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from: UK House of Lords
date of receipt: 31 May 2013
to: The President of the Council of the European Union

Subject: 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

- Opinion on the application of the Principles of Subsidiarity and Proportionality¹

[doc.7999/13 TELECOM 60 COMPET 177 CODEC 686

+ ADD1 +ADD2 + ADD3 + ADD4 + ADD5 + ADD6 COM(2013) 147 final]

Delegations will find attached for information a copy of the above opinion.

¹ The translation can be found at the Interparliamentary EU information exchange site IPEX at the following address : <http://www.ipex.eu/IPEXL-WEB/search.do>



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SECRETARIAT DU CONSEIL DE L'UNION EUROPEENNE	
56E13/05326	
REQULE	23 MAI 2013
DEST. PRINC.	M. PIETRAS
DEST. COP.	SERVICE JURIDIQUE
	M. CLOOS

20 May 2013

Dear President,

7999/13 – 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

Thank you for the above Communication, which was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 13 May 2013. The Committee was pleased to see that the Digital Agenda initiative is progressing, and on the whole, welcomed the measures within the proposal.

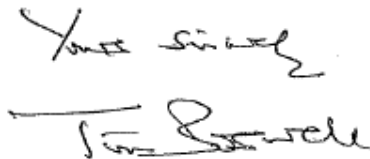
As drafted, the proposal appears to address the aims of reducing the cost and enhancing the efficiency of deploying high-speed electronic communications infrastructure. Through encouraging infrastructure sharing and co-deployment, as well as instituting a central information/permit allocation point, the Commission appears to address the aim of lowering the barriers to entry for new network operators. Similarly, the provision for high-speed broadband facilities to be built-in to new or newly renovated buildings seems to fulfil the objective of making the rollout easier and less costly in the future – since you state that making such provisions retroactively is more expensive.

However, we were concerned that the proposal does not comply with the principle of proportionality – the notion that the measure used must be suitable to address the aim, in the sense that there should not be a less onerous way of doing it. We do not believe that the case has sufficiently been made, for the use of a Regulation as opposed to a Directive which would constitute a less rigid legal instrument. In your explanatory notes, you observe that one of the aims of the proposal is to allow some leeway for Member States. In the light of this observation, we suggest that a Directive would be a better legislative option, enabling Member States to implement the measures through national legislation, rather than being directly bound by EU legislation. This would still achieve the stated aim of setting minimum rules and standards across the EU.

We note that the measures supported by the draft Regulation (infrastructure sharing, information provision, street works coordination and in-built infrastructure sharing) would all be implemented at a local level. Although we acknowledge that nonetheless, there are benefits to legislation being implemented at EU level, we maintain that it is important that the detail of legislation in this area fits in to the national legislative framework. An example of this is the specific framework in UK, which exists in relation to wayleaves, where compensation is given to an individual who enters into a wayleave contract in contrast to other EU Member States. The use of a Directive rather than a Regulation would allow Member States to take into account their very different national legislative frameworks in implementing the proposed measures.

We look forward to a response in due course.

I am copying this to Ed Vaizey MP, Minister for Culture, Communications and Creative Industries, Department for Culture Media and Sport, William Cash MP, Chair of the Commons European Scrutiny Committee, Sarah Davies, Clerk to the Commons European Scrutiny Committee, Paul Hardy, Legal Adviser to the Commons European Scrutiny Committee, Les Saunders (Cabinet Office), Simon Rushbrook, Departmental Scrutiny Co-ordinator, Department for Culture Media and Sport, Alyn Hicks, Assembly Clerk, Committee for the Office of the First Minister and the deputy First Minister, Northern Ireland Assembly, Steve Farrell, Clerk, Infrastructure and Capital Investment Committee, Scottish Parliament, Ruth Hatton, Deputy Clerk, Legislation Office, National Assembly for Wales and to Jenny Goldsmith, Assistant Clerk, European and External Relations Committee RACE (Real Action on Carbon Emissions) Co-ordinator, Scottish Parliament.



Lord Boswell
Chairman of the European Union Committee