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EEA Coordination Unit
Kirchstrasse 8
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Liechtenstein

Subject: Liechtenstein Media Support Act

1 Summary

- (1) The EFTA Surveillance Authority (“ESA”) wishes to inform Liechtenstein that, having assessed the revised Media Support Act (“the measure”), it considers that it constitutes State aid within the meaning of Article 61(1) of the EEA Agreement and decides not to raise objections¹ to the measure, as it is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(c).
- (2) ESA has based its decision on the following considerations.

2 Procedure

- (3) The Liechtenstein authorities notified the revised Media Support Act on 6 February 2025.²

3 Description of the measure

3.1 Background

- (4) The notification concerns a revision of the aid scheme under the Media Support Act (“the scheme”), which was initially approved by ESA in Decision No 267/06/COL, and subsequently prolonged by Decision No 395/11/COL, Decision No 213/17/COL and Decision No 051/23/COL. The scheme has been approved until 31 December 2029.
- (5) 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.
- (6) According to the Liechtenstein authorities, the market alone does not sufficiently provide information on Liechtenstein events and news. This is due to the smallness of the national market and the lack of demand for information on Liechtenstein events and news abroad. Media companies which deal predominantly with Liechtenstein issues have only a limited catchment area and a limited circulation of

¹ Reference is made to Article 4(3) of 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 1516023.

their media compared to other media undertakings within the EEA. As a result, access to advertising revenues is also limited. Media support is therefore necessary.

3.2 The media environment in Liechtenstein

- (7) At present, Liechtenstein has only one newspaper which reports about Liechtenstein-related issues on a daily basis (Liechtensteiner Vaterland). The second daily newspaper (Liechtensteiner Volksblatt) ceased operations for economic reasons in March 2023. The degree of pluralism and diversity which still existed in the print media landscape has therefore been lost. In addition to Liechtensteiner Vaterland, three very small media companies still exist: (i) Media1 Service AG, which runs a homepage and small private TV station; (ii) Zeit-Verlag Anstalt, which runs a website and is published twice a year in a printed version; and (iii) Onlinemarketing Meier GmbH, which runs a very small news website. The only radio station, Radio Liechtenstein, was nationalised in 2004 after facing severe financial difficulties. In a public referendum in October 2024, the Liechtenstein people voted in favour of privatising the same national radio station once again by the end of 2025 due to the high costs for the State. To date, no private commercial operator has declared its willingness to take over and continue the radio programme.
- (8) According to the Liechtenstein authorities, foreign media companies do not provide Liechtenstein-related information to a sufficient extent.
- (9) The Liechtenstein authorities underline that the smallness of the market makes it very difficult to have a co-existence of various independent media companies (media pluralism). However, media pluralism is a necessary basis for a well-functioning democratic process.
- (10) Furthermore, social networks such as Facebook, Instagram and X or search engines such as Google are becoming increasingly important, both as information and advertising platforms. In particular younger age groups use digital platforms as their primary source of information.
- (11) The increased importance of digital media can be seen not only in the declining number of subscribers to daily newspapers, but also in the shift of advertising to online platforms and social media.
- (12) Furthermore, media companies' revenue from official publications by the government of Liechtenstein and its offices, which were a regular source of income for print media companies, have declined substantially, due to increasing use of electronic government services. Official publications typically covered e.g. publications regarding newly established companies, information on company liquidations, calls to creditors and vacancy announcements in the public administration. In addition, the print media market has come under additional pressure in recent years due to increased paper and energy prices.
- (13) The declining revenues present media publishers with the challenge of finding other sources of income or reducing costs on the one hand and investing in the digitalisation of their media products on the other.

3.3 Objective

- (14) The purpose of the Liechtenstein Media Support Act (“Media Support Act”) 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. Opinion-shaping media cover political topics and events in Liechtenstein. The measure also has the secondary objective of supporting cultural publications.
- (15) The scheme contributes to the effective exercise of democratic rights and to the promotion of media diversity by supporting a wider variety of different independent media companies reporting on Liechtenstein topics.
- (16) Due to developments on the media market over the past decade, which have led to e.g. a decline in the revenue of media undertakings, Liechtenstein has decided to amend the Media Support Act to ensure that the scheme fulfils its purpose and enables a greater media diversity in Liechtenstein also in the future. The amended scheme is scheduled to enter into force on 31 March 2025.
- (17) The objectives and background for the various amendments are set out further in Section 3.5.

3.4 The existing scheme

3.4.1 General

- (18) The existing scheme comprises support to media companies producing Liechtenstein-related content. The support can be divided into direct media aid and indirect media aid.³

3.4.2 Eligibility

- (19) Support under the existing scheme is limited to media undertakings which produce a periodical medium, meeting the following cumulative criteria, set out in Article 4 of the Media Support Act:⁴

a) A medium which permanently and to an important extent contains news, analyses, commentaries and background information on political subjects and events in Liechtenstein.

b) A medium which constitutes an essential contribution to public opinion shaping in Liechtenstein.

c) A medium whose content is mainly distributed in journalistic-editorial form.

d) A medium which is published at least 10 times per year.

e) A medium the textual elaboration of which requires at least one full-time worker.

- (20) The support is, however, excluded if the medium:

a) has more than 50% advertisement,⁵

³ For a full description of the existing scheme, see Decision No 267/06/COL, sections 2.4 and 2.5.

⁴ Medienförderungsgesetz (MFG) vom 21. September 2006, <https://www.gesetze.li/konso/2006.223>, LGBl. 2006 No. 223.

⁵ I.e. more than 50% of the content of the medium constitutes “remunerated publications” (*entgeltliche Veröffentlichungen*) in the meaning of the law. This comprises all content for which, directly or indirectly, a remuneration is paid or another advantage granted.

- b) mainly aims at a certain group of persons (employees, customers, experts etc.),
- c) includes mainly religious or radical ideological contents, or
- d) already receives State support from other sources.

3.4.3 *Forms of support*

- (21) The support is given in the form of direct and indirect media support. The aid is automatically granted if the general eligibility criteria set out in Article 4 of the Media Support Act are met. However, the individual aid amounts may be proportionally reduced if the total envisaged expenditure exceeds the annual budget.
- (22) Both the direct and indirect support are paid out retroactively for the previous year. By paying out the aid retroactively, it can be ensured that the main criteria for obtaining the aid have been met.
- (23) The direct media support consists of a basic contribution for the creation of journalistic-editorial content which an eligible media undertaking has undertaken for an eligible medium.
- (24) The support takes the form of a direct grant of up to 30% of the standardised salary costs of the employees involved in the creation of the abovementioned journalistic-editorial content. In practice, it will first be determined how many employees are employed for the relevant content creation of the respective medium. Then, the standardised labour costs of those employees are determined on the basis of a monthly standard wage, decided upon by the Liechtenstein Media Commission ("Media Commission").
- (25) The exact aid intensity and amount of the direct media support are determined based on:
 - a) the type and scope of the entire journalistic-editorial service;
 - b) the type and scope of journalistic-editorial content concerning news, analyses, commentaries and background information on political subjects and events in Liechtenstein; and
 - c) the periodicity of the medium.
- (26) The scheme sets out a minimum amount of direct media support of CHF 20 000 per undertaking, so that eligible beneficiaries will receive at least CHF 20 000 in direct media support regardless of their salary costs.
- (27) The indirect media support consists firstly of a partial reimbursement of the costs of a media undertaking for the distribution of an eligible medium.
- (28) The upper ceiling is 25% of the actual documented distribution costs. Distribution costs are defined as those costs which are necessary for making the medium accessible to the consumer, e.g. the delivery costs for print media, transmission costs for broadcasting and provider costs for services of the information society. However, costs concerning infrastructure, e.g. costs for delivering vehicles, broadcasting equipment, computers etc. are not considered as distribution costs.

- (29) Indirect support further contains support for the training and education of media workers which are involved in the editorial content creation for an eligible medium. It is limited to 40% of the staff training and education costs incurred.
- (30) Direct and indirect media support can be combined.

3.5 The notified amendments

3.5.1 Eligibility for direct and indirect media support

- (31) Under the existing scheme, the beneficiaries must have at least one full-time worker involved in creating media content to be eligible for aid.
- (32) To ensure sufficient journalistic-editorial quality, the required minimum number of full-time workers involved in the creation of media content will be increased from one to two. It is irrelevant whether the staff member is directly employed or works as a freelance journalist, provided he/she meets the definition of “media worker” set out in Article 2(1) No. 13 of the Media Act.⁶
- (33) Companies with only one full-time worker involved in the creation of media content are consequently excluded from support under the revised Media Support Act.

3.5.2 Increasing transparency requirements

- (34) The digitalisation of media increases the opportunity for free expression of opinion. At the same time, the risk of disinformation has increased, raising the importance of ensuring journalistic quality.
- (35) Therefore, and in the interest of transparency, two additional eligibility criteria are introduced to the scheme, i.e. an obligation on the media owner to publish editorial statutes⁷ in line with Article 23 of the Media Act, and an obligation to comply with a journalists’ code of ethics which will be recognised by the Media Commission for application in Liechtenstein,⁸ and which will apply equally to all the beneficiaries.

3.5.3 Increasing the direct media support and strengthening small media companies

- (36) To help secure the existence of established media undertakings in Liechtenstein and to create better opportunities for small undertakings to grow and therefore strengthen media diversity, certain amendments are made to the direct media support.
- (37) The direct media support under the current scheme compensates eligible beneficiaries for a maximum of 30% of the relevant salary costs, with a guaranteed minimum amount of CHF 20 000 per media company (see point 3.4.3).
- (38) The direct media support under the revised scheme will instead consist of a flat basic contribution of CHF 100 000 to all eligible beneficiaries, in addition to compensation of up to 30% of the relevant salary costs. Hence, both the minimum

⁶ Mediengesetz (MedienG) vom 19. Oktober 2005, <https://www.gesetze.li/konso/2005.250>, LGBI. 2005 No. 250, Art. 23.

⁷ An editorial statute is an agreement between the media owner and the editor’s assembly, regulating the cooperation in journalistic matters as well as the general journalistic principles.

⁸ Specifically, and considering that Liechtenstein itself has currently not adopted such a code, the Liechtenstein authorities have indicated their intention to recognise instead a journalists’ code of ethics which is in force in another EEA or EFTA State (for example, Switzerland).

and the maximum aid amount of direct media support are increased as compared to the current scheme.

- (39) According to the Liechtenstein authorities, media companies in Liechtenstein are exposed to a generally high price level, both for personnel and other expenses, and hence the proposed increase represents the minimum necessary to maintain business predictability and the economic viability of media companies.

3.5.4 Support for early delivery

- (40) The declining number of subscriptions to daily newspapers has led to a relative increase in costs for early morning newspaper delivery in recent years, e.g. since the fixed costs remain the same no matter the number of copies distributed. According to the Liechtenstein authorities, the termination of business operations of the Liechtensteiner Volksblatt has resulted in an even smaller number of newspapers being delivered, thereby further exacerbating this situation.
- (41) The Liechtenstein authorities have explained that due to the already high subscription prices, this cost increase cannot be passed on to the customers without risking a decline in subscriptions. A discontinuation of early delivery would also accelerate the decline in subscriptions.
- (42) Due to these circumstances, additional support for early delivery is considered necessary. Therefore, the existing support for distribution of media in Liechtenstein is increased from 25% to 30% of the eligible costs.

3.5.5 Support for specialised, external education and training

- (43) The aid intensity for specialised, external education and training of media workers is increased from 40% to 75% of the incurred costs. The goal of this amendment is to further strengthen the quality of reporting.
- (44) Furthermore, the types of training eligible for aid will be extended, to include also training and further education in the area of digitalisation. This includes courses, workshops or coaching programmes for content management or digital media competence.

3.5.6 Support for the development of electronic media offerings

- (45) The digitalisation of the media environment is leading to major changes in the media industry, requiring existing media undertakings to invest in their online presence and the electronic distribution of their content.
- (46) To provide media undertakings with greater financial leeway in the realisation of digital distribution projects such as podcasts, video blogs, personalised news etc., a new grant for the development of electronic media offerings is introduced.
- (47) The aid will cover 50% of external project and investment costs for the development of electronic media offerings. Only costs for services provided by external contractors will be eligible for aid. Internal expenditure will not be eligible. There will be a cap on the costs eligible for this type of support of CHF 100 000 per undertaking per year.

3.5.7 Proportionality of the media support

- (48) To ensure proportionality, a new criterion is introduced to the scheme, entailing that if the sum of direct and indirect media support exceeds the total income of the media company, the aid will be proportionately reduced. However, the basic contribution of CHF 100 000 per undertaking in direct media support is exempted from this. The reason for the new cap is to incentivise the beneficiaries to actively acquire income from other sources, such as advertising, despite receiving media support.

3.5.8 New incentive for facilitating market entry for new media companies

- (49) A special focus of the review of the Media Support Act lies on supporting the rise of new market participants on the Liechtenstein media market. This is crucial to strengthen media diversity in Liechtenstein.
- (50) Therefore, a new incentive, in the form of a start-up payment, is introduced in the scheme to incentivise new market participants to enter the Liechtenstein media market, and to ensure their economic survival in the first years after establishment.
- (51) The incentive is targeted at new media companies (i.e. companies established within the past two years), established in Liechtenstein or having a subsidiary in Liechtenstein, that do not fulfil the general eligibility criteria for direct and indirect support under the Media Support Act. The introduction of the start-up payment aims to create new media companies in order to strengthen media diversity in Liechtenstein. Limiting the start-up grant to companies with a presence in Liechtenstein further ensures that unlawfully obtained support can be more easily reclaimed by the Liechtenstein authorities.
- (52) The aid takes the form of a start-up payment of a maximum of CHF 250 000.
- (53) To be eligible for a start-up payment, the beneficiary must:
1. Be founded no more than two years before the application was submitted.
 2. Present a well-founded business plan, which, within five years, ensures viable operation, as well as compliance with the eligibility criteria for direct and indirect media support under the Media Support Act.
 3. Present a concept for the journalistic-editorial service, including editorial statutes, see paragraph 35.
- (54) The details regarding this incentive, e.g. review mechanisms, time limits and the content of the documents to be submitted, will be regulated by ordinance.
- (55) The exact aid amount will depend on the content of the documents submitted, in particular the business plan and the concept for the journalistic-editorial service and editorial statutes.

3.6 National legal basis

- (56) The national legal basis for the measures is the Media Support Act. Furthermore, certain implementing provisions are enacted in the Media Support Ordinance.⁹ In addition, the provisions of the Media Act apply.

⁹ Medienförderungsverordnung vom 22. März 2016, <https://www.gesetze.li/chrono/pdf/2016100000>, LGBl. 2016 No. 100.

3.7 Aid granting authorities

- (57) The direct and indirect media support will be granted by the Media Commission. The start-up payment for new electronic media companies will be granted and administered by the Liechtenstein government. Payment will be made directly by the National Financial Accounting Office (Landeskasse).

3.8 Budget and duration

- (58) The total budget of the revised scheme for the direct and indirect media support is foreseen to be CHF 11.04 million over the period 2023-2029, i.e. an annual budget of CHF 1.84 million.
- (59) The budget for the incentive for new market participants will be an “investment expense” (*investive Ausgabe*) as part of the State budget, according to Article 3(2) of the Act on the Financial Budget of the State.¹⁰
- (60) There is no reliable prognosis on how many companies will be able to apply for the start-up payment. Due to this uncertainty, there will be no fixed annual budget foreseen by the Liechtenstein government for this aid. Due to the strict eligibility requirements for this new incentive, it is estimated that only a very small number of undertakings will receive this kind of support. Assuming a maximum of two applications in one year, the maximum budget would be CHF 500 000.

3.9 Transparency

- (61) The Liechtenstein authorities confirm that the full text of the measure and any individual aid awards exceeding EUR 100 000 will be published in the national transparency register.¹¹

4 Presence of State aid

- (62) 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.”
- (63) The qualification of a measure as aid within the meaning of this provision requires the following cumulative conditions to be met: (i) the measure must be granted by the State or through State resources; (ii) it must confer an advantage on an undertaking; (iii) favour certain undertakings (selectivity); and (iv) threaten to distort competition and affect trade.
- (64) In its initial decision, and its subsequent prolongation decisions, ESA concluded that the scheme constituted State aid.¹² As there are no elements in the notified measure capable of altering this conclusion, ESA finds, on the basis of the reasoning set out in the initial decision, and its subsequent prolongation decisions,

¹⁰ Gesetz vom 20. Oktober 2010 über den Finanzhaushalt des Staates (Finanzhaushaltsgesetz), <https://www.gesetze.li/konso/2010.373>, LGBl. 2010 No. 373.

¹¹ <https://www.llv.li/de/landesverwaltung/stabsstelle-ewr/wissenswertes/veroeffentlichungen/staatlichebeihilfentransparenzregister>.

¹² See e.g. Decision No 267/06/COL, section II.1.

that the notified measure constitutes State aid within the meaning of Article 61(1) of the EEA Agreement.

5 Aid scheme

- (65) ESA notes that the legal basis of the measure is set out in acts which do not require further implementing measures for the granting of the aid, and which identify the beneficiaries in a general and abstract manner.¹³ The aid is therefore granted on the basis of an aid scheme.

6 Lawfulness of the aid

- (66) 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 SCA"): "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."
- (67) The Liechtenstein authorities have notified the measure and have yet to let it enter into force. They have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3 SCA.

7 Compatibility of the aid

7.1 Introduction

- (68) In derogation from the general prohibition of State aid laid down in Article 61(1) of the EEA Agreement, aid may be declared compatible if it can benefit from one of the derogations enumerated in the Agreement. The Liechtenstein authorities invoke Article 61(3)(c) of the EEA Agreement as the basis for the assessment of the compatibility of the aid measure.
- (69) Article 61(3)(c) of the EEA Agreement provides that ESA may declare compatible "aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest". Therefore, in order to declare the aid compatible, first, the aid must be intended to facilitate the development of certain economic activities or of certain economic areas and, second, the aid must not adversely affect trading conditions to an extent contrary to the common interest.¹⁴
- (70) Under the first condition, ESA examines how the aid facilitates the development of certain economic activities or areas. Under the second condition, ESA weighs up the positive effects of the aid for the development of said activities or areas and the negative effects of the aid in terms of distortions of competition and adverse effects on trade.
- (71) In the present case, there are no existing State aid guidelines applicable to the measure at hand. ESA will therefore assess the measure directly under Article 61(3)(c) of the EEA Agreement.

¹³ See Article 1(d) of Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

¹⁴ Judgment of 22 September 2020, *Austria v Commission (Hinkley Point C)*, C-594/18 P, EU:C:2020:742, paragraphs 18–20.

7.2 Facilitation of development of certain economic activities or areas

7.2.1 *Economic activities or areas supported*

- (72) Under Article 61(3)(c) of the EEA Agreement, in order to be considered compatible, the measure must contribute to the development of certain economic activities or areas.
- (73) The notified measure facilitates development in the Liechtenstein media market by granting aid to media undertakings creating Liechtenstein-related content. The provision of news and current affairs media services constitutes an economic activity.
- (74) The measure contributes to maintaining a diversity in media companies providing information on Liechtenstein-related news and events. This is important to preserve the pluralism of opinions and the effective exercise of democratic rights.
- (75) In view of the above, ESA considers that the measure constitutes aid to facilitate the development of a certain economic activity, as required by Article 61(3)(c) of the EEA Agreement.

7.2.2 *Incentive effect*

- (76) State aid is only compatible with the functioning of the EEA Agreement if it has an incentive effect and so effectively facilitates the development of certain economic activities. To establish whether the measure has an incentive effect, it must be demonstrated that it changes the behaviour of the undertakings concerned in such a way that it engages in an activity which it would not carry out without the aid or which it would carry out in a restricted or different manner.
- (77) In Decision No 267/06/COL, ESA found that the aid scheme under the Media Support Act had an incentive effect. ESA noted, in that respect, that by covering costs related to the provision of Liechtenstein information, the State gives indeed an incentive to engage in such activities which go beyond what normal market forces would produce. Furthermore, ESA noted that while the aid is paid out retroactively, the objective award criteria of the aid are known to the aid recipients in advance, so that a media undertaking can decide on the basis of the Media Support Act whether to engage in the creation and dissemination of a medium covered by the Media Support Act with the perspective of a future (although not guaranteed in amount) refund by the State. The knowledge of State support will therefore play a role in the decision of the media undertakings of what kind of media content they will produce.¹⁵
- (78) The notified amendments to the media support scheme do not put into question ESA's previous conclusion that the measure has an incentive effect. Taking into account the developments in the media market over the past decades, with social networks and other digital services becoming increasingly important, both as information and advertising platforms, the incentive effect is even more apparent. As regards the new incentive, in the form of a start-up payment, for new entrants to the Liechtenstein media market, ESA notes that such aid will only be granted following the receipt of an application containing a business plan for the eligible activity, incentivising sustainable mid-term planning and operation. This new

¹⁵ For a media support scheme with a similar design, see e.g. Commission Decision in Case SA.108315 (2023/N) – Denmark – Aid scheme for local weekly newspaper, paras. 29-32 and 53.

instrument could attract new media to Liechtenstein in an environment where companies over the last years have exited the market. Therefore, an incentive effect is ensured also for this new category of aid.

- (79) In view of the above, ESA considers that in the absence of the notified measure, the aided activities and projects would not have taken place to the same extent, and consequently the development of the economic activities/areas would not have been facilitated. Therefore, the aid measure has an incentive effect.

7.2.3 Compliance with relevant EEA law

- (80) If a State aid measure, the conditions attached to it (including its financing method when the financing method forms an integral part of the State aid measure), or the activity it finances entail a violation of relevant EEA law, the aid cannot be declared compatible with the functioning of the EEA Agreement.¹⁶
- (81) ESA has no indications that the measure, the conditions attached to it, or the activity it finances entail a violation of relevant EEA law. ESA notes that the measure is not discriminatory in that the eligibility criteria ensure equal treatment of applicants, including foreign undertakings. While the incentive targeted at new media companies (see paragraphs (49) to (55)) is limited to companies with presence in Liechtenstein, the Liechtenstein authorities have clarified that this condition does not require beneficiaries to be headquartered in Liechtenstein. The condition can also be satisfied by companies headquartered in other EEA States that are present in Liechtenstein through a subsidiary. The measure does therefore not create barriers to the freedom to provide services. The condition also appears justified in view of the objective to create new media companies in Liechtenstein, where the media sector is currently limited to very few actors. ESA notes that new media companies with presence in Liechtenstein are more likely to be able to effectively contribute to the overall objective of the scheme, which is, in particular, to facilitate the dissemination of opinion-shaping media in Liechtenstein, i.e. media that cover political topics and events in Liechtenstein.

7.3 Whether the aid adversely affects trading conditions to an extent contrary to the common interest

7.3.1 Introduction

- (82) ESA has not only identified positive effects of the planned aid for the development of the abovementioned economic activities and economic areas, but also possible negative effects that it may have in terms of distortions of competition and adverse effects on trade. These positive and negative effects must then be weighed up.

7.3.2 Markets affected by the aid

- (83) The aid affects the media market, strengthening the financial position of the beneficiaries as compared to competing undertakings. The media produced by the potential aid recipients cover various areas, such as print media, broadcasting and electronic media services.

¹⁶ Judgments of 19 September 2000, *Germany v Commission*, C-156/98, EU:C:2000:467, paragraph 78; 22 December 2008, *Régie Networks*, C-333/07, EU:C:2008:764, paragraphs 94–116; 22 September 2020, *Austria v Commission (Hinkley Point C)*, C-594/18 P, EU:C:2020:742, paragraph 44; 14 October 2010, *Nuova Agricast*, C-390/06, EU:C:2008:224, paragraphs 50–51.

7.3.3 *Positive effects of the aid*

- (84) The aid contributes to the development of the Liechtenstein media sector, see paragraphs (72) to (75).
- (85) The aid is likely to help preserve and promote media pluralism and media diversity concerning information on Liechtenstein topics and events, which are otherwise not widely reported on.

7.3.4 *Limited negative effects of the aid*

7.3.4.1 Introduction

- (86) Article 61(3)(c) of the EEA Agreement requires an assessment of any negative effects on competition and on trade. The aid must not adversely affect trading conditions to an extent contrary to the common interest.

7.3.4.2 Necessity of the aid

- (87) A State aid measure is necessary if it is targeted towards situations where aid can bring about a material improvement that the market cannot deliver itself.
- (88) With regard to the necessity of the support measure as such, ESA takes note of the fact that the media environment in Liechtenstein is not developed to the same extent as in most other countries in the EEA. The market is very small and producers of media which deal predominantly with Liechtenstein issues have only a limited catchment area and a limited circulation of their medium compared to other media undertakings within the EEA.
- (89) As a result, access to advertising revenues is also limited. Due to the developments in the media market over the past decade, with e.g. social networks becoming increasingly important both as information and advertising platforms, the revenues of media undertakings have declined even further. Only very few media undertakings consequently provide Liechtenstein-related information. Following the closure of Liechtensteiner Volksblatt last year, there is only one operational daily Liechtenstein newspaper – Liechtensteiner Vaterland. Only a few other media companies operate in Liechtenstein.
- (90) As confirmed by the Liechtenstein authorities, foreign media undertakings do not provide Liechtenstein-tailored information to a sufficient degree. Therefore, ESA considers that there is a justifiable need for State aid to promote information focussing on Liechtenstein topics and events.

7.3.4.3 Appropriateness of the aid

- (91) EEA EFTA States can make different choices with regard to policy instruments and State aid control does not impose a single way to intervene in the economy. However, State aid under Article 61(1) of the EEA Agreement can only be justified by the appropriateness of a particular instrument to contribute to the development of the targeted economic activities or areas.
- (92) ESA normally considers that a measure is an appropriate instrument where the EEA EFTA State can demonstrate that alternative policy options would not be equally suitable to contribute to the development of economic activities or areas and where it can demonstrate that alternative, less distortive aid instruments would not deliver equally efficient outcomes.

- (93) ESA notes that alternative measures, such as infrastructure measures or labour market initiatives, were investigated before the Media Support Act was introduced in 2006. However, these policies turned out to be too general to achieve the precise editorial objectives of the Media Support Act. Hence, as held by ESA in its Decision No 267/06/COL, the Liechtenstein authorities concluded that direct and indirect grants for concrete editorial works, the dissemination of Liechtenstein media and training, were effective in reaching the goal of achieving more media diversity.
- (94) According to the Liechtenstein authorities, this situation has not changed since the last evaluation. Developments on the media market in recent years have made these measures all the more necessary.
- (95) In view of the above, ESA considers that the measure is an appropriate instrument to facilitate the development of the media sector in Liechtenstein.

7.3.4.4 Proportionality of the aid

- (96) State aid is proportionate if the aid amount per beneficiary is limited to the minimum needed to incentivise the additional investment or activity in the area concerned.
- (97) The access to media support in Liechtenstein is limited through the eligibility criteria stated in Article 4(1) of the Media Support Act, e.g. targeting the aid at the production and publication of a specific type of content, namely content concerning Liechtenstein-related topics and events. The scope of beneficiaries is limited to media undertakings which are deemed to have a more direct influence on the opinion shaping.
- (98) Direct media support is further limited in two ways: Firstly, the aid targets the costs of media workers who are involved in the creation of a journalistic-editorial work dealing with Liechtenstein-related contents. Secondly, the maximum aid intensity is limited to 30% of the standardised wage costs of those media workers, on top of the basic contribution of CHF 100 000. According to the Liechtenstein authorities, media companies in Liechtenstein face significant expenses related to salaries, insurance payments and pension contributions. Hence, the increased basic contribution represents the minimum required to maintain the economic stability of Liechtenstein media companies and poses no risk of eligible beneficiaries being overcompensated (i.e. receiving aid in excess of the costs they incur). ESA takes note, in that respect, of the general cost increase resulting from the new eligibility requirement of having two full-time media workers involved in the creation of journalistic-editorial content. As the aid is paid out retroactively, the Media Commission will verify that the eligibility criteria have actually been met.
- (99) The same retroactive verification takes place regarding the indirect media support (aid for early delivery, training, and development of electronic media offerings), ensuring that only costs which actually have been incurred are taken into account. Media undertakings publishing several media have to list the costs and responsibilities of the respective journalists separately, so that double compensation is avoided.
- (100) The support for specialised external education and training will be limited to 75% of the verifiably incurred eligible costs, which although entailing an increase still ensures a significant contribution from the beneficiary. Given the particularities of the Liechtenstein media market, ESA considers a higher aid intensity to be justified.

- (101) The support for development of electronic media offerings is directed exclusively at external costs which may not exceed CHF 100 000, and with an aid intensity of 50%.
- (102) The distribution aid will be limited to 30% of eligible costs, and the slight increase in aid intensity from the previous 25% is justified by the higher costs of early delivery following the termination of business operations of the Liechtensteiner Volksblatt.
- (103) ESA further notes that a new rule is being introduced to the scheme entailing that if the sum of media support exceeds the total revenue of a media company, the media support shall be reduced proportionately.¹⁷ Hence, even if some of the aid intensities are increased as compared to the current scheme, this newly introduced proportionality rule entails, in ESA's view, that the proportionality of the aid is still ensured.
- (104) As regards the new start-up payment for new entrants to the Liechtenstein media market, ESA notes that the aid will be granted only to newly established undertakings able to present a business plan ensuring economic viability within a five-year period. According to the Liechtenstein authorities, especially the termination of business of one of the two daily newspapers, the Liechtensteiner Volksblatt, has made the introduction of this measure necessary. In view of the small size of the Liechtenstein media market and the challenges faced in particular by new media undertakings trying to establish themselves on the market, ESA considers that this new incentive appears necessary and appropriate.

7.3.4.5 Conclusion on limited negative effects

- (105) In light of the above arguments, ESA concludes that any negative effects of the aid on competition and on trade are limited.

7.3.5 *Balancing positive and negative effects of the aid*

- (106) For the aid to be compatible with the functioning of the EEA Agreement, the limited negative effects of the aid measure in terms of distortion of competition and adverse impact on trade between Contracting Parties must be outweighed by positive effects, in terms of contribution to the facilitation of the development of economic activities or areas. It must be verified that the aid does not adversely affect trading conditions to an extent contrary to the common interest.
- (107) On the negative side of the balance, ESA notes that the measure is liable to strengthen the position of certain media undertakings as opposed to their competitors. However, as concluded above, ESA considers that the distortion of competition and the effect on trade between Contracting Parties will be limited. As mentioned, foreign companies provide Liechtenstein-tailored content only to a limited extent.
- (108) On the positive side of the balance, ESA considers that the measure is likely to help preserve and promote media pluralism and media diversity in Liechtenstein, thus contributing to the effective exercise of democratic rights.
- (109) Based on the above considerations, ESA concludes that the positive effects of the measure outweigh possible distortions of competition and adverse impact on trade.

¹⁷ The basic contribution of CHF 100 000 is not subject to the reduction.

Therefore, the aid does not unduly affect trading conditions to an extent contrary to the common interest.

7.4 Transparency

(110) The Liechtenstein authorities have confirmed that any aid award exceeding EUR 100 000 will be published in the [national transparency register](#).

(111) Therefore, the measure fulfils the transparency requirements.

8 Conclusion

(112) On the basis of the foregoing assessment, ESA considers that the support scheme under the revised Media Support Act constitutes State aid within the meaning of Article 61(1) of the EEA Agreement. Since ESA has no doubts that the aid is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(c), it has no objections to the implementation of the measure.

(113) The Liechtenstein authorities have confirmed that the notification does not contain any business secrets or other confidential information that should not be published. For the EFTA Surveillance Authority,

Yours faithfully,

Arne Røksund
President
Responsible College Member

Stefan Barriga
College Member

Árni Páll Árnason
College Member

For Melpo-Menie Joséphidès
Countersigning as Director,
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This document has been electronically authenticated by Arne Roeksund, Sigrun Ingibjorg Gísladóttir.