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34. Seeks to bring about an improvement in the legal position of the undertakings affected; the Commission and the Member States should work toward greater involvement of third parties; it will be beneficial to introduce proper competition studies and public hearings in conjunction with the Commission's treatment of individual cases;

35. Welcomes the progress made by the candidate countries in matters of competition policy, and the fact that competition authorities have been established and begun their work; calls for greater discipline in connection with state aid, with only short transitional periods if any;

36. Instructs its President to forward this resolution to the Commission, the Council and the competition authorities of the Member States.

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## 10. E-commerce and financial services

### A5-0301/2001

#### **European Parliament resolution on the Commission communication to the Council and the European Parliament on e-Commerce and Financial Services (COM(2001) 66 – C5-0257/2001 – 2001/2119(COS))**

*The European Parliament,*

- having regard to the Commission communication (COM(2001) 66 – C5-0257/2001),
  - having regard to Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the internal market<sup>(1)</sup>, and in particular Article 3 thereof,
  - having regard to the Commission proposal for a Directive of the European Parliament and of the Council concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC (COM(1998) 468 – C4-0647/1998 – 1998/0245(COD))<sup>(2)</sup>, and its first reading position of 5 May 1999<sup>(3)</sup> thereon,
  - having regard to its resolution of 3 April 2001<sup>(4)</sup> on the Commission communication on the application of conduct of business rules under Article 11 of the investment services directive (93/22/EEC) (COM(2000) 722 – C5-0068/2001 – 2001/2038(COS)),
  - having regard to Rule 47(1) of its Rules of Procedure,
  - having regard to the report of the Committee on Economic Affairs (A5-0301/2001), and the opinion of the Committee on Legal Affairs and the Internal Market.
- A. whereas the adoption of the Electronic Commerce Directive was a step forward for the development of e-commerce in Europe, as the Directive is based on the country of origin principle,
- B. whereas this approach is particularly important for financial services, as being intangible they are especially well suited to cross-border electronic delivery, and because it would be unjustifiably burdensome if a financial services provider had to comply with 15 different sets of rules and regulations,
- C. whereas promoting the conclusion of cross-border contracts by electronic means in the area of financial services is only possible on the basis of continuing consumer confidence in such sensitive products,

<sup>(1)</sup> OJ L 178, 17.7.2000, p. 1.

<sup>(2)</sup> OJ C 385, 11.12.1998, p. 10.

<sup>(3)</sup> OJ C 279, 1.10.1999, p. 197.

<sup>(4)</sup> 'Texts Adopted', Item 7.

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- D. whereas there are a number of issues specific to financial services in the Directive which merit review, notably the general derogations on the taking up and carrying out of insurance business, the advertising of UCITS and the issuance of electronic money by institutions which do not benefit from a single passport, as well as the question of how to ensure that the case by case derogations under Article 3(4) do not undermine the country of origin approach,
- E. whereas the Communication also provides the welcome clarification that the derogation for contractual obligations is subject to the compatibility of such measures with Article 49 of the EC Treaty,
- F. whereas the Directive provides the possibility for Member States to apply restrictions to consumers including investors, which makes it clear that this derogation cannot and must not be applied for the protection of any wider category of investors than consumers,
- G. whereas the fast approaching deadline for transposition by Member States of the Electronic Commerce Directive and the forthcoming upgrade of the Investment Services Directive makes it all the more urgent to move towards a country of origin approach for both professional and retail investors,
- H. whereas the distinction between online and offline services is in practice difficult to enforce, since transactions often require both,
- I. whereas financial services consumers, both on- and off-line, should benefit from clear and simple propositions with a consistent level of protection, irrespective of the delivery method,
1. Welcomes the recognition by the Commission that there are issues specific to financial services in the Electronic Commerce Directive which need to be reviewed, with a view to ensuring as soon as possible an effective country of origin regime for financial services, both wholesale and retail;
  2. Stresses that the country of origin regime should be accompanied by the greatest possible degree of coordination of national legal frameworks, as otherwise the distortions in competition will inevitably lead to a detrimental process of reduced consumer protection;
  3. Recalls Parliament's strong support for the e-commerce directive, and reminds the Member States that timely transposition of this legislation, in a manner that reinforces the country of origin principle for on-line transactions, without extending the scope of the agreed derogations, forms the foundation for an integrated EU financial services market;
  4. Regrets however the continuing efforts of some Member States to roll-back the country of origin approach for online financial services, even though this was explicitly rejected by both the Council and the Parliament, and though extra competition is the consumers' friend;
  5. Regrets that the Commission has not laid out a detailed plan and timetable to remove all legal and other obstacles to the growth of e-commerce in the area of financial services and urges it to agree such a 'road map' with the Council and Parliament;
  6. Notes, with regard to Article 9(1) of the electronic commerce directive, that consumer credit agreements may also be concluded in electronic commerce;
  7. Draws particular attention to the need to update legislation that pre-dates the 2000 e-Commerce Directive and does not encompass electronically-enabled transactions; points out, in particular, the need to update the Consumer Credit Directive to allow electronically completed and authorised transactions equal status with traditional written agreements;

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8. Emphasises that national variations in marketing and advertising rules, as applied to information available on the web, form a major obstacle to the growth of e-commerce, and a common policy to facilitate its growth and the dissemination of information should be established; considers that harmonisation is necessary to ensure a high level of consumer and health protection;

9. Firmly rejects all attempts to introduce a transition period for the move to a country of origin regime for online financial services in the proposed Directive on Distance Marketing of Consumer Financial Services;

10. Calls on the Commission to propose a clear timetable for action on the derogation in instances where this is necessary, and to include both insurance and the advertising of UCITS within the scope of the country of origin principle of the Electronic Commerce Directive;

11. Expresses its concern that the Commission proposal to issue guidance to Member States on certain types of national provisions that they may apply to incoming online financial services must not be an invitation to Member States to apply such restrictions;

12. Emphasises that the Commission must fully consult industry and consumers before issuing such guidance, and should base its assessment on documented evidence provided by the Member States concerned of existing or past problems which have not been addressed in current EU legislation or bilateral contacts with the country of origin, and clearly apply the tests set out in Article 3(4) in its analysis;

13. Urges the Commission to make clear that such guidance is time limited, not legally binding, that it will not prejudice individual cases, and that it will apply the Article 3(4) procedure to each notified case;

14. Believes that the measures set out in the Electronic Commerce Directive, combined with alternative dispute resolution mechanisms and the safeguards set out in the proposed Directive on Distance Marketing of Financial Services as amended by Parliament, provide consumers with more confidence to use online financial services;

15. Notes however that for consumers to fully take advantage of cross-border financial services, a single payments area where it is as easy and cheap to transfer money across borders as domestically is vital; welcomes the Commission's recognition of this in its proposals on secure internet payments; calls for a more wide-ranging and stringent application of the country of origin principle in order to minimise the market fragmentation which would otherwise arise from differing contractual rules for consumer financial services in different Member States;

16. Notes that the legislative framework set out in Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts — Statement by the Council and the Parliament re Article 6(1) — Statement by the Commission re Article 3(1) first indent<sup>(1)</sup> already provides consumers purchasing at a distance with rights to a refund in the event of non-authorised transactions or non-delivery of the goods/services purchased; calls on the Commission to assess how successful this framework has been in building consumer confidence in e-commerce, how existing mechanisms (including charge-back between card-issuer and merchant) are operating and how refund mechanisms (with legislative or non-legislative backing) should be incorporated into future on-line payment systems, bearing in mind that credit or charge cards may not be the predominant medium; notes the importance of encouraging measures to tackle fraud including the development of new authentication and identification techniques; further calls on the Commission to bring forward proposals to ensure a single area for payment cards and to continue to promote the measures needed to facilitate the cross-border use of electronic money;

<sup>(1)</sup> OJ L 144, 4.6.1997, p. 19.

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17. Agrees that further convergence of national rules relating to consumer contracts for financial services is desirable, provided that this is at a level which is sufficiently high to provide adequate protection and is not treated as a precondition for the immediate move to the country of origin approach when the Electronic Commerce Directive enters into force;
18. Demands that the Commission carry out a wide-ranging and timely consultation on the 'Rome II' proposal, involving all interested groups including the financial services industry;
19. Urges the Commission to examine as a matter of priority the question of 'mandatory rules' in the context of the revision of the Rome Convention, with a view to finding solutions which respect the country of origin principle, avoid fragmentation of the Internal Market and encourage the development of e-commerce, whilst bolstering consumer confidence; notes that these rules must respect existing Treaty obligations;
20. Welcomes an inventory of existing contractual rules at national level for the protection of consumers in retail financial services, and urges the Commission to take legal action against Member States which impose disproportionately severe rules on services freely available in other Member States;
21. Points out that existing and approved market practices on e-commerce have to be taken into consideration whenever national rules are converged and/or Community rules established;
22. Proposes that the Commission encourage the financial services industry to adopt a European code of conduct on the use of clear language in consumer contracts so as to increase consumer confidence and enhance competition by permitting ready comparison of products and services on offer;
23. Congratulates the Commission on its initiative in establishing the European Extra Judicial Network (EEJ-NET) and the Financial Services complaints Network (FIN-NET), which support consumers seeking cross-border redress; calls upon the Commission, Member States and all interested parties to monitor the performance of EEJ-NET, FIN-NET and private-sector ADR schemes and the overlap between them; urges the Commission to consider means of ensuring that ADR systems available on- and off-line in the European Union have adequate resources and satisfy certain common high standards, in particular as regards the qualifications of persons who may act as mediators/arbitrators;
24. Urges all websites offering financial services to advertise these means of redress, and calls on the Commission to monitor, and report annually, on the application of the service in each Member State;
25. Emphasises the importance of securing as far as possible coherence between the legal frameworks for financial services provided on and off-line, notably by moving as soon as possible to a country of origin regime for offline financial services as well, both wholesale and retail;
26. Takes the view that online financial services from third countries which provide a similar level of prudential supervision and investor protection to the EU should also be able to benefit from the country of origin regime; calls therefore on the Commission to seek where possible to negotiate mutual recognition agreements with third countries which meet these criteria;
27. Recognises the difficulties in applying traditional methods of tackling money laundering, such as 'know your customer' rules, in an online environment, and calls on the Commission to increase support for new identification and authentication techniques;
28. Supports research into any new risks associated with electronic business models, but notes that the old credit, settlement and other risks continue, and no undue weight should be placed on new risks by supervisors solely because they are electronic-based;
29. Stresses that the development of electronic commerce and the creation of the country of origin principle reinforce the need to establish a policy of prudence and a European system of regulatory authorities;

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30. Believes that a genuine single market in financial services, whether on or off-line, cannot be achieved without consistent and timely implementation and enforcement of legislation; calls upon the Commission to enforce the e-commerce directive proactively and vigorously; calls upon financial services regulators in different Member States to work closely together to ensure consistent implementation and interpretation of all legislation relating to e-commerce and financial services;

31. Instructs its President to forward this resolution to the Commission and the Council.

## 11. Internal market strategy for services

A5-0310/2001

### European Parliament resolution on the Commission communication: An Internal Market Strategy for Services (COM(2000) 888 – C5-0103/2001 – 2001/2052(COS))

The European Parliament,

- having regard to the Commission communication (COM(2000) 888 – C5-0103/2001),
  - having regard to the conclusions of the Lisbon European Council, in particular paragraph 17 thereof,
  - having regard to Articles 15(2), 16, 35, 36, 37 and 38 of the Charter of Fundamental Rights of the European Union <sup>(1)</sup>,
  - having regard to its resolution of 13 April 2000 on the communication from the Commission to the European Parliament and the Council: The Strategy of Europe's internal market (COM(1999) 464 – C5-0212/1999 – 1999/2167(COS)) <sup>(2)</sup>,
  - having regard to Articles 14(2), 16 and 49 to 55 of the EC Treaty,
  - having regard to Rule 47(1) of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs and the Internal Market and the opinion of the Committee on Industry, External Trade, Research and Energy (A5-0310/2001),
- A. whereas the services sector is one of fundamental importance to the further development of the European economy, since:
- it already accounts for the greater part of GNP and more than two thirds of employment,
  - the changeover to the information society is imparting a new dynamic to this sector,
  - it provides the fundamental precondition for the competitiveness of other sectors,
  - it functions as the motor of skilled employment and innovation,

1. Welcomes the fact that with this communication the Commission is complying with a request made by the Lisbon Council, and is seeking to do justice to the increasing importance of the service sector with a global internal market strategy; expresses its support for the Commission's initiative and stresses the political necessity and urgent economic need for such a strategy to carry into full effect the internal market in services by removing the legislative and administrative obstacles encountered by service providers wishing to operate on the European market;

2. Stresses the importance of services as drivers of the new economy and the increasing integration of manufacturing with the provision of services; recalls that barriers to cross-border services in one sector can adversely affect the provision and the free movement of services in many other sectors, especially in the case of barriers to business and professional services; welcomes, therefore, the horizontal and comprehensive approach of the new strategy;

<sup>(1)</sup> OJ C 364, 18.12.2000, p. 1.

<sup>(2)</sup> OJ C 40, 7.2.2001, p. 465.