

Procedure file

Basic information		
INI - Own-initiative procedure	2006/2049(INI)	Procedure completed
Obligations of Cross-Border Service Providers		
Subject 2.40 Free movement of services, freedom to provide 4.60.06 Consumers' economic and legal interests		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Internal Market and Consumer Protection		21/02/2006
		PSE LEHTINEN Lasse	
	Committee for opinion	Rapporteur for opinion	Appointed
	 Legal Affairs		30/05/2006
		PPE-DE KAUPPI Piia-Noora	
European Commission	Commission DG	Commissioner	
	Health and Food Safety	KYPRIANOU Markos	

Key events			
16/03/2006	Committee referral announced in Parliament		
17/07/2007	Vote in committee		Summary
23/07/2007	Committee report tabled for plenary	A6-0294/2007	
26/09/2007	Debate in Parliament		
27/09/2007	Results of vote in Parliament		
27/09/2007	Decision by Parliament	T6-0421/2007	Summary
27/09/2007	End of procedure in Parliament		

Technical information	
Procedure reference	2006/2049(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 54
Stage reached in procedure	Procedure completed
Committee dossier	IMCO/6/34529

Documentation gateway				
Committee draft report		PE388.384	18/04/2007	EP

Amendments tabled in committee		PE390.377	22/05/2007	EP	
Committee opinion	JURI	PE390.372	27/06/2007	EP	
Committee report tabled for plenary, single reading		A6-0294/2007	23/07/2007	EP	
Text adopted by Parliament, single reading		T6-0421/2007	27/09/2007	EP	Summary
Commission response to text adopted in plenary		SP(2007)5401	18/10/2007	EC	
Commission response to text adopted in plenary		SP(2007)5763	06/12/2007	EC	

Obligations of Cross-Border Service Providers

The Committee on the Internal Market and Consumer Protection adopted the initiative report by Lasse LEHTINEN (PES, FI) on the obligations of cross-border service providers.

Internal market for services: the report encourages the development of measures that complete the internal market for services. It states that a more uniform system of obligations for service providers is needed as the market in services becomes increasingly cross-border, in order to further facilitate the development of a seamless internal market for services.

The committee believes that clarifying the legal system of obligations of service providers in the EU will bring more competition and more choice to consumers, and at the same time should not create unjustified obstacles to the free movement of services in the internal market. The different laws, regulations and administrative practices in the Member States cause uncertainty and lack of transparency for both service providers and consumers and make the use of the EU's common resources more difficult, but also provide an opportunity for competition in consumer protection.

MEPs are convinced that when consumers feel uncertain about the safety and quality of a service they tend to erect mental barriers to foreign suppliers, thus deterring them from making use of cross-border services, and that when a consumer has a negative experience, it frequently reflects unfairly on all foreign service providers. They point out that when it comes to the performance of a service, consumers are not as well protected under the Community acquis as consumers who purchase goods. They express their reservations, nonetheless, pending full implementation of the Services Directive, as regards far-reaching, new horizontal tools for the completion of the internal market for services.

The report highlights that not only consumers, but also and in particular small and medium-sized enterprises (SMEs), both as buyers and sellers of cross-border services, could benefit from added legal certainty, simplicity and a reduction in costs.

The committee notes that there are several pending legislative initiatives aimed at ensuring legal certainty as regards the rights and especially the obligations of cross-border service providers, namely the proposal for a regulation on the law applicable to contractual obligations (Rome I), the proposal for a regulation on the law applicable to non-contractual obligations (Rome II) and the Green Paper on the Review of the Consumer Acquis. It points out that Article 5 of the Rome I proposal is essential in order to determine whether the consumer protection legislation of the country of origin (of the service provider) or of the client (customer of the service) applies. It stresses that it is important to await the outcome of the legislative procedure.

The Commission is called upon to:

- bear in mind that, when it comes to the obligations of services providers, no difference should be made between public and private service providers, which should both be equally subject to the field of application of the directives on consumer protection;
- monitor thoroughly the transposition and implementation of existing and upcoming horizontal and sectoral legislation relating to the liability of crossborder service providers;
- examine measures, such as the introduction of standards at EU level, as a means of promoting the safety of services and of guaranteeing consumers' rights relating to cross-border services provided by Member States;
- draw up a voluntary code of conduct in which service providers could participate in order to gain greater trust from consumers and with a quality certification mechanism and an inbuilt dispute settlement system involving appropriate bodies in order to assist in simplified dispute resolution;
- submit, within 12 months, a work programme for an appropriate assessment of the impact of existing and upcoming legislation in the internal market on the obligations of crossborder service providers and the need for a possible broad horizontal instrument to align the rule on cross-border service provision in order to provide a high level of consumer protection;
- define clearly the interaction between private international law instruments and internal market instruments with a view to leaving no doubt as to when home or host country legislation or regulation applies and so, as far as possible, to leave no gaps in the liability regime applicable to service providers;
- take into account the impact of any initiative on SMEs;
- further develop, resource and promote the work of the European Consumer Centres Network (ECCNet) and Cross-Border Out-of-Court Complaints Network for Financial Services in the European Economic Area (FIN-NET) and, in the event that alternative dispute resolution systems remain unavailable in key service sectors in Members States, to consider at least a recommendation on that subject.

Obligations of Cross-Border Service Providers

The European Parliament adopted with 526 votes in favour, 38 against and 13 abstentions a resolution based on the own-initiative report drafted by Lasse LEHTINEN (PES, FI) on the obligations of cross-border service providers. The report cited the fact that European consumer confidence in cross-border consumption is low, as evidenced by the fact that only 6 % of consumers made an online cross-border purchase in 2006. Existing legislation does not, as a rule, address the substantive obligations of service providers, nor does it provide specific remedies for the consumer, in contrast to measures that have been adopted concerning the free movement of goods.

Internal market for services: Parliament was convinced that a more uniform system of obligations for service providers is needed as the market in services becomes increasingly cross-border. The Services Directive, to be transposed into national law in all Member States by 28 December 2009, should have a considerable impact on the cross-border provision of services, but the Directive does not address the substantive obligations of service providers. Parliament believed that clarifying the legal system of obligations of service providers in the EU will bring more competition as well as greater choice for consumers and at the same time should not create unjustified obstacles to the free movement of services in the internal market. It regretted that the present mix of legislative instruments between rules on conflict of law and internal market instruments and the failure clearly to determine their interaction mean that neither the consumer nor the service provider is always able to know with clarity which legal regime is applicable to each aspect of their activities.

However, it expressed reservations pending full implementation of the Services Directive, as regards far-reaching new horizontal tools for the completion of the internal market for services. There are several pending legislative initiatives aimed at ensuring legal certainty as regards the rights and especially the obligations of cross-border service providers, namely the proposal for a regulation on the law applicable to contractual obligations (Rome I) Regulation (EC) No 864/2007 on the law applicable to non-contractual obligations (Rome II) and the Green Paper on the Review of the Consumer Acquis. Parliament was convinced that the establishment of an internal market for services, the legal framework for which is based on the fundamental freedoms of establishment and to provide services, as set out in the EC Treaty and as defined in the Services Directive, depends on the relevant measures being clear from both a legal and a practical perspective.

Public and private service providers : the Commission should bear in mind that, when it comes to the obligations of services providers, no difference should be made between public and private service providers, which should both be equally subject to the application of the directives on consumer protection. Parliament called on the Commission to :

- monitor thoroughly the transposition and implementation of existing and forthcoming horizontal and sectoral legislation relating to the liability of cross-border service providers;
- examine measures, such as the introduction of standards at EU level, for promoting the safety of services and for guaranteeing consumers' rights in the field of cross-border services provided by Member States;
- further to develop, resource and promote the work of the ECC-Net and of FIN-NET and, in the event that alternative dispute resolution systems remain unavailable in key service sectors in Member States, to consider at least a recommendation on that subject;
- continue active consideration of the introduction of a legal instrument at Community level to facilitate collective action by consumers on a cross-border basis so as to allow greater access to legal redress.

Parliament recognised that liability regimes for service providers exist, albeit to varying degrees, in all Member States, but believed that there needs to be some convergence, especially in key cross-border sectors. There is a need also for greater co-operation between national regulatory bodies and professional organisations, where appropriate.

Request for a proposal for a horizontal instrument on the obligations of service providers : the Commission was asked, whilst continuing work on a sectoral basis in key areas, to submit, within 12 months, a work programme for an appropriate assessment of the impact of existing and forthcoming legislation in the internal market on the obligations of cross-border service providers and of the need for a possible broad horizontal instrument to align the rules on cross-border service provision in order to provide a high level of consumer protection. Such an assessment should examine a possible broad instrument which should at least contain basic general rules requiring adequate information on pricing, contract terms and remedies in the case of defective or delayed services.

Furthermore, the Commission needs to define clearly the interaction between private international law instruments and internal market instruments with a view to leaving no doubt as to when home or host country legislation or regulation applies and so, as far as possible, to leave no gaps in the liability regime applicable to service providers. The Commission should take into account the impact of any initiative on SMEs.

Lastly, Parliament asked all those Commission Directorates-General involved in legislation for the service sector to participate in the continuing work on the Common Frame of Reference with a view to including sections on service contracts, especially in those areas where there is already, or there is likely to be, cross-border activity, such as, by way of example only, financial services and the health sector.