

**DECISION OF THE EEA JOINT COMMITTEE****No 11/2004****of 6 February 2004****amending Annex II (Technical regulations, standards, testing and certification), Annex X (Audiovisual services) and Annex XI (Telecommunication services) to the EEA Agreement**

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 127/2002 of 27 September 2002 <sup>(1)</sup>.
- (2) Annex X to the Agreement was amended by Decision of the EEA Joint Committee No 17/2001 of 28 February 2001 <sup>(2)</sup>.
- (3) Annex XI to the Agreement was amended by Decision of the EEA Joint Committee No 153/2003 of 7 November 2003 <sup>(3)</sup>.
- (4) 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) <sup>(4)</sup> is to be incorporated into the Agreement.
- (5) 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) <sup>(5)</sup> is to be incorporated into the Agreement.
- (6) 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) <sup>(6)</sup> is to be incorporated into the Agreement.
- (7) 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) <sup>(7)</sup> is to be incorporated into the Agreement.
- (8) Due account is to be taken of the specific situation of Liechtenstein and its very small telecommunications network which require specific adaptations to the Access Directive and the Universal Service Directive.
- (9) Directive 2002/21/EC of the European Parliament and of the Council repeals Council Directives 90/387/EEC <sup>(8)</sup>, and 92/44/EEC <sup>(9)</sup>, Council Decision 92/264/EEC <sup>(10)</sup> and Directives of the European Parliament and of the Council 95/47/EC <sup>(11)</sup>, 97/13/EC <sup>(12)</sup>, 97/33/EC <sup>(13)</sup> and 98/10/EC <sup>(14)</sup>, which are incorporated into the Agreement and which are consequently to be repealed under the Agreement,

<sup>(1)</sup> OJ L 336, 12.12.2002, p. 27.

<sup>(2)</sup> OJ L 117, 26.4.2001, p. 21.

<sup>(3)</sup> OJ L 41, 12.2.2004, p. 45.

<sup>(4)</sup> OJ L 108, 24.4.2002, p. 7.

<sup>(5)</sup> OJ L 108, 24.4.2002, p. 21.

<sup>(6)</sup> OJ L 108, 24.4.2002, p. 33.

<sup>(7)</sup> OJ L 108, 24.4.2002, p. 51.

<sup>(8)</sup> OJ L 192, 24.7.1990, p. 1.

<sup>(9)</sup> OJ L 165, 19.6.1992, p. 27.

<sup>(10)</sup> OJ L 137, 20.5.1992, p. 21.

<sup>(11)</sup> OJ L 281, 23.11.1995, p. 51.

<sup>(12)</sup> OJ L 117, 7.5.1997, p. 15.

<sup>(13)</sup> OJ L 199, 26.7.1997, p. 32.

<sup>(14)</sup> OJ L 101, 1.4.1998, p. 24.

HAS DECIDED AS FOLLOWS:

Article 1

Annex XI to the Agreement shall be amended as follows:

1. The following points are inserted after point 5ci (Commission Decision 2002/627/EC):

- ‘5cj. 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).

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. 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. 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).

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 subparagraph 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 Community Member States on the other hand shall pass through the EFTA Surveillance Authority and the Commission.”
- (d) the following subparagraphs 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 a Community Member State, they shall cooperate with a view to agreeing on identical decisions identifying a transnational market, which affects both an EFTA State and a Community. Article 109 shall apply *mutatis mutandis*.”

- 5cm. 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).

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).'

2. The texts of points 2 (Council Directive 90/387/EEC), 5a (Council Decision 92/264/EEC), 5b (Council Directive 92/44/EEC), 5c (Directive 98/10/EC of the European Parliament and of the Council), 5cb (Directive 97/33/EC of the European Parliament and of the Council) and 5cc (Directive 97/13/EC of the European Parliament and of the Council) are deleted with effect from the date of entry into force of this Decision or 25 July 2003, whichever occurs later.

#### Article 2

The text of point 4i (Directive 95/47/EC of the European Parliament and of the Council) in Chapter XVIII of Annex II to the Agreement shall be deleted with effect from the date of entry into force of this Decision or 25 July 2003, whichever occurs later.

#### Article 3

The text of point 1a (Directive 95/47/EC of the European Parliament and of the Council) of Annex X to the Agreement shall be deleted with effect from the date of entry into force of this Decision or 25 July 2003, whichever occurs later.

#### Article 4

The texts of Directives 2002/19/EC, 2002/20/EC, 2002/21/EC and 2002/22/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

#### Article 5

This Decision shall enter into force on 7 February 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (\*).

#### Article 6

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 6 February 2004.

For the EEA Joint Committee

P. WESTERLUND

The President

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(\*) Constitutional requirements indicated.