



Response of CEA on the EC's Social Services of General Interest Questionnaire

Ad Question 1)

Exemptions from competition law, as a general rule, are to be legitimated by individual member states, subject to any rulings by the EU Courts. The principles of freedom and autonomy of contracting parties require that any exemption from competition justified by Art. 86 (2) of the EC treaty has to be proportionate. In practice this means that there has to be a proportionate relationship between any State restrictions on competition against the fundamental concept of the European Single Market as a competition-oriented market economy.

Among the services that are mentioned in the communication as being candidates to be put under the scope of social services (of general interest) are the following:

“Other schemes, especially complementary social security schemes, organised in various ways (mutual or occupational organisations), covering the main risks of life, such as those linked to health, ageing, occupational accidents, unemployment, retirement and disability.”

Against this background, CEA is concerned that (supplementary) funded systems in the areas of occupational and private pensions (including insurance coverage in the case of disability), health and accident insurance and unemployment insurance could be exempted from European competition rules. In these market segments of private insurance, however, competition delivers choice and affordability to the benefit of consumers. Moreover, these activities are subject to a regulatory framework which is stipulated in a comprehensive way by the EU Insurance Directives both at a national level and across the borders.

The CEA hopes that the EC's fact finding report will provide an evidence-based stocktake of those social services in the EU member states that are offered by markets and under competitive conditions and those social services that are not offered under competitive conditions. It has to be considered, however, that such a review can not be more than a historical snapshot, given that the frontier between economic services and non-economic services is dynamic due to economic and technological change.

Paris, 22 December 2006