

Brussels, 14 December 2017
Case No: 81383
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Decision No 213/17/COL

EEA Coordination Unit
Europark
Austrasse 79
FL-9490 Vaduz
Liechtenstein

Subject: Media Support Act 2018 - 2023

1 Summary

- (1) The EFTA Surveillance Authority (“the Authority”) informs Liechtenstein that, having assessed the notification for a prolongation of the aid scheme under the Media Support Act, it considers that the measures constitute state aid, and decides not to raise objections⁽¹⁾ to the measures, as they are compatible with the functioning of the EEA Agreement pursuant to its Article 61(3)(c).
- (2) The Authority has based its decision on the following considerations.

2 Procedure

- (3) By letter dated 1 December 2017, the Liechtenstein authorities notified a prolongation of the aid scheme under the Media Support Act, pursuant to Article 1(3) of Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (“Protocol 3”).⁽²⁾

3 The notified measures

3.1 Background

- (4) The notified measures are the second prolongation of the aid scheme under the Media Support Act, which the Authority initially approved by Decision No 267/06/COL and prolonged by Decision No 395/11/COL.⁽³⁾ The first prolongation expires on 31 December 2017. As described in Decision No 267/06/COL, the scheme covers a system of grants for the creation of journalistic editorial content, training and education of media workers and distribution costs. The scheme is limited to media undertakings producing periodical media, and is managed by the Liechtenstein Media Commission.⁽⁴⁾

⁽¹⁾ Reference is made to Article 4(3) of the Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

⁽²⁾ Document No 885801.

⁽³⁾ The Authority’s Decision No 267/06/COL of 20 September 2006 on the proposed Liechtenstein Media Support Act (OJ C 314, 21.12.2006, p. 83).; and the Authority’s Decision No 395/11/COL of 14 December 2011 on the prolongation of the aid scheme under the Media Support Act (OJ C 76, 15.3.2012, p. 11).

⁽⁴⁾ For further details regarding the measures covered under the scheme, see Decision No 267/06/COL.

3.2 Objective

- (5) 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). For further details please refer to Decision No 267/06/COL.

3.3 National legal basis

- (6) The national legal basis for the support measures is laid down in the Media Support Act of 21 September 2006 (*Medienförderungsgesetz*).⁽⁵⁾

3.4 Notified prolongation of the aid scheme

- (7) The notification concerns a prolongation of the existing scheme by six years, *i.e.* from 1 January 2018 to 31 December 2023.

3.5 Budget and duration

- (8) The Media Support Act dates back to September 2006. Initially, the Authority authorised the application of the scheme until 31 December 2011 by Decision No 267/06/COL. The authorisation was prolonged until 31 December 2017 by Decision No 395/11/COL. The current notification will enter into force from 1 January 2018 for a duration of six years, *i.e.* until 31 December 2023. 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-notifying the scheme to the Authority before its expiry.
- (9) The budget will be decided annually by the Parliament and the grants will be distributed by the Liechtenstein Media Commission. The budget for the period 2018 - 2023 is foreseen to be CHF 11.04 million, *i.e.* an annual amount of CHF 1.84 million.

4 Presence of state aid

- (10) Article 61(1) of the EEA Agreement reads as follows:

“(…) 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 (…).”

- (11) 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.
- (12) The Authority’s assessment of the existence of state aid made in Decision No 267/06/COL was confirmed in Decision No 395/11/COL.
- (13) The notified prolongation does not alter the assessment made in Decisions Nos 267/06/COL and 385/11/COL. The support measures continue to represent state resources granted in favour of certain undertakings that distort or threaten to distort competition and affect intra-EEA trade.⁽⁶⁾

⁽⁵⁾ Certain implementing provisions are enacted in the Ordinance on Media Support of 22 March 2016 (*Medienförderungsverordnung*). However, as Liechtenstein has confirmed, the Ordinance does not amend the scheme, which is based on the Media Support Act.

⁽⁶⁾ See section 1.3 of Decision No 267/06/COL.

5 Procedural requirements

- (14) 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.”
- (15) The Liechtenstein authorities have notified a prolongation of the current scheme until 31 December 2023. By submitting a notification, by letter dated 1 December 2017, the Liechtenstein authorities have complied with the notification requirement in Article 1(3) of Part I of Protocol 3.

6 Compatibility of the notified measure

- (16) In Decision No 267/06/COL, the Authority assessed the aid scheme provided for under the Media Support Act directly in light of Article 61(3)(c) of the EEA Agreement, as there were generally no applicable state aid guidelines for the assessment of aid to the media sector. In Decision No 267/06/COL, the Authority concluded that the scheme supported the preservation of media diversity and the offering of information to a small population within the EEA. 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 trading conditions were affected to a degree which was contrary to the common interests of the Contracting Parties.
- (17) The Authority’s assessment in Decision No 267/06/COL was confirmed in Decision No 395/11/COL.
- (18) The Liechtenstein authorities have not notified any substantive amendments concerning the criteria for the granting of aid under the Media Support Act. The only alteration notified concerns the duration of the scheme until 31 December 2023. In light of the fact that the scheme remains in substance unaltered, the Authority concludes that its compatibility assessment in Decision 267/06/COL, as confirmed in Decision 395/11/COL, remains valid with regard to the notified prolongation of the scheme.
- (19) The Liechtenstein authorities have also committed to publish information about the aid granted, in accordance with the general transparency requirements.
- (20) 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.

7 Conclusion

- (21) The Authority considers that the aid scheme under the Media Support Act constitutes state aid with the meaning of Article 61(1) of the EEA Agreement. Since no doubts are raised as to its compatibility with the functioning of the EEA Agreement pursuant to its Article 61(3)(c), the Authority has no objections to the implementation of the aid scheme under the Media Support Act.

For the EFTA Surveillance Authority, acting under Delegation Decision No 068/17/COL,

Yours faithfully,

Sven Erik Svedman
President

Carsten Zatschler
Director

This document has been electronically signed by Sven Erik Svedman, Carsten Zatschler.