



EUROPEAN COMMISSION

Brussels, 22.10.2013
C(2013) 6978 final

Dear President,

The Commission would like to thank the Poslanecká sněmovna for its Opinion on the Proposal for a Directive of the European Parliament and of the Council concerning measures to ensure a high common level of network and information security ("NIS") across the Union {COM(2013) 48 final}, and on the Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled "Cybersecurity Strategy of the European Union: An Open, Safe and Secure Cyberspace" {JOIN(2013) 1}.

The Commission welcomes the support given by the Poslanecká sněmovna to the Cybersecurity Strategy and notably to the objective of securing and protecting cyberspace through a coordinated approach.

As regards the delegation of power under Article 9 of the proposed Directive, the Commission stresses that the authorisation criteria for a Member State to participate in the secure information-sharing system are defined in Articles 6 and 7. These authorisation criteria are: (i) the availability of a secure and resilient communication and information infrastructure compatible and interoperable with the secure infrastructure of the cooperation network; and (ii) the existence of adequate resources and processes for the competent authority and Computer Emergency Response Team (CERT) allowing an effective, efficient and secure participation in the secure information-sharing system. The delegated acts would therefore be limited to the implementation of these requirements as set out in the Directive.

As regards the delegation of powers to the Commission under Article 14(5) of the proposed Directive, the Commission stresses that these provisions are identical to those of Article 13a(4) of the Telecom Framework Directive (2002/21/EC). This would facilitate a level playing field for telecom operators and internet enablers. The implementing measures under the Telecom Framework Directive were partly replaced by delegated acts in the proposal as required by the Lisbon Treaty. The Commission would also like to stress that these delegated acts are strictly limited to the definition of the "circumstances" in which public administrations and market operators are required to notify incidents.

*Ms Miroslava NĚMCOVÁ
President of the
Poslanecká sněmovna
CZ – 118 26 PRAGUE 1*

Finally, the Commission stresses that the security management and incident notification requirements under Article 14(1) and (2) apply only to critical information infrastructures as defined in Article 3(8). In addition, a wide margin of manoeuvre is given to the Member States for the transposition of these provisions as the definition provided in Article 3(8) is very broad and the list in Annex II is not exhaustive.

The Commission hopes that these clarifications address the points raised by the Poslanecká sněmovna and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*