

Electronic commerce in the internal market: legal aspects, protection of consumer

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PURPOSE: to set out certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce). **COMMUNITY MEASURE:** Directive 2000/31/EC of the European Parliament and the Council on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce). **CONTENT:** The development of information society services within the Community is hampered by a number of legal obstacles to the proper functioning of the Internal Market which makes less attractive the exercise of the freedom of establishment and the freedom to provide services. These obstacles arise from divergences in legislation and from the legal uncertainty as to which national rules apply to such services. In the absence of coordination and adjustment of legislation in the relevant areas, obstacles might be justified in light of the case-law of the Court of Justice of the European Communities. Moreover, legal uncertainty exists with regard to the extent to which Member States may control services originating from another Member States. Against this background, in order to ensure legal certainty and consumer confidence, this Directive must lay down a clear and general framework to cover certain legal aspects of electronic commerce in the Internal Market. The objective of this Directive is to create a legal framework to ensure the free movement of information society services between the Member States and not to harmonise the field of criminal law as such. In accordance with the principle of proportionality, the measures provided for in this Directive are strictly limited to the minimum needed to achieve the objective of the proper functioning of the Internal Market. Furthermore, the Directive must ensure a high level of protection of objectives of general interest, in particular the protection of public health. Certain activities are excluded from the scope of this Directive, on the grounds that the freedom to provide services in this field cannot, at this stage, be guaranteed under the Treaty or existing secondary legislation. The Directive does not aim to establish rules on fiscal obligations nor does it pre-empt the drawing up of Community instruments concerning fiscal aspects of electronic commerce. The definition of information society services already exists in Community law (Directives 98/34/EC, 98/84/EC). According to the current Directive, information society services refers to the selling of goods on-line but it also extends to services which are not remunerated by those who receive them. In addition, information society services also include services consisting of the transmission of information via a communication network and the provision of commercial communications by electronic mail. The main provisions of the Directive include the following: - the principle excluding prior authorisation in the pursuit of the activity of an information society service provider; - the requirement of general information to be provided to the recipients of the service in relation to the service provider; - the definition of the information to be provided; - unsolicited commercial communication; - the provision of an information society service by a regulated profession; - the treatment of contracts; - the information to be provided; - the placing of an order for a service; - liability of intermediary service providers - implementation of the Directive (out-of-court dispute settlement, court actions, for example) In conclusion, before 17.07.2003, and every two years thereafter, the Commission shall submit to the European Parliament, the Council and the Economic and Social Committee, a report on the application of the Directive. **ENTRY INTO FORCE:** 17.07.2000 **TRANSPOSITION INTO NATIONAL LAW:** 17.01.2000