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# The EU Services Directive: An Update



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## Introduction

The EU's Services Directive (properly, Directive 2006/123/EC on services in the internal market) came into force on 28th December 2009. The Services Directive is important because it is a significant step towards making the EU's internal market an open market for providers of services, whatever EU Member State they are based in. The directive is now part of the European Economic Area (EEA) agreement so Iceland, Norway and Lichtenstein are also covered by the legislation.

A previous Senior European Experts paper set out the background to the passing of this legislation in 2006. This paper provides an update now that the directive is in force, setting out its scope and the way it is operating, and assesses the likely economic benefits.

## The Aim of the Services Directive

Services account for roughly 70 per cent of employment and of the economy of the EU but only a quarter of the trade between Member States. Whilst trade in manufactured goods within the EU has grown considerably since the advent of the Single Market in the 1990s, trade in services has grown more slowly. The difference could be at least partially accounted for by the many barriers to service providers in one Member State establishing similar businesses in another Member State. Regulatory issues, anti-competitive practices and a lack of information all combined to impede the development of cross-border service providers.

The EU has created cross-border regulations in the service sector before – for example, in financial services – but these have been specific to a particular sector. The Services Directives is a breakthrough because it applies to *all* paid for services unless they are specifically excluded from the legislation. In practice, given the exclusions detailed below, some 40 per cent of the services sector in the EU is covered by the directive.

The main points of the directive are that:

- it removes any unjustifiable requirements or discrimination against providing a service or services – meaning companies from other countries cannot be discriminated against;
- it requires each of the 30 EEA countries to establish a single point of contact online for any authorisations that are required in that country (for example, the registration of a business with a regulator);

- it provides for the competent authorities (*i.e.* regulators, including central and local government) to co-operate with one another by sending requests for information through an internal market information system;
- it requires the service providers to make certain information easily available to consumers (such as the address of the business, who regulates it, VAT number and so on);
- it establishes an online portal to enable consumers to find out their rights in EEA states when purchasing a service – a measure designed to increase the confidence of consumers.

### **Scope of the Directive**

The comprehensive nature of the directive means that it is easier to list those sectors excluded from its provisions but several of these are already covered by liberalising sector-specific provisions of EU law (marked with an asterisk). The main ones are:

- financial services\*;
- transport\*;
- healthcare;
- electronic communications\*;
- social services;
- private security services;
- cinemas and broadcasting\*

In addition, the directive does not apply to the manufacture or sale of goods (because they are part of the Single Market already). Within the excluded sectors, there may be services that are covered. For example, whilst road, rail, maritime and inland waterway transport are all excluded, related services such as car rental and driving instructors do come under the legislation. Those services classified by the EU as being of general economic interest, such as utilities, are also excluded.

### **How the directive works**

Each of the Member States, and the three EEA countries, must transpose the directive into their national law. This has required extensive amendment of legislation in many countries. Once the law is implemented, any service provider can operate in that Member State. The online single point of contact enables someone wishing to start or expand a business in another Member State to identify what they need to do to comply with any local regulations first and to make contact with the relevant bodies.

The Internal Market Information system (IMI) enables 4600 regulators from across the 30 countries to share information. This is designed to help business by enabling regulators in different countries to talk to one another directly, thus speeding up verification of a company's credentials.

## **Assessment**

The European Commission itself called the implementation of the Services Directive “a vast exercise”. By the end of May 2010, 20 Member States had adopted the necessary legislation to incorporate the directive into their national law; only in two countries (Ireland and Portugal) had the legislation not yet started consideration in parliament. Sector-specific legislation is needed in many countries and it had been completed in 18 Member States; the UK is one country where that is process is still on-going. Single points of contact have now been established in 22 Member States.

It will be some time before the benefits of this far-reaching directive will be able to be measured. It will take time for companies to explore how it works and to use it to develop their businesses. This process is inevitably more complex than the creation of the internal market in goods but given the state of the world economy, this opportunity could not have come at a better time for European businesses.

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## Senior European Experts

The Senior European Experts Group is an independent body consisting of former high-ranking British diplomats and civil servants, including several former UK ambassadors to the EU, and former officials of the institutions of the EU.

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