Commission proposal for a Directive implementing the principle of equal treatment between men and women in the access to and supply of goods and services - Frequently Asked Questions

(See also [IP/03/1501](#))

What legal basis does the Commission have to propose legislation on sex discrimination outside the workplace?

Article 13 of the EC Treaty was added by the Amsterdam Treaty and allows the Council to take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The Council has already adopted legislation on equal treatment irrespective of racial or ethnic origin¹, going beyond the workplace, so a precedent exists in Community law. A Directive adopted on this legal base has to be adopted unanimously by the Council of Ministers, after consultation of the European Parliament.

What will the proposal cover?

The proposal will focus on sex discrimination in access to and provision of goods and services.

How would the proposed Directive work?

The proposed Directive would not set out a prescriptive list of sectors covered, but would establish the principle of equal treatment in access to goods and services in Community law and set out the procedure to allow citizens to have recourse to the law when they considered that their rights had been infringed.

The proposed Directive would require Member States to establish an equality body to whom citizens could go if they considered that they had been discriminated against. This body would be responsible for the promotion, analysis, monitoring and support of the principle of non-discrimination on the grounds of sex.

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¹ Directive 2000/43/CE
What about Member States that already have laws on anti-discrimination?
The aim of the proposed Directive is to ensure that the same basic principles are in place across the European Union. Member States that already have laws implementing these principles would only have to adjust their laws slightly to ensure that they were in line with the Directive as finally adopted.

The proposed Directive sets down the basic principles which Member States must implement – those that already have laws going further would be free to maintain the higher level of legal protection.

What do you mean by goods and services? Is there really a problem of discrimination there?
The EU is founded on the principles of free movement of goods and services, so there is a solid background of legislation setting down what are goods and services.

The proposed Directive would apply to all publicly available goods and services that are made available in return for payment, except those that could be exempted according to the terms of the Directive – where different skills are required for each sex, or where goods and services are primarily intended for one sex or the other.

In those Member States that have equality bodies already, a significant number of complaints received relate to goods and services. Examples include:

- refusal to provide a mortgage to pregnant women
- refusal to allow a woman’s name to be put first on joint bank accounts (with resulting loss of entitlement to benefits such as share options, frequently restricted to the first named member)
- refusal to offer loans to people working part-time (who are predominantly women)
- requirement for a women to have a loan guarantor, whereas a man with a similar credit rating does not face that requirement
- sheltered housing only provided to men from 65, whereas to women from 60.
- refusal by insurance companies to honour claims for loss of earnings to women over 60, whereas men can claim to 65.

Why does the proposal not cover media and taxation?
There continues to be an issue of sex discrimination and sexual stereotyping in the media. But consultations have shown that this is not something that can be tackled by this Directive – societal attitudes cannot be changed by a legal text.

On taxation, it is the view of the Commission that existing Community law requires the taxation of income from employment to respect the principle of equal treatment. There is therefore no need to intervene further.

Would discrimination against men be covered by the proposed Directive?
The proposal would combat sex discrimination, whether against men or women.
By removing gender as the basis for calculating premiums, wouldn’t the proposed Directive interfere in the market and make life difficult for insurers?

Equality between the sexes is a fundamental principle of the European Union and the commercial freedom of markets to set tariffs must take that fundamental right into account. Of course the Commission is sensitive to the concerns of the insurance industry. It is for this reason that the proposal gives the industries concerned time to adapt their products and practices. Transition periods of up to six years are included in the proposal to allow the insurance industry to adapt their practices and draw up new actuarial tables. Equally, the proposed Directive allows for the justification of differences of treatment when they are based on goods or services which are intended specifically for members of one sex or the other, or on skills which are practised differently for one sex or the other.

There are a number of studies that show that sex is not the main determining factor for life expectancy. Other factors are shown to be much more relevant, such as marital status, socio-economic factors, employment/unemployment, regional area, smoking and nutritional habits. When lifestyle, socio-economic status and environment are removed from the equation, the difference in life expectancy between men and women can be between zero and two years. This leads one to the conclusion that differences in life expectancy are not purely biological. Insurers appear to be using a person's sex as a proxy for these other lifestyle factors because it is easy, even though it may not be a good indicator of risk for each individual.

Although on average women live longer than men, a closer look at statistics reveals that the overwhelming majority of men and women (about 86%) die at around the same age.

What consultation has there been in preparing this proposed Directive?

The Nice European Council in December 2000 endorsed the intention to present a proposal on tackling sex discrimination outside the workplace as part of the Social Policy Agenda. The statutory Advisory Committee on Equal Opportunities for Women and Men strongly recommended in its Opinion of 20 February 2002 that the Commission should propose a Directive covering a wider number of areas than the present proposal.

The European Parliament held a hearing on 10 September 2003, with representatives of a number of industries including insurance, media and pensions, as well as with representatives of pensioners, the European Women’s lobby and independent insurance experts. The EP Committee on Women’s Rights gave its support to the idea of a Directive.

European Employment and Social Affairs Commissioner Anna Diamantopoulou has met with representatives of a number of interested NGOs (the European Women Lawyers Association, European Women’s Lobby, Fédération des Retraités et Personnes Agées). Detailed discussions have been held with the insurance industry in Member States and at European level.