

Internal Market, Industry, Entrepreneurship  
and SMEs Directorate-General  
att. Mr Giuseppe Casella  
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Fachverband der  
Mineralölindustrie  
Association of the Austrian  
Petroleum Industry

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Ihr Zeichen, Ihre Nachricht vom

Unser Zeichen, Sachbearbeiter  
ca/fa

Durchwahl

Datum  
22.02.2017

**Subject: Lower Austrian state law on the installations of heating systems powered by fossil liquid and solid fuels in new buildings (TRIS procedure 2016/624/A)**

Dear Mr Casella,

On behalf of the Austrian Petroleum Industry Association, I would like to express our serious concerns regarding the proposed amendment to the Lower Austrian Building Code 2014, which was recently notified by the Austrian authorities under TRIS registry file number 2016/624/A. In particular I would like to draw your attention to some critical points regarding the notified amended legal act.

The provision in the Lower Austrian Building Code, in particular Article 58 (1a), bans the installation of central heating boiler systems designed to burn liquid and solid fossil fuels in new buildings in Lower Austria as of the beginning of 2019. The initial aim of this provision was to contribute to EU climate policy by cutting greenhouse gas emissions. However, in our view the measure taken is not entirely proportional to the desired objective. A ban of installations of specific technologies without taking into consideration the economic, social and geographical conditions hampers the competition between all technologies available on the market and incurs additional costs for citizens without actually contributing to the EU Climate Policy. The amendment of the Lower Austrian Building Code is randomly discriminating against certain fuels. This seems to be an unjustified ban of a certain type of technology based on EU climate policy objectives.

Instead of an unjustified banning of specific technologies by relating to overall climate policy objectives, competition between all technologies available on the market should be promoted. However, the currently foreseen amendment of the law would result in a loss of competition. Consequently the demand for above mentioned central heating boiler systems decreases. Moreover, the systems could still be used throughout the European Union, while its use would be significantly limited in some parts of Austria. In our opinion this interferes with the principle of the free movement of goods according to Art 34 TFEU.

The Austrian Petroleum Industry Association therefore supports to modify the Lower Austrian Building Code as notified, by considering greenhouse gas reduction policies that do not discriminate between oil and gas and that allow market players and innovation in heating technologies to support the use of low emission heating technologies. Thus, I am inviting you to consider our input when evaluating the notification under TRIS File 2016/624/A and remain at your disposal for any further information you may need.

Thank you in advance for your attention and best regards,

A handwritten signature in black ink, appearing to read 'Capek', with a stylized, flowing script.

Dr. Christoph Capek