

Statement by the Committee on Transport and Communications

2013/14:TU5

Subsidiarity check of the proposal from the Commission for a Regulation on laying down measures concerning the European single market for electronic communications

APPENDIX 2

Reasoned opinion of the Swedish Parliament

The Riksdag finds that the purpose of the Commission's intended measure is laudable since a harmonised internal market for electronic communication services will provide more favourable opportunities for development for the actors who today are far too restricted to national markets. For European consumers, this would mean improved access to IT-based services and assistance resulting from the increased competition that is expected to arise. The competition can in turn be expected to have positive effects on price and quality of the services that the actors in the telecom market wish to offer. To begin with, the Riksdag sees no reason to make any other assessment of the subsidiarity aspect than the one the Government makes in its explanatory memorandum (2013/14:FPM8), because the Commission's proposal concerns amendments to existing legal instruments which the individual member states do not have the power to amend.

In the light of the fact that the Riksdag's subsidiarity check also includes a certain degree of proportionality assessment, the Riksdag wishes, however, to express the following misgivings concerning the Commission's proposal to the European Parliament and the Council's Regulation on measures concerning the European single market for electronic communications and to achieve a connected continent [COM(2013) 627].

The Riksdag puts into question whether the proposal, from the point of view of proportionality, is suited to its purpose, and argues instead that there are other and less intrusive ways than those considered by the Commission to secure a harmonised market for e-com services. The Riksdag shares in this respect the Government's view that the Union's existing regulations and directives should be adequate when it comes to achieving the objective. What is required is primarily a stricter application of the existing regulatory framework by means of improved

supervision of the Commission and more effective national application of the law. The Riksdag thus questions the Commission's choice to proceed with an extensive proposal for a Regulation instead of proposing adjustments to the existing regulatory package which is mainly in the form of a directive. There are far too many components in the European Commission's package of measures which could easily be feared may conflict with the proportionality aspect in the principle of subsidiarity. In this connection, the Riksdag, like the Government, would like to emphasise how important it is that the provisions in the proposal do not come into conflict with Swedish freedom of the press and freedom of expression.

To support its assessment, the Riksdag also wishes to refer to the statement by the European cooperation body BEREC (Body of European Regulators of Electronic Communications) which caters for all the national regulatory authorities in the EU in the e-com sector. Admittedly, BEREC does express its support for the Commission's objective to establish a common European market for electronic communication, while the organisation at the same time expresses a whole range of misgivings concerning the proposal in its present form. BEREC considers it unavoidable that the proposal will have far-reaching legal consequences which have not been considered to a sufficient extent by the Commission. In BEREC's assessment of the Regulation, it would also in reality mean a substantial shift of powers from the member states and the national supervisory authorities to the Commission and EU institutions.

In summary, the Riksdag considers that the proposal in its current form is not compatible with the proportionality criterion which is included in the examination of the application of the principle of subsidiarity.