



EUROPEAN COMMISSION

Brussels, 11.7.2013
C(2013) 4297 final

Dear President,

The Commission would like to thank the Senato della Repubblica for its Opinion on the proposals for a directive on procurement by entities operating in the water, energy, transport and postal services sectors {COM(2011) 895 final} and for a directive on public procurement {COM(2011) 896 final} and apologizes for the delay in replying.

The Commission takes due note of the opinion expressed by the Senato della Repubblica with regard to the principles of subsidiarity and proportionality. The Commission shares the opinion that without such EU intervention, legislation would be more complex and create unjustified obstacles to cross-border activities and that our common procurement framework has an effective added value in terms of savings and best results through increased transparency and objectivity of procedures. As far as the principle of proportionality is concerned, the Commission considers that the transition to e-procurement will optimise and increase the efficiency and transparency of procedures; the limitation of possible yearly turnover requirements will promote the SMEs' access to public procurement and the reduction of documentation requirements should reduce the transaction costs both for contracting authorities and economic operators.

The Commission would like to take this opportunity to react to the other observations made by the Senato della Repubblica.

Concerning the obligation for contracting authorities to motivate any access criteria linked to turnover requirement, the Commission considers that such an obligation would create an unjustified additional administrative burden. In particular, the Commission draws the attention of the Senato della Repubblica to the fact that, as provided for in the proposals, it is only in duly justified circumstances relating to the special risks attached to the nature of the works, services or supplies that the yearly turnover requirements may exceed three times the estimated contract value, and the contracting authority should indicate such exceptional circumstances in the procurement documents.

Regarding the proposed establishment of adequate rules to prevent and punish illicit behaviors in the execution of public procurement contracts, the Commission would like to stress that the execution of contracts falls under national law.

Mr Pietro GRASSO
President of the
Senato della Repubblica
Piazza Madama, 1
IT - 00186 ROMA

Maros Sefcovic
Vice-President

Yours faithfully,

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

delegations. without increasing the institutions' workload by a binding system of short-term of the adoption of legal acts that are essential to the implementation of EU policies, period). The Commission prefers an indefinite duration in order to ensure the continuity undetermined or determined period of time (and automatic extension for an identical provides that the basic act may empower the Commission to adopt delegated acts for an the practical arrangements for the use of delegated acts. The Commission understands Commission on the delegation of legislative power under Article 290 TFEU, which sets Council, the Conference of the Presidents of the European Parliament and the attention of the Senato della Repubblica to the Commission Understanding approved by the contained in the proposal. On this aspect the Commission would like to draw the takes note of the opposition of the Senato della Repubblica to the indefinite period Finally, as regards the delegation of powers under Article 290 TFEU, the Commission

the implementation and application of EU public procurement rules. which are necessary to remedy the identified deficiencies and to substantially improve national level. In this context, it seems important to the Commission to cover all the tasks the Danish Presidency compromise to focus on tasks instead of the structures needed at May 2012, where this issue was debated, a large majority of Member States supported said, the Commission notes that, at the occasion of the Competitiveness Council of 30 of the policy and the potential weaknesses in national legislation and practice. This being remedy more structural problems and to provide immediate feedback on the functioning Commission considers that a single body with overarching tasks would best be able to uniform application of EU law is therefore compromised. That is the reason, the implementation and functioning of the public procurement rules and that the efficient and that not all Member States are consistently and systematically monitoring the Concerning governance and the proposed national oversight body, experience has shown