

Brussels, 20 November 2007

## **A Single Market for 21<sup>st</sup> Century Europe – frequently asked questions**

### **Why are you announcing the services of general interest and social vision papers at the same time as the Single Market package?**

This is a fully integrated package, not three separate items. The Single Market must deliver for all our citizens - consumers, small business people, workers, users of public services.

These initiatives are part and parcel of the wider Citizens' Agenda put forward by the Commission in May 2006 (see IP/06/595). For the "social vision" paper, the aim is to enrich the on-going consultation and pave the way for a renewed Social Agenda in mid-2008 (see below).

For services of general interest, the Commission has repeatedly affirmed its views that these are essential for the daily life of citizens and enterprises, and an important expression of Europe's common values. Discussions at EU level since the Commission's 2004 White Paper (see IP/04/638) have helped bring about a convergence of views among major stakeholders.

### **Single Market Review**

#### **What is really new about this?**

Today's proposals mark a new cycle for the Single Market, with a more targeted and impact-based policy.

This means proposing reforms in markets and economic sectors where more openness can bring most gains, especially for consumers and small businesses. In particular, much remains to be done in building a true Single European Market in the services economy, where most new jobs can be created.

It means a reinforced approach to managing the Single Market to ensure that where Single Market laws are in place, they work better in daily life.

It means communicating the Single Market better. Too often business and citizens are simply unaware of the opportunities offered by the Single Market.

What is more, to benefit from the opportunities of globalisation, Single Market policy must become more outward-looking. The Commission will step up efforts to strengthen Europe's competitive position by promoting its standards and by developing cooperation of market regulators world-wide.

## **What are the most important measures proposed?**

- One of the flagship elements of the "new" Single Market has already been adopted by the Commission on 13 November – the telecoms reform package aims to enable citizens, wherever they live and wherever they travel in the EU, to benefit from better and cheaper communication services, whether they use mobile phones, fast broadband internet connections or cable TV.
- A bundle of measures to ensure that retail financial markets – including bank and insurance products for consumers – work better.
- An overhaul of European consumer protection law, improving and simplifying contractual rights for consumers and granting them means of cross-border collective redress. A new Consumer Scoreboard will measure delivery on these policies.
- More action to ensure small businesses, which do not have access to the same resources – such as lawyers or consultants - or economies of scale as larger ones, can take full advantage of the Single Market. So the Commission will bring forward a 'Small Business Act' for European SMEs and propose a European private company statute, to facilitate their cross-border activities.
- Measures to improve the development and dissemination of knowledge, such as the creation of a European passport for researchers, and a European framework for patent protection.
- Initiatives to facilitate the use of electronic procedures in the EU (e.g. e-procurement) through streamlining rules on electronic signatures
- A 'one-stop shop' assistance service will give consumers, businesses and workers wanting to take advantage of their right to free movement access to information and help.

## **What will change for the man / woman in the street as the result of these proposals?**

A better-functioning Single Market will benefit all by further promoting competitiveness in the European economy. We need a strong home market to maintain and improve our prosperity, our European 'way of life' and social models.

But consumers and end-users will also be direct beneficiaries of the modernised Single Market. For example, the retail financial services package aims at ensuring that citizens needing everyday financial products – such as mortgages, bank accounts, insurance – get more information and a better deal. The Commission is also proposing measures to improve contractual rights and remedies for consumers.

And more generally, the Commission is committed to making the Single Market work better on the ground. It is building stronger partnerships with Member States to ensure that citizens and business know and understand the many opportunities offered by the Single Market, can get answers to their questions, and can find a solution if they encounter a problem.

## **What consultation has there been on this?**

There has been extensive consultation, including an open public consultation from April-July 2006, Eurobarometer surveys on single market policy in October 2006, a public hearing in November 2006 and a number of studies and workshops. There have been extensive discussions in the European Parliament, culminating in the Toubon Report in September 2007 and in the Council and its committees.

## **How can management of the Single Market at national level be improved?**

A well-functioning Single Market is in Member States' best interests. It has made citizens and businesses better off, as the document in the package on past achievements clearly demonstrates. The Commission is calling for more 'partnerships' with public authorities at all levels - national, regional and local - to make the Single Market work.

The Commission is committed to helping Member States make the Single Market work on the ground. It has created electronic communication systems, enabling national authorities to get in contact with each other – directly and in their own language. It invests heavily in helping Member States transpose and implement rules. For instance, it has drafted a handbook and organises workshops and many bilateral meetings to help Member States implement the Services Directive.

More generally, the Commission is holding a dialogue with Member States in a dedicated forum, the advisory committee for Single Market issues, to look into best practices and detect common problems. On this basis, it hopes to reach a common agreement and commitment amongst Member States on what it takes to make the Single Market work better. It is ready to help where needed – e.g. by assisting Member States in training officials.

## **Do today's proposals imply that until now, the Single Market has not really delivered what it should?**

No. The Single Market has been a huge success. But Europe and the world are changing and the Single Market must change with them, to become a 21<sup>st</sup> century Single Market for 21<sup>st</sup> century Europeans.

Since the launch of the Single Market programme 15 years ago, much has been achieved. By bringing down barriers to the free movement of goods, services, capital and people, and by strengthening competition, the Single Market has raised Europe's output by well over 2% and created 2.75 million additional jobs. Thanks to the Single Market, citizens can travel, study, work and retire throughout the EU. Consumers have a greater choice of quality products and services, often at lower prices. For example, airline travel and access to telephone services has improved out of all recognition. And businesses can operate in a huge European market of nearly 500 million people – the largest home market in the world – without being hindered by national barriers and unnecessary administrative procedures.

Partly because of the success of the Single Market the EU is a major force on the world stage in many areas, including trade and tackling climate change. And the rules that we agree in the Single Market for products such as mobile phones, chemicals and car safety set the benchmark for firms worldwide.

So, much has been done – much to be proud of. But that does not mean we should be complacent. There is still much untapped potential – and that is what future Single Market policy will focus on.

## **What is the timescale for results?**

We should see the results of these measures in the near future. For instance, the Commission hopes to agree with the banking sector by mid-2008 on rules to ensure easier switching of bank accounts. If solutions can be found through co-regulation, these can have an immediate effect.

Others measures are for the medium-term. For instance, the Commission is taking measures to improve 'partnerships' with Member States – helping them to improve the way they apply and enforce Single Market rules. However, an improved Single Market cannot be achieved overnight. It will be an incremental process, building on best practices and first achievements.

### **What will be done to integrate retail financial services markets?**

The Commission's retail financial services strategy is set out in the "staff working paper" attached to the package. It proposes a number of targeted initiatives designed to:

- improve customer choice and mobility, in particular for bank accounts, a financial product used by the vast majority of European citizens;
- help retail insurance markets work better, for instance by designing a "scoreboard " for car insurance premiums in Europe;
- move towards adequate and more consistent rules for distribution of retail investment products (such as investment funds, certificates etc.); and
- promote financial education, financial inclusion (access for all to a basic bank account) and adequate redress for consumers.

### **How will these financial services reforms benefit Europeans?**

The purpose of the strategy is to enable well-informed citizens to choose appropriate products and services that meet their needs from a wide range of products and suppliers at a reasonable price, and to have access to adequate redress should things go wrong.

All citizens should have access to basic financial services and have the option to switch providers without unnecessary restrictions. This will lead to increased competition which in turn should have a positive impact on prices. We also want to bring consistency to product transparency and distribution requirements for competing products that will enable citizens to compare products more easily and choose the one that suits them. In addition, we believe that there should be no unnecessary restrictions on providers distributing products in other Member States.

This strategy will benefit consumers whether they access products locally or cross-border and should make life easier for our growing number of mobile citizens.

### **What does the Commission mean by "market monitoring" as referred to in the single market package?**

With progress made at establishing the Single Market, focus should increasingly shift from legal efforts at removing obstacles to cross-border activities to making markets deliver more effectively in areas which will bring the best return for consumers, growth and job creation.

Alongside the final report on the Single Market review, therefore, the Commission is presenting a staff working paper setting out guiding principles for product and market monitoring and presenting preliminary results.

### **Which markets is the Commission monitoring?**

Using a small set of key indicators, the screening identifies 23 important sectors where there are signs of market malfunctioning from the perspective of businesses or consumers.

The sectors are almost evenly distributed between manufacturing and services. They account for 44.5% of EU value added and 46.5% of EU employment.

Applying stricter criteria, nine sectors stand out, the majority of them service sectors that use Information and Communication Technology (ICT) intensively. They include distribution activities (wholesale and retail), financial services (financial intermediation, insurance and pension funding), post and telecommunications and professional services. Regarding manufacturing industries, there are two ICT producing sectors (electrical machinery and radio, TV and communication) and one ICT intensive user (machinery). This more narrowly defined set of nine sectors accounts for 26% of EU value added and 28% of EU employment.

There are also other ongoing market monitoring initiatives. The Commission produces an annual financial integration monitor, which reports on the state of financial integration and its associated impacts in terms of competitiveness, efficiency and stability. It brings economic data and evidence into the policy debate and is part of the Commission's evidence-based policy making.

In 2004, the Commission established a forum of financial services users (FIN-USE) whose core task is the identification of key financial services issues that affect users. They also provide comments on early-stage legislative initiatives in the field of financial services by issuing opinions.

### **How does the Commission intend to intervene if it finds that some key sectors are not "delivering"?**

On the basis of this preliminary analysis, it will be necessary to investigate more in depth the selected sectors and examine in detail the causes of market malfunctioning, with the policy response varying from one sector to the other.

The Commission intends to work closely with national authorities and Member States to refine its methodology and implement this new approach. Moreover, in time, additional information should also be provided by the Consumer Scoreboard that is being developed by the Commission. Follow-up of progress will be ensured through the new annual Single Market Scoreboard.

The results of the analysis will enable the Commission to develop more targeted and more effective policies in areas which bring the best return for consumers, growth and job creation.

### **Will the Commission now be more selective in bringing infringement cases?**

As set out in its recent Communication on the application of EU law (see IP/07/1282), the Commission is committed to taking action to prevent problems in applying EU laws from arising and to moving swiftly to correct problems that do emerge, in close cooperation with Member States.

Where infringements of EU law occur, they will be addressed, and the Commission will give priority to infringements having the greatest impact. Member States are asked to provide concordance information showing how Community legislation is transposed into national law. The Commission will publish more general information on the current state of implementation of the law and legal proceedings to ensure the correction of breaches of Community law.

## **How will the European passport for researchers work?**

The "Partnership for a European Researchers' Passport" picks up on the clear response to the European Commission's Green Paper on the European Research Area, that one of the issues most hampering Europe's development as a world class destination for science is the difficulty researchers face when trying to work in another part of the EU.

In a renewed partnership with Member States and key-stakeholders, the initiative will seek to create a true European labour market for researchers, by directly addressing the current obstacles, such as social security, recruitment, recognition of experience gained elsewhere in the career path, fair employment conditions and the ability to move with existing grants and funding.

The resulting process with specific milestones and concrete deliverables for Member States and Commission, taking into account differences in national situations, will give rise to actions that will constitute the equivalent of a "researchers' passport", facilitating "brain circulation" and career development for researchers at European level.

## **What do you mean by the external dimension of the Single Market?**

The external dimension is the way in which the Single Market contributes to and is affected by Europe's relations with the rest of the world.

The Single Market is crucial to Europe's drive to shape globalisation as well as respond to it. For example, the Commission's package sets out how, in a globalised world, Europe can build on the Single Market's achievements by negotiating with third countries to achieve open markets and regulatory convergence, based on European practices where those work best.

The Single Market should in turn take account of the global context when shaping its rules, so as to strive for the best framework possible and to create effective opportunities for citizens and businesses, in the Single Market and world-wide.

Simple examples illustrate this need: many EU financial institutions operate on a global scale and significant differences between the respective Single Market principles and the third-country rules can negatively affect their overall operations; the need for adequate protection of copyright or patents on European products does not stop at the EU border; and the protection of personal data remains an issue where it leaves the Single Market.

## **Why is the external dimension of the Single Market an efficient means to address globalisation and ensure consumers benefit from it?**

The Single Market is a platform for European companies to enter global markets and gives consumers more choice and better products which respect minimum standards. Through the enlargement process and the European Neighbourhood Policy, the Community rulebook is gradually being adopted across large parts of the European continent.

Beyond this, the EU is emerging as a global rule maker, shaping and influencing rules and standards worldwide, facilitating European exports and ensuring that imports meet necessary standards, thus protecting European citizens.

The EU has in effect become the global standard-setter in many areas such as product safety, environmental protection, public procurement, financial regulation and accounting.

For example, the GSM standard is now used by almost two and half billion mobile phone customers worldwide. In CO2 emissions trading, aviation safety or chemicals, the EU has established new rules, which are gradually being adopted across the world. EU competition policy also has a global reach, with the Commission challenging cartels, anti-competitive mergers and abuses of a dominant position affecting European consumers and businesses.

### **Are consumers already benefiting enough for this external dimension? What more can be done?**

There are already immense benefits. But there are wide geographic variations in the way reduced import prices arising from globalisation are passed on to consumers. The Commission has decided to develop new tools to monitor imports and consumer price developments resulting from trade opening. It has recently completed a study for clothing and footwear and is currently extending its analysis to a broader range of consumer products. It will publish data on the evolution of import and consumer prices on a regular basis.

In addition, the Commission is working with a new international approach focusing on regulatory cooperation, convergence of standards and equivalence of rules. This approach should be further developed in the mutual interests of the EU and its partners. It can go a long way in fostering 'convergence to the top' of rules and standards at a global level rather than a 'slide to the bottom'. The EU will develop ambitious rules whenever appropriate and take the lead in new areas if necessary.

At the same time, the safety and reliability of products imported into the EU must be closely monitored. Customs controls at EU borders against counterfeiting and piracy have been greatly improved. Only safe products must be allowed entry in the Single Market. Rapid alert systems for measures to be taken across the EU against unsafe consumer products (RAPEX) as well as for food and feed (RASFF) are working well. Cooperation with third countries is developing, although much work remains to be done.

### **What do you mean by "social dimension" of the single market?**

The social dimension of the single market covers all the different measures to facilitate free movement of workers in the EU (thanks to the principle of non-discrimination on the basis of nationality). At the same time, workers need to be able to maintain their rights to social protection in another Member State. In a wider sense, it also covers the coordination of social security systems (ensuring coverage of citizens abroad), protection of workers in the workplace, adaptation and reintegration of workers faced with restructuring and the fight against social exclusion.

### **Social vision**

#### **Why did the Commission undertake its "social reality stocktaking"?**

Globalisation, technological progress and economic developments are affecting the way we live and work. The Commission wanted to stimulate a debate on what constitutes Europe's social reality today in order to be able to address better in its policy initiatives the fact that society is changing perhaps faster than ever before and that the associated benefits and risks are not evenly shared. Some parts of the population have difficulty adapting and run the risk of unemployment and exclusion.

These developments offer unprecedented opportunities in terms of free choice, healthier and longer lives, better living conditions and more innovative and open societies. But they also create new social risks that may reduce life chances and fuel a perception of insecurity, isolation, inequity and inequality.

There are widespread and legitimate expectations that Europe should play a more prominent role in advancing the well-being of its citizens helping them to anticipate and foster change, as well as promoting European values on the global scene.

### **The paper says: "the EU is changing". What are the main changes?**

Here are just a few examples – many more can be found in the paper:

- Life expectancy in European societies has dramatically improved: from 43.5 years in 1900 to 75.5 in 2000 and an expected 82 in 2050 for men, and from 46.0 to 81.4 with an expected 87.4 for women.
- This has far-reaching impacts on welfare systems, with the associated expenditure expected to rise to 2.5% of GDP by 2030 and 4.3% by 2050. At the same time, access to health services and healthy life expectancy still vary considerably between income groups and regions.
- Progress towards gender equality is taking place but remains far from a reality across the 27 Member States. Women are still under-represented in the labour market, in economic and political decision-making positions and the gender pay gap is still 15% on average. Gender stereotypes persist.
- Differences in income and opportunities are widespread across regions and between Member States. Over 100 million people live on an income equivalent to 22 euros a day. The incidence of child poverty remains high and is rising in several Member States. These children face much higher risks of exclusion and poverty later in life.
- Although employment rates are increasing and Europe created 3.5 million new jobs in 2006, unemployment remains high in many parts of Europe.
- One fifth of school children do not reach the basic standards of literacy and numeracy and six million young people leave school without any qualifications.

### **How does today's "vision paper" link with the social reality stocktaking? What are the next steps on the social vision?**

An important aspect of the social reality stocktaking has been to trigger a debate at national and EU level. The European Parliament adopted a report on 13 November 2007. The European Economic and Social Committee adopted an opinion on 18 January 2007 and held a public hearing. Dedicated activities have been organised with the support of the Dublin, Paris and Budapest representations of the European Commission.

In parallel to the final report on the Single Market review, the purpose of today's Communication is to enrich the on-going consultation on Europe's social reality by broadening the discussion from analysis to response, highlighting possible areas for action and raising the question of the role of the EU.

To facilitate replies to the consultation, the deadline is extended to 15/2/2008 (send replies to: [SG-Social-Reality@ec.europa.eu](mailto:SG-Social-Reality@ec.europa.eu)).

Reactions to the consultation and to this vision will feed into the preparation of a renewed Social Agenda, which the Commission will present in mid-2008.



## **What is new? How does the Commission intend to give effect to the vision?**

There is no "one-size-fits-all" response across Europe, but there are common challenges and there is a common need to act. The central ambition is to achieve a wider distribution of "life chances", to allow everyone in the EU to have access to the resources, services, conditions and capabilities in order to turn the theoretical equality of opportunities and active citizenship into a meaningful reality.

This agenda of opportunities, access and solidarity requires investment. This vision paper highlights seven priority areas: youth; fulfilling careers; longer and healthier lives; gender equality; active inclusion and non-discrimination; mobility and successful integration; civic participation, culture and dialogue).

These "investments" are in the human and social capital of our societies. They demand an effort on the part of individuals, families, local communities, social and business institutions, NGOs and the various levels of government. In some instances, this may mean a re-direction or a new sharing of social spending.

Member States have the main responsibility for the policy changes that are necessary to translate this vision into reality, with EU action remaining conditional upon proven added value. However, the EU also has a role. By setting policy frameworks for action, establishing a level playing-field, financially supporting reforms on the ground, sharing experiences and raising awareness, the EU can be a catalyst for innovative solutions at the local, regional and national level. The renewed Social Agenda planned for mid-2008 will present proposals.

## **Does the new Treaty of Lisbon give new competencies to the EU in the social field?**

A general provision will require the EU to take employment, social protection and social inclusion aspects into account in all its policies and activities (article 9). In addition, the EU should seek to combat all forms of discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (article 10).

Elsewhere, the role of the social partners will now get an explicit mention. The contribution to social dialogue of the tripartite social summit for growth and jobs is also recognised explicitly (article 136 bis).

The new Treaty takes up the existing chapter on social policy in its entirety. However, worth noting are article 139§2 (right of the Parliament to be informed when the Council adopts measures to implement agreements between the social partners) and article 140 (specification of measures the Commission can use to encourage cooperation between Member States on social policy under the 'open method of coordination' – notably developing orientations and indicators, exchanging best practice and regular monitoring and evaluation).

Finally, in the area of coordination of social security for migrant workers, the new Treaty enlarges the scope to include non-salaried migrant workers (article 42).

## **Does the Commission intend to put forward new EU social legislation?**

In 2008, the Commission will make a limited number of proposals to refine and complete the existing legal framework in employment and social affairs.

In particular, the Commission intends to propose a revision of the Directive on European Works Councils to reinforce their role, in particular in anticipating and adapting to restructuring.

Another proposal will amend Directive 92/85/EC, with the aim of improving existing measures for the health and safety at work of pregnant women and women who have recently given birth or are breastfeeding.

Finally, the Commission will consider a proposal to strengthen the existing rules against discrimination outside the work environment (in the latter context legislation is already complete).

### **What should the role of the Structural Funds be in future?**

Cohesion will remain a key objective of the Union, aiming at ensuring the benefits of the internal market are combined with the right of each citizen to achieve their full potential. However, with time, priorities will shift. Demographic change, technological progress and the requirements of the knowledge society will require more emphasis on direct support to citizens through training and educational investment in human capital (already the Funds co-finance the training of some 9 million persons each year). This includes improving the quality and availability of education and training, as well as supporting lifelong learning. It also calls for the full integration and participation of disadvantaged groups of people.

What is more, the need to tackle climate change and other environmental concerns will result in a shift towards preventive environmental investment and means of reducing energy consumption. And globalisation necessitates further efforts to support innovation and research.

### **What will be in the new Job Mobility Action Plan?**

This Action Plan presents actions to help remove barriers to worker mobility at European level and to encourage the relevant authorities to deal with the obstacles at national, regional or local level. It comes as a further, important step in a long line of initiatives to promote mobility and is a direct follow-up to the European Year of Workers' Mobility in 2006.

Fifteen actions are proposed for the period up to 2010, covering four areas: improving existing legislation and administrative practices on social security coordination and on the portability of supplementary pensions; ensuring policy support from authorities at all levels; reinforcing EURES (European Employment Services) as the one-stop shop for job mobility in Europe; and increasing awareness of the possibilities and advantages of job mobility among the wider public.

### **Services of general interest**

#### **Is there anything new in the Treaty of Lisbon on Services of General Interest?**

Yes. The agreement on the Treaty of Lisbon, with its Protocol on services of general interest, are major new steps, which build on earlier discussions and reflect the degree of consensus between the Member States and the EU institutions. By introducing the notion of services of general interest into EU primary law for the first time, the Protocol creates the broad policy framework that many stakeholders have been calling for. It will help make sure that the role of the EU is better known and understood.

## **What exactly does the Protocol say?**

It is largely self-explanatory. Here is the text:

### Article 1

The shared values of the Union in respect of services of general economic interest within the meaning of Article 16 EC Treaty include in particular:

- - the essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organizing services of general economic interest as closely as possible to the needs of the users;
- the diversity between various services of general economic interest and the differences in the needs and preferences of users that may result from different geographical, social or cultural situations;
- a high level of quality, safety and affordability, equal treatment and the promotion of universal access and of user rights;

### Article 2

The provisions of the Treaties do not affect in any way the competence of Member States to provide, commission and organise non-economic services of general interest.

## **How does the Communication clarify this Protocol?**

It makes clear that the responsibility to decide on the scope of services of general economic interest lies essentially with Member States. The way these services are provided must however respect Treaty rules when applicable.

It provides a clear distinction between services of general economic interest, to which EU rules apply, and non-economic services of general interest, which are not subject to internal market and competition rules.

The Communication emphasises that Article 86 (2) of the Treaty allows for the reconciliation between missions of general interest and EU rules by providing that rules only apply insofar as they do not obstruct the performance of these missions.

The Communication shows that existing instruments mean that the vast majority of services performed at the local level, such as social services, are in practice exempted from state aid notification requirements.

Finally, the Communication refers to ongoing clarification initiatives in the field of public procurement: a future interpretative Communication on institutionalised public-private partnerships and, possibly, an initiative on concessions.

## **What is the basic difference between services of general interest, services of general economic interest and non-economic services?**

"Services of general interest" is a broad term that covers both services of general economic interest and non-economic services as they are described below. Prior to the new Protocol, it was not found in the Treaty itself.

"Services of general economic interest" covers in particular certain services provided by the big network industries such as transport, postal services, energy and communications. However, the term also extends to any other economic activity subject to public service obligations. It is used in Articles 16 and 86(2) of the current Treaty. It is not defined in the Treaty or in secondary legislation.

"Non-economic services" refers to services of general interest which are not "economic", for instance traditional state prerogatives such as police, justice and essential social security schemes.

### **How is the distinction made between economic and non-economic services?**

The answer is not generic but requires a case-by-case analysis of the activities undertaken.

For example, the European Court of Justice has ruled that a given entity may be engaged on the one hand in administrative activities which are not economic, such as police tasks, and on the other hand in purely commercial activities<sup>1</sup>. An entity can also be engaged in non-economic activities where it behaves like a charity fund and at the same time competes with other operators for another part of its activity by performing financial or real estate operations, even on a not-for-profit basis<sup>2</sup>.

So a case-by-case analysis is needed. It also ensures that the characteristics of the situation are fully taken into account. The reality of these services is often specific and differs widely from one Member State to another, and indeed from one local authority to another. The ways in which they are provided are constantly evolving as a response to new economic, social and institutional developments, such as shift in consumer demands, technological change, the modernisation of public administrations and the devolution of responsibilities to the local level.

### **What does this difference between economic and non-economic services of general interest mean in terms of how EU rules apply?**

Non-economic services of general interest are not covered by the internal market and competition rules of the Treaty. However, some aspects of the organisation of these services may be subject to other rules of the Treaty, such as the principle of non-discrimination.

Under Article 86(2) of the Treaty as interpreted by the Court, if a service of general interest is regarded as economic, it is subject to internal market and competition rules, but in practice may be exempted from all or part of those rules.

This is possible because, where the application of these rules obstructs the performance, in law or in fact, of the particular tasks of general interest assigned to them, these services may benefit from a derogation from the provisions of the Treaty. Certain conditions must be satisfied, notably as regards the proportionality of the compensation provided to the organisations who operate those services.

### **Is legislation envisaged on services of general interest?**

The Commission remains determined to modernise the legal framework and provide additional legal certainty and guidance wherever necessary. In some areas, legislation already exists or has been proposed, for instance in the field of state aid, energy, telecoms, transport or postal services.

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1 Case C-82/01 *Aéroports de Paris* [2002].

2 Case C-222/04 *Cassa di Risparmio di Firenze* [2006].

The content of the Protocol confirms the approach and lines of action pursued by the Commission over the years: the reality of these services is complex and continuously evolving; the diversity of situations across the EU should be respected; it is difficult, if not impossible, to have a uniform response at EU level. At the same time, the provisions of the new Treaty provide the necessary clarity and visibility to pursue effective action at EU level.

On that basis, the Commission is committed to pursuing a pragmatic approach, taking appropriate sector-specific or issue-specific initiatives wherever this is needed.

Once the new Treaty has entered into force, the Commission will be in an even stronger position to continue to work to ensure that high quality public services can be made available for all citizens across the EU. The new Article 14 TFEU in particular, which foresees the right to propose legislation in this field, provides sufficient flexibility for the Commission to propose, and for the EU to adopt, the most adequate response, wherever this proves necessary.

### **Are services of general interest covered by the Services Directive?**

Non-economic services are not covered. Services of general economic interest are in principle covered by the Directive, unless they are explicitly excluded. Telecommunications, transport services, healthcare services, certain social services and audiovisual services are explicitly excluded from its scope (article 2).

For those services of general economic interest not excluded, the provisions of the Directive aiming at facilitating the freedom of establishment will allow Member States to take account of the specificities of services of general economic interest. In particular, the review and assessment of certain requirements under national law that Member States will have to carry out "should not obstruct the performance of the particular task assigned to services of general economic interest" (article 15(4)).

The Directive also provides that the specific rules in Article 16 on the free movement of services do not apply to services of general economic interest provided in another Member State (article 17), in particular postal services, water supply, electricity and waste management.

### **How do social services of general interest fit in?**

This term describes a whole range of services provided by the social sector. There is no definition in EU law and the reality varies a great deal.

Social services of general interest can be either "economic" or "non-economic" depending on the nature of the activities concerned. For instance, the Court has ruled that statutory social security schemes (provided certain conditions are met) are "non-economic" and therefore not covered by the Treaty. On the other hand, an ambulance service may well depending on the circumstances be "economic".

### **Why does the Commission intervene in the area of social services of general interest?**

At national level, social services are being modernised, often including outsourcing of public tasks to the private sector. As a result, a growing proportion of social services of general interest are covered by EU competition and internal market rules - public authorities and service providers have raised question on the application of these rules and expressed the need for more information and clarification.

## **What is envisaged strategy to promote the quality of social services of general interest?**

The Communication proposes a strategy to promote the quality of social services of general interest across the EU, which will aim at:

- Developing, within the Social Protection Committee, an EU quality framework providing guidelines on the methodology to set, monitor and evaluate quality standards
- Supporting, through the PROGRESS programme, cross-European bottom-up initiatives aimed at developing voluntary quality standards and promoting the training of public authorities in the field of public procurement.

## **What is the added value of the Communication and associated documents in terms of social services of general interest?**

Drawing on the results of the consultations over the last two years, the Communication emphasizes the importance of social services for social, economic and territorial cohesion, economic growth, a high level of employment and social inclusion. It lists a number of specific objectives that social services seek to achieve. It then explains how these objectives are reflected in the ways in which these services are organised, delivered and financed.

The Communication and the associated staff working papers respond to many of the questions collected from public authorities and service providers about the application to social services of EU rules on state aid and public procurement.

The Commission will take further steps to provide training and information to those who need it. This will be done in particular through the "interactive information service" announced in the Communication which will provide answers to frequently asked questions. These answers will be put on a dedicated website and regularly updated.

## **What are the most important questions clarified?**

For example, the staff working paper on public procurement clarifies that a public authority has full discretion to provide services itself or outsource them and clarifies how public procurement rules apply if it does externalise them. It points out the flexibility of the rules as far as social services are concerned and the possibility to define quality criteria.

The staff working paper on state aids gives concrete examples of activities that have been considered as non-economic and therefore not subject to competition rules: such as activities related to the army or the police, the maintenance and improvement of air navigation safety, security, air traffic control, customs, maritime traffic control and safety, or not affecting trade between Member States, such as certain local infrastructures. It gives details and examples of what competition rules mean in practice where they do apply. It explains how the reform of the state aid framework in 2005 (Altmark package) exempted from the obligation of notification the vast majority of aid at the local level.

## **What are the next steps on services of general interest?**

On the basis of the Protocol, and in line with Parliament's approach, the Commission will continue to consolidate the EU framework applicable to services of general interest, including for social and health services, proposing concrete solutions for concrete problems where they exist.

Attention should increasingly concentrate on the good transposition and application of EU rules, with greater emphasis on monitoring outcomes for users and consumers, dissemination of information and exchange of practices, monitoring of enforcement and evaluation of performance.

**How does the Commission intend to ensure that information reaches the right people? Will there be a web site for example?**

Yes, use of the Internet is a very important element in our efforts to make sure that the role of the EU on services of general interest is better known and understood.

In addition to on-going sector-specific or issue-specific initiatives, the Commission will put in place a dedicated and interactive on-line service at the disposal of citizens, service providers, public authorities and all stakeholders to provide information and answer questions on the application of EU law to services of general interest.

These efforts will complement the wider on-going initiatives to improve access to information and develop communication tools following the review of the Single Market, such as the creation of an EU "Single Market assistance service".

For further information please see:

[http://ec.europa.eu/citizens\\_agenda/index\\_en.htm](http://ec.europa.eu/citizens_agenda/index_en.htm)

[http://ec.europa.eu/internal\\_market/strategy/index\\_en.htm](http://ec.europa.eu/internal_market/strategy/index_en.htm)

[http://ec.europa.eu/services\\_general\\_interest/index\\_en.htm](http://ec.europa.eu/services_general_interest/index_en.htm)