

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

1998/0325(COD) - 28/02/2000 - Council position

Although the Council adopted the approach and aims proposed by the Commission and supported by the European Parliament, it considers it necessary, when drawing up its common position, to make a number of changes to both the substance and the wording of the proposed Directive. The principle changes made to the Commission proposal relate to: - the relationship of the draft Directive with International Private Law: the Council has considered it necessary to clarify the relationship of the draft Directive's provisions on home country control with provisions of international private law, in particular the existing Brussels and Rome Conventions; - ensuring the efficacy of criminal investigations: the Council was concerned that the draft Directive should not result in it becoming more difficult to investigate criminal offences occurring in the context of electronic commerce, and with this in mind a number of modifications of the Commission's proposal have been made. Changes to Article 3(4) (Article 22(3) of the Commission's proposal) permit Member States to derogate in particular cases from the Directive's requirements concerning the country of origin principle and the free movement of Information Society services, where this necessary for public policy, in particular the prevention, investigation, detection or prosecution of criminal offences. Article 15(2) now makes it clear that Member States may require service providers to inform the competent public authorities of alleged illegal activities or in some cases require service providers to communicate details of their clients; - modifications regarding electronic contracts: the Council considered that it was not appropriate to harmonize national law regarding the moment at which the contract is concluded. For this reason Article 11 has been renamed and now limits itself to certain requirements regarding the placing and receipt of order on-line. Furthermore, the Council considers it necessary to add exemptions to this provision for contracts transferring rights in real estate and for certain contracts of involving suretyship and collateral securities; - the deletion of comitology: the Council considers that the powers that the Commission was granted went beyond the implementation framework and were therefore incompatible with Article 202 of the Treaty.