



EUROPEAN COMMISSION  
IMPACT ASSESSMENT BOARD

Brussels,  
D(2012)

## Opinion

**Title**                                    **DG INFSO - Impact Assessment on: Proposal for a legislative framework on enablers for European citizenship in the Digital Single Market**

**(draft version of 1 February 2012)**

### **(A) Context**

E-identification (eID), e-authentication and e-signatures (referred to as 'eIAS services') are the electronic equivalent of personal identification, validation of identity documents and handwritten signatures respectively. They are pre-requisites for a wide range of electronic interactions such as e-banking, e-government or e-health services. A regulatory framework has been set up at EU level for electronic signatures, but there is no specific framework for mutual recognition and acceptance of eID and e-authentication, or for ancillary trusted services such as the time stamping, archiving or registered document delivery services. This impact assessment accompanies a proposal aiming to facilitate electronic transactions notably by ensuring the mutual recognition of electronic identification, authentication, signatures and ancillary services across the EU. It builds on the revision of the electronic signatures Directive 1999/93/EC.

### **(B) Overall assessment**

**The report in its current form does not provide an adequate evidence base for political decision-making and needs to be significantly improved in a number of important respects. Firstly, the problem definition should analyse in greater detail and clarity the underlying problem drivers and clearly distinguish between the issues that are relevant for each of the eIAS and for ancillary services. Secondly, the report should be clearer about the policy options and about the concrete measures and new obligations that will be imposed on different actors. Thirdly, the analysis of impacts and the comparison of options should be significantly strengthened. The report should also provide a more detailed assessment of the expected costs of supervision. Finally, different stakeholder views should be better integrated throughout the report, and monitoring and evaluation arrangements should be strengthened.**

***Given the nature of these recommendations, the Board asks DG INFSO to submit a revised version of the report, on which it will issue a new opinion.***

### **(C) Main recommendations for improvements**

**(1) Improve the presentation of the problems.** The main focus of the problem definition section should be on the description of the problems at stake, rather than on the potential benefits of the suggested proposal for the digital market in general. The report should therefore analyse in greater detail the underlying problem drivers (such as legal, technical or trust-related and security concerns), and should clearly distinguish between the issues that are relevant for each of the eIAS and for ancillary services. It should indicate how different actors in the value chain involved are affected, and differentiate between the issues relevant for cross-sector electronic interactions and those for cross-border interactions, clearly highlighting the internal market issues at stake. The report should also provide a better overview of the situation in different Member States in terms of use of eIAS and the availability of necessary infrastructures. The anecdotal evidence examples should be presented upfront in the report, to better illustrate the existing problems. On the basis of a focused problem definition the report should then link the identified problems with the objectives and options, to establish a clear intervention logic.

**(2) Be clearer about the policy options.** The report should be more specific about the concrete measures and new obligations that will be imposed on different actors under the policy change options. It should clarify to what extent the use of eIAS and in particular of e-signatures would be obligatory, and explain how each of the options would deal with the security and trust related aspects. The report should also discuss whether policy options could have implications for the existing contract law arrangements, and explain how they would deal with liability issues in the cross-border context. Finally, the report should consider presenting the options divided into sets, dealing respectively with the scope of the envisaged framework, legal instrument and level of supervision.

**(3) Strengthen the analysis of impacts and comparison of options.** The report should provide a more balanced assessment of impacts, systematically indicating both advantages and disadvantages of the policy options for all the involved players. The impacts section should also make clear on which evidence it draws - such as studies, observed trends or modelling work. In particular, the report should discuss in greater detail the expected impacts as regards the inequalities in terms of usage of eIAS (between different types/sizes of companies, geographical areas or groups of individuals). The report should also strengthen the assessment of costs of governance and supervision that the Member States and service providers will have to bear. In doing so, it should take into account the differences between Member States, in terms of already existing supervision mechanisms and the expected number of service providers. Where relevant, the report should take into account differences in consumer behaviour in terms of the use or perceived security weaknesses of eIAS (such as identity theft). Moreover, it should clarify how eIAS will effectively contribute to improving electronic services such as e-government or e-health. If the envisaged measures are expected to facilitate the internationalisation of SMEs, this should be explained. Finally, the report should present a comprehensive comparison of the policy options in terms of effectiveness, efficiency and coherence, and better justify the choice of the preferred option.

**(4) Better present the views of stakeholders and define monitoring and evaluation arrangements.** The report should better reflect the views of stakeholders, distinguishing clearly between different stakeholder groups. It should also make better use of the input collected outside the public online consultation. Finally, the report should identify core

progress indicators that are linked to key objectives, to allow measurement of the extent to which the suggested policy has been properly implemented and its objectives achieved. It should be clearer about the evaluation arrangements, which should be linked to future decision-making needs.

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

**(D) Procedure and presentation**

The report should respect the recommended presentation standards set out in the impact assessment guidelines and refrain from advance conclusions on the preferred option. It should be significantly shortened, and repetitions should be avoided.

**(E) IAB scrutiny process**

Reference number	2012/INFSO/002
External expertise used	No
Date of Board Meeting	29 February 2012