



EUROPEAN COMMISSION

Brussels, 13.3.2013
C(2013) 1363 final

Dear President,

The Commission would like to thank the Italian Senate for its Opinion regarding the Commission's proposal for a Regulation of the European Parliament and of the Council amending Directives 1999/4/EC, 2000/36/EC, 2001/111/EC, 2001/113/EC and 2001/114/EC as regards the powers to be conferred on the Commission {COM(2012) 150 final} and apologizes for the delay in replying.

The Commission would like to underline that this proposal consists of amending the existing provisions of the above-mentioned Directives which pertain to the powers conferred upon the Commission in order to align them with the new classification of Commission powers into delegated and implementing acts pursuant to Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU). It furthermore also provides for the harmonisation of the delegated powers conferred to the Commission by these directives. Such an alignment and harmonisation concerns only delegated powers.

Therefore, the objective of the proposal is exclusively the alignment and the consistency, among the above mentioned directives, of delegated powers conferred on the Commission.

The Commission has taken note of the different comments made by the Senate in its Opinion, and would like to provide the following clarifications:

The division of the existing Commission powers and the introduction of additional powers have been done on the basis of a thorough screening of the Directives and of the relevant Commission powers. The delegated character of the Commission's powers stipulated there has been decided on the basis of objective legal criteria in accordance with Articles 290 and 291 TFEU.

As regards your reference to essential elements in your paragraph relating to delegated powers, we would like to point out that the qualification of the "technical characteristics related to the products names and definitions" are non-essential elements. The delegation has the objective of giving the possibility for the legislator to leave to the Commission the power of completing non-essential elements of its act and this possibility seems particularly necessary for legislation where - as is the case in this file - prompt updates of the provisions are necessary in order to take account of technical progress. The premise of a delegation is that the legislator has decided not to legislate comprehensively and has chosen to invite the Commission to supplement the elements established by them.

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Regarding the issue of the duration of the delegated powers, it is a common understanding of the European Parliament, of the Council and of the Commission itself that the basic act may empower the Commission to adopt delegated acts for either an undetermined or a determined period of time.

Furthermore, the Commission would like to stress that the delegation of powers to the Commission in the proposal is delimited by many guarantees for the European Parliament and the Council. Moreover, the co-legislators retain control of the delegated power through the possibility to oppose a delegated act adopted by the Commission or even to revoke the delegation of powers to the Commission.

Further to that, in the Communication on Article 290 TFEU {COM(2009) 673 final} the Commission committed itself, in the preparatory phase, to the systematic consultation of the experts of the Member States. Such a consultation will take place in a format and timing which will offer the experts the possibility of providing a valuable contribution to the discussion concerning the content of delegated acts.

The Commission hopes that these clarifications address the issues raised in the Senate's Opinion and looks forward to pursuing our political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*