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**EUROPEAN COMMISSION**

Cabinet of Mrs Reding

The Head of Cabinet

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Dear Ambassador

Please find attached a reply from Mrs Viviane Reding, to the letter of 30 January 2008 from Mr Frank Heemskerck, Minister for Foreign Trade of the Kingdom of the Netherlands.

Yours sincerely

Rudolf Strohmeier

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VIVIANE REDING
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Brussels, 26 February 2008
D(2008)417 - A592

Dear Minister

Thank you for your letter of 30 January 2008 supplementing the Netherlands' position on the Commission's proposals to review the EU regulatory framework for electronic communications. Your input is valuable to us and contributes to the discussion on many important issues relating to the Commission's proposals. I note, in particular, your comments concerning the handling by the Commission of an earlier notification concerning the Dutch cable market and would welcome the opportunity of our forthcoming meeting to discuss this point further.

I am also glad to note your support for the Commission's proposals in a number of respects, such as the need to introduce deadlines for making or renewing market analysis, the strengthening of NRA independence with regard to certain specific responsibilities, and the proposal to give the NRAs the power to impose functional separation.

As regards the proposal for a new European telecoms Authority, the Commission believes that there are substantive tasks that need to be tackled. We both agree that the ERG's role in monitoring the consistency of market regulation decisions by NRAs must be strengthened. In the Commission's view, the Authority will provide the means for establishing an effective partnership between the Commission and the NRAs on issues where European consistency is needed, such as: market definitions, analysis and remedies, and the definition of trans-national markets. At the same time it will provide a cost-effective platform for addressing pan-European issues that reach beyond those that are within the purview even of an enhanced ERG, such as network and information security, implementation of the 112 emergency call number, and the administration of the European Telephony Numbering Space.

Mr Frank Heemskerk
Minister for Foreign Trade of the
Kingdom of the Netherlands
The Hague

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The need for action goes further than the examples of pan-European services you mention, since for example in the case of mobile communications, ubiquitous, seamless and reasonable access is still not offered to citizens due to fragmentation in national markets.

As far as spectrum is concerned, I would like to point out that it is not an area where the ERG plays a role today, advisory or otherwise. Moreover the European Conference of Postal and Telecommunications Administrations (CEPT) is recognised in the current framework (Radio Spectrum Decision) as a technical centre of expertise for the Community. In this it fulfils a valuable role, but its organisation is not suited for providing other functions which are increasingly necessary for efficient spectrum management, notably from the perspective of policy and of regulatory and economic matters.

As you rightly recognise, the regulatory framework must be applied in a consistent way within the European Union by NRAs and this requires cooperation, coordination and review by and between the NRAs and the European Commission. It is not a question of the Commission assuming a central implementation power leading to a uniform outcome across the European Union, but it is of the utmost importance to find mechanisms that lead to more consistency in the regulatory approach taken by NRAs so that similar problems in comparable situations are not treated differently. However, what seems clear to many parties is that the current cooperation and coordination approach does not seem efficient and that the institutional model has to be adjusted to cope with these issues.

In building an effective partnership between NRAs and the European Commission, the European Commission has concluded that the NRAs require a European home where they should feel comfortable and in control. In contrast to the existing Commission body, the ERG, the Authority is therefore intended to give the national regulators the distance that they require from the Commission and to provide the institutional basis for a further development of this cooperation between regulators along the lines you indicate. Whilst serious consideration was given to this point, I should mention that the European Commission concluded that it had reached the limits of what it was possible to achieve with the ERG model. The agency model will enable the national regulators to articulate more clearly their position, to be more visible and to operate in a more transparent manner.

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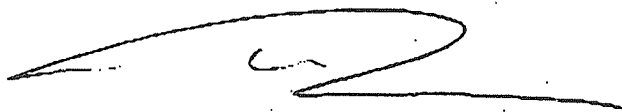
The Authority will thereby constitute a higher status, stable and solid basis under Community Law for creating the European home that the regulators need.

Finally, I would like to stress that these enhanced cooperation and coordination mechanisms, including the Authority, do not serve to indicate that regulation now has a more permanent character. On the contrary, these mechanisms will reinforce the effective application of the regulatory framework that maintains as its fundamental underlying principle that ex ante regulation should only be applied where it is needed. In other words, the Authority, by encouraging the consistent application in all Member States of effective and appropriate regulation is likely to bring forward the moment that it might be concluded that the enduring infrastructure bottlenecks have been adequately dealt with and regulation can therefore be withdrawn.

In conclusion, the Commission is not looking for more powers, but for a better system to deliver the benefits of the internal market to industry and citizens alike.

I look forward to discussing these issues in our forthcoming meeting.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'R' followed by a horizontal line.