Basic information

2006/2137(INI) INI - Own-initiative procedure	Procedure completed
Follow-up to the report on competition in professional services **Subject** 2.40 Free movement of services, freedom to provide 2.60 Competition 3.45.06 Entrepreneurship, liberal professions	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	EHLER Christian (PPE-DE)	25/10/2005

Committee for opinion	Rapporteur for opinion	Appointed
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	
JURI Legal Affairs	The committee decided not to give an opinion.	21/03/2006

European Commission

Commission DG	Commissioner
Competition	KROES Neelie

Key events

Date	Event	Reference	Summary
05/09/2005	Non-legislative basic document published	COM(2005)0405	Summary
15/06/2006	Committee referral announced in Parliament		
12/09/2006	Vote in committee		Summary
14/09/2006	Committee report tabled for plenary	A6-0272/2006	
11/10/2006	Debate in Parliament		
12/10/2006	Decision by Parliament	T6-0418/2006	Summary
12/10/2006	Results of vote in Parliament		

12/10/2006	End of procedure in Parliament		

Technical information	
Procedure reference	2006/2137(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	ECON/6/31378

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE374.348	02/06/2006	
Amendments tabled in committee		PE376.416	05/07/2006	
Committee report tabled for plenary, single reading		A6-0272/2006	14/09/2006	
Text adopted by Parliament, single reading		T6-0418/2006	12/10/2006	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(2005)0405	05/09/2005	Summary
Document attached to the procedure	SEC(2005)1064	05/09/2005	
Commission response to text adopted in plenary	SP(2006)5318	14/12/2006	

Follow-up to the report on competition in professional services

2006/2137(INI) - 05/09/2005 - Non-legislative basic document

PURPOSE : to present a follow-up the Report on Competition in Professional Services, and report on unjustified restrictions.

CONTENT : professional services are a key sector of the European economy and are entrusted with the delivery of services of considerable public importance. Figures for 2001 show that ‘business services’generated approximately 8% of total turnover of the EU. The sector is characterised by high levels of regulation. This is often a mix of State regulation, self-regulation and custom and practice, which has evolved over a number of years. The Commission’s work in the area of the professional services has been targeted at examining whether the current regulatory mix is the most efficient and least restrictive of competition, or whether better regulation, more adapted to the modern world could help spur economic growth, and deliver better services and value for consumers.

The Commission published a Report on Competition in Professional Servicesin February 2004 and suggested that a proportionality test should be used to assess to what extent anti-competitive professional regulations and rules truly serve the public interest and can be objectively justified. This Communication reports on progress in the review and removal of such unjustified restrictionsby Member States using the detailed analysis contained in the Commission staff working document annexed to the Communication. (Please see SEC(2005)0164).

The Commission looks at reasons why some targeted regulation might be necessary and who benefits from it. The report describes activities by the Commission and national competition authorities, as well as progress made by Member States in reviewing and eliminating disproportionate restrictions in legislation and the rules and regulations of professional bodies. Over a third (9 in total) of Member States report that analytical work is underway, which it is hoped will lead to substantive reform in the near future. Six other countries report that minor reforms have been made e.g. a slight easing of qualitative entry qualifications.

The key conclusion is that more urgency by the majority of Member States to bring about systematic pro-competitive reform in this sector would bring about significant economic and consumer benefits. In practical terms, this means Member States taking 'political ownership' of this work at national level to drive forward the reform process. The weight of tradition should not be underestimated as affecting the pace of change, and in many countries regulators fail to see how things can be done differently.

Moreover, the professions themselves have in general not been actively promoting it. The current picture could also indicate that some countries have relatively weak regulatory oversight of the professions. This could be caused by the economic phenomenon of regulatory capture, which is not uncommon especially in areas subject to self-regulation. The Commission recognises that it is the Member States' prerogative to determine to what extent they want to regulate the professions directly by State regulation, or to leave the matter to self-regulation by professional bodies. However, good governance would require that Member States oversee the impact of national self-regulation to guard against it becoming overly restrictive and detrimental to customers' interests.

The Commission remains fully committed to bringing about wide scale reform to this sector and encourages Member States to take the initiative to drive forward reform at national level. It is up to national regulatory authorities and professional bodies to bring about change having due regard to the specificities of the relevant profession in each country. Experience shows that such a process will not start without strong political backing.

As a start Member States should initiate analytical work to review existing restrictions. A first stage of this could be to identify those restrictions on competition, which can be removed quickly without further analysis being necessary e.g. certain fixed and recommended prices, and certain advertising restrictions. At the same time, more substantial structural analysis should begin – for example of regulatory structures - to assess the need and open the way for wider reforms. This would enable Member States to make good progress by 2010. The Commission's further refinement of its economic analysis of the different markets for professional services, leads the Commission to the conclusion that consumers and one-off users may have a greater need of some carefully targeted regulatory protection. However, the main users of professional services – business and the public sector – may have no, or only very limited, need of regulatory protection. The position with respect to small business users is not entirely clear and further work is required to assess their specific needs. The current regulatory set-up is unsatisfactory for these two latter groups given its lack of flexibility and hinders the development of innovative and demand-driven services.

The Commission will continue to act as a facilitator in this exercise, helping to spread best practice. It will increase partnership working with national competition authorities, who have already started some promising work, so that they take even greater ownership to progress this at national level. It will also continue and improve its relations with national regulatory authorities by organising a more structured debate and raising the profile of this work with them. This will pave the way for greater co-operation between national competition authorities and regulatory authorities.

Finally, the Commission will consider taking further appropriate enforcement action using the EC competition rules, including the option of intervening under Article 86 if possible and necessary.

Follow-up to the report on competition in professional services

2006/2137(INI) - 12/10/2006 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution based on the own-initiative report by Jan Christian **EHLER** (EPP-ED, DE) in reaction to the Commission's latest communication on competition in professional services. The resolution was passed by 534 votes in favour, 62 against and 9 abstentions. It welcomed the dialogue between the Commission, the Member States and the professional bodies of professional services providers aimed at dismantling barriers to competition which were unjustified and rules which were against the interests of consumers. However, Parliament felt that the Commission had failed to address the consequences of a systematic pro-competitive reform of the sector of professional services as regards job creation and additional growth. The fundamental priority of the reform should be to provide broader and easier access for consumers, while at the same time ensuring the quality and cost-efficiency of the services.

Acknowledging the right to issue regulations based on traditional, geographic and demographic specificities, Parliament emphasised that rules should be chosenwhich restrict competition as little as possible and that, within the existing system, substantive reform processes must be pursued in order to help attain the Lisbon targets. The mandatory nature of fixed or minimum rates and the ban on negotiating fees based on the result achieved might be detrimental to the quality of service to the public and to competition. Member States must overcome these constraints with measures which are less restrictive and more likely to comply with the principles of non-discrimination, necessity and proportionality.

Parliament went on to make the following observations:

- in order to strengthen small and medium-sized enterprises and increase the capacity for innovation restrictions on the scope for cooperation should be eliminated and the setting up of inter-professional service providers be facilitated;

- special regulations in the field of advertising could be largely dispensed with, and the continuity of such regulations should be limited to duly justified exceptional cases. The reduction of regulation should be aimed at enabling professionals to inform users of the services they offer via advertising, providing consumers with information on their professional qualifications and specialisations, and on the nature and cost of the services offered;

- the Commission should broaden the scope of its analysis as regards the subdivision of regulatory protection by category of consumer group by looking more closely at small and medium-sized undertakings;

Lastly, Parliament pointed out that the subdivision of regulatory protection according to individual categories of consumer overlooked the fact that rules derived their legitimacy from the fact that externalities may appear in the provision of professional services and that certain professional services may

be deemed to be public goods.