Procedure file

Basic information

INI - Own-initiative procedure	2006/2101(INI)	Procedure completed
Services of general interest. White Paper Subject 2.40.02 Public services, of general interest, universal service		

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	PSE RAPKAY Bernhard	21/09/2004

Committee for opinion	Rapporteur for opinion	Appointed
DEVE Development	The committee decided not to give an opinion.	
INTA International Trade	PSE CASTEX Françoise	15/03/2005
EMPL Employment and Social Affairs	PSE DE ROSSA Proinsias	11/10/2004
ITRE Industry, Research and Energy	PPE-DE LANGEN Werner	02/02/2005
IMCO Internal Market and Consumer Protection (Associated committee)	PPE-DE SZÁJER József	21/02/2006
TRAN Transport and Tourism	PSE FERNANDES Emanuel Jardim	23/11/2004
REGI Regional Development	PPE-DE PIEPER Markus	19/01/2005
CULT Culture and Education	The committee decided not to give an opinion.	
JURI Legal Affairs	PPE-DE STAUNER Gabriele	30/05/2006

Council of the European Union

Council configuration	Meeting	Date
Employment, Social Policy, Health and Consumer Affairs	2733	01/06/2006

European Commission

Commission DG	Commissioner
Secretariat-General	BARROSO José Manuel

Key events

12/05/2004	Non-legislative basic document published	COM(2004)0374	Summary
18/05/2006	Committee referral announced in Parliament		
18/05/2006	Referral to associated committees announced in Parliament		
01/06/2006	Debate in Council	2733	
12/09/2006	Vote in committee		Summary
14/09/2006	Committee report tabled for plenary	A6-0275/2006	
26/09/2006	Debate in Parliament		
27/09/2006	Results of vote in Parliament		
27/09/2006	Decision by Parliament	T6-0380/2006	Summary
27/09/2006	End of procedure in Parliament		

Technical information

Procedure reference	2006/2101(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	ECON/6/22717

Documentation gateway

Non-legislative basic document		COM(2004)0374	12/05/2004	EC	Summary
Committee opinion	REGI	PE355.557	21/06/2005	EP	
Committee opinion	TRAN	PE357.755	02/09/2005	EP	
Committee opinion	EMPL	PE369.867	24/04/2006	EP	
Committee opinion	INTA	PE355.778	31/05/2006	EP	
Committee opinion	ITRE	PE357.523	31/05/2006	EP	
Committee opinion	IMCO	PE372.055	13/06/2006	EP	
Amendments tabled in committee		PE374.429	19/06/2006	EP	
Committee draft report		PE372.142	27/07/2006	EP	
Committee opinion	JURI	PE376.642	11/09/2006	EP	
Committee report tabled for plenary, single reading		A6-0275/2006	14/09/2006	EP	
Text adopted by Parliament, single reading		T6-0380/2006	27/09/2006	EP	Summary
Commission response to text adopted in		SP(2006)4772	19/10/2006	EC	

plenary					
Commission response to text adopted in plenary		SP(2006)5317	13/12/2006	EC	

Services of general interest. White Paper

PURPOSE : to present a White Paper setting out the Commission's approach in developing high-quality services of general interest.

CONTENT : this White Paper follows the public consultation and debate launched by the Green Paper, which invited comments on the overall role of the EU in defining the public service objectives pursued by services of general interest and on the way these services are organised, financed and evaluated. (Please see INI/2003/2052).

The debate has revealed considerable differences of views and perspectives. Nevertheless, a consensus seems to have emerged on the need to ensure the harmonious combination of market mechanisms and public service missions. The Commission's aim here is to make a contribution to the ongoing discussion and to take it further by defining the Union's role and a framework that allows these services to function properly.

The White Paper sets out the Commission's approach in developing a positive role for the EU in fostering the development of high-quality services of general interest and presents the main elements of a strategy aimed at ensuring that all citizens and enterprises in the Union have access to high-quality and affordable services. The document focuses on just some of the key issues of the debate as it would be impossible to address all the issues raised during the public consultation. More specific issues will be addressed in the context of the relevant policies.

The Green Paper consultation has shown a broad consensus on the need to ensure the provision of high-quality and affordable services of general interest to all citizens and enterprises in the EU. It has also confirmed the existence of a common concept of services of general interest in the Union. This concept reflects Community values and goals and is based on a set of common elements, including: universal service, continuity, quality of service, affordability, as well as user and consumer protection.

In the Union, services of general interest remain essential for ensuring social and territorial cohesion and for the competitiveness of the European economy. Citizens and businesses rightly expect to have access to affordable high-quality services of general interest throughout the EU.

This document defines a number of principles which are reflected in the Community's sectoral policies and can be clarified on the basis of the results of the debate on the Green Paper. These include: enabling public authorities to operate close to the citizens; achieving public service objectives within competitive open markets; ensuring cohesion and universal access; maintaining a high level of quality, security and safety; ensuring consumer and user rights; monitoring and evaluating performance; respecting diversity of services and situations; increasing transparency and providing legal certainty.

In the debate on the Green Paper there was broad agreement that it was not necessary to bestow the Community with additional powers in the area of services of general interest. In principle, the Commission agrees with this analysis. It is of the opinion that the powers currently conferred on the Community with regard to services of general interest are appropriate and sufficient in order to ensure that well-functioning services can be maintained and developed throughout the Union.

One of the key questions raised by the Green Paper concerned the need for a framework directive on services of general interest. The views expressed on the subject in the public consultation remained divided, a number of Member States and the European Parliament being sceptical on the issue. As a result, it remained doubtful whether a framework directive would be the most appropriate way forward at this stage. Furthermore, in the consultation, the added value of a horizontal framework as compared to the sector-specific approach followed so far has not been demonstrated. The Commission therefore considers appropriate not to proceed to submitting a proposal at this point in time but to re-examine the issue at a later stage. For the time being, the Commission will, as a general rule, pursue and develop its sectoral approach by proposing sector-specific rules that allow account to be taken of the specific requirements and situations in each sector. However, without prejudice to existing sector-specific Community rules, a horizontal approach will be considered with regard to a number of specific issues, such as consumers' interests, the monitoring and evaluation of services of general interest, the application of state aid rules to financial compensation or the use of structural funds for the support of services of general interest.

The Commission goes on to look at the areas of financing and awarding of contracts, where Member States' discretion to define and design the missions of services of general interest usually interact with Community law. The public consultation has confirmed the demand for greater legal certainty and predictability when it comes to the application of the state aid rules to public service compensation and the Commission outlines the initiatives it proposes.

In addition, the Commission looks at providing a clear and transparent framework for the selection of undertakings entrusted with a service of general interest.In practice, Member States increasingly use public-private schemes, including design-build-finance-operate contracts, concessions and the creation of mixed-economy companies to ensure the delivery of infrastructure projects or services of general interest. In the public consultation, calls were made for clarity on a number of questions relating to the Community rules applicable to such schemes, and in particular on the scope and substance of the Community rules that public authorities may have to respect when they entrust a public service mission to another entity. The Commission has adopted a Green Paper on public-private partnerships in the EU (COM(2004)0327), which launches a broad consultation on the procurement aspects of public-private partnerships.

Finally, the Green Paper raised a considerable interest from interested parties in the area of social services, including health services, long term care, social security, employment services, and social housing. Social services of general interest have a specific role to play as an integral part of the European model of society. The Commission is of the view that it is useful to develop a systematic approach in order to identify and recognise the specific characteristics of social and health services of general interest and to clarify the framework in which they operate and can be modernised. This approach will be set out in a Communication on social services of general interest, including health services, to be adopted in the course of 2005.

Services of general interest. White Paper

The committee adopted the own-initiative report drawn up by Bernhard RAPKAY (PES, DE) in response to the Commission's White Paper on services of general interest published at Parliament's request in May 2004. The report, which called for greater legal certainty on how EU rules will affect the way in which public services are provided in the Member States, set out a consensus position reached between the different political groups.

MEPs in the committee were concerned that individual rulings of the Court of Justice and existing guidelines from the Commission left uncertainty for all those involved in providing public services on the extent to which EU competition and internal market law applies to different sectors, and they wanted the Commission to clarify this. They also wanted a clearer distinction to be made between the concepts of ?services of general interest? and ?services of general economic interest?, though they pointed out that too tight a definition at EU level would conflict with Member States' freedom to decide what to define as a public service.

The report opposed the idea of using this exercise to withdraw wholesale broad areas of services of general interest from competition and internal market rules. It emphasised the success of sector-specific EU regulations enacted so far, calling notably for a directive on social and health care services.

The committee emphasised that it should be for the competent authority to decide whether to supply services ?in-house? or contract them out, via a tendering process. It noted that local authorities, under certain conditions, should be able to provide services via joint inter-communal organisations without necessarily going through a tendering process.

The report also said that more legal clarification was needed when it comes to procedures for accessing existing networks needed for provision of services, defining the price for supply of services, securing competition and opportunities for new entrepreneurs, out-of-court settlements between service providers and users and referral to competition authorities. The committee concluded by inviting the Commission to propose appropriate legal initiatives - involving codecision rights where foreseen by the Treaty - to deal with all these issues.

Services of general interest. White Paper

The European Parliament adopted a resolution based on the own-initiative report drafted by Bernhard RAPKAY (PES, DE) on the Commission's White Paper on services of general interest. The report was adopted by 491 votes in favour to 128 against with 31 abstentions and represented a consensus reached between the largest political groups. Parliament asked for clarification on a number of topics and emphasised that the majority of SGIs could be provided under conditions of fair competition, according to the principle that private and public undertakings must receive equal treatment. It asked the Commission to submit to Parliament a comprehensive analysis of the effects of liberalisation to date, in particular on the situation of the consumers and employees concerned.

It also made the following points:

- the legitimate requirements of the general interest must not be used as a pretext for the improper closure of services markets as regards international providers who undertake to respect the legitimate requirements and are capable of so doing;

- the way in which SGEIs are organised can affect the internal market, for example by prohibiting establishment in the country in which the service is provided;

- sector-specific rules should not be called into question, since they have been successful. Parliament recommended that the sectoral approach be expanded into other sectors;

- outsourcing the supply of SGIs normally imposes on the authority in question the obligation to assign the service on the basis of a public service contract, following a public tender procedure. Local authorities should be able to assign service tasks directly to inter-communal companies or similar forms of joint arrangements, or to companies that they own or control, provided that such bodies carry out the essential part of their activities for the controlling authority or authorities, and do not compete on external markets. An arrangement must be found which does not categorically exclude private participation from the outset.

The Commission was asked for clarification and more legal certainty on several points, including the following:

- the distinction between SGIs and SGEIs through the development of operational criteria. The latter should take into account Member States? national traditions, based on the nature of collective goods and public funding or by solidarity mechanisms of SGIs. Parliament underlined that for many SGIs making the distinction between economic and non-economic aspects was extremely difficult due to the dynamic character of these services and their rapid development;

- the consequences of the jurisprudence of the Court of Justice based on a sectoral approach and application of competition law to SGIs and SGEIs, especially with regard to the financing of these services;

- more legal certainty on the application of internal market and competition rules in the field of SGIs and SGEIs while ensuring democratic accountability for the application of rules to SGIs and SGEIs to the Member States, regional, and local authorities. There is a need to clarify how responsibilities are shared between the EU and Member States. The sectoral approach should be an important element in this respect. In this context, Parliament emphasised that after a due evaluation of the Treaty and the jurisprudence of the Court of Justice, SGIs remain to be defined by the Member States. Moreover, there is no legal basis for a proposal seeking the non-application of the relevant EC Treaty provisions to particular services;

- more legal certainty in the area of social and health-care SGIs. The Commission was asked to formulate a proposal for a sector-specific directive of the Council and the Parliament in those fields in which it is appropriate to do so;

- more legal certainty as regards the different forms of inter-authority organisations (cooperation between local authorities, public-private partnership, awarding concessions) and the clarification of European law on competition the award of contracts and State aid and of the general criteria applicable throughout Europe. Parliament stressed that there should be legal clarification concerning the outsourcing of public

services, which was distinct from the award of public contracts. It called on the Commission to spell out the rules for awarding such outsourced services and to make a clear distinction between those rules and the rules governing public contracts.

Parliament also made some recommendations about the criteria which should be applied in considering when compensation for supply of public services for funding an SGI should be considered constituting State aid in the meaning of Article 87 of the EC Treaty.

It asked the Commission to propose appropriate legal initiatives, as referred to in its resolution, and recalled that codecision rights, where foreseen by the Treaty, should be fully exercised by all parties involved in the field of SGIs and SGEIs. International agreements concluded by the Community must be compatible with internal Community policies and rules.