# Mutual evaluation process of the Services Directive

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PURPOSE: build on the results of the mutual evaluation process of the Services Directive in order to improve the operation of the single market for services.

BACKGROUND: services are the driving force of the EU economy. Services account for over two-thirds of EU GDP and employment, and have been the source of all net job creation in recent years. Furthermore, approximately 75% of services trade concerns the supply of services to other businesses in almost any sector of the European economy, in particular industry.

However, the Single Market for services is **not yet deliveringits full potential**. Services still represent only around one-fifth of total intra-EU trade. The absence of dynamism in intra-EU services trade becomes clear when mirrored against EU's global trade in services. Today only about 8% of European SMEs do business in other Member States.

The recently adopted Commission Communication "Towards a Single Market Act" stressed the need to further deepen the Single Market for services and to build on the results of the "mutual evaluation" process provided for in the Services Directive.

Overall, conservative estimates predict that the implementation of the Services Directive has the potential to bring about economic gains of up to EUR 140 billion, representing up to 1.5% growth of EU GDP. In short, the **EU economy urgently needs a more integrated, deepened Single Market for services.**

CONTENT: in this Communication, the Commission presents the main results of the "mutual evaluation" process and builds on them to **move on to a new phase** in the building up of a Single Market for services where the benefits of the Services Directive are consolidated and complemented by a set of further actions.

**1) the key findings of the process of mutual evaluation:** the adoption and subsequent implementation of theServices Directive has been a crucial milestone in improving the functioning of the Single Market for services. It has done so by removing unjustified barriers, simplifying the regulatory framework and helping modernise public administrations. Yet more remains to be done. The main problems problems still needing to be resolved are the following:

- a number of EU rules adopted over the years to help the functioning of the Single Market for services **are not being used to their full extent** and are, at times, implemented or applied inconsistently**;**
- some of the remaining difficulties result from the wide use by Member States of the possibility to **reserve certain service activities for certain operators.** There are 800 different activities in the EU that are considered to be regulated professions in one or more Member States and are reserved for providers with specific qualifications;
- questions have been raised related to **legal form requirements** (for instance, restrictions as to the legal forms available to operators taking up certain activities such as a prohibition on providers of crafts services to take the form of limited liability companies) and **capital ownershiprequirements** (for instance, obligations to have specific qualifications in order to **hold share capital** in companies providing certain services such as the rule that one must be a qualified tax advisor to hold capital in a company offering tax advice services);

- lastly, **insurance obligations** are often imposed on cross-border service providers by the Member State where the service is provided, disregarding the fact that the provider may already be adequately insured in its place of establishment.

**2) Actions for further deepening the single market for services**: the key findings of the mutual evaluation demonstrate that the Commission needs to take further steps to enable the European economy to fully benefit from the potential of the Single Market for services.

As a matter of priority, the Commission will continue and step up work with Member States on an individual basis so as to **achieve a complete and correct transposition and implementation** of the Services Directive in all Member States. In the first half of 2011, the Commission will carry out a series of **bilateral meetings with those Member States** where there are strong indications of incorrect or incomplete implementation of the Services Directive. When needed, formal enforcement measures will be taken.

In parallel, a **first economic assessment** of the actual implementation of the Directive and of its impact on the functioning of the services markets will be carried out by the Commission in 2011

In addition, the Commission , building on the *acquis*, will take, **a number of additional measures** to take the Single Market for services forward.

***A single market "performance check" for services****:* in 2011, based on Member States' input as to the specific sectors that should be examined, the Commission will launch the "performance check" of the Single Market for services. The aim will be to finalise it within one year with a view to report on the results to the European Parliament and to the Council and, if required, propose further measures by the end of 2012.

***Tackling remaining regulatory barriers****:* the Commission will i) launch an assessment of the issue of reserves of activity focussing in particular on areas where the link with the professional qualification required warrants further discussion; ii) launch an assessment to better understand the manner in which restrictions on capital ownership and legal form affect certain services sectors and to gather evidence on the economic effects of these rules; iii) examine the difficulties the difficulties for cross-border service providers resulting from insurance requirements. The Commission will decide by 2012 on possible specific initiatives.

***Targeted actions to make the Single Market for services a more concrete reality on the ground:***in order to ensure that the freedom to provide services clause in Article 16 of the Services Directive is applied properly and consistently in all Member States, the Commission will closely monitor its application and discuss its findings with all Member States. It will issue annual guidance on the application by Member States of the freedom to provide services clause and the evolution of cross-border service provision in the Single Market. To avoid the appearance of new regulatory barriers, the Commission will work with Member States to **consolidate the notification system** in the Services Directive and to help providing guidance to national administrations as to its operation. Lastly, to help service providers, in particular SMEs, to enforcetheir rights in the Single Market, the Commission will assess the effectiveness of means of redress available at national level to service providers for breach of their Single Market rights by national administrations and decide on next steps by the end of 2012.