



EUROPEAN COMMISSION

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Dear President,

The Commission would like to thank the Riksdag for its Reasoned Opinion concerning the Commission's 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 appreciates that the Riksdag welcomes its approach and confirms that a harmonised single market for electronic communications services would offer more favourable development opportunities for those operators that today are too dependent on the national markets and would lead to improved access to IT-based services and an increase in competition with positive effects on the price and quality of services offered to consumers.

The Commission also noted the concerns expressed by the Riksdag regarding the compatibility of the proposal with the subsidiarity principle.

Firstly, with regard to the Riksdag's position on a possible achievement of the objectives of the Commission proposal through stricter application of the existing regulatory framework, the Commission in its Impact Assessment concluded that the current regulatory framework has not been able to fully deliver its objective to establish a single market for electronic communications, with markets still fragmented along national borders and obstacles to cross-border provision or acquisition of electronic communications. In accordance with the subsidiarity principle, targeted measures at EU level have been designed to remove specified internal market barriers, while limiting EU action to what is necessary to achieve the objectives identified in a fast changing world and technology, where it is essential to act timely, also in view of the state of our economy.

Mr Per WESTERBERG
Speaker of the Riksdag

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Therefore the Connected Continent proposal builds on the existing EU regulatory framework laid down in the Framework, Authorisation, Access and Universal Service Directives, by complementing the existing provisions with additional safeguards needed to tackle the identified market barriers that could not be addressed by the current rules, such as those with regard to market entry of multi-country operators, consistency of regulatory treatment of operators across borders, coordination of spectrum use and assignments for Wireless Broadband, the establishment of clear guarantees for the open internet across the Union, the elimination of unjustified surcharges for cross-border provisions of services and the availability of a high level of end-user protection applicable throughout the Union.

Secondly, on the choice of the legislative instrument, the Commission proposes a Regulation as it ensures the removal of the abovementioned barriers in a timely and transparent manner. In particular, the proposal addresses issues in a fast changing world and technology, where it is essential to act timely, also in view of the state of our economy.

The adoption of a directive for such specific measures would have had little added value, while taking much more time to have them implemented across the Union. If the Commission took that much longer path, compared to a focused legislative instrument tackling the specific identified bottlenecks, with immediate effects in the market once adopted, each year of delay would amount to losing significant GDP growth potential (up to 1%). Finally the overall gains as regards both end-users' protection, directly applicable in their relationships with providers, and in the alignment of business conditions for operators, justify such a harmonising step by regulation as a proportionate measure. As to virtual wholesale access products, the same form has been chosen as for the introduction of Local Loop Unbundling, while leaving its imposition as a remedy to the National Regulatory Authorities. In particular, the availability of common rights within the Single Market enshrined in a directly applicable legal instrument will ensure their transparency across the Union, such as in other similar examples provided in EU law, like for Air passenger's rights enshrined in Regulation (EC) No 261/2004 or Regulation (EC) 924/2009 on cross-border payments.

Thirdly, on the need that the provisions of the proposal do not conflict with the freedom of the press and of expression in Sweden, the Commission's proposal aims at preserving the open character of the Internet across borders. Actually, the Commission considers that given the importance of net neutrality for the Single Market, its fundamental principles should be part of a legislative instrument at EU level.

In this way, the proposal can prevent practices as well as anti-competitive behaviour of electronic communications providers as well as of providers of content, applications and services affecting such freedom, as it prohibits blocking, throttling or discrimination against specific content, applications or services within the limits of any contracted data volumes or speeds. Moreover, national regulatory authorities are required to monitor markets and are empowered to impose minimum quality of service requirements. This is an additional safeguard to ensure the open character of the internet.

All content, services and applications available over the open Internet will be accessible to all end-users and the Commission therefore considers this should ensure compatibility with fundamental freedom of press and speech rights in Sweden.

Moreover, when an electronic communications provider decides to provide specialised services, such as IP-TV, the proposal ensures that the quality of the best-effort internet is maintained at a high level.

Fourthly, on the shift of powers from the Member States and the national supervisory authorities to the Commission and the EU institutions, the Commission would like to stress that in line with the objective to ensure a regulatory environment consistent with the development of a single telecom market, the proposal seeks to achieve the right balance between the need to ensure regulatory consistency and the respect of national competences in accordance with the subsidiarity principle, by envisaging mechanisms that may facilitate day to day coordination of regulatory measures in respect of national competences limited to what is necessary and in accordance with the subsidiarity principle.

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

Yours faithfully,

*Maroš Šefčovič
Vice-President*