



## EUROPEAN COMMISSION

Brussels, 2.7.2014  
C(2014) 4420 final

*Dear President,*

*The Commission would like to thank the Senato della Repubblica for its Reasoned Opinion concerning the Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 207/2009 on the Community trade mark {COM (2013) 161 final} and the Proposal for a Directive of the European Parliament and of the Council to approximate the laws of the Member States relating to trade marks (Recast) {COM (2013) 162 final}.*

*The Commission very much welcomes the favourable assessment of the package proposals and the overall support of their objectives by the Senato della Repubblica.*

*The Commission further appreciates the general endorsement of the Senato della Repubblica for the proposed conferral of powers to the Commission to adopt delegated acts on the basis of Article 290 of the Treaty on the Functioning of the European Union (TFEU). In that context, and in view of certain observations raised by the Senato della Repubblica, the Commission would like to point out that the substantial number of delegations foreseen in the Proposal to amend Regulation No 207/2009 would be justified by the necessity to align empowerments granted in Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 40/94 on the Community trade mark, Commission Regulation (EC) No 2869/95 of 13 December 1995 on the fees payable to the Office for Harmonisation in the Internal Market (Trade Marks and Designs), and Commission Regulation (EC) No 216/96 of 5 February 1996 laying down the rules of procedure of the Boards of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to the Lisbon Treaty. The Commission carried out a careful individual examination of the empowerments and concluded that they would meet the criteria of Article 290 TFEU. By their nature, they would be strictly limited to supplementing non-essential elements of the basic act, e.g. Article 45a(b) of the Proposal regarding the procedure for the examination of absolute grounds for refusal or Article 45a(f) concerning the procedural rules for filing and examining an opposition. Delegated acts can only be used to supplement or amend non-essential elements of legislation. Therefore, before proposing delegating powers, the Commission analyses them in the light of the settled relevant case-law of the Court of Justice of the European Union. The empowerments proposed by the Commission will during the*

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

*legislative procedure, be subject to an analysis and possible fine-tuning by the legislator, including the possibility to attach the conditions of revocation and objection.*

*The points made above are based on the initial proposal presented by the Commission which is currently in the legislative process involving both the European Parliament and the Council at which your government is represented.*

*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.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*