragraph 1 and adaptation (d), paragraph 1, shall not apply in those cases where,
  - for urgent reasons relating to the protection of public health or safety, the protection of health and life of animals or plants, and for rules on services, also for public policy, notably the protection of minors, the competent authorities are obliged to prepare technical regulations in a very short space of time in order to enact and introduce them immediately without any consultations being possible or where,
  - for urgent reasons occasioned by serious circumstances relating to the protection of the security and integrity of the financial system, notably the protection of depositors, investors and insured persons, the competent authorities are obliged to enact and implement rules on financial services immediately.

The reasons which warrant the urgency of the measures taken shall be given. The justification for urgent measures shall be detailed and clearly explained with particular emphasis on the unpredictability and the seriousness of the danger confronting the concerned authorities as well as the absolute necessity for immediate action to remedy it.";

- (f) the following shall be added to Annex II:

"ICELAND

STRI

Staðlaráð Íslands

LIECHTENSTEIN

TPMN

Liechtensteinische Technische Prüf-, Mess- und Normenstelle

NORWAY

NSF

Norges Standardiseringsforbund

NEK

Norsk Elektroteknisk Komite

PT

Post- og teletilsynet";

- (g) for the application of the Directive, the following communications by electronic means are considered necessary:

- (1) notification slips. They may be communicated before or together with the transmission of the full text;

- (2) acknowledgement of receipt of draft text, containing inter alia, the relevant expiry date of the standstill determined according to the rules of each system;
- (3) messages requesting supplementary information;
- (4) answers to request for supplementary information;
- (5) comments;
- (6) requests for ad hoc meetings;
- (7) answers to requests for ad hoc meetings;
- (8) requests for final texts;
- (9) information that a four-month or a six-month standstill has been called;

the following communications may, for the time being, be transmitted by normal mail, however electronic means are preferable:

- (10) the full text of the draft notified;
- (11) basic legal texts or regulatory provisions;
- (12) the final text;

(h) administrative arrangements concerning the communications shall be jointly agreed by the Contracting Parties.

5j.<sup>{77}</sup> **398 L 0084:** Directive 98/84/EC of the European Parliament and of the Council of 20 November 1998 on the legal protection of services based on, or consisting of, conditional access (OJ L 320, 28.11.1998, p. 54).

5k.<sup>{78}</sup> **32003 L 0098:** Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information (OJ L 345, 31.12.2003, p. 90).

5l.<sup>{79}</sup> **399 L 0093:** Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures (OJ L 13, 19.1.2000, p. 12).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) in Article 7(1)(c) the words “or between an EFTA State and third countries or international organisations” shall be inserted after the word “organisations”;
- (b) in situations referred to in Article 7(2), the Contracting Parties shall keep each other informed and, upon request, consultations shall take place within the EEA Joint Committee;
- (c) whenever the Community negotiates with a third country with respect to market access for Community undertakings on the basis of Article 7(3), it shall endeavour to obtain equal treatment for undertakings of the EFTA States.

<sup>{77}</sup> Point inserted by Decision No 17/2001 (OJ No L 117, 26.4.2001, p. 21 and EEA Supplement No 22, 26.4.2001, p.14), e.i.f. 1.10.2001.

<sup>{78}</sup> Point inserted by Decision No 105/2005 (OJ No L 306, 24.11.2005, p. 41 and EEA Supplement No 60, 24.11.2005, p. 26), e.i.f. 1.9.2006.

<sup>{79}</sup> Point inserted by Decision No 120/2006 (OJ No L 333, 30.11.2006, p. 47 and EEA Supplement No 60, 30.11.2006, p. 35), e.i.f. 23.9.2006.

5la.{<sup>80</sup>} **32000 D 0709**: Commission Decision 2000/709/EC of 6 November 2000 on the minimum criteria to be taken into account by Member States when designating bodies in accordance with Article 3(4) of Directive 1999/93/EC of the European Parliament and of the Council on a Community framework for electronic signatures (OJ L 289, 16.11.2000, p. 42).

5m.{<sup>81</sup>} **32000 L 0031**: Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce) (OJ L 178, 17.7.2000, p. 1).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptation:

In situations referred to in Article 5(1)(g), as regards the EFTA States the VAT identification number shall be the number allocated to the service provider pursuant to their national legislation.

5n.{<sup>82</sup>} **32005 D 0752**: Commission Decision 2005/752/EC of 24 October 2005 establishing an expert group on electronic commerce (OJ L 282, 26.10.2005, p. 20).

Procedures for the association of Liechtenstein, Iceland and Norway in accordance with Article 101 of the Agreement:

Each EFTA State may, in accordance with Article 3 of Commission Decision 2005/752/EC, appoint a person to participate as an observer in the meetings of the expert group on electronic commerce.

The European Commission shall, in due time, inform the participants of the dates of the meetings of the group and transmit to them the relevant documentation.

5o.{<sup>83</sup>} **32006 D 0215**: Commission Decision 2006/215/EC of 15 March 2006 on setting up a high level expert group to advise the European Commission on the implementation and the development of the i2010 strategy (OJ L 80, 17.3.2006, p. 74).

Procedures for the association of Liechtenstein, Iceland and Norway in accordance with Article 101 of the Agreement:

Each EFTA State may, in accordance with Article 3 of Commission Decision 2006/215/EC, appoint a person to participate as an observer in the meetings of the i2010 High Level Group.

The European Commission shall, in due time, inform the participants of the dates of the meetings of the Group and transmit to them the relevant documentation.

### Audiovisual services<sup>{<sup>84</sup>}</sup>

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<sup>{<sup>80</sup>}</sup> Point inserted by Decision No 120/2006 (OJ No L 333, 30.11.2006, p. 47 and EEA Supplement No 60, 30.11.2006, p. 35), e.i.f. 23.9.2006.

<sup>{<sup>81</sup>}</sup> Point inserted by Decision No 120/2006 (OJ No L 333, 30.11.2006, p. 47 and EEA Supplement No 60, 30.11.2006, p. 35), e.i.f. 23.9.2006.

<sup>{<sup>82</sup>}</sup> Point inserted by Decision No 120/2006 (OJ No L 333, 30.11.2006, p. 47 and EEA Supplement No 60, 30.11.2006, p. 35), e.i.f. 23.9.2006, and subsequently text added by Decision No 115/2007 (OJ No L 047, 21.2.2008, p. 36 and EEA Supplement No 9, 21.2.2008, p. 29), e.i.f. 29.9.2007.

<sup>{<sup>83</sup>}</sup> Point inserted by Decision No 115/2007 (OJ No L 047, 21.2.2008, p. 36 and EEA Supplement No 9, 21.2.2008, p. 29), e.i.f. 29.9.2007.

<sup>{<sup>84</sup>}</sup> Points and texts inserted by Decision No 45/2009 (OJ No L 162, 25.6.2009, p. 23 and EEA Supplement No 33, 25.6.2009, p. 8), e.i.f. 1.5.2010.

5p. **389 L 0552:** Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities. (OJ L 298, 17.10.1989, p. 23), as amended by:

- **397 L 0036:** Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 (OJ L 202, 30.7.1997, p. 60).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) In Article 2(5), “Article 52 and following of the Treaty establishing the European Community” shall read “Article 31 and following of the Agreement on the European Economic Area”.
- (b) With regard to EFTA States, the works referred to in Article 6(1)(c) of the Directive are also works made, as described in Article 6(3), by and with producers established in European third countries with which the EFTA State concerned has agreements to this effect.

If a Contracting Party intends to conclude an agreement as mentioned in Article 6(3), it shall inform the EEA Joint Committee thereof. Consultations concerning the contents of such agreements may take place at the request of any Contracting Party.

- (c) The following shall be added to Article 15 of the Directive:

“The EFTA States shall be free to compel cable companies operating on their territories to scramble or otherwise obscure spot advertisements for alcoholic beverages in programmes of television broadcasters whose main audience is in an EEA EFTA State. For the purpose of assessing whether a particular programme or spot advertisement falls within the scope of this adaptation, importance shall be attached to the following factors, inter alia:

- whether the broadcast is, de facto, primarily received in one of the EEA EFTA States;
- whether the goods or services advertised are available in the country of reception;
- whether the language of the country in which the broadcasts are received is used in the programmes or advertisements;
- whether points of sale in the country of reception are referred to or mentioned in the advertisements;
- whether the prices are quoted in the currency of the country of reception.

The scrambling or otherwise obscuring of spot advertisements shall not have the effect of restricting the retransmission of parts of television programmes other than advertising spots for alcoholic beverages.

The Contracting Parties shall jointly review this exception in 2003.”

Detailed arrangements for the association of Liechtenstein, Iceland and Norway in accordance with Article 101 of this Agreement:

Each EFTA State may designate one representative of the competent authority designated by each EFTA State who is to participate in the meetings of the Contact Committee on television broadcasting activities to which reference is made in Article 23a of Council Directive 89/552/EEC.

The EC Commission shall in due time inform the participants of the dates of the meetings of the Contact Committee and shall transmit to them the relevant information.

5q. **.398 L 0084:** Directive 98/84/EC of the European Parliament and of the Council of 20 November 1998 on the legal protection of services based on, or consisting of, conditional access (OJ L 320, 28.11.1998, p. 54).’

### *ACTS OF WHICH THE CONTRACTING PARTIES SHALL TAKE NOTE*

The Contracting Parties take note of the contents of the following Acts:

**Telecommunication services {<sup>85</sup>}**

6. **388 Y 1004(01):** Council Resolution 88/C 257/01 of 30 June 1988 on the development of the common market for telecommunications services and equipment up to 1992 (OJ No C 257, 4.10.1988, p. 1).
7. **389 Y 0511(01):** Council Resolution 89/C 117/01 of 27 April 1989 on standardization in the field of information technology and telecommunications (OJ No C 117, 11.5.1989, p. 1).
8. **389 Y 0801:** Council Resolution 89C/ 196/04 of 18 July 1989 on the strengthening of the coordination for the introduction of the Integrated Services Digital Network (ISDN) in the European Community up to 1992 (OJ No C 196, 1.8.1989, p. 4).
9. **390 Y 0707(02):** Council Resolution 90/C 166/02 of 28 June 1990 on the strengthening of the Europe-wide cooperation on radio frequencies in particular with regard to services with a pan-European dimension (OJ No C 166, 7.7.1990, p. 4).
10. **390 Y 3112(01):** Council Resolution 90C/ 329/25 of 14 December 1990 on the final stage of the coordinated introduction of pan-European land-based public digital mobile cellular communications in the Community (GSM) (OJ No C 329, 31.12.1990, p. 25).
11. **384 X 0549:** Council Recommendation 84/549/EEC of 12 November 1984 concerning the implementation of harmonization in the field of telecommunications (OJ No L 298, 16.11.1984, p. 49).
12. **384 X 0550:** Council Recommendation 84/550/EEC of 12 November 1984 concerning the first phase of opening up access to public telecommunications contract (OJ No L 298, 16.11.1984, p. 51).
13. **386 X 0659:** Council Recommendation 86/659/EEC of 22 December 1986 on the coordinated introduction of the Integrated Services Digital Network (ISDN) in the European Community (OJ No L 382, 31.12.1986, p. 36).
14. **387 X 0371:** Council Recommendation 87/371/EEC of 25 June 1987 on the coordinated introduction of public pan-European cellular digital and land-based mobile communications in the Community (OJ No L 196, 17.7.1987, p. 81).
15. **390 X 0543:** Council Recommendation 90/543/EEC on the coordinated introduction of pan-European land-based public radio paging in the Community (OJ No L 310, 9.11.1990, p. 23).
16. **391 X 0288:** Council Recommendation 91/C 288/EEC on the coordinated introduction of digital European cordless telecommunications (DECT) into the Community (OJ No L 144, 8.6.1991, p. 47).
- 17.{<sup>86</sup>} **392 Y 0114(01):** Council Resolution 92/C 8/01 of 19 December 1991 on the development of the common market for satellite communications services and equipment (OJ No C 8, 14. 1. 1992, p. 1).
- 18.{<sup>87</sup>} **392 X 0382:** Council Recommendation of 5 June 1992 on the harmonized provision of a minimum set of packet-switched data services (PSDS) in accordance with open network provision (ONP) principles (OJ No L 200, 18.7. 1992, p. 1).
- 19.{<sup>88</sup>} **392 X 0383:** Council Recommendation of 5 June 1992 on the provision of harmonized integrated services digital network (ISDN) access arrangements and a minimum set of ISDN offerings in accordance with open network provision (ONP) principles (OJ No L 200, 18. 7. 1992, p. 10).

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{<sup>85</sup>} Heading inserted by Decision No 28/94 (OJ No L 339, 29.12.1994, p. 87 and EEA Supplement No 53, 29.12.1994, p. 18), e.i.f. 1.2.1995.

{<sup>86</sup>} Point inserted by Decision No 7/94.

{<sup>87</sup>} Point inserted by Decision No 7/94.

{<sup>88</sup>} Point inserted by Decision No 7/94.

- 20.{<sup>89</sup>} **392 Y 0625(01)**: Council Resolution of 5 June 1992 on the development of the integrated services digital network (ISDN) in the Community as a European-wide telecommunications infrastructure for 1993 and beyond (OJ No C 158, 25. 6. 1992, p. 1).
- 21.{<sup>90</sup>} **392 Y 1204(02)**: Council Resolution of 19 November 1992 on the promotion of Europe-wide cooperation on numbering of telecommunications services (OJ No C 318, 4. 12. 1992, p. 2).
- 22.{<sup>91</sup>} **393 Y 0106(01)**: Council Resolution of 17 December 1992 on the assessment of the situation in the Community telecommunications sector (OJ No C 2, 6. 1. 1993, p. 5).
- 23.{<sup>92</sup>} **392 Y 1204(01)**: Council Resolution of 19 November 1992 on the implementation of the European Radiocommunications Committee decisions (OJ No C 318, 4. 12. 1992, p. 1).
- 24.{<sup>93</sup>} **393 Y 0806(01)**: Council Resolution of 22 July 1993 on the review of the situation in the telecommunications sector and the need for further development in that market (OJ No C 213, 6. 8. 1993, p. 1).
- 25.{<sup>94</sup>} **393 Y 1216(01)**: Council Resolution of 7 December 1993 on the introduction of satellite personal communication services in the Community (OJ No C 339, 16. 12. 1993, p. 1).
- 26.{<sup>95</sup>} **394 Y 0216(01)**: Council Resolution 94/C 48/01 of 7 February 1994 on the universal service principles in the telecommunications sector (OJ No C 48, 16.2.1994, p.1).
- 26a.{<sup>96</sup>} **394 Y 1222(03)**: Council Resolution 94/C 379/03 of 22 December 1994 on the principles and timetable for the liberalization of telecommunications infrastructures (OJ No C 379, 31.12.1994, p. 4).
- 26b.{<sup>97</sup>} **394 Y 0122(04)**: Council Resolution 94/C 379/04 of 22 December 1994 on further development of the Community's satellite communications policy, especially with regard to the provision of, and access to, space segment capacity (OJ No C 379, 31.12.1994, p. 5).
- 26c.{<sup>98</sup>} **395 Y 0722(02)**: Council Resolution 95/C 188/02 of 29 June 1995 on the further development of mobile and personal communications in the European Union (OJ No C 188, 22.7.1995, p. 3).
- 26d.{<sup>99</sup>} **395 Y 1003(01)**: Council Resolution 95/C 258/01 of 18 September 1995 on the implementation of the future regulatory framework for telecommunications (OJ No C 258, 3.10.1995, p. 1).
- 26e.{<sup>100</sup>} **395 Y 1219(03)**: Council Resolution 95/C 341/03 of 27 November 1995 on the industrial aspects for the European Union in the development of the information society (OJ No C 341, 19.12.1995, p. 5).
- 26f.{<sup>101</sup>} **397 Y 1004(01)**: Council Resolution 97/C 303/01 of 22 September 1997 on the further development of a numbering policy for telecommunications services in the European Community (OJ C 303, 4.10.1997, p. 1).

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{<sup>89</sup>} Point inserted by Decision No 7/94.

{<sup>90</sup>} Point inserted by Decision No 7/94.

{<sup>91</sup>} Point inserted by Decision No 7/94.

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{<sup>93</sup>} Point inserted by Decision No 7/94.

{<sup>94</sup>} Point inserted by Decision No 7/94.

{<sup>95</sup>} Point inserted by Decision No 28/94 (OJ No L 339, 29.12.1994, p. 87 and EEA Supplement No 53, 29.12.1994, p. 18), e.i.f. 1.2.1995.

{<sup>96</sup>} Point inserted by Decision No 26/95 (OJ No L 273, 16.11.1995, p. 47 and EEA Supplement No 43, 16.11.1995, p. 1), e.i.f. 1.6.1995. Note: The correct Celex reference is 394 Y 1231(05).

{<sup>97</sup>} Point inserted by Decision No 26/95 (OJ No L 273, 16.11.1995, p. 47 and EEA Supplement No 43, 16.11.1995, p. 1), e.i.f. 1.6.1995. Note: The correct Celex reference is 394 Y 1231(04).

{<sup>98</sup>} Point inserted by Decision No 5/96 (OJ No L 102, 25.4.1996, p. 48 and EEA Supplement No 18, 25.4.1996, p. 14), e.i.f. 1.3.1996.

{<sup>99</sup>} Point inserted by Decision No 6/96 (OJ No L 102, 25.4.1996, p. 49 and EEA Supplement No 18, 25.4.1996, p. 17), e.i.f. 1.3.1996.

{<sup>100</sup>} Point inserted by Decision No 41/96 (OJ No L 291, 14.11.1996, p. 30 and EEA Supplement No 51, 14.11.1996, p. 10), e.i.f. 1.7.1996.

{<sup>101</sup>} Point inserted by Decision No 75/98 (OJ No L 172, 8.7.1999, p. 54 and EEA Supplement No 30, 8.7.1999, p. 138), e.i.f. 1.8.1998.

- 26g.<sup>{102}</sup> **398 X 0195**: Commission Recommendation 98/195/EC of 8 January 1998 on interconnection in a liberalised telecommunications market (Part 1 - Interconnection pricing) (OJ L 73, 12.3.1998, p. 42), as amended by:
- <sup>{103}</sup> **398 X 0511**: Commission Recommendation 98/511/EC of 29 July 1998 (OJ L 228, 15.8.1998, p. 30),
  - <sup>{104}</sup> **32000 X 0263**: Commission Recommendation 2000/263/EC of 20 March 2000 (OJ L 83, 4.4.2000, p. 30),
  - <sup>{105}</sup> **32002 H 0175**: Commission Recommendation 2002/175/EC of 22 February 2002 (OJ L 58, 28.2.2002, p. 56).
- 26h.<sup>{106}</sup> **398 X 0322**: Commission Recommendation 98/322/EC of 8 April 1998 on interconnection in a liberalised telecommunications market (Part 2 - Accounting separation and cost accounting) (OJ L 141, 13.5.1998, p. 6).
- 26i.<sup>{107}</sup> **32000 X 0417**: Commission Recommendation 2000/417/EC of 25 May 2000 on unbundled access to the local loop: enabling the competitive provision of a full range of electronic communications services including broadband multimedia and high-speed Internet (OJ L 156, 29.6.2000, p. 44).
- 26j.<sup>{108}</sup> **32005 H 0698**: Commission Recommendation 2005/698/EC of 19 September 2005 on accounting separation and cost accounting systems under the regulatory framework for electronic communications (OJ L 266, 11.10.2005, p. 64).

### Postal services<sup>{109}</sup>

27. **394 Y 0216(02)**: Council Resolution 94/C 48/02 of 7 February 1994 on the development of Community postal services (OJ No C 48, 16.2.1994, p. 3).

### Information services<sup>{110}</sup>

28. **394 Y 0702(01)**: Council Resolution 94/C 181/01 of 20 June 1994 on coordination with regard to information exchange between administrations (OJ No C 181, 2.7.1994, p. 1).
- 29.<sup>{111}</sup> **395 X 0144**: Council Recommendation 95/144/EC of 7 April 1995 on common information technology security evaluation criteria (OJ No L 93, 26.4.1995, p. 27).

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<sup>{102}</sup> Point inserted by Decision No 93/98 (OJ No L 189, 22.7.1999, p. 67 and EEA Supplement No 32, 22.7.1999, p. 157), e.i.f. 26.9.1998.

<sup>{103}</sup> Indent, and words ", as amended by:" above, added by Decision No 120/98 (OJ No L 297, 18.11.1999, p. 49 and EEA Supplement No 50, 18.11.1999, p. 70), e.i.f. 19.12.1998.

<sup>{104}</sup> Indent added by Decision No 67/2000 (OJ No L 250, 5.10.2000, p. 50 and EEA Supplement No 44, 5.10.2000, p. 3), e.i.f. 3.8.2000.

<sup>{105}</sup> Indent added by Decision No 104/2002 (OJ No L 298, 31.10.2002, p. 21 and EEA Supplement No 54, 31.10.2002, p. 16), e.i.f. 13.7.2002.

<sup>{106}</sup> Point inserted by Decision No 111/98 (OJ No L 277, 28.10.1999, p. 48 and EEA Supplement No 46, 28.10.1999, p. 126), e.i.f. 28.11.1998.

<sup>{107}</sup> Point inserted by Decision No 92/2000 (OJ No L 7, 11.1.2001, p. 1 and EEA Supplement No 2, 11.1.2001, p. 1), e.i.f. 28.10.2000.

<sup>{108}</sup> Point inserted by Decision No 84/2008 (OJ L 280, 23.10.2008, p. 18 and EEA Supplement No 64, 23.10.2008, p. 11), e.i.f. 5.7.2008.

<sup>{109}</sup> Heading and point inserted by Decision No 28/94 (OJ No L 339, 29.12.1994, p. 87 and EEA Supplement No 53, 29.12.1994, p. 18), e.i.f. 1.2.1995.

<sup>{110}</sup> Heading and point inserted by Decision No 28/94 (OJ No L 339, 29.12.1994, p. 87 and EEA Supplement No 53, 29.12.1994, p. 18), e.i.f. 1.2.1995.

<sup>{111}</sup> Point inserted by Decision No 7/96 (OJ No L 102, 25.4.1996, p. 50 and EEA Supplement No 18, 25.4.1996, p. 21), e.i.f. 1.3.1996.

- 30.<sup>{112}</sup> **396 Y 1212(01)**: Council Resolution 96/C 376/01 of 21 November 1996 on new policy-priorities regarding the information society (OJ No C 376, 12.12.96, p. 1).

### **Audiovisual services<sup>{113}</sup>**

31. **394 Y 0702(02)**: Council Resolution 94/C 181/02 of 27 June 1994 on a framework for Community policy on digital video broadcasting (OJ C 181, 2.7. 1994, p. 3).
32. **398 X 0560**: Council Recommendation 98/560/EC of 24 September 1998 on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity (OJ L 270, 7.10.1998, p. 48).
33. **499 Y 0205(01)**: Resolution 1999/C 30/01 of the Council and of the Representatives of the Governments of the Member States, Meeting within the Council of 25 January 1999 concerning public service broadcasting (OJ C 30, 5.2.1999, p. 1).
34. **32005 H 0865**: Recommendation 2005/865/EC of the European Parliament and of the Council of 16 November 2005 on film heritage and the competitiveness of related industrial activities (OJ L 323, 9.12.2005, p. 57).'
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<sup>{112}</sup> Point inserted by Decision No 103/97 (OJ No L 193, 9.7.1998, p. 64 and EEA Supplement No 27, 9.7.1998, p. 138), e.i.f. 18.12.1997.

<sup>{113}</sup> Heading and points inserted by Decision No 45/2009 (OJ No L 162, 25.6.2009, p. 23 and EEA Supplement No 33, 25.6.2009, p. 8), e.i.f. 1.5.2010.