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COMMISSION STAFF WORKING DOCUMENT

Commission activities to improve the functioning of the single market

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1. INTRODUCTION

1.1. Joint responsibility for implementing the single market

The Commission Communication "A single market for 21st century Europe" (hereafter "the Single Market Review")¹ set out a partnership between the Member States and the Commission as a vital means to ensure proper management and working of the single market. The Commission Recommendation on measures to improve the functioning of the single market² stresses their joint responsibility for the single market and stipulates that their efforts should complement each other. It puts forward a number of recommendations for Member States and its Annex contains a list of measures and practices that can help Member States in implementing the recommendations.

1.2. Aim and scope of this Staff Working Document

As part of the partnership approach, the Commission provides support to Member State authorities through a host of measures intended to facilitate proper transposition, application and enforcement of single market rules. These measures aim to prevent problems with the application of Community law from arising and to find efficient and effective solutions to problems that do arise.

To illustrate the Commission's role in supporting Member States and ensure that measures taken by Member States to implement the above-mentioned Recommendation are consistent with the ongoing initiatives of the Commission, this Staff Working Document includes a non-exhaustive³ list of activities currently undertaken by the Commission in a format corresponding to the order in the Annex of the Recommendation. The areas covered include improving cooperation within and between Member States as well as with the Commission; improving the transposition of single market rules; monitoring markets and sectors in order to identify potential market malfunctioning; improving the application of single market rules; strengthening the enforcement of single market rules and promoting problem-solving; and informing citizens and businesses about their single market rights.

2. COMMISSION ACTIVITIES TO IMPROVE THE FUNCTIONING OF THE SINGLE MARKET

2.1. Measures improving cooperation between Member States and with the Commission

- In a number of single market sectors, there exist Community networks linking administrative authorities with similar competencies across Member States. They vary substantially in terms of their organisational structure, performance and the area they are used in.
- These networks include, among other things, the Internal Market Information system (IMI)⁴ - a multilingual electronic information exchange network aimed at improving

¹ COM(2007) 724 of 20 November 2007.

² Reference to Recommendation when available.

³ This list is without prejudice to other activities already undertaken, which supplement those in the list, and are pursued as initially foreseen.

⁴ http://ec.europa.eu/internal_market/imi-net/index_en.html.

cooperation between competent national, regional and local authorities in the application of single market rules, which is currently developed for the Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications (hereafter "the Professional Qualifications Directive")⁵ and Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market (hereafter "the Services Directive")⁶; a network bringing together national authorities responsible for enforcement of consumer protection laws set up under Regulation (EC) No 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws⁷ (hereafter "the Regulation on consumer protection cooperation"), which shares a secure IT system to prevent cross-border infringements of consumer law, and under which the Commission co-ordinates joint market surveillance and enforcement actions (so-called "sweeps"); and the Community rapid alert system for non-food dangerous products, RAPEX, which ensures cooperation between national market surveillance and customs authorities. A Staff Working Document "Administrative cooperation in the single market"⁸ provides a mapping of the existing networks for administrative cooperation at Community level, and a non-exhaustive list of these networks with links and short descriptions is also available on the Commission website⁹.

2.2. Measures improving the transposition of single market rules

- All major policy initiatives and legislative proposals on the Commission's Annual Legislative and Work Programme are required to undergo an impact assessment. The related Commission guidelines put special emphasis on the need to take into account transposition and compliance aspects¹⁰;
- The Commission regularly organises transposition workshops with national experts from all Member States, and bilateral "package meetings" to further discuss the issues of interest for a particular Member State;
- Ad hoc informal advice on draft national legislation is provided in bilateral contacts between Member States and the Commission;
- The Commission draws up guidance documents to facilitate the transposition process, such as for instance the Handbook accompanying the transposition of the Services Directive¹¹ and guidelines regulating the operation of the Community RAPEX system;
- Web based tools are developed to assist transposition, such as the Interactive Policy Making (IPM) tool to facilitate the screening process requested by the Services Directive. Since April 2009, a web based public facility with questions and answers on recently adopted single market secondary legislation is in place¹², to support an efficient and centralised processing of questions related to transposition and interpretation. It covers the

⁵ OJ L 255, 30.9.2005, p. 22.

⁶ OJ L 376, 27.12.2006, p. 36.

⁷ OJ L 364, 9.12.2004, p. 1.

⁸ Reference to the Staff Working Document on administrative cooperation when available.

⁹ http://ec.europa.eu/internal_market/strategy/main_networks_en.htm.

¹⁰ European Commission Impact Assessment Guidelines, SEC(2009) 92 of 15.01.2009.

¹¹ http://ec.europa.eu/internal_market/services/docs/services-dir/guides/handbook_en.pdf.

¹² <http://ec.europa.eu/yqol/index.cfm>.

questions on the Directive 2007/64/EC of the European Parliament and of the Council on payment services in the internal market¹³, the Directive 2006/48/EC of the European Parliament and of the Council relating to the taking up and pursuit of the business of credit institutions and Directive 2006/49/EC of the European Parliament and of the Council on the capital adequacy of investment firms and credit institutions (the "Capital Requirements Directive")¹⁴, and Directive 2004/39/EC of the European Parliament and of the Council on markets in financial instruments¹⁵. In addition the facility is easily extended to other EC Directives;

- The Commission aims to ensure that risk-based transposition plans, identifying the work required according to the content and likely difficulty of implementation, accompany proposals for new Directives;
- In the Internal Market Scoreboard¹⁶ the Commission provides Member States twice a year with the latest information on their performance in transposition and application of single market rules. Since February 2009 the Internal Market Scoreboard was expanded to also monitor economic, in addition to legal, integration of the single market;
- The Commission aims to prevent problems in implementation ex-ante through the notification procedure for draft national technical rules for products and information society services under Directive 98/34/EC of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations¹⁷.

2.3. Measures to better monitor markets and sectors to identify potential market malfunctioning

- As part of the Single Market Review, the Commission developed a methodology for a more systematic monitoring of the functioning of key goods and services markets and as its first stage, identified sectors that show signs of potential market malfunctioning at Community level¹⁸;
- A second stage of market monitoring work began in 2008 and includes in-depth monitoring of some of the selected sectors, such as retail distribution, food supply chain and electrical engineering. The results of the food supply chain inquiry were published at the end of 2008¹⁹, and the other reports will be available by the end of 2009. In 2009, the monitoring of the pharmaceuticals and retail electricity sectors was launched, and the results are expected in 2010. Other possible candidates for further in-depth exercises include construction services, environmental technologies, the car industry, retail financial services and logistics²⁰;

¹³ OJ L 319, 5.12.2007, p. 1.

¹⁴ OJ L 177, 30.6.2006, p. 1 and OJ L 177, 30.6.2006, p. 201.

¹⁵ OJ L 145, 30.4.2004, p. 1.

¹⁶ http://ec.europa.eu/internal_market/score/index_en.htm.

¹⁷ OJ L 204, 21.7.98, p. 37.

¹⁸ SEC(2007) 1517 of 20.11.2007.

¹⁹ COM(2008) 821 of 10.12.2008.

²⁰ SEC(2008) 3074 of 16.12.2008.

- The Commission has also started a discussion with the Lisbon methodology (LIME) Working Group of the Economic Policy Committee regarding methodological aspects of market monitoring;
- The Commission developed the Consumer Markets Scoreboard, a tool for monitoring markets from a consumer perspective²¹. This Scoreboard screens the broad performance of markets against a number of key indicators (complaints, prices, satisfaction, switching, safety) to identify which markets have a high risk of not functioning well for consumers, which will later lead to a further analysis of these markets. Four major partnership projects are underway: (i) a collaboration between Eurostat and national statistical offices to collect comparable price data; (ii) cooperation between the Commission and national complaint handling bodies to develop a common classification system; (iii) cooperation between the Commission, Eurostat and national consumer authorities to measure consumer empowerment; and (iv) collaboration between the Commission and national consumer authorities to develop consumer satisfaction monitoring. The aim of all four projects is to deliver results for national and Community level policy-making;
- Joint efforts are also undertaken in 2009 by the Commission and Member States' experts from national consumer and product safety agencies within the Regulation on consumer protection cooperation committee and the Directive 2001/95/EC of the European Parliament and of the Council on general product safety (hereafter "the General Product Safety Directive")²² committee to identify the most appropriate enforcement indicators to measure enforcement to be published regularly in the Consumer Markets Scoreboard, and to organise the collection of data.

2.4. Measures improving the application of single market rules

- The Commission draws up Annual Reports on the application of Community law, in which it provides both information on the challenges in the application of Community law in the course of the year and strategic analysis on how to strengthen efforts to prevent infringements from arising;
- The Commission draws up interpretative Communications on various legal issues relevant for the proper application of single market rules;
- The Commission services prepare handbooks and informal guidelines under the form of staff working papers and make them available on Europa website, e.g. guidelines on application of the Goods Package; a standardised complaint form and a guidance Questions & Answers document in the area of air passengers' rights;
- The Commission is involved in some training programmes for officials of national authorities, e.g. it organises training activities for officials/employees of national social security institutions on the modernised rules on coordination of social security schemes; it finances the "trESS" project (training and reporting on European Social Security), which organises seminars, establishes networks between lawyers, judges, social partners and other stakeholders involved in social security coordination at national level, and reports to

²¹ http://ec.europa.eu/consumers/strategy/facts_en.htm.

²² OJ L 11, 15.1.2002, p. 4.

the Commission on application problems. The trESS network consists of independent experts in the field of European social security law;

- At the Commission's initiative, a code of conduct on acceptable and unacceptable administrative practices was adopted by the Member States, to facilitate the functioning of the Professional Qualifications Directive.

2.5. Measures strengthening the enforcement of single market rules and promoting problem-solving mechanisms

- A number of out of court problem-solving mechanisms has been set up at Community level in order to allow for efficient solutions to single market related problems of citizens and business, such as SOLVIT, Citizens' Signpost Service, the European Consumer Centres Network (ECC-NET) or FIN-NET;
- SOLVIT²³, an on-line problem-solving network between Member States, provides multilingual assistance to ensure that problems caused by the misapplication of single market rules by public authorities can be effectively solved without legal proceedings;
- Citizens' Signpost Service (CSS)²⁴, a free advice service, provides practical tailor-made advice in response to individual enquiries about free movement and other citizens' rights to all Community and EEA citizens;
- FIN-NET²⁵ brings together existing national alternative dispute resolution (ADR) schemes to facilitate resolution of cross-border disputes in the area of financial services. The Commission has recently carried out a public consultation²⁶ to examine the possibilities of improving the alternative redress mechanisms in the field of financial services, and is currently assessing the need for and scope of any policy action;
- Test phase of "EU Pilot" project, which aims to achieve quicker responses to enquiries and complaints regarding the correct interpretation and implementation of Community law, through a more informal working method between the Commission and Member States, was launched in April 2008 with 15 Member States. This new working method will be the subject of an evaluation after one year of operation, which will be carried out jointly by the Commission and Member States;
- Training of judges in some areas of Community law is co-funded by the Commission, e.g. an annual training programme for civil and criminal justice, as well as an exchange programme for judges, are carried out by the European Judicial Training Network (EJTN); and training of national judges and judicial cooperation is supported in the area of competition law. As an accompanying measure to Directive 2008/52/EC of the European Parliament and of the Council on certain aspects of mediation in civil and commercial matters²⁷, which promotes the use of mediation in cross-border disputes and ensures that

²³ http://ec.europa.eu/solvit/site/about/index_en.htm.

²⁴ http://ec.europa.eu/citizensrights/front_end/index_en.htm.

²⁵ http://ec.europa.eu/internal_market/finservices-retail/finnet/index_en.htm.

²⁶ http://ec.europa.eu/internal_market/consultations/docs/adr/adr_consultation_en.pdf.

²⁷ OJ L 136 of 24.5.2008, p. 3.

parties having recourse to mediation can rely on a predictable legal framework, the Commission also co-funds training for practitioners of justice in mediation techniques;

- Cooperation between the Commission and members of the Administrative Commission on social security for migrant workers (CASSTM) allows for solving issues raised by individuals in the field of coordination of social security schemes, complementary to the work carried out by SOLVIT;
- The role of the European Consumer Centres Network (ECC-NET) is to help consumers reach an agreement with a trader through Alternative Dispute Resolution mechanisms (ADR); disseminate information among consumers concerning existing ADR schemes; and support the development of new ADR mechanisms and their promotion. ECC-NET is co-financed by Member States and the Commission;
- The European Judicial Network in civil and commercial matters (EJNCCM) exists to facilitate effective access to justice through provision of information on the application of Community and international instruments concerning judicial cooperation in civil and commercial matters. In the future, the contact points of the EJM shall be at the disposal of the members of the ECC-NET to supply information and facilitate consumer access to justice;
- Joint efforts are undertaken in 2009 by the Commission and Member States to set up a European e-Justice portal, conceived as a "one-stop (electronic) shop" for information on European justice and access to European judicial procedures. It is targeted at users such as citizens, legal professionals, judges, national authorities and businesses. In its first release, information will be available on the European small claims procedure, mediation and legal aid;
- Council Regulation (EC) No 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty²⁸ requires Member States to forward to the Commission a copy of any written judgment of national courts deciding on whether Articles 81 or 82 of the EC Treaty are applicable.

2.6. Measures to better inform citizens and businesses about their single market rights

- The Single Market Assistance Services (SMAS) project is being developed, which aims to facilitate by early 2010 access to the various existing information, advice, assistance and problem-solving services (including SOLVIT, Citizens' Signpost Service, Your Europe, EURES job mobility portal, the European Consumer Centres Network (ECC-NET), Enterprise Europe Network, Europe Direct Network and call centre, and Eurojus) and streamline them. The Action Plan for this work was published in May 2008²⁹;
- The Commission is further developing its on-line consumer education website Dolceta³⁰, to add a module on financial literacy to the existing modules regarding consumer rights and

²⁸ Article 15(2) of Council Regulation (EC) No 1/2003; OJ L 1, 4.1.2003, p.1.

²⁹ SEC(2008) 1882, 8.5.2008.

³⁰ www.dolceta.eu.

safety (which already include information on the single market). The final release of the updated website is planned for March 2010;

- In order to provide citizens with practical advice on the "digital rights" they have under Community legislation, the Commission launched on 5 May 2009 a new online tool, the eYouGuide to your rights online³¹;
- As of the beginning of 2008, all major policy initiatives need to be accompanied by an accessible summary for citizens, explaining the personal and societal benefits and obligations of a particular policy;
- Work is also underway to improve the existing Commission websites, by better coordination, avoiding duplication of information and improved signposting, and use of clearer language.

³¹ ec.europa.eu/eyouguide.