

Statement by the Committee on Industry and Trade 2017/18:NU26, Annex 2

Reasoned opinion of the Riksdag

The Riksdag has examined the application of the principle of subsidiarity in the Commission's Proposal for a Regulation of the European Parliament and the Council on Compliance and Enforcement (COM(2017) 795).

The Riksdag, like the Commission, believes that a well-functioning internal market is of crucial importance when it comes to strengthening competitiveness, growth and employment throughout the EU, which will benefit companies, employees and consumers. Well-functioning market surveillance is therefore of great importance for ensuring the smooth functioning of the internal market and is beneficial to both consumers and traders. The Riksdag therefore welcomes the Commission's proposal for improved market surveillance, in order both to make it possible to ensure that products being sold in the EU's internal market meet the requirements covering a high level of protection of public interests such as health and safety, and to counteract the likelihood that products that are not in line with the set requirements might subject consumers to risks and distort competition in the internal market. The Riksdag agrees with the Commission's view that market surveillance authorities should be given uniform and appropriate powers to be able to efficiently monitor compliance with the EU's harmonisation legislation for products, particularly at a time when delivery chains are developing fast and e-commerce is growing in a global market.

The Riksdag thus does not question the need for improved regulation at EU level as regards market surveillance. Furthermore, the Riksdag's assessment is that the Commission's proposal can be generally considered to comply with the principle of subsidiarity. However, the Riksdag does have objections to some of the proposed strengthened powers for national authorities. Regarding the proposed power to close down a website (Art. 14.3 h), the Riksdag is doubtful about whether such powers can be reconciled with the right to freedom of the press and expression that is protected in the Swedish Constitution. Also with regard to the proposed powers to buy products by means of test purchases, including cases in which this is done under cover (Art. 14.3 g), and the power to order the restitution of profits (Art. 14.3 m), the Riksdag considers that there are certain concerns. Under the Swedish legal system, for example, there is no general obligation to compensate for unauthorised profits. The power to make anonymous purchases in order to discover possible infringements and gather proof may also appear to be somewhat far-reaching. The Riksdag thus considers that the above-mentioned powers should to a greater extent be left to the member states to decide so that they can be formulated in more detail at the national level.

The Riksdag considers that the above-mentioned proposed powers in their current wording go beyond what is necessary to achieve the set objectives and that therefore they are not compliant with the proportionality criterion included in a subsidiarity check. Nor is the Commission's proposal therefore compliant in all its parts with the principal of subsidiarity.