

COMMUNICATION

**from the European Affairs Committee of the Federal Council
to the European Commission, the Council and the European Parliament
pursuant to Article 23g (1) of the Austrian Constitution
5 July 2017**

COM (2017) 257 final

Compliance Package

Proposal for a Regulation of the European Parliament and of the Council setting out the conditions and procedures by which the Commission may request undertakings and associations of undertakings to provide information in relation to the internal market and related areas

Europe is the world's largest single market where citizens and businesses have the right to pursue their activities across borders. The single market is one of the key achievements of the European Union, benefiting citizens as well as businesses in the European Union in many areas. Compliance with EU rules is essential. In its Communication "Upgrading the Single Market: more opportunities for people and business", the Commission primarily referred to a smart enforcement strategy aimed at deepening the Single Market and improving its functioning.

In the European Commission's opinion, one of the difficulties encountered in ensuring compliance with internal market rules is access to data. In particular, the Commission refers to the lack of timely access to reliable data.

The Commission itself does not have the power to collect information with a view to enforcing internal market rules.

To establish an efficient enforcement system, the European Commission therefore proposes, as a measure of last resort, a regulatory initiative allowing it collect information directly from selected market players of the respective Member States.

The proposed regulation is intended to specify substantive and procedural conditions under which the Commission is empowered to request information from undertakings and associations of

undertakings required for the performance of their tasks in certain policy areas. Such empowerment is to cover all those economic sectors within the internal market for which TFEU has foreseen common policies (internal market, agriculture and fisheries [excluding the conservation of marine biological resources], transport, environment and energy).

The proposal is to improve the basis for infringement proceedings and help to establish areas in which regulatory intervention is necessary. The Commission underlines that the investigative tool created through this initiative is a measure of last resort to be applied where it cannot obtain the information required by other means. The Federal Council underlines that this initiative must remain a measure of last resort.

The Commission mentions a number of examples from the area of consumer protection where information can be obtained more effectively by means of this tool (e.g. price discrimination on the basis of residence, geo-blocking). In the event of serious problems with the application of Union law in the areas of the internal market, the Commission intends to use the Single Market Information Tool (SMIT) to request information in order to better enforce internal market rules and to draft proposals for political measures. For example, through the use of this tool it would be possible to request information directly from undertakings about their cost structure, pricing policies, profits or employment contracts.

However, the Commission's request for information should only cover information that is likely to be at the disposal of the undertakings or associations of undertakings concerned in order to minimize costs and the administrative burden.

The added value of this project, as compared to the intended benefit, should therefore be specified in greater detail.

Moreover, the Commission is to be precluded from issuing requests for information to micro-undertakings. As regards SMEs, the Commission is required to take due account of the principle of proportionality and ensure that no additional costs are incurred by SMEs through the collection of data for the purpose of replying to a request issued through the investigative tool. Finally, the proposed regulation is to empower the Commission to impose fines and penalty payments, if undertakings or associations of undertakings supply inaccurate, incomplete or misleading information in response to a request for information issued by the Commission or do not supply the information requested by a certain deadline. The Federal Council recalls the clear division of competences within the framework of the rules governing the EU Single Market.

The Federal Council welcomes the exemption of micro-undertakings and suggests that this exemption of micro-undertakings be more strongly emphasized.