



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 6.4.2006
COM(2006) 161 final

COMMUNICATION FROM THE COMMISSION

Review of Directive 2002/65 of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directive 97/7/EC and 98/27/EC

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By this Communication, the Commission seeks to inform the European Parliament and the Council on the state of play regarding the review of the application of Directive 2002/65 on distance marketing of consumer financial services¹.

Review

Directive 2002/65 foresees for a review of the Directive by the Commission. According to its Article 20 (1), the Commission is supposed to examine, following the implementation of that Directive, the functioning of the internal market in financial services in respect of the marketing of those services. It should further seek to analyse and detail the difficulties that are, or might be faced by both consumers and suppliers, in particular arising from differences between national provisions regarding information and right of withdrawal. Furthermore, Article 20 (2) foresees the obligation for the Commission to report to the European Parliament and the Council, not later than 9 April 2006, on the problems facing both consumers and suppliers seeking to buy and sell financial services, and to submit, where appropriate, proposals to amend and/or further harmonise the information and right of withdrawal provisions in Community legislation concerning financial services and/or those covered in Article 3 of the Directive (i.e. provisions on information to be provided to the consumer prior to the conclusion of the distance contract).

State of play

Directive 2002/65 entered into force on 9 October 2002. According to Article 21(1) of the Directive, Member States were due to implement the Directive by 9 October 2004.

However, implementation of the Directive has been delayed: Only 8 Member States had notified implementation to the Commission by the end of 2004. In the first quarter of 2005, the Commission received 4 more notifications, in the second quarter of 2005, again 4 more and in the third quarter of 2005, 2 more. This adds up to a total of 18 notifications one year after the implementation deadline had elapsed. Including 2 additional notifications received by the beginning of 2006, the Commission has received communications from 20 Member States so far. In addition to that, partial communications have been sent by 2 Member States. In the cases of 2 Member States, the Commission has brought the matter before the Court of Justice, one further case is still under consideration.

Moreover, the examination required by Article 20 (1) of the Directive can only be meaningful if the Directive has not only been implemented, but is also operational in Member States. This requires also certain evidence of the application of the Directive.

¹ Directive 2002/65 of 23.09.2002, OJ L 271, 9.10.2002, p. 16.

As a result, the Commission has not been in a position to meet the requirements of Article 20 (1) of the Directive.

Launch of study and Commission report

In order to be able to fully assess the impact of Directive 2002/65 on the internal market as requested by the Directive, the Commission has launched a study as groundwork for its report (Contract notice: OJ 2006/S 39 – 041355 of 25.2.2006). A comprehensive Commission report which addresses the questions raised in Article 20 of the Directive and possibly contains proposals for revision of the Directive could then be issued in 2008.

The Commission invites the European Parliament and the Council to take due note of this revised planning.