



EUROPEAN COMMISSION

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*Mr Michael MÜLLER
President of the Bundesrat
Leipziger Straße 3 - 4
D – 10117 BERLIN*

Dear President,

The Commission would like to thank the Bundesrat for its Opinion on the Communication on "Investing in a smart, innovative and sustainable Industry – A renewed EU Industrial Policy Strategy" {COM(2017) 479 final}

This Communication brings together all existing and new horizontal and sector-specific initiatives into a comprehensive Industrial Policy Strategy. It aims to maintain and reinforce European industry's leadership in innovation, digitisation and decarbonisation.

The Commission welcomes the support of the Bundesrat for the renewed EU Industrial Policy Strategy and shares its view that digitisation and innovation policies are instrumental for the Union's industrial growth and competitiveness. In particular, it agrees with the Bundesrat that collaboration between research organisations and undertakings is essential to spread knowledge and innovation across the market. Moreover, the increase in the manufacturing share of value added is a positive indicator of the improving performance of our industrial economy. The Commission considers that the automotive sector has a central place in the EU economy and batteries are a key enabling technology for e-mobility and energy. In this regard, the Commission is also committed to help ensuring fair, long-term, secure, sustainable and affordable access to both primary and secondary raw materials for a more resilient, low-carbon and circular economy.

The Commission wishes to reassure the Bundesrat about its remarks on European energy and climate policy. The 'Clean Energy for All Europeans' proposals are fully in line with the provisions of the Treaty on the Functioning of the European Union regarding Member States' right to determine the conditions to exploit their energy resources and their choice between different energy sources. The proposals aim to create a well-functioning internal market for electricity, for which security of electricity supply is of paramount importance. This also implies better coordination of energy policy objectives and better cooperation between transmission system operators, as well as well-designed bidding zones. Concerning the Environmental and Energy Aid Guidelines (EEAG) adopted by the Commission in 2014¹, they will normally cease to apply at the end of 2020.

¹ The EEAG are applied by the Commission for the assessment and approval of State aid for environmental and energy purposes.

The Commission believes that putting the renewed EU Industrial Policy Strategy into practice is a shared responsibility and it counts on Member States and industry to join efforts to strengthen the Union's industrial competitiveness.

In this context, the Commission calls for the swift adoption of the legislative proposals and actions of the Digital Single Market, Energy Union, Circular Economy, Capital Markets Union, Single Market Strategy and the new Skills Agenda as well as the European Union's trade policy. These initiatives are focused on accelerating all types of innovation, digital transformation and decarbonisation, on increasing diversity in investment, addressing skills shortages, and deepening the Single Market to encourage cross-border trade and develop or deepen new business opportunities with existing and new trading partners.

As announced in the Communication, the 'EU Industry Day' took place in Brussels on 22 and 23 February 2018 together with the first meeting of the High Level Industrial Roundtable. These fora facilitate an open and inclusive dialogue with all stakeholders.

For additional technical clarifications on the concerns expressed by the Bundesrat, the Commission would like to refer to the attached annex.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Bundesrat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Elżbieta Bieńkowska
Member of the Commission*

Annex

The Commission has carefully considered the issues raised by the Bundesrat in its Opinion and would like to offer the following observations.

The Commission shares the Bundesrat's view that digitisation and innovation policies are instrumental for the Union's industrial growth and competitiveness. In 2016, the Commission launched the Digitising European Industry initiative to reinforce its competitiveness in digital technologies and ensure that every business in Europe can draw the full benefits from digital innovation. To make sure that all industries are fit for the digital age, the Commission has built the Digitising European Industry initiative on five pillars: i) the European platform of national initiatives on digitising industry ii) digital innovation hubs for all; iii) strengthening leadership through partnerships and industrial platform; iv) preparing Europeans for the digital future; and v) appropriate regulatory framework conditions for digital, e.g. for the free flow of non-personal data². However, the European Union and individual Member States still need to do more to improve Europe's level of digitisation, starting from increasing access to skills, technologies, investments and expertise to small and medium-sized enterprises.

The Communication also complements the ongoing work on small and medium-sized enterprises, the New Skills Agenda for Europe and the Digital Single Market strategy. In line with these policies, the Commission continues its work to create an innovation friendly environment for industry to prosper and takes action to accelerate and improve the uptake of technologies, particularly among small and medium-sized enterprises and traditional industries. In particular, the Commission supports the modernisation of businesses with focus on investments, local ecosystems of innovation and digital transformation, access to technologies and skills, and awareness.

The Commission agrees with the Bundesrat that collaboration between research organisations and undertakings is an important avenue to spread knowledge and innovation across the market. At the same time, fair competition between undertakings must be safeguarded, as it is vital for innovation to be translated into better and affordable goods and services. To this end, the Commission's Framework for State aid for Research, Development and Innovation explains the options for conducting effective public/private collaboration without distorting competition in the internal market.

The Commission recalls that, as provided by Article 194 of the Treaty on the Functioning of the European Union, and without prejudice to its Article 192(2)(c), Union policy measures on energy shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply. The legislative proposals made by the Commission under the Clean Energy for All Europeans package are fully in line with the Treaty provisions.

² COM(2017)495, Proposal for Regulation on a framework for the free flow of non-personal data in the EU.

As regards bidding zones, the Commission is well aware that their delimitation is highly sensitive in Germany as well as other Member States. This being said, it is important to underline that the current Union legislation already provides for substantive requirements on bidding zone configuration³.

The Commission maintains that network development is the optimal solution to structural congestion and supports Germany in the considerable efforts undertaken in this regard. However, should network development not address the issues in the long run, there is a need for alternative solutions. Given the significant cross-border impact of bidding zones, their optimal definition cannot be resolved by any one Member State alone.

The Commission takes note of the approach under discussion in the European Parliament and, similarly, included in the general approach agreed by the Council, which provide for the possibility first to come to agreement between Member States on questions regarding bidding zone delimitation. Only if no agreement is found, the Commission becomes competent to decide. This approach takes into account the concerns raised in legislative discussions.

The level of electricity prices is certainly of considerable importance for industry and the wider economy. Indeed, decisions on bidding zones can have an effect on electricity prices in a certain area. With regard to the concerns raised by the Bundesrat on the level of electricity prices in Germany, it is important to underline that the wholesale electricity price in Germany represents less than 20 % of total average electricity cost. This is notably due to network tariffs, surcharges and taxes. Furthermore, in particular as regards network tariffs, significant differences exist within Germany. From the perspective of a final customer, there is thus (for good reason) currently no identical electricity price on German territory.

Security of electricity supply is of paramount importance for European energy policy. It should be noted, however, that the challenges that the European Union electricity system is currently facing and will increasingly be facing in the future are regional or pan-European and cannot be addressed and optimally managed by individual transmission system operators. This is why transmission system operators already need to cooperate in their daily work across borders, and why such cooperation will be increasingly important in the future. This renders the current legal framework ill-suited to the reality of the dynamic and variable nature of the future electricity system. Enhancing the regional set up is therefore a crucial element when building the market design of the future.

³ These requirements are based on the importance of well-designed bidding zones for the effective functioning of the internal market for electricity. Structural congestions which are neither resolved by infrastructure developments nor addressed in a non-discriminatory manner by allocating capacities at a bidding zone border pose a serious threat to market functioning. This includes serious impacts on other Member States, such as congestion inside their grid, reduced cross-border capacities and risks for network stability. As regards market functioning, bidding zones with significant internal structural congestion distort investment signals, and result in dispatch decisions which do not address actual supply and demand.

To avoid that inefficient solutions are applied at regional level because of lack of agreement between transmission system operators, it is necessary to have a regional entity that can act in the interest of the whole region. This is particularly necessary regarding congestion management. On almost all tasks proposed for regional operational centres, existing legislation already requires coordination in decision-making between transmission system operators. The proposal includes only very limited issues on which regional operational centres could decide. These few decisions are necessary to have a regional entity that can act in the interest of the whole region. None of the decisions interfere with the transmission system operators' core activity related to system security, and the transmission system operator remains entitled to deviate where required for the purpose of system security. All decisions are about coordination of issues which can be agreed weeks or months ahead of actual operations. The Commission fully agrees on the need for a clear delineation of responsibilities, including on liability, and believes this is ensured in the proposal.

The Commission agrees that the automotive sector enjoys a central place in Europe's industrial landscape. Today's automotive industry must embrace the upcoming digital revolution, automated and connected driving, environmental challenges, including the need to shift to clean mobility, societal changes and growing global competition. New business models are emerging and it is important to put in place the framework conditions for a European automotive industry that is competitive in the medium and long terms. To this end, the High Level Group on the Competitiveness and Sustainable Growth of the Automotive Industry in the European Union issued in October 2017 a set of recommendations to address the main challenges and opportunities for the automotive sector up to 2030 and beyond. Meanwhile, a number of measures were also put forward in the Mobility Package of May and November 2017.

The Commission agrees that batteries are a key enabling technology not only for e-mobility but also for energy storage. In October 2017, a European Battery Alliance was launched having as its main objective the establishment of a full battery value chain with battery cells production at its core. The Commission is looking at available regulatory and non-regulatory instruments, including financial means, to support this process together with Member States, financial institutions and the industry and innovation community. A comprehensive action plan is being prepared as part of the Mobility Package III scheduled to be adopted in May 2018.

The Commission is aware that developing a safe and sustainable battery, in particular for electric mobility, is a considerable challenge. Knowledge, financial resources and economic actors across the Union must be brought together. The Commission is aware that research and development projects may be risky, complex and large with benefits going far beyond individual undertakings or a sector of industry. State funding may be necessary to make such projects happen. It is vital, however, to strike the right balance between, on the one hand, the project's achievements in the common European interest and, on the other hand, its impact on the internal market. In order to provide legal certainty for stakeholders, the Commission has specified relevant criteria in a Commission Communication – Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest. The Commission is prepared to look into intended public funding for projects of common European interest.

The Commission welcomes the Bundesrat's remarks regarding small and medium-sized enterprises and their centrality for the European economy. This is why the Commission is implementing many relevant policies and strategies helping small and medium-sized enterprises, as well as start-ups, to expand their operations, including the Capital Markets Union, Digital Single Market and new Skills Agenda. These initiatives are focused on increasing diversity of investment, accelerating all types of innovation, and digital transformation, addressing skills shortages, and deepening the Single Market to encourage cross-border trade and links.

The Commission is committed to helping ensure fair, long term, secure, sustainable and affordable access to both primary and secondary raw materials for a more resilient, low carbon and circular economy of the European Union in line with the objective of the renewed High Level Steering Group of the European Innovation Partnership on Raw materials. Securing a certain level of a sustainable domestic production of raw materials is also crucial to keep the leverage in sourcing from global markets through diversification of supply sources, capture value for the European Union economy and add high value and jobs in the European Union. The Commission is ready to work with Member States and other stakeholders to determine how fit are the relevant policies, mining codes and incentives for exploration to address the strategic needs of the European Union value chains and explore cases where a European Union action could bring an added value. However, it has to be noted that the core competence as regards, for example, land use lies mainly with Member States.

In the context of promoting regional added value, the Commission is financing actions⁴ on a network of mining and metallurgy regions across Europe in support of domestic raw materials supply and its integration in European industrial value chains. The actions address synergies and transfer good practices regarding the raw materials production framework, investment from available regional and other funds and value chain models to boost the business environment in the Union, as well as social sustainability.

⁴ <https://mireu.eu/>; <https://www.interregeurope.eu/remix/>