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ANNEX 1

ANNEX

to the

Proposal for a Council Decision

on the position to be adopted on behalf of the European Union, within the EEA Joint Committee concerning the amendment to Annex XI (Electronic communication, audiovisual services and information society) and Protocol 37 (Containing the list provided for in Article 101) to the EEA Agreement

ANNEX 1

DECISION OF THE EEA JOINT COMMITTEE

No […]

of […]

amending Annex XI (Electronic communication, audiovisual services and information society) and Protocol 37 (Containing the list provided for in Article 101) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area ("the EEA Agreement"), and in particular Article 98 thereof,

Whereas:

(1) Regulation (EU) 2018/1971 of the European Parliament and of the Council of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009[1] is to be incorporated into the EEA Agreement.

(2) For the EEA Agreement to function well, Protocol 37 to the EEA Agreement is to be extended to include the Body of European Regulators for Electronic Communications (BEREC) established by Regulation (EU) 2018/1971.

(3) To ensure consistent implementation of the regulatory framework for electronic communications within the scope of the EEA Agreement, the national regulatory authorities of the EFTA States will participate fully in the work of the Board of Regulators of BEREC, the working groups of BEREC and the Management Board of the BEREC Office, except for the right to vote. The positions of the national regulatory authorities of the EFTA States will be recorded separately when BEREC issues an opinion. The EFTA Surveillance Authority will take the utmost account of opinions adopted by BEREC.

(4) Annex XI and Protocol 37 to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Annex XI to the EEA Agreement shall be amended as follows:

1. The following is inserted after point 5czp (Commission Implementing Decision (EU) 2019/784):

[1] OJ L 321, 17.12.2018, p. 1.

‘5czq. **32018 R 1971**: Regulation (EU) 2018/1971 of the European Parliament and of the Council of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009 (OJ L 321, 17.12.2018, p. 1).

Modalities for the association of the EFTA States in accordance with Article 101 of this Agreement:

The national regulatory authorities of the EFTA States with primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services shall participate fully in the work of the Board of Regulators of BEREC, the working groups of BEREC and the Management Board of the BEREC Office.

They shall be represented at an appropriate level in accordance with the provisions of the BEREC Regulation.

To that effect, the national regulatory authorities of the EFTA States shall have the same rights and obligations as the national regulatory authorities of the EU Member States, except for the right to vote. Members from the EFTA States shall not be eligible for the Chairmanship of the Board of Regulators and of the Management Board.

BEREC and the BEREC Office shall, as and when appropriate, assist the EFTA Surveillance Authority and the national regulatory authorities of the EFTA States, as the case may be, in the performance of their respective tasks.

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

(a) In Article 4:

(i) in paragraph 1 point (a), the words “, the EFTA Surveillance Authority” shall be inserted before the words “and the Commission”;

(ii) in paragraph 1 point (e), the words “, the EFTA Surveillance Authority” shall be inserted before the words “or the Commission”;

(iii) the following paragraph shall be inserted:

“1a. The positions of the national regulatory authorities of the EFTA States shall be recorded separately by BEREC when issuing opinions in accordance with paragraph 1 point (c)(i) and (ii).”;

(iv) in paragraph 4, as regards the EFTA States, the words “relevant Union law” shall read “the EEA Agreement”;

(v) in paragraph 4, the words “or, as the case may be, the EFTA Surveillance Authority” shall be inserted after the words “and the Commission”.

(b) In Article 7(4), the words “and the EFTA Surveillance Authority” shall be inserted after the words “The Commission”.

(c) In Article 13(3),

(i) the words “, the EFTA Surveillance Authority” shall be inserted after the word “BEREC”;

(ii) the words “and the EFTA Surveillance Authority” shall be inserted after the words “from the Commission”.

(d) In Article 15:

(i) in paragraph 1, the following sentence shall be added at the end of the first subparagraph: “A representative of the EFTA Surveillance Authority shall participate in the Management Board without the right to vote.”;

(ii) in paragraph 2, the words “and of the EFTA Surveillance Authority” shall be inserted after the words “of the Commission”.

(e) The following paragraph shall be added in Article 25:

“5. The EFTA States shall participate in the contribution from the Union referred to in paragraph 3 point (a). For this purpose, the procedures laid down in Article 82(1)(a) of and Protocol 32 to the EEA Agreement shall apply *mutatis mutandis*.”

(f) In Article 30, the following subparagraphs shall be added:

“By way of derogation from Articles 12(2)(a) and 82(3)(a) of the Conditions of Employment of Other Servants of the European Union, nationals of the EFTA States enjoying their full rights as citizens may be engaged under contract by the recruitment authority of the Agency.

By way of derogation from Articles 12(2)(e), 82(3)(e) and 85(3) of the Conditions of Employment of Other Servants of the European Union, the languages referred to in Article 129(1) of the EEA Agreement shall be considered by the Office, in respect of its staff, as languages of the Union referred to in Article 55(1) of the Treaty on European Union.”.

(g) The following shall be added in Article 34:

“The EFTA States shall grant privileges and immunities to the BEREC Office equivalent to those contained in the Protocol on Privileges and Immunities of the European Union.”

(h) The following paragraph shall be added in Article 36:

“4. Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents shall, for the application of the Regulation, apply to the national regulatory authorities of the EFTA States in regard to documents prepared by BEREC or the BEREC Office.”

(i) In Article 40(2),

(i) the words “, the EFTA Surveillance Authority” shall be inserted after the words “the Commission”;

(ii) as regards the EFTA States, the words “Union and national law” shall read “the EEA Agreement and national law”.

(j) In Article 41(1)(a) and (b), the words “, the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.’

2. The following is added in point 5ob (Regulation (EU) 2015/2120 of the European Parliament and of the Council):

‘, as amended by:

- **32018 R 1971**: Regulation (EU) 2018/1971 of the European Parliament and of the Council of 11 December 2018 (OJ L 321, 17.12.2018, p. 1).’

Article 2

The following point is added in Protocol 37 to the EEA Agreement:

‘41. The Body of European Regulators for Electronic Communications (BEREC) (Regulation (EU) 2018/1971 of the European Parliament and of the Council).’

Article 3

The text of Regulation (EU) 2018/1971 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 4

This Decision shall enter into force on […], provided that all the notifications under Article 103(1) of the EEA Agreement have been made[*].

Article 5

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
[…]

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