



COMMISSION OF THE EUROPEAN COMMUNITIES

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Draft

**DECISION OF THE EEA JOINT COMMITTEE**

**amending Annex II (Technical regulations, standards, testing and certification), Annex X (Audiovisual services) and Annex XI (Telecommunication services) to the EEA Agreement**

- Draft common position of the Community -  
(presented by the Commission)

## EXPLANATORY MEMORANDUM

1. In order to ensure the requisite legal security and homogeneity of the Internal Market, the EEA Joint Committee is to integrate all the relevant Community legislation into the EEA Agreement as soon as possible after its adoption.
2. The EEA Joint Committee should therefore adopt the attached decision to amend Annexes II, X and XI to the EEA Agreement by adding new Community acquis in the field of telecommunications. The decision concerns the following four directives, usually referred to as the “telecom-package”:
  - 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
  - 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
  - 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
  - 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
3. The draft Joint Committee Decision introduces adaptations taking into account the EEA EFTA two-pillar system, setting out the role of the EFTA Surveillance Authority and the EFTA Standing Committee in particular with respect to confidentiality, exchange of information, and identification of trans-national markets. Furthermore, the draft decision includes adaptations taking into account the country specific situation of Liechtenstein.
4. Article 1(3)(a) of Council Regulation (EC) No 2894/94 concerning the arrangements for implementing the EEA Agreement envisages that the Council establishes the Community position for decisions extending Community legislation with substantial changes.
5. The draft Decision of the EEA Joint Committee is submitted for the approval of the Council. The Commission aims at putting forward the position of the Community in the EEA Joint Committee as soon as possible after the adoption of the Council.

Draft

## DECISION OF THE EEA JOINT COMMITTEE

### **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 .../... of ...<sup>1</sup>.
- (2) Annex X to the Agreement was amended by Decision of the EEA Joint Committee No .../... of ...<sup>2</sup>.
- (3) Annex XI to the Agreement was amended by Decision of the EEA Joint Committee No .../... of ...<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.

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<sup>1</sup> OJ L ...

<sup>2</sup> OJ L ...

<sup>3</sup> OJ L ...

<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.

- (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>, as amended, and 92/44/EEC<sup>9</sup>, as amended, 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,

HAS DECIDED AS FOLLOWS:

*Article 1*

Annex XI to the Agreement shall be amended as follows:

1. The following points shall be inserted after point 5cf (Decision No 676/2002/EC of the European Parliament and of the Council):

‘5cg. **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.

5ch. **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).

5ci. **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).

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<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.

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 agree on identical Decisions identifying a transnational market, which affects both an EFTA State and an EC State. Article 109 shall apply mutatis mutandis.’

- 5cj. **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) shall be 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 , provided that all the notifications under 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, .

*For the EEA Joint Committee  
The President*

*The Secretaries  
to the EEA Joint Committee*

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\* [No constitutional requirements indicated.] [Constitutional requirements indicated.]