

WRITTEN QUESTION P-1119/09
by Cornelis Visser (PPE-DE)
to the Commission

Subject: Disclosure of advice/opinions on the revision of the Broadcasting Communication

In November 2008 the European Commission published its proposal for revision of the Broadcasting Communication. This has not only caused grave disquiet among a very large number of EU Member States (22 Member States have communicated their serious objections on this subject to the European Commission, 19 of them having done so in a position paper), but it has also led the European Parliament to question the proposal in so far as it could restrict the powers of the Member States. The European Parliament is due to hold a public hearing on the draft Broadcasting Communication on 5 March 2009. The revision of the Broadcasting Communication involves an overriding public interest.

In joined cases C-39/05 and C-52/05, 'Kingdom of Sweden and Maurizio Turco versus the Council of the European Union', the Court of Justice held on 1 July 2008 that Regulation No. 1049/2001 regarding public access to European institutions' documents (the Public Access Regulation) contained, in principle, an obligation to disclose legal advice/opinions on proposed legislation. Only in special cases are exceptions to this principle possible. The Public Access Regulation too includes a provision compelling disclosure where there is an overriding public interest.

The case described above leads to the following question.

1. Has the Commission's Legal Service or the Legal Department of DG COMP written opinions concerning the revision of the Broadcasting Communication? Have any other documents been drawn up for the revision of the Broadcasting Communication?
2. If so, will these opinions and other documents be disclosed to the European Parliament first of all on the basis of the European Commission's duty of political accountability to the European Parliament or, alternatively, on the basis of the Public Access Regulation?