



EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
D(2016)

Opinion

Title **DG GROW - Proposals to introduce a European Services Card and to facilitate market access for service providers**
(draft version of 20 September 2016)*

(A) Context

The Services Directive was adopted in 2006 with a December 2009 deadline for transposition. It requires Member States to adopt reforms aimed at reducing or removing obstacles to cross-border activities.

Evidence to date suggests limited progress toward an integrated internal market for services. On 28 October 2015, the Commission adopted its Single Market Strategy. This includes several initiatives that build on the Services Directive. There is a particular cross-border focus on business and construction services.

The strategy includes introducing a services "passport" and addressing regulatory barriers for business services. It also includes organisational requirements for construction services and action with regard to insurance requirements.

The current initiative to "introduce a European Services Card and facilitate market access for service providers" takes forward these initiatives.

(B) Overall opinion: NEGATIVE

The Board gives a negative opinion because the report contains shortcomings that need to be addressed, particularly with respect to the following issues:

(1) The report should strengthen the problem analysis and justify the initiative better. It should elaborate on what has not worked under existing procedures, and explain the experience of the European Professional Card (EPC). It should provide a clear rationale for focusing on only a few sectors instead of covering all.

(2) The design and the articulation of the different options should be reconsidered and the report should clarify how the options would address the identified problems.

Starting from an overall perspective of the services sector, the report needs to explain why different options should have different and limited sector coverage. It should explain how the different options relate to each other, indicating which ones are self-standing and which ones need to be combined to meet the envisaged objectives. The report should clarify to what extent the options replicate elements of

*Note that this opinion concerns a draft impact assessment report which may differ from the one adopted

the EPC. It should also explain how possible unequal treatment of companies from home and host countries would be dealt with.

On this basis, the report should aim at identifying a preferred option or at least at discarding unrealistic or ineffective options, in order to narrow down the policy choices. Options might usefully be packages of measures that jointly address various aspects of the documented problems. The report should make clear what the main policy trade-offs are between elements of such packages.

(3) The report should provide more information about likely costs to Member States of setting up and maintaining the Services Card. It should also estimate the potential reduction of administrative burden for companies. It should also explain why the costs of setting up the schemes included in options is assessed to be low.

(4) The report should better reflect the different stakeholder views and explain how measures would address key problems that stakeholders have raised.

The lead DG shall ensure that the report is revised accordingly and resubmitted to the Board for its final opinion.

(C) Main recommendations for improvements

(1) **The problem:** The report should elaborate on the underlying reasons for the poor performance of the Services Directive, including the functioning of the point of single contacts (PSC) and in particular the internal market information system (IMI). The report needs to establish the prominence of administrative obstacles and regulatory problems over other important barriers (e.g., taxes, languages, regulated professions...). In addition, the rationale for focusing on business and construction services and even more narrowly on three specific professions in the case of option 4 needs to be better argued. Take into account the general potential for administrative burden reduction for companies, in particular SMEs.

(2) **Policy options: The design and the interactions of the different options should be reconsidered.** The report should provide a better overview of how the options – individually or combined – would provide a comprehensive response to the identified problems. Integrate individual and possibly inter-linked policy options into coherent packages while clarifying the related trade-offs. Where the Services Card takes inspiration from the existing European Professional Card (EPC), the report should explain the similarities and differences (e.g., successful functioning of IMI, feasibility of the procedural deadlines and of automatic translation). Against the background of the enforcement and implementation problems with the Services Directive, the options should also outline how they would address similar challenges. The report should also explain how to avoid a possible uneven playing field between companies using the Services Card and companies in the host Member State.

On this basis, the report should aim at identifying a preferred option or, if this is not possible, at discarding unrealistic or ineffective options and narrowing down the range of policy choices to be considered.

(3) **Impact analysis:** The report should analyse the likely costs to Member States of setting up and of maintaining the new system. The report needs to show that the voluntary nature of the Services Card does not add additional complexity and costs for the public administrations if they have to manage two parallel authorisation processes. As for businesses, the report should clarify the magnitude of expected cost reductions, also considering that the Services Card will not be able to integrate all administrative

procedures.

(4) Stakeholder views: The report should better distinguish between the various stakeholder groups to clarify their views on the policy options. The report should better highlight the negative responses received from some stakeholder groups and provide responses to the criticisms and arguments provided by these groups. Examples include interference with the Posting of Workers Directive, frauds and disrupting the effectiveness of controls undertaken by labour inspectorate, and local characteristics of construction services markets).

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated into the final version of the impact assessment report.

(D) Procedure and presentation: There is room to improve presentation and structure of the report to make it more reader-friendly.

(E) RSB scrutiny process

Reference number	2016/GROW/041
External expertise used	No
Date of RSB meeting	12/10/2016