



20.11.2013

NOTICE TO MEMBERS

(116/2013)

Subject: Reasoned opinion of the Austrian Federal Council (Bundesrat) on the 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, and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012
(COM(2013)0627 – C7-0267/2013 – 2013/0309(COD))

Under Article 6 of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, any national parliament may, within eight weeks from the date of transmission of a draft legislative act, send the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity.

Under Parliament's Rules of Procedure the Committee on Legal Affairs is responsible for compliance with the subsidiarity principle.

Please find attached, for information, a reasoned opinion by the Austrian Federal Council (Bundesrat) on the above-mentioned proposal.

REASONED OPINION

pursuant to Article 23g (1) of the Austrian Constitution in conjunction with Article 6 of Protocol No 2 on the application of the principles of subsidiarity and proportionality

of the Federal Council's Committee on EU Affairs of 6 November 2013

COM(2013)0262

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, and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012

A. Reasoned Opinion

The proposal under consideration is incompatible with the principle of subsidiarity.

B. Reasons

On 11 September 2013 the Commission published its proposal for a Regulation laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent, and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012. Initial presentations on this topic have also already been given in the Council working party, though at present no details are available on the Presidency's timetabling plans. The objective of the proposal for a regulation is to create a single market for electronic communications in which citizens can have access to these forms of communication without extra charges or restrictions as a result of borders, and businesses can thus provide their services irrespective of where in the EU they have their registered offices. Proposals to amend the European legislative framework on telecommunications and electronic communications have hitherto taken place after public consultations with wide-ranging stakeholder involvement, the aim of which was to investigate the concrete need for legislation (including appropriate legislative instruments) in the various sectors. The Bundesrat notes that this has not been the case with this proposal. Rapid clarification is therefore needed on a number of details and definitions which for one reason or other have not been clearly formulated. The most fundamental concerns arise from the point of view of the consumer, since while it is desirable for communications costs to the individual consumer to fall across the board, it is not clear to the Bundesrat that this will be the case in Austria. On the contrary, these fears have been compounded in the first rounds of discussions on the this proposal. The fact that services will now have to be offered across borders, and thus at the same price, massively increases the likelihood that this will increase communications costs at national level. It is to be feared that these costs will be passed on to the

consumer, which is something that should be firmly rejected. Furthermore, the proposal for a regulation contains a large number of EU rules for the electronic communications sector as a whole which threaten to disadvantage not just consumers but also businesses in the sector, which are regularly called on by the EU to make massive investments in high-value infrastructure, while proposals like this impose on them heavy regulatory burdens which significantly restrict their economic freedom of movement.

The move towards to a Europe-wide system of rules is to be welcomed. However, whether this proposal as currently worded will actually ensure net neutrality is open to doubt. On a first reading the text seems too far-reaching and to permit too many opportunities for interference in the contractual freedom of operators and content providers.

Another issue is the allocation of radio spectrum, an area in which the Member States would be weakened by the proposal to enhance the Commission's rights of intervention. Apart from the fact that the transfer of powers from the Member States to the Commission is something that should be rejected, we must also consider the cost of coordination and the growth of red tape that necessarily goes with it. Overall, the idea of promoting competition among providers in the interest of users as a regulatory goal has regrettably been sidelined. This Commission proposal for a regulation should therefore be rejected, as it breaches the principles of proportionality and subsidiarity.