

## EFTA SURVEILLANCE AUTHORITY DECISION

of 14 June 2023

adopting a Notice on informal guidance relating to novel or unresolved questions concerning Articles 53 and 54 of the EEA Agreement that arise in individual cases (guidance letters)

THE EFTA SURVEILLANCE AUTHORITY (“the Authority”),

HAVING REGARD TO:

the Agreement on the European Economic Area (“the EEA Agreement”), in particular to Article 6 thereof;

the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (“Surveillance and Court Agreement”), in particular Articles 3(2), 5(2)(b) and Article 25 thereof,

WHEREAS:

Under Article 25 of the Surveillance and Court Agreement, the Authority shall give effect to the provisions of the EEA Agreement concerning competition.

Under Article 5(2)(b) of the Surveillance and Court Agreement, the Authority is to issue notices or guidelines on matters dealt with in the EEA Agreement, if that Agreement or the Surveillance and Court Agreement expressly so provides or if the Authority considers it necessary.

The European Commission (“the Commission”) has issued a notice entitled “Commission Notice on informal guidance relating to novel or unresolved questions concerning Articles 101 and 102 of the Treaty on the Functioning of European Union that arise in individual cases (guidance letters)”.<sup>1</sup> The Commission’s notice is also of relevance for the European Economic Area (“EEA”).

Uniform application of the EEA competition rules is to be ensured throughout the EEA, in line with the objective of homogeneity established in Article 1 of the EEA Agreement.

According to point II under the heading “General” on page 11 of Annex XIV to the EEA Agreement, the Authority is to adopt, after consultation with the Commission, acts corresponding to those adopted by the Commission in order to maintain equal conditions of competition.

Having consulted the Commission and the EFTA States,

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<sup>1</sup> OJ C 381, 4.10.2022, p. 9.

HAS ADOPTED THIS DECISION:

*Article 1*

The Authority shall issue a Notice on informal guidance relating to novel or unresolved questions concerning Articles 53 and 54 of the EEA Agreement that arise in individual cases (guidance letters), which is annexed to this Decision.

*Article 2*

The Decision, including the Notice set out in the Annex, shall be authentic in the English language.

*Article 3*

The Notice shall be published in the EEA Section of the Official Journal of the European Union and in the EEA Supplement thereto.

*Article 4*

1. The EFTA States shall be informed by means of a copy of the Decision, including the Annex.
2. The European Commission shall be informed by means of a copy of the Decision, including the Annex.

Done at Brussels,

For the EFTA Surveillance Authority

Arne Røksund  
President

Stefan Barriga  
College Member

Árni Páll Árnason  
Responsible College Member

Melpo-Menie Joséphidès  
Countersigning as Director,  
Legal and Executive Affairs

*This document has been electronically authenticated by Arne Roeksund, Melpo-Menie Josephides.*

ANNEX: EFTA Surveillance Authority Notice on informal guidance relating to novel or unresolved questions concerning Articles 53 and 54 of the EEA Agreement that arise in individual cases (guidance letters) (Document No 1321243)