

such a multiannual plan of action as soon as possible, in concert with the European Parliament, the Economic and Social Committee and the organisations that are truly representative of craft firms and small enterprises. The effective implementation of the plan and the success of European policy for small enterprises can only really be guaranteed by a genuine, direct dialogue, by strengthening cooperation with the intermediary organisations representing the craft sector and small enterprises and with the social partners, who enjoy the advantage of links with all levels and very long experience, and by the direct involvement of these parties in the entire decision-making and operational process.

5.5. The Committee asks the Council to adopt, at one of its forthcoming meetings, a decision on the implementation of the Charter by means of this multiannual plan of action that embraces all the initiatives of relevance to small enterprises and the measures proposed in the present opinion and at the same time to establish budgets for the programmes concerned. To this end, the Committee suggests that the European Parliament and the Council approve the proposal for a special budget formulated last year in connection with the discussion of the Multiannual Programme for Enterprise and Entrepreneurship. These funds would be used to support the innovative measures in the Charter that are not covered by other programmes.

Brussels, 28 November 2001.

*The President  
of the Economic and Social Committee*  
Göke FRERICHS

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**Opinion of the Economic and Social Committee on the 'Communication from the Commission to the Council and the European Parliament — An Internal Market Strategy for Services'**

(2002/C 48/05)

On 28 February 2001 the Economic and Social Committee decided, under Rule 23(2) of its Rules of Procedure, to draw up an opinion on the above-mentioned communication.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 November 2001. The rapporteur was Mr Vever.

At its 386th plenary session (meeting of 28 November 2001) the Economic and Social Committee adopted the following opinion by 106 votes in favour, with one abstention.

**1. Summary of the Committee's comments**

1.1. The Committee is concerned about the continuing delays in completing the internal market, at a time when activities in these fields have taken on a dominant role in economic development and employment in Europe. In the current environment, characterised by the pressure of globalisation, the resumption of the WTO negotiations, the arrival of the information society, the transition to the euro, the commitments on competitiveness undertaken in Lisbon and the preparations for enlargement, these delays should be remedied immediately.

1.2. The Committee is pleased that the Commission, in its communication of December 2000, stressed the urgent need to relaunch the internal market in services by deciding to intensify work on current questions, update analysis of barriers and introduce an overall, innovative approach in 2002.

1.3. The Committee is aware of the complexity of the task of completing the single market in services in the face of differences which are deeply rooted in the laws and cultures of the Member States. However, the survey and hearing which it

organised show that nearly all socio-occupational interest groups, while acknowledging this complexity, feel that the European aspects are not currently dealt with in an optimal way.

1.4. Thus the Committee notes that socio-occupational operators in the field have high expectations for a new approach which is more effective and better suited to tackling successfully the complex questions raised. It therefore emphasises, like the Commission, the need to revive and speed up Community work on a new basis which will need to be overall, coordinated and flexible. It is a question of establishing a dynamic equilibrium between market pressure, mutual recognition and harmonisation, while taking account not only of the competitive demands of adapting to the newly opened market, but also of the interests of firms and consumers and the specific tasks of public-interest services.

1.5. On the analysis of barriers, the Committee draws the Commission's attention to the need to define a methodology and make a more precise distinction between the different types of barrier — distinguishing more clearly between the real barriers to be removed and the reality of European cultural diversity, to which operators will still have to adapt.

1.6. On the strategy to be developed and implemented in 2002 to speed up completion of the internal market in services, the Committee supports the general approach proposed by the Commission; at the same time it makes the following recommendations:

1.6.1. The Committee is convinced that the success of this new approach will depend on a new partnership between European institutions, socio-occupational groups and Member States, around the following principles: rigorous assessment of barriers, prevention of new barriers, coordination through complementary instruments, simplification of the rules, caution in removing barriers which also constitute 'sluice-gates', taking account of trade globalisation, participation of the socio-occupational groups in the rules which concern them, permanent monitoring of progress by the Commission.

1.6.2. One precondition is to strengthen the direct application of the Treaty provisions, systematise the procedure for advance information on national regulatory plans which could give rise to barriers, and be more rigorous in transposing the various directives.

1.6.3. In order to give the new strategy the necessary impact, the Committee supports the Commission's intention to propose that the Parliament and the Council adopt a new

horizontal legal instrument, and trusts that this instrument will be politically effective, legally binding, comprehensive in its approach, focused on essential needs, likely to activate and coordinate other, complementary, instruments, and flexible in its implementation.

1.6.4. The Committee recommends that the transposition of the essential requirements of the framework instrument and the various flanking directives be entrusted to joint regulatory committees, based on experience with the 'SLIM' committees, made up of representatives of administrations, service providers and users.

1.6.5. The Committee also recommends that the framework instrument should recognise and encourage self-regulation and co-regulation approaches on the part of the socio-occupational groups concerned, monitored with regard to their effects and application by the European legislator and the Commission. The Committee calls upon European socio-occupational operators to take all necessary steps towards this end, in order to play a leading role in the completion of the internal market in services.

1.6.6. The Committee expects that this new approach will make possible significant, irreversible results in speeding up completion of the internal market in services by the end of the current term of office of the Commission and the Parliament and before the next new accessions.

## 2. Main points of the Commission Communication

2.1. The Communication 'An Internal Market Strategy for Services'<sup>(1)</sup>, presented by the Commission on 29 December 2000, emphasises a growing disparity between the increasingly preponderant importance of services for the European economy on the one hand, and the persistent delays in achieving a sufficiently flexible and integrated European internal market for services on the other. It recalls the commitment made by the Lisbon European Council to develop services in a more dynamic and competitive European economy — a commitment which is an essential reason for the issuing of the Commission Communication.

2.2. To remedy this, the Commission proposes a new strategy, to be pursued in two successive stages.

2.2.1. From the first stage in 2001 onwards the Commission plans the following series of steps:

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<sup>(1)</sup> COM(2000) 888 final of 29.12.2000.

- adoption by the Parliament and the Council of several current legislative proposals (on public supply contracts, public service contracts, public works contracts, distance marketing of consumer financial services, telecommunications regulatory framework, opening to competition of postal services, copyright and related rights in the information society, EU accounting strategy, takeover bids, and VAT applicable to services supplied by electronic means);
- launching of new initiatives (commercial communications/sales promotions, regulated professions/recognition of qualifications, financial services and e-commerce, counterfeiting and piracy);
- presentation of a report reviewing the application of earlier directives (provision of information on technical standards and regulations, legal protection of conditional access services, copyright and cable and satellite broadcasting, legal protection of databases);
- a number of flanking measures (improving statistics, performance benchmarking, training in ICT skills for service companies, improving the process of innovation in the sixth Framework Programme for R&D);
- survey of barriers to services, with a report at the end of the first stage.

2.2.2. For the second stage planned for 2002, the Commission will present other measures covered by a timetable:

- drawing up a list of obstacles which can be removed by a direct application of Treaty principles;
- non-legislative measures to remove certain non-regulatory barriers (including Community codes of conduct, dispute settlement mechanisms, awareness-raising measures);
- an instrument based on a horizontal approach to remove most of the remaining barriers;
- complementary measures of targeted harmonisation.

2.3. The Committee notes that the Commission Communication comes at an opportune moment, for a number of reasons:

2.3.1. Economic globalisation and the external opening up of the Single Market continue to develop and will be further accentuated by the relaunching in November 2001 of the multilateral negotiations in the WTO framework, covering in particular the liberalisation of services on an international scale.

2.3.2. The development of the information society totally changes the conditions for the supply of services, making borders irrelevant, intensifying competition and putting service

users (firms, local authorities and individual consumers) in a central, privileged position.

2.3.3. The definitive establishment of the euro in early 2002 in place of the national currencies will further increase competition among all operators, while intensifying the need for integration of the single market in services.

2.3.4. The operational application of the Lisbon mandate, seeking to turn Europe by 2010 into the most dynamic and competitive knowledge-based economy in the world, is already slowing down and cannot be fully realised without a determined acceleration of the opening up of services within the Single Market.

2.3.5. Preparing for enlargement is another reason for speeding up the work to complete the single market in services, in order to make substantial progress before the accession of the first new Member States.

2.4. The Committee's comments set out below focus on:

- the Commission's analysis of the current situation in the services market (role of services in the European economy, delays in achieving the single market in services);
- the new strategy proposed by the Commission to accelerate completion of the single market in services (basic principles, measures in the first and second stages).

2.5. The Committee opinion draws in particular upon a hearing of socio-economic representatives held on 19 September 2001. This hearing made it possible to obtain a clearer picture of the present situation in the internal market in services, particularly with regard to barriers, and to collect recommendations on how to speed up completion of this internal market.

### 3. The Committee's comments on the role of services in the European economy

3.1. The Commission is right to draw attention to the key role of services in completing the European Internal Market. The European economy plays a dominant part in the development of services, of which it is the leading world exporter (26 % of exports) and the leading investor. The Committee stresses in particular that the European services sector accounts for more than half of GDP and employment, 70 % of jobs created in the last three years, and nearly 90 % of new firms. The median wages and average skills are superior to those in other sectors. The Committee emphasises that it is necessary to consolidate this situation and to exploit to the full the economic weight of European activities in the services sector.

3.2. The Committee notes that the services sector is as diverse as it is vast. Listing its component parts gives the impression of an endless inventory: financial and insurance services, intangible services to firms (consultancy, publicity and marketing, information technology etc.), operational services to firms (external support for management, cleaning, collective catering, security etc.), services to communities, services to individuals (hotels, individual catering, leisure etc.), personal services in the home, temporary work, transport and logistics.

3.3. The Committee also emphasises that this apparently heterogeneous group has three major characteristics in common, which greatly affect management methods, organisation, management of skills, funding needs etc.:

- a wage component of turnover which averages 70 %, varying from 40 % to 80 % depending on the specialisation;
- the fact that nearly all employees are in constant daily contact with the customers, which leads to a specific way of managing customer relations;
- network-based operation, involving highly decentralised decision-making and considerable autonomy for local management, because of the need for proximity to the customers.

3.4. Going beyond the strict definition of the services sector, the Committee also notes that it is the concept of service itself which is now coming to the fore. After a decade of development of the idea of services associated with one or more products, the products themselves are increasingly associated with the supply of services. The creation of added value has shifted to the heart of the service relationship itself, with upstream and downstream operations now dependent on it. Finally, there is an irreversible trend towards an economy based on intangible factors and knowledge, and composed of alliances, interdependence and joint responsibilities of all kinds.

3.5. Finally, the Committee stresses that the services market is itself intrinsically linked with the products market. The development of services is the main characteristic of developed countries. All sectors of activity are concerned: industry, where production costs but also profits and jobs are increasingly composed of services, the retail sector, which seeks to gain customer loyalty through associated services, the services sector itself, where more than half the transactions are between services, and finally the States, which increasingly have to make a distinction between the public service and service to the public. All these are interdependent and complementary.

3.6. The Committee would also point out that in opting for the euro, the EU implicitly chose to focus on the role of services in order to remain competitive in the face of globalisation. Those with a high individual added value (based as much on processes as on individuals) are a motor for innovation and Europe's place in the world economy. Those with a lower individual added value but of great social utility are essential to the performance of the first category of services, while contributing directly to the balance of society through their role of social inclusion, integration and promotion. The consolidation of the social and societal balance is also a factor in making regions attractive to investors. Services are in fact a strong response to the challenges of land-use development, regional networks, structuring demand, and strengthening the image of Europe internationally while meeting local challenges and needs.

3.7. For the above reasons and in the same spirit, the Commission is completely justified in stressing the central role of services for the operation of the Single Market in general (telecommunications, financial services etc.) and their impact on the various stages of the commercial process. The Committee is itself convinced that improving the single market in services is a decisive force for strengthening the free movement of persons, products and capital, because of the manifold effects of freedom to provide services on the various economic factors.

3.8. The Committee would place special emphasis on the key role of SMEs in developing the services sector, and on the need to support them with a more favourable global environment — e.g. through simplification of rules and formalities, easing of the tax burden, online connection, easier access to funding.

3.9. The Committee also points out the economic and social role played by public-interest services, which was explicitly acknowledged by the Treaty of Amsterdam and the Charter of Rights signed in Nice. These public-interest services are characterised by great diversity, resulting mainly from the specific political, administrative and cultural features of the Member States. Public-interest tasks can also be delegated to non-public operators, under state concessions subject to special conditions. The Committee supports the legitimate role of public-interest services, while stressing the need to ensure that they are compatible with the proper functioning of the internal market, especially as regards the transparency of their management, the participation of the users and the social partners in their organisation, and their compliance with Community competition rules. The Committee would also



ask the Commission to clarify the distinction between the economic and non-economic activities of public-interest services. Finally, the Committee emphasises the need to complete the opening up of transport, telecommunications, postal services and energy, which is essential for achieving a genuine European internal market.

3.10. The Commission underlines the importance attached to services by the Lisbon mandate. In particular, it points out that services are the motor of the new economy, emphasising the effects of the current technological revolution, the impact of services on the innovation process, on competition in Europe and the wider world, their effects on economic growth, and their contribution to strengthening the quality requirements which all users now have. The Committee supports this reference to the Lisbon mandate, while stressing that the lack of rigorous monitoring of its implementation still remains a disturbing weak point, which was revealed by the lack of enthusiasm for reforms and of transparency on their state of progress shown by the 15 at the Stockholm European Summit (lack of information from the Member States on the stage reached in national reforms, delays in European decision-making, delays in the transposition of directives into national law) and which has to be remedied between now and the next spring summit meeting (Barcelona, March 2002).

3.11. The Committee stresses the need on the impact — not only economic but also social — of a greater opening up of the single market in services: it is desirable to support the gain in productivity and competitiveness made possible by this development, but also to be alert to the social consequences in previously protected situations, by taking transitional measures and promoting training and conversion measures, where appropriate with the support of the Community Funds. The Committee would also point out that improving the single market in services will have a positive overall social effect: mention has even been made of a potential for creating 36 million new jobs.

3.12. Finally, the Committee underlines the need to start immediately to consider the role of services in an enlarged European Union, and to associate the applicant countries fully in the preparation, definition and implementation of the new strategy for the single market in services.

#### **4. The Committee's comments on the delays to the single market in services**

4.1. Like the Commission, the Committee notes that the single market in services is still lagging behind the single market in products. Having started later, it continues to encounter more barriers, as shown by the large number of directives still to be adopted. Moreover, it is essentially more difficult to harmonise services than products. Indeed, the conditions for providing services are closely linked to current national rights (civil, commercial, social etc.), characterised by specific cultural features which are themselves particularly resistant to harmonisation. The conditions for practising the service professions are in general highly regulated, and in many cases have been so for a long time; they are frequently supplemented by self-regulation on the part of the professions themselves. The legal responsibilities of these professions can also vary a great deal from one country to another (for example, the responsibility arising from the construction of a building can lie with the architect in one country and with the engineer in another). These disparities seriously limit the freedom to provide services from one Member State to another, and considerably complicate the data for its harmonisation.

4.2. The Committee is aware of the variety of instruments brought into play by the European Union to assist completion of the single market in services. The processes of harmonisation and mutual recognition must be made more effective by clarifying their respective fields of application, even if their interaction is likely to develop further. Moreover, Community action is likely to develop not only on the basis of legislative instruments (e.g. regulations or directives) but also on the basis of accompanying tools (e.g. communications, studies, notice boards, training measures, programmes etc.).

4.3. The Committee would also draw attention to the criticisms contained in the Lamfalussy Report of March 2001 concerning the slowness of the European legislative process; it stresses that the grounds for such criticisms go far beyond the question of financial services, and can equally apply to the harmonisation of rules on the other categories of services.

4.4. The survey carried out by the Committee among the European socio-occupational interest groups when drawing up this opinion confirms the dissatisfaction while acknowledging the complexities. Only 4 % stress the progress achieved above all. 16 % emphasise the delays, while 80 % balance their judgement between the two aspects. 80 % acknowledge that the remaining problems are difficult to solve both technically and politically, but 80 % also think that they are not being

dealt with optimally at present. This survey confirms that the well-established complexity of the problems to be tackled must not under any circumstances become an excuse for adopting a low profile in Community action: operators in the field have high expectations of a new, more dynamic and effective approach — one which is better suited to tackling this complexity effectively.

4.5. The Committee draws the Commission's attention to the need to define a methodology and make a selection among the remaining barriers within the Single Market. The survey and the hearing carried out by the Committee confirmed that the barriers to services pointed out by the socio-occupational operators are many and varied, and broadly cover the vast range of administrative, technical and fiscal barriers which persist in the internal market. However, these barriers are often presented and commented on without enough care to 'prioritise' them in relation one to another. It must be borne in mind here that the aim of completing the European internal market in services is indeed to ensure greater transparency, fluidity, effectiveness and consistency in trade, but not to unify all its aspects. Certain differences have to be accepted (differences of culture, language etc.) and everyone must adapt to them. However, there are still real barriers and serious forms of discrimination which are unjustifiable in a single market and must therefore be rapidly removed. Between the two, there is a 'grey area' where debate of course exists and will continue to develop on the degree of fluidity (mutual recognition, opening up through the direct effect of the market, etc.) and the desirable level of Community action (particularly through harmonisation).

4.6. In the list of barriers which the Commission is soon to present, the Committee therefore recommends that a distinction be made between:

- barriers which make it impossible or highly undesirable to provide certain services, such as a failure to recognise technical requirements or diplomas and professional qualifications — here Community action is urgently needed to remedy them;
- barriers which complicate the provision of a service without seriously affecting competition conditions, such as the need to adapt to cultural, linguistic and other differences — here it is rather up to service providers and consumers to adapt to them;
- barriers which create a significant extra cost for provision of services and which can affect competition conditions to varying extents, such as additional charges linked with rules, procedures and conditions for activities — here Community action may prove to be necessary, albeit taking account of the level of political commitment of the Union in formulating and implementing common

policies, and of the requirements of subsidiarity and proportionality. This is a field of action which is likely to develop further as European integration progresses.

## **5. The Committee's comments on the strategic principles proposed by the Commission**

5.1. The Committee takes the view that the Commission is right to insist on the importance of a global strategy to relaunch the single market in services. The Committee endorses the five basic principles on which this strategy is based:

- a complete strategy covering all services;
- a strategy aiming to make cross-frontier provision of services as easy as within a Member State — although the Committee notes that everyone must adapt in practice to the cultural and linguistic differences which are an integral part of the rich European reality;
- a strategy in the service of firms and consumers;
- a strategy which keeps pace with change;
- a strategy which is consistent with the other policies.

5.2. The Committee especially endorses the Commission's expressed wish to generalise the effort to remove remaining barriers by emphasising the entire micro-economic process (productive, commercial, financial, etc.) as it appears to economic operators, and by bringing out the need to remove barriers throughout this process in order to achieve a positive result which can actually be perceived by these operators.

5.3. The Committee notes, however, that the solutions have not always been clearly defined, as the Commission prefers to subordinate this definition to a more detailed analysis of the barriers. That is why the Commission Communication still seems at this stage to be a methodology which has still to be clarified in terms of operational balance and the division of responsibilities among all the participants, and whose implementation remains to be ensured in appropriate ways. The success of such a strategy becomes more and more necessary at a time when the double pressure of the euro and the information society creates an urgent need for a more fluid, more cohesive and better organised European market in services.

5.4. The Committee agrees with the Commission in recognising the need to give priority to liberalising cross-border trade, which really helps to weld the single market together, particularly with the euro coming into operation. One good approach would be to make a better assessment of, and give support to, the initiatives taken at grass roots by the economic actors to remove the existing border barriers. The Single Market Observatory's PRISM database already provides many different practical examples of such initiatives.

5.5. Again like the Commission, the Committee attaches the highest importance to the need to guarantee real support to consumers and enterprises (which are in any case themselves both suppliers and consumers of services). This means taking account of their perceptions on the ground and of their expectations, but certainly also involving them directly in the actual formulation of the rules.

5.6. The Commission draws attention to the need to adapt the rules to the pace of change. The Committee shares this concern and stresses the need to respond to it by better organising the division of tasks among all the actors concerned. Thus, the Committee takes the view that the European legislator should not try to regulate all the details, but should focus on the essential requirements (on the lines of the 'new approach' already adopted about fifteen years ago for the harmonisation of products).

5.7. The Committee would also point out to the Commission the need to take account, when developing a more offensive strategy, of the 'reverse discriminations' which the accelerated opening up of the market can also create in a Member State for its own nationals. The treaties of the European Union were drawn up mainly to protect against any discriminatory treatment by a State the nationals of other Member States, not its own. Of course, a State is generally likely to abolish or open up outdated national rules which tend to penalise, but it can also derogate from these changes and penalise its own nationals in relation to the opening up. The Commission would play a useful role by regularly highlighting the situation regarding such 'reverse discriminations', thus strengthening the pressure on these States to reform their national rules.

5.8. Finally, the Commission emphasises the need for the services strategy to be consistent with the other policies pursued by the EU. The Committee shares this concern, which simply underlines the need to define a true global strategy.

## **6. The Committee's comments on the priorities proposed by the Commission for the first stage**

6.1. The priorities for adoption in 2001 listed by the Commission will also affect the first half of 2002, if one takes account of certain delays and shifts which can be foreseen almost a year after the presentation of the Communication. These priorities provide a comprehensive survey of work in progress. This certainly brings out the diversity of the issues of regulation relating to services, but it also reveals the need for a sufficiently well-thought-out guiding principle in the way they are dealt with when the initiatives to be taken in the second stage are being defined. Because of the imminence of the definitive introduction of the euro on 1 January 2002, the Committee takes the view that priority must now be given to opening up services in the financial sector (distance marketing of financial services, company accounting, implementation of the Lamfalussy Report's recommendations, associating socio-occupational interest groups with the regulatory committees for stocks and shares). The Committee also agrees with the need to apply pressure, under the current Belgian presidency, for the adoption of a series of pending decisions on public supply, services and works contracts, the telecommunications regulatory framework, the opening to competition of postal services, copyright in the information society, and the VAT applicable to services supplied by electronic means.

6.2. As regards the list of new initiatives which the Commission intends to present by the end of 2001, the Committee can only reiterate its earlier comment on the current lack of a guiding principle for work on the services sector and the need, failing that, to give priority at all events to measures to accompany the introduction of the euro, particularly with regard to the new initiatives required by the action plan for the opening up of financial services. In addition, following the recent rejection by the European Parliament of the draft directive on takeover bids, there also appears to be an urgent need for a new draft which could soon be adopted by the Parliament and the Council, so as to ensure a clear, common legal framework in the face of increased restructuring of firms within the Single Market. The Committee is pleased to note that the Commission recently announced the setting up of a group of independent experts to consider the current situation as regards company law and contribute in particular to relaunching draft Community rules on takeover bids. Subject to the clarification of the solutions to be proposed in the second stage, the Committee also supports the other initiatives announced by the Commission for the end of 2001 relating to commercial communications (sales promotions), regulated professions (recognition of qualifications), financial services and e-commerce, counterfeiting and piracy.

6.3. As regards the review reports announced by the Commission for a number of directives, the Committee lays particular stress on the question of advance information on technical standards and regulations, which is the precondition for any increased harmonisation and for simplifying the rules in the single market for services. The Committee also awaits with interest the other review reports announced, on legal protection of conditional access services, copyright and cable and satellite broadcasting, and legal protection of databases.

6.4. With regard to the flanking measures announced by the Commission, the Committee strongly emphasises the need for better statistics, particularly of a comparative nature, for assessing the development and opening up of services within the Single Market. A better statistical analysis appears to be a key factor in providing a good basis for the new strategy of relaunching the single market in services. The Committee also supports the other flanking measures announced by the Commission, on the one hand to train service companies in information and communication technology, and on the other to improve the process of innovation in the sixth Framework Programme for R&D.

6.5. Finally, on the studies announced by the Commission on the barriers to services, the Committee takes the view that this report will mark less the last measure of the first stage than the opening of the second stage, and therefore gives its comments below. It also proposes the development of cooperation with its Single Market Observatory (SMO) in the preparation of this report; the SMO has also, through its hearings and questionnaires — partly in preparing this opinion — and in its PRISM database, identified a range of barriers to the single market in services which have been highlighted by the economic operators in the field.

## **7. The Committee's comments on the priorities proposed by the Commission for 2002**

7.1. The Committee wishes at the outset to underline a number of essential principles, which emerged clearly from the hearing organised in the context of this opinion, and which should guide the new Community approach to completing the single market in services:

7.1.1. Evaluation: a properly updated survey of barriers, on the basis of professional surveys and recent statistics, must be prepared as the basis of the new strategy for the internal market in services.

7.1.2. Prevention: a key element of the new strategy must be to prevent the creation of new national barriers by strengthening the obligation to provide advance information.

7.1.3. Coordination: the proper balance should be found, through complementary approaches, particularly between mutual recognition, regulatory harmonisation and progressive self-regulation, while reconciling the interests of firms and consumers and taking account of the tasks of public-interest services. The new horizontal instrument should be the solidly anchored yet flexible pivot of such coordination.

7.1.4. Simplification: it is essential to avoid complicating services activities through European rules which are too complex or do not correspond to operator's actual expectations.

7.1.5. Caution: it is advisable to provide adaptation stages for dealing with barriers which also act as 'sluice-gates' between national systems which are legally and culturally different.

7.1.6. Globalisation: account must be taken of the international framework and requirements (e-commerce, WTO etc.).

7.1.7. Participation: it is advisable to involve socio-occupational operators in the formulation and implementation of the rules, allowing scope for co-regulation and self-regulation, along the lines of the European codes of conduct already surveyed in the PRISM data-base of the Committee's Single Market Observatory.

7.1.8. Monitoring: regular reports should be drawn up by the Commission on progress made with the arrangements as a whole.

7.2. In line with the above principles, the Committee presents the following recommendations, emphasising that each of them contributes to building an overall, dynamic, interactive and coherent whole, without which it hardly seems possible to relaunch successfully the completion of the single market in services.

7.3. The Committee supports the Commission's plan to issue, at the end of the first stage and the start of the second, a systematic inventory of all the barriers and obstacles which prevent European firms from offering consumers cross-border services. The Commission must ensure it has the resources to draw up as complete an inventory as possible, covering all service activities whether or not they are already regulated at Community level. The proposed timetable does not seem realistic given the vast scope of this inventory.



7.4. The Committee also supports the Commission's declared intention to present in 2002 a list of obstacles which can be removed by a direct application of Treaty principles. It does indeed seem essential to reaffirm clearly the principle of freedom to provide services and mutual recognition of qualifications within the Single Market, in the spirit of the Treaty and in line with the Cassis de Dijon case-law, while defining more precisely the reasons which Member States might have for maintaining certain barriers, and the fields to which these barriers can still apply in the absence of Community rules. As mentioned above, the Committee hopes that a dialogue can take place on the drawing up of this list.

7.5. The Committee also stresses the need to combat more effectively the infringements which have risen to an unacceptable level in the Member States over recent years, seriously threatening the efficiency and cohesion of the Single Market. The Commission should perform in a more determined and effective way its role as guardian of the Treaty, particularly by speeding up the procedures for dealing with breaches of the principles of free movement of services and freedom of establishment, and by examining carefully the question of the proportionality of the national measures underlying these restrictions. At a time when an exceptional effort is required of the applicant countries in order to adopt the entire Community acquis, the Member States should feel obliged to set a good example.

7.6. The Committee also emphasises the need to strengthen, and extend to all services activities, the procedure for advance information on national regulatory plans which are likely to create new barriers. Adoption of a new directive supplementing existing arrangements to this end seems to it to be inseparable from the setting up of a new strategy for the internal market in services; this is also one precondition for ensuring its credibility and effectiveness.

7.7. As regards the non-legislative measures which the Commission intends to present in 2002, to remove certain non-regulatory barriers, the Committee stresses the need to promote whenever possible the adoption of codes of conduct by European socio-occupational interest groups, either as an alternative to new Community rules or to supplement them. In this context the Committee draws attention to the conclusions of its hearing of 3 May 2001 on the prospects for co-regulation within the Single Market, which point out the enormous potential for development in this area, especially in the services sector. In addition, the Committee supports the Commission's intention to promote dispute settlement mechanisms and to develop awareness-raising measures relating to the single market in services.

7.8. The Committee supports the Commission's intention to re-centre harmonisation on certain essential requirements, and notes with interest its plan to develop an instrument based on a horizontal approach to remove most of the remaining barriers. The Committee itself considers that, without a strong political and legal commitment on the part of the Parliament and the Council to establish a genuine border-free area for services in Europe, based on such a legal framework instrument and thus organising a new division of responsibilities between the EU institutions, the Member States and the socio-occupational interest groups, it will be impossible to markedly speed up the work on harmonisation and mutual recognition concerning the single market in services.

7.8.1. The Committee is aware of the difficulties involved in deciding the legal form such an instrument should take:

7.8.1.1. It may seem at first sight a difficult task to encapsulate all the problems entailed by the opening up of services in a single directive — even a framework directive, given the great complexity and diversity of these problems. Should the Commission nonetheless opt for such a formula, it would be advisable to make such a directive very innovative in comparison with standard directives, especially in terms of flexibility of content, involving socio-occupational groups, decentralising its implementation, and references to other, complementary, directives and legal instruments.

7.8.1.2. The Committee for its part would be prepared to recommend the choice of a framework resolution of the Parliament and the Council if it was clear that such a resolution could not in any way be regarded as a mere recommendation and that, like a directive, it would commit its authors to a new programme and a new plan of action tied to a legally binding timetable.

7.8.1.3. At all events, the Committee hopes that the creation and the expected impact of a horizontal legal instrument will not be adversely affected by excessive controversy over its legal form. It is ready to go along with the proverb whereby the colour of the cat does not matter as long as it catches the mouse. However, the Committee insists below on a number of essential requirements for the new arrangements to be set up by this horizontal instrument.

7.8.2. In the Committee's view, the specifications for this new instrument should be as follows:

7.8.2.1. it should be horizontal, i.e. it should concern all aspects of freedom to provide services, regardless of their differences;

7.8.2.2. it should involve political commitment and be legally binding, which would rule out the use of a mere recommendation;

7.8.2.3. it should stipulate a number of key principles on the conditions for opening up the market, to which additional instruments deriving from it could refer;

7.8.2.4. while comprehensive in its approach, this instrument should be flexible in its application, and should organise optimal coordination among a number of complementary approaches (harmonisation, mutual recognition) and a number of players (European legislator, regulatory committees, European socio-occupational interest groups).

7.8.3. This new horizontal instrument should thus:

7.8.3.1. have the aim of attacking persistent barriers while concentrating on an overall approach, removing barriers encountered by firms at the various stages of provision of services, rather than dividing up measures into excessively specific fields;

7.8.3.2. stipulate the circumstances in which the Member States could have a valid reason for maintaining a specific national framework;

7.8.3.3. promote a more effective application of the principle of mutual recognition of national laws, making it possible to avoid unnecessary rules at Community level while guaranteeing that the border-free Community area can be used as easily as a national market;

7.8.3.4. provide for a limited number of targeted directives in the main fields of service provision (financial services, services to individuals, services to communities, etc.) — directives which should draw on well-tried methods for the opening up of the single market in products, while remaining limited to laying down essential requirements;

7.8.3.5. as a permanent instrument, seek to anticipate new

regulatory needs, free up the liberation/integration process, and transcend sectoral and category-based divisions.

7.8.4. The Committee recommends that the transposition of the essential requirements of the framework instrument and the various directives be entrusted to joint regulatory committees (based on the experience of the SLIM committees), which should be made up of the representatives of national governments, service providers and service users. In this decentralised approach, the role of the European legislator and of the European Commission should be above all to monitor the application of the rules adopted by the joint regulatory committees, and if necessary to harmonise them.

7.8.5. This new instrument should recognise and encourage self-regulation and co-regulation approaches by the socio-occupational groups concerned, supplementing the directives and rules adopted by the joint regulatory committees, subject to checks by the legislator and the European Commission as regards their effects and implementation. The Committee emphasises that the socio-occupational operators, to the extent that they take on such self-regulation responsibilities at European level, will have the chance to play a major role in the future architecture of the internal market in services. This presupposes an innovative partnership with the European legislator. The Committee would welcome the development of such a partnership, which in its view should be the key to making a success of the 'new approach' to completing the European single market in services.

7.8.6. The implementation of the framework instrument, the flanking directives, the implementing measures emanating from the joint regulatory committees and the self-regulatory approaches of the socio-occupational interest groups would give rise to European Commission reports reviewing the progress of the work and updating the new priorities for the single market in services.

7.8.7. The implementation of this new instrument should make it possible to make significant, irreversible progress in speeding up completion of the single market in services between now and the end of the Commission's and Parliament's current terms of office and before the next accessions of new Member States.

Brussels, 28 November 2001.

*The President  
of the Economic and Social Committee*  
Göke FRERICHs