

EUROPEAN ECONOMIC AREA

STANDING COMMITTEE OF THE EFTA STATES

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SUBCOMMITTEE II ON THE FREE MOVEMENT OF CAPITAL AND SERVICES

EEA EFTA Position on the amended proposal for a Regulation of the European Parliament and of the Council Establishing the European Electronic Communications Market Authority and the political agreement in Council from 27 November 2008¹

I. General considerations

1. The EFTA States are following closely the discussion in Parliament and Council on the future legislative framework on electronic communication services and markets as well as a proposal to establish a body of European Regulators.
2. At the present stage, the EEA EFTA States support the compromise proposals the Council has agreed upon on its meeting of 27 November 2008 as a basis for further discussion with the European Parliament.

II. On the participation of the EEA EFTA States in a future body of regulators

3. However, with regard to the French Presidency's compromise proposal for a Regulation on Establishing the Group of European Regulators in Telecoms (GERT), and particularly the representation of independent regulators from the EEA EFTA States in it, they are calling on the institutions to find a solution which is compatible with the EEA Agreement and allows the EEA EFTA States to apply the future regulatory framework in the same manner as the EU Member States.
4. As the proposals presented by the Parliament and the Council still offer different solutions for a future body of regulators, the EEA EFTA States offer a

¹ This paper refers to the European Parliament legislative resolution of 24 September 2008 on the proposal for a regulation of the European Parliament and of the Council establishing the European Electronic Communications Market Authority (COM(2007) 699 rev 2), the Commission's amended Proposal for a Regulation of the European Parliament and of the Council establishing the European Electronic Communications Market Authority ([COM\(2008\) 720](#)) and the Compromise text adopted by Council on 27 November.

wording for both proposals which would take into account the needs of the EEA EFTA States.

5. If the EU institutions would agree to follow the proposals of the Parliament and the Commission's amended proposal, the EEA EFTA States propose the following wording:

"(...²) shall be open to the participation by European countries which have concluded agreements with the Community, whereby the countries concerned have adopted and are applying Community legislation in the field covered by this Regulation. In accordance with the relevant provisions of these agreements, arrangements shall be made which shall specify the detailed rules for participation by these countries in the work of (...), in particular the nature and extent of such participation. **THESE** arrangements **SHALL ALSO INCLUDE PROVISIONS ON FINANCIAL CONTRIBUTIONS AND STAFF.** **THEY** may provide for representation **ON** the Board of Regulators."

6. Contrary to the Parliaments' position, it is the view of the EEA EFTA States that it should be within the competence of the Commission to discuss the nature and extent of participation of the EEA EFTA States' representatives in an EU body within the Joint Committee of the EEA Agreement.

7. If the EU institutions are to follow the Presidency's compromise proposal, the EEA EFTA States would propose the following wording with regard to Article 3(4):

"The membership shall be open to heads of the national regulatory authorities from EEA EFTA States and from those states that are candidates for accession to the European Union. In accordance with the relevant agreements with such countries, arrangements shall be made which specify **PROVISIONS ON FINANCIAL CONTRIBUTIONS AND STAFF.**"

8. As the new body is likely going to take over more competences within the future regulatory framework than the present ERG currently has, an accurate representation of EEA EFTA States' institutions is crucial for the harmonised application of the regulatory framework throughout the EEA. A full membership would therefore be the appropriate position for representatives of the national regulatory authorities of the EEA EFTA States.

9. Participation of the EEA EFTA States in the future body of regulators on equal footing with the EC Member States is important as the body will, *inter alia*, draft Commission decisions and give opinions on market analysis notifications in accordance with Article 7 of the Framework Directive. It is the view of the EEA EFTA States that the body should draft decisions and issue formal opinions on notifications, including those that concern the EEA EFTA States. The draft decisions and opinions should however be dealt with by the EFTA Surveillance Authority due to the two-pillar structure.

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² At the present stage of discussion the EEA EFTA States have no preference with regard to the legal nature or the name which the institutions will ultimately agree upon except for the fact that the body should be compatible with the EEA Agreement.