

REPUBLIC OF AUSTRIA

Bundesrat

The President

Vienna, 6 November 2013

Ref.: 27000.0040/30-L2.1 /2013

Dear Mr. President,

At its meeting on 6 November 2013, the EU Committee of the Bundesrat, during the course of its discussions concerning the EU document

COM (2013) 627 final

Proposal for a Regulation of the European Parliament and of the Council laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent, and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012, adopted the enclosed reasoned opinion pursuant to Article 23g(1) of the Federal Constitutional Law (B-VG) in conjunction with Article 6 of Protocol No 2 on the application of the principles of subsidiarity and proportionality.

Yours sincerely,

(Reinhard Todt)

Encl.

To:
José Manuel BARROSO, President
of the European Commission

President of the Bundesrat
A-1017 Vienna, Parliament
Tel. +43 1 401 10-2204 (2387)
Fax+43 1 401 10-2434
reinhard.todt@parlament.gv.at
DVR; 0050369

REASONED OPINION

of the EU Committee of the Bundesrat of 6 November 2013

pursuant to Article 23g(1) of the Federal Constitutional Law (B-VG) in conjunction with Article 6 of Protocol No 2 on the application of the principles of subsidiarity and proportionality

COM (2013) 627 final

Proposal for a Regulation of the European Parliament and of the Council laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent, and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012

A. Reasoned opinion

The project in question does not comply with the principle of subsidiarity.

B. Justification

On 11 September 2013 the Commission published its Proposal for a Regulation of the European Parliament and of the Council laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent, and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012. While the proposal has already been presented in the Council working group, there are as yet no details regarding the Presidency's planning. The proposal aims to create a single market for electronic communications in which the citizens can access these forms of communications without additional costs or cross-border restrictions, and in which businesses can provide their services regardless of where in the EU they are based. To date proposals to amend the EU legal framework for telecommunications and electronic communications have been preceded by public consultations with a broad spectrum of interested parties, with the aim of ascertaining exactly what regulation and appropriate instruments are required in the various fields. However, no such consultations have taken place regarding this proposal. A number of details and definitions which for this or other reasons have been vaguely formulated therefore need to be clarified as quickly as possible. The Bundesrat has fundamental reservations that the consumer will be at a disadvantage because, while the aim is to lower the cost of communications for consumers in general, it is

unclear to the Bundesrat whether Austrian consumers will also benefit. Indeed, the initial rounds of talks on this proposal increased the Bundesrat's concerns in this regard. The fact that communications services would have to be offered on a cross-border basis and therefore at the same price makes it much more likely that national communications costs would rise. The fear is that these costs would be passed on to the consumer, a tactic the Bundesrat totally rejects. Moreover, many of the EU rules for electronic communications in the proposal not only place the users at a possible disadvantage but also the industry itself, which the EU wants to regularly invest huge sums in high-value infrastructure while at the same time burdening it with regulations which seriously restrict their freedom to do business.

The Bundesrat welcomes the intention to draw up Europe-wide rules. However, it doubts whether the current text truly guarantees 'net neutrality'. The text, after an initial analysis, seems to be too far-reaching, leaving too much of the scope for action to the contractual discretion of operators and content providers.

Another issue is the allocation of frequencies which due to the proposed increase in the Commission's powers of intervention would weaken the Member States. Apart from the fact that the Bundesrat rejects the idea of the Member States handing over powers to the Commission, attention must be paid to the necessary coordination efforts and thus to increased bureaucracy. The Bundesrat regrets the fact that in general the idea of promoting competition between providers to the benefit of the users has been put on the back burner. For that reason the Bundesrat rejects the Commission proposal, as it violates the principles of proportionality and subsidiarity.