

CONTENTS



Editeur responsable

Panayotis Stamatopoulos
European Commission
DG Internal Market and Services
Unit A-4
B - 1049 Brussels
Tel: (+32 2) 296 17 72
Fax: (+32 2) 295 43 51

Editor

Nigel Griffiths
Fax: +32 2 295 43 51

Subscriptions

Brona Meldrum
DG Internal Market and Services
SPA2 1/008
B-1049 Brussels
Fax: +32 2 295 43 51
E-mail: Markt-smn@ec.europa.eu
www.ec.europa.eu/internal_market/smn.htm

Layout:

Unit A4

Online

http://ec.europa.eu/internal_market/smn.htm

© European Communities, [2008]

Reproduction is authorised provided the source is acknowledged.

For further information

http://ec.europa.eu/internal_market/index_en.htm

Your Europe

<http://ec.europa.eu/youreurope>

3	Editorial
4	'Public-private action needed to fight counterfeiting and piracy'
7	Fight against payment fraud vital for consumer confidence, says new report
8	SOLVIT - problem-solving action grows 75% in 2007
10	Commission re-launches the debate on private copying levies
11	SPECIAL FEATURE EU acts to counter the international financial turmoil
15	Consultation launched on the strengthening of the financial supervision committees
16	Limits to liability of audit firms recommended
17	New recommendations to strengthen confidence in statutory audit
17	Progress continues with international accounting convergence
18	Proposals to bolster the financial settlement systems
19	New package adopted by EU to boost the Single Market in goods
20	EU company law simplified to cut administrative burdens
21	Infringements

Photographs for this edition were supplied by: Grifco Communications and the European Commission.



EDITORIAL

- Counterfeiting and piracy of industrial and consumer products are now global activities often linked to organised crime which not only have a significant negative commercial impact but can be a risk to public health and safety. The range of products affected is immense and the economic cost to EU industry continues to grow. The Commission organised a high level conference in May to bring together stakeholders and legislators to identify workable solutions to the modern day 'high-way robbery'. See page 4.
- EU policy responses such as the 'road map' agreed in October 2007, are at the heart of international efforts to address the evident weaknesses in the international financial system. Whilst market-led initiatives are part of the solution - and the industry players are being given full opportunity to put their own houses in order - actions are being stepped up in a certain number of areas, such as prudential regulation, market functioning or market transparency. In the future, the EU wants a refocusing of financial supervision to permit better anticipation and management of market problems and mitigate the risk of crisis situations of the scale we have been experiencing over the past months. See Special Feature on page 11.
- Against a background of changes in financial markets and regulatory developments, modifications have been proposed to EU Directives dealing with settlement systems and financial collateral arrangements. The solutions proposed could make an important contribution to strengthening the tools for managing instability in financial markets. See page 18.
- Company auditor's play an important role in the proper functioning of the corporate world. Faced with a trend of increasing litigation and lack of sufficient insurance cover in this sector, the Commission has drawn up a recommendation concerning the limitation of auditors' civil liability. Its main purpose is to encourage the growth of alternative audit firms in a competitive market. It aims to protect European capital markets by ensuring that competitive audit firms remain available to carry out audits on companies listed in the EU. See page 17
- The SOLVIT problem-solving network continues to provide a useful service to help individuals and enterprises enforce their Single Market rights. In its fifth year of operation the network - which is operated jointly by the Commission with Member States - has seen a further growth in its case volume and success rate. The free-of-charge service seeks to find solutions to problems related to Single Market rights within 10 weeks using a pan-European network of experts. See page 8.



Jörgen Holmquist
Director General for
Internal Market and Services,
European Commission

A handwritten signature in blue ink, which appears to read 'J. Holmquist'. The signature is stylized and written in a cursive-like font.

'Public-private action needed to fight counterfeiting and piracy'

Counterfeiting and piracy of industrial and consumer products are now global activities often linked to organised crime which not only have a significant negative commercial impact but can be a risk to public health and safety. A high level conference organised by the Commission in May brought together stakeholders and legislators to identify workable solutions to the modern day 'highway robbery'.

Stakeholders were present in force at the high level conference on counterfeiting and piracy on 13 May and many set up mini exhibitions to display the extensive range and type of products which are now being illegally copied and traded. The products range from toys to pharmaceuticals, to computer parts, to industrial safety devices.

Opening the conference, Commissioner for Internal Market and Services, Charlie McCreevy, stressed the importance of bringing all sides together to look for practical, pragmatic suggestions to reduce counterfeiting and piracy.

Need for industry-led solutions

"In hosting this event, I set out to bring together the stakeholders, the lawmakers and, of course, members of the European Parliament to exchange views, debate and discuss the main issues, and work towards finding solutions to this

modern day highway robbery which is taking place all around us," McCreevy said.

The Commissioner graphically spelt out the significance of the problem: "Counterfeiting is becoming a very serious threat to the health and safety of our families and to the economic future of the European Union. We have seen evidence of the carnage caused by false spare parts in the airline industry, for example, not to speak of the quantity of fake and often dangerous medicines and drugs on the market.

"And there is nothing heroic about Internet downloaders putting their hands in the pockets of Europe's creative writers, musicians and performers and stealing their copyright income."

Scale of the problem

The conference heard that just about everything is being copied, from exclusive perfumes to children's toys, drinks, pharmaceuticals and car and aeroplane parts.

The statistics indicate that the phenomenon is possibly spiralling out of control. In 2005, Euro-

pean customs seized about 75 million fake articles. By 2007 that number had almost doubled to 128 million. These figures, it was noted, only relate only to the goods actually seized, indicating that the real numbers must be staggering.

Europe's software, music and audiovisual sectors are estimated to lose some 4.5 billion euros annually from counterfeiting and piracy.

Action through trade agreements

The Commission, through bilateral and multilateral trade agreements, has been working on the international scene to improve the fight against counterfeiting and piracy in third countries.

Border controls have also been improved through the Customs Regulation. The 2004 Enforcement Directive set up a legal framework to address piracy and counterfeiting, giving more efficient tools to combat violations of intellectual property. However, for this to work effectively, it needs to be accompanied by various practical measures. Information gathering has to be improved – data is fragmented and incomplete.

Some 80% of fake goods intercepted en route to the EU are made in China. But as China begins to develop its own research, they realise that as today's vio-



Lawmakers, stakeholders and MEP's came together in Brussels to find solutions to the modern day highway robbery

lators could become tomorrow's victims. And, they no longer want to have the reputation of being the world's number one counterfeiting industry. The Chinese are beginning to see the potential damage this can do to their own development.

Raising awareness

The Commissioner, along with many other speakers, highlighted the importance of raising awareness of the dangers to health and safety, as well as the real cost of buying fakes and illegally downloading material from the Internet.

Commissioner McCreevy stressed the importance of developing an effective strategy to fight the thieves: "More regulation is not the answer," he stressed. "The solutions lie with public-private partnerships. Industry should be leading the battle against fakes. Internet service providers (ISPs) should be working to solve the problem of illegal downloads. The EU will do all it can, but the real initiative and power is in your hands," he told stakeholders at the conference.

For its part the Commission has initiated an expansion of its own anti-counterfeiting and anti-piracy efforts. At the beginning of 2008, a specialist unit was established in DG Internal Market and Services dedicated to fighting IP theft.

"I would like to see the resources of this unit expand over time," the Commissioner said, "to mobilise the fight against counterfeiting and to work with other services of the Commission, Member States and stakeholders in upping our game against this pernicious phenomena."

Arlene McCarthy MEP, chair of the European Parliament's Internal Market and Consumer Protection Committee stressed the importance of making consumers aware that there is a real cost to piracy and counterfeiting goods and that it is not a victimless crime.



McCreevy: "Nothing is safe, just about everything can be copied – from exclusive perfumes to children's toys, drinks, pharmaceuticals and car and aeroplane parts...The EU will do all it can, but the real initiative and power is in your hands," he told stakeholders at the conference.

"Consumers are generally unaware of the dangers involved with counterfeit goods," she said. "Piracy and counterfeiting also carry social and business costs and counterfeiting threatens to undermine legitimate business in the Single Market.

And the environment for piracy has never been better, she said. "The Internet with one click makes it easy to sell goods. And these can be perfect copies of music and film. An estimated 80 percent of Internet bandwidth is taken up by illegal downloading. This is an issue that the telecoms industry must address.

"We have to protect the health of our consumers from this illegal and sometimes lethal trade. Fake cigarettes sometimes contain cadmium, lead or arsenic, and can kill. Fake vodka and fake pharmaceuticals may damage your health."

Behind the counterfeiting industry, she warned, are drug dealers or serious criminals. "There is a direct link between

organised crime and piracy which must be tackled. Fighting them requires effective laws, strong enforcement, the



A selection of pirated movie DVDs - the conference exhibition amply demonstrated the extent of the counterfeiting and piracy

development of new technologies to enforce IPR online, and greater consumer awareness," she said.

Consumers are not allies of counterfeiters, but they are confused by the many branded products legally produced in

China, said Monique Goyens, director-general of the European Consumers' Organisation (BEUC). Price is not an absolute criterion for distinguishing a bogus from a genuine item, especially when the counterfeit is part of a branded product, she said.

MEP Malcolm Harbour, who authored the European Parliament's report on proposed changes to consumer protection provisions of EU telecommunications Directives, said he wants ISPs to be required to give potential subscribers pre-contractual information about copyright infringement online and update subscribers regularly. But Harbour said public authorities should be responsible for protecting IP rights because they are responsible for enforcing them, he said.

Industry perspective

The conference provided a platform for manufacturing industry to give its perspective.

Counterfeiting has seen alarming growth in recent years, said Marc-Antoine Jamet, president of l'Union des Fabricants, whose members include Pfizer, Lacoste and Microsoft. Counterfeiting is increasingly carried out by organised crime, he said. Industrialisation also means that tourists no longer have to travel to Thailand to buy fakes from China, but can find them anywhere, in-



Computer parts are often taken from old equipment and repackaged as new.

cluding online. The counterfeiting business is also becoming more diversified, moving into areas such as wine, car parts, clothing, and toys, he said.

Health and Safety Dangers Stressed

Larry Mallory of Johnson & Johnson pointed out that while counterfeit drugs have been a problem for some time, there is now a disturbing trend toward counterfeiting of medical equipment and that these devices are finding their way into hospitals which lack the skills to recognise they are fake before they are used. Repackaged or expired genuine products also an area of concern, he said.

Microelectronic components are also being removed from old televisions and computers, then reworked and installed in other products. No worldwide system exists for checking whether product components are legitimate, and all industries, in Europe and elsewhere, at times buy from the 'spot market' where the chance of purchasing counterfeit or refurbished components is greatest, it was pointed out.

Christophe Zimmermann, head of the World Customs Organisation counterfeiting and piracy unit, urged policy makers to treat counterfeiting like illegal drugs. Let the specialists fight it in the ports and waterways, he said, adding that customs agents and police should work with rights holders to counter the billions of packages and containers that pass through ports every year. He asked the Commission to use its financial clout to steer funds where they are needed.

ISP Liability

There was a lively debate on illegal downloading between representatives of copyright owners and the internet service providers (ISPs).

The music industry believes that the best way to fight piracy is for service providers to agree to notify subscribers of alleged infringements and, if necessary, to cut off their internet access, said John Kennedy, president of the International Federation for the Phonographic Industry (IFPI).

Simon Milner of the UK ISP, British Telecom (BT), defended his organisations's approach saying that BT is genuinely open-minded about rights owners' problem but oppose a one-size-fits-all approach. "The 'three-strikes' or 'graduated response' for illegal downloaders is disproportionate, he said.

Both sides are closely monitoring France's 'Olivennes' solution which has introduced an oversight body to warn internet users of illegal download activity and cut off those who persist. It is based on a memorandum of understanding between some French ISPs, the recording industry and the French government under which ISPs will hand over data on who is using file sharing networks to a new government agency.

Summing up the conference, Margot Fröhlinger, Director for the Knowledge-Based Economy, in DG Internal Market and Services, said that this is beginning of a process not the end of a process. While the conference has raised more questions than it has answered, it shows how we can work together both for the good of consumers and IP rights holders, she added.



Vital industrial components are being counterfeit and often find their way into critical industrial applications, with implications for health and safety.

Fight against payment fraud vital for consumer confidence says Commission report

The Commission has published a report on the actions undertaken on prevention of payment fraud following the Commission's 2004 Action Plan. This report shows that the security of means of payment and payment systems is a necessary condition for improving consumer confidence and trust in new payment services.



Credit and debit card fraud threatens to obstruct the development of a cross-border payments system in Europe. And while some types of payment fraud are being reduced through action by banks, other kinds of fraudulent practices – particularly those involving the Internet – are on the rise, it emerges from a report drawn up by the Commission.

Confidence in payment systems

The study is part of the Action Plan implemented by the Commission over the 2004-2007 period concerning payment fraud prevention.

Whilst in practice fraud only affects a minority of users, it has a wider negative impact in undermining general confidence in payments systems, the report notes.

Maintaining or enhancing user confidence does not necessarily require new legislation but rather the commitment of the parties involved to achieve this goal. Increasing public awareness and education is crucial in this context.

Moving target

Payment fraud is unfortunately a moving target. The move towards 'chip and pin' technology has cut down on fraud associated with lost and stolen cards. One of the effects has been to shift fraud into other areas, notably involving the internet.

New threats have appeared, such as identity theft/fraud and, more generally, cyber crime.

In 2007, the Commission announced its policy objectives regarding cyber crime and will continue to closely monitor developments in this area.

Meanwhile, criminals involved in payment fraud are becoming sophisticated and internationalised, with organised crime playing a growing role.

Tightened security

The new legal framework for payments, the 'know your customer' obligations, as well as the development of SEPA by industry should provide a good basis for increasing both security and trust.

Additionally, the measures adopted by the Commission, beyond the Action Plan, in relation to the prevention of and fight against identity theft/fraud and cyber crime, should also contribute to those goals.

The Commission has been giving financial support to actions undertaken by stakeholders related to the prevention of/fight against fraud, notably in the context of the research framework programme(s) and of the Prevention of and fight against Crime programme.

Consumer education

The work conducted in 2004-2007 shows that while it is important to ensure the security of means of payment and payment systems, it is also important to improve consumer confidence and trust.

In this context, increased consumer education and awareness as well as cooperation of all stakeholders involved appear key to a successful approach to the fraud problem. The Action Plan included other initiatives, such as specialised conferences, with a view to raising awareness about this threat.

"Payment fraud affects consumer confidence in non-cash means of payment and therefore remains a threat to the success of the Single Market for payments," said Internal Market and Services Commissioner Charlie McCreevy.

"The Commission is working actively to minimise the payment fraud threat, for the benefit of consumers and financial services providers alike."

info

Céu Pereira
TEL: +32 (0)2.295 74 92
FAX: +32 (0)2.295 07 50
Markt-H3@cec.eu.int

Single Market rights: Problem-solving action

In the fifth year of its existence the SOLVIT problem-solving network operated jointly by the Commission with Member States has seen a further growth in its case volume and success rate. The free-of-charge service seeks to find solutions to problems related to Single Market rights within 10 weeks using a pan-European network of experts.

In 2007, the EU's SOLVIT network handled 819 problems encountered by citizens and businesses in exercising their Single Market rights, of which 679 (83%) were solved.

In the fifth year of its existence, SOLVIT saw a growth in case volume of 75% compared with 2006 and managed to keep resolution rates high and case handling times short.

These figures are set out in the European Commission's annual SOLVIT report, which concludes that 2007 has been an

other successful year for SOLVIT. But the report also notes that staffing problems persist in several national SOLVIT centres as several Member States are still not providing adequate resources to SOLVIT centres to allow them to engage in awareness-raising activities.

Main conclusions

Bulgaria and Romania joined the SOLVIT network in January 2007 resulting in a 15% increase in case submissions. Both countries have set up SOLVIT centres with a good problem-solving capacity.

Since 2002 SOLVIT has dealt with more than 2,300 cases relating to areas such as residence permits, recognition of professional qualifications, employment and social security rights, market access for products, provision of services, VAT reimbursements or border controls for businesses.

In July 2007 SOLVIT celebrated its 5th anniversary with events in Brussels and in the Member States. The intensification of awareness-raising activities and the introduction of a web complaint form in December 2005 were at the basis of the significant increase in the number of cases handled. However, within the overall SOLVIT case flow the number of complaints submitted by citizens doubled while complaints submitted by businesses remained at the same level as in 2006. The report points out that less than 20% of SOLVIT cases were submitted by businesses, which demonstrates a need to intensify information activities for this target group.

The SOLVIT approach also received strong support from the European Parlia-



The SOLVIT network - experts in every capital

SOLVIT helps Luxembourg architect to work in France

An architect from Luxembourg applying to become a member of a regional order of architects in France was refused because the insurance company covering his professional liability risks was not registered in France.

SOLVIT intervened to enable the architect to register with the French order and exercise his profession in France. Solved within 13 weeks.

Italian company helped to establish in Germany

An Italian entrepreneur wished to establish his company in Germany but was refused because his documents were not in the same format as the relevant European forms.

SOLVIT Italy intervened to clarify what were the requirements from the German authorities, which resulted in the issuing of the correct documents by the Italian authorities. Solved within 8 weeks.

Finnish vitamins allowed into the Czech Republic

A Finnish company applied for permission to launch dietary supplements in the Czech Republic. The Czech authorities claimed the products exceeded the limits for vitamin B and could be harmful for the consumers if marketed as dietary supplements. SOLVIT intervened to convince the authorities that the products were not pharmaceuticals and could be marketed as food supplements, if correctly labelled. Solved within 5 weeks.

ment in 2007 which resulted in a budget increase to permit further development and promotion. Several members of the European Parliament have also become more engaged in promoting SOLVIT in the course of their daily activities.

SOLVIT has continued to deliver a high-quality service and continues to generate numerous success stories. However, as in the previous year, the report urges national authorities to adequately staff their SOLVIT centres.

Without adequate staff levels, it will not be possible to meet the agreed quality standards in all SOLVIT centres, to deliver solutions within the 10 weeks deadline and to engage in promotion activities, the report cautions.



pragmatic solutions to complainants within an average period of ten weeks.

SOLVIT is a free-of-charge, easy-to-use service. Individuals can submit their complaints via a webform in their native language or contact their national SOLVIT centre. It is part of a group of services designed to help citizens and businesses make the most of their EU rights, including Europe Direct, the information portal Your Europe and the Citizens Signpost Service which provides personalised legal advice.

"SOLVIT has proved its worth not only as a successful problem solving tool, but also as a model for administrative co-operation between Member States," commented Internal Market and Services Commissioner Charlie McCreevy.

"It shows that it is possible, even within a complex multicultural organisation like the European Union, to shift from formal, time consuming procedures to an informal, pragmatic and fast track approach.

"More and more Europeans are turning to SOLVIT when they encounter obsta-

SOLVIT 2007 facts and figures

- The overall number of cases handled increased by 75%. 819 cases were considered suitable to be handled in SOLVIT representing around 20% of all queries received. The remainder was referred to other instances or networks.
- The average resolution rate for SOLVIT cases was 83 %.
- Of all resolved cases, 77% were resolved within the deadline of ten weeks. Case handling time was maintained at an average of 58 days.
- 82% of SOLVIT cases were submitted by citizens. The major problem areas for citizens were social security (32%), recognition of professional qualifications (24%) and residence rights, especially for third country spouses of EU citizens (18%).
- 18% of SOLVIT cases were submitted by businesses. Their main problem areas are taxation (30%), market access for products (20%) and the provision of services and establishment (20%).

cles in the Single Market. With its fast and effective service, SOLVIT offers them a personal and friendly helping hand."

Practical solutions

The Commission and EU Member States set up the SOLVIT network in 2002 to help solve practical problems in the Single Market. Since then it has since dealt with more than 2,300 cases relating to areas as varied as residence permits, recognition of professional qualifications, employment and social security rights, market access for products, provision of services, VAT reimbursements or border controls for businesses. SOLVIT delivers

info

<http://ec.europa.eu/solvit>

Portuguese citizen succeeds with Italian pension

An 82-year-old Portuguese citizen received a pension from the Italian system. Italian authorities requested her to send a 'proof of life' which she did by registered mail immediately after receiving the request. However, at the same time, the Italian authorities stopped payment of her pension. SOLVIT intervened to clarify the situation and was able to arrange rapid payment of the amount due. Solved within two weeks.

Latvian nurse allowed to work in Malta

A Latvian nurse had moved to Malta after marrying a Maltese national. Her diploma as a registered nurse was not recognised as valid for work, due to alleged discrepancies in her certificate and period of employment. SOLVIT Malta intervened to clarify that the Latvian diploma should be recognised under EU rules, allowing her to be issued with the necessary nursing certificate required for her job in Malta. Solved within 10 weeks.

SOLVIT facilitates German car registration in Slovakia

A Slovakian citizen contacted SOLVIT because his German car was refused registration in Slovakia because it allegedly did not meet Slovak requirements in respect to noise, pollution and brakes. The authorised importer confirmed that the car fulfilled all conditions laid down by the EC. SOLVIT intervened to convince the Slovakian authority that it was acting contrary to EU law. The car's registration was finally accepted within 3 weeks.

Commission relaunches the debate on private copying levies

The Commission has relaunches the debate on private copying levies with a public consultation in February and April followed by a public hearing in Brussels, 27 May 2008. The Commission wants to stimulate a new process through which the main participants in this debate - the collecting societies and the electronics industry - can discuss the issues.



The first copying levies were imposed in the 1960s on blank audio tapes to compensate artists for lost earnings. Today's technology landscape is more complex with blank CDs or DVDs, MP3 players and mobile phones all in a position to reproduce copyright-relevant works such as music, pictures, films etc.

And the debate between the collecting societies, who represent that artists, and the consumer electronics industry is still as lively as ever.

Public consultation

The public hearing held in Brussels in May followed three months of consultation which yielded contributions from 130 stakeholders, primarily from the collecting societies that administer levies, and from the consumer electronics industry that has to pay them.

In opening the public hearing, Commissioner Charlie McCreevy said that in deciding to re-launch this debate he wanted to start things afresh.

"I have a simple wish. I would like this hearing to be the start of a process. A process through which the main participants in this debate can sit down and calmly discuss a number of the issues that this public consultation has thrown up."

The Commissioner emphasised the im-

portance of proper reward for artists: "The core of our efforts is to foster an atmosphere and regulatory environment where European creativity can flourish and where artists can devote their life to creation and culture. Levies are a valuable component in how we presently ensure the livelihood of the creative community. And that authors receive fair compensation for the use of their work cannot be contested."

Fresh approach

The issue of how to fairly compensate rights holders for the use of their works has been around for quite a long time. Several attempts were made previously to establish certain principles on how such a levy system should function within the Single Market.

The creation of a Forum for Collecting Societies and ICT Industry to look at issues involving cross-border trade, electronic commerce, consumer electronics and the calculation of the different levies, was proposed by the Commissioner.

The key points meriting attention he suggested are:

- First, clamping down on free-riders - the traders who do not pay the levies - leaving legitimate businesses to shoulder the burden and pay while others do not;

- Second, improving the practical modalities of obtaining reimbursement of levies once electronic equipment is exported to another Member State where a new levy is collected; and
- Third, seeing if broad principles can be worked out on how levies could be calculated taking into account future technological developments.

Cultural benefit

"The levies collected for private copying are not only used to compensate for economic harm suffered by artists whose works and performances are being copied," the Commissioner said. "These levies also fulfil a valuable cultural function in fostering young talent or taking care of the social welfare of older artists for example.

"This hearing will ideally mark the beginning in the joint formulation of a roadmap for developing a future in which levies take their rightful place compensating artists for losses while giving the electronics industry some certainty on what equipment will be levied and to what extent," he concluded.

info

David Baervoets
TEL: +32 (0)2.295 98 21
FAX: +32 (0)2.299 30 51
Markt-DI@ec.europa.eu

EU acts to counter the international financial turmoil



Since the crisis in the United States mortgage loans market unfolded in mid 2007, the EU has been a key player in international efforts to bring stability back to the financial system.

EU policy responses such as the 'road map' agreed in October 2007, are at the heart of international efforts to address the evident weaknesses in the international financial system. Whilst market-led initiatives are part of the solution - and the industry players are being given full opportunity to put their own houses in order - actions are being stepped up in a certain number of areas, such as prudential regulation, market functioning or market transparency.

In the future the EU wants a refocusing of financial supervision to permit better anticipation and management of market problems and mitigate the risk of crisis situations of the scale we have been experiencing over the past months.

Long before the U.S. subprime crisis unfolded there had

been concern at EU level about financial stability arrangements in the fast-moving and fast changing global financial markets. Indeed a dedicated Commission working group had been set up to focus on this and develop concrete proposals for change.

As a result, the EU was well positioned to move rapidly once the crisis broke and propose in autumn 2007 a 'road map' of key areas where action should be taken. The October ECOFIN Council meeting conferred a special role on the Commission to closely follow the different work streams so as to shape its views, ensure consistency, including with its own work programme and formulate and propose appropriate policy responses.

"...the work done at EU level in many key areas has helped shape thinking and action at the international level."

At the global level, EU action is being coordinated and synchronised with the relevant organisations (Financial Stability Forum, IMF, G-7 etc.) so that all players in the global financial market work 'in step' towards achieving a consensus on the way forward. Indeed the work done at the EU level has in many keys areas helped shape thinking and action at the international level.

Growing complexity of securitisation

Although the crisis was triggered by inadequate regulation of mortgage selling in the U.S., credit rating shortcomings and the redistribution of financial risks through complex financial products, the events that unfolded were in many respects an 'accident waiting to happen'.



The ECOFIN Council - In May the EU's economics and finance ministers endorsed plans to tighten up the system of financing and banking supervision.



McCreevy: The financial industry has been asked to come forward with a credible, comprehensive proposal, which responds to the needs of regulators..

It had been clear for some time that the increasing size and sophistication of financial markets was becoming a challenge for the existing framework for prudential regulation and supervision. After several years of price stability, ample liquidity, strong global economic growth and continued search by investors for ever better yields, there was a growing perception that credit risk in global asset markets was mispriced and that the conditions were set for a potentially disorderly correction - should investors' appetite for risk suddenly decline.

Addressing the European Parliament's Committee on Economic and Monetary Affairs Brussels, in April 2008 Commissioner Charlie McCreevy highlighted the problems underlying the turmoil saying:

"The issues are known: weak internal valuation models, opaque securitisation process, business models that were built upon disproportionate maturity mismatches between assets and liabilities, weak internal controls and poor disclosure standards, to name but a few."

Transparency and valuation

At the last Spring Council, EU leaders agreed that the primary responsibility for dealing with the market failures lies with the private sector, whose activities caused the problem. National and supranational authorities have to be prepared to take regulatory and supervisory actions where necessary, they concluded. Reflecting the priorities set out in the Autumn 2007 Road Map (see box opposite) EU leaders identified four key areas of work to be done:

A first priority is to enhance transparency for investors, markets and regulators. The key challenge here is to provide better information on exposures to structured products and off-balance sheet vehicles.

The financial industry has been asked to come forward with a credible, comprehensive proposal, which responds to the needs of regulators, and industry has agreed to compile complete data on markets for structured products and to provide regularly updated data on a continual basis. The first industry report was published mid-June.

A further complex area for action concerns risk assessment and improved approaches to valuation standards, in particular for illiquid assets. The complex issue of valuation is being worked on at international level by organisations such as the International Accounting Standards Board (IASB) and the International Organisation of Securities Commissions (IOSCO). Indeed there is a growing debate on whether fair value and mark-to-market measurements may have aggravated the crisis by bringing cyclical elements (pro-cyclicality) into financial statements.

Incentives structures

Certain potential conflicts of interest have been evident in the functioning of the financial markets. The operation of the credit rating agencies has been singled out for attention given the generous ratings they gave to financial products which subsequently defaulted.

The Commission plans to finalise its assessment by end-June, taking into account the final position of the industry, and the assessments from the Committee of European Securities Regulators (CESR), the European Securities Markets Expert Group (ESME) and IOSCO. The objective is to ensure proper treatment of conflicts of interest and to improve the quality of ratings and methodologies and the transparency of the agencies.

What is the roadmap?

The roadmap agreed by EU ministers in October 2007 combines actions of a regulatory and non-regulatory nature which are structured around four main objectives:

- improving transparency in the market, notably with respect to banks' exposures relating to securitisation and off-balance sheet items;
- upgrading valuation standards to respond in particular to the problems arising from the valuation of illiquid assets;
- strengthening the prudential framework for the banking sector, including the treatment of large exposures, banks' capital requirements for securitisation, and liquidity risk management, and
- investigating structural market issues, such as the role played by credit rating agencies and the 'originate and distribute' model.



Next to this there may be a need for some sort of oversight of CRAs activities, processes and performance.

Banking legislation

Critical changes need to be made to the EU banking legislation, i.e. the Capital Requirements Directive (CRD) which governs risk management practices and financial buffers of banking groups.

The current regime needs to be updated to take account of changes in the structure of the market and the changing nature of its products. It has to be adapted to the evolution of risk management practice.

The prudential framework and risk management in the banking sector needs to be reinforced through a targeted revision of certain aspects of the Capital Requirements Directive (CRD).

Proposals for changes to the Capital Requirements Directive will include:

- new rules to limit the risk stemming from large exposures;
- a harmonisation of the definition of hybrid capital instruments;
- supervisory arrangements, i.e. the introduction of colleges of supervisors for all large EU banking groups (see 'cross-border banking' hereunder);
- the waivers for banks organised in networks, and
- adjustments to certain technical provisions, including quantitative requirements for securitisation, and
- a series of changes to ease the administrative burden..

In April the Commission launched a public consultation on the Capital Requirements Directive which ended on 16 June. This is in part a response to the recommendations of the Financial Stability Forum and its aim is to assess the concerns of the stakeholders and ensure that any changes are robust and practicable. The Commission proposals aim to strike a balance between 'large and small' banks on the one hand and 'old and new' Member States on the other.

Modernised Supervisory committees

All are agreed that there must be strengthened cooperation at international level and convergence of supervisory practices. The EU already has a system of supervisory committees in place - known as the Level 3 committees (CEBS, CESR and CEIOPS) made up of the 27 banking, insurance and securities markets regulators. This structure was devised by the former central banker Baron Alexandre Lamfalussy.



Commissioner for Economic and Monetary Affairs, Joaquin ALMUNIA: the EU has been a leading force in consensus-building at world level.

There is a widespread view that the current supervisory architecture must be modernised and upgraded. The Commission is proposing a wider array of tasks they should perform such as mediation, early warning and harmonised reporting. It takes the view that the implementation of a series of practical, incremental and result-oriented initiatives will strengthen European supervisory and stability arrangements. Clarifying and reinforcing the role of the Committees of Supervisors by amending their constituting Decisions is also seen as a necessary step in this direction. It will lead to a more cost-effective supervisory framework and to better financial stability monitoring.

A public consultation on this has been initiated by the Commission to help set out a clearer framework for their activities (see page 15).

Adding a European dimension

EU Ministers have been discussing what steps should be taken to make the national watchdogs work more closely in these committees. The objective is to add a European dimension to the mandate of the national supervisors and that they take EU-wide considerations into account.

Cross-border banking Cross-border banks like Santander, UniCredit, Deutsche Bank, Fortis and Nordea now account for the bulk of deposits in Europe but supervision is still nationally based. Cross-border groups want to report to one main regulator to save on compliance costs.

Colleges of supervisors can make a decisive contribution to improve the supervision of cross-border financial groups. Within these colleges, supervisors will be expected to agree on key supervisory issues such as the approval of internal models or reporting requirements. Colleges may also facilitate the sharing of information between home and host supervisors.



Crisis management memorandum

EU ministers have also agreed on a Memorandum of Understanding which lays down how supervisory authorities, central banks and finance ministries from the 27 states should work together more closely when a cross-border bank is in trouble.

“The turmoil has shown that we need to improve and strengthen the EU tool box for the supervision of financial groups,”

EU ministers have also given the go ahead for an EU-wide crisis management simulation exercise in the Spring of 2009 to test the robustness of the systems being put in place. Who should decide on the need for supervisory intervention? Who should contact whom? Who should lead possible interventions in crisis situations? This exercise should test the ability of authorities to answer these questions.

“The turmoil has shown that we need to improve and strengthen the EU tool box for the supervision of financial groups,” commented Commissioner McCreevy. “We need to build up an EU capacity for financial crisis prevention, management and resolution. The way forward was agreed at the end of last year and has been endorsed by the Council.

“The implementation of the overall road map is progressing well. In the months to come, it will be crucial to stick to the timetable and show that the EU is responding to the crisis effectively and in a coherent way.”



Leading the debate in the May ECOFIN Council: Commissioner Joaquin Almunia, Andrej Bajuk, Slovenian Minister for Finance (President of the ECOFIN Council) and Commissioner Laszlo Kovacs.

The suggested amendments to the CRD aim to reinforce supervision of cross-border banking groups by requiring

- the establishment of colleges of supervisors for all cross border groups;
- agreement within colleges on key home/host issues e.g. the approval of internal models, reporting requirements;
- referrals to the Committee of European Banking Supervisors (CEBS) in case of disagreement within colleges.

In addition, initiatives such as the inclusion of an EU dimension into the mandates of national supervisory authorities and the improved functioning of EU committees of supervisors, will further strengthen the efficiency and effectiveness of EU supervision.

Consultation launched on strengthening the financial supervision 'level 3' committees

The recent financial turmoil has shown the necessity to upgrade the current supervisory architecture. The Commission has consequently launched a consultation on possible amendments that should be made to the Commission Decisions establishing the Committee of European Securities Regulators (CESR), the Committee of European Banking Supervisors (CEBS) and the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS).

The overall objective of the amendments is to align, clarify and strengthen the responsibilities of the Committees of Supervisors and to enhance their contribution to supervisory cooperation and convergence at EU level, and to the safeguarding of financial stability.

The consultative document invites com-

ments on a non-exhaustive list of tasks that the Committees are expected to perform in these areas.

The Committees of Supervisors, known as the 'Level 3 Committees', are composed of high-level representatives from Member States' supervisory authorities. They were established in 2001 in the securities area and in 2005 in banking and insurance as part of the Lamfalussy process.

Following the Commission's November 2007 Communication on the review of the Lamfalussy process and the work carried out on this by the Inter-institutional Monitoring Group, the Commission wants to bring about greater coherence and consistency between the three Decisions that established CESR, CEBS and CEIOPS. The Commission intends to

set out a clearer framework for the activities of these Committees in the area of supervisory cooperation and convergence.

To this end, it is proposed that the Decisions explicitly refer to the main tasks that the Committees of Supervisors are expected to perform. In addition, the Decisions should reflect the responsibility of the Committees for financial stability monitoring and regular reporting.

The consultative document suggests a range of tasks each Committee should be assigned and explains the underlying reasoning behind each.

Stakeholders are invited to comment on these issues by 18 July 2008.

Contributions should be sent to: markt-l3@ec.europa.eu

http://ec.europa.eu/internal_market/finances/committees/index_en.htm#review

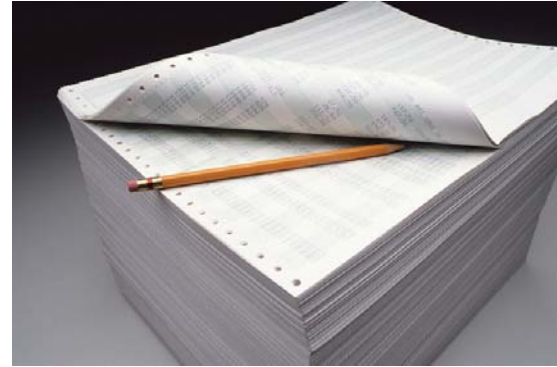
Your **Europe**

Information to broaden your horizons



Limits to the liability of audit firms recommended

A recommendation concerning the limitation of auditors' civil liability has been issued by the Commission. Its main purpose is to encourage the growth of alternative audit firms in an international audit market.



The recommendation on auditor liability drawn up by the Commission responds to the increasing trend towards litigation in this sector and the lack of sufficient insurance cover. It aims to protect European capital markets by ensuring that more audit firms are available to carry out audits on companies listed in the EU.

The recommendation leaves it to Member States to decide on the appropriate method for limiting liability, and introduces a set of key principles to ensure that any limitation is fair for auditors, the audited companies, investors and other stakeholders.

Public consultation

This initiative arises from a mandate in the 2006 Directive on Statutory Audit to examine the issue of limitation of financial liability and to present recommendations to Member States where appropriate.

Against this background, the Commission Services conducted a public consultation on the need to reform auditors' liability in Member States.

The consultation was based on the results of a study, prepared by the consultancy firm London Economics and the debates of an expert group (Liability Forum).

Most of the respondents to the public consultation considered that the lack of choice in the international audit market was a major problem. Not all respondents, however, agreed that limiting auditors' liability would be, by itself, an appropriate way to address the issue. Some respondents also stressed that if a Commission recommendation is adopted, it should give maximum flexibility to Member States in relation to the method of limitation at national level.

Taking these elements into account, the Commission, prepared an impact assessment on this initiative.

Local customisation

The recommendation proposes three possible methods for Member States to apply, though any other equivalent method might be used. The selected method should best suit the Member State's legal environment concerning civil liability.

It also introduces key principles to be followed by Member States when they select a method of liability limitation:

- The limitation of liability should not apply in the case of intentional misconduct on the part of the auditor;
- A limitation would be inefficient if it does not also cover third parties;
- Damaged parties have the right to be fairly compensated.

"After in-depth research and extensive consultation, we have concluded that unlimited liability combined with insufficient insurance cover is no longer tenable," commented Internal Market and Services Commissioner Charlie McCreevy.

"This issue is a potentially huge problem for our capital markets and for auditors working on an international scale. The current conditions are not only preventing the entry of new players into the international audit market, but are also threatening existing firms. In a context of high concentration and limited choice of audit firms, this situation could lead to damaging consequences for European capital markets."

info

Karolina Majewska
TEL: +32 (0)2.298 02 88
FAX: +32 (0)2.299 30 81
Markt-F4@ec.europa.eu

New recommendations to strengthen confidence in statutory audit

Many countries are setting up systems for independent supervision of company auditing. To ensure high and consistent quality, the Commission has drawn up recommendations for Member States. A Recommendation has been issued by the Commission on “external quality assurance for statutory auditors and audit firms auditing public interest entities”.

It sets out to provide guidance to Member States on how best to establish independent and effective systems of inspections in line with the EU's Directive on Statutory Audit (2006/43/EC).

The Recommendation gives more responsibility to the public oversight bodies, strengthens the independence of inspection teams and enhances transparency on the results of inspections of in-

dividual audit firms. In order to enhance the quality of audits within the EU, the European Commission finds that independent oversight bodies should play an active role in the inspections of audit firms. Professional associations should no longer take the lead in organising inspections.

The Recommendation is limited to inspections of the statutory auditors or audit firms which audit what are termed ‘public interest entities’ - effectively the large private sector companies.

The main provisions are:

- An active role for the public oversight authorities in inspections. Professional associations can still assist the public oversight

authorities, but should be subject to important safeguards, including accountability to the public oversight authority.

- Member States are invited to clarify that practitioners from audit firms (peers) should no longer have a leading role in inspections system and inspections teams and should only be needed in exceptional cases.
- Transparency on the outcome of the inspections should be enhanced in to improve accountability of the inspection system towards investors, companies and other stakeholders.

Major deficiencies in internal controls of audit firms should be disclosed if an audit firm does not address appropriately the recommendations for improving the audit quality.

info

http://ec.europa.eu/internal_market/auditing/quality/index_en.htm

Progress continues with accounting convergence

A report has been drawn up by the Commission on how third countries are progressing in the process of converging their national accounting system towards the EU's preferred IFRS system (International Financial Reporting Standards). It also looks at progress being made towards the elimination of reconciliation requirements that apply to Community issuers listed in these countries.

The report notes that the Japanese GAAP (Generally Accepted Accounting Principles) and the United States GAAP both meet the criteria of equivalence to IFRS. Chinese GAAP will continue to be accepted, but since it moved to IFRS for the first time in 2007, more information on its implementation is needed.

The Paper also concludes that an exemption until 2011 should be granted to Canada and South Korea in view of their ongoing efforts to move to IFRS in the near future. Within the coming weeks the Commission is expected to present legislative proposals to this effect.

In the report the Commission recalls the move by the United States Securities Exchange Commission in 2007 to waive the requirement for IFRS-based financial statements to be reconciled to US GAAP. The Commission is continuing with its objective of seeking removal of this reconciliation requirement for all European issuers using IFRS as adopted by the EU.

It also intends to continue its efforts to resolve the issue of the 'carve-out' of IAS 39. In this context the Paper calls on the IASB to play a full role.

The Commission report also highlights the countries which are already successfully applying IFRS. These include, for instance, Australia, Hong Kong, New Zealand, Singapore and South Africa.

In addition, Israel has made IFRS mandatory for all listed companies except for banks and dual listed companies as from January 2008. In such cases the report calls for an explicit and unreserved statement of such a compliance with IFRS to be included in the audited financial statements.

In the coming years the Commission Services will continue to monitor the situation and assess ongoing efforts by third countries in moving to IFRS.

info

http://ec.europa.eu/internal_market/accounting/news/index_en.htm

Commission proposals to bolster the financial settlement systems

Against a background of changes in financial markets and regulatory developments, modifications have been proposed to EU Directives dealing with settlement systems and financial collateral arrangements. The solutions proposed could make an important contribution to strengthening the tools for managing instability in financial markets.



To strengthen Europe's financial settlement systems and update financial collateral arrangements the Commission has drawn up a proposal to amend the Settlement Finality Directive and the Financial Collateral Directive.

These are the two main Community instruments in the area of clearing and settlement and financial collateral. The main purpose of the proposal is to bring the Directives into line with the latest market and regulatory developments.

With the introduction in November 2007 of MiFID - the Directive on Markets in Financial Instruments - trading systems are expected to become increasingly linked and interoperable. MiFID, for example, enables investment firms, regulated markets and Multilateral Trading Facilities (MTFs) to choose their post-trade location. There is consequently a need for legislation to be adapted. The protection afforded by Settlement Finality Directive will consequently be extended to night-time settlement and to settlement between linked systems.

In addition the scope of the protection provided by both Directives will be broadened to include new types of assets (i.e. credit claims eligible for 'collateralisation') so as to facilitate their use throughout the Community.

The proposal also seeks to introduce a number of simplifications and clarifica-

tions to facilitate the application of the two Directives.

Financial turmoil

The recent and ongoing financial turmoil is a further argument in favour of the proposal, since the revised provisions could significantly help to strengthen the tools available for managing instability in financial markets.

The establishment of a harmonised legal framework for the use of credit claims as collateral in cross-border transactions would, for example, help enhance market liquidity, which has been severely hit in recent months.

Settlement Finality

The Settlement Finality Directive was drafted in the mid-1990s with a view to preparing European payment and securities settlement systems for the euro and a more integrated market place.

It provides protection to both payment and securities settlement systems in case of default by a participant.

The Financial Collateral Directive regulates and facilitates the cross-border use of collateral.

Both Directives generally work well and Member States, market participants and other stakeholders strongly support them. With this proposal the Commission's primary aim is to update them to bring them in line with regulatory and market developments that have occurred since their adoption.

"Ensuring the proper functioning of settlement systems in rapidly evolving markets is indispensable for the stability of financial markets, even more so in times of market turmoil," said Internal Market and Services Commissioner Charlie McCreevy.

"Following MiFID and the Code of Conduct, we are witnessing an increasing number of requests for cross-border links between post-trade systems. We are also witnessing an increased use of new types of collateral in the marketplace, in particular credit claims.

"However, the use of credit claims as collateral in cross-border transactions is almost non-existent, as they currently do not enjoy the protection of the Financial Collateral Directive. I would like to remedy this as well."

info

Roger Wezenbeek
TEL: +32 (0)2.296 56 81
Mattias Levin
TEL: +32 (0)2.295 18 11
FAX: +32 (0)2.299 30 71
Markt-G2@ec.europa.eu

info

http://ec.europa.eu/internal_market/financial-markets/settlement/index_en.htm
http://ec.europa.eu/internal_market/financial-markets/collateral/index_en.htm

New package adopted by EU to boost the Single Market in goods

Following the 'green light' from the European Parliament in February and formal adoption by the EU's Council of Ministers in June, a broad package of measures to facilitate the operation of the Single Market for goods will come into force in January 2010. The reforms will remove a host of barriers to free trade in goods across the EU's Single Market. In addition to reducing administrative burdens for traders, the changes will also increase product safety for consumers.

Despite the generally acclaimed success of the Single Market programme since 1993, obstacles still exist in certain areas to the free and safe trade in goods. A package of improvements to the working of the Single Market has been drawn up to tackle existing gaps and also to increase product safety for consumers.

Existing barriers

The diversity of national technical rules still constitutes a significant barrier to free trade of products within the EU, especially for products for which there are no European rules. These barriers result in extra administrative controls and tests for exporters.

There is also a lack of consistency in the approach to market surveillance in Member States and different levels of enforcement are applied, which results in an uneven playing field for manufacturers.

In some areas, EU rules are inconsistent or burdensome. Different definitions can, for example, apply to the same product while other fundamental notions are not defined at all. Different conformity

assessment procedures can overlap, and conformity assessment bodies can sometimes face legal obstacles and different requirements.

Accreditation of testing bodies

One of the aims of the new measures is to strengthen existing market surveillance systems for industrial products and, for the first time, align them with import controls.

A formal system of accreditation is also proposed to ensure that conformity assessment bodies (or testing and certification laboratories) provide the high quality services that manufacturers need.

The introduction of these measures will serve to reinforce the role and credibility of the CE marking system.

Better information for businesses

To help exporters, Product Contact Points will be established in all Member States. They will provide information on national technical rules, so that enterprises, in particular SMEs, can obtain reliable and precise information about the law in force in the Member State where they intend to sell their products.

The package also strengthens the Sin-

gle Market for a wide range of other products, which are not subject to EU harmonisation, such as various types of foodstuffs, furniture, bicycles, ladders and precious metals, etc.

Together they represent more than 15% of intra EU trade in goods. These products are very often subject to many different national rules laying down the requirements that these products should meet.

When a Member State intends to refuse market access, it will have to give precise and detailed objective reasons for doing so and it will have to give the importing company the opportunity to react before a final decision can be taken.

Following formal adoption by the EU's Council of Ministers in June, the new package of measures will come into force on 1 January 2010.



The role and credibility of the CE marking system will be reinforced.



More changes to EU company law to cut unnecessary burdens

As part of its programme to simplify the business environment, the Commission has approved plans to make changes to company law in four areas and eliminate unnecessary or disproportionate burdens on enterprises.

The Commission is moving quickly to deliver on its programme to cut unnecessary administrative burdens.

The obligation for companies to publish business data in their national gazettes will be dropped. To save cost and time they will be permitted to re-use translations certified in one Member State when opening branches in other Member States. Obligations on presenting consolidated accounts will be also reduced in some situations.



The measures are part of the overall programme to reduce the administrative burdens for enterprises by 25 percent by 2012.

Move towards electronic platforms

An end is proposed to the obligation to publish in national gazettes information linked to the company's setting up (typically capital, ownership and financial situation). Given that, since the beginning of 2007, company registries have to make

this information available online, this represents an additional expense when launching a company with little real added value. These new central electronic business platforms can guarantee easy access to the information saving additional costs (amendment to Directive 68/151/EEC).

Translation costs

The costs of translations will also be reduced when a company opens a branch in another Member State. It will be permitted to re-use translations that have already been certified in one Member State.

Unnecessary information disclosure

Accounting disclosure requirements for medium-sized enterprises will be reduced. The proposal includes a possibility for Member States to exempt medium-sized entities, which often focus on only one business activity, from the obligation to disclose unnecessary information in the notes to its annual accounts.

This relates to the breakdown of net turnover into categories of activity and geographical markets and the company's formation expenses (amendment to Directive 78/660/EC).

Exemptions on consolidated accounts

Parent companies with no material subsidiaries should no longer need to prepare consolidated accounts. Thus the requirement to twice prepare virtually the same sets of accounts will be abandoned. The proposal clarifies the relationship between Directive 83/349/EC (consolidated accounts) and the International Financial Reporting Standards (IFRS).

It is estimated that the changes outlined above could generate significant savings of the order of 600 million euro, mostly to the benefit of SMEs.

"Unnecessary and disproportionate administrative costs severely hamper economic activity," commented Internal Market and Services Commissioner Charlie McCreevy.

"With these proposals, we deliver on the promise we made in July 2007 when we set out our plans for the simplification of the business environment.

"I do not intend to slow down in our efforts to make the EU companies fit to meet the challenges of a more competitive global business environment. Other proposals in this area will therefore follow in the summer."

info

http://ec.europa.eu/enterprise/admin-burdens-reduction/index_en.htm
http://ec.europa.eu/enterprise/key_issues/better_regulation/index_en.htm

SINGLE MARKET INFRINGEMENTS

Gambling services: Greece and the Netherlands

The Commission has taken action to put an end to obstacles to the free provision of gambling services in Greece and the Netherlands. The Commission has formally requested in a *reasoned opinion* that these Member States amend their laws. This follows consideration of their replies to official requests for information in which the Commission sought to verify whether the restrictions in question are compatible with Article 49 of the EC Treaty,

which guarantees the free movement of services. These requests were sent to Greece in June 2007 and to the Netherlands in April 2006. The Commission considers that the restrictions in question are not compatible with existing EU law and that the measures taken by these Member States to restrict the free movement of gambling services have not been shown to be necessary, proportionate and non-discriminatory.

Horse-race betting services: Italy

The Commission has decided, under Article 228 of the EC Treaty, to send a letter of formal notice to Italy requesting it to comply immediately with a 2007 European Court of Justice judgement concerning the award of concessions for horse-race betting services, without tender procedure. If

the Italian authorities still do not comply, the Commission will send a *reasoned opinion* to the Italian government and, ultimately, can ask the Court to impose a daily fine.



Reimbursement of cost of hospital care: Spain

The Commission has decided to refer Spain to the European Court of Justice (ECJ) over the Spanish authorities' refusal to grant additional reimbursement of the costs incurred for hospital care required during a temporary

stay in another Member State, arguing that this refusal deprived European citizens of a right granted to them by the Court under Article 49 of the Treaty as interpreted in the 'Vanbraeckel' case (Case C-368/98).

Snowboard instructors: France

The Commission has decided to start legal proceedings against France before the ECJ for breaches of Articles 39, 43 and 49 of the EC Treaty and of Directive 92/51/EEC on the general recognition of diplomas (consolidated in Directive 2005/36/EC) on account of its refusal to al-

low snowboard instructors from other Member States, especially Germany, to teach this discipline on its own in France on the grounds that it may only be taught by ski instructors.

Service stations: Italy

The Commission has decided to bring Italy before the ECJ because of national restrictions on the establishment of service stations. The Commission considers that the Italian provisions are contrary to Article 43 of the EC Treaty, which provides for freedom of establishment within the European Union. The rules in question, which are laid down

at both national and regional level with regard to the retail distribution of fuel, impose a number of restrictions which make it impossible or in any case extremely difficult for new competitors from other EU Member States to enter the Italian market.

Establishment of commercial premises: Spain

Spanish rules on the establishment of commercial premises are being referred by the Commission to the ECJ as it believes they are incompatible with Article 43 of the EC Treaty. In a *reasoned opinion* of 23 October 2007 the Commission formally requested Spain to remove obstacles to freedom of establishment in the field of distribution services resulting from its rules at national level and the rules of one of its autonomous communities concerning the

establishment of commercial premises. It takes the view that the Spanish and Catalan commercial town-planning rules, which provide for an authorisation procedure and, in the case of the Catalan rules, a number of planning documents for the setting-up of commercial premises, do not comply with Article 43 of the EC Treaty on freedom of establishment since they contain a number of particularly restrictive elements.

Maximum fees for lawyers: Italy

The Commission has decided to send a reasoned opinion to Italy concerning its regulations on compulsory maximum fees for lawyers' services under Articles 43 and 49 of the EC Treaty which guarantee the freedom of establishment and the freedom to provide services within the EU respectively. The Commission questions the need for such

provisions which restrict the access of service providers from other Member States to the Italian market, while not however guaranteeing access to justice or protecting those receiving the services in a way which is proportionate with the general interest objectives sought.

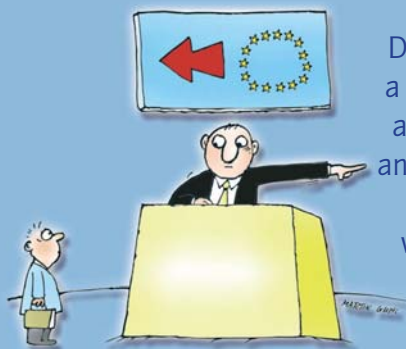
France abolishes law on current account interest

The Commission has decided to terminate an infringement procedure against France as it has now completely abolished its legislation ('Code Monétaire') that formally prohibited banks from offering interest on current accounts to their customers. The Commission's original decision to pursue infringement proceedings in this case follows on from the ruling of 25 October 2004 ('CAIXA Bank', C-02/442) by the European Court of Justice, which held that legislation such as that in force in France impeded

access by EU banks to the French market. The deposit of funds by the public represents one of the basic activities in the banking sector, and the prohibition on paying interest on current accounts deprived EU banks of an instrument that could otherwise help them acquire new customers without the need for a well-established commercial network. The issue has now been settled. France abolished all legal provisions that had introduced and specified the restriction for banks to pay interest on current accounts.



Effective problem solving in Europe



Did you ever have a problem with an administration in another EU country and wondered whether Europe really exists?



Discover what SOLVIT can do for you and ...



... enjoy your rights in Europe!



Award of discount contracts by statutory sickness insurance funds: Germany

The Commission has decided to send a formal request, in the form of a *reasoned opinion*, to Germany concerning the award of discount contracts by some 240 German statutory sickness insurance funds. The framework contracts concluded by these sickness insurance funds concern the supply of pharmaceuticals via pharmacies and specify the discount levels that suppliers give to the

sickness insurance funds which pay for the pharmaceuticals delivered to the insured population. They are either concluded for groups of pharmaceutical products containing specific medical substances or for the entire portfolio of pharmaceutical products of a supplier. Contractors are mainly large pharmaceutical suppliers.

Restrictions on estate agents' activities: Cyprus

The Commission has decided to send Cyprus an official request for information, in the form of a letter of formal notice, on its national legislation restricting the activities of estate agents. The Commission considers that these provisions may be incompatible with Directive 2005/36/EC on the recognition of professional qualifications, and with Articles 43 and 49 of the EC Treaty guaranteeing the freedom of establishment and the freedom to provide

services within the EU respectively. Cyprus adopted this law in July 2007, despite an initial letter of formal notice sent by the Commission in July 2006 concerning the provisions of Law 273/2004, which pose certain conditions upon the recognition of the qualifications of the professionals of other Member States and imposes limits upon the exercise of this profession by legal persons, as well as upon the freedom to provide services in this sector.

Supplementary health insurance provided by private sickness funds: Belgium

The Commission has formally requested Belgium, in the form of a *reasoned opinion*, to amend its national rules so that the private sickness funds (*mutualités/ziekenfondsen*) comply with the EU insurance Directives when they offer complementary health insurance cover outside the scope of obligatory social security. In Belgium, private sick-

ness funds operate under specific national rules and are not subject to EU rules relating to the solvency, supervision and funding of insurance providers. The Commission is concerned that this could result in differing levels of policy-holder protection and market distortions.

More information on infringement proceedings relating to the Single Market is available at:
http://ec.europa.eu/internal_market/infringements/index_en.htm

The latest information on infringement proceedings concerning all Member States is available at:
http://ec.europa.eu/community_law/eulaw/index_en.htm

INFRINGEMENT PROCEDURES

If the Commission obtains or receives convincing evidence from a complainant that an infringement of EU law is taking place, it first sends the Member States concerned a letter of formal notice. If the Member State does not reply with information allowing the case to be closed, the Commission sends a reasoned opinion, the second step of the infringement proceedings under Article 226 of the EC Treaty. If there is no satisfactory response within two months, the Commission may then decide to refer the case to the European Court of Justice in Luxembourg.

SUBSCRIPTIONS

Single Market News is published in separate English, French and German editions.
To subscribe, visit this web address.

An electronic version (PDF) is also available.

http://ec.europa.eu/internal_market/smn.htm

Brona Meldrum
European Commission
DG Internal Market and Services

Unit A4
SPA2 1/008
B-1049 Brussels
Fax: +32 2 295 43 51
E-mail: Markt-smn@ec.europa.eu

