



EUROPEAN COMMISSION

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Dear President,

The Commission would like to thank the Senát for its Opinion on the 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 {COM(2013) 627 final}.

The global economy is evolving towards an Internet economy, and Information and Communication Technology (ICT) should be fully recognised as a source of smart, sustainable and inclusive growth. A single market for electronic communications, where the freedom to provide electronic communications networks and services to every customer in the Union and the right of each end-user to choose the best offer available on the market is ensured and is not hindered by the fragmentation of markets along national borders, should promote competition, investment and innovation in new and enhanced networks and services. The benefits arising from a single market for electronic communications should extend to the wider digital ecosystem.

The Commission welcomes the Senát's support for a unified and efficient legislative framework for undertakings providing electronic communications networks and services that will enable undertakings and European citizens to enjoy the advantages of the single European market.

The Commission takes good note also of the concerns expressed by the Senát.

As to the specific concerns expressed in the Opinion regarding the single European authorisation and its ability to achieve the intended objectives, the Commission would like to recall that despite the introduction of the general authorisation system by the Regulatory Framework since 2002, individual notification of activities is nevertheless required in almost all Member States, with corresponding national notification, each differing in terms of modalities and content of the information required. In addition to that, several Member States link direct and indirect additional national establishment and/or proxy requirements to each national notification regime.

*Mr Milan ŠTĚCH
President of the Senát
Valdštejnské náměstí 17/4
CZ – 118 01 PRAGUE 1*

The company wishing to offer services in the whole territory of the EU (while it may have only one business customer in each Member State) has to be authorised under each national regime. This results in administrative burden and increases the costs of providing a service across borders¹. As a matter of fact, heterogeneity of notification requirements as well as the additional requirement linked to the notification was raised by stakeholders in the context of a public consultation carried out by the Body of European Regulators for Electronic Communications (BEREC) on the impact of administrative requirements on the provision of cross-border services.²

In conclusion, the Commission is confident that the single European authorisation would reduce the above mentioned administrative hurdles and guarantee European providers more consistent rights and obligations to operate across the EU.

As regards the Sénat's concerns about the proposed provisions on consumer protection and their ability to achieve the intended objectives, the Commission would like to point out that the tabled proposal harmonises end-user protection rules at a very high standard. This excludes in principle that Member States keep more detailed national sector-specific consumer protection rules as the aim is to ensure consistency in the single market. Nevertheless, the full harmonisation which is envisaged in respect of sector-specific end-user protection rules is in line with a broader tendency in EU consumer protection in recent years. It is pitched at a high level of protection in order to respect as much as possible the choices of Member States which have up to now chosen to go beyond the minimum or facultative provisions of the Universal Service Directive. The Commission is of the firm belief that overall gains in both end-user protection and alignment of business conditions for operators justify such a harmonising step.

The Commission notes the Sénat's concerns about some inconsistencies of the explanatory memorandum, particularly related to the comparison with the development in US or China. In this respect the Commission would like to add that the aim of the proposal is not to predetermine what the future EU market will look like, to define the industry structure or to favour any technological choice. The market itself will decide how the sector will develop. The proposal should facilitate the innovation to thrive and to enable industry to seize the most promising business opportunities, while driving investment in networks, enhancing competition and ensuring maximum benefits for consumers.

The Commission takes note of the Sénat's concerns about a perceived lack of public consultation. The Commission would like to stress that it has engaged extensively with relevant external stakeholders including market players, national regulatory authorities,

¹ The advantages of a single authorisation regime are difficult to quantify as the scale of operations varies with company size. Nonetheless, on the basis of impacts assessed for the Services Directive, it has been estimated that professional advice to ascertain legal and regulatory requirement for advertising the provision of services could amount to at least EUR 100.000. Other estimates suggest that up to EUR 3.600.000 p.a. is needed to ensure on-going compliance with administrative requirements, see Extended Impact Assessment of a proposal for a Directive on Services in the internal market, SEC(2004)21, see in particular Section 4, available at http://ec.europa.eu/internal_market/services/docs/services-dir/impact/2004-impact-assessment_en.pdf.

² BEREC report on the public call for contributions on possible existing legal and administrative barriers with reference to the provision of electronic communications services for the business segment http://berec.europa.eu/files/doc/berec/bor/bor11_55_input_businessservices.pdf.

BEREC and investors in order to assess the state of the market and to determine how to improve conditions for establishing a telecom single market. In this consultation process, which started almost two years ago, broad public events were combined with more targeted consultations to achieve the required breadth and depth of stakeholder inputs, supported by market studies.

In particular, the Commission organised several consultative events attended by stakeholders representing all segments of the industry, consumers and civil society. In addition, the Commission held dedicated discussions with many stakeholders, including a public information session on 17 June 2013 and one on 24 June 2013 with BEREC and the National Regulatory Authorities to discuss the whole range of issues being considered for the Single Market initiative. Discussions have shown a large degree of convergence on the urgent need to overcome the remaining fragmentation of the single telecom market, acknowledging the benefits that would flow from this in terms of additional growth.

With regard to the Senát's concern related to the pace of the adoption process, the Commission would like to stress that the pace of the adoption process needs to be considered in the light of the need of the economic effects of the telecom single market to materialise quickly. Therefore, the key challenge is now to carry out an intensive examination of the proposal with the co-legislators with a view to get it approved timely and to address the obstacles for the full functioning of the single market, and taking into account the forthcoming European Parliament elections. The Commission stresses not only the importance of the proposal in its substance, but also the urgency for its adoption. In the current crisis, Europe can simply no longer afford to forego the enormous potential the telecom single market could bring for growth and jobs.

The Commission hopes that these clarifications address the concerns raised by the Senát and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*