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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: Draft DECISION OF THE EEA JOINT COMMITTEE 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

DRAFT

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) Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities¹ is to be incorporated into the EEA Agreement.
- (2) Annex XI and Protocol 37 to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

¹ OJ L 303, 28.11.2018, p. 69.

Article 1

Point 5p (Directive 2010/13/EU of the European Parliament and of the Council) of Annex XI to the EEA Agreement shall be amended as follows:

1. The following is added:

‘, as amended by:

- **32018 L 1808**: Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 (OJ L 303, 28.11.2018, p. 69).’

2. Adaptations (a), (b) and (c) are renumbered as adaptations (b), (c) and (d).

3. The following adaptation is inserted before adaptation (b):

‘(a) In Article 1(1)(a)(i) and (aa), the words “Articles 56 and 57 of the Treaty on the Functioning of the European Union” shall be replaced by the words “Articles 36 and 37 of the Agreement on the European Economic Area”.’

4. The following adaptations are inserted after adaptation (d):

‘(e) In Articles 2(5c) and 28a(7), the following subparagraph shall be added:

“In cases involving both an EFTA State and an EU Member State, the EFTA Surveillance Authority and the Commission shall cooperate with a view to agreeing on identical decisions as to which Member State has jurisdiction.”

- (f) In Article 6, as regards the EFTA States:
- (i) in paragraph 1(a), the words “any of the grounds referred to in Article 21 of the Charter” shall read “any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation, or on grounds of nationality”;
 - (ii) in paragraph 1(b), the reference to Article 5 of Directive (EU) 2017/541 shall be understood to refer to the corresponding provisions of the national law of the EFTA States;
 - (iii) in paragraph 2, the words “respect the rights and observe principles set out in the Charter” shall read “respect fundamental rights”.
- (g) In Article 28b, as regards the EFTA States:
- (i) in paragraph 1(b), the words “any of the grounds referred to in Article 21 of the Charter” shall read “any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation, or on grounds of nationality”;

- (ii) in paragraph 1(c), the references to Article 5 of Directive (EU) 2017/541, to Article 5(4) of Directive 2011/93/EU and to Article 1 of Framework Decision 2008/913/JHA shall be understood to refer to the corresponding provisions of the national law of the EFTA States.
- (h) In Article 30b:
 - (i) in paragraph 2, the words “and an EFTA Surveillance Authority representative” shall be inserted after the word “Commission representative”;
 - (ii) in paragraph 2, the following sentence shall be added:

“The EFTA States shall participate fully in ERGA, except for the right to vote.”

Article 2

The text of point 39 of Protocol 37 to the EEA Agreement shall be replaced by the following:

“The European Regulators Group for Audiovisual Media Services (ERGA) (Commission Decision C(2014)462 of 3.2.2014 on establishing the European Regulators Group for Audiovisual Media Services and Directive (EU) 2018/1808 of the European Parliament and of the Council).”

Article 3

The text of Directive (EU) 2018/1808 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*.

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

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 ..., [...].

For the EEA Joint Committee

The President

The Secretaries

To the EEA Joint Committee

Joint Declaration by the Contracting Parties

to Decision No [...] incorporating Directive (EU) 2018/1808 into the Agreement

[for adoption with the Decision and for publication in the OJ]

Directive (EU) 2018/1808 contains provisions with references to Directive (EU) 2017/541 of the European Parliament and of the Council, to Directive 2011/93/EU of the European Parliament and of the Council and to Framework Decision 2008/913/JHA, which are adopted under Title V TFEU. It is recalled that the incorporation of acts with such provisions into the EEA Agreement is without prejudice to the understanding that EU legislation adopted pursuant to Title V TFEU falls outside the scope of the EEA Agreement.

With regard to the references to Article 5 of Directive (EU) 2017/541, to Article 5(4) of Directive 2011/93/EU and to Article 1 of Framework Decision 2008/913/JHA, the Contracting Parties, in the context of long-standing common values and European identity, acknowledge that the corresponding provisions of the national law of the EFTA States are applied in a functionally equivalent manner.
