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**COMMISSION STAFF WORKING DOCUMENT**

***The single market: review of achievements***

*Accompanying document to the*

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**A single market for 21st century Europe**

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## COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

### A single market for 21st century Europe

Since the Commission launched the internal market initiative in 1985, the single market has gone a long way towards turning the "four freedoms" of the Treaty - the free movement of people, goods, services and capital - into a tangible reality.

An essential aspect of the review carried out in 2006-2007 has consisted in steering a debate and collecting evidence about the single market. The Commission has carried out a public consultation<sup>1</sup>, organised a public hearing, conducted a series of research<sup>2</sup> and opinion poll studies<sup>3</sup> and took part in a number of events. EU institutions have also contributed. The European Parliament adopted a report on "the single market review: tackling barriers and inefficiencies through better implementation"<sup>4</sup>. The European Economic and Social Committee also presented an opinion<sup>5</sup>.

This document reviews the main achievements of the single market to date and provides an overview of recent and ongoing initiatives.

## 1. ACHIEVEMENTS OF THE SINGLE MARKET

### 1.1. Benefits for citizens

According to the economic studies and Eurobarometer surveys carried out in the context of the single market review, the single market has resulted in:

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<sup>1</sup> More information, the results from the consultation and key documents referred to here are available at: [http://ec.europa.eu/internal\\_market/strategy/index\\_en.htm](http://ec.europa.eu/internal_market/strategy/index_en.htm)

<sup>2</sup> In 2002, the Commission produced a detailed evaluation of progress made in the decade 1992-2002. In January 2007, as part of the review, the analysis of the macro-economic impact of the single market was updated (European Economy Economic Papers, No 271, January 2007). See: [http://ec.europa.eu/economy\\_finance/publications/economic\\_papers/2007/economicpapers271\\_en.htm](http://ec.europa.eu/economy_finance/publications/economic_papers/2007/economicpapers271_en.htm)

<sup>3</sup> Three Eurobarometer surveys were conducted in October 2006 to assess the opinions and experiences of EU citizens and businesses with internal market policy (see Special Eurobarometer 254, Flash Eurobarometer 180 and Flash Eurobarometer 190).

<sup>4</sup> EP report (INI/2007/2024) adopted on 4 September 2007.

<sup>5</sup> Opinion of the Economic and Social Committee INT/332 - CESE 89/2007 of 17 January 2007.

- An increase in welfare of € 518 per head in 2006 compared to the situation without the single market (corresponding to a 2.15% increase of GDP over the period 1992-2006).
- The opportunity to study abroad, which is considered positive by 84% of EU citizens. 1.5 million young people have completed part of their studies in another Member State with the help of the Erasmus programme.
- The ability to travel in another Member State: 72% of citizens find travelling within the EU easier than ten years ago, notably in those countries which have signed the Schengen agreement.
- The right to work and live abroad: although temporary restrictions remain since the last enlargements, 70% of European citizens consider the possibility of working in another Member State a positive factor. More than 15 million EU citizens have moved across borders to work or to enjoy their retirement. They can vote and stand for office where they live. EU migrant workers enjoy the right to equality of treatment as regards employment, remuneration and other conditions of work, as well as social and tax advantages. They can be accompanied by their family members, irrespective of their nationality. The creation of the European Health Insurance Card has facilitated reimbursement of health care during a temporary stay in another Member State. Legislation and programmes are in place to facilitate the mobility of researchers and guarantee automatic recognition of diplomas in a wide range of professions such as architect, midwife, pharmacist, doctor, nurse, dentist and veterinary surgeon.
- A wider choice of high quality goods and services: 3 out of 4 European citizens think that the possibility to market products from other Member States under the same conditions as domestic products has had a positive impact. 73% consider that the single market has contributed positively to the range of products and services on offer. The introduction of the euro has made it easier to compare prices across borders. The establishment of common standards has led to safer and environmentally friendlier products, such as food, cars and medicines.
- Lower prices for goods and services in many cases, thanks to the opening up of national markets and the resultant increase in competition. 67% of European citizens perceive increased competition in areas such as transportation, telecommunications, banking and insurance services as a good thing. In the field of telecommunications, competition has stimulated the development of advanced innovative services and the deployment of broadband networks, which are now available to 85% of the EU population. Telephone prices charged by the former monopolies for national and international calls have been reduced by more than 40% on average between 2000 and 2006.
- Shoppers have full consumer rights when shopping outside their own country. A majority of citizens (53%) consider that internal market rules have increased consumer protection within the EU. Specific European legislation is in place to ensure high levels of product safety requirements, to prevent and combat misleading advertising and unfair terms in contracts, to define air passenger rights and to make it easier to open a bank account in another Member State.

## **1.2. Benefits for business**

Businesses also enjoy direct gains through:

- A single market of close to 500 million people: this allows larger businesses to benefit from enormous economies of scale, including through better connected and cheaper transport, telecommunications and electricity networks. Meanwhile, new export markets have been opened up to small- and medium-sized businesses which previously would have been dissuaded from exporting by the cost and hassle. For many SMEs, the single market has provided a testbed and a springboard for expanding into wider global markets.
- Easier cross-border trade within the EU: the absence of border bureaucracy and the spread of the euro have cut delivery times and reduced costs. Before the frontiers came down, the tax system alone required 60 million customs clearance documents annually; these are no longer needed. The use of the mutual recognition principle also means that in most cases, even where there is no harmonisation of technical specifications or other rules, companies need only one authorisation - from their home Member State - to provide a product anywhere in the EU. Problem-solving tools such as SOLVIT provide answers to questions arising from cross-border trade.
- Easier ways to start or buy a business: the average cost for setting up a new company in the former EU-15 has fallen from €813 in 2002 to €554 in 2007, and the time needed to cope with the administrative procedures to register a company was reduced from 24 days in 2002 to about 12 days today. EU regional policy plays a direct role for the development of business support services for SMEs in areas such as access to finance, management and marketing. EU competition law provides for a level playing field in terms of anti-competitive agreements and practices, mergers and acquisitions, public procurement and state aid within the EU. Mergers among European companies registered in different EU countries can also now be facilitated by creating a "European company".
- The spread of EU standards and labels: thanks to technical harmonisation efforts and the work of standardisation bodies, goods manufactured to these standards comply with applicable rules and can move freely within the single market. This gives companies EU-wide market access, simplifies procedures and cuts costs, and ensures technical interoperability and a high standard of safety.
- New sources of finance, contracts and funding: the integration of financial services means cheaper finance for businesses of all sizes and liberates listed companies from having to comply with 27 divergent sets of national rules when they want to raise money. Thanks to the opening up of public procurement rules, companies are also now able to bid for contracts to supply goods and services to public authorities in other Member States.
- Improved cross-border cooperation and technology transfer: networks such as the new European Business and Innovation Support Network provide assistance to entrepreneurs seeking to do business throughout Europe. The new network will reach out to 2 million SMEs via some 600 businesses and innovation support organisations throughout the European Economic Area and in certain candidate and potential candidate countries. It will provide SMEs with easy access to Euro Info Centre services and Innovation Relay Centre services under one roof.

### **1.3. Economic benefits**

Overall, the single market is estimated to have brought sizable benefits for the EU economy as a whole (see in particular European Economy Economic Papers, No 271, January 2007):

- Over the period 1992-2006, the estimated gains of the single market amount to 2.15% of the EU's GDP and 2.75 million extra jobs.
- Intra-EU trade relative to GDP has risen by 30% between 1995 and 2005.
- Cross-border investments have also increased, with the share of total foreign direct investment inflows in ex-EU15 originating from other ex-EU15 countries rising from 53% in 1995 to 78% in 2005.
- As a result of more open and competitive public procurement rules, governments have more money to spend on priorities such as health and education, with studies pointing at savings from 10% to 30%.

## 2. STATE OF PLAY AND LIMITS

### 2.1. Good application of the *acquis*

The volume of the existing body of EU legislation ("the Community *acquis*"), representing nearly 9 000 pieces of legislation<sup>6</sup>, much of which relates to the single market, makes the task of correctly applying Community law particularly challenging. The enlargement of the EU to 27 Member States and the de-centralisation process in several Member States have also contributed to increasing the number and diversity of authorities involved in the application of EU law.

Over time, the Commission has been faced with a net increase in complaints, giving rise to several thousands of issues managed annually. The Commission resolves as many as 70% of complaints before launching infringement proceedings. Around 85% are resolved before the second step in the procedure (reasoned opinion). An overall total of around 93% of complaints are resolved without the need for a ruling from the Court of Justice.

Since the mid-1990s, the Commission has regularly reported on the application of single market rules, most notably through its bi-annual "Internal Market Scoreboards". The experience of the SOLVIT problem-solving network also provides qualitative evidence about the misapplication of EU law:

- *Timely transposition of single market rules into national law*: Evidence from the July 2007 edition of the Internal Market Scoreboard shows that, on average, 1.6% of internal market directives for which the implementation deadline has passed are not currently written into national law. This figure was up from the best-ever result of 1.2% in January 2007. This means that the average deficit remains above the 1% interim target agreed by Heads of State and Government in March 2007. Nevertheless the Commission sees reasons for optimism as to the next overall result in January 2008, with most Member States appearing to be on the right track and nine Member States having already reached the new 1% target.
- *The reduction of infringement proceedings*: Once internal market rules are in place, whether through direct application from the Treaty or by transposition into national law, Member States often fail to apply them correctly. Only four Member States have managed to reduce the number of infringement proceedings against them. There has been a recent

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<sup>6</sup> At the end of 2006, over 7 000 regulations and 1 930 directives were in force.

upward trend in the number of infringement cases, and the EU-25 average for each Member State is now 53 cases, up from 50 six months ago. The sectors with most infringements are, in decreasing order, environment, taxation and customs union, energy and transport, which account for almost half of all cases. Taxation and customs union matters have overtaken energy and transport as the second most important source of infringements over the past half year.

- *Non-judicial problem-solving*: Since its creation in 2002, the EU's SOLVIT network has been requested to solve 1 800 concrete problems encountered by people living, working, studying or doing business in another EU country as a result of misapplication of EU law. Cases reported through SOLVIT relate essentially to the recognition of qualifications (21%), market access for products (16%), social security (14%), taxation (11%), motor vehicle registration (7%), market access for services (6%), residence permits (5%) and employment rights (4%). 78% of problems have been solved through SOLVIT.

On 5 September 2007, the Commission adopted a Communication on "A Europe of results - applying Community law" containing a series of proposals to improve the application of Community law by the Member States<sup>7</sup>, including more targeted preventive measures, better information provision and problem-solving, more efficient management of infringement cases, and increased transparency including the need for Member States to communicate correlation table identifying the connection between directives and the Member State measures giving effects to them.

## **2.2. Free movement of people**

The free movement of people is one of the basic aims of the Union and is acknowledged as a fundamental right for EU citizens. Yet, implementing this principle has been more difficult than those underpinning the free circulation of capital, goods and services.

The right of free movement across the EU was originally envisaged only for the working population, as workforce mobility was seen as an integral part of the "common market" project. For workers, this freedom has existed since the foundation of the European Community in 1957. It is laid down in Article 39 of the EC Treaty and it entails:

- the right to look for a job in another Member State,
- the right to work in another Member State,
- the right to reside there for that purpose,
- the right to remain there,
- the right to equal treatment in respect of access to employment, working conditions and all other advantages which could help to facilitate the worker's integration in the host Member State.

With the development of the social and human rights dimension of the EU, the right to free movement has been extended to include all categories of citizens, including dependants, students and those who are no longer economically active. The right to free movement means

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<sup>7</sup> COM(2007) 502, 5.9.2007.

that every EU citizen is entitled to travel freely around the Member States of the EU, and settle anywhere within its territory. No special formalities are required to enter an EU country. This right extends to members of the EU citizen's family, and applies regardless of their situation or the reason for travel or residence.

The following three aspects are illustrative of EU action in this field.

- *Abolition of internal border checks:* The effective application of the free movement of people was given a boost in 1985 when Germany, France and the Benelux countries (Belgium, the Netherlands and Luxembourg) signed an intergovernmental Schengen Agreement on the gradual abolition of checks at the common borders. This was followed in 1990 by the Schengen Convention, which came into force in 1995. The Convention was the first agreement in Europe to abolish checks on people at the internal borders of the signatories, to harmonise controls at the external frontiers of the "Schengen area" and to introduce a common policy on visas and other accompanying measures such as police and judicial cooperation. The Schengen Convention, however, did not aim at regulating the right to long-term residence and work, neither for EU citizens nor for third-country nationals. The Schengen provisions ("Schengen acquis") have been integrated into the framework of the EU by the entry into force of the Treaty of Amsterdam in May 1999. There are currently 13 EU Member States (the founding five plus Portugal, Spain, Austria, Finland, Sweden, Denmark, Greece and Italy) as well as Norway and Iceland which fully apply the Schengen acquis and create an area without the checks on the internal borders. The nine Member States which joined EU on 1<sup>st</sup> of May 2004, i.e. the Czech Republic, Slovakia, Slovenia, Malta, Poland, Hungary, Estonia, Lithuania and Lithuania are expected to fully join the Schengen area in December 2007 (lifting of border checks at land and sea borders) and March 2008 (lifting of border controls at airport), subject to a positive Council decision that all preconditions are met.
- *Facilitation of workers' mobility:* Citizens of a country within the European Economic Area (EEA) are entitled to work in any other EEA country without a work permit as a salaried employee or a self-employed individual. Several instruments have been set up to facilitate the mobility of EU citizens: the EURES Job Mobility portal helps publicise available job opportunities (<http://europa.eu.int/eures/home.jsp?lang=en>); the EUROPASS, which includes CV templates, Language Passport, Mobility Europass, Diploma Supplement and Certificate Supplement, helps individuals make their qualifications and skills more easily understood (<http://europass.cedefop.europa.eu/>); PLOTEUS is a portal publicising studying and learning opportunities throughout the European Area (<http://europa.eu.int/ploteus/portal/>), etc. During a transitional period following accession of 10 Member States to the EU on 1 May 2004 and of two Member States on 1 January 2007, certain conditions may be applied that restrict the free movement of workers from, to and between these Member States. These restrictions may differ from one Member State to another<sup>8</sup>. The Commission has reported on the operation of these transitional arrangements and Member States are requested to review the situation and notify the Commission of their intentions.
- *Coordination of social security schemes:* Social security is a key issue for persons exercising their fundamental right to free movement. Without coordination at European

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<sup>8</sup> A general description of the transitional arrangements can be found on the following website: [http://europa.eu.int/comm/employment\\_social/free\\_movement/docs/pr\\_en.pdf](http://europa.eu.int/comm/employment_social/free_movement/docs/pr_en.pdf)

level, national social security legislation may lead to disadvantages, for instance in terms of healthcare coverage or pension rights, for European citizens and their families who move within the European Union. EU Regulation 1408/71 and the implementing Regulation 574/72 offer practical solutions to most of the cross-border problems that may arise in the field of social security, while preserving Member States' competence to determine the details of their own social security systems, including which benefits are to be provided, the conditions of eligibility and the value of these benefits, as long as they adhere to the basic principle of equality of treatment and non-discrimination.

### 2.3. Free movement of goods

The principle of free movement of goods is another cornerstone of the single market. In the absence of harmonised legislation, the provisions of Articles 28 to 30 of the EC Treaty, which are of direct effect and thus are applicable by national courts, forbid Member States from maintaining or imposing intra-EU trade barriers, except in special circumstances. In particular, these articles prohibit quantitative restrictions on imports, exports or goods in transit and all measures having equivalent effect between Member States. All measures capable of hindering directly or indirectly, actually or potentially, such imports are considered as measures having equivalent effect to quantitative restrictions.

These provisions do not preclude prohibitions justified on grounds of public morality, public policy or public security, the protection of health and life of humans, animals or plants, or the protection of industrial and commercial property, as well as other mandatory requirements recognised by the Court of Justice. Such prohibitions must not, however, amount to arbitrary discrimination or a disguised restriction on trade between Member States.

The Commission and the other Member States have the opportunity to screen draft national technical regulations under the procedure for the notification under directive 98/34. This mechanism allows the Commission and the Member States to eliminate barriers to trade before they even arise. Since its coming into force, more than 11 000 regulations have been examined and consequent intervention by the Commission has led to more than 90% of notified texts being brought into line with Community law before adoption, thus avoiding ex post infringement procedures.

Improving the internal market for goods is an ongoing process that requires continuous updating, taking account of recent technological progress, the changing global situation and the needs of consumers. Following a large-scale consultation process, the Commission reported in February 2007 on the state of play<sup>9</sup>: some national technical rules still constitute major barriers to free trade within the EU, particularly in sectors that have not been harmonised, and several EU rules appear inconsistent and a burden to trade, with small and medium-sized enterprises being most seriously affected by this problem.

The Commission therefore proposed initiatives on<sup>10</sup>:

- *Mutual recognition*: The Commission proposed a regulation laying down procedures that the national authorities must follow in applying national technical rules to products lawfully marketed in another Member State. This proposal envisages the establishment of national "product contact points" to provide information on the applicable technical rules

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<sup>9</sup> COM(2007) 35, 14.2.2007.

<sup>10</sup> See initiatives at: [http://ec.europa.eu/enterprise/regulation/internal\\_market\\_package/index\\_en.htm](http://ec.europa.eu/enterprise/regulation/internal_market_package/index_en.htm)



and places emphasis on transparency and efficiency: transparency in the exchange of information between businesses and the national authorities, and efficiency by abolishing controls and tests involving duplication of work.

- *Registration of motor vehicles*: The Commission issued an interpretative communication on procedures for the registration of motor vehicles originating in another Member State. This will serve as the basis for a citizen's guide to the transfer of vehicles within the EU, an issue that still creates practical difficulties as a result of bureaucratic registration formalities.

Many barriers have been lifted through the adoption of harmonised rules applicable throughout the EU, such as in the field of vehicles, pharmaceuticals, medical devices, chemicals, construction products, gas appliances, electrical equipment, mechanical equipment, metrology, pressure equipment, cosmetics, footwear, textiles, toys, and others. However, in order to guarantee the quality and safety of products, together with fair competition for business, the Commission has proposed further initiatives on:

- *Accreditation and surveillance*: The Commission proposed a regulation setting out the requirements for accreditation and market surveillance relating to the marketing of products. This should lead authorities to step up market surveillance activities significantly - to ensure that non-compliant products are quickly withdrawn from the market - and make it easier to assess the conformity of goods. In particular, certifications issued by accredited laboratories and testing facilities should be accepted throughout the EU.
- *Conformity*: The Commission proposed a decision on a framework for the marketing of products, aimed at streamlining the various product conformity assessment procedures.

#### **2.4. Free movement of services**

The provisions relating to the free movement of services - including the right of establishment - are set out in Articles 43 to 55 of the EC Treaty. Over the years, the increasing importance of the services sector for the EU economy has led to a renewed emphasis on the completion of the internal market for services.

Today, the services sector accounts for 70% of GDP, 68% of employment and 96% of the new jobs created, but only 20% of intra-EU trade. This discrepancy reflects not only the fact that services often have an intrinsically local character, but also the many barriers and obstacles still hindering the free movement of services within the EU.

Several initiatives have been taken by the EU to facilitate the free movement of services and the integration of the internal market for services. The following are the most illustrative:

- *Network industries (telecommunications, energy, transport and postal services)*: since the early 1990s, the EU has pursued a policy of gradual opening up to competition of network industries previously managed by national monopolies. These services represent more than 7% of GDP and 5% of total employment in the EU in 2006 and they play a key strategic role in the entire EU economy. The opening up of these industries to competition has gone hand-in-hand with the definition of a number of public service obligations for each sector, covering aspects such as universal service, consumer and user rights and health and safety concerns. The corresponding sector-specific frameworks need to be reviewed regularly and modernised in the light of technological developments, or in the face of global challenges

requiring an EU response, such as increased energy dependency and climate change. The Commission regularly reports on the performances of these industries<sup>11</sup>.

- *Recognition of qualifications*: A number of directives were introduced in the 1990s to allow holders of certain professional qualifications to gain access in host Member States to the professions in which they are qualified, and to practise under the same conditions as nationals of that Member State in cases where these professions are regulated. In 2005, the Commission embarked upon a reform of the system in order to encourage more automatic recognition of qualifications and simplify administrative procedures. The resultant Directive, effective as of 2007, has consolidated fifteen directives in one piece of legislation, including twelve sectoral directives - covering the professions of doctor, nurse responsible for general care, dentist, veterinary surgeon, midwife, pharmacist and architect - and three directives setting up a general system for the recognition of professional qualifications and covering most other regulated professions. The new general system is based on the principle of mutual recognition, without prejudice to the application of compensatory measures if there are substantial differences between the training acquired by the migrant and the training required in the host Member State. The compensatory measure may take the form of an adaptation period or an aptitude test, and the choice between one or the other is up to the migrant unless specific derogations exist. For non-regulated professions, the mobility of workers and learners should benefit in future from the new European Qualifications Framework for Lifelong Learning (EQF). The EQF, which should be formally adopted by the end of 2007, is a voluntary reference instrument which will link together countries' qualifications systems and act as a translation device making other countries' qualifications more readable to employers and education institutions.
- *Services of general interest*: The development of sector-specific frameworks and the completion of the internal market for services, coupled with technological change and developments in the case law of the European Court of Justice, have triggered frequent regulatory overhauls at EU level since the early 1990s. The multiplication of sector-specific initiatives for network industries has also raised questions about the capacity of public authorities to combine public service missions and market mechanisms in the single market. Since its first Communication in 1996<sup>12</sup>, the Commission has sought to clarify the rules applicable to services of general interest. In its White Paper<sup>13</sup> of 2004, it highlighted the main elements of an EU approach, clarifying key principles of EU action and setting out areas for further work. Building on these developments, the new Reform Treaty foresees a Protocol on services of general interest annexed to the Treaty. A document on services of general interest, including social services of general interest, is presented alongside this report to take stock of recent progress.
- *Services Directive*: The "Services Directive" adopted by the EU legislator in December 2006 seeks to facilitate the operation of a single market for services by establishing common rules for the establishment of service providers and the cross-border provision of services, while taking the specific nature of certain activities or professions into account. A

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<sup>11</sup> See SEC(2007) 1024, 12.7.2007 for the most recent edition.

<sup>12</sup> Communication "Services of general interest in Europe" (OJ C 281, 26.9.1996).

<sup>13</sup> COM(2004) 374, 12.5.2004. The 2004 White Paper was built on previous consultations and Communications, in particular the Commission's 2003 Green Paper - COM(2003) 270, 21.5.2003 - and two Communications in 2001 - "Services of general interest in Europe" (OJ C 17, 19.1.2001) and COM(2001) 598, 17.10.2001.

number of sectors are excluded from its scope<sup>14</sup> and derogations may apply. The Directive establishes new rules which relate in particular to: a) administrative simplification (simplification of procedures and formalities necessary to access a service activity and to its exercise; establishment of points of single contact through which a provider may complete all the necessary formalities; obligation to make this possible at a distance and by electronic means); b) removal of legal and administrative barriers to the establishment and development of service activities (obligation to evaluate the compatibility of the authorisation schemes and of other requirements for the establishment of service providers in light of the principles of non-discrimination, necessity and proportionality; repeal of requirements that are not justifiable or are disproportionate); c) greater freedom to provide temporary cross-border services (freedom of access to the service activity and the freedom to exercise such activity throughout a Member State's territory should be guaranteed with a number of derogations applying, for example, to professional qualifications, posting of workers and services of general economic interest; a Member State may maintain its own requirements inasmuch as these are non-discriminatory, proportional and justified for reasons of public order, public safety, public health or environmental protection); d) strengthening the rights of consumers as service users (right of recipients to use the services by providers from other Member States and to receive relevant information, right of recipients not to be discriminated on grounds of nationality or residence); e) ensuring service quality (encouraging, for example, voluntary certification of activities or drawing up quality charters and European codes of conduct); f) establishing effective administrative cooperation among the Member States (obligation to cooperate with the relevant authorities of other Member States in order to ensure efficient control of service activities; setting-up of an alert mechanism between Member States; development of an electronic system for the exchange of information between Member States). The Directive must be transposed into national law by the end of 2009.

- *Professional services*: Through a combination of advocacy and enforcement of internal market and competition rules, the Commission is encouraging Member States to reform, where it exists, highly restrictive regulation which is not justified on general interest grounds in a number of professional services involving lawyers, notaries, accountants, architects, engineers and pharmacists.
- *E-commerce and other services sectors*: The E-Commerce Directive has established the regulatory framework for on-line trade within the EU both for providers and consumers. For other services sectors not harmonized at EU level, the operators' and citizens' right to offer and benefit from cross-border services has been ensured through the direct application of the Treaty. This has been the case, for instance, for the participation to fairs and exhibitions, the freedom to use TV satellite dishes, patients' rights and non-discriminatory treatment of tourists, students or sport practitioners.

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<sup>14</sup> The following services are excluded from the scope of the Directive: non-economic services of general interest; financial services (including those such as banking, credit, insurance and re-insurance, occupational or personal pensions, securities, investment funds and payments); electronic communications services with respect to matters covered by specified directives; transport services, including port services; services of temporary work agencies; healthcare services; audiovisual services; gambling; activities which are connected with the exercise of official authority; certain social services (relating to social housing, childcare and aid for persons in need); private security services; services provided by notaries and bailiffs, who are appointed by an official act of government.

- *Audiovisual media services*: The new Audiovisual Media Services Directive, due to be adopted by the end of 2007 will create legal certainty both for businesses and citizens. Three main features of the Directive will contribute to deliver this objective: 1) less detailed and more flexible rules for all audiovisual media services (television broadcasting and on-demand services); 2) extension of the country of origin principle to on demand-services and 3) modernized rules on TV advertising that will contribute to the better financing of the audiovisual content. At the same time, the Directive will make sure that consumer/viewer interests are taken into account by granting them new rights, like the right to access extracts of important events for news reporting purposes, clear identification of the media service provider, improved access for people with visual or hearing disability and clear rules on product placement, obliging broadcasters to inform consumers when this takes place. This modernised legal framework will be fully applicable by the end of 2009, after being transposed into national legislations.

## 2.5. Free movement of capital

Until the mid-1990s, free movement of capital did not exist in practice in a number of Member States. Even if possible in theory, many financial operations with other Member States were subject to prior authorisation requirements laid down by national authorities, known as "exchange controls". These controls enabled national authorities to prevent citizens or companies from carrying out operations in another Member State.

The full liberalisation of capital movements in the EU was agreed in 1988 (Directive 88/361/EEC) and came into effect in 1990 for most Member States, while for the rest specific transitional periods were agreed. Annex I to the Directive contained a list of all kinds of transactions to be considered as capital movements. These ranged from purchases of real estate to the opening of bank accounts. The liberalisation of capital movements accompanied the development of Economic and Monetary Union and was later enshrined in the EU Treaty. The Treaty now provides that all restrictions on capital movements and payments, both between Member States and between Member States and third countries, are prohibited. This principle is directly effective, i.e. it requires no further legislation at either EU or national level. There are some exceptions to the free movement of capital both within the EU and with third countries. These are primarily linked to taxation, prudential supervision, public policy considerations, money laundering, and financial sanctions agreed under the Common Foreign and Security Policy.

Free movement of capital is also an essential condition for the cross-border activities of financial services companies. The financial services sector includes three areas which are essential to the functioning of the economy: banking, insurance and securities. In 2005, the Commission completed the legislative phase of its action plan aimed at developing a true Europe-wide market in financial services. In its White Paper on Financial Services 2005-2010<sup>15</sup>, it took stock of progress made and set out its objectives for the period up to 2010. The aim is to help remove remaining barriers so that financial services can be provided and capital can circulate freely throughout the EU at the lowest possible cost, resulting in high levels of financial stability, consumer benefits and consumer protection. Enhancing supervisory cooperation and convergence in the EU, deepening relations with other global financial market places and strengthening the EU's influence globally are also priorities.

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<sup>15</sup> COM(2005) 629, 5.12.2005.

## 2.6. Cross-cutting policies establishing a level playing field

The operation of the single market requires a level playing field in a number of policy domains cutting across the four freedoms established by the Treaty. The following domains are particularly essential to the operation and integration of the single market:

- *Better regulation*: Since the late 1990s, the EU has engaged in an ambitious strategy for better regulation, focusing on the modernisation and simplification of existing EU legislation, as well as on improving the quality of new pieces of legislation through extensive recourse to impact assessments and stakeholders' consultations. More recently, it has also undertaken to reduce administrative burdens arising from EU legislation by 25% by 2012, with Member States being invited to set their own targets by 2008 and the European Council committed to reviewing progress on a yearly basis. Early in 2008, the Commission will present a strategic review of better regulation to the 2008 Spring European Council.
- *Consumer policy*: The building of the single market has gone hand-in-hand with the establishment of common rules which consumers can benefit from and which they can use to their advantage, while allowing Member States to introduce or maintain stricter rules. Such rules and standards are now in place in areas such as product and food labelling, health and safety requirements, price transparency, prohibition of unfair commercial practices and misleading advertising, etc. A European Consumer Centres Network (ECC-net) has been established to advise consumers on cross-border disputes. Recently, the Commission proposed to establish an Energy Consumers' Charter setting out basic consumer rights with regard to electricity and gas supply. The Commission is actively reviewing the EU consumer *acquis*<sup>16</sup> and has recently published its consumer policy strategy<sup>17</sup> for the years 2007-2013.
- *Labour law*: Building on Article 137 of the Treaty, the EU can support and complement the activities of the Member States in the area of social policy, in particular by defining minimum requirements in the fields of working and employment conditions and the information and consultation of workers. A series of EU labour law instruments are now in place. The European social partners play a special role in the preparation of labour law initiatives at EU level and the Commission encourages them to conclude agreements in this field. It has recently initiated a debate on the EU labour law *acquis* in the form of a Green Paper<sup>18</sup>.
- *Competition policy*: Building on the provisions of the Treaty, competition policy safeguards and creates the conditions which allow markets to function competitively to the benefit of consumers and businesses. Competition policy ensures that there is undistorted competition in the EU, in particular by removing and preventing State and private barriers to competition. This involves breaking down cartels, sanctioning abuses of dominance and prohibiting anti-competitive mergers, irrespective of the nationality of the companies concerned. It also means ensuring a level playing field by checking the compliance of financial support given to companies by EU national governments and other public authorities.

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<sup>16</sup> COM(2006) 744, 8.2.2007.

<sup>17</sup> COM(2007) 99, 13.3.2007.

<sup>18</sup> COM(2006) 706, 22.11.2006.

- *Cooperation to remove tax obstacles:* Unanimity among Member States is difficult to achieve in the tax field and there are still significant tax obstacles limiting the full benefits of a competitive internal market. Double taxation, tax-related business restructuring costs and, more generally, the difficulties in dealing with differences between Member States' differing tax rules mean that firms may prefer to operate domestically rather than in another Member State. SMEs are particularly concerned. To reduce these obstacles, in the field of corporation taxes, three Directives and a Multilateral Convention have been adopted (Merger Directive, Parent/Subsidiary Directive, Interests & Royalties Directive; Arbitration Convention). The Commission further aims at increasing co-ordination between Member States in specific areas and at allowing company groups to adopt a single tax base for all their EU operations. In the VAT area, the Commission has put forward a strategy to foster simplification, modernisation and more uniform application of the current VAT arrangements as well as increased administrative co-operation, with several legislations now in place ranging from the recast of the Sixth VAT Directive which dated from 1977 to the adoption of new rules on invoicing. In the field of excise duties, minimum rates and a harmonisation of structures have been put in place for certain types of products such as alcohol, tobacco and energy products. On vehicle taxation, registration tax should be phased out.
- *Public procurement:* Given the size of public procurement as a whole (16 % of GDP) any improvement in competition has significant implications for the entire economy. In 2004, the EU legislator adopted a package of directives simplifying and modernising rules applicable. It allows the recourse to e-procurement systems and provides for more possibilities to integrate various policy objectives in the purchasing process. In the area of European defence procurement, the Commission presented an interpretative Communication in December 2006 and will soon present further steps. In the area of public-private partnerships (PPPs), the Commission has launched a process of clarification, including guidance and possibly legislation, with regard to the application of EC rules to the different forms of PPPs.
- *Trans-European Networks (TENs):* In line with Treaty provisions, the EU has facilitated the development of TENs in three strategic sectors - transport, energy and telecommunications - as a key element for the creation of the internal market and the reinforcement of economic and social cohesion. Particular emphasis has been placed on supporting projects aiming at the interconnection and interoperability of national networks. Projects of common interest have benefited from financial support out of the Community budget through the TEN budget line as well as the Structural Funds and Cohesion Fund. The European Investment Bank (EIB) has also greatly contributed to the financing of these projects through loans<sup>19</sup>.

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<sup>19</sup> More information available at: [http://ec.europa.eu/ten/index\\_en.html](http://ec.europa.eu/ten/index_en.html)