

DIRECTORATE GENERAL FOR  
INTERNAL MARKET AND SERVICES

CONSULTATION ON AUDITORS' LIABILITY

SUMMARY REPORT

## **EXECUTIVE SUMMARY**

1. The consultation on a possible Commission initiative on auditors' liability led to 85 contributions from stakeholders across the EU.

### ***Overall support for a Commission initiative***

2. All respondents belonging to the audit profession express the need for a Commission initiative on auditors' liability, whereas the rest of the contributors have divided views on the matter. The views from respondents outside the audit profession depend to a large extent on whether or not they come from countries where limitation exists, and on the category of stakeholders to which they belong.

3. On the one hand, a majority of respondents from countries where limitation exists support a Commission initiative. On the other hand, a majority of the respondents from countries without limitation oppose a Commission initiative. The categories of stakeholders who raise more concerns about a possible Commission initiative are investors, bankers and companies.

The main arguments discussed by the respondents are: protecting against catastrophic losses, increasing choice in the audit market, reducing "deep pocket syndrome", improving insurability conditions and audit quality.

### ***Protection against catastrophic losses***

4. Respondents are divided between those who consider that a reform on auditors' liability could protect effectively against catastrophic losses, and those who reject the idea that catastrophic losses represent a real risk that should be addressed. The latter consider that the risk of failure of a network of audit firms is closely related to a loss of reputation and not to financial liability.

### ***Choice***

5. The lack of choice in the audit market is recognised by the majority of respondents as an important issue that could jeopardise the efficiency of financial markets. Therefore comprehensive action to reduce barriers of entry to this market should be taken. However, not all respondents agree that limiting auditors' liability would be an appropriate means to address the issue. Several respondents highlight the importance of the future conclusions of a study on ownership rules which the Commission asked OXERA to carry out (the study will be available in September 2007).

### ***Deep pocket syndrome***

6. Many respondents agree on the need to reduce "deep pocket syndrome". Those who favour a Commission initiative point out that maintaining unlimited liability would perpetuate "deep pocket syndrome". Proportionality seems to be the most appropriate way to address this issue.

### ***Insurability***

7. Many respondents believe that a limitation would have a positive effect on insurability conditions. Nevertheless, it is highlighted that the main risk of failure arises from United States litigation trends. Some respondents recall that a cap on auditors' liability will result in a shift of liability towards directors and officers, affecting the insurance market for that segment.

### ***Audit quality***

8. For those who support a reform, there is no evidence of lower quality in Member States with liability limitations in place. Moreover, the audit profession even considers that maintaining an unlimited liability regime could lead to a decrease in audit quality due to "defensive auditing".

The respondents opposed to a limitation insist on the negative impact of a limitation reform on audit quality due to the reduction of the incentives for high-quality audits. Market participants and investors might lose confidence into the audit function.

### ***Subsidiarity principle***

9. On the one hand, it is argued that the failure of a big audit firm would affect all Member States and, therefore, action at EU level is justified. Nevertheless, some respondents underline that any Commission recommendation should give maximum flexibility to Member States regarding the method to be adopted for the limitation at national level.

On the other hand, those who reject a Commission action recall that Member States have the competency to set up a limitation on auditors' liability as long as there is no evidence of a major threat to the public interest in the EU.

### ***Preferences for one of the four options in the Commission***

10. The audit profession prefers a limitation based on capping (or a combination of proportionate liability and a cap), whereas other respondents that are in general supportive of a reform favour solutions based on proportionate liability. The results do not show a clear preference for a particular option for limiting auditors' liability.

# SUMMARY OF REPLIES TO THE EUROPEAN COMMISSION'S PUBLIC CONSULTATION ON AUDITORS' LIABILITY

## 1.- BACKGROUND

### 1.1. OBJECTIVE OF THE CONSULTATION

The Commission services launched a public consultation on 18<sup>th</sup> January 2007. In this consultation, a reform of auditor liability was suggested for the following reasons:

- a) reducing "deep pocket syndrome" affecting auditors. "Deep pocket syndrome" refers to the belief that plaintiffs use audit firms as an insurance against any deficiencies on the part of companies in their financial statements;
- b) providing protection against the failure of a major network. The disappearance of a major network could, in the short term, exacerbate the current concentration in the audit market; and,
- c) encouraging more players to enter the international audit market. In this regard, liability is considered as one barrier to entering the audit market for listed companies.

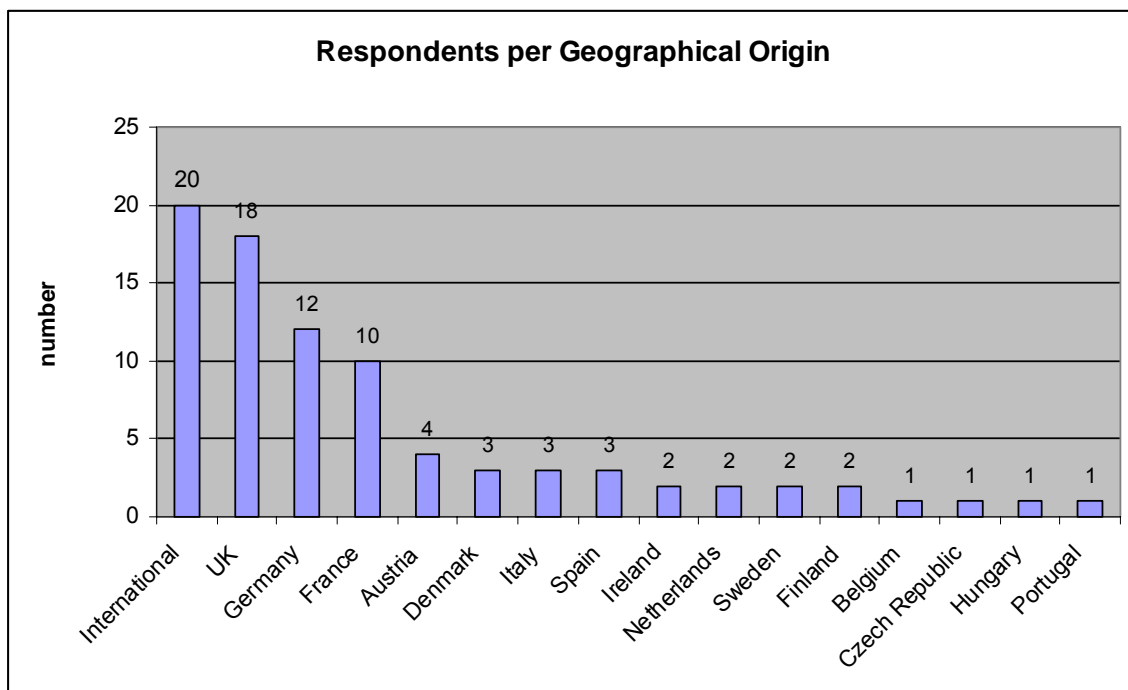
As a preparatory step, the Commission appointed London Economics to examine the insurance conditions and the impact of liability for statutory audits on European capital markets. The study was published in October 2006.

The consultation paper also invited stakeholders to give their views on four possible options for reforming auditor's liability:

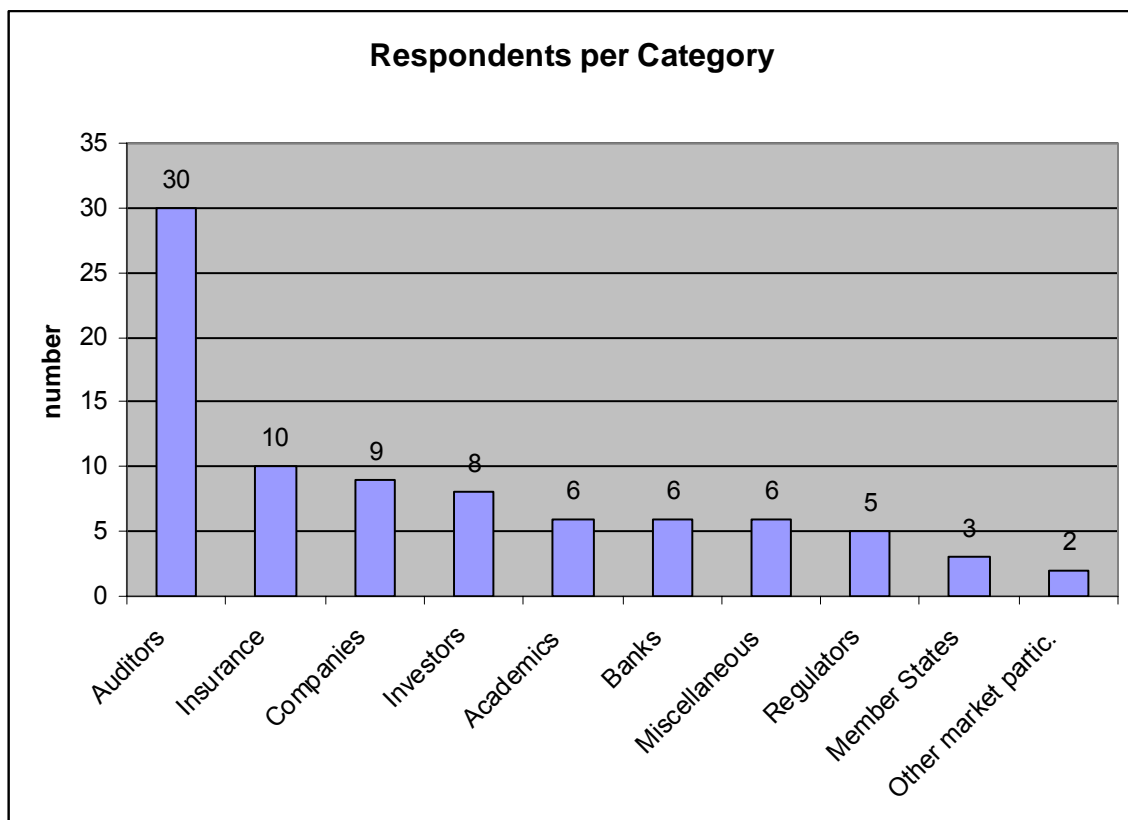
- The introduction of a **fixed monetary cap at European level** (option 1).
- The introduction of a **cap based on the size of the audited company** (option 2).
- The introduction of a **cap based on a multiple of the audit fees** charged by the auditor to its client (option 3).
- The introduction by Member States of the **principle of proportionate liability**, which means that each party (auditor and audited company) is liable only for the portion of loss that corresponds to the party's degree of responsibility (option 4). Proportionate liability could be implemented in two ways:
  - Member States could change **their laws** to allow courts to award damages only for the portion of loss corresponding to auditor's degree of fault (proportionate liability **by statute**), or
  - Member States could allow proportionate solutions between the company and its auditors to be negotiated and enshrined in **contractual arrangements** (proportionate liability **by contract**). Such a limitation would require shareholder approval and judicial control.

## 1.2. ORIGIN OF THE RESPONDENTS

The consultation led to 85 contributions. Their geographical origin is as follows:



The following categories of stakeholders sent replies:



## 2. REACTIONS OF THE RESPONDENTS

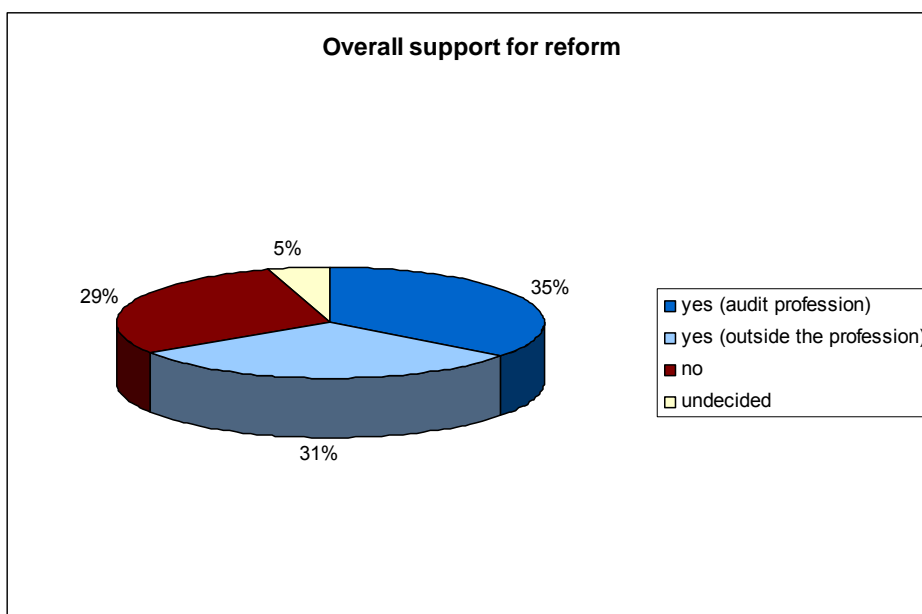
In the consultation paper, the Commission services asked for views on how to reform auditors' liability in the EU, and also invited general comments. Before examining the various options, respondents expressed their general views on a possible Commission initiative.

### 2.1. SUPPORT FOR A COMMISSION INITIATIVE

#### 2.1.1. RESPONDENTS FROM THE PROFESSION AND OUTSIDE THE PROFESSION

The audit profession unanimously supports a Commission initiative. Respondents outside the profession are split.

Overall reaction of the respondents towards a possible Commission initiative		
In favour of limitation	No	%
yes (audit profession)	30	35 %
yes (outside the profession)	26	31 %
no	25	29 %
undecided	4	5 %
TOTAL	85	100%

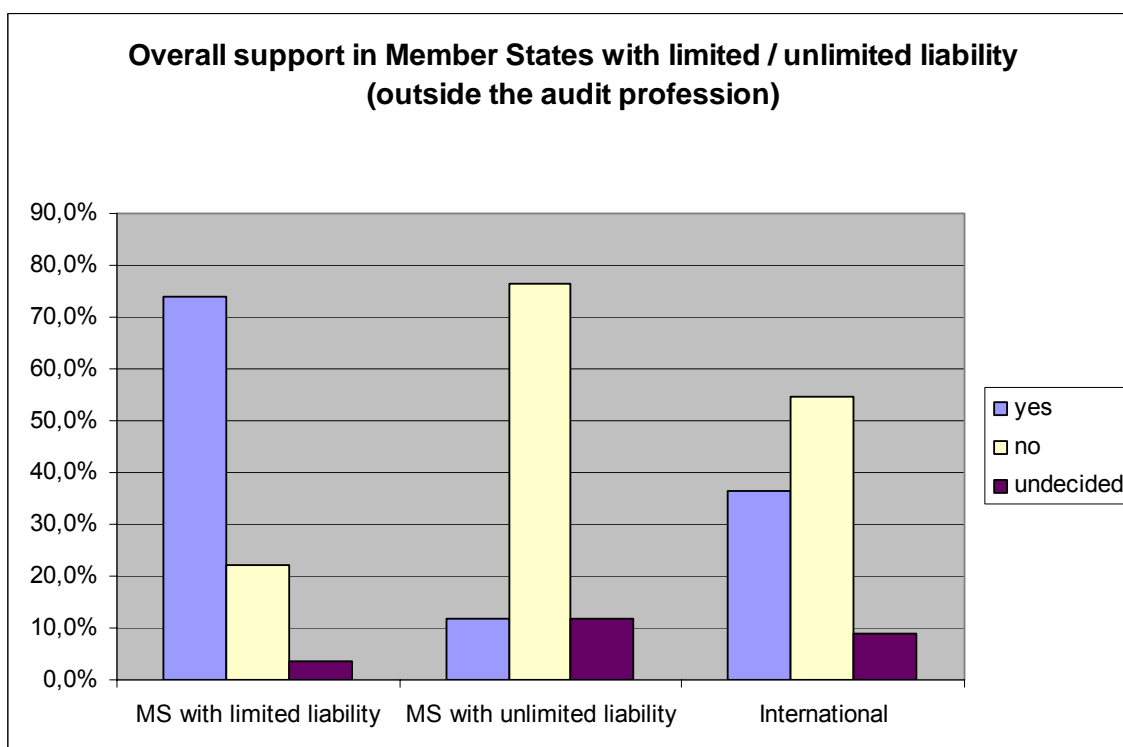


For a more detailed analysis on the views of the each particular group of stakeholders, please refer to **Annex I "The position of various individual stakeholders"**.

### 2.1.2. RESPONDENTS FROM COUNTRIES WITH LIMITED LIABILITY AND FROM COUNTRIES WITH UNLIMITED LIABILITY

A further analysis of responses from outside the audit profession shows the following: 74,1% of respondents from countries where limitation exists would support an initiative at EU level, whereas 76,5% of the respondents from countries without limitation reject a Commission initiative. A majority of international-based respondents from outside the profession (54,5%) also prefer not to change the current liability regime in the Member States.

OVERALL SUPPORT FOR REFORM (Member States with limited / unlimited liability; outside the profession)	Yes		No		Undecided		TOTAL	
	N°	%	N°	%	N°	%	N°	%
<b>MS with limited liability</b>	20	74,1%	6	22,2%	1	3,7%	27	100%
<b>MS with unlimited liability</b>	2	11,8%	13	76,5%	2	11,8%	17	100%
<b>International</b>	4	36,4%	6	54,5%	1	9,1%	11	100%
<b>TOTAL</b>	26		25		4		55	



### *2.1.3. REASONS AGAINST A COMMISSION INITIATIVE ON AUDITORS' LIABILITY*

Respondents opposing a Commission initiative consider that the case for reform has not been made. According to those respondents, there is no convincing evidence that EU audit firms could leave the audit market as a result of potentially catastrophic claims. The risk of failure of a network, as the Andersen case demonstrated, is the loss of international reputation and not the exposure to unlimited auditors' liability.

Moreover, they emphasize that the study conducted by London Economics, on which the public consultation was based, does not address all the issues. They argue that, for instance, investors and other stakeholders receive very limited attention, that it is too much focused on auditors' perspective, and that it is inappropriate to measure risks according to liability claims rather than final settlements. The results of the London Economics study should be more balanced by the inputs received in the public consultation from respondents outside the audit profession. It is also suggested that the results of the OXERA study on ownership rules of audit firms, which the Commission launched in November 2006, should be taken into consideration.

According to these respondents, a limitation on auditor's liability could have the following negative effects:

- It would privilege the audit profession in contrast to other regulated professions in Europe.
- It would not significantly improve insurability, as the risks will remain high, especially as most of the large claims have a US exposure.
- It would significantly increase the potential liability of company directors and officers and hence could affect the insurance capacity.
- It might create a competitive disadvantage for European companies when competing for investor interest in foreign markets.
- It would mainly benefit the 'Big Four' instead of enhancing the opportunities for mid-tier audit firms.
- It would reduce the incentives for high-quality audits and undermine users' confidence in financial statements.

Contributors assert that Member States should remain competent to set up a limitation on auditors' liability. Imposing any EU-wide regulation or recommendation would run contrary to the "Better Regulation" agenda. Moreover, the subsidiarity principle requires that such topics remain at national level as long as there is no evidence of a major threat to the public interest in the EU.

Many of the respondents opposed to Commission action agree with the concerns about the "deep pocket syndrome". A range of contributors who question the need for reform on auditors' liability consider that proportionate liability could provide some prospect of a better functioning insurance market and would be the best option. If the Commission decides to take action, the introduction of proportionate liability might be considered in the context of other complementary measures. However, some respondents commented that statutory auditors' liability is already limited by different means and provisions defined at Member States level, such as: the requirement of professional negligence for the establishment of a causal link between an auditor's fault and the damage, burden of proof with the plaintiff, statute of limitation, etc.

Some respondents suggest that the Commission adopt a more holistic approach where an action on auditors' liability might take place in the context of a broader package of reforms designed to increase competition and choice in the audit market. The Oxera report would be an important input to assess the need and the content of a possible Commission initiative more appropriately. Nevertheless, for some respondents the lack of choice among audit firms remains a concern with a much wider scope than the liability limitation issue and a change in the ownership rules applying to audit firms. A recommendation to Member States should not be issued without further consultation and broader consensus on the issue of choice. If any Commission initiative is taken, it should be compatible with the existing national liability regimes in the EU.

## 2.2. SUPPORTIVE RESPONDENTS CHOOSE MULTIPLE OPTIONS

Respondents who support a Commission initiative (the whole audit profession and approximately half of the rest of respondents) expressed their views on the different options set out in the public consultation.

In the public consultation, the Commission expressly invited the public to consider a particular way forward for reforming liability. In their responses, the audit profession considers that the best option to limit auditors' liability is: cap based on audit fees (70% of the profession); proportionality (57%); and a combination of proportionality plus cap based on audit fees (50%).

Outside the audit profession, proportionate liability is the preferred option (61% of the respondents outside the audit profession who choose an option). Other options are much less supported by those respondents from outside the profession: a fixed monetary cap at European level (24%); a cap based on the size of the audited company (24%); and a cap based on audit fees (18%).

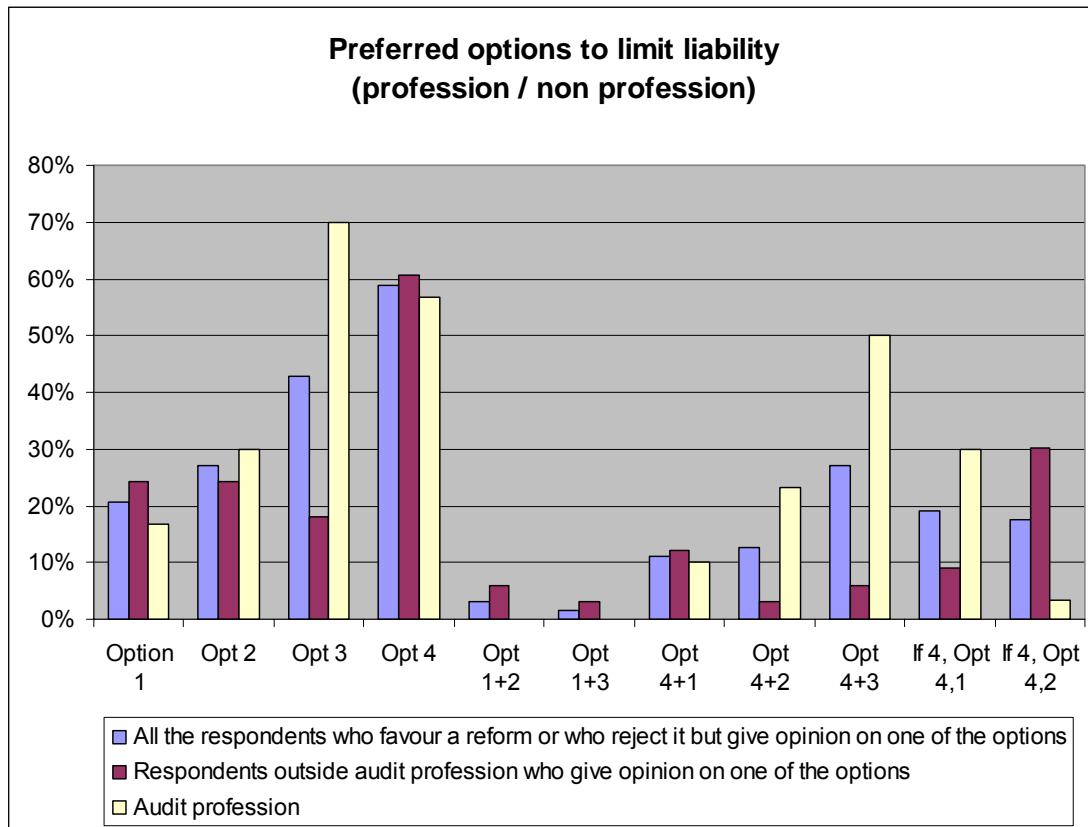
However, many respondents agree with several options at the same time, this can be broken down as follows<sup>1</sup>. This can be broken down as follows:

Preferred option to limit liability	All the respondents who favour a reform or who reject a reform but give an opinion on, at least, one of the options (63=100%) <sup>2</sup>		Respondents outside audit profession who give opinion on, at least, one of the options (33=100%) <sup>3</sup>		Audit profession (30=100%)	
	N°	%	N°	%	N°	%
Option 1	13	21%	8	24%	5	17%
Option 2	17	27%	8	24%	9	30%
Option 3	27	43%	6	18%	21	70%
Option 4	37	59%	20	61%	17	57%
Options 1+2	2	3%	2	6%	0	0%
Options 1+3	1	2%	1	3%	0	0%
Options 4+1	7	11%	4	12%	3	10%
Options 4+2	8	13%	1	3%	7	23%
Options 4+3	17	27%	2	6%	15	50%
If 4, Option 4,1	12	19%	3	9%	9	30%
If 4, Option 4,2	11	17%	10	30%	1	3%

<sup>1</sup> Many respondents have opted for more than one option; those respondents are therefore counted in two different groups. This implies that the sum of the percentages is higher than 100%. The percentages are calculated over the number of contributors belonging to each particular category (number in brackets).

<sup>2</sup> The number in brackets means the number of respondents in each specific group. Percentages in each column are calculated over that figure. 63 respondents are composed of 56 respondents in favour of a reform and 7 respondents who oppose a reform but give an opinion on, at least, one of the options.

<sup>3</sup> 33 respondents outside the audit profession are composed of 26 respondents in favour of a reform and 7 respondents who oppose a reform but give an opinion on, at least, one of the options.



Many respondents do not support one of the four options only, but consider a combination of either two capping options, or a combination of proportionate liability plus a cap. A majority of the respondents who oppose a Commission initiative but give an opinion admit that proportionate liability would be the only acceptable option if the Commission really wishes to move forward.

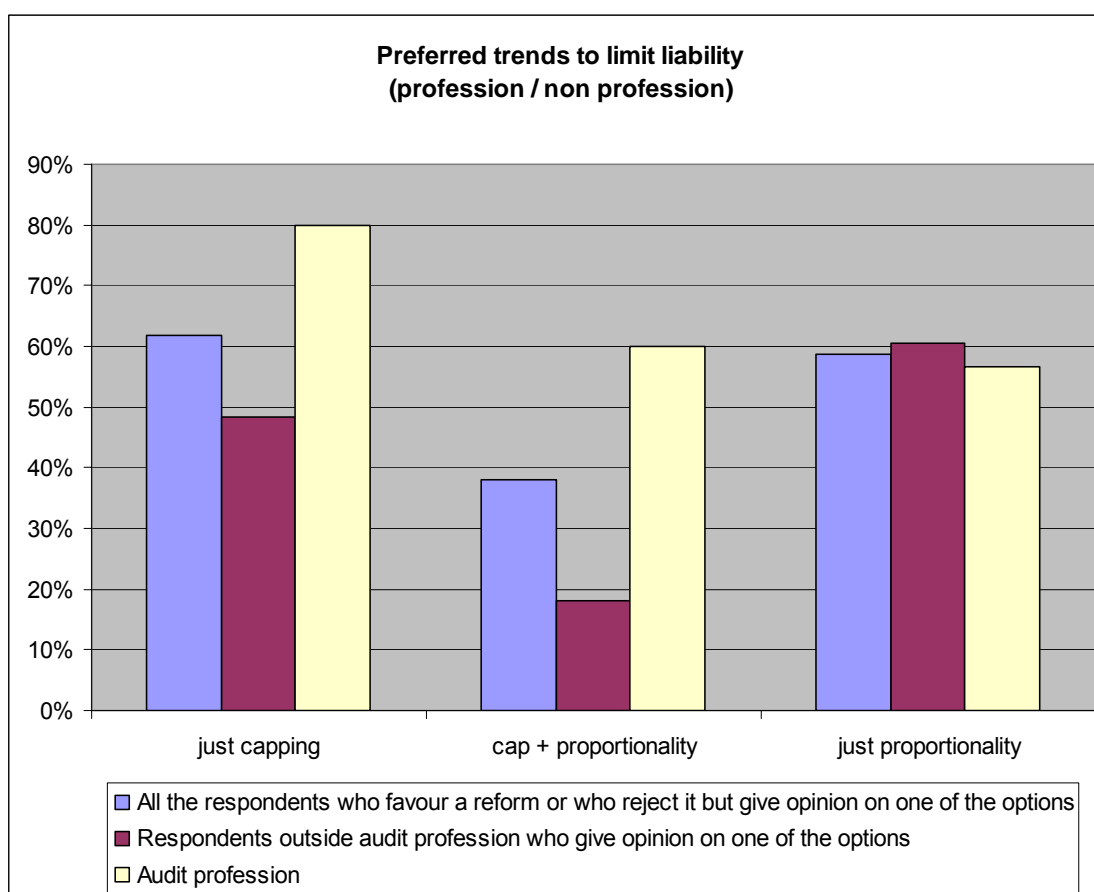
For the arguments given by contributors, in favour and against of each of the four particular options, please refer to the **Annex II "Reactions on the four options"**.

### 2.3. THE ESSENTIAL CHOICE: CAP OR PROPORTIONALITY

Given the variety of options supported and proposed by the respondents, the Commission services consider it appropriate to identify overall trends on the methods of limiting auditors' liability. Among the contributors who express an opinion on the different ways of limiting liability, the following trends can be identified: "just capping" (when options 1, 2 or 3 are chosen), "capping + proportionality" (option 4 plus option 1, 2 or 3) and "just proportionality" (only option 4).

As mentioned in the previous section, it is necessary to highlight that the same respondent can support more than one option and, therefore, the sum of the percentages is not one hundred.

Preferred method to limit liability	All the respondents who favour a reform or who reject it but give opinion on, at least, one of the options (63=100%)		Respondents outside audit profession who give opinion on, at least, one of the options (33=100%)		Audit profession (30=100%)	
	N°	%	N°	%	N°	%
just capping	39	62%	16	48%	24	80%
cap proportionality <sup>+</sup>	24	38%	6	18%	18	60%
just proportionality	37	59%	20	61%	17	57%



The preferred approach for the audit profession is to limit auditors' liability by capping, whereas the respondents from outside the profession favour the implementation of proportionate liability.

The respondents in favour of Commission action can be divided between those who are mainly in favour of a cap and those who are mainly in favour of proportionality. Some of the respondents would support a third method - the introduction of a combination of cap and proportionality.

Finally, some respondents underline that any Commission recommendation should give maximum flexibility to Member States regarding the method to be adopted for the limitation at national level.

### **Trend 1: In favour of a cap**

A large majority of the audit profession favour the introduction of a cap to limit auditors' liability. A cap is perceived as the best means to address, among others, the following issues: preserving public interest; improving the functioning of capital markets; and enhancing long-term sustainability of the audit profession.

The costs of not reforming auditors' liability regime are highlighted: existence of barriers to entry for mid-tier audit firms; risk of auditors leaving the profession; difficulties in attracting new highly skilled professionals; decrease in audit quality due to "defensive auditing"; maintenance of "deep pocket syndrome" etc.

The argument that unlimited liability is a driver for quality is rejected, as they argue that there is no evidence of lower quality in Member States with liability limitations in place.

Action at EU level is justified given that the impact of catastrophic claims is transnational and therefore such action would be effective only if all Member States were to adopt coordinated measures.

### **Trend 2: In favour of proportionate liability**

The majority of the respondents from outside the audit profession who are in favour of a Commission initiative would prefer a limitation of auditors' liability based on the introduction of proportionate liability, either by statute or by contract.

Proportionality is seen as an adequate means to address the "deep pocket syndrome". In addition, any possible reform of auditors' liability should introduce other measures designed to improve audit quality, insurability and choice in the audit market.

In general, the way forward should allow Member States to implement a range of approaches and to maintain their own regimes in the cases where auditors' liability is already limited. From this perspective, harmonisation should focus on the introduction of the principle of proportionate liability and the method of any agreed solution, rather than its precise level.

Those who reject a Commission initiative consider, as well, that proportionate liability is the best option for limiting liability if the Commission wishes to move forward.

### **Trend 3: In favour of a combination of cap and proportionate liability**

A combination of a cap and proportionate liability constitutes an approach that mixes the individual advantages of these systems. Respondents who favour a combination consider that proportionate liability is the appropriate way to avoid plaintiffs using audit firms as a way to compensate any financial deficiencies of the audited company, but, at the same time, believe that it is not enough to prevent an audit firm disappearing due to a possible catastrophic claim. A cap would provide additional protection for audit firms in the case of a possible catastrophic claim. According to the figures given in section 2.2., the preferred caps to complement proportionate liability are a cap based on audit fees (27% of all the respondents), a cap based on the size of the audited company (13%) and a fixed monetary cap at European level (11%).

## ANNEX I

### THE POSITION OF VARIOUS INDIVIDUAL STAKEHOLDERS

#### 1. INSURERS

Respondents from the insurance sector can be divided into those from countries which already have a cap in place, which support the reform, and those from countries without a cap, which support the *status quo*, i.e. no action to be taken at Community level. There is also a third group of respondents, namely the insurance brokers, who support a limitation.

Respondents from countries which have no cap in place are strongly opposed to the introduction of a cap. For them, such a limitation will not solve the main insurability issues, since the main perceived risk stems from the US litigation trends. Nor will the problems caused by low risk diversification (portfolio composed of only 4 big networks) be improved by reforming liability. The amount of the claims might be decreased, but not the frequency. Finally, a cap on auditors' liability will result in a shift of liability towards directors and officers of the companies audited, which is currently a profitable business for insurers.

Contributors agree on the need to reduce the "deep pocket syndrome". However, this should not lead to a situation where auditors would contribute less than they should to repairing the damage they caused. To this end, insurers suggested a number of other solutions. Instead of reforming liability, a range of preventive measures could be put in place (auditing standards, controls, risk management systems, corporate governance principles). The existing regulatory framework should be used in this regard. In any case, a more holistic approach should be adopted and auditors' liability should be considered in the context of a broader package of reforms.

Insurers strongly support addressing the lack of choice in the audit market. However, they do not think that auditors' liability reform is the best approach to solve this problem.

Respondents are divided on the need for protection of auditors against catastrophic claims. Most of them agree that this is a problem, underlining that catastrophic claims can drive high settlements, making this part of the insurance business fairly unattractive. However, some complained about the lack of evidence of catastrophic claims identified by London Economics. Reputation loss seems to them a more important factor in explaining the failure of big networks.

Finally, they highlight the importance of unlimited liability as a driver for audit quality.

#### 2. INVESTORS

Most of the respondents from this category think that the case for a reform at EU level has not been made. The London Economic study does not provide a basis for concluding that auditor liability should be limited. There is no evidence of potential catastrophic claims that could bring down a network. Although generally opposed to a reform, they consider that proportionate liability is the least problematic option.

Investors expressed a number of general concerns regarding a possible limitation of auditor's liability:

- unavoidable impacts on third parties (especially on the liability of directors and company officers);
- the need to prioritise more pressing concerns, such as, audit quality, competition, and ownership structure of audit firms;
- the complexity of establishing an EU-wide approach to auditors' liability, given the variety of legal systems in the Member States.

A number of other general remarks were also made. First of all, Member States have the competence to limit liability in their own jurisdictions and, in most cases; they have not done so in the past. Secondly, investors highlight that capping auditors' liability will not necessarily lead to reopening the market for insurance for auditors. Finally, they underline that the real threat of litigation that can lead to catastrophic claims comes mainly from the US and, hence, an EU-wide solution would not provide a global solution.

Although respondents recognise a problem of competition in the market, capping liability would not directly improve this situation, as there are more significant barriers to entry (network coverage, skill, reputation, companies sticking to auditors). There is a problem of concentration in the audit market that should be considered by the EC competition authorities.

Some contributors raise concerns about audit firms' need for capital. Therefore they look forward to learning the results of the OXERA study<sup>4</sup> on the possibility of opening the capital of audit firms to external capital. Nevertheless, for some respondents, the lack of choice amongst audit firms remains a far greater cause of concern than the liability limitation issue and/or a change in the ownership rules applying to audit firms.

Unlimited liability is seen as a key driver to maintain high audit quality. A range of contributors fear that a limitation of liability would reduce the incentives for high-quality audits, which would ultimately have an impact on investor confidence and on capital markets. Furthermore, the failure of a network appears to be linked, to a large extent, to reputation risk. The collapse of Andersen was caused by the loss of reputation, and not by a catastrophic claim. It is suggested that the focus should be on quality controls and dialogue with oversight bodies instead of on limiting liability.

### **3. BANKS**

Respondents from the banking sector can be divided into those from France, which unanimously reject a limitation of auditors' liability, and those from other countries, which consider that a limitation could improve audit choice in the long term.

French bankers expressed the same views as French companies, who are opposed to a reform, as described in the following section. Additionally, they made two main points:

- The case for a reform has not been made, as there is no evidence of a major threat to the public interest in the EU.
- The limitation of auditors' liability is not an appropriate solution to improve market choice and avoid the risk that an audit firm might leave the market due to catastrophic claims.

Those respondents who favour a limitation, support both the introduction of a cap based on audit fees, and proportionate liability based on contractual arrangements.

The audit services market is perceived as an oligopoly. Respondents suspect that this situation may have a negative impact on audit quality so that auditors do not always provide services at the optimum level. Therefore, reform could potentially help raise audit quality.

A limitation of liability might improve audit choice in the market, as it could allow small and mid-tier audit companies to enter the market. However, they point out that a cap on auditor liability would not necessarily prevent the future failure of one of the Big 4. The Andersen case showed that the risk of failure comes from the loss of reputation, rather than the settlement of a large claim.

Finally, the OXERA study is also mentioned as for a contribution to future debate.

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<sup>4</sup> The study on ownership rules applying to audit firms and their consequences for audit market concentration was commissioned to OXERA in November 2006 and should be finalised by September 2007.

## **4. COMPANIES**

Companies are divided on the question of auditor's liability limitation. Those who are opposed consider that there is not sufficient evidence of a major threat to the public interest in the EU. The failure of a network appears to be linked essentially to a reputation risk, and not to financial liability.

Another argument often mentioned in the responses is that both legal regimes and actual risks vary from one EU Member State to another. Each national market has its own characteristics in terms of the types of its companies, their businesses and their ways of doing business, and hence the types of risk incurred. According to this, some respondents think that EU should not establish pan-European rules on limitation of auditors' liability. Because of the large differences in national legal systems, this is a matter for the individual Member States to decide. In this regard, some respondents recall the principle of subsidiarity requiring action at EU level only when it cannot be performed better by Member States. There is no clear evidence that auditors' liability requires EU-level action.

Several respondents who are reluctant to envisage a limitation of auditors' liability argue that the focus should be on quality controls and dialogue with oversight bodies. Other contributors consider that if insurance is a problem, the problem of insurance should be specifically addressed as such, and not approached indirectly, via the issue of auditors' liability.

Respondents to the consultation from Member States where a limitation already exists are very reluctant to countenance change to their existing limitation. Many replies underline that if a recommendation is to be made by the Commission, it should allow Member States to adopt the solution the best adapted to their situation.

For example, respondents from the UK consider that any action at EU level should not be inconsistent with the new provisions introduced into UK law by the Companies Act 2006, but they also recognise that there may be different considerations in other Member States. These respondents could support an EU-wide initiative if it is restricted to a limitation of liability regime based on contract between the company and the audit firm, with the contract to be approved by a majority of shareholders.

In conclusion, the companies recall that, in any case, an EU-wide solution will not provide protection against US claims.

## **5. BANKING AND SECURITIES REGULATORS**

Those respondents consider that there is no convincing evidence that EU audit firms have left or are considering leaving the audit market, as a result of liability problems. No audit firm has so far failed within the EU due to a catastrophic liability claim against it. Furthermore, there is no evidence that limiting auditor liability will help mid-tier audit firms become significant players in the international audit market. The main barriers to entry are perceived to be the reputation of the audit firm and the investment needed to enter such a market.

Some respondents agree that the potential risk of catastrophic claims is a real issue, but they conclude that this is only one of a number of barriers to mid-tier audit firms entering the international audit market. They would favour a solution applying to all the audit firms, and not only to the Big 4. Nevertheless, caps would be difficult to apply in practice and the introduction of proportionate liability could lead to reforms in other professions which cannot be assessed in advance. If possible, proportionate liability, especially if introduced by contract, could be an acceptable solution.

The Swedish Supervisory Board of Public Accountants informed us about the current developments in Sweden concerning auditors' liability without expressly replying to the consultation. The Board believes that any recommendation should focus on a common core of principles for liability regimes within the EU, rather than on detailed rules.

## **6. OTHER FINANCIAL MARKET PARTICIPANTS**

Two respondents fell into this category. One of them considers that the introduction of a monetary cap on auditor liability has not been justified. However, it supported the introduction of an EU-wide principle of proportionate liability, provided that it applies equally to all relevant advisors to a company (investment banks, actuaries etc) and not just to auditors. The other respondent rejects a monetary cap, but considers that proportionate liability might be a helpful tool to reduce audit firms' risk, in particular the "deep pocket" risk. Companies should be free to choose whether or not to apply proportionate liability in their contractual relations with audit firms. If adopted, the reform should go no further than requiring the Member States to take measures to the extent necessary to protect the audit firms from the risk of a "catastrophic negligence claim".

## **7. POSITION OF THE AUDIT PROFESSION**

The category "Auditors" is comprised of the largest number of respondents (30), including: the Big 4, four mid-tier audit firms or associations of mid-tier firms, 20 professional bodies and associations and 2 individual auditors and other audit firms.

The respondents from this category agree that a limitation on auditors' liability should be introduced. Most of them ask the European Commission to issue a recommendation on this matter.

Maintaining unlimited liability would increase the risk of a major audit firm collapsing under a large settlement. There is also a problem of disincentives for the most talented young people deciding to become auditors, resulting over time in a reduction in audit quality. Moreover the loss of attractiveness of the audit profession would make it more difficult to retain experienced staff. High-quality audits need highly talented and qualified people to carry them out. Better conditions should be provided so that the audit profession can offer long-term career prospects. Unlimited liability is also seen as a barrier to entry for firms outside the Big 4 to undertake more audits of larger listed companies. If left unchanged, the present situation could lead to a defensive rules-based approach to auditing which would have a damaging effect on audit quality.

Most of the respondents support the idea that a limitation on auditors' liability would facilitate access of mid-tier audit firms to the audit market of large listed companies, as well as reducing the "deep pocket syndrome". The profession rejects the argument that limitation would have a negative impact on audit quality. On the contrary, audit quality in the countries which have already limited auditors' liability has been kept at a high level. Moreover, a limitation would have a positive effect on improving insurability.

Some respondents ask for the establishment at EU level of general guiding principles for Member States in order to harmonise liability regimes, but others prefer that each Member State should be free to choose the option which best fits its own legal and economic reality.

### **7.1. BIG FOUR AUDIT FIRMS**

The Big Four Audit Firms favour a limitation of auditors' liability and encourage the Commission to issue a recommendation to Member States to promote a reform in national legislations. In general, they underline the following problems:

- The current system exposes the audit function for large companies to a high risk, especially due to the lack of commercial insurance.
- There are a high number of very large potential or actual claims facing audit firms in the EU.
- The human resources issue.
- No evidence of a negative impact on quality. The firms argue that the key drivers for audit quality are not unlimited liability, but the quality of the people providing the services, the training and supervision they are subjected to, the tried and tested audit methodologies used, and the motivation to preserve their reputation for both the firm and the individuals involved.

- Unlimited liability leads to “defensive auditing”, which impacts audit quality and the value of the audit.

Furthermore, the Big Four firms conclude that a reform would reduce the risk of collapse of an audit firm or network and would facilitate the access of mid-tier audit firms to the audit market of large listed companies. Liability reform is increasingly on the agenda of governments around the world and some EU Member States have already implemented it. The Big Four firms welcome the Commission's initiative to address this issue now, rather than waiting for a crisis situation.

In relation to the different options to limit liability proposed in the consultation paper, there is a general agreement that, even if proportionate liability is a necessary and reasonable measure, by itself, it would not be sufficient to avoid the collapse of an audit firm or network. However, a combination of proportionality and an absolute cap would constitute an appropriate model which could protect both the profession and the public interest.

Regarding the different cap proposals, the Big Four firms are keen on a system of multiple caps at EU level which would vary depending on the characteristics of the audited company. A recommendation could specify a maximum liability cap for the statutory audit of companies or groups of companies per “size” categories. Size categories could be set according to similar criteria to those used for the audit requirement in the 4<sup>th</sup> EU Directive. Member States could also set lower limits if these better fit their own audit market situation.

In relation to option 2, a cap based on the size of the audited company, some significant difficulties are foreseen. If market capitalisation (for instance in billions of Euros) is used as a proxy to measure size, any overall cap will have to be a tiny fraction of the entity's size in order to be effective. Moreover, the use of market capitalisation to calculate the cap could induce investors to believe that, in some way, auditors are underwriting the market value of the shares of the audited entity. The volatility of market prices also causes problems to determine the point in time at which any size-based cap is to be calculated. Net assets could be considered as an alternative proxy for unlisted companies, although it does not provide information on market expectations.

Option 3, a cap based on audit fees, seems to be considered a preferable alternative. An audit-fee-based cap is a flexible solution that reflects the size of their exposure to the size and audit risk of the entity being audited. Transparency of audit fees would be guaranteed by the requirement to disclose them under Article 49 of the Statutory Audit Directive.

Regarding the two different methods of introducing proportionality, the one based on contractual agreements would be easier to apply.

## **7.2. MID-TIER AUDIT FIRMS**

Respondents favour a reform of auditors' liability, and have very similar concerns to those of the Big 4 firms concerning the risks of the unlimited and joint and several liability regime.

The respondents argue that one adverse impact of keeping the current regime would be the maintenance of an unnecessary barrier to leading firms outside the Big 4 undertaking more audits of larger listed companies. Therefore they conclude that, if there is to be liability reform in the EU, it should apply to all audits, and not just to audits of listed companies, otherwise it will inevitably result in a two-tier profession and further exacerbate the barriers to entry in the market.

Furthermore, guiding principles should be established at EU level, so that those Member States which fail to adequately reform their liability regime cannot threaten the supply of audit services throughout the EU. A limitation reform should be carried out in a way which has neutral impact on competition. They also agree that a reform of auditors' liability would help address the "deep pocket syndrome".

Mid-tier audit firms invite the European Commission to issue a recommendation on auditors' liability. However, this recommendation should not change the liability situation in those Member

States in which there is already broad agreement among investors, auditors and the business community that the current system is working well and that further limitation of liability is not needed.

Mid-tier audit firms consider that proportionate liability is an appropriate solution to reform auditors' liability. However, in some cases it is seen as not enough to prevent catastrophic claims. As a result, a combination of proportionality with a cap based on audit fees receives strong support from these respondents.

Contributors point out that proportionate liability based on contractual agreements would be only a partial solution, because the cap would probably only be binding on the parties to the contract, which would leave the auditor with unlimited liability exposure to claims from third parties. Furthermore, experience in the UK has indicated that introducing proportionate liability by having it enshrined in statute would be preferable. Extra-territorial independence issues and the differing duties of care of auditors across the EU Member States suggest that it would be unlikely to be wholly effective unless introduced by law in each country.

Proportionate liability in combination with a cap based on audit fees is suggested as a better means of protecting against the collapse of a firm while preserving the public interest of a damaged party's right to fair damages. Moreover, such an approach could potentially have a positive effect on competition, ensuring a level playing field for all audit firms, not just for the largest, which would be in the public interest. It is also the only sustainable and defensible solution for the profession as a whole across the EU, notwithstanding the difficulties which might face its introduction in certain jurisdictions.

A cap based on audit fees (option 3) is also strongly supported. This type of cap establishes a link between the reward to the auditor and their maximum potential liability, and between the audit fee paid by the company and the protection afforded to the owners of the company.

The option of a monetary cap at European level (option 1) is not backed by mid-tier audit firms as it is not equitable for all parties. Where a number of actions are brought against the auditor, a fixed cap might be exhausted by the first actions to be resolved, to the detriment of later claims. Finally, the option of a cap based on the size of the audited company (option 2) seems to present serious difficulties in practice.

### **7.3. PROFESSIONAL BODIES AND ASSOCIATIONS**

Professional bodies and associations welcome the consultation and support the issuing of a Recommendation on this subject. There is a general consensus that unlimited liability produces undesirable effects in the audit market and distorts the capital market generating an expectation gap due to the "deep pocket syndrome".

In general, the concerns and solutions expressed by this group of respondents are the same as those set out in the preceding section. However, it is interesting to analyse this group of respondents according to their origin. To this end, we will divide them into three different sub-categories:

- Respondents from countries where a cap exists (Germany, Austria, Belgium)
- Respondents from countries where proportionate liability exists (UK)
- Respondents from countries where an unlimited liability regime exists.

#### **Respondents from countries where a cap exists**

They welcome the EC initiative and favour harmonisation at EU-level on this issue.

Most of them favour the introduction of the principle of proportionality, but believe it should be accompanied by an absolute cap at EU level. An absolute maximum cap could be established at European level, which could not be exceeded by the individual Member States. In general, they prefer that the EU Commission recommends a principles-based framework, trying to avoid

competition between different jurisdictions in respect of auditor liability. In determining a maximum cap, the insurability of auditors should be one of the key objectives. A cap based on the size of the audited company is also supported if based on a measure other than market capitalisation. An alternative criterion might be the thresholds set under the 4<sup>th</sup> EU Company Law Directive for SMEs.

Respondents from Belgium and Austria support a cap based on audit fees. However, this regulation should be accompanied by a number of covenants designed to secure the independence of the auditor.

### **Respondents from countries where proportionate liability exists (UK)**

Respondents agree with the conclusions of the London Economics study and highlight the convenience of limiting auditors' liability by introducing the principle of proportionality. Proportionate liability is described as the fairest and most realistic way of setting a limitation. Although this option has been introduced in the UK by means of contractual agreements, two of the three respondents prefer the establishment of a legal framework which would achieve proportionality automatically. This would also be consistent with the nature of the audit profession, in that the auditor is never the only party involved in the preparation and publication of a set of financial statements.

Even if there is a common consensus on proportionality, they recognise that it does not directly address the issue of a "catastrophic claim" and suggest that it should therefore be part of a broader reform package.

The option of a single monetary cap at EU level is rejected. Caps based on audit fees and on the size of audited companies have some advantages but, at the same time, are criticised due to their practical unfeasibility.

### **Respondents from countries where an unlimited liability regime exists**

14 replies were received from: Spain (3 respondents), Italy (2), Czech Republic, Denmark, France, Hungary, Ireland, Finland, Netherlands, the Nordic Countries and Portugal. Like other auditors, they all express the need for a reform and describe the problems and difficulties of the current unlimited liability regimes.

A majority of them support the introduction either of proportionality alone, or a combination of proportionality with a cap based on audit fees. The latter option would be a better solution to guarantee the policy objective of continuity of supply of audit services by protecting firms against catastrophic claims. In general, most of the respondents who expressed an opinion on the two ways of introducing proportionality prefer a change in the law to allow Courts to award damages. Some respondents think that the two options should be cumulative procedures rather than alternatives.

An absolute cap at EU level is rejected, but a cap based on a multiple of audit fees and/or on the size of audited companies, did receive significant support.

## **8. POSITION OF ACADEMICS**

Respondents from the academic sector can be divided into those who put forward arguments justifying the limitation of auditors' liability and those who present reasons for taking no action.

General concerns are raised about the limitation of auditors' liability as they consider, for instance, that it could have a negative impact on quality, it would imply a preferential treatment compared to other professionals, and it will not improve insurability. Respondents who consider a limitation appropriate raised concerns about the difficulties of applying a limitation to international audits and to third parties involved in a possible claim.

Several contributors who support limitation consider that the best option would be to establish proportionate liability based on contractual agreements, as envisaged in the UK. However, this solution would face difficulties as, in many national jurisdictions, third parties are not clearly

defined. Any contractual agreement should be subject to the approval of the shareholders and established at a level that could be considered as "fair and reasonable".

Other respondents underlined that under unlimited liability regimes, auditors may perform their duties with excessive care. They also questioned to what extent an auditor should be held liable for damages caused to outside investors. Damage compensation should be equal to the social loss (overcompensation). If there are some investors who lose whereas others benefit from false audits – even though they are not insiders – the individual loss of the losing investors exceeds the social loss. A feasible solution to overcome these issues would be a cap that takes into account the problem of insurability and the problem of overcompensation on secondary markets.

Academics who do not support action at the EU level on this issue, argued mainly that, on the one hand, liability is a driver to better quality, with the risk of undermining the credibility of the profession if any reform is implemented, and, on the other hand, that limitation would have a wider impact on national liability regimes and legal principles. Moreover, the case for a reform has not been made as the London Economics study, taken as the basis for the public consultation, fails to show any significant evidence in that respect. These academics also recall the need to take into account not only the interest of auditors and audited companies, but also those of third parties (shareholders, investor, creditors, etc.).

## ANNEX II

### REACTIONS ON THE FOUR OPTIONS

This Annex presents a summary of the arguments received in favour/against each of the four options presented in the consultation paper.

#### 1. OPTION 1: FIXED MONETARY CAP AT EUROPEAN LEVEL.

Some respondents, mostly from the audit profession, provide arguments in favour and also propose alternative ways to set up a fixed monetary cap.

##### Arguments in favour

The following arguments are presented to support Option 1:

- Efficient system to **avoid “catastrophic” loss** due to a single claim.
- **No negative impact on quality**. London Economics study did not find any indication that a cap has negative consequences for audit quality. In addition, the experience of the German market shows that a low cap need not have an adverse effect on the quality of audits.
- Enhancing **insurability**. Certainty and relative stability of the amount of risk should improve insurability.
- Relative simplicity, **transparency** and consistency of the system.
- Neither the auditor nor the company have the power to **influence** the amount of liability.

Some respondents consider that a recommendation could specify a maximum liability cap for the statutory audit of companies or groups of companies at EU level.

A system of fixed variable monetary cap at national level could be an alternative to a fixed monetary cap at European Level. This alternative would provide greater flexibility to address the needs of the domestic EU audit and capital markets. Two different options which have already been implemented in some European countries are: dual-cap model (Germany or Belgium) that utilises one cap for private companies and a larger cap for listed companies; and multiple-cap system (Austria) that differentiates between SMEs and three categories of large companies.

Other respondents think that an EU-wide liability cap should only be introduced as a complement to existing national liability caps. The adoption of national liability caps should be promoted. Under no circumstance should an existing cap in a Member State be replaced by a higher EU-wide liability cap.

An EU-wide liability cap therefore needs to be combined with another limitation which would reduce liability for smaller audit companies, so that the oligopoly which dominates the audit market is not unfairly advantaged by a limitation which leads to further concentration in the market.

Finally, some respondents consider that a cap is not an alternative to proportionality (option 4), but is rather complementary.

##### Arguments against

These following arguments are presented to reject Option 1:

- There is **no relation to the loss the auditors may have caused** or contributed to, and there is no relation to the degree of fault of the auditor.
- **Unsuitable in respect of the damaged parties**, since it does not take into account the amount of possible damages.
- **Not equitable for all parties**. Where a number of actions are brought against the auditor, a fixed cap might be exhausted by the first plaintiffs leaving the others without compensation.
- The system is **too burdensome for smaller audit firms**. Therefore, it would not promote the purpose of encouraging their growth and increasing market competition.
- **Difficulty to identify one single figure** which could be considered appropriate for all the Member States and for both quoted companies and SMEs. If it is too high, it would be unlikely to result in new entrants to the audit market, being only of benefit to a few of the largest audit firms in a given country. If this happened, the cap would act as a barrier to enhancing competition and choice in the market. If, on the other hand, it is set too low, it would not have the support of other stakeholders and would therefore arguably not be in the public interest.
- It does not reflect the variety of legal frameworks, economic circumstances and audit and capital market characteristics of the 27 Member States. It is necessary to bear in mind that the **disparity among EU Member States** is significant.
- An EU-wide cap would **not necessarily improve the insurance situation** for audit firms at international level.
- It represents a "**maximum harmonisation**" option.

## 2. OPTION 2: CAP BASED ON THE SIZE OF THE AUDITED COMPANY.

### Arguments in favour

The following arguments have been presented in support of Option 2:

- Allowing **proper compensation for damages** since it considers the possible relevance of the audited company's size with reference to the amount of damages that can be assessed.
- Improving **insurability**, even if there will be less stability compared to Option 1.
- **Transparency** to the markets.
- Taking into account different criteria relating to the company would reflect the **public interest** profile of the audited company.
- Efficient system to **avoid "catastrophic" loss** due to one claim.
- Enhancing the **incentives from a market entry point of view**, as any increase in liability would be gradual.
- Neither the auditor nor the company could potentially influence the amount of liability.

Many respondents who favour a cap based on size recognise at the same time the practical difficulties of using market capitalisation as a proxy. Therefore, some of them propose using total assets or total revenues, or both, as a more appropriate measure which could be applied to both listed and unlisted companies.

Another solution could be to allow Member States to adopt two different bases for calculating caps for the audit of listed companies and unlisted companies. In that case, both market capitalisation and net assets could be used as complementary alternatives.

A third way forward might be that the criteria found in Articles 11 and 27 of the 4<sup>th</sup> EU Directive (balance sheet total, net turnover and average number of employees during the financial year) could be used to create three or more size categories, for which three or more different maximum amounts of cap could then be recommended. This classification could apply to listed and unlisted entities.

Moreover, it is suggested that Option 2 could be combined with an absolute monetary cap to improve the protection against "catastrophic" claims.

## Against

Many respondents who reject this option make the following arguments:

- **Misleading impression** to the market that the auditor underwrites the market value of a company on a specific date.
- **Not all audit clients are listed companies** and, therefore, market capitalisation is not an appropriate measure to be applied to the audit of unlisted companies.
- Market capitalization is **not necessarily a valid proxy for risk**. Liability should be based on the activity of the auditor and not on market cycles. Such a cap would fail to take account of the potentially very different risks associated with the audits of different companies of similar size.
- The **volatility of market capitalisation** is so high that becomes an obstacle for the calculation of the liability cap and, therefore, for audit firms' insurability.
- If market capitalisation is used as a proxy of size, then calculating the cap risks being carried out an arbitrary point in time. Should one choose: the balance sheet date, the date on which the accounts are signed off, the date on which the company's shareholders receive and approve them in general meeting, or the date when a claim is brought, even if the market capitalisation is very low or even zero at that point?
- **Difficulty to establish the cap as an adequate percentage of the market capitalisation** (or whatever other proxy). For large listed companies with market capitalisations measured in billions of Euro, any overall cap will have to be a tiny fraction of the entity's size in order to be effective.
- The system would be **too complex** as there would be too wide a range of liability caps, and the range itself could even change every year.

### **3. OPTION 3: CAP BASED ON A MULTIPLE OF THE AUDIT FEES CHARGED BY THE AUDITOR TO ITS CLIENT.**

Although "option 3" is widely supported by the audit profession, many other respondents are firmly opposed to this option.

## Arguments in favour

The following arguments were used to support the adoption of Option 3:

- Full **transparency**, as audit fees must be disclosed in companies' annual accounts according to Article 49 of the Statutory Audit Directive.
- Audit fee is a good **proxy that links audit risk with reward of a good audit**. Fees paid to the audit firm are based, among other factors, on: (1) the size of the audited companies and the risks relating to the industry they operate in; and (2) the difficulties and the risks related to the performance of the audit. Therefore, there is some correlation between the engagement fee charged and the auditor liability risk associated with the audit.
- Favouring **insurability**, as it provides greater certainty with regard to the exposure risk. It will therefore reduce the risk of a large audit firm going out of the market and may encourage the growth of smaller audit firms, as any increase in liability would be gradual.
- It is **easy to implement** and can be applied to companies of all sizes and to both listed and unlisted entities.
- Allowing a **single pan-EU solution**. Member States could retain the right to choose the multiple of audit fees, or possibly to have different multiples, depending on a company's size.
- No jurisdiction or group of audit firms are specially favoured.

Some respondents suggest applying specific multiples to the audit fee charged to calculate the cap: 10 times or 20 times, for instance, according to some proposals. The fees related to additional services provided by the auditor or audit firm could also be taken into consideration. In order to enhance rotation, the caps could be increased if the statutory audit of the audited entity has been carried out by the same auditor or audit firm for longer than a particular period of time.

## Against

For many respondents this option is inappropriate, for the following reasons:

- **"Fee dumping"**. It would increase the incentive for audit firms to negotiate fees down in order to minimise liability. Auditors could charge lower audit fees and recover their costs from fees for non-audit services.
- Usually, the **audit fee is not a clear and certain amount**, but depends on a wide variety of factors. For instance, most corporate groups negotiate a group audit fee. Any allocation is usually made by the group to the individual group members, and this can be done on a fairly arbitrary basis, often related to the focus of the routine work, rather than the risk inherent in a particular corporate unit. Moreover, audits are made on the basis of an hourly rate of pay, although a fixed remuneration is not uncommon. If the audit is extensive, the audit fee would be accordingly high; but if the audit is only to meet the minimum requirements, the audit fee would be accordingly low.

## **4. OPTION 4: PROPORTIONATE LIABILITY.**

Introducing proportionate liability for auditors would limit the amount for which auditors are liable to a level that the court determines to be equitable in the light of the relative responsibility of the auditor and any other parties (for example, the audited company). In this case, auditors would remain liable for the consequences of their own actions, but not for the consequences of the actions of others.

The consultation paper envisaged the possibility of introducing proportionality by law or by contract.

Proportionate liability is probably the option that raises least concern among all the respondents, apart from those who are strongly opposed to a Commission initiative. There is a general consensus that this method could appropriately address the "deep pocket syndrome".

### Arguments in favour

It is considered by some respondents as the "fairest and most realistic option available" and as the only principled basis for reform, since it would directly address concerns over the "deep pocket" syndrome. The following arguments support the adoption of proportionality:

- It **reduces the risk of any audit firm being forced to leave the market due to the fault of third parties**, but, at the same time, it ensures that auditors do not receive unfair protection against their own errors or mistakes.
- Neutral impact on competition in the audit market.
- It will encourage firms outside the Big 4 to increase their presence in the listed company market, thus increasing audit choice.

Finally, in some cases, the two systems to implement proportionality, by statute and by contract, are not seen as options which could be introduced independently, but both would be needed.

## Against

Many respondents who criticise proportionality consider it unfeasible to introduce this principle in national law, especially if it is intended to apply only to auditors. Any more extensive reform of national civil law would be a very disruptive measure and could lead to undesirable effects going far beyond any Commission initiative on reforming auditors' liability. Arguments made against proportionate liability are:

- It could cause a severe **disruption of many national tort law systems**.
- Any limitation of auditors' liability would **extend investors' liability**, which could lead to an increase in the cost of capital.
- Proportionality is **not enough to protect against catastrophic claims**.
- Some practical issues arise from the fact **that Courts might perhaps not be capable of determining the auditor's degree of responsibility** for the damage suffered.

Concerning the introduction of **proportionate liability through contractual arrangements**, some respondents point out that it is the most appropriate solution, as shareholder consent would provide an important safeguard. Contractual arrangements allow greater certainty as to the auditor's risk exposure, and thus would improve its insurability. However, proportionality by contract would not be feasible everywhere, as in many Member States the liability of auditors is also based on tort law and not only on contract with the audited company. Furthermore, the negotiation of the liability limitation at the time at which an engagement is conferred might threaten the independence of the auditor. This system would also require the development of supplementary rules and guidance to cover the mechanics of how such arrangement were to be negotiated and approved.

## LIST OF RESPONDENTS

85 organizations and other stakeholders submitted contributions to the Public Consultation, issued on 18th January 2007, on possible reform of liability rules in the EU. Here follows the list of the 83 contributions authorised for publication.

Respondent	Category	Origin
AFEP	Companies	France
Alessandro P. Scarso, Faculty of Law, University of Parma	Academics	Italy
Allianz	Insurance	Germany
Aon Professional Risks	Insurance	UK
Association Française de la Gestion financière	Investors	France
Association of British Insurers	Investors	UK
Association of Chartered Certified Accountants	Auditors	UK
Associazione Italiana Revisori Contabili	Auditors	Italy
Autorités françaises	Member States	France
BAK Bundesarbeitskammer (Federal Chamber of Employment)	Miscellaneous	Germany
Bank and Insurance Division of the Austrian Federal Economic Chamber	Insurance	Austria
BDO International	Auditors	International
Belgian Institute of Registered Auditors	Auditors	Belgium
BNP Paribas	Banks	France
British Bankers Association	Banks	UK
Bundesverband der Deutschen Industrie	Companies	Germany
BUSINESSEUROPE (The Confederation of European Business)	Companies	International
Caisse d'Epargne	Banks	France
Chamber of Auditors of the Czech Republic	Auditors	Czech Republic
Christian Strenger - German Government Commission on Corporate Governance	Miscellaneous	Germany
Committee of European Banking Supervisors	Regulators	International
Committee of European Securities Regulators	Regulators	International
Compagnie nationale des commissaires aux comptes	Auditors	France
Confederation of British Industry	Companies	UK
Consejo General de Colegios de Economistas de España	Auditors	Spain
Consejo Superior de Titulados Mercantiles y Empresariales de	Auditors	Spain

España		
Consiglio Nazionale dei Ragionieri	Auditors	Italy
Danish Commerce and Companies Agency	Regulators	Denmark
Danish Shareholders Association	Investors	Denmark
Deloitte	Auditors	International
Duncan Alexander	Investors	UK
EFAMA European Fund and Asset Management Association	Investors	International
Erich Heiss	Auditors	Austria
Ernst Young Global	Auditors	International
EUMEDION	Investors	Netherlands
European Association of Co-operative Banks	Banks	International
European Association of Listed Companies	Companies	International
European Group of International Accounting Networks (EGIAN)	Auditors	International
European insurance and reinsurance federation (CEA)	Insurance	International
European Justice Forum	Miscellaneous	International
European-American Business Council	Companies	International
Fédération Bancaire Française	Banks	France
Federation des Experts Comptables Europeens	Auditors	International
Fédération Française des Sociétés d'Assurances	Insurance	France
Finnish Government - Ministry of Trade and Industry	Member States	Finland
Foreningen af Statsautoriserede Revisorer	Auditors	Denmark
GDV	Insurance	Germany
Grant Thornton International	Auditors	UK
Helmut Koziol	Academics	Austria
Hermes	Investors	UK
Institut der Wirtschaftsprüfer in Deutschland	Auditors	Germany
Institute of Chartered Accountants in England and Wales	Auditors	UK
Institute of Chartered Accountants in Ireland	Auditors	Ireland
Institute of Chartered Accountants of Scotland	Auditors	UK
Institute of Chartered Secretaries and Administrators	Companies	UK
Instituto de Censores Jurados de Cuentas de España	Auditors	Spain

International Capital Market Association ICMA	Market participants	International
International Underwriting Association	Insurance	International
Investment Management Association	Investors	UK
Jochen Bigus* / Hans-Bernd Schäfer**	Academics	Germany
Ken Oliphant, School of Law, University of Bristol, UK	Academics	UK
KHT-yhdistys (Finnish Institute of Authorised Public Accountants)	Auditors	Finland
KPMG	Auditors	International
large firms regulatory committee in Hungary	Auditors	Hungary
London Investment Banking Association	Market participants	UK
Marsh	Insurance	UK
Max Planck Institute	Academics	Germany
MAZARS	Auditors	International
MEDEF	Companies	France
Ministry of Justice, Sweden	Member States	Sweden
Office of the Director of Corporate Enforcement	Regulators	Ireland
Ordem dos Revisores Oficiais de Contas	Auditors	Portugal
PriceWaterhouseCoopers	Auditors	International
Reynolds Porter Chamberlain LLP, Solicitors	Miscellaneous	UK
Royal & Sunalliance	Insurance	UK
Royal NIVRA	Auditors	Netherlands
Societe Generale	Banks	France
Swedish Supervisory Board of Public Accountants	Regulators	Sweden
The Nordic Federation of Public Accountants	Auditors	International
The Quoted Companies Alliance	Companies	UK
Verband der Versicherungsunternehmen Österreichs	Insurance	Austria
Werner F. Ebke - Universität Heidelberg	Academics	Germany
WPK Auditors	Auditors	Germany