

EFTA COURT

Request for an Advisory Opinion from the EFTA Court by Héraðsdómur Reykjavíkur dated 12 May 2016 in the case of Fjarskipti hf. v Póst- og fjarskiptastofnun

(Case E-6/16)

A request has been made to the EFTA Court by a letter dated 12 May 2016 from Héraðsdómur Reykjavíkur (Reykjavik District Court), which was received at the Court Registry on 18 May 2016, for an Advisory Opinion in the case of Fjarskipti hf. v Póst- og fjarskiptastofnun on the following questions:

- 1. Can point (a) of Article 2 of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002, on a common regulatory framework for electronic communications networks and services (Framework Directive), be interpreted in such a way that the term “electronic communications network” covers the conveyance of signals that are written as an SMS message on users’ end device connected via a web browser to the “My Pages” web server in a telecommunications undertaking’s web domain, via the public internet and to the PHP script software on the same telecommunications undertaking’s web domain, which receives the signals, processes them and conveys them in turn from the telecommunications undertaking’s web domain to an SMS server (SMSC) in its communications system, which then sends them on over a telephone network to the recipient telephone number?**
- 2. If the answer to Question 1 is in the affirmative, is point (c) of Article 2 of Directive 2002/21/EC to be interpreted in such a way that the term “electronic communications service” covers a service that consists of the conveyance of signals which takes place on a communications network as described in Question 1 when i) a fee is collected for such a service, and ii) when no fee is collected for such a service?**
- 3. If the answer to Question 2 is in the affirmative, is point (d) of Article 2 of Directive 2002/21/EC to be interpreted in such a way that the term “public communications network” covers the electronic communications service described in Question 2, which is provided on an electronic communications network as described in Question 1, irrespective of whether that service is i) available to the public, or ii) available only to all subscribers of the telecommunication undertaking?**