

NEELIE KROES

VICE-PRESIDENT OF THE EUROPEAN COMMISSION

Brussels, 30 SEP. 2013

Dear Mr Melding,

I would like to thank the National Assembly for Wales for its letter concerning the Proposal for a Regulation of the European Parliament and of the Council on measures to reduce the cost of deploying high-speed electronic communications networks {COM(2013) 147 final}. Your letter has been transferred to me by Vice-President Šefčovič.

The development of the digital economy is a key driver for creating growth and jobs in Europe and has therefore a major role to play in Europe's economic recovery. Hence the ambitious broadband targets set out in the Digital Agenda for Europe to be reached by 2020. Moreover, ubiquitous high-speed networks are a prerequisite for bridging the digital divide and ensuring regional cohesion. Investments in Europe are lagging behind the rest of the world, so if we are to unlock the potential of the digital economy and strengthen Europe's competitiveness, our efforts will have to be stepped up significantly. The measure which the Commission proposed in March has the potential to reduce costs of EU-wide deployment by up to 30% (or 60 billion euros), notably by allowing the use of existing passive infrastructure under certain conditions and by cutting red tape.

The proposed Regulation is one of the 12 key actions identified in the Communication 'Single Market Act II: Together for Growth'¹ which will boost growth, employment and confidence in the Single Market and generate real effects on the ground.

I took good note of the concerns expressed by the Assembly and would like to react, at this stage, as follows:

Mr. David Melding AM
Chair of the National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

¹ Communication from the Commission to the European Parliament, the Council, the Economic and social Committee and the Committee of the Regions, COM(2012)573 of 3.10.2012, http://ec.europa.eu/internal_market/smact/docs/single-market-act2_en.pdf.

The proposed Regulation aims at removing barriers to the functioning of the Single Market, which are caused by the existence of a patchwork of rules at national and sub-national levels. Such patchwork causes delays in network deployment, and affects the costs. In our view, addressing such fragmentation can best be achieved at EU level. Action at Union level is also better suited to ensure equal treatment and non-discrimination of undertakings and investors throughout the EU. In particular, it is an obstacle to the completion of the digital single market that utilities may offer their physical infrastructure in one Member State and not in another. Another obstacle results from the patchwork of rules, applicable in the different Member States which causes delays in network deployment, and affects the costs. While the deployment of networks is effectively locally implemented, it is decided, financed and designed at national and supra-national level. Leaving aside international connectivity, which has a cross-border character per se, when electronic communications providers are deploying high-speed broadband, they do it on an efficient scale, which has effect at EU level.

The proposal follows from a request from the Heads of State and Government meeting at the European Council in March 2012 to prepare measures to reduce the costs of roll-out of broadband in the EU². Last December, the European Council endorsed a legally binding instrument at EU level as part of the so-called Single Market Act II³. The type of legal instrument, a Regulation, was carefully chosen by the Commission in view of its efficiency and effectiveness: by focussing on a limited number of directly applicable rights and obligations, it aims at removing identified obstacles and barriers to the development of the digital single market, without harmonising and interfering with organisational issues, which are left to the discretion of Member States.

Furthermore, in view of the current level of underinvestment, important steps need to be taken rather urgently. Hence the choice of a Regulation, which can deliver results quickly, rather than a Directive, which would need a significant amount of time for transposition and could not achieve the same level of harmonisation in the context of a fragmented single market.

The Regulation builds on national best practice and aims at scaling them up at EU level. National best practice is not affected by the proposal. In accordance with the principle of subsidiarity however, Member States may adopt more detailed rules or provisions complementing the rights and obligations specified in the proposed legal instrument, for example to establish data bases of existing physical infrastructure at the level of detail they believe best. With regard to procedural issues, the proposal respects the constitutional distribution of powers of Member States, especially those with decentralised exercise of power, such as the UK, by allowing Member States to allocate the powers provided by this Regulation to the authority and at the level of aggregation which is best suited to exercise it.

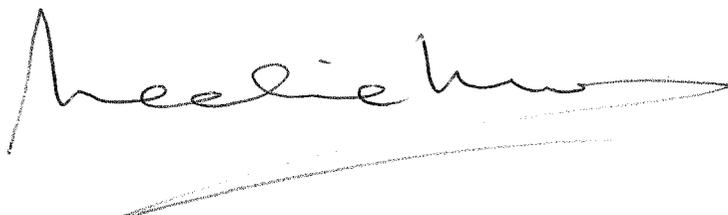
² Conclusions of the European Council of 1/2 March 2012, EUCO 4/2/2012, available at <http://register.consilium.europa.eu/pdf/en/12/st00/st00004-re02.en12.pdf>, page 5.

³ Conclusions of the European Council of 13/14 December 2012, EUCO 205/12, <http://register.consilium.europa.eu/pdf/en/12/st00/st00205.en12.pdf>, item 17.

Lastly, the possibility of Member States to exempt, for proportionality reasons, from the application of this Regulation categories of infrastructure or buildings further guarantees in our view that the Commission has taken due consideration of the principle of subsidiarity.

I hope that these clarifications address the concerns raised by the National Assembly for Wales and look forward to continuing our political dialogue in the future.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Medina", with a long horizontal flourish extending to the right.