



## EUROPEAN COMMISSION

Brussels, 17.7.2013  
C(2013) 4516 final

*Dear President,*

*The European Commission would like to thank the Senat for its Reasoned Opinion on the European Commission proposal for a directive of the European Parliament and of the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures {COM(2012) 614 final} and apologises for the delay in replying.*

*The analysis and impact assessment of the European Commission in preparing this proposal make a strong case for pursuing greater representation of women on boards as well as the clear benefits to businesses resulting from a more gender diverse boardroom.*

*In principle, Member States have the possibility to act to improve gender balance on boards on their own. In practice, however, the vast majority of Member States of the European Union are not currently making use of this possibility or their actions are so diverse that they often lead to very divergent results. Moreover, the current figures reveal that decades of self-regulation have not led to satisfactory results. The last attempt by the European Commission to encourage self-regulation was on 1 March 2011. At that time, the Commission invited listed companies to sign the "Women on the boards pledge for Europe" and to make a credible commitment to raising the number of women on their boards. The results of this initiative were very disappointing as only a handful of companies signed the pledge. The current figures speak for themselves: EU-wide, 85% of non-executive board members and 91.1% of executive board members are men. Despite an intensive public debate and some voluntary initiatives at national and European level, the situation has not changed significantly in recent years.*

*After having thoroughly evaluated the present situation in the impact assessment, the Commission has come to the conclusion that action by Member States individually will not achieve the objective of a more balanced gender representation on company boards by 2020 or at any point in the foreseeable future. Consequently, the Commission took action at EU level as this is necessary in order to achieve the objective of gender balance on the boards of listed companies.*

*The Commission has fully recognised that in some Member States efficient measures already exist and that those measures, adapted to conditions existing in each Member State, should continue to apply. Therefore, the proposal allows Member States to continue following a nationally devised course of action embarked upon before the entry into force of the proposed directive if it can be shown that this approach is of equivalent*

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*effectiveness in terms of reaching the target of a 40% representation of both genders on company board by 2020. This factor reinforces the compliance of the Proposal with the principles of subsidiarity and proportionality.*

*In reply to the assertion that the proposed directive will not be effective as a result of not harmonising entirely the recruitment procedures and because it allows keeping in force the equally effective national measures, the Commission would like to draw the Senate's attention to the fact that minimum harmonisation is a firmly established legislative approach in the EU. The proposed directive introduces only such changes to national company law that are strictly necessary for the minimum harmonisation of requirements for the appointment decisions. The Commission considers that this approach is both effective and proportionate.*

*The Commission would like to stress that, while the proposal is a gender equality legislative measure based on Article 157(3) TFEU, it aims to contribute to better corporate governance, better company performance and improvement of the EU economy as a whole, in particular as far as female employment rates and the gender pay gap are concerned. The Commission remains of the opinion that the draft directive can also help to avoid possible problems related to maintaining a competitive level-playing field in, and proper functioning of, the internal market.*

*The Commission hopes that these clarifications address the concerns raised in the Reasoned Opinion of the Senat and looks forward to continuing our political dialogue in the future.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*