

Case No: 70924  
Event No: 617637  
Dec. No: 395/11/COL

## EFTA SURVEILLANCE AUTHORITY DECISION

of 14 December 2011

on the prolongation of the aid scheme under the Media Support Act  
(Liechtenstein)

THE EFTA SURVEILLANCE AUTHORITY<sup>1</sup>

Having regard to the Agreement on the European Economic Area<sup>2</sup>, in particular Article 61(3)(c),

Having regard to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice<sup>3</sup>, in particular to Article 24 thereof,

Having regard to Article 1(3) of Part I and Article 4(3) of part II of Protocol 3 to the Surveillance and Court Agreement<sup>4</sup>,

Whereas:

### I FACTS

#### 1. Procedure

- (1) The authorities in Liechtenstein notified the prolongation of the aid scheme under the Media Support Act pursuant to Article 1(3) of Part I of Protocol 3 by letter of 5 December 2011 (Event No 617632).

#### 2. Description of the proposed measures

##### 2.1 The aid scheme under the Media Support Act

- (2) The notified aid scheme under the Media Support Act constitutes a continuation of a scheme which the Authority approved by Decision No 267/06/COL and which expires on 31 December 2011. As described in Decision No 267/06/COL, this scheme covers a

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<sup>1</sup> Hereinafter referred to as the Authority

<sup>2</sup> Hereinafter referred to as the EEA Agreement

<sup>3</sup> Hereinafter referred to as the Surveillance and Court Agreement

<sup>4</sup> Hereinafter referred to as Protocol 3

system of indirect and direct support<sup>5</sup>, managed by the Media Commission. The objective of the scheme is to preserve the pluralism of opinions, to promote journalistic-editorial quality as well as to facilitate the dissemination of opinion shaping media in Liechtenstein (Article 3.2 Media Support Act).

## 2.2 Notified alteration to the aid scheme

- (3) The notification concerns the prolongation of the existing scheme for 6 years, from 1 January 2012 to 31 December 2017, as well as an increase in the aid budget from CHF 1.5 million to CHF 1.84 million annually.

## 2.3 National legal basis for the aid measure

- (4) The national legal basis for the support measures are laid down in the Media Support Act of Liechtenstein from 21 September 2006 (Medienförderungsgesetz).

## 2.4 Duration and budget

- (5) The Media Support Act entered dates back to September 2006 but the Authority only authorised the application of the scheme until 31 December 2011. The current authorisation is valid from 1 January 2012 for a duration of 6 years, i.e. until 31 December 2017. While its duration is not limited by the Parliament, the Liechtenstein authorities have asked for an authorisation from the Authority for six years and committed themselves to re-notify the scheme before 1 January 2018 to the Authority.
- (6) The budget will be decided annually by the Parliament and be distributed by the Media Commission. The budget for the period 2012-2017 is foreseen to be CHF 11.04 million, i.e. an annual amount of CHF 1.84 million.

# II ASSESSMENT

## 1. The presence of state aid

- (7) Article 61(1) of the EEA Agreement reads as follows:  
*“Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Contracting Parties, be incompatible with the functioning of this Agreement.”*
- (8) In Decision No 267/06/COL, the Authority established that the support measures allocated to media undertakings under the Media Support Act constituted state aid within the meaning of Article 61(1) of the EEA Agreement.
- (9) The notified prolongation does not alter the assessment made in Decision No 267/06/COL. The support measures represent state resources granted to certain undertakings that distort or threaten to distort competition and affect intra-EEA trade<sup>6</sup>.

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<sup>5</sup> For further details regarding the measures covered under the scheme reference is made to Decision No 267/06/COL, published in the OJ C 314 of 21.12.2006 and on the Authority's website: <http://www.eftasurv.int/state-aid/state-aid-register/liechtenstein/nr/1097>.

<sup>6</sup> See section 1.3 of Decision No 267/06/COL

## 2. Procedural requirements

- (10) Pursuant to Article 1(3) of Part I of Protocol 3 “the EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid (...). The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision”.
- (11) On the basis of Article 4(2) of Decision No 195/04/COL, the following alterations to existing aid shall be notified on the simplified notification form:
  - a. Increases in the budget of an authorized aid scheme exceeding 20%;
  - b. prolongation of an existing authorized aid scheme by up to six years, with or without an increase in the budget.
- (12) The Liechtenstein authorities have notified a budgetary increase of 22.6% and a prolongation of the current schemes until 31 December 2017. These amendments meet the requirements set forth under Article 4(2) of Decision No 195/04/COL.
- (13) Liechtenstein has complied with its reporting obligations under Articles 5 and 6 of Decision No 195/04/COL and, pursuant to Article 4(3) of Decision No 195/04/COL, the simplified notification procedure can therefore be used.
- (14) By submitting a simplified notification for the prolongation of the aid schemes provided for under the Media Support Act by letter dated 5 December 2011, the Liechtenstein authorities have complied with the notification requirement pursuant to Article 4 of Decision No 195/04/COL on simplified notification.

## 3. Compatibility of the aid

- (15) In Decision No 267/06/COL the Authority assessed the aid scheme provided for under the Media Support Act in light of Article 61(3)(c), as there are no generally applicable rules for the assessment of aid in the media sector in the EEA Agreement. The scheme supported the preservation of media diversity and the offering of information to a small population within the European Economic Area. Although the aid was operating aid, which generally produces a more distorting effect on competition and trade than investment aid, the Authority did not find that the trading conditions were affected to a degree which was contrary to the common interests of the Contracting Parties.
- (16) The Liechtenstein authorities have not notified the amendment of any of the substantive criteria for the grant of aid under the Media Support Act. The only alterations notified concerned the duration of the scheme, until 31 December 2017, and that the budget has been increased from an annual amount of CHF 1.5 million to CHF 1.84 million, i.e. by 22.6%. These amendments do not alter the Authority’s assessment of the compatibility of the scheme as explained in Decision No 267/06/COL.

## 4. Conclusion

- (17) On the basis of the foregoing assessment, the Authority considers that the aid scheme under the Media Support Act as notified is compatible with the functioning of the EEA Agreement within the meaning of Article 61(3)(c) of the EEA Agreement.
- (18) The Authority recalls Liechtenstein’s obligation under Article 21(1) in Part II of Protocol 3 to the Surveillance and Court Agreement and Article 5 in conjunction with Annex III to the Authority’s Decision 195/04/COL of 14 July 2004 to submit annual reports on all

existing aid schemes. This equally applies to the present scheme under the Media Support Act.

HAS ADOPTED THIS DECISION:

*Article 1*

No objections are raised to the notified amendments to the aid scheme.

*Article 2*

This Decision is addressed to the Principality of Liechtenstein.

*Article 3*

Only the English version is authentic.

Done at Brussels, 14 December 2011.

*For the EFTA Surveillance Authority*

Oda Helen Sletnes  
*President*

Sverrir Haukur Gunnlaugsson  
*College Member*