

FORM C

COMPLAINT PURSUANT TO ARTICLE 7 OF CHAPTER II

**I. Information regarding the complainant and the undertaking(s) or association of undertakings giving rise to the complaint**

*The legal person submitting the complaint is a Radio Station in Reykjavík, Iceland. The radio station's name is Útvarp Saga, FM 99,4, which has been broadcasting since 2003 for nearly twenty years.*

*SagaNet - Útvarp Saga ehf, Identity number (Icelandic kennitala 640214 0310), address: Skipholt 50 C , 105 Reykjavík.*

EFTA State or public body alleged by the complainant not to have complied with EEA law is *Iceland and The State Broadcasting Company (Ríkisútvarpið – RÚV)*

**II. Details of the alleged infringement and evidence**

*Útvarp Saga FM 99,4 is a talk radio station situated in Reykjavík the only public debate talk radio station in Iceland and financed by advertisements and donations. The radio station has been running for twenty years.*

*The radio station prides itself on having a great variety of different opinions and invites people and politicians to participate in programmes. Politicians and leaders of political parties are regular guests in debates and interviews on the station. The radio station also has calls from the listeners in programmes where the public is offered to call in and share views on politics and social topics with hosts.*

*Útvarp Saga raises its complaint on the fact that it is competing with the State Broadcasting Company's Radio channel 1 and 2 (RÚV 1 and RÚV's Rás 2) in the commercial radio market. The State Broadcasting Company receives funding from the government as well as having income from the sale of advertisements.*

*The State Broadcasting Company (RÚV) is a member of the European Broadcasting Union (EBU).*

*EBU members are public service media (PSM) broadcasters whose output is made, financed, and controlled by the public, for the public. PSM broadcasters are often established by law but are non-partisan, independent and run for the benefit of society as a whole. RÚV is established by law but is not wholly financed by the public. A substantial part of its income comes from sales of advertisements. That makes RÚV a state sponsored commercial broadcaster. Commercial broadcasting (also called private broadcasting) is the broadcasting of television programs and radio programming by privately owned corporate media, as opposed to state sponsorship. Commercial broadcasting is primarily based on the practice of airing radio advertisements and television advertisements for profit. This is in contrast to public broadcasting, which receives government subsidies and usually does not have paid advertising interrupting the show.*

*This makes it a breach of the competition rules of the EEA Agreement as they are laid out in Part IV Competition and Other Common Rules.*

*The breach also violates the European Convention of Human Rights (ECHR), article 10 (Freedom of expression), which states the following: "Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises."*

*The complainant recognises that the article does not prevent States from requiring the licensing of broadcasting, television or cinema enterprises. A state subsidised radio station as the RUV operates (has two channels, RÚV 1 and Rás 2) that receives grants every year from the state budget and is allowed to have income from advertisements is a violation of the competition rules of the EEA Agreement.*

*Útvarp Saga, which is a talk radio station financed solely by advertisement, does not enjoy equal conditions of competition. The aim of the EEA Agreement is to equal conditions of competition and the respect of the same rules. Útvarp Saga does not compete as an opinion talk show radio station on equal ground and in an environment of equal conditions of competition and with respect to the same rules as RÚV, which gets both state grants and is in the advertisement market for radio stations. This is a violation of the competition rules of the EEA Agreement. For an opinion talk show radio station this is also a violation of article 10 of the ECHR. This infringes the right to freedom of expression as guaranteed under article 10, as it compromises the freedom to hold opinions and to receive and impart information and ideas without interference by public authority. RÚV's privileged position in the opinion talk show radio market in Iceland is an interference in the freedom to hold opinions and to receive and impart information and ideas. This dominant position is based on the fact that RÚV both has a dominant position in the advertisement market for opinion talk show radio in Iceland, limiting the possibility of other such radio stations like Útvarp Saga to have income from advertisements (an interference by public authority), and also gets state grant. Get both state grants and income from advertisements as a radio station is not equal conditions of competition and the respect of the same rules, cf. the EEA Agreement.*

### **III. Finding sought from the EFTA Surveillance Authority and legitimate interest**

*See above on point 6 and 7. The complainant wants recognition from ESA that RÚV the State Broadcasting Company and Iceland is in violation of the competition rules of the EEA Agreement.*

### **IV. Proceedings before national competition authorities or national courts**

*The complainant has not brought this issue to the Icelandic competition authorities or filed a lawsuit and wishes that the ESA handles this case. The complainant's view is that ESA is the relevant competent body for the complaint. This complaint is filed in the view that ESA welcomes information from consumers and undertakings concerning potential infringements of the EEA competition rules in Iceland, as is stated in its website.*

*Information given in this form and in other documents thereto is given entirely in good faith.*

*Date and signature.*

*Reykjavík 13. december 2022*

*Arnþrúður Karlsdóttir owner and broadcast director  
Master of Business law MBL*