

Emerging digital barriers to the Single Market



Since 1993 great strides have been made by the EU in removing the trade barriers between the Member States. Despite this undoubted success, today we face the risk of new internal market barriers being created - electronic barriers .

Current efforts by EU Member States to modernise public administrations and introduce online eGovernment services for individuals and businesses, run the risk of creating multiple and divergent solutions across the European Union.

Incompatible approaches to online procurement, electronic signatures, eInvoicing and document authentication can potentially re-introduce market fragmentation and undermine the benefits of the Single Market.

Single Market Review

The potential risks of 'eBarriers' being created between EU countries were clearly highlighted in the Single Market Review published by the Commission in November 2007 and subsequently endorsed by EU leaders at the Spring European Council.

European legislators are well aware of the potential benefits which electronic solutions can deliver and in many important areas, Internet-based requirements are being incorporated in new EU legislation.

This is being done, however, under the assumption that the computer technology and standards are in place to make electronic systems work seamlessly across national borders.

Indeed important pieces of European legislation relating to public procurement, the provision of cross-border services (the Services Directive) and the Single Euro Payments Area (SEPA) place significant reliance on electronic (Internet-based) communications.

Unfortunately, all the building blocks of the information society are not yet in place and when it comes to putting

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those policies in practice, there can often be a few surprises in store.

Political support

The EU's Lisbon Strategy for Growth and Jobs highlighted the development of interoperable eInvoicing as a vital component of the strategy for improving competitiveness. At the Manchester Ministerial eGovernment Conference in 2005, European ministers agreed that by 2010, public procurement would be fully available electronically and should be widely used. Also in the i2010 eGovernment Action Plan launched in 2006, both eProcurement, eID and eSignatures are explicitly highlighted as the key enabling technologies which underpin effective eGovernment.

But progress in reaching agreement on standards and





Despite the removal of trade barriers in the Single Market, new digital barriers are emerging through cross-border incompatibility of computer systems.

technologies for existing solutions has been worryingly slow. Indeed many feel that despite the official agreement on principles, they are still mostly being dealt with on a national and not European level. It is felt that the cross-border interoperability of eSignatures and eID have not been priority issues for Member States with potentially damaging consequences.

Electronic signatures

In 1999, EU Member States agreed on a Directive defining the Community framework for electronic signatures. This provides a legal basis for the acceptance and use of electronic signatures in the Single Market.

Despite now having a formal legal presence, there is today a lack of mutual recognition between eSignatures used in different Member States basically caused by the lack of trust in national supervision systems. The barriers here lie not only in the technical area but also in legal and political issues.

eProcurement Action Plan

The EU's Procurement Directives adopted in 2004 provide a comprehensive legal and policy framework for the electronic processing of public tenders - eProcurement. The deadline for transposition into national law was 31 January 2006, and nearly all Member States have completed this.

The objective of the EU legal framework is to allow full automation of the procurement-to-payment process chain while preserving all of the existing guarantees and ensuring that the electronic communication and receipt of offers is non-discriminatory, transparent and fair.

In addition to the classic procurement procedures there are also provisions for 'lighter' procedures applicable to, for example, repetitive purchases or dynamic acquisitions such as electronic auctions.

The potential gains here are substantial. The public sector is the largest buyer in the EU and public tender contracts in 2006 amounted to some 1,800 billion euros – equivalent to 16% of the EU's GDP. An estimated 5% savings can be made on the cost of public contracts through eProcurement and on top of this the transaction costs can be reduced by 50%.

In order to help Member States realise these potential

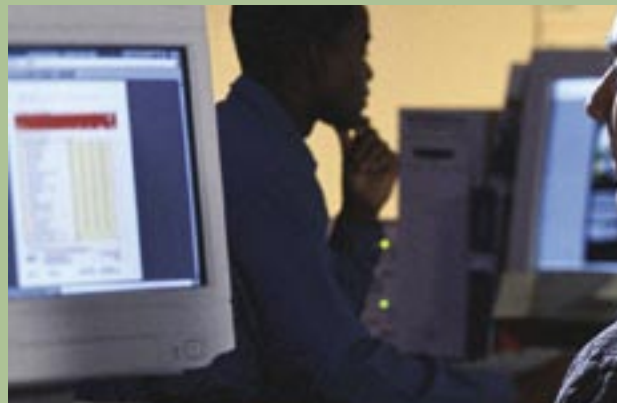
benefits, a comprehensive Action Plan on eProcurement was launched at the end of 2004. It seeks to help modernise the general procurement environment, encourage Member States to automate the various phases of the procurement cycle and create the conditions for trade between the EU and third parties.

Electronic procurement is indeed moving ahead rapidly in many Member States. There are plenty of examples of successful implementation of eProcurement and today tender notices are already regularly handled electronically all over Europe. France, for example, saves time for its service providers and civil servants by using electronic tendering with its 'marchés-publics' platform.

However, across the EU different national solutions for eProcurement are being developed using in some cases non-interoperable electronic signatures.

The electronic signatures embedded in the documents are an essential part of the eProcurement process which has to provide a secure and interoperable means of electronic authentication of the signatory, and also guarantee the integrity of the documents submitted. Tender documents which are signed electronically cannot be changed without destroying the signature value.

For pan European eProcurement to work, the eSignatures employed must be interoperable across all Member States. If they are not, the automation process cannot



deliver the expected benefits.

The issues involved in electronic signatures in public procurement are indeed complex. Bidders have to provide in one electronic 'package' several electronic documents from different sources, all of them properly authenticated. Sometimes several electronic signatures may have to be attached to a single document, for instance when a consortium submits a tender.

Whilst Member States develop their solutions the experience so far is that public authorities in Member States are frequently not considering the cross-border dimension of eProcurement. They assume that bidders will use



their own national electronic signature.

It is clear that the implementation of eProcurement can bring great benefits. But for this to be fully realised, the interoperability issue of electronic signatures must be resolved as they are essential key enablers of electronic procedures.

SEPA and eInvoicing benefits

The Single Euro Payments Area (SEPA) has been launched this year and aims at completing monetary integration in the euro area and at creating a world class payments system for the EU's Single Market. SEPA standardises and harmonises payment processes and therefore creates an environment which could facilitate the implementation of electronic invoicing solutions.

eInvoicing indeed offers huge potential financial benefits. Denmark, for example, which has been leading the way in promoting the use of electronic invoices, reports cost savings of the order of 100 million euros a year by moving from paper to electronic invoices.

Currently, 80-90% of all invoices in the EU are still paper-based. A study undertaken by Cap Gemini shows that cost reductions of the order of 70-75 percent are possible by moving from paper to electronic invoicing. Over a 6 year period this represents an estimated potential cost saving of 238 billion euros for the market as a whole.

Some 30 billion invoices are generated in the EU each year. This represents a lot of ink and paper. An estimated 15 million trees are used in generation of paper invoices. The eInvoicing approach also promises greater productivity and better customer service.

The potential benefits are enormous but the emergence of multiple solutions which are not interoperable would considerably diminish the benefits. The Commission has set up an expert group in order to identify shortcomings in the regulatory and technological environment which complicate a wider use of electronic invoicing. Based on its findings, the expert group will propose a European eInvoicing framework at the end of 2009.

Services Directive – electronic procedures and Points of Single Contact

The EU's Services Directive, which has to be implemented by end December 2009, will significantly reduce barriers and stimulate trade across a wide variety of service sectors such as business services, retail services, most regulated professions, construction services, real estate or tourism and leisure services, etc..

It is also the first Internal Market Directive that contains such a general binding obligation for Member States



to put in place 'eGovernment services' and to allow for their use across borders. In particular, Article 8 of the Directive requires Member States to give businesses the possibility to complete all procedures and formalities necessary to undertake a service activity through so-called 'Points of Single Contact'. The 'Points of Single Contact' are meant to become the single institutional interlocutors for businesses, so that they do not need to contact several ministries or bodies to identify and deal with procedures. The 'Points of Single Contact' have to give service providers the possibility to complete all procedures and formalities at a distance and by electronic means.

In practical terms, this means that a business has to be able to submit all applications and to receive, where required, the replies of the relevant authorities by electronic means. Furthermore, the use of electronic procedures needs to be possible not only for businesses established in the country of the administration which is granting an authorisation or requiring compliance with other formalities - but it must also be possible across borders (for instance a company in Member State X wanting to establish a branch in Member State Y should be able, from X, to complete the procedures and formalities with Y via electronic means through the Point of Single Contact there).

In using these electronic procedures, the service providers are likely to be required in some cases to identify themselves and sign forms or documents. The issue of interoperable eSignature once again can become a key factor in ensuring the cross-border completion of electronic procedures.

eSignatures Action Plan published

The Commission's Single Market Review highlighted the risk of creating new eBarriers to the cross-border provision of public services in the absence of mutual recognised and interoperable eSignatures. This issue was taken up by the European Council in March 2008 and a clear priority to focus on the development of interoperable solutions for eSignature and electronic authentication



was set.

In response to this the Commission has drawn up an Action Plan* which was published on 28 November. It sets out to offer a comprehensive and pragmatic framework to achieve interoperability and simplify access to cross-border electronic public services.

Solutions - cross-border pilot projects

The problem areas of electronic signatures and pan European online public procurement are being tackled at European level by a Large Scale Pilot (LSP) project known as PEPPOL (Pan-European Public eProcurement On-Line), supported under the Competitiveness and Innovation Programme (CIP).

The general approach of the PEPPOL project which is being conducted by consortium public and private sector organisations, is not to sweep away national solutions and the good work already undertaken, but to make them interoperable.

The pilots aim to develop a 'process' - a methodology for working with existing approaches and trying to find a common way forward which builds on what is already being done.

A durable and interoperable EU wide solution for eIdentification should be delivered through another Large-Scale Project S.T.O.R.K. (Secure Inter-Tiered Access Borders Linked).

This project is tackling the challenges surrounding eID interoperability and sets out to find a system for cross-border recognition of eID and authentication that enables citizens and business to use their national electronic identities across Europe. Its end-goal is to define and test common specifications for an overall cross-border architecture which is acceptable to all Member States and industrial interests.

S.T.O.R.K. is aiming to achieve the implementation of an EU wide interoperable system for the recognition of eID and authentication that will enable business, citizens and government employees to use their national electronic identities in any Member State.

The implementation of the Services Directive

The ongoing implementation process of the Services Directive offers a good opportunity to make progress in this area. The Commission and Member States are currently working closely together to find pragmatic solutions to facilitate the cross border use of eSignatures (if and when required by MS) and other key elements such as eDocuments.

Showing the way...

The Commission is trying to lead by example and bring Member States together and be the focal point of efforts to adopt common, compatible and interoperable systems.

The Commission is also supporting Member States at the technical level by bringing together national experts to jointly map the way forward and share ideas and resources.

At the end of the day, the implementation is the responsibility of each Member State. The Commission is trying to encourage and stimulate them to move in the interoperable direction.

The rewards for success are substantial. ICT are an essential tool for making the Single Market more competitive and delivering better value for public money to European citizens.



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

* Action Plan on eSignatures and eIdentification to facilitate the provision of cross-border public services in the Single Market