

**EXPLANATORY MEMORANDUM TO
THE PROVISION OF SERVICES (INSOLVENCY PRACTITIONERS)
REGULATIONS 2009**

2009 No. 3081

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Provision of Services (Insolvency Practitioners) Regulations 2009 (the Regulations) transpose Directive 2006/123/EC on services in the internal market (the Services Directive) with respect to the provision in Great Britain of services by insolvency practitioners and to their regulation by the Secretary of State. The Regulations make amendments to the Insolvency Act 1986 (c. 45) in respect of individuals who may be authorised to act in Great Britain as insolvency practitioners or as persons with a limited authorisation (authorised persons) and the duration of an insolvency practitioner's authorisation. The Regulations make amendments to subordinate legislation in respect of the requirements as to professional training and experience of those applying to be authorised by a competent authority (as defined in the Insolvency Act 1986); the fee payable in respect of such an application; and the prescribed security for the proper performance of his functions which every insolvency practitioner regardless of their authorising body, must have in place in order to take up an appointment with respect to an insolvency procedure.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The Regulations partially transpose the Services Directive in that they make specific provision as regards the provision of services by insolvency practitioners and their regulation where the general provision made by the Provision of Services Regulations 2009 is not sufficient to effect compliance with the Services Directive.

4.2 A Transposition Note is attached to this Explanatory Memorandum at Annex A.

4.3 The Provision of Services Regulations 2009 seek to implement the Services Directive. They were made on 11th November 2009. These Regulations and the Explanatory Memorandum and Transposition Note thereto are attached at Annex B. The Provision of Services Regulations 2009 make general provision for the provision and the supervision of services. As

such they are relevant to both service providers and to competent authorities generally (meaning bodies with a supervisory or regulatory role, including local authorities, national regulators and professional bodies) in the UK.

4.4 Paragraph 4.5 of the Explanatory Memorandum to the Provision of Services Regulations 2009 anticipated that further amendments to existing legislation would be included in other legislative instruments. The Provision of Services (Insolvency Practitioners) Regulations 2009 is a legislative instrument effecting further amendments to existing legislation.

4.5 Where an Article of the Services Directive is transposed in both the Regulations and the Provision of Services Regulations 2009, the Regulations follow the approach to transposition in the Provision of Services Regulations 2009.

4.6 The Regulations apply to service providers offering or providing services as insolvency practitioners in Great Britain, both providers of UK origin and those from other European Economic Area (EEA) States. The Regulations apply whether the provider has a UK establishment from which the service is provided or comes to the UK temporarily or operates remotely.

4.7 The Services Directive has been incorporated into the EEA Agreement and accordingly the Regulations apply in relation to the EEA states of Iceland, Liechtenstein and Norway in addition to the EU Member States.

4.8 The Regulations do not exceed the requirements of the Directive.

4.9 Regulation of persons holding office in insolvency proceedings in the United Kingdom is by statute. It is reserved in Great Britain and devolved in Northern Ireland. The Northern Ireland legislation regulating insolvency practitioners is almost identical to that for Great Britain. It is understood that contemporaneous amendments to the Northern Ireland legislation are being made corresponding to the amendments in the Regulations in order to implement the policy in paragraph 7 of this Explanatory Memorandum which was jointly formulated and to achieve uniformity for the United Kingdom.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

The Minister for Business, Regulatory Reform and Employment Relations, Ian Lucas, has made the following statement regarding Human Rights:

In my view the provisions of the Provision of Services (Insolvency Practitioners) Regulations 2009 are compatible with the Convention.

7. Policy background

- *What is being done and why*

7.1 The amendments in the Regulations are made in order to ensure that the legislation so amended complies with the Services Directive.

7.2 In Great Britain insolvency practitioners are regulated by the Secretary of State through the Insolvency Service, an executive agency of the Department for Business, Innovation and Skills.

7.3 Insolvency practitioners and authorised persons are subject to rigorous standards of personal integrity, education and practical training and experience. Before taking up office in a formal insolvency proceeding, such persons must have in place security or, in Scotland, caution for the proper performance of their functions. For insolvency practitioners this security or caution is provided by a bond approved by the Secretary of State. These requirements are considered to be in the public interest on account of the significant sums of money which an insolvency practitioner holds on behalf of the creditors of an insolvent estate and in order to maintain public confidence in the insolvency regime.

7.4 An individual may be authorised to act as an insolvency practitioner by virtue of membership of a professional body recognised by the Secretary of State (a Recognised Professional Body) or by being authorised by a competent authority specified in directions for that purpose by the Secretary of State. The Secretary of State is the only competent authority. Authorisation by the Secretary of State as an insolvency practitioner is governed by statute and the requirements for the grant and maintenance of authorisation and for security or caution are prescribed in secondary legislation.

7.5 The Secretary of State may authorise bodies whose members may act as authorised persons. There are no authorised persons as no bodies have been authorised for that purpose, although it is hoped that in future the legislation will be amended to enable interested bodies to seek effective recognition.

7.6 The policy aim is to amend non-compliant legislation so as to comply with the Services Directive by—

- permitting a person authorised by the competent authority in one jurisdiction to hold office in the other without the requirement to obtain an authorisation from the competent authority in the other, thereby enabling a person to be authorised by one competent authority to act as an insolvency practitioner throughout the United Kingdom; and making provision having corresponding effect in respect of authorised persons.
- replacing the requirement for three-yearly applications to the competent authority for authorisation to act as an insolvency practitioner with one application for authorisation for a period of one year which, if granted, will be authorised for further periods of one year without a further application subject to the insolvency practitioner continuing to fulfil conditions.
- permitting professional liability insurance or a guarantee already obtained for cover in another EEA State to meet the security or caution

requirements where the insurance or guarantee provides equivalent or essentially comparable cover to that provided by a bond approved for that purpose by the Secretary of State.

- replacing the requirement for insolvency practitioners to send the original bond to their authorising body with option to send a copy of the bond, insurance or guarantee providing security or caution and to send it electronically.
- reducing the insolvency experience required by persons applying to the Secretary of State for authorisation as an insolvency practitioner (and who have never previously been authorised to act as an insolvency practitioner) from 7,000 hours to 2,000 hours in order to remove what is considered to be an unnecessary barrier to authorisation.
- making the fee structure for applications for authorisations transparent by separating the application element from the maintenance element.

7.7 Provision is made for determining and notifying whether professional liability insurance or a guarantee equates or is essentially comparable to a bond. Where the professional liability insurance or guarantee partly equates to a bond, there is provision for a supplementary guarantee to rectify the deficiency. Because an insolvency practitioner cannot take office without security or caution being in place, determinations may be time critical. Therefore there is provision for a determination to be made within strict timescales. Where a time limit is not met, there is provision for temporary qualification to hold office subject to the outcome of the determination.

- ***Consolidation***

7.8 The Regulations amend the Insolvency Act 1986 which has been amended on numerous occasions since 1986. There are currently no plans for this Act to be consolidated.

7.9 The Regulations amend the Insolvency Practitioners and Insolvency Services Account (Fees) Order 2003 (S.I. 2003/3363). This instrument is amended frequently to adjust the level of the fees. There are currently no plans for this instrument to be consolidated.

7.10 The Regulations amend the Insolvency Practitioners Regulations 2005 (S.I. 2005/524). This instrument has been subject to minor amendment on one occasion. There are currently no plans for this instrument to be consolidated.

8. Consultation outcome

8.1 No formal consultation has been undertaken for the matters contained in the Regulations. This is because the amendments are minor and technical in nature; are likely to be cost neutral to business; and, with the exception of the security provisions which affect all insolvency practitioners, affect only the 92 insolvency practitioners authorised by the Secretary of State (out of a population of 1738 insolvency practitioners authorised to practise in Great Britain). There are no authorised persons. This action was approved by the Departmental Better Regulation Team.

8.2 The Government, through the Insolvency Service, has consulted informally with the principal stakeholders on the proposals.

8.3 The stakeholders informally consulted are the Recognised Professional Bodies; insolvency practitioners; and organisations that provide insolvency practitioners with bonds.

8.4 Consultation has taken the form of papers presented to, and discussed at, meetings of the Joint Insolvency Committee between March 2008 and September 2009 and letters to the Recognised Professional Bodies. All of the Recognised Professional Bodies are represented on the Joint Insolvency Committee which is also attended by R3 (the trade association for insolvency practitioners), DETINI and the Accountant in Bankruptcy (which is the Government body responsible administering the process of personal bankruptcy and recording corporate insolvencies in Scotland). None of the stakeholders consulted have raised any objection or concern to the matters provided for in the Regulations. In order to further inform interested parties of the proposals and to give them wider circulation, information about them has been published on The Insolvency Service's website since early October 2009, and the draft Regulations since late November 2009.

9. Guidance

9.1 The Government will produce guidance for insolvency practitioners authorised by the Secretary of State with respect to amended authorisation procedures; the Recognised Professional Bodies and those who provide bonds approved by the Secretary of State with respect to provision of documents providing security (or caution); and insolvency practitioners established in an EEA State in paragraph 4.7 wishing to practise as an insolvency practitioner in Great Britain with respect to security (or caution). The guidance will explain the Regulations, how the measures will affect them and their functions.

9.2 Information on the Services Directive is available to all on the Department for Business, Innovation and Skills' website, including answers to Frequently Asked Questions.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Directive provides for the European Commission to review its impact by 28 December 2011 and every three years thereafter. Additionally, all Member States are required to submit a written report to the European Commission by 28 December 2009 detailing the legislation and practices that they are amending as a result of implementation of the Directive and giving reasons to justify the retention of other legislation and practices. These reports will be subject to review and challenge by other Member States through a process of mutual evaluation.

12.2 Once the Services Directive is fully implemented in December 2009, the Department for Business, Innovation and Skills will undertake a Post Implementation Review. This is currently scheduled for 2012 and is part of the Department's better regulation strategy. The review will be used to assess whether the Directive is having the intended effect in the United Kingdom and whether its policy objectives are being efficiently implemented.

12.3 The insolvency legislation is constantly monitored and reviewed by the Insolvency Service and, where appropriate amended in order to ensure its efficacy.

13. Contact

Mike Chapman at the Insolvency Service, Business Innovation and Skills, Tel: 020 7291 6765 or email: mike.chapman@insolvency.gsi.gov.uk can answer any queries regarding the instrument.

ANNEX A

**The Provision of Services (Insolvency Practitioners) Regulations 2009:
Transposition Note (DRAFT)**

This Transposition Note, in tabular form, explains how The Provision of Services (Insolvency Practitioners) Regulations 2009 ([reference]) (the Regulations) transpose Directive 2006/123/EC of 12 December 2006 on services in the internal market (the Directive) so far as the provision of services by insolvency practitioners and their regulation is concerned.

This transposition note should be read in conjunction with Transposition Note to The Provision of Services Regulations 2009 ([reference]) which makes general provision implementing the Directive.

This is a complex and wide-ranging Directive. The table seeks to explain how the main elements of the Directive are being transposed, including cross-references to the specific provisions of the Regulations.

In no area do these Regulations do more than is necessary to implement the Directive.

These regulations make further consequential changes in accordance with the statement in the Transposition Note to The Provision of Services Regulations 2009 ([reference]) that further consequential changes will be included in other instruments.

The Directive has been incorporated into the EEA Agreement and accordingly the Regulations apply in relation to the EEA states of Iceland, Liechtenstein and Norway in addition to the EU Member States.

Transposition Table

Article	Objectives	Regulations cross-reference	Implementation
5.3	Obliges Member States, when they require a particular certificate or other document from a provider or recipient, to accept any documentation that makes clear the requirement is satisfied. [Member States may continue to require non-certified translations.]	4 and para 8(7) of the Schedule	Permits an insolvency practitioner to send the document providing security (or, in Scotland, caution) for the proper performance of his functions required by an insolvency practitioner in order to hold office or a copy of it to the insolvency practitioner's authorising body. The document or the copy may be sent electronically.
10.4	Article 10(4) prohibits limiting authorisation to a certain part of a territory unless there is an overriding reason relating to the public interest.	2(2)	Permits a person authorised to act as the nominee or supervisor of a voluntary arrangement in Northern Ireland by virtue of membership of a body authorised for that purpose by the Department of Enterprise, Trade and Investment for Northern Ireland to be authorised so to act in Great Britain.
11.1	Prohibits Member States from granting an authorisation for a limited period, except in certain circumstances, one of which is where the authorisation is being automatically renewed or is subject to continued fulfilments of requirements.	2(3)	Permits an insolvency practitioner authorised in Northern Ireland by the Department of Enterprise, Trade and Investment for Northern Ireland to be authorised so to act in Great Britain.
11.1	Prohibits Member States from granting an authorisation for a limited period, except in certain circumstances, one of which is where the authorisation is being automatically renewed or is subject to continued fulfilments of requirements.	2(4)	Provides that the period for authorisation to act as an insolvency practitioner is limited to 1 year with further authorisations for one year being granted without further application subject to continued fulfilment of the prescribed requirements.
13.2	Requires that authorisation procedures are not dissuasive or complex, are easily	3(2)	Provides that the fee payable by an applicant to the Secretary of State for authorisation to act as an

	accessible, and that associated charges are proportionate, not exceeding the cost of the procedures		4 and paragraph (3)(2) of the Schedule	insolvency practitioner is solely in respect of the cost of administering the application. Reduces the insolvency experience required by persons in the two years preceding applying to the Secretary of State for authorisation as an insolvency practitioner (and who have never previously been authorised to act as an insolvency practitioner) from 7,000 hours to 2,000 hours.
23.2	Prohibits Member States from requiring that providers established in their territory take out professional liability insurance or a guarantee if the provider is already covered by equivalent or essentially comparable cover. Allows Member States to require a top-up when equivalence is only partial. Requires Member States to recognise attestations of cover issued by institutions based in other Member States.	4 and Schedule paragraph 8(3) and 8(5)		Provide that professional liability insurance or a guarantee already obtained in another Member State where they are established which equates to or is essentially comparable to a bond is security (or, in Scotland, caution) for the proper performance of his functions required by an insolvency practitioner in order to hold office. There is also provision for a supplementary guarantee to remedy partial equivalence.
44	Requires Member States to transpose the Directive into national legislation and practices by 28 December 2009, with a reference to the Directive included	1		Regulation 1 provides that the Regulations come into force on 28 December 2009.

ANNEX B

2009 No. 2999

PROVISION OF SERVICES

The Provision of Services Regulations 2009

Made - - - - *11th November 2009*

Coming into force - - *28th December 2009*

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These Regulations are made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(1).

The Secretary of State is a Minister designated(2) in relation to services in the internal market for the purposes of section 2(2) of that Act.

In accordance with paragraph 2(2) of Schedule 2 to that Act a draft of this instrument has been laid before Parliament and approved by resolution of each House of Parliament.

Accordingly the Secretary of State makes the following Regulations.

PART 1 INTRODUCTORY

Citation and commencement

1.—(1) These Regulations may be cited as the Provision of Services Regulations 2009.

(1) These Regulations come into force on 28th December 2009.

“Service”

2.—(2) In these Regulations “service” means any self-employed economic activity normally provided for remuneration (as referred to in Article 50 of the Treaty).

(1) These Regulations do not apply to—

- (a) financial services, such as banking, credit, insurance and re-insurance, occupational or personal pensions, securities, investment funds, payment and investment advice, including the services listed in Annex I to Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions(3);

(1) 1972 c.68, to which there are amendments not relevant to these Regulations. Under s. 57(1) of the Scotland Act 1998 (c. 46), despite the transfer to Scottish Ministers of functions in relation to implementing obligations under Community law in relation to devolved matters, the function of the Secretary of State in relation to implementing these obligations continues to be exercisable by him as regards Scotland.

(2) S.I. 2009/221.

(3) OJ No. L177, 30.6.2006, p.1.

- (b) electronic communications services and networks, and associated facilities and services, with respect to matters covered by—
- Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities(4),
- Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services(5),
- Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services(6),
- Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services(7), or
- Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector(8);
- (c) services in the field of transport, including port services, falling within the scope of Title V of the Treaty;
- (d) services of temporary work agencies (which for the purposes of these Regulations include any employment business as defined by section 13(3) of the Employment Agencies Act 1973(9));
- (e) healthcare services, whether or not they are provided via healthcare facilities, and regardless of the ways in which they are organised and financed at national level or whether they are public or private;
- (f) audiovisual services, including cinematographic services, whatever their mode of production, distribution and transmission, and radio broadcasting;
- (g) gambling activities which involve wagering a stake with pecuniary value in games of chance, including lotteries, gambling in casinos and betting transactions;
- (h) activities which are connected with the exercise of official authority (as set out in Article 45 of the Treaty);
- (i) social services relating to social housing, childcare and support of families and persons permanently or temporarily in need which are provided by the State, by providers mandated by the State or by charities recognised as such by the State;
- (j) private security services;
- (k) services provided by notaries or bailiffs, if or to the extent that they are appointed by an official act of government to provide those services.

“Competent authority”

3.—(3) In these Regulations “competent authority” means a body or authority having supervisory or regulatory functions in the United Kingdom in relation to service activities (and includes in particular a professional body, professional association or other professional organisation, that regulates access to, or the exercise of, a service activity).

(1) In paragraph (1)—

- (a) the reference to a body or authority includes a body or authority acting on behalf of the Crown;
- (b) the reference to supervisory or regulatory functions includes the function of maintaining a register or other record of persons entitled to have access to, or to exercise, a service activity.

(2) Parts 3 to 6 of these Regulations do not apply to competent authorities to the extent that their functions involve the making of subordinate legislation.

(4) OJ No. L108, 24.4.2002, p.7.

(5) OJ No. L108, 24.4.2002, p.21.

(6) OJ No. L108, 24.4.2002, p.33.

(7) OJ No. L108, 24.4.2002, p.51.

(8) OJ No. L201, 31.7.2002, p.37 as amended by Directive 2006/24/EC (OJ L105, 13.4.2006, p.54).

(9) 1973 c. 35.

Interpretation: general

4. In these Regulations—

“authorisation scheme” means any arrangement which in effect requires the provider or recipient of a service to obtain the authorisation of, or to notify, a competent authority in order to have access to, or to exercise, a service activity;

“enactment” includes Acts of the Scottish Parliament, Northern Ireland legislation, Acts and Measures of the National Assembly for Wales and subordinate legislation;

“establishment”, in relation to the provider of a service, means the actual pursuit of an economic activity, as referred to in Article 43 of the Treaty, by the provider for an indefinite period and through a stable infrastructure from where the business of providing services is actually carried out (and references to “established”, in relation to the provider of a service, are to be construed accordingly);

“notary”—

(a) in England and Wales, includes a person who, for the purposes of the Legal Services Act 2007⁽¹⁰⁾, is an authorised person in relation to any activity which constitutes a notarial activity (within the meaning of that Act), and

(b) in Scotland, means a notary public duly admitted in Scotland;

“professional liability insurance” means insurance taken out by the provider of a service in respect of potential liabilities to recipients and, where applicable, third parties arising out of the provision of the service;

“provider”, in relation to a service, means a person who provides, or offers to provide, the service (but see regulation 5(4));

“recipient”, in relation to a service, means a person who, for professional or non-professional purposes, uses, or wishes to use, the service (but see regulation 5(3));

“regulated profession” means a professional activity or group of activities—

(a) access to which, the pursuit of which or one of the modes of pursuit of which is subject (directly or indirectly) by virtue of legislative, regulatory or administrative provisions to the possession of specified qualifications, or

(b) the pursuit of which is by persons using a professional title which is limited by legislative, regulatory or administrative provisions to holders of a given professional qualification;

“requirement” includes any obligation, prohibition, condition or limit;

“service” has the meaning given by regulation 2;

“the Services Directive” means Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market⁽¹¹⁾;

“subordinate legislation” means Orders in Council, orders, rules, regulations, schemes, warrants, byelaws and other instruments made or to be made under any Act or under any Act of the Scottish Parliament, Northern Ireland legislation or Act or Measure of the National Assembly for Wales;

“the Treaty” means the Treaty establishing the European Community⁽¹²⁾.

General exclusions and savings

5.—(4) Nothing in these Regulations—

(a) requires or prohibits—

(i) the opening up to competition of services of general economic interest,

(ii) the privatisation of public entities providing services, or

(iii) the abolition of monopolies;

⁽¹⁰⁾ 2007 c. 29.

⁽¹¹⁾ OJ No. L376, 27.12.2006, p.36.

⁽¹²⁾ A consolidated version can be found at OJ No. C321E, 29.12.2006.

- (b) affects the functions of a competent authority in relation to the granting of aids covered by Community rules on competition;
 - (c) prevents a competent authority from determining, in accordance with Community law, what it considers to be a service of general economic interest, how services of general economic interest should be organised and financed in compliance with State aid rules and what specific obligations those services should be subject to;
 - (d) affects the functions of a competent authority in relation to—
 - (i) the law relating to employment conditions,
 - (ii) the law relating to working conditions, including health and safety at work and the relationship between employers and workers, or
 - (iii) the law relating to social security;
 - (e) affects rules of private international law, in particular rules governing the law applicable to contractual and non-contractual obligations (including those which guarantee that consumers benefit from the protection granted to them in the United Kingdom).
- (2) Nothing in these Regulations applies in respect of the field of taxation.
- (3) Nothing in these Regulations applies in relation to a recipient of a service who is not—
- (a) an individual who is a national of an EEA state or who otherwise benefits from rights conferred by Community acts, or
 - (b) a legal person (as referred to in Article 48 of the Treaty) who is established in an EEA state.
- (4) Nothing in Parts 3 to 9 of these Regulations applies in relation to a provider of a service who is not—
- (a) an individual who is a national of, and is established in, an EEA state, or
 - (b) a legal person (as referred to in Article 48 of the Treaty) who is established in an EEA state.

Relationship with other requirements

6.—(5) A requirement imposed by Part 2, 5 or 6 of these Regulations on a competent authority or a provider of a service does not apply if, or to the extent that, the competent authority or provider cannot comply both with that requirement and with a requirement to which this paragraph applies.

- (1) Paragraph (1) applies to a requirement imposed by—
- (a) a provision of an enactment, where—
 - (i) the provision relates to specific aspects of access to, or the exercise of, a service activity,
 - (ii) the provision implements a Community obligation, and
 - (iii) the enactment is passed or made before the day on which these Regulations are made, or
 - (b) a provision of a directly applicable Community instrument, where—
 - (i) the provision relates to specific aspects of access to, or the exercise of, a service activity, and
 - (ii) the instrument comes into force before the day on which these Regulations are made.
- (2) A requirement imposed by Part 3 or 4 of these Regulations on a competent authority does not apply if, or to the extent that, the competent authority cannot comply both with that requirement and with a requirement to which this paragraph applies.
- (3) Paragraph (3) applies to a requirement imposed by—
- (a) a provision of an enactment, where—
 - (i) the provision relates to specific aspects of access to, or the exercise of, a service activity, and
 - (ii) the enactment is passed or made before the day on which these Regulations are made, or
 - (b) a provision of a directly applicable Community instrument, where—
 - (i) the provision relates to specific aspects of access to, or the exercise of, a service activity, and
 - (ii) the instrument comes into force before the day on which these Regulations are made.

PART 2
DUTIES OF SERVICE PROVIDERS
CHAPTER 1
INFORMATION

Duty to make contact details available

7.—(6) The provider of a service must make available contact details to which all recipients of the service can send a complaint or a request for information about the service.

(1) Those contact details must include in particular—

- (a) a postal address, fax number or e-mail address,
- (b) a telephone number, and
- (c) where the service provider has an official address, that address.

(2) In paragraph (2)(c) “official address” means an address which a person is required by law to register, notify or maintain for the purpose of receiving notices or other communications.

Other information to be made available

8.—(7) The provider of a service must make the following information available to a recipient of the service—

- (a) the provider’s name;
- (b) the provider’s legal status and form;
- (c) the geographic address at which the provider is established and details by which the provider may be contacted rapidly and communicated with directly (including, where the provider may be contacted and communicated with by electronic means, the details of how the provider may be so contacted and communicated with);
- (d) where the provider is registered in a trade or other similar public register, the name of the register and the provider’s registration number or equivalent means of identification in that register;
- (e) where the activity is subject to an authorisation scheme in the United Kingdom, the particulars of the relevant competent authority or the electronic assistance facility referred to in regulation 38;
- (f) where the activity is subject in another EEA state to a scheme equivalent to an authorisation scheme, the particulars of the authority involved or the single point of contact in that state;
- (g) where the provider exercises an activity which is subject to VAT, the identification number referred to in Article 22(1) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the member states relating to turnover taxes – Common system of value added tax: uniform basis of assessment⁽¹³⁾;
- (h) where the provider is carrying on a regulated profession, any professional body or similar institution with which the provider is registered, the professional title and the EEA state in which that title has been granted;
- (i) the general terms and conditions, if any, used by the provider;
- (j) the existence of contractual terms, if any, used by the provider concerning the competent courts or the law applicable to the contract;
- (k) the existence of any after-sales guarantee not imposed by law;
- (l) the price of the service, where a price is pre-determined by the provider for a given type of service;
- (m) the main features of the service, if not already apparent from the context;

(13) OJ No. L145, 13.6.1977, p.1, as last amended by Directive 2006/18/EC (OJ No. L51, 22.2.2006, p.12).

- (n) where the provider is subject to a requirement to hold any professional liability insurance or guarantee, information about the insurance or guarantee and in particular—
 - (i) the contact details of the insurer or guarantor, and
 - (ii) the territorial coverage of the insurance or guarantee.
- (2) For the purposes of paragraph (1), information is made available to the recipient if—
 - (a) it is supplied by the provider to the recipient on the provider’s own initiative,
 - (b) it is easily accessible to the recipient at the place where the service is provided or the contract for the service is concluded,
 - (c) it is easily accessible to the recipient electronically by means of an address supplied by the provider, or
 - (d) it appears in any information document supplied to the recipient by the provider in which the provider gives a detailed description of the service.

Information to be supplied on request etc

9.—(8) The provider of a service must, on the request of a recipient of the service, supply the following information to the recipient—

- (a) where the price is not pre-determined by the provider for a given type of service—
 - (i) the price of the service, or
 - (ii) if an exact price cannot be given, the method for calculating the price so that it can be checked by the recipient, or a sufficiently detailed estimate;
- (b) where the provider is carrying on a regulated profession, a reference to the professional rules applicable in the EEA state in which the provider is established and how to access them;
- (c) information on other activities undertaken by the provider which are directly linked to the service in question and on the measures taken to avoid conflicts of interest;
- (d) any codes of conduct to which the provider is subject and the address at which these codes may be consulted by electronic means, specifying the language available.

(2) The information referred to in paragraph (1)(c) must be included in any information document in which the provider gives a detailed description of the service.

Information about dispute resolution

10. The provider of a service who is subject to a code of conduct, or is a member of a trade association or professional body, which provides for recourse to a non-judicial dispute resolution procedure must—

- (a) inform a recipient of the service of that fact, and
- (b) mention it in any information document in which the provider gives a detailed description of the service,

specifying how to access detailed information about that procedure.

General

11. Information which must be made available or supplied by the provider of a service in accordance with the provisions of this Chapter must be made available or supplied—

- (a) in a clear and unambiguous manner, and
- (b) in good time before the conclusion of the contract or, where there is no written contract, before the service is provided (unless the information is requested as specified in regulation 9 after the provision of the service).

CHAPTER 2
COMPLAINTS

Complaints

- 12.—(9) The provider of a service must—
- (a) respond to complaints from recipients of the service as quickly as possible, and
 - (b) make their best efforts to find a satisfactory solution to complaints from such recipients.
- (2) Paragraph (1)(b) does not apply to complaints that are vexatious.

PART 3

**DUTIES OF COMPETENT AUTHORITIES IN RELATION TO PROVISION OF
SERVICES IN UNITED KINGDOM**

Introductory

Application of this Part

13.—(10) The provisions of this Part have effect in relation to the provision of a service in the United Kingdom, except as specified in paragraph (2).

(1) The provisions of this Part do not have effect for the purposes of, or in connection with, the exercise of the freedom of the provider of a service who is established in another EEA state to provide the service in the United Kingdom from that state (see Part 4).

Authorisations

Authorisation schemes

14.—(11) A competent authority must not make access to, or the exercise of, a service activity subject to an authorisation scheme unless the following conditions are satisfied.

- (1) The conditions are that—
- (a) the authorisation scheme does not discriminate against a provider of the service,
 - (b) the need for an authorisation scheme is justified by an overriding reason relating to the public interest, and
 - (c) the objective pursued cannot be attained by means of a less restrictive measure, in particular because inspection after commencement of the service activity would take place too late to be genuinely effective.
- (2) This regulation and regulations 15 to 20 do not apply to authorisation schemes to the extent that they are governed, directly or indirectly, by—
- (a) a provision of an enactment implementing a Community obligation, where the enactment is passed or made before the day on which these Regulations are made, or
 - (b) a provision of a directly applicable Community instrument coming into force before that day.

Conditions for the granting of authorisation

15.—(12) An authorisation scheme provided for by a competent authority must be based on criteria which preclude the competent authority from exercising its power of assessment in an arbitrary manner.

- (1) The criteria must be—
- (a) non-discriminatory,
 - (b) justified by an overriding reason relating to the public interest,

- (c) proportionate to that public interest objective,
- (d) clear and unambiguous,
- (e) objective,
- (f) made public in advance, and
- (g) transparent and accessible.

(2) The conditions imposed by a competent authority for granting authorisation for a new establishment under an authorisation scheme must not duplicate requirements and controls—

- (a) to which the provider of the service is already subject in the United Kingdom or in another EEA state, and
- (b) that are equivalent or essentially comparable as regards their purpose.

(3) The provider of the service must assist the competent authority by providing any necessary information requested by the competent authority regarding the requirements and controls referred to in paragraph (3); and paragraph (3) does not apply if the provider has not provided that information within a reasonable time of being requested to do so.

(4) An authorisation granted by a competent authority under an authorisation scheme must enable the provider of the service to have access to the service activity, or to exercise that activity, throughout the United Kingdom, including by means of setting up agencies, subsidiaries, branches or offices, except where an authorisation for each individual establishment or a limitation of the authorisation to a particular part or area of the United Kingdom is justified by an overriding reason relating to the public interest.

(5) In the case of a competent authority whose functions relate only to part of the United Kingdom, references in paragraph (5) to the United Kingdom are to that part of the United Kingdom.

(6) A competent authority must grant an authorisation under an authorisation scheme as soon as it is established, in the light of an appropriate examination, that the conditions for authorisation have been met.

(7) Except in the case of the granting of an authorisation, any decision of the competent authority relating to an authorisation under an authorisation scheme, including refusal or withdrawal of an authorisation, must be fully reasoned.

Duration of authorisation

16.—(13) An authorisation granted to the provider of a service by a competent authority under an authorisation scheme must be for an indefinite period, except where—

- (a) the authorisation—
 - (i) is automatically renewed, or
 - (ii) is subject only to the continued fulfilment of requirements,
- (b) the number of available authorisations is limited by an overriding reason relating to the public interest, or
- (c) a limited authorisation period can be justified by an overriding reason relating to the public interest.

(2) This does not prevent the setting of a maximum period before the end of which the provider of the service must actually commence the activity after receiving authorisation.

(3) The provider of the service must inform the competent authority of the following changes—

- (a) the creation of subsidiaries whose activities fall within the scope of the authorisation scheme;
- (b) changes in the provider's situation that result in the conditions for authorisation no longer being met.

(4) This regulation does not prevent revocation or suspension of an authorisation when the conditions for authorisation are no longer met.

Selection from among several candidates

17.—(14) This regulation applies where the number of authorisations available from a competent authority under an authorisation scheme for a given service activity is limited because of the scarcity of available natural resources or technical capacity.

(1) The selection procedure established by the competent authority must fully secure impartiality and transparency, including, in particular, adequate publicity about the launch, conduct and completion of the procedure.

(2) Authorisation granted by the competent authority—

(a) must be granted for an appropriate limited period, and

(b) may not—

(i) be open to automatic renewal, or

(ii) confer any other advantage on a previously authorised candidate or on a person having any particular links with such a candidate.

(3) Subject to paragraph (2) and to regulations 14 and 15, a competent authority may, in establishing the rules for the selection procedure, take into account—

(a) considerations of public health,

(b) social policy objectives,

(c) the health and safety of employees or self-employed persons,

(d) the protection of the environment,

(e) the preservation of cultural heritage, and

(f) other overriding reasons relating to the public interest,

in conformity with Community law.

Authorisation schemes: general requirements

18.—(15) Authorisation procedures and formalities provided for by a competent authority under an authorisation scheme must—

(a) be clear,

(b) be made public in advance, and

(c) secure that applications for authorisation are dealt with objectively and impartially.

(2) Authorisation procedures and formalities provided for by a competent authority under an authorisation scheme must not—

(a) be dissuasive, or

(b) unduly complicate or delay the provision of the service.

(3) Authorisation procedures and formalities provided for by a competent authority under an authorisation scheme must be easily accessible.

(4) Any charges provided for by a competent authority which applicants may incur under an authorisation scheme must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities.

Authorisation procedures: time for dealing with application

19.—(16) Authorisation procedures and formalities provided for by a competent authority under an authorisation scheme must secure that applications for authorisation are processed as quickly as possible and, in any event, within a reasonable period running from the time when all documentation has been submitted.

(1) That period must be fixed and made public in advance.

(2) When justified by the complexity of the issue, that period may be extended once, by the competent authority, for a limited time.

(3) The extension and its duration must be notified to the applicant, with reasons, before the original period has expired.

(4) In the event of failure to process the application within the period set or extended in accordance with the preceding provisions of this regulation, authorisation is deemed to have been granted by a competent authority, unless different arrangements are in place.

(5) Any different arrangements must be justified by overriding reasons relating to the public interest, including a legitimate interest of third parties.

Authorisation procedures: other requirements

20.—(17) All applications to a competent authority for authorisation under an authorisation scheme must be acknowledged as quickly as possible.

(1) The acknowledgement must specify—

- (a) the period referred to in regulation 19(1);
- (b) the available means of redress;
- (c) whether the authorisation is deemed to have been granted in the absence of a response within the period specified.

(2) In the case of an incomplete application, the applicant must be informed as quickly as possible of—

- (a) the need to supply any additional documentation, and
- (b) any possible effects on the period referred to in regulation 19(1).

(3) When a request is rejected because it fails to comply with authorisation procedures and formalities under an authorisation scheme, the applicant must be informed of the rejection as quickly as possible.

Requirements which are prohibited or subject to evaluation

Prohibited requirements

21.—(18) A competent authority must not make access to, or the exercise of, a service activity subject to any of the following—

- (a) discriminatory requirements based directly or indirectly on nationality or, in the case of companies, the location of the registered office, including in particular—
 - (i) nationality requirements for the provider of a service, their staff, their shareholders or members of their management or supervisory bodies;
 - (ii) a requirement that a provider, their staff, their shareholders or members of their management or supervisory bodies be resident in the United Kingdom;
- (b) a prohibition—
 - (i) on being established in more than one EEA state, or
 - (ii) on being entered in the registers of, or enrolled with professional bodies or associations of, more than one EEA state;
- (c) restrictions on the freedom of the provider of a service to choose between principal or secondary establishment, in particular—
 - (i) an obligation on the provider requiring principal establishment in the United Kingdom, or
 - (ii) restrictions on the freedom to choose between establishment in the form of an agency, branch or subsidiary;
- (d) conditions of reciprocity with the EEA state in which the provider is already established, other than conditions of reciprocity provided for in Community instruments concerning energy;
- (e) the case-by-case application of an economic test making the granting of authorisation subject to—
 - (i) proof of the existence of an economic need or market demand,
 - (ii) an assessment of the potential or current economic effects of the activity, or

- (iii) an assessment of the appropriateness of the activity in relation to the economic planning objectives set by the competent authority;
 - (f) the direct or indirect involvement of competing operators, including within consultative bodies—
 - (i) in the granting of authorisations, or
 - (ii) in the adoption of other decisions of the competent authorities;
 - (g) an obligation to provide or participate in a financial guarantee or to take out insurance from a person established in the United Kingdom;
 - (h) an obligation—
 - (i) to have been pre-registered, for a given period, in registers held in the United Kingdom, or
 - (ii) to have previously exercised the activity for a given period in the United Kingdom.
- (2) Paragraph (1)(e) does not affect planning requirements that do not pursue economic aims but serve overriding reasons relating to the public interest.
- (3) Paragraph (1)(f)—
- (a) does not prevent professional bodies and associations or other organisations acting as the competent authority, and
 - (b) does not affect the consultation of organisations, such as chambers of commerce or social partners, on matters other than individual applications for authorisation, or a consultation of the public at large.
- (4) Paragraph (1)(g)—
- (a) does not affect any requirement of insurance or a financial guarantee as such, and
 - (b) does not affect requirements relating to the participation in a collective compensation fund, for instance for members of professional bodies or organisations.

Requirements subject to evaluation

22.—(19) A competent authority must not make access to, or the exercise of, a service activity subject to any of the requirements specified in paragraph (2) unless the conditions specified in paragraph (3) are met.

- (1) The requirements to which this regulation applies are—
- (a) quantitative or territorial restrictions, in particular in the form of limits fixed according to population or of a minimum geographical distance between persons providing the service;
 - (b) an obligation on a provider of the service to take a specific legal form;
 - (c) requirements relating to the shareholding of a company;
 - (d) requirements, other than those—
 - (i) concerning matters covered by Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications⁽¹⁴⁾, or
 - (ii) provided for in other Community instruments,
 which reserve access to the service activity in question to particular persons providing the service by virtue of the specific nature of the activity;
 - (e) a ban on having more than one establishment in the United Kingdom;
 - (f) requirements fixing a minimum number of employees;
 - (g) fixed minimum tariffs or fixed maximum tariffs (or both) with which a provider of the service must comply;
 - (h) an obligation on a provider of the service to supply other specific services jointly with the service activity in question.
- (2) The conditions are—

(14) OJ No. L255, 30.9.2005, p.22.

- (a) non-discrimination, that is, the requirements must be neither directly nor indirectly discriminatory with regard to—
 - (i) nationality, or
 - (ii) in the case of companies, the location of the registered office;
- (b) necessity, that is, the requirements must be justified by an overriding reason relating to the public interest;
- (c) proportionality, that is, the requirements—
 - (i) must be suitable for securing the attainment of the objective pursued, and
 - (ii) must not go beyond what is necessary to attain that objective,
 and it must not be possible to replace those requirements with other, less restrictive measures that attain the same result.

(3) The preceding paragraphs of this regulation do not apply in relation to any requirement applying to a person entrusted with the provision of a service of general economic interest where the requirement is proportionate and necessary for the provision of that service by that person.

(4) In paragraph (4) “service of general economic interest” means a service which the competent authority determines, in accordance with Community law, to be of general economic interest.

(5) A competent authority must notify the Secretary of State of—

- (a) any proposal to introduce a new requirement specified in paragraph (2) affecting access to, or the exercise of, a service activity, and
- (b) the reasons for that requirement.

(6) The notification must state the reasons why the authority considers that the application of the requirement meets the conditions in paragraph (3).

PART 4

DUTIES OF COMPETENT AUTHORITIES IN RELATION TO PROVIDERS OF SERVICES PROVIDED FROM ANOTHER EEA STATE

Application of this Part

23.—(20) The provisions of this Part have effect for the purposes of, and in connection with, the exercise of the freedom of the provider of a service who is established in another EEA state to provide the service in the United Kingdom from that state.

(1) Accordingly, in this Part—

- (a) references to the provider of a service are references to the provider of a service exercising that freedom;
- (b) references to access to, or the exercise of, a service activity are references to access to, or the exercise of, the activity by the provider of a service in the exercise of that freedom.

Freedom to provide services

24.—(21) A competent authority must not make access to, or the exercise of, a service activity subject to compliance with any requirement that does not respect the following principles—

- (a) non-discrimination, that is, that the requirement must be neither directly nor indirectly discriminatory with regard to nationality or with regard to an EEA state in which the provider of a service is established;
- (b) necessity, that is, that the requirement must be justified for reasons of public policy, public security, public health or the protection of the environment;
- (c) proportionality, that is, that the requirement must be suitable for attaining the objective pursued and must not go beyond what is necessary to attain that objective.

(2) A competent authority may not restrict the right of the provider of a service to provide the service by imposing any of the following requirements—

- (a) an obligation on the provider to be established in the United Kingdom;
 - (b) an obligation on the provider to obtain an authorisation from a competent authority in the United Kingdom, including entry in a register or registration with a professional body or association in the United Kingdom, except where provided for by—
 - (i) a provision of an enactment implementing a Community obligation, where the enactment is passed or made before the day on which these Regulations are made, or
 - (ii) a provision of any directly applicable Community instrument coming into force before that day;
 - (c) a ban on the provider setting up a certain form or type of infrastructure in the United Kingdom, including an office or chambers, which the provider needs in order to supply the services in question;
 - (d) the application of specific contractual arrangements between the provider and a recipient of the service which prevent or restrict service provision by the self-employed;
 - (e) an obligation on the provider to possess an identity document issued by a competent authority in the United Kingdom specific to the exercise of a service activity;
 - (f) requirements, except for those necessary for health and safety at work, affecting the use of equipment and material that are an integral part of the service provided;
 - (g) requirements referred to in regulation 29(1).
- (3) Paragraph (2) does not prevent a competent authority from—
- (a) imposing requirements that are justified for reasons of public policy, public security, public health or the protection of the environment (and which comply with paragraph (1)), or
 - (b) applying, in accordance with Community law, rules in force in the United Kingdom as regards employment conditions, including those laid down in collective agreements.

Derogations from the freedom to provide services

25. Regulation 24 does not apply to—

- (a) the following services of general economic interest—
 - (i) in the postal sector, services covered by Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service⁽¹⁵⁾;
 - (ii) in the electricity sector, services covered by Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity⁽¹⁶⁾;
 - (iii) in the gas sector, services covered by Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas⁽¹⁷⁾;
 - (iv) water distribution and supply services and waste water services;
 - (v) the treatment of waste;
- (b) other services which the relevant competent authority determines, in accordance with Community law, to be of general economic interest;
- (c) matters covered by Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services⁽¹⁸⁾;

⁽¹⁵⁾ OJ No. L15, 21.1.1998, p.14, as last amended by Regulation (EC) No. 1882/2003 (OJ No. L284, 31.10.2003, p.1).

⁽¹⁶⁾ OJ No. L176, 15.7.2003, p.37, as last amended by Commission Decision 2006/653/EC (OJ L270, 29.9.2006, p.72).

⁽¹⁷⁾ OJ No. L176, 15.7.2003, p.57.

⁽¹⁸⁾ OJ No. L18, 21.1.1997, p.1.

- (d) matters covered by Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁽¹⁹⁾;
- (e) matters covered by Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services⁽²⁰⁾;
- (f) the activity of judicial recovery of debts;
- (g) matters covered by Title II of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, as well as requirements in the EEA state where the service is provided which reserve an activity to a particular profession;
- (h) matters covered by Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community⁽²¹⁾;
- (i) as regards administrative formalities concerning the free movement of persons and their residence, matters covered by the provisions of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the member states that lay down administrative formalities with which beneficiaries must comply⁽²²⁾;
- (j) as regards third country nationals who move to the United Kingdom in the context of the provision of a service, the operation of the Immigration Acts⁽²³⁾;
- (k) as regards the shipment of waste, matters covered by Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community⁽²⁴⁾;
- (l) copyright, related rights, rights covered by Council Directive 87/54/EEC of 16 December 1986 on the legal protection of topographies of semiconductor products⁽²⁵⁾ and rights covered by Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases, as well as industrial property rights⁽²⁶⁾;
- (m) acts requiring by law the involvement of a notary;
- (n) matters covered by Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audit of annual accounts and consolidated accounts⁽²⁷⁾;
- (o) the registration of vehicles leased in another EEA state;
- (p) the rules of private international law regarding contractual or non-contractual obligations, including the form of contracts.

Derogation relating to the safety of a service

26.—(22) In exceptional circumstances only, a competent authority may, in respect of the provider of a service, take measures relating to the safety of the service.

(1) Such measures may be taken only if the requirements of regulation 27 are complied with and the following conditions are fulfilled.

(2) The conditions are that—

- (a) the provisions in accordance with which the measure is taken have not been subject to Community harmonisation in the field of the safety of services,

(19) OJ No. L281, 23.11.1995 p.31, as amended by Regulation (EC) No. 1882/2003 (OJ No. L284, 31.10.2003, p.1).

(20) OJ No. L78, 26.3.1977, p.17.

(21) OJ No. L149, 5.7.1971, p.2.

(22) OJ No. L158, 30.4.2004, p.77.

(23) See definition in Schedule 1 to the Interpretation Act 1978 (c.30).

(24) OJ No. L30, 6.2.1993, p.1.

(25) OJ No. L24, 27.1.1987, p.36.

(26) OJ No. L77, 27.3.1996, p.20.

(27) OJ No. L157, 9.6.2006, p.87.

- (b) the measures provide for a higher level of protection of the recipient than would be the case in a measure taken by the EEA state in which the provider is established in accordance with its national provisions,
- (c) that EEA state has not taken any measures, or has taken measures which are insufficient as compared with those requested under regulation 27(2), and
- (d) the measures are proportionate.

Procedure relating to derogation under regulation 26

27.—(23) The requirements referred to in regulation 26(2) are as follows.

(1) Before taking measures under regulation 26 the competent authority must request the relevant authority in the EEA state in which the provider is established to take measures with regard to the provider, supplying all relevant information on the service in question and the circumstances of the case.

(2) If, when that relevant authority has informed the competent authority of the measures taken or envisaged, or of the reasons why it has not taken any measures, the competent authority intends to take measures under regulation 26, the competent authority must notify the Secretary of State of its intention.

(3) Notification under paragraph (3) must state—

- (a) the reasons why the competent authority believes that the measures taken or envisaged by the EEA state in which the provider is established are inadequate, and
- (b) the reasons why it believes the measures it intends to take fulfil the conditions referred to in regulation 26(3).

(4) On being notified as specified in paragraph (3) the Secretary of State must notify the relevant authority in the EEA state in which the provider is established, and the Commission, of the matters referred to in paragraph (4).

(5) The competent authority may not take the measures under regulation 26 until the end of the period of fifteen days beginning with the date of notification under paragraph (5).

(6) The requirements of the preceding provisions of this regulation do not apply in cases of urgency.

(7) But in such cases—

- (a) a competent authority must, as quickly as possible, notify the Secretary of State of the measures under regulation 26 that it is taking, giving the reasons for urgency, and
- (b) the Secretary of State must, as quickly as possible, notify the relevant authority in the EEA state in which the provider is established, and the Commission, accordingly.

Duty to notify Secretary of State of new requirements

28.—(24) A competent authority must notify the Secretary of State of any proposal to introduce new requirements affecting access to, or the exercise of, a service activity.

(1) The notification must state the reasons why the authority considers that the application of those requirements respects the principles referred to in regulation 24(1) or falls within regulation 24(3).

PART 5

RECIPIENTS OF SERVICES

Restrictions on use of service supplied by provider established in another EEA state

29.—(25) A competent authority may not impose on the recipient of a service any requirements which restrict the use of the service as supplied from another EEA state by a provider established in that state.

(1) The requirements referred to in paragraph (1) include in particular—

- (a) an authorisation scheme;

- (b) a discriminatory limit on the grant of financial assistance to a recipient by reason of the fact that the provider is established in another EEA state or by reason of the location of the place at which the service is provided.

Requirements based on nationality or place of residence

30.—(26) A competent authority may not subject recipients of a service who are individuals to discriminatory requirements based on their nationality or place of residence.

(1) The provider of a service may not, in the general conditions of access to a service which the provider makes available to the public at large, include discriminatory provisions relating to the place of residence of recipients who are individuals.

(2) Paragraph (2) does not apply to differences in conditions of access which are directly justified by objective criteria.

PART 6

OTHER DUTIES OF COMPETENT AUTHORITIES IN RELATION TO PROVIDERS AND RECIPIENTS

Certificates and other documents

31.—(27) This regulation applies where a competent authority requires the provider or recipient of a service to supply a certificate, attestation or any other document proving that a requirement has been satisfied.

(1) The competent authority must accept any document—

- (a) which serves an equivalent purpose, or
- (b) from which it is clear that the requirement has been satisfied.

(2) The competent authority may not require a document to be produced in its original form, or as a certified copy or certified translation, except—

- (a) as provided for in another Community instrument, or
- (b) where such a requirement is justified by an overriding reason relating to the public interest, including public order and security.

(3) This regulation does not prevent a competent authority from requiring a non-certified translation of a document into English.

(4) This regulation does not apply to the documents referred to in—

- (a) section 5A(3) of, and paragraphs 5(3) and 6(5)(b) of Schedule 1B to, the Veterinary Surgeons Act 1966**(28)**;
- (b) in the case of a company incorporated in an EEA state other than the United Kingdom, the First Council Directive on co-ordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community (68/151/EEC)**(29)**;
- (c) section 4A(2)(a) of, and paragraphs 3(4) and 6(6)(b) of Schedule 1A to, the Architects Act 1997**(30)**;
- (d) regulation 16(2) of the European Communities (Lawyer's Practice) Regulations 2000**(31)**;

(28) 1966 c. 36. Relevant amendments to section 5A and Schedule 1B were made by the Veterinary Surgeons' Qualifications (European Recognition) Regulations 2008 (S.I. 2008/1824).

(29) OJ No. L65, 14.3.1968, p.8 (OJ/SE Series I Chapter 1968 (J) P.0041) as last amended by Directive 2003/58/EC of the European Parliament and of the Council (OJ No. L221, 4.9.2003, p.13).

(30) 1997 c. 22. Section 4A and Schedule 1A were inserted by the Architects (Recognition of European Qualifications etc and Saving and Transitional Provision) Regulations 2008 (S.I. 2008/1331).

(31) S.I. 2000/1119, to which there are amendments not relevant to these Regulations.

- (e) regulation 16(2) of the European Communities (Lawyer's Practice) (Scotland) Regulations 2000(32);
- (f) sections 17 and 396 of the Companies Act 2006(33);
- (g) regulations 23(5), 24(1) and 25 of the Public Contracts Regulations 2006(34);
- (h) regulations 23(5), 24(1) and 25 of the Public Contracts (Scotland) Regulations 2006(35);
- (i) regulations 11, 12, 31, 32 and 33 of the European Communities (Recognition of Professional Qualifications) Regulations 2007(36);
- (j) the Overseas Companies Regulations 2009(37).

Electronic procedures

32.—(28) A competent authority must ensure that—

- (a) all procedures and formalities relating to access to, or the exercise of, a service activity may be easily completed, at a distance and by electronic means (through the electronic assistance facility referred to in regulation 38 or otherwise), and
- (b) its website affords access to that electronic assistance facility.

(2) In paragraph (1), the reference to procedures or formalities does not include procedures or formalities consisting of—

- (a) the inspection of premises or equipment, or
- (b) physical examination of the capability or professional integrity of—
 - (i) a provider of the service, or
 - (ii) the staff of such a provider.

Insurance

33.—(29) A competent authority may not require professional liability insurance or a guarantee from the provider of a service if, or to the extent that, the provider is already covered, in another EEA state in which the provider is established, by professional liability insurance or a guarantee meeting the condition in paragraph (2).

(1) That condition is that the professional liability insurance or guarantee is equivalent or essentially comparable as regards—

- (a) its purpose, and
- (b) the cover it provides in terms of—
 - (i) the risk covered,
 - (ii) the amount covered, and
 - (iii) exclusions from the cover.

(2) Where a competent authority requires the provider of a service to have professional liability insurance or a guarantee, the authority must accept as sufficient evidence attestations of such cover issued by credit institutions and insurers established in another EEA state.

(3) Paragraphs (1) and (2) do not apply to the regulation of lawyers exercising their right under Article 2 of Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a member State other than that in which the qualification was obtained(38).

(32) S.S.I. 2000/121, to which there are amendments not relevant to these Regulations.

(33) 2006 c. 46.

(34) S.I. 2006/5, to which there are amendments not relevant to these Regulations.

(35) S.S.I. 2006/1, to which there are amendments not relevant to these Regulations.

(36) S.I. 2007/2781.

(37) S.I. 2009/1801.

(38) OJ No. L77, 14.3.1998, p.36, as last amended by Council Directive 2006/100/EC (OJ No. L 363, 20.12.2006, p.141).

Commercial communications by regulated professions

34.—(30) A competent authority may not impose a total prohibition on the use of commercial communications by providers of a service who are carrying on a regulated profession.

(1) The relevant competent authority must ensure that commercial communications by providers of a service who are carrying on a regulated profession comply with professional rules which relate in particular to—

- (a) the independence, dignity and integrity of that profession, and
- (b) professional secrecy,

in a manner consistent with the specific nature of that profession.

(2) Rules made by a competent authority in relation to commercial communications by providers of a service who are carrying on a regulated profession must be—

- (a) non-discriminatory,
- (b) justified by an overriding reason relating to the public interest, and
- (c) proportionate.

(3) In this regulation, “commercial communications” means communications in any form designed to promote, directly or indirectly, the goods, services or image of a person carrying on a regulated profession, other than—

- (a) a communication consisting only of information allowing direct access to the activity of that person, including a postal address, a domain name or an e-mail address, or
- (b) a communication which has been prepared independently of the person making it (and for this purpose, a communication prepared without financial consideration is to be taken to have been prepared independently unless the contrary is shown).

Multi-disciplinary activities

35.—(31) A competent authority may not subject the provider of a service to any requirement which—

- (a) obliges the provider to exercise a specific service activity exclusively, or
- (b) restricts the exercise, jointly or in partnership, of different activities.

(2) Paragraph (1) does not prevent a competent authority for a regulated profession from imposing a requirement if or to the extent that—

- (a) the requirement is justified in order to guarantee compliance with the rules governing ethics and conduct in that profession, and
- (b) the requirement is necessary in order to ensure the impartiality and independence of that profession.

(3) Paragraph (4) applies where a competent authority has not imposed on a provider of a service carrying on a regulated profession—

- (a) an obligation within paragraph (1)(a), or
- (b) a restriction within paragraph (1)(b) that prohibits the exercise of different activities.

(4) The competent authority must ensure that—

- (a) conflicts of interest are avoided,
- (b) independence and impartiality are secured as required, and
- (c) the rules governing professional ethics and conduct for different activities are compatible with one another (including in particular in relation to matters of professional secrecy).

(5) In the case of certification, accreditation, technical monitoring, test or trial services, paragraph (1) does not prevent a competent authority from imposing a requirement if, or to the extent that, the requirement is necessary in order to ensure the independence and impartiality of the provider of the service.

(6) Paragraph (7) applies where a competent authority has not imposed on a provider of a service referred to in paragraph (5)—

- (a) an obligation within paragraph (1)(a), or
- (b) a restriction within paragraph (1)(b) that prohibits the exercise of different activities.

(7) The competent authority must ensure that—

- (a) conflicts of interest are avoided,
- (b) independence and impartiality are secured as required, and
- (c) the rules governing the provision of that service, and the carrying on of the other activity, are compatible (including in particular in relation to matters of professional secrecy).

PART 7

PROVISION OF INFORMATION BY COMPETENT AUTHORITIES

Information to be provided to the Secretary of State

36.—(32) The competent authority for a service activity must provide the following information in electronic form to the Secretary of State (or secure that it is accessible to the Secretary of State in electronic form)—

- (a) the requirements applicable to providers of the service established in the United Kingdom, and in particular any authorisation scheme relating to the service activity which involves the competent authority;
- (b) the contact details of the competent authority;
- (c) the means of, and conditions for, accessing public registers and databases on—
 - (i) providers of the service, and
 - (ii) the service;
- (d) the means of redress which are generally available in the event of a dispute—
 - (i) between the competent authority and a provider or recipient of the service,
 - (ii) between a provider and a recipient of the service, or
 - (iii) between providers of the service;
- (e) the contact details of associations or organisations, other than the competent authority, from which providers or recipients of the service may obtain practical assistance.

(2) The relevant competent authority must on request provide to the Secretary of State general information on the requirements applicable in the United Kingdom relating to access to, and the exercise of, a service activity, in particular those relating to consumer protection.

(3) The information provided under this regulation must be clear and unambiguous.

(4) The information provided or made accessible under paragraph (1) must be kept up-to-date by the competent authority.

(5) In the case of a competent authority whose functions relate only to part of the United Kingdom, the references in paragraphs (1) and (2) to the United Kingdom are to that part of the United Kingdom.

Information to be provided to providers and recipients on request

37.—(33) The competent authority for a service activity must, on the request of a provider or recipient of the service, provide that person with information on the way in which the requirements referred to in regulation 36(1)(a) are generally interpreted and applied.

- (1) The information provided under paragraph (1) must be—
 - (a) clear and unambiguous, and
 - (b) provided by electronic means.

- (2) A competent authority must respond to a request under paragraph (1) as quickly as possible.
- (3) Where a competent authority is requested to provide information referred to in paragraph (1) but the request is not one which it is required to respond to under this regulation, the competent authority must inform the person making the request as quickly as possible.
- (4) This regulation does not require the provision of legal advice in individual cases.

PART 8

ELECTRONIC ASSISTANCE FACILITY

Duty to provide an electronic assistance facility

- 38.**—(34) The Secretary of State and the Commissioners for Revenue and Customs must jointly provide a facility for—
- (a) the completion by electronic means of procedures and formalities relating to access to, or the exercise of, a service activity, and
 - (b) the provision by electronic means of the information referred to in regulation 36(1) to providers and recipients of services.
- (2) The facility referred to in paragraph (1) must include the provision of help and support (electronically or by telephone) for its users.
- (3) The facility referred to in paragraph (1) may also be used for the following purposes—
- (a) the provision of information and guidance by governmental and regulatory authorities in the United Kingdom in relation to the matters specified in paragraph (4);
 - (b) communications with those authorities in relation to those matters;
 - (c) the completion of procedures and formalities relating to those matters.
- (4) The matters referred to in paragraph (3) are—
- (a) regulatory matters affecting business, and
 - (b) support for business.
- (5) In this regulation, references to procedures or formalities do not include procedures or formalities consisting of—
- (a) the inspection of premises or equipment, or
 - (b) physical examination of the capability or professional integrity of—
 - (i) a provider of the service, or
 - (ii) the staff of such a provider.

PART 9

ADMINISTRATIVE CO-OPERATION BETWEEN EEA STATES

General obligations

- 39.**—(35) A competent authority must for the purposes of Chapter VI of the Services Directive provide assistance to relevant authorities in other EEA states, and put in place measures for effective co-operation with such authorities, in order to ensure the supervision of providers of services and the services they provide.
- (1) A competent authority is not obliged under this Part to meet a request for information, or a request to carry out any check, inspection or investigation, that is not for a proper purpose or for which no reason is given.

(2) Where under Chapter VI of the Services Directive a competent authority receives a request for information, or a request to carry out any check, inspection or investigation from a relevant authority in another EEA state, but—

- (a) considers that the request is not for a proper purpose or that no reason has been given for it, or
- (b) finds that the request is one which it has difficulty in meeting,

it must promptly notify the requesting authority and the Secretary of State accordingly.

(3) Information supplied to an authority in another EEA state pursuant to this Part must be supplied—

- (a) through the electronic system for the exchange of information established pursuant to Article 34 of the Services Directive, and
- (b) as quickly as possible.

(4) Any register of providers of a service held by a competent authority and which is accessible to other competent authorities in the United Kingdom must be accessible on the same conditions to authorities with equivalent functions in other EEA states.

Provision of information where provider established in UK

40.—(36) This regulation applies in relation to a provider of a service who is established in the United Kingdom and is providing the service in another EEA state.

(1) The competent authority must, when requested to do so by a relevant authority in another EEA state, supply information about the provider to that authority.

(2) The information referred to in paragraph (2) includes in particular—

- (a) confirmation that the provider is established in the United Kingdom;
- (b) whether, to the competent authority's knowledge, the provider is authorised to provide the service.

(3) The competent authority must, when requested to do so by a relevant authority in another EEA state—

- (a) carry out checks, inspections or investigations in relation to the provider,
- (b) inform the requesting authority of the results, and
- (c) if it thinks it appropriate to take any measures in relation to the provider, inform the requesting authority of those measures.

(4) Nothing in paragraph (4) permits or requires a competent authority to do anything which it could not otherwise lawfully do.

Provision of information where services provided in UK

41.—(37) This regulation applies in relation to a provider of a service who provides the service in the United Kingdom but is not established there.

(1) The competent authority must, when requested to do so by a relevant authority in an EEA state where the provider is established, carry out any checks, inspections or investigations in relation to the provider that are necessary to ensure effective supervision by that authority.

(2) Nothing in paragraph (2) permits or requires a competent authority to do anything which it could not otherwise lawfully do.

Alert mechanism

42. If a competent authority becomes aware of serious specific acts or circumstances relating to a service activity that could cause serious damage to—

- (a) the health or safety of persons in the United Kingdom or in another EEA state, or
- (b) the environment in the United Kingdom or in another EEA state,

the competent authority must inform the Secretary of State as quickly as possible.

Information relating to disciplinary action etc taken in relation to providers

43.—(38) Where a relevant authority in another EEA state requests a competent authority to supply information on any of the matters in paragraph (2) in relation to the provider of a service, the competent authority must do so, subject to and in accordance with this regulation.

- (1) The matters referred to in paragraph (1) are—
- (a) disciplinary or administrative actions,
 - (b) criminal sanctions, and
 - (c) decisions concerning insolvency or bankruptcy involving fraud,

taken or imposed by an authority in the United Kingdom in respect of the provider which are directly relevant to the provider's competence or professional reliability.

(2) Nothing in this regulation requires or permits a competent authority to disclose information which it could not otherwise lawfully disclose.

(3) But where a competent authority may not lawfully supply information pursuant to a request under paragraph (1) without the consent of the provider, it must make a request to the provider to give that consent.

(4) Information as to the matters referred to in paragraph (2)(a) and (b) is not to be supplied unless a final decision has been taken in relation to the action or sanction and no further appeal is possible (ignoring any possibility of an appeal out of time).

(5) Information supplied pursuant to paragraph (1) must specify the legal provisions pursuant to which the action or decision was taken or the sanction was imposed.

(6) Information as to the decisions referred to in paragraph (2)(c) must specify whether the decision is final or whether an appeal has been lodged (in which case the competent authority must indicate the date on which the decision on appeal is expected).

(7) A competent authority which supplies information pursuant to a request under paragraph (1) must inform the provider that it has provided information to the requesting authority and what that information was.

Mutual assistance in the event of case-by-case derogations

44.—(39) This regulation applies where the provider of a service who is established in the United Kingdom provides the service in another EEA state and—

- (a) pursuant to Article 18 of the Services Directive, a relevant authority in that state proposes to take measures relating to the safety of the service, and
- (b) pursuant to the procedure in Article 35 of the Services Directive, that authority requests a competent authority to supply information on the service and the circumstances of the case.

(2) The competent authority must—

- (a) check whether the provider is authorised to provide the service,
- (b) verify the facts underlying the request, and
- (c) inform the requesting authority and the Secretary of State of the measures taken or envisaged or of the reasons why it has not taken any measures.

PART 10

SUPPLEMENTARY AND MISCELLANEOUS

Street trading

45.—(40) In section 3 of the Pedlars Act 1871⁽³⁹⁾ (interpretation)—

⁽³⁹⁾ 1871 c. 96.

- (a) the words “mender of chairs” are omitted;
- (b) the words “, or selling or offering for sale his skill in handicraft” are omitted.

(2) Paragraphs (3) and (4) apply where—

- (a) a person obtains a certificate under the Pedlars Act 1871 before the coming into force of this paragraph, and
- (b) at any time after the coming into force of this paragraph, and before the date on which the certificate expires, the person carries on an activity which, but for paragraph (1), would have been carried on under the authority of the certificate.

(3) In England and Wales, a person referred to in paragraph (2) is for the purposes of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982⁽⁴⁰⁾ to be regarded as carrying on the activity under the authority of the certificate.

(4) In Northern Ireland, a person referred to in paragraph (2) is for the purposes of the Street Trading Act (Northern Ireland) 2001⁽⁴¹⁾ to be regarded as carrying on the activity, where it is carried out by means of visits from house to house, under the authority of the certificate.

Disclosure of information under Employment Agencies Act 1973

46. In section 9(4) of the Employment Agencies Act 1973⁽⁴²⁾ (information obtained during inspection), in paragraph (a), at the end insert—

“; or

- (vi) to an authority in another EEA state pursuant to Part 9 of the Provision of Services Regulations 2009.”.

Sex establishments

47.—(41) Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (control of sex establishments) is amended as specified in paragraphs (2) to (4).

(1) In paragraph 10, for sub-paragraph (14) substitute—

“(14) A copy of an application for the grant, renewal or transfer of a licence under this Schedule shall be sent to the chief officer of police—

- (a) in a case where the application is made by means of a relevant electronic facility, by the appropriate authority not later than 7 days after the date the application is received by the authority;
- (b) in any other case, by the applicant not later than 7 days after the date of the application.

(14A) In sub-paragraph (14) above “relevant electronic facility” means—

- (a) the electronic assistance facility referred to in regulation 38 of the Provision of Services Regulations 2009, or
- (b) any facility established and maintained by the appropriate authority for the purpose of receiving applications under this Schedule electronically.”.

(2) In that paragraph, in sub-paragraph (20) omit—

- (a) “, if required to do so by the applicant or holder of the licence.”, and
- (b) “within 7 days of his requiring them to do so”.

(3) In paragraph 12(1)(c) and (d), for “the United Kingdom”, substitute “an EEA state”.

(4) For the purposes of regulation 19(5), the arrangements made by paragraph 10 of that Schedule fall within the “different arrangements” referred to in regulation 19(5).

⁽⁴⁰⁾ 1982 c. 30.

⁽⁴¹⁾ 2001 c. 8 (N.I.).

⁽⁴²⁾ 1973 c. 35.

Enforcement

48. In Schedule 13 to the Enterprise Act 2002(43) (listed Directives and Regulations), after paragraph 9C insert—

“9D. Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market.”.

Licensing

49.—(42) The Licensing Act 2003(44) is amended as follows.

(1) In section 17 (application for a premises licence)—

- (a) in subsection (5), omit paragraph (b);
- (b) after subsection (5) insert—

“(6) The Secretary of State may by regulations—

- (a) require an applicant to give notice of his application to each responsible authority, and such other persons as may be prescribed, within the prescribed period, and
- (b) in a case where the application is made by means of a relevant electronic facility, require the relevant licensing authority to give notice of the application to such persons as may be prescribed, within the prescribed period.”.

(2) In section 34 (application to vary premises licence), for subsection (5), substitute—

“(5) The functions of the Secretary of State under subsections (5) and (6) of section 17 (advertisements etc. of application) apply in relation to applications under this section as they apply in relation to applications under that section.”.

(3) In section 37 (application to vary licence to specify individual as a premises supervisor), in subsection (4), for the words from “The holder” to “his application” substitute “Notice of an application under this section must be given”.

(4) In that section, after subsection (4) insert—

“(4A) Notice under subsection (4)(a) is to be given by—

- (a) the relevant licensing authority, in a case where the holder of the premises licence submitted the application to the relevant licensing authority by means of a relevant electronic facility;
- (b) the holder of the premises licence, in any other case.

(4B) Notice under subsection (4)(b) is to be given by the holder of the premises licence.”.

(5) In section 42 (application for transfer of premises licence), in subsection (5), for “applicant must give notice of his” substitute “relevant person must give notice of the”.

(6) In that section, after subsection (5) insert—

“(5A) In subsection (5), “relevant person” means—

- (a) the relevant licensing authority, in a case where the applicant submitted the application to the relevant licensing authority by means of a relevant electronic facility;
- (b) the applicant, in any other case.”.

(7) In section 47 (interim authority notice following death etc of licence holder), after subsection (7) insert—

“(7A) Where the interim authority notice was given to the relevant licensing authority by means of a relevant electronic facility—

- (a) subsection (7)(a) does not apply, and
- (b) the relevant licensing authority must forthwith give a copy of the notice to the chief officer of police for the police area (or each police area) in which the premises are situated.”.

(43) 2002 c. 40.

(44) 2003 c. 17.

- (8) In section 71 (application for a club premises certificate)—
- (a) in subsection (6), omit paragraph (b);
 - (b) after subsection (6) insert—
 - “(7) The Secretary of State may by regulations—
 - (a) require an applicant to give notice of his application to each responsible authority, and such other persons as may be prescribed, within the prescribed period, and
 - (b) in a case where the application is made by means of a relevant electronic facility, require the relevant licensing authority to give notice of the application to such persons as may be prescribed, within the prescribed period.”
- (9) In section 84 (application to vary club premises certificate), for subsection (4), substitute—
- “(4) The functions of the Secretary of State under subsections (6) and (7) of section 71 (advertisements etc. of application) apply in relation to applications under this section as they apply in relation to applications under that section.”
- (10) In section 100 (temporary event notice), in subsection (7)(a), omit “(in duplicate)”.
- (11) In section 104 (objection to notice by the police), after subsection (1) insert—
- “(1A) Where the premises user gave the temporary event notice to the relevant licensing authority by means of a relevant electronic facility—
- (a) subsection (1) does not apply, and
 - (b) the relevant licensing authority must give a copy of the notice to the relevant chief officer of police no later than the end of the first working day after the day on which the notice was given to the relevant licensing authority.”
- (12) In that section, in subsections (2) and (3), after “subsection (1)” insert “or (1A)”.
- (13) In section 193 (other definitions), after the definition of “regulations” insert—
- ““relevant electronic facility” means—
- (a) the electronic assistance facility referred to in regulation 38 of the Provision of Services Regulations 2009, or
 - (b) any facility established and maintained by a licensing authority for the purpose of receiving applications, notices or representations electronically;”
- (14) In section 194 (index of defined expressions), after the entry relating to “regulations” insert—
- ““relevant electronic facility”section 193”.

11th November 2009

Ian Lucas
 Minister for Business and Regulatory Reform
 Department for Business, Innovation and Skills

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations implement Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market (OJ No. L 376, 27.12.2006, p.36) (“the Directive”).

Part 1 contains interpretative, scoping, exclusion and savings provisions.

Regulation 2(2) sets out those services excluded from the scope of the Regulations. Regulations 5(1) and 5(2) specify areas of law and policy and functions of competent authorities that are not affected by the Regulations. Regulations 5(3) and 5(4) limit the application of the Regulations in respect of service providers and recipients who are not individual nationals of an EEA state or legal persons established in an EEA state.

Regulation 6 concerns the relationship between the Regulations and other legislation. Competent authorities and service providers do not have to comply with a requirement imposed by Part 2, 5 or 6 of the Regulations if they cannot comply with both that requirement and a requirement relating to services imposed by an earlier directly applicable Community instrument or enactment which implements Community law. Competent authorities do not have to comply with a requirement imposed by Part 3 or 4 of the Regulations if they cannot comply with both that requirement and a requirement relating to services imposed by an earlier directly applicable Community instrument or enactment (whether or not the enactment implements Community law).

Part 2 imposes requirements on service providers. Regulations 7 to 11 require service providers to communicate prescribed information about themselves and their services to recipients. Regulation 12 specifies how service providers must handle complaints from recipients.

Part 3 applies to the provision of services in the United Kingdom, except in relation to the provision of services from another EEA state by a provider established in that state (which is the subject of Part 4).

Regulation 14 provides that a competent authority must not make access to or the exercise of a service activity subject to an authorisation scheme unless certain conditions are satisfied. Regulation 15 makes provision about the conditions for granting authorisations and regulation 16 provides that an authorisation must be for an indefinite period except in certain circumstances. Regulation 17 applies where the number of authorisations available for a competent authority under an authorisation scheme are limited because of scarcity of available natural resources or technical capacity.

Regulations 18 to 20 contain requirements for procedures and formalities under an authorisation scheme. Regulation 21 lists requirements to which a competent authority must not make access to, or the exercise of, a service activity subject. Regulation 22 lists requirements which must satisfy the conditions of non-discrimination, necessity and proportionality. It imposes a duty on competent authorities to notify the Secretary of State about proposals to introduce new requirements affecting access to or the exercise of a service activity.

Part 4 has effect in relation to the exercise of the freedom of a provider established in another EEA state to provide a service in the UK from that state.

Regulation 24 provides that a competent authority must not make access to or the exercise of a service activity subject to compliance with any requirements which do not respect the principles of non-discrimination, necessity and proportionality. It lists requirements which may only be imposed in limited circumstances. Regulation 25 contains exclusions.

Regulation 26 allows a competent authority in exceptional circumstances to take measures relating to the safety of a service in the case of a provider established in another EEA state. The procedure is set out in regulation 27. (See regulation 44 for the inverse scenario.)

Regulation 28 imposes a duty on competent authorities to notify the Secretary of State about proposals to introduce new requirements affecting access to or the exercise of a service activity.

Part 5 concerns the rights of recipients of services. Regulation 29 prohibits competent authorities from restricting recipients’ usage of services from other EEA states. Regulation 30 prohibits competent

authorities from discriminating on the basis of recipients' nationality or place of residence, and service providers from discriminating in their general conditions on the basis of recipients' place of residence.

Part 6 imposes duties on competent authorities. Regulation 31 prohibits competent authorities from requiring specific documents where an equivalent document shows that the requirement in question has been satisfied. Regulations 33 to 35 limit the extent to which competent authorities may impose requirements on service providers in relation to professional liability insurance, commercial communications and multidisciplinary activities.

Part 7 imposes information requirements on competent authorities. Regulation 36(1) requires the provision of information to the Secretary of State (for the purposes of the electronic assistance facility referred to in regulation 38). Regulation 36(2) requires the provision of certain other information to the Secretary of State on request. Regulation 37 requires competent authorities to provide providers or recipients, on request, with information on the interpretation of authorisation procedures.

Regulation 32 and Part 8 together ensure that authorisation procedures may be completed electronically. Regulation 38 obliges Her Majesty's Government to establish an electronic facility for the completion of authorisation procedures related to services which will act as the point of single contact for the United Kingdom.

Part 9 contains provisions relating to administrative cooperation between competent authorities in different EEA states. Regulation 39 sets out the general obligations of competent authorities to assist and co-operate with authorities in other EEA states. Regulation 40 deals with the provision of information by competent authorities in relation to a provider established in the UK who is providing a service in another EEA state. Regulation 41 deals with the provision of information by competent authorities in relation to providers established in another EEA state who are providing a service in the UK.

Regulation 42 requires competent authorities to inform the Secretary of State as soon as possible if they become aware of acts or circumstances relating to a service activity which could cause serious damage to the health and safety of persons or the environment.

Regulation 43 deals with the supply of information by a competent authority to an authority in another EEA state in relation to disciplinary or administrative actions, criminal sanctions and decisions involving insolvency or bankruptcy involving fraud in relation to a provider of a service.

Regulation 44 deals with cases where an authority in another EEA state proposes, exceptionally, to take measures relating to the safety of a service as provided by a provider established in the UK. (See regulations 26 and 27 for the inverse scenario).

Part 10 contains supplementary, miscellaneous and enforcement provisions.

Regulation 45 amends the Pedlars Act 1871 so as to remove services from the scope of that Act.

Regulation 46 amends the Employment Agencies Act 1973 so as to allow information obtained during inspections of business premises under section 9 of that Act to be disclosed for the purposes of Part 9 to competent authorities in other EEA states.

Regulation 47 amends the Local Government (Miscellaneous Provisions) Act 1982. Under paragraph 10 of Schedule 3, where an application is made in relation to a sex establishment licence, a copy must be sent to the chief officer of police. Regulation 47 makes provision as to how that copy is sent in cases where the application is made through the electronic assistance facility referred to in regulation 38 or an electronic facility maintained by a local authority. Regulation 47 also allows EEA residents or bodies corporate incorporated in other EEA states to obtain sex establishment licences. In addition, local authorities will be required to provide reasons for refusing to grant, transfer or renew a licence, whether or not requested by the applicant.

Regulation 48 amends Schedule 13 to the Enterprise Act 2002 so that the duties imposed on service providers in regulations 7 to 12 and 30 can be enforced under Part 8 of that Act.

Regulation 49 amends the Licensing Act 2003 to ensure that applications and notices which are submitted to local authorities through the electronic assistance facility referred to in regulation 38 or

electronic facilities maintained by local authorities do not need to be separately notified to other public authorities by the persons submitting them.

A transposition note and an impact assessment of the effect that this instrument will have on the costs to business and the voluntary sector are available from the BIS website (www.bis.gov.uk). They are also annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website <http://www.opsi.gov.uk>. Copies have also been placed in the Libraries of both Houses of Parliament.

EXPLANATORY MEMORANDUM TO
THE PROVISION OF SERVICES REGULATIONS 2009

2009 No. 2999

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 The Provision of Services Regulations 2009 (the Regulations) set out rules relating to the provision of services by transposing Directive 2006/123/EC on services in the internal market (the Services Directive). Article 1.1 of the Services Directive identifies that the purpose is to facilitate service provision within the European Union whilst maintaining a high quality of services. The Regulations concern both the provision and the supervision of services. As such they are relevant to both service providers and to competent authorities (meaning bodies with a supervisory or regulatory role, including local authorities, national regulators and professional bodies) in the UK.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 We have identified two issues that may be of particular interest to the Joint Committee. The first issue relates to Part 2 of the Regulations and is dealt with in paragraphs 3.2-3.4. Part 2 transposes articles 22 and 27 of the Services Directive. These articles require the provision of information to service recipients and a complaints procedure and regulate both cross border provision of services and the situation where both the service provider and recipient are established in the UK. The second issue is dealt with in paragraph 3.5 and relates to the transposition of Chapter III of the Services Directive which contains provisions on the freedom of establishment for providers from another Member State. Chapter III only applies to situations where there is a cross-border element.

3.2 Part 2 of the Regulations places obligations on all service providers, including individuals who are not nationals of an EEA State (whether established or not) and legal persons that are not established in an EEA State. These service providers are outside the scope of the definition of provider in the Services Directive. It is our view that imposing obligations on all service providers (and not just those set out in the Services Directive) is a matter arising out of or related to the obligation to implement articles 22 and 27 of the Services Directive and so is a proper exercise of the power in section 2(2)(b) European Communities Act 1972 c.26.

3.3 The provision of a high quality of services, in particular increasing transparency and consumer information is an integral purpose of the Services Directive, as shown by article 1.1 and recital 2. We consider that broadening the category of providers subject to the obligations in articles 22 and 27 is not only

consistent with but also furthers the purpose of providing a high quality of services for consumers. This is because it avoids the creation of parallel regimes, ensuring greater clarity for consumers. It also ensures that the protection offered by the Services Directive is as effective as possible, because it avoids creating a category of providers who can avoid compliance.

3.4 The class of service providers covered by the Services Regulations but not the Directive is not significant. Imported services from outside the EU represent a small part of total consumption of services in the UK. For example, in 2006 they represented only 5.6% of the value added of UK providers of communication services, or 0.3% of the value added of UK construction services.⁴⁵

3.5 Part 3 of the Regulations transposes Chapter III of the Services Directive. Although Chapter III only applies to situations where there is a cross-border element, we have extended the provisions in Part 3 to cover a provider of UK origin supplying services to a recipient of UK origin. Part 3 therefore applies even where there is no cross-border element. This will further the objectives of the Directive as ensuring a level playing field and a uniform regime promotes the freedom to establish and the freedom to provide services. In the view of the Department there are sufficient powers in section 2(2) of the European Communities Act 1972 to do this. Paragraph (a) deals with making provision for the purpose of implementing any Community obligation and may be relied on where it is not possible to separate out a wholly internal from a cross-border situation. Paragraph (b) covers matters arising out of or related to any such obligation and may be relied upon to cover the purely internal situation as having a uniform regime avoids the possibility of having parallel or overlapping regimes.

4. Legislative Context

4.1 The Services Regulations implement the Services Directive. The Regulations apply to service providers offering or providing services in the UK, both providers of UK origin and those from other EEA states. The Regulations apply whether the provider has a UK establishment from which the service is provided (as in Part 3) or comes to the UK temporarily or operates remotely (as in Part 4). Part 2 imposes obligations on all service providers offering or providing services in the UK, including those from outside the EEA.

4.2 The Services Directive has been incorporated into the EEA Agreement and accordingly the Regulations apply in relation to the EEA states of Iceland, Liechtenstein and Norway in addition to the EU Member States.

4.3 The Regulations do not exceed the requirements of the Directive, except in the areas identified in the Transposition Note.

4.4 The House of Lords EU sub-Committee B held an enquiry into the Services Directive in 2006, which resulted in the publication of the report *The Services Directive Revisited*, while a 2005 enquiry of the same Committee produced the report *Completing the Internal Market in Services*. In 2007 members of this sub-Committee

⁴⁵ Data taken from 'UK Balance of Payments, The Pink Book 2007' (National Statistics)

interviewed officials from the then DTI responsible for implementing the Services Directive.

4.5 The Regulations amend some existing legislation (as specified in Part 10) to ensure that it is compliant with the terms of the Services Directive. It is anticipated that further amendments to existing legislation will be included in other legislative instruments.

4.6 The Services Directive requires that EEA states provide an online facility called the point of single contact (PSC). The UK's PSC will be provided through the established website businesslink.gov.uk, currently managed on behalf of the UK government by HM Revenue & Customs. Regulation 38 imposes an obligation on the Commissioners for Revenue and Customs (jointly with the Secretary of State) to provide the PSC, as well as allowing the provision of other business information and support. Section 51(2) of the Commissioners for Revenue and Customs Act 2005 c.11 provides that HMRC's obligation in regulation 38 will be treated as an additional function of the Commissioners and will be subject to the provisions of that Act. As a statutory department HMRC may only do that which it is expressly or impliedly authorised to do by legislation and regulation 38 ensures that HMRC has the power to deliver the PSC.

4.7 Related to these Regulations, a clause in the Coroners and Justice Bill currently before Parliament contains provision to disapply the limitations on penalties in paragraph 1(1)(d) of Schedule 2 to the European Communities Act 1972 for the purposes of the implementation of the Services Directive.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Minister for Business, Regulatory Reform and Employment Relations, Ian Lucas, has made the following statement regarding Human Rights:

In my view the provisions of the Services Regulations are compatible with the Convention rights.

7. Policy background

7.1 The change brought about by the Regulations is legally important because it gives effect in the UK to the Services Directive. The Directive is a significant piece of European legislation building on the free movement provisions concerning establishment and the free movement of services contained in the Treaty establishing the European Community.

7.2 There are four main elements to this, namely: the removal of legislative and administrative restrictions on the provision of services; the creation of an online facility through which service providers can apply remotely and electronically for necessary licences; enhanced cooperation between regulators in different Member

States; and measures designed to enhance the quality of service provision such as greater access to information on providers and their services.

7.3 The measure is important in the UK as the services sector, in its entirety, accounts for around 75% of UK output. It is estimated that implementation of the Directive will contribute up to £6bn per annum to the UK economy (although the estimated gains are likely to be more cautious during the economic downturn), creating up to around 80,000 jobs. The Directive and these Regulations apply to all services sectors unless they are specifically excluded (as in regulation 2).

7.4 The level of public interest in the implementation of the Directive has to date been low. Nonetheless the Regulations affect a wide variety of organisations and interest has been rising as a result of the Government's engagement programme.

7.5 While the Government is required to legislate in order to implement most provisions of the Directive, a small number of provisions do not require legislative implementation. Where this is the case, implementation has been achieved by other means. For example, Article 21 of the Directive requires Member States to develop an online portal containing information on consumer protection in other Member States. Creation of this portal does not require legislation.

8. Consultation outcome

8.1 The Government consulted formally on its proposals for implementing the Services Directive over the period November 2007 to February 2008. The Government Response analysing the consultation was published in June 2008. Both documents are available on the Department for Business, Innovation and Skills (BIS) website.

8.2 The consultation document was disseminated to a wide audience, including business and business groups, consumer groups, trade unions, regulators, professional bodies and local authorities. In total 56 responses were received. While many views were expressed, respondents signalled overall broad contentment with the direction of the Government's proposals for implementation.

8.3 Additionally, the Government made the draft text of the Regulations available for comment in May to June 2009. 22 responses were received which were instrumental in determining where amendments could usefully be made to ensure greater clarity of meaning.

8.4 One key area where the Government decided to provide further clarity was to require competent authorities to ensure there were no barriers to UK businesses providing services within the UK as well as for cross-border trade.

8.5 The Government has consulted informally with interested groups throughout the implementation period.

9. Guidance

9.1 The Government has produced guidance for businesses explaining the Regulations, currently in draft. The Government has also produced guidance for local authorities and competent authorities explaining how the measure affects them and their functions. The Government actively engages with these authorities, as well as business and other organisations, to ensure awareness of the Regulations is increased. Additional guidance for competent authorities (including local authorities) on their continuing obligations under the Regulations will be produced before the end of 2009.

9.2 Information on the Directive and the Regulations is available to all on the Department's website, including answers to Frequently Asked Questions.

10. Impact

10.1 The impact on business, charities or voluntary bodies is that when they are considered to be 'service providers' within the scope of the Regulations they will be required to comply with the Regulations (Part 2 being particularly relevant), although, as explained in paragraph 11.2, the burdens in practice will be minimal. The impact on service providers of the Regulations is expected to be significant in terms of increased opportunities and less bureaucracy. They will benefit from using the electronic online facility for applying for licences and other authorisations needed to carry on their service activity. They will also benefit from the greater cooperation demanded of competent authorities. Only services that are provided for an economic consideration are covered.

10.2 The impact on the public sector is that local authorities and other competent authorities will be required to ensure that their requirements and administrative practices and procedures do not contravene the Regulations. They will also have to ensure that the licences and authorisations that they administer can be obtained electronically via the online facility referred to above. BIS is meeting the burden of delivering the central infrastructure of the facility which will be accessible through businesslink.gov.uk. Competent authorities will have to link to the site and collect and process applications from service providers online. Regulators are obliged to cooperate with counterpart organisations across the EU, including by way of an electronic system developed by the European Commission called the Internal Market Information System (IMI). Enforcement of the Regulations will be the responsibility of the Office of Fair Trading, the Department for Enterprise, Trade and Investment in Northern Ireland, and local authority trading standards departments via Part 8 of the Enterprise Act 2002.

10.3 A draft final Impact Assessment, which is currently being updated, is attached as an annex to this document, and can be found at http://www.berr.gov.uk/whatwedo/europeandtrade/europe/services-directive/background/economics_evidence/page22898.html.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to work with business representative organisations to ensure that, where the Regulations do place requirements on SMEs, these have minimal adverse impact and that the content of the duties on service providers go no further than the requirements of the Directive. In particular, the Part 2 duties placed on service providers to provide information are in line with existing requirements and common business practice and are not expected to require many businesses to make major changes to their procedures.

11.3 Indeed, the Regulations provide for measures which are in large part aimed at helping SMEs. For example, the Regulations:

- a) ensure that competent authorities cannot make the access to or carrying out of a service activity subject to an authorisation scheme or requirement unless this can be justified against specified criteria;
- b) require the Secretary of State and HMRC to set up an electronic assistance facility (the PSC) which will provide a streamlined, one stop shop for service providers to apply and pay for authorisations on line, anywhere in the UK; and
- c) minimise burdens for UK service providers looking to expand to other EEA states by:
 - (i) giving access through our own PSC to the equivalents in other EEA states which will considerably reduce the costs for small business researching opportunities to trade in other parts of the EEA; and
 - (ii) providing for a UK competent authority to pass relevant documentation already in its possession to the competent authority in the country concerned, rather than the business itself having to do so.

11.4 The basis for the final decision on what action to take to assist small business is liaison with business representative organisations and other agencies, following on from the outcome of the consultation, and consideration of the Impact Assessment.

12. Monitoring & review

12.1 The Directive provides for the European Commission to review its impact by 28 December 2011 and every three years thereafter. Additionally, all Member States are required to submit a written report to the European Commission by 28 December 2009 detailing the legislation and practices that they are amending as a result of implementation of the Directive and giving reasons to justify the retention of other legislation and practices. These reports will be subject to review and challenge by other Member States through a process of mutual evaluation.

12.2 Once the Services Directive is fully implemented in December 2009, BIS will undertake a Post Implementation Review. This is currently scheduled for 2012 and is

part of BIS's better regulation strategy. The review will be used to assess whether the Directive is having the intended effect in the UK and whether its policy objectives are being efficiently implemented.

13. Contact

13.1 Emma Sangster at the Department for Business, Innovation and Skills (tel: 020 7215 2663 or email: emma.sangster@bis.gsi.gov.uk) can answer any queries regarding the instrument.

BIS | Department for Business
Innovation & Skills

SERVICES DIRECTIVE

Impact Assessment

OCTOBER 2009

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Analytical framework

Summary: Intervention & Options

Department /Agency: Department for Business Innovation and Skills	Title: Impact Assessment of the Implementation of the Services Directive	
Stage: Final	Version: Final	Date: October 2009
Related Publications: Consultation impact assessment on the implementation of the Services Directive (BERR, 2007)		

Available to view or download at:

<http://www.berr.gov.uk/whatwedo/europeandtrade/europe/services-directive>

Contact for enquiries: Sumit Dey-Chowdhury

Telephone: 020 7215 2347

What is the problem under consideration? Why is government intervention necessary?
 Services account for around 70% of both EU output and EU employment, yet account for relatively low shares of intra-EU trade (24%) and investment. Although this is reflective of services being generally less tradable than goods, there is also evidence that the Internal Market for services is not as fully functioning as it could be. This is primarily due to the differing regulatory requirements that exist in service provision across the EU. Government intervention, through the implementation of the Services Directive, is required to address these barriers and improve the functioning of the Single Market for services.

What are the policy objectives and the intended effects?

The objective is to help liberalise the EEA service sector, facilitating trade and further opening the market to competition. Implementation of the Directive will reduce the uncertainty that service exporters currently face, as well as the administrative processes and time needed to comply with regulations. The level of output produced by firms and the welfare of individuals in the UK is expected to increase (estimated increase of £4.1-6.1 billion per year). Increased employment opportunities are expected across different service sectors, with also an increase in trade of up to 6.1% and an increase in the choice and quality of services available to consumers. These numbers should be treated with some caution though in the short-term due to the uncertainties arising from the economic downturn.

What policy options have been considered? Please justify any preferred option.

The overall benefits of the Directive result from the combined effect of the four policy areas of implementation. Detailed options for each have been set out separately in individual Impact Assessments for (1) the establishment of the UK Point of Single Contact, (2) facilitating administrative cooperation amongst EU regulators, (3) quality of services provisions and (4) the screening of existing UK legislation.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The European Commission is required to review the application of the Directive by 28/12/2011 and every three years thereafter. BIS is also scheduled to undertake a Post Implementation Review in 2012.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

A handwritten signature in black ink, appearing to read 'Ian Lucas', with a long horizontal flourish extending to the right.

Signed by the responsible Minister:

Date: 03 October 2009

Summary: Analysis & Evidence

Policy Option:	Description: Impact Assessment of the Implementation of the Services Directive
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' The cost from establishing the UK Point of Single Contact will be borne by government. Some costs will arise from administrative cooperation and will fall to both government and regulators. Establishing a consumer portal will also represent a cost to government.
	One-off (Transition)	Yrs	
	£ 17.4m	4	
	Average Annual Cost (excluding one-off)		
	£ 1.7m	10	Total Cost (PV) £ 28.8m
Other key non-monetised costs by 'main affected groups' The provision of information under quality of services will fall on service providers. As part of screening exercise, government have reviewed over 6,000 existing acts of legislation that regulate service provision in order to remove legislative and administrative barriers - this will provide a cost for government.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' This is the estimated annual benefit for the UK economy as a whole when the Directive is implemented by all Member States. Benefits are not separated into one-off and annual benefits because it is uncertain how long it will take for the overall benefit to the economy to be realised.
	One-off	Yrs	
	£ N/A		
	Average Annual Benefit (excluding one-off)		
	£ 4.1 - 6.1 bn p.a.	10	Total Benefit (PV) £ 4.1 - 6.1 bn p.a.
Other key non-monetised benefits by 'main affected groups' Businesses and competent authorities will benefit from substantial time savings from the availability of more information (reducing the administrative processes and compliance time). Consumers will benefit from the availability of more information relating to the quality of service being provided.			

Key Assumptions/Sensitivities/Risks The benefits presented here are based on the timely and effective implementation of the Directive by all Member States. Risks for the implemented options are set out in more detail in the individual Impact Assessments.

Price Base Year	Time Period Years 10	Net Benefit Range (NPV) £ N/A	NET BENEFIT (NPV Best estimate) £ N/Q
What is the geographic coverage of the policy/option?		EU	
On what date will the policy be implemented?		28 December	
Which organisation(s) will enforce the policy?		BIS/Commission/	
What is the total annual cost of enforcement for these		£ N/Q	
Does enforcement comply with Hampton principles?		Yes	
Will implementation go beyond minimum EU requirements?		Yes	
What is the value of the proposed offsetting measure per year?		£ N/A	

What is the value of changes in greenhouse gas emissions?		£ N/A		
Will the proposal have a significant impact on competition?		Yes		
Annual cost (£-£) per organisation (excluding one-off)	Micro N/Q	Small N/Q	Medium N/Q	Large N/Q
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)

(Increase -
Decrease)

Increase £ N/Q Decreases £ N/Q **Net** £ N/Q

Key: **Annual costs and benefits:** (Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Executive Summary

Although services account for more than 70% of EU output and comprise almost 70% of EU employment, the shares of intra-EU trade (24%) and investment in services are relatively low. Although this is reflective of services being generally less tradable than goods, there is also evidence that the Internal Market for services is not as fully functioning as it could be. This is because of how regulatory requirements differ by Member States. Government intervention, through the implementation of the Services Directive, is required to directly address these barriers which have arisen from both the differences in regulations across Member States and the information asymmetry⁴⁶ in relation to the quality of the service being provided (currently resulting in reduced confidence in services provided from providers established in other Member States).

All Member States have an obligation to implement the Directive by 28 December 2009. The Directive will apply to all economic service activities supplied by providers established in the EU. The Directive has also been incorporated into the European Economic Area (EEA) Agreement, which means that the Regulations apply to the EEA states of Iceland, Liechtenstein and Norway in addition to the 27 EU Member States. All references to the EU Member States should be read as including the EEA states where appropriate.

The objective is to help liberalise the service sector within the EEA states, facilitating trade and further opening the EEA service sector to competition. UK exporters are well placed to lead the UK's economic recovery through boosting economic growth and competitiveness. Implementation of the Directive will reduce the uncertainty and administrative costs that service exporters currently face. This will increase the level of output produced by firms (thus helping increase productivity) and the welfare of individuals in the UK, create employment opportunities across different service sectors as well as increase the choice and quality of services available to consumers (whilst maintaining levels of consumer protection).

BIS's Public Service Agreement 6 is to "Deliver the conditions for business success in the UK", which the Directive will help achieve. The Directive is also in line with BIS's Departmental Strategic Objectives of:

- Delivering free and fair markets, with greater competition, for businesses, consumers and employees and
- Ensuring that all government departments and agencies deliver better regulations for the private, public and third sectors

Although there are caveats to these benefits, given the current global economic downturn, it is estimated that the implementation of the Directive by all Member States will bring the following benefits to the UK:

⁴⁶ An information asymmetry is where one party has more or better information than the other, which can cause an outcome that is inefficient.

- Welfare increases of between 0.4% and 0.6% per annum, which equates to an increase of £4.1 billion to £6.1 billion per year.
- Increased output by up to 4.2%.
- Prices for services will fall by between 0.3% and 4.6%.
- Increased cross-border trade of up to 6.1%.
- Increased employment opportunities with potentially up to 81,000 jobs being created in the UK.

UK Small to Medium Sized Enterprises in particular are set to benefit because they are disproportionately affected by barriers to establishment. The costs of overcoming such barriers are often independent of firm size and given that small-to-medium enterprises account for 44.2% of the UK service sector, the UK stands to benefit significantly from the implementation of the Directive.

To achieve the aims of the Directive of removing and/or reducing legislative and administrative barriers which restrict market entry by EEA and domestic service providers, a package of measures (that reached political agreement in 2006) will be applied in each Member State. These include:

- the establishment of a Point of Single Contact through which service providers will be able to find the information and complete the requirements needed for doing business in another Member State,
- administrative cooperation between EEA regulators, thereby improving supervision across the Single Market whilst reducing burdens to service providers,
- provisions for quality of services which should increase consumer confidence in services being provided by firms established in other Member States and
- screening of legislative acts to identify unnecessary regulatory requirements and remove restrictions that cannot be justified.

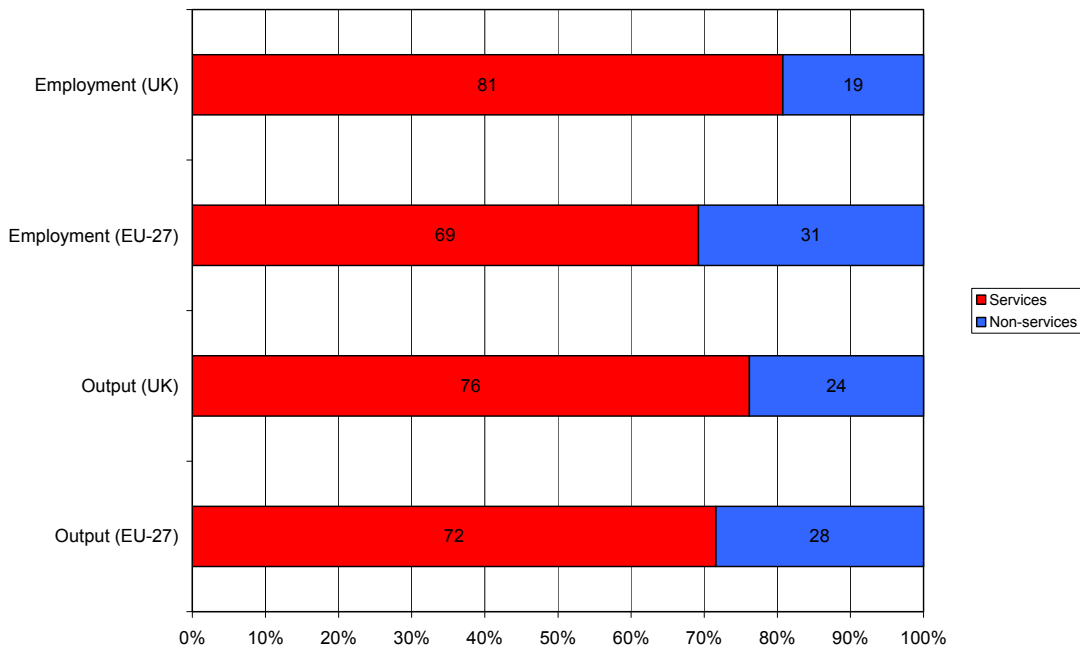
An overarching Impact Assessment is presented first that assesses the overall expected economic impact of the Directive. This is followed by individual Impact Assessments for each of the 4 policy tools of the Directive; the Point of Single Contact, administrative cooperation, quality of services provisions and the screening of existing UK legislation. These set out in detail the estimated costs for each policy area as well as the direct time savings from those stakeholders affected by these 4 policy tools.

Strategic overview

The European Union (EU) is based on the 'four freedoms' - the free movement of goods, services, capital and labour - but evidence shows that the internal market for services is not functioning as well as it could be.

The economic importance of the service sector to the EU is illustrated in that the service sector accounts for over 70% of EU economic activity, and a similar figure for EU employment. The latest data show that services represent a greater proportion of economic activity for the UK than for the EU; latest data for 2007 shows that services accounted for 76% of UK output and 81% of UK jobs⁴⁷ (see Figure A1).

Figure A1: Relative size of the service sector; output and employment (2007)



Source: Eurostat

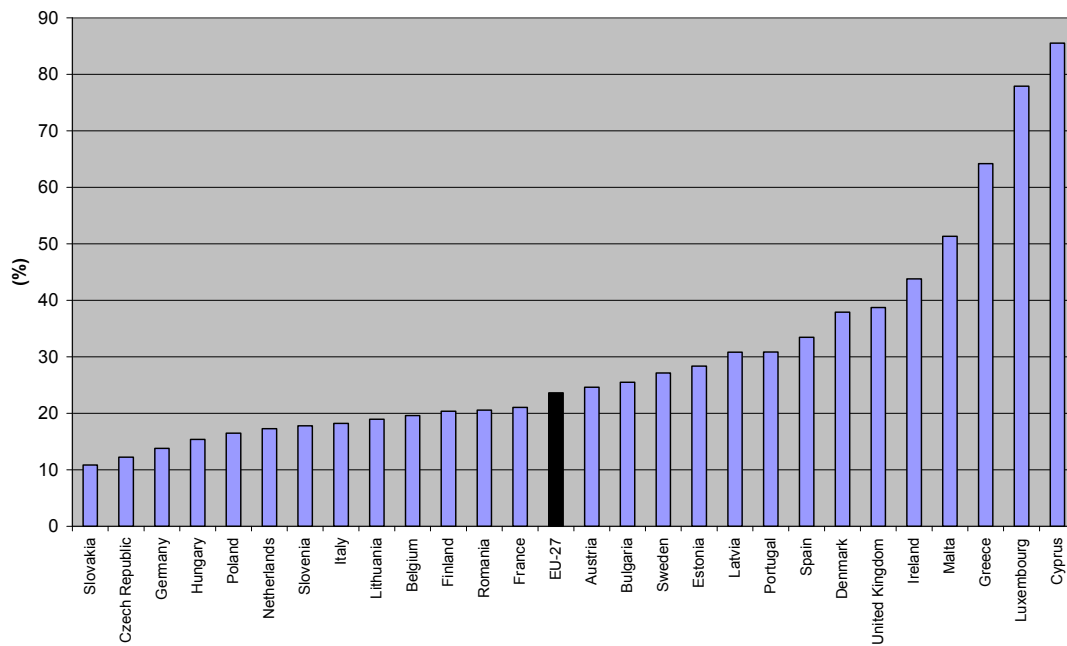
The extended Impact Assessment published by the European Commission⁴⁸ also provided further evidence on the relative importance of the service sector to the EU; service providers represented 86% of the EU firm population in 2000, and accounted for 96% of total net job creation in the EU between 1997 and 2002. Services have also become an important input in the production process of other products, and have also increasingly becoming an integral part of economic activities that have been traditionally considered as being manufacturing-based. This is indicative of recent trends where production services have been separated out from manufacturing activities (for example, the outsourcing of accounting services).

However, one reason why the internal market for services is not thought to be as well functioning as it could be is that the relative importance does not seem to be reflected in either the trade or investment figures. Latest estimates (2007) show that services account for less than a quarter of all intra-EU trade (24%). As Figure A2 shows, although this figure does vary by Member State, only 5 countries have an intra-EU share of trade in services greater than 40% (Cyprus, Luxembourg, Greece, Malta and Ireland). Although it is important to realise that these seemingly relatively low trade figures are not necessarily indicative of barriers to trade in the service sector (for instance, services are inherently less tradable than goods), these trade data are interesting nevertheless.

⁴⁷ Jobs are the preferred measure of employment at the industry level as this takes into account workers with more than one job and hence gives a more accurate indication of the industry profile of employment. A worker-based measure does not allow for this. Jobs-based data are not available for the EU so these EU employment data may be somewhat skewed.

⁴⁸ European Commission (2004), 'Extended Impact Assessment of Proposal for a Directive on Services in the Impact Assessment' available at http://ec.europa.eu/internal_market/services/docs/services-dir/impact/2004-impact-assessment_en.pdf

Figure A2: Share of intra-EU trade in services by Member State (2007)



Source: Eurostat

These relatively low trade shares can be partly explained by the fact that cross-border trade is only one approach to trade in services. General Agreement on Trade in Services (GATS) define trade in services as the supply of a service through any of the following 4 modes of supply, which each depend on the presence of the supplier and consumer at the time of the transaction:

- 1) *Cross-border supply*: Services supplied from one country to a customer in another
- 2) *Consumption abroad*: consumers from one country travel to the service provider in another country (for example, tourism services)
- 3) *Commercial presence*: a company from one country setting up subsidiaries or branches to provide services in another country
- 4) *Presence of natural persons*: individuals travelling from their own country to supply services in another (for example, legal services)

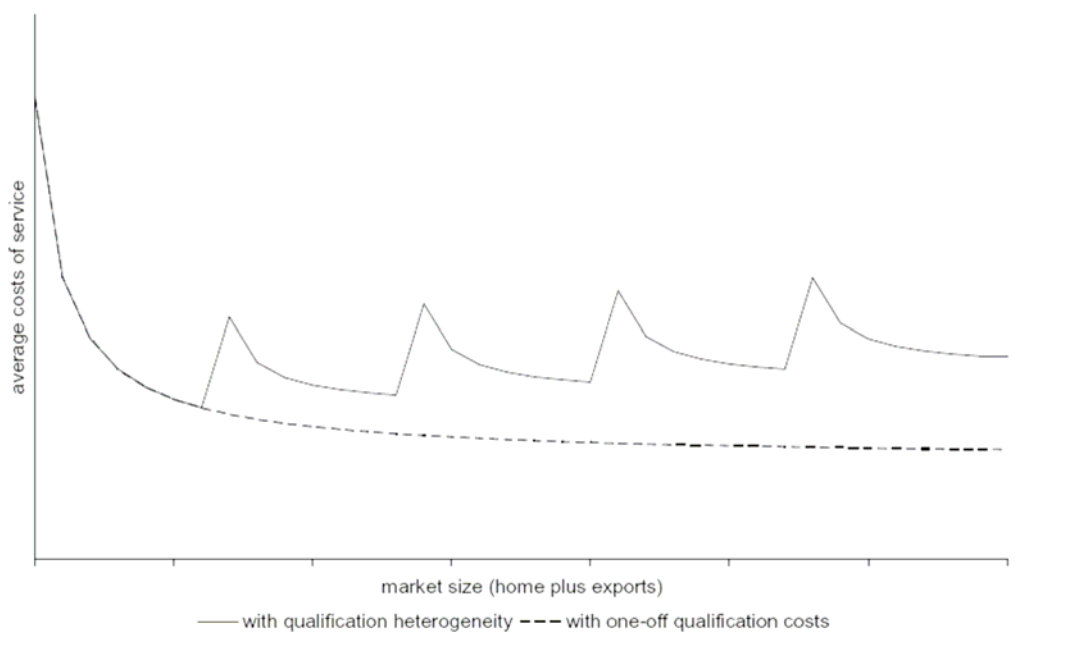
Given that international trade statistics only capture cross-border supply of services, it is useful looking at investment figures. 'Commercial presence' is where a firm from one country sets up subsidiaries or branches to provide in another country. Instead of being captured in trade statistics, investment flows partly capture this mode of service supply. Recent data show that this seems to be low compared to the level of services activity. In 2006, foreign direct investment (FDI) in services accounted for less than half of total FDI flows. The levels of FDI flows in goods have increased at a markedly faster rate than that for services in recent years, a possible indication that barriers in the service sector are present. The disproportionate low share of trade and investment in services for the EU may be in part reflecting the barriers to trade in services in the EU.

The issue

Kox et al (2005)⁴⁹ illustrated why differences in regulation and requirements across Member States (which are each potential export markets) represent a cost to exporters; importantly these regulatory differences are particularly pertinent for service providers. In a scenario where there is little difference in the country-specific requirements that service providers face, a one-off fixed cost to comply with these regulations is only incurred. Once this cost has been incurred, the exporter is then able to export to other Member States at no additional significant compliance cost; as the requirements are not country-specific, there is no additional cost to exporting other Member States.

However if each Member State has its own national set of requirements, then the exporter will need to meet the set of requirements imposed by each country. This means that the exporter is faced with compliance costs to each Member State he wishes to export to. This is illustrated in Figure A3.

Figure A3: Cost effect of regulation heterogeneity to exporters



Source: Kox et al (2005)

Where country-specific fixed costs are present, these can act as barriers to entering markets. These costs can affect more adversely SMEs as these costs tend to be independent of firm size. There is evidence that SMEs are disproportionately affected by regulation, with the European Commission⁵⁰ estimating that for every €1 per employee a large business spends on compliance, a medium sized company spends up to €4 and a small business can expect to spend up to €10. The costs of complying with individual countries' regulations are independent of the size of a firm; they depend on the level of heterogeneity in the regulations of each country. Given that 44.2% of the UK service sector is comprised of SMEs, this issue is particularly pertinent for the UK. Figure A3 shows that a scenario where there is greater homogeneity in regulation across the EU is more desired for service exporters, and in particular small and medium sized enterprises.

This underpins the rationale for government intervention. The European Commission's report on *The State of the Internal Market for Services* (2002)⁵¹ identified many of the barriers that were thought to be affecting service providers in the EU. This was based on the perception by

⁴⁹ Kox, Lejour and Montizaan (2005), 'The free movement of services within the EU' available at http://www.cpb.nl/eng/news/2005_40.html

⁵⁰ European Commission (2007), 'Models to reduce the disproportionate regulatory burden on SMEs' http://ec.europa.eu/enterprise/entrepreneurship/support_measures/regmod/regmod_en.pdf

⁵¹ European Commission (2002), 'The State of the Internal Market for Services' available at http://ec.europa.eu/internal_market/services/services-dir/background_en.htm

interested parties according to the consultations carried out by the Commission and Member States, or which arose from complaints, written and oral Parliamentary questions, petitions or studies and surveys. These barriers, which are measures that are liable to “prohibit, impede, render more costly or onerous or otherwise render less advantageous service provision between Member States” explain why the internal market for services is not as well functioning as it could be. Trade in services are more affected by regulatory barriers than trade in goods. With goods, it is only the goods themselves that is exported. However service provision can include the cross border movement of the service provider, staff and equipment, all of which may be subject to requirements that are different to the exporting country (for example, the existence of national requirements for professional qualifications).

Although the barriers are widespread across different service activities and at different stages of the business process, the Commission identified 3 broad common features:

- Barriers often arise from administrative burdens
- Legal uncertainty associated with cross-border activity
- Lack of mutual trust between Member States

Administrative burdens are particularly an issue for SMEs. According to the Observatory of European SMEs, 36%⁵² of SMEs are to have faced difficulties with excessive administrative regulations over the past 2 years, the second largest business constraint for SMEs in the EU. Legal and economic uncertainty arises from the lack of clarity on the regulations and how they are implemented. Government intervention is required to address these barriers, which have arisen from the differences in regulations across Member States and the information asymmetry in relation to the quality of the service being provided. This is required to create a more competitive market in services - a prerequisite to promote economic growth and create jobs in the EU. The implementation of the Directive is intended to improve the functioning of the internal market for services, aimed at all different types of service provision.

- where the service provider establishes in another Member State
- where the provider moves temporarily to the country where the customer is located
- where the provider provides services at a distance from his country of establishment
- where the provider provides services in his home Member State to a customer who has travelled from another Member State

The Directive will apply to all economic service activities supplied by providers established in the EU. The Directive has also been incorporated into the European Economic Area (EEA) Agreement, which means that the Regulations apply to the EEA states of Iceland, Liechtenstein and Norway in addition to the 27 EU Member States. All references to the EU Member States should be read as including the EEA states where appropriate.

The services to which the Directive applies are those that are performed for an “economic consideration”. There are some exemptions from the scope of the Directive (see Box 1), which covers approximately two-thirds of all services traded in the EU. Given that the EU accounts for over 45%⁵³ of the UK’s trade in services (2007), an effectively implemented Directive will be particularly relevant to the UK.

52 European Commission (2007), ‘Observatory of European SMEs’ available at http://ec.europa.eu/enterprise/enterprise_policy/analysis/doc/2007/02_summary_en.pdf

53 Office for National Statistics (2009), ‘United Kingdom Balance of Payments - Pink Book 2009’ available at http://www.statistics.gov.uk/downloads/theme_economy/PB09.pdf

Box 1: Scope of the Directive

The Directive applies to services supplied by providers established in a Member State, with the following exemptions:

- Non-economic services of general interest
- Financial services
- Electronic communications services and networks
- Services in the field of transport
- Services of temporary work agencies
- Healthcare services whether or not they are provided via healthcare facilities
- Audiovisual services
- Gambling activities
- Activities which are connected with the exercise of official authority as set out in Article 45 of the Treaty
- Social services
- Private security services
- Services provided by notaries and bailiffs

As outlined in the Transposition Note⁵⁴, which explains how the Services Regulations transpose the Services Directive, these regulations do more than is necessary to implement the Directive only in the following areas:

- Regulation 5(4) limits the definition of 'provider' in regulation 4 to those established in a Member State, in accordance with Article 4.2 of the Directive, but this limitation does not affect Part 2 of the regulations (Duties of Service Providers). This means that anyone providing a service in the UK is subject to Part 2 of the Regulations, regardless of whether they are established in a Member State.
- Regulation 33 transposes Article 23.2, which requires Member States to recognise equivalent or essentially comparable professional liability insurance or guarantees held by a provider in another Member State where the provider is established. The duty in Article 23.2 benefits only providers establishing in the UK, not those operating temporarily. In contrast, regulation 33 extends the duty to both these categories of provider.

Otherwise, these regulations do what is necessary to implement the Directive.

Objectives

The objective of the Directive is to liberalise the EEA service sector. UK exporters are well placed to lead the UK's economic recovery through boosting economic growth and competitiveness. BIS's Public Service Agreement 6 is to "Deliver the conditions for business success in the UK", which the Directive will help achieve. The Directive is also in line with BIS's Departmental Strategic Objectives of:

- Delivering free and fair markets, with greater competition, for businesses, consumers and employees
- Ensuring that all government departments and agencies deliver better regulations for the private, public and third sectors

This Impact Assessment assesses the potential benefits of implementation of the Services Directive to the UK, both at the economy and sector level. Economic theory states what the effects are as a result of more open economies - openness leads to increased specialisation

⁵⁴ BERR (2009), 'Services Regulations: Transposition Note' available at <http://www.berr.gov.uk/whatwedo/europeandtrade/europe/services-directive/implementation/page51289.html>

and trade, with the increased levels of competition lead to greater investment and innovation by firms, increasing productivity. The increased levels of trade and investment generate prosperity and increased choice for consumers.

However the benefits that result from more open markets are very difficult to quantify. There have been numerous studies that have attempted to quantify the benefits from a more open economy.

- Analysis from the European Commission's competitiveness report (2007)⁵⁵ showed that a one percent increase in openness of an economy results in 0.6% increase in labour productivity the following year.
- Work by the Organisation for Economic Co-operation and Development (OECD)⁵⁶ suggests that a 10 percentage point increase in trade openness translates into increase of around 4% in per capita income.
- The latest European Commission's competitiveness report (2008)⁵⁷ reported that a one percentage point increase in share of trade in GDP raises the level of income by between 0.9 and 3%.

The European Commission's competitiveness report (2008) also quantified the gains from trade within the EU. It is estimated that if trade barriers within the EU are reduced by 5%, there would be a productivity increase of 2%.

Opening markets in the services sector has a positive effect on the whole economy. This is because the service sector interacts with the rest of the economy - all sectors of the economy may use services; for example, recent trends have seen manufacturing firms becoming increasingly likely to use accountancy, engineering or cleaning services to name just a few. Changes in the services sector (such as on prices and productivity) will be transmitted to the output of the manufacturing firm. Likewise as the service sector grow, more opportunities will become available to people. This means that there is scope for real economic benefits to be realised across the economy.

Consequently, simple calculations of benefits from time saved will not capture the *full* benefits of service sector liberalisation. The preferred method is to use an economic model of the whole economy. This provides an indication of how large the benefits might be by trying to capture the effects of a more competitive market. A study by Kox et al (2005) estimates the effects on trade and FDI if the Directive is fully implemented. Bilateral trade in commercial services is estimated to increase by between 30% and 60%; this is equivalent to an increase of 2% to 5% as a proportion of total intra-EU trade. In terms of FDI, the Directive may lead to an increase by 20 to 35% in the stock of FDI in commercial services.⁵⁸

⁵⁵ European Commission (2007), 'Raising productivity growth: key messages from the European Competitiveness Report 2007', SEC (2007) 1444 available at http://ec.europa.eu/enterprise/enterprise_policy/competitiveness/1_eucompetrep/eu_compet_reports.htm

⁵⁶ Organisation for Economic Cooperation and Development (2003), 'Sources of Economic Growth in OECD Countries' available at http://www.oecd.org/dac/ictcd/docs/otherdocs/OtherOECD_eco_growth.pdf

⁵⁷ European Commission (2008), 'Communication from the Commission on the Competitiveness Report 2008', COM (2008) 774 final available at http://ec.europa.eu/enterprise/enterprise_policy/competitiveness/1_eucompetrep/eu_compet_reports.htm

⁵⁸ It should be noted that the Kox et al (2005) study was carried out around the time that the Directive was being negotiated, meaning it modelled a more far-reaching opening of services markets than the adopted Directive. The study undertaken by Copenhagen Economics (whose results are presented here) estimates the impact of the adopted Directive on the UK economy. This is one reason why the estimated benefits published by Kox et al (2005) are significantly higher than those estimated by Copenhagen Economics.

Options identification

Although the Directive is not a complete liberalisation of the EEA service sector (intra-EEA trade in services would still exist without the Directive and that for certain services one should not expect to see large increases in cross-border trade given their non-tradable nature), there are still significant economic benefits to be realised. If the UK was not to implement the Directive, not only would these benefits not be realised but it would also be infracted by the Commission as all Member States are required to implement the Directive by 28 December 2009. The long term implications would be that the internal market for services would function as it currently is meaning that the free movement of services would continue to be hindered.

To specifically address the barriers that have been identified (administrative burden, legal uncertainty and lack of mutual trust) and to achieve the overriding objective of liberalising the EEA service sector, the implementation of the Directive has 4 main tools;

- Point of Single Contact,
- Administrative Cooperation,
- Quality of Services and
- Screening

Impact Assessments have been produced for each of these 4 policy areas. These outline how these proposed policy responses will address the barriers that have been identified as affecting the internal market for services and achieve the overall objective of facilitating the trade of services within the EEA. The costs established in implementing the Directive (both quantitative and qualitative) and the estimated direct savings from each of these areas are also included. Broadly speaking, these tools will enable service providers to exercise the 2 freedoms; the freedom of establishment and the freedom to provide services. This will make it easier for service providers to either establish in other Member States or make use of the free movement of services, increasing the choice offered to businesses and consumers.

Analysis

This overarching Impact Assessment describes the estimated economic impact of implementing the Directive to the UK. (A full analysis of the expected costs, and who they will be borne by, can be found in the individual Impact Assessments.) Copenhagen Economics updated previous studies that estimated the benefits of implementation for the EU (Copenhagen Economics, 2005⁵⁹). In this UK study⁶⁰, they looked at the adopted Directive and modelled the effects from a UK perspective. Copenhagen Economics estimated both the benefits for the UK where:

- all EU Member States implement and
- only the UK implements (see Box 2)

The study carried out by Copenhagen Economics shows that the Directive will result in real benefits for businesses, consumers and government alike, with projected increases in trade, lower costs and prices of services and more jobs to name just a few.

The impact of the Services Directive on the UK economy is analysed using the same detailed bottom-up approach and data presented in Copenhagen Economics (2005) in work undertaken for the European Commission. There are 4 service sectors are included in the model:

- Regulated professions
- Business services,
- Distributive trade and
- Construction services.

⁵⁹ Copenhagen Economics (2005), 'Economic Assessment of the Barriers to the Internal Market for Services' available at http://ec.europa.eu/internal_market/services/docs/services-dir/studies/2005-01-cph-study_en.pdf

⁶⁰ BERR (2008), 'The potential economic benefit to the UK from implementation of the adopted Services Directive', available at <http://www.berr.gov.uk/files/file42381.pdf>

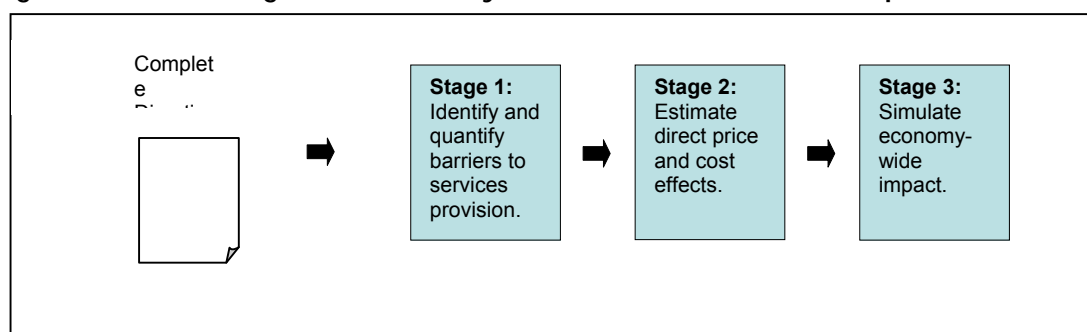
The sectors regulated professions, business services and distributive trade are explicitly included in the analysis of the Services Directive. Table A1 gives an overview of the definition of these sectors.

Table A1: Service sector definitions

Sector	Example	NACE codes
Regulated professions	Legal, accounting, business and management consultancy	741
Business services	IT services, recruitment, cleaning, real estate	70 - 73, 742 - 744
Distributive trade	Wholesale trade, retail trade	50 - 52

The benefits are estimated using an economic model which simulates the economy. The economy is complex with many interactions between sectors, consumers and producers etc. The economic model is built by making assumptions about these interactions (for example, how the demand for services changes in response to changes in price and how changes in wages influence people's willingness to work). The stages of the analytical framework are outlined in Figure A4.

Figure A4: The stages of the analysis of barriers to services provisions



Stage 1

A detailed assessment of current barriers to services provision was carried out, which was based on a comprehensive set of objective and detailed questions regarding restrictions on service provision in the Internal Market. The questionnaire was based on the barriers identified by the European Commission in its report *The State of the Internal Market for Services* (2002).

Stage 2

The direct effect of barriers on the costs and prices of services provision are estimated using econometric analysis to estimate the direct economic impact of current barriers. To estimate the effects of barriers, "tariff equivalents" were computed, which are hypothetical taxes that are computed to create the effects that are equivalent to the effects of these barriers. There are 2 types of barriers, both of which result in the higher price of services:

- Rent creating barriers
- Cost creating barriers

Rent creating barriers are those that serve to protect incumbent service providers. This reduction in competitive pressures means that these incumbent firms are able to charge higher prices for their services. Cost creating barriers are those that cause real costs for service providers (for example, the requirement of excessive paperwork). This increases the amount of resources of firms have to use when trading, and result in higher prices being charged to cover for the increased cost.

Stage 3

Based on the estimated tariff equivalents, the economy-wide effects of the Services Directive are calculated in the third stage using the Copenhagen Economics Trade Model. The model represents state-of-the-art developments within general equilibrium models of services trade and it has been specially designed for the analysis of barriers to trade and foreign direct investment. The model captures all linkages between the different sectors of the economy and it therefore allows for an economy-wide assessment of barriers to services trade.

The potential economic benefits of implementation of the Directive, as calculated by the model, are driven by changes in legal and regulatory barriers, but are contingent on the effective and timely implementation of the Point of Single Contact; administrative cooperation; quality of services provisions; and the screening of UK legislation. This is because the model assumes that the market responds to *all* these changes. The provisions in the Directive all act to improve the functioning of the services market and to increase competition in the market by facilitating market entry for both domestic and EU firms. However this makes it impossible to disentangle the benefits of each individual policy response from the overall benefits. The benefits of options for their implementation (set out in the individual Impact Assessments) therefore only include *direct* benefits such as the value of time saved.

(1) Benefits to the UK when all Member States implement the Directive

The benefits to the UK economy from the Directive are driven by 2 mechanisms:

- A further opening of the UK services market allows for easier foreign (and domestic) entry into the service sectors covered in the analysis. This reduction in rent-creating barriers increases the level of competition in these markets, resulting in lower prices and spill-over effects on the rest of the UK economy.
- UK firms experience lower regulatory costs when exporting to other Member States

In theory, implementation of the Directive should deliver the following high economic benefits:

- Increased productivity in the UK services sector and other parts of the economy, improving its competitiveness in the global economy. ⁶¹
- Higher levels of domestic output, investment, wages and standards of living.
- A wider range of new, more innovative and better quality services at lower prices. Greater innovation and investment could arise from firms investing the cost savings made from the reduction in legal and administrative barriers, and/or by the transfer across national borders of new technologies and more efficient business models and processes.

The implementation of the Directive will mean that UK service providers will find it easier to enter the markets of other Member States. The cost of entering the market of another Member State at present may be higher for UK service providers than for providers in other Member States to enter the UK market. This is because the process of starting a business is sometimes more complex and can take longer in some other Member States than in the UK, as suggested by the World Bank's *Doing Business 2009* report⁶². It is estimated that starting a business in the UK requires 6 procedures and the process takes 13 days. Across EU Member States the number of procedures varies between 3 and 15 procedures, taking between 4 and 49 days. The Directive should make the process easier and will reduce the costs of providing

⁶¹ ONS analysis finds that SMEs that trade internationally are more productive than those that do not. As such, there may be a further boost to productivity if the number of SMEs trading with other countries increases - since this greater competition may drive out less efficient firms in the domestic market.

⁶² World Bank (2009), 'Doing Business 2009' available at http://www.doingbusiness.org/Documents/FullReport/2009/DB_2009_English.pdf

services in another Member State. By lowering barriers to entry, and through removing unjustifiable restrictions to market entry, more UK firms should be able to operate in other Member States.

For each of these estimated benefits, a range of results are presented (“low” and “high”). This results from changes in the assumptions about modelling the price-barrier elasticity and the labour supply elasticity. This reflects some of the uncertainty as to how service providers and consumers will respond to the Directive when it is implemented.

The main benefits to the UK, when all Member States implement the Directive, are set out below. It should be noted though that there are risks associated with these estimated benefits, especially in the short-term while Europe is affected by the global downturn. These are subsequently explained in more detail. Although caveats should be placed on these benefits, it is worth bearing in mind though that implementing the Directive will ultimately help stimulate economic growth in both the UK and EEA.

- **Welfare increases** of between 0.4% and 0.6% per annum, which equates to an increase of £4.1 billion to £6.1 billion per year.⁶³
- **Increased output.** Domestic firms increase output proportionally more than EU firms in the regulated professions, business services and distributive trade sectors. This is because they should experience a greater reduction in barriers than equivalent firms in some EU countries. The increase in value added varies by services sector because the change in barriers varies by sector and its relative importance to the national economy. Value added is estimated to increase by 3.1% - 4.2% for the regulated professions and by 0.1% for construction.
- **Prices for services will fall** by between 0.3% (for construction and business services) and 4.6% (for regulated professions). A decrease in prices is indicative of a higher level of competition in the market.
- **Increased cross-border trade.** The percentage change in cross-border trade, measured as an increase in exports within the EU, also varies by service sector. The largest change is seen for the regulated professions, where UK exports may increase up to 6.1%. Construction shows an increase of 0.4%.
- **Increased employment** - up to 81,000 jobs could be created in the UK by implementing the Directive (an increase in employment of up to 0.3%). The regulated professions enjoy the greatest growth in employment (2.1 - 3.0%).

The composition of the services sector will also impact on demand for services. Higher value-added services pay higher wages, which may increase employees’ consumption levels and their demand for services. The effect of the Directive on value added and wages will drive demand for services, which could lead to growth in employment in services.

(2) Benefits to UK sectors when all Member States implement the Directive

Table A2 gives an overview of the expected gains for UK sectors as a result of the Directive being implemented by all Member States. It can be seen that all 4 sectors benefit from the Directive being implemented, in terms of increased trade and output, reduction in the cost of services (which translates as a reduction in prices for consumers) and increased employment opportunities. Regulated professions are the main drivers of the economic benefits because the highest barriers are in this sector. The Directive causes these to fall proportionally more for the regulated professions than other service sectors.

Table A2: Results of the Copenhagen Economics study: UK sectoral gains (% change)

	Regulated	Unregulated	Distributive	Construction
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⁶³ The economic model is calibrated to 2001, when UK GDP was £1,021,828 million (Blue Book 2008)

	business services	business services	trade	
Employment	2.1 - 3.0	0.3 - 0.8	0.5 - 1.0	-0.3
Market size	0.8 - 1.3	0.7 - 1.1	0.1 - 0.3	-0.1
Cost of services	-3.6 to -4.6	-0.3 to -0.4	-1.2 to -1.6	-0.3
Cross-border trade: exports	3.5 - 6.1	1.0 - 1.5	3.2 - 4.2	0.4 - 0.5
Cross-border trade: imports	3.4 - 3.5	0.7 - 0.8	0.5 - 0.7	0.1
Value added	3.1 - 4.2	0.7 - 1.2	1.0 - 1.5	0.1

(3) Benefits to other groups

The estimated calculations show that the Directive will result in significant economic benefits, both for the UK economy for different service sectors. However it is important to recognise that there will also be more direct benefits for businesses, consumers and government.

Businesses

Service providers will primarily benefit from the establishment of point of single contacts across the EEA, which directly addresses the need for administrative simplification. The point of single contact will make it easier for businesses to set up in that Member State and will reduce the time taken to search for relevant information and make it easier to complete procedures online. Administrative cooperation will also benefit UK service providers who operate in other Member States by eliminating the need to provide the same information to their home and host competent authorities. The process of screening identifies unnecessary regulatory requirements and removes unjustifiable restrictions, which should facilitate trade by making it easier for firms to do business. Benefits would also accrue to UK-based service providers through easier access to a much larger potential customer base.

Consumers

The quality of service provisions will benefit all service recipients, aiming to promote high quality service provision (while avoiding unnecessary burdens on service recipients) and easier access to information about consumer rights on cross border trade in services within the EEA. Consumers also gain from the overall beneficial macroeconomic effects; there is a wider range of new, more innovative and better quality services at lower prices, whilst an increase in employment would lead to greater opportunities for job seekers to find employment. In addition, higher wages and improved standards of living mean society as a whole benefits. Consumers and producers in the UK will benefit from a fall in the cost of services that they purchase from both domestic and foreign firms (Table A3). The significant changes are as follows:

Table A3: Price reductions for services when all Member States implement (%)

	Regulated professions	Business services	Distributive trade	Construction services
Cost of services provided by UK firms	-3.6 to -4.6	-0.2 to -0.4	-1.4 to -1.8	-0.3
Cost of services provided by other EU firms	-2.5 to -4.4	-0.4 to -0.5	-0.5 to -1.1	-0.3 to -0.4

Source: CETM model - Copenhagen Economics

UK Government and regulators

There is evidence to suggest that the implementation of the UK point of single contact will lead to an increase in the rate of business compliance. This is because by providing information on business establishment and simplifying the process of complying, the point of single contact will enable firms to be better informed when establishing and therefore more likely to be aware of all the necessary procedures. Regulators stand to benefit from there being a greater rate of compliance. For government there is the additional benefit of higher fiscal revenues, stemming from the macroeconomic benefit of higher levels of domestic output, employment, investment and wages.

Box 2: Benefits to the UK when only the UK implements the Directive

The benefits of the scenario in which *only* the UK implements the Directive are also modelled. Although this is a hypothetical scenario as it is required that all Member States implement the Directive, this shows that there are benefits to be realised from opening just the UK market for services (and that these are still significant and greater than the costs of implementation).

This happens because further opening of the UK services market allows for easier EU (and domestic) entry into the service sectors covered by the Directive. The process of simplification and deregulation will benefit all potential service providers to the UK market, not just those from the EU. This reduction in rent-creating barriers increases the level of competition in these markets.

As services are used by households and businesses, the effect of the Directive in lowering prices of services will be passed onto firms which use these services, and so spread to other sectors of the economy. In the longer-term, benefits from the increased entry of EU service providers to the UK market may provide additional benefits as their own research and development and innovations pass to domestic firms. A more competitive services market should increase the international competitiveness of service providers.

It is estimated that there will be an increase of 0.14 - 0.26% in UK GDP. Using this GDP figure, the potential increase in welfare for the UK is of the order of £1.4 - £2.7 billion per year. This analysis tells us that the UK should still gain by implementing the Directive, even if other Member States do not implement it.

Table A4: Summary of the economy-wide impacts of implementing the Services Directive (% change)

	Only UK implements	Only UK implements	All Member States implements	All Member States implements
	<i>Low</i>	<i>High</i>	<i>Low</i>	<i>High</i>
Welfare	0.14	0.26	0.4	0.6
Real wage	0.28	0.29	0.3	0.5
Return to capital	0.19	0.42	0.5	0.7
Total employment	0.0	0.28	0.0	0.3

Table A4 summarises the estimated gains to the UK from the Directive, both when only the UK implements and when all Member States implement. As expected, the benefits are greater to the UK when all Member States implement because of the additional mechanism of the reduced administrative burden on UK exporters. However it is important to note that the UK still experiences significant gains from if only the UK were to implement the Directive.

Risks

All Member States are required to implement the Directive by December 28 2009. As this deadline becomes closer, it is crucial for BIS to clearly identify the key risks that could hinder the effectiveness of implementation and to develop strategies accordingly to mitigate both the likelihood of the risks occurring and, if they do materialise, minimise the implications of these risks. For each policy area, the key risks have been outlined in each individual Impact Assessment (as well as the actions BIS has undertaken to likelihood of these risks occurring).

The study by Copenhagen Economics was commissioned in 2007. However the European economy has been affected by the global economic downturn since, which has affected all

the European economies to varying degrees. In early 2009 the European Commission forecasted total exports for the EU to fall by 3½% in 2009. Most recently the World Trade Organisation⁶⁴ expected that global trade would contract by 11% in 2009. Although forecasts for 2009 remain gloomy, more recent forecasts published suggest that the recession is showing signs of bottoming out. In its latest World Economic Outlook, the International Monetary Fund⁶⁵ now expects global economic growth to 2.5% in 2010, higher than its previous estimate of 1.9%. In volume terms, world trade of both goods and services is forecasted to contract by 12.2% in 2009 (revised down from 10%) before growing by 1.0% in 2010 (up from 0.6%). This followed the OECD revising upwards its projections of economic growth in June 2009, the first time it had done so in 2 years⁶⁶.

The large degree of uncertainty surrounding the economic downturn is reflected in these independent forecasts, having been continually revised over the last 12 months (both in terms of how deep the recession will be and how long it will actually last). The timing and pace of the recovery will depend on policy actions. Although it is likely that there will be a downward risk to the annual benefits presented here in the short term, it is not possible to estimate to what extent this will affect the modelled benefits of the Directive. As a result no attempt has been made to adjust the results produced by Copenhagen Economics; instead it is advised that these numbers are presented with the caveat that there are immediate downside risks. However it is important to realise that the Impact Assessment covers a 10 year period and that full benefits of the Directive are expected to accrue over the long term. This should account for fluctuations in the economic cycle (including stabilisation after the current economic crisis), meaning that the estimates presented here are not undermined over this 10 year period.

To mitigate the risk of ineffective implementation, BIS has developed a communications and engagement strategy for the Directive. This is to ensure systematic engagement with all core stakeholders (including UK local authorities and other competent authorities, and UK business groups) in the run up to implementation at the end of December 2009. Details of the strategy can be found in Box 3. The reason for developing this strategy is to increase the likelihood of realising the benefits that have been estimated from implementation of the Directive. For each of the 4 policy areas, not only have the key risks been identified but the course of action that BIS has undertaken so far (and what the Department plans to do) to mitigate them has been outlined. The communications and engagement strategy is one of the main mechanisms through which these risks are being managed, namely by engaging with the core stakeholders to prevent them from materialising. In many cases, the risk arises from stakeholders not being fully aware of their obligations from December 2009.

In terms of the direct costs and the benefits presented in the individual Impact Assessments, where quantified estimates have been presented, a sensitivity analysis has been carried out. This attempts to illustrate the impact of risk through increased costs or lower realised benefits.

⁶⁴ World Trade Organisation (2009), 'World Trade 2008, Prospects for 2009' available at http://www.wto.org/english/news_e/pres09_e/pr554_e.htm

⁶⁵ International Monetary Fund (2009), 'World Economic Outlook Update 2009' available at <http://www.imf.org/external/pubs/ft/weo/2009/update/02/pdf/0709.pdf>

⁶⁶ Organisation for Economic Cooperation and Development (2009), 'Economic Outlook June 2009' available at www.oecd.org/oecdEconomicOutlook

Box 3: Communications and engagement strategy

To date, the communications and engagement strategy has included:

- Running a series of regional workshops plus catch-up events for Local Authorities and other Competent Authorities - bodies that have a supervisory/regulatory role in service activities,
- Delivering presentations to key stakeholders, with more planned before the implementation deadline of the Directive,
- Issuing regular newsletters and other communications to a wide range of stakeholders to update and support them on the implementation of the Directive,
- Establishing regular contact directly with authorities by telephone and email to support and assist them in their preparations
- Business engagement through core stakeholder groups and intermediaries

This is in addition to other activities that BIS have carried out to assist such as issuing newsletters, regular updates to the website, attending events and conferences as well as issuing specific advice and guidance on key aspects of the Directive. Other initiatives such as the setting up of champions groups will allow authorities to discuss issues amongst themselves to identify good practice and issue suggested guidance.

With the assistance of business groups, BIS has also provided business guidance, which explains what the Regulations mean and how they apply in practice to affected service providers. The guidance outlines the obligations and requirements that the Directive imposes on businesses and explains how authorisation procedures are affected.

The estimated staff resources that have been used to-date by BIS, as well as the planned resources after implementation, to put this strategy in place. This captures the staff resources that have specifically been dedicated to communicating and engaging with core stakeholders over the first 4 years of the project.

Year	Staff resources
2007/08	None
2008/09	3 months of 2 Grade 7s; 12 months of 0.5 Higher Executive Officer
2009/10	12 months of 1 Grade 7; 9 months of 1 Grade 7; 6 months of 0.5 Grade 7 8 months of 1 Executive Officer; 6 months of 0.5 Executive Officer
2010/11	12 months of 1 Grade 7

Based on the upper range of 2009 annual staff costs as well as adding 21% to account for non-wage costs, the net present value for the cost of internal resources used is £270,000.

The other costs that need to be accounted for are the materials used to promote and raise the awareness of the Directive. This includes, for example, the various publications that BIS has made available on its website (such as *The European Services Directive: guidance for competent authorities*, *Frequently Asked Questions from the round of workshops that BIS ran for Local Authorities*, *Point of Single Contact flow chart for users*), leaflets for business that explain the Directive's key benefits and sets out the information and redress requirements that the Directive introduces. A budget of £100,000 for 2009/10 and £200,000 for 2010/11 has been made, which in net present value terms amounts to £274,000.

Enforcement

Member States are required to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by 28 December 2009. The legislation will

not increase the regulatory requirements for compliant businesses as the general intention of the Directive is deregulatory. It is aimed at removing or reducing the barriers to the European Internal Market in services.

The key challenges in the implementation of this Directive is to review the regulatory framework of the UK, with a view to ensuring that any such barriers do not continue to exist here, unless they can be justified under the terms of the Directive. Much of the work to achieve this will be within Government and with those bodies that have regulatory functions. Government will be responsible for ensuring the enforcement of the Directive and that it is fair, open and proportionate. It is too early however to quantify what the cost of enforcement will be.

It follows that much of the enforcement of this Directive will require ensuring that Government and other regulatory bodies apply rules, in relation to service providers, which accord with the principles laid out in the Directive and abide by administrative cooperation rules. BIS has developed a communications and engagement strategy to ensure systematic engagement with all UK local authorities and other competent authorities. One of the aims of this strategy is to issue specific advice and guidance to regulatory bodies on key aspects of the Directive.

In addition, there is the requirement to set up Points of Single Contact. Their role is to facilitate access to services markets for service providers, by providing a single point of contact for all the procedures and formalities needed to access and operate in the market, including applications for authorisation from the competent authorities.

There will also be provisions that will require more than the imposition of obligations on regulatory bodies. The proposed Directive will impose obligations on service providers, for example, in the areas of provision of information and in relation to complaint handling. Where an individual consumer or business has a dispute with a service provider, they can take action through the courts. Where there is potential for harm to the collective interests of consumers, Part 8 of the Enterprise Act can be used to enforce these obligations by such bodies as the Office of Fair Trading (OFT), local weights and measures authorities (Local Authority Trading Standards) and the Department of Enterprise, Trade and Investment in Northern Ireland.

Summary of costs and benefits of the 4 policy tools

Table A5 provides a summary of the direct costs and benefits (both quantitative and qualitative) that are expected from implementing the different areas of the Directive that are analysed. Table A5 also includes the estimated benefit-to-cost ratio for each of these policy responses (this only takes into account that costs and benefits that have been possible to quantify).

Table A5: Summary of costs and benefits

	Costs (£m, discounted over 10 years)	Benefits (£m, discounted over 10 years)	Benefit : Cost
Point of Single Contact	25.5	94.2	3.7
Administrative Cooperation	1.7	4.6	2.7
Quality of Services	1.1	N/Q	-
Screening	N/Q	N/Q	-

The summary sheets of each individual Impact Assessment provides an overview of which groups in particular will directly benefit from these parts of the Directive. The main groups that are expected to be principally affected by the implementation of the Directive are businesses, consumers, government, regulators and local authorities. The summary sheets

also outline those costs and benefits that have not been able to be quantified. The underlying details are presented in the individual Impact Assessments.

Monitoring and Evaluation

Monitoring is a vital part of the Directive to ensure that all Member States have implemented the Directive in a consistent way. Article 39 of the Directive states that “by 28 December 2009 at the latest, Member States shall present a report to the Commission, containing the information specified in the following provisions: on authorisation schemes, on requirements to be evaluated and on multidisciplinary activities”.

Mutual Evaluation is a peer review process to ensure that all Member States have implemented in a similar manner. BIS’ plan is to highlight all the restrictions removed by other Member States and to challenge vigorously others where they have attempted to maintain existing barriers to services providers from other countries. Member States must review their regulatory systems in the light of the conditions laid down in the Directive. Any requirements imposed on service providers must be non-discriminatory, objectively justified and satisfy the principle of proportionality. Member States must report on this process by the implementation period (end of 2009). Each report will be submitted to other Member States, who may submit observations, and the Commission will consult interested parties. The Commission will then present a summary report with proposals, where appropriate, for additional initiatives to the European Parliament and Council. The mutual evaluation of each Member States’ screening of legislation will be of importance to ensure the success of the Directive and help formulate future plans in improving the internal market for services.

There is also an obligation imposed on the European Commission, following the completion of reporting procedures referred to above, to report to the European Parliament and Council on the application of the Directive - the first such report will be on 28 December 2011, with further reports every 3 years thereafter. This would be accompanied, where appropriate, by proposals for amendments to the Directive.

Once the Directive is fully implemented in December 2009, BIS will undertake a Post Implementation Review. This is currently scheduled for 2012 and is part of the Department's better regulation strategy. The review will be used to assess whether the Directive is having the intended effect in the UK and whether its policy objectives are being efficiently implemented. This will help track progress against the expected benefits, as well as evaluate the effectiveness of each policy element area. Stakeholder engagement will form part of the review to assess whether the Directive has had the intended positive experiences. Evaluation, interim or otherwise, from the BIS Post Implementation Review may also feed into the report to be completed by the European Commission.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	Yes
Small Firms Impact Test	Yes	Yes
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	Yes	Yes
Disability Equality	Yes	Yes
Gender Equality	Yes	Yes
Human Rights	No	No
Rural Proofing	No	No

Specific Impact Tests

Competition Assessment

SMEs account for the majority of total turnover and employment in many of the service sectors covered by the Directive, although the share varies across the different sectors⁶⁷. In 2007, SMEs accounted for between 46% and 83% of sectoral employment and 48% to 84% of sectoral turnover in the private sector (Table A6).

Table A6: Importance of SMEs and micro businesses in different service sectors in the UK, 2007

	Enterprises	Employment	Turnover
<i>Construction</i>	100.0 (99.8)	83.8 (74.6)	67.4 (54.0)
<i>Wholesale and retail trade; repairs</i>	99.8 (99.0)	45.9 (36.8)	51.8 (36.9)
<i>Hotels and restaurants</i>	99.8 (98.4)	57.0 (45.3)	57.5 (45.8)
<i>Real estate, renting and business activities</i>	99.9 (99.4)	68.3 (55.7)	70.2 (55.8)
<i>Education</i>	99.9 (99.7)	84.1 (72.3)	83.8 (68.5)
<i>Other community, social and personal services activities</i>	99.9 (99.7)	74.4 (67.1)	48.1 (41.2)

Source: Enterprise Directorate figures (2007) <http://stats.berr.gov.uk/ed/sme>

Note: Figures in brackets denote the contribution of small businesses (defined as firms with fewer than 50 employees) to total enterprise numbers, employment and turnover. The majority of micro businesses are sole proprietorships and partnerships run by owner-managers without any staff. Education figures likely to be larger as they do not include enterprises without employees (for disclosure reasons).

Impact on competition

The Directive should have a pro-competitive effect on the affected markets by reducing the barriers to entry faced by service providers from the UK and other EU Member States. Increased competition should be reflected in the form of falling prices and higher output and employment. This is illustrated in Table A2, which shows that the Directive should have the greatest impact in the regulated profession sector. This sector is where the barriers to entry are greatest.

Small Firms Impact Test

Small firms are over-represented in the service sectors: in 2007, 44.2% of UK services (those which are broadly covered by the Services Directive as outlined in Table A1) turnover was generated by small firms (under 50 employees) compared with 18.7% for manufacturing. SMEs are disproportionately affected by barriers to establishment and cross-border trade in services, because the costs of overcoming them are often independent of firm size. The Directive should therefore benefit UK SMEs significantly, particularly those setting up a business in other Member States where processes can be longer and more complex than in the UK. According to the World Bank Doing Business 2009 Report, establishing a business in the UK requires 6 procedures and takes 13 days, whilst this varies across the EU from 3 to 15 procedures and from 4 to 49 days. (These statistics specifically refers to the bureaucratic and legal hurdles that must be overcome to incorporate and register a new business.) In extreme cases, these costs may be sufficiently large that they deter the smaller UK service providers

⁶⁷ Variations may in part reflect differences in barriers to entry. High SME shares may suggest that barriers to entry are low while lower SME shares may suggest the contrary. However, there are likely to be a number of other factors involved. There may also be significant variations in SME within particular service sectors - e.g. the real estate, renting and business services sector that includes some highly regulated service activities such as law, architecture and accounting.

from starting up in other Member States. This view is supported by initial feedback from the Small Business Service and small business organisations.

Racial Equality Test

Benefits of the Directive are available to all who use services; this should not vary with race or ethnic minority businesses. No racial equality issues have become evident due to the widespread internet access to the point of single contact. Likewise, the consumer portal will be available to all with internet access. The point of single contact and consumer portal should in fact help increase access to information, and the point of single contact will help businesses set up and trade in services in other Member States.

Disability Equality Test

Benefits of the Directive are available to all who use services. As a website, the point of single contact and email-based support as well as the consumer portal should be accessible to all individuals who are able to use a computer and have access to the internet. These websites will comply with Government website requirements (these are compliant with accessibility requirements). The point of single contact and consumer portal should in fact help increase access to information, and the point of single contact will help businesses set up and trade in services in other Member States.

However, this does implicitly assume that all websites are accessible by disabled people and this is not necessarily the case - there are many IT accessibility issues that need to be considered. These tools are dependent on access to the internet. Those users that do not have access to the internet may still be accessing these websites (for example, public facilities such as a local library). BIS is currently undertaking work that looks into these issues, the outcomes of which will be made available when these Impact Assessments are revised in October 2009.

Gender Equality Test

Recital 4 of the Directive notes that services are a key employment sector for women in particular so they stand to benefit from the Directive. Employment data for 2007 (available from Eurostat) shows that females make up 44.5% of the total labour force. However this is considerably higher for the service sector; females account for 53.8% of labour in services. Benefits of the Directive are available to all who use services; this should not vary with gender. Widespread internet access to the point of single contact, including in public places such as libraries, should mean that there is no disparity between genders.

Summary: Intervention & Options

Department /Agency: Department for Business Innovation and Skills	Title: Impact Assessment of the Services Directive: Point of Single Contact	
Stage: Final	Version: Final	Date: October 2009
Related Publications:		

Available to view or download at:

Contact for enquiries: Sumit Dey-Chowdhury

Telephone: 020 7215 2347

What is the problem under consideration? Why is government intervention necessary?

Regulatory requirements for establishing a business or providing services on a temporary basis vary across Member States. This currently results in increased uncertainty as well as an increase in both administrative processes and the time taken for service providers to comply with these differing regulatory requirements. The cost of complying with country-specific regulations also tends to be independent of firm size, therefore disproportionately affecting small and medium sized enterprises. These costs may mean that service providers are reluctant (or not even be able) to export to all available markets in the EU. Government intervention is required to reduce the uncertainty and costs for service exporters wishing to export to other Member States.

What are the policy objectives and the intended effects?

The objective of the UK PSC is to simplify the legal and administrative processes for service providers, either establishing in the UK or providing services in the UK, by making all the information and support to businesses more readily available. The PSC is a website that provides the necessary information and through which the necessary formalities and procedures can be completed. Users will also be able to apply for a specific formality, both electronically and remotely, making it easier for service providers to do business in the UK.

What policy options have been considered? Please justify any preferred option.

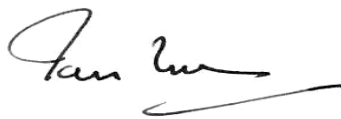
- Do nothing
- Adapted version of Business Link
- A separate PSC 'front-page'
- A new stand alone system

Based on cost-benefit analysis and risk assessment, the adapted Business Link is the option that has been chosen to be the host of the UK PSC.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The European Commission is required to review the application of the Directive by 28/12/2011 and every three years thereafter. BIS is also scheduled to undertake a Post Implementation Review in 2012.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

A handwritten signature in black ink, appearing to read 'Ian Curran', with a long horizontal flourish extending to the right.

Signed by the responsible Minister:

Date: 05 October 2009

Summary: Analysis & Evidence

Policy Option: Adapted Business Link	Description: Implementation of the Services Directive: Point of Single Contact - adapted version of Business Link
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' The cost of establishing the PSC, borne by government. The quantified cost is estimated to take place over the first 4 years of the project and is expressed in current price terms.
	One-off (Transition)	Yrs	
	£ 17.2m	4	
	Average Annual Cost (excluding one-off)		
£ 1.4m	10	Total Cost (PV) £ 25.5m	
Other key non-monetised costs by 'main affected groups' N/A			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Benefits are calculated over a 10 year period. UK service providers establishing in the UK estimated to benefit by around £7.9 million per year in total. Service providers from other Member States establishing in the UK are estimated to benefit by around £3.3 million per year in total.
	One-off	Yrs	
	£ N/A		
	Average Annual Benefit (excluding one-off)		
£ 11.2m	10	Total Benefit (PV) £ 94.2m	
Other key non-monetised benefits by 'main affected groups' Regulators will benefit from a higher compliance rate. The PSC will enable firms to be better informed when establishing and therefore more likely to be aware of all the necessary procedures, simplifying the process of complying.			

Key Assumptions/Sensitivities/Risks Ineffective engagement with national competent authorities; Business Link support facilities are inappropriate for PSC users; insufficient resources; costs overrun and failure to implement in time (which may leave the UK open to infraction).

Price Base Year 2009	Time Period Years 10	Net Benefit Range (NPV) £ N/A	NET BENEFIT (NPV Best estimate) £ 68.8m
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What is the geographic coverage of the policy/option?			EU		
On what date will the policy be implemented?			28 December 2009		
Which organisation(s) will enforce the policy?			BIS/ Commission		
What is the total annual cost of enforcement for these organisations?			£ N/Q		
Does enforcement comply with Hampton principles?			Yes		
Will implementation go beyond minimum EU requirements?			Yes		
What is the value of the proposed offsetting measure per year?			£ N/A		
What is the value of changes in greenhouse gas emissions?			£ N/A		
Will the proposal have a significant impact on competition?			Yes		
Annual cost (£-£) per organisation (excluding one-off)		Micro N/Q	Small N/Q	Medium N/Q	Large N/Q
Are any of these organisations exempt?		No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase £ N/A Decrease £ N/A **Net** **£ N/A**

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

The issue

The European Commission highlighted the need for administrative simplification as well as the need to “remove restrictions resulting from over-complex, non-transparent or discriminatory authorisation procedures”. Each EEA State is required to establish a Point of Single Contact (PSC), a web portal that will allow users to find out about the relevant rules and procedures to provide services in that country. It will also enable service providers to complete all the necessary procedures and formalities to provide a service in that country.

Objectives

The objective of the PSC is primarily to simplify the administrative process for service providers by making all the information and support to business more readily available. The UK PSC brings together information about the various formalities that a business needs in order to provide its services within the UK, much of which is already available in the UK but is difficult for users to easily access. The establishment of the UK PSC will mean that service providers from other Member States will be able to easily complete all the procedures and formalities, as well as apply for authorisation from regulatory bodies, at a distance and by electronic means. The Directive requires all Member States to establish their own PSC, which is where UK service providers exporting to the EEA will predominantly benefit from.

Options identification

In 2007, 2 studies were commissioned to help identify existing websites that could be used to develop the UK PSC.

- EU Directive: Evaluation of Administrative Costs (produced by Detica in 2006) <http://www.berr.gov.uk/files/file27515.pdf>
- Directive Point of Single Contact - Users' and Contributors' Requirements Capture (produced by Panlogic in 2007) <http://www.berr.gov.uk/files/file40401.pdf>

As a starting point, Detica surveyed the existing UK contact points for businesses in order to identify those which could be used in some way to develop a PSC. Their findings from 2006 are summarised in Table B1.

Table B1: Summary of existing websites

Service	Owner	Delivery	Target Audience	Positioning
Business Link www.businesslink.gov.uk	DTI Small Business Service	Web; Business Links and Devolved Administrations	UK Business, SME bias	"Practical advice for business"
Directgov www.direct.gov.uk	Cabinet Office	Web	UK Citizen / Business	"The place to turn for the widest range of government information and services"
FCO www.fco.gov.uk	Foreign Office	Web; Overseas Diplomatic Posts	International Citizen / Business	"To work for UK interests in a safe, just and prosperous world"
i-uk www.i-uk.com	Foreign Office	Web	International Citizen / Business (Multi language)	"Your essential guide to the United Kingdom. Whether you are interested in the UK for business, study or pleasure, i-uk leads the way"
UK Trade & Investment www.uktradeinvest.gov.uk	UK Trade & Investment (DTI & FCO)	Web; Overseas Diplomatic Posts; UK Regions and Devolved Administrations	International Business (Multi language)	"The government organisation that supports ... overseas enterprises seeking to locate in the UK Working with its UK network partners UKTI can provide your company with all the information needed about starting or expanding a business in Britain"
Devolved Administrations		Web; Office (UK and some overseas)	Business	Promotion of DA area as inward investment location along with some regulatory support signposting (no evidence of reciprocal signposting to Business Link or UKTI)
Regional Development Agencies		Web; Office (UK and some overseas)	Business	Promotion of UK Region as inward investment location

Source: Detica (2006)

It was concluded that of these possible existing services, *UK Trade and Investment* (UKTI) and *Business Link* were those that were closest to the needs of the PSC. Business Link already contains much of the information and functionality required of the PSC so it would require less adaptation than UKTI, and so was expected to be the lower cost option. Further reasons for using Business Link rather than the UKTI website are:

- the future of UKInvest is uncertain and
- Transformational Government Strategy⁶⁸ aims to focus on Business Link as the Government IT service for business.

The options were developed around a vehicle which provides information and is a point through which procedures and formalities can be completed. The consultation Impact Assessment presented 3 options for developing the UK PSC, 2 of which partially or fully integrate with Business Link services.

1. An adapted version of Business Link⁶⁹
2. Establish a separate PSC 'front-page' which integrates with Business Link in so far as it meets the Directive's requirements whilst the outstanding requirements of the Directive could be fulfilled via the PSC front-page, rather than expanding Business Link itself.
3. A new stand-alone PSC that would replace Business Link

⁶⁸ One element of the Transformational Government Strategy (outlined in the Varney Review of Service Transformation) is to make businesslink.gov.uk the primary channel for online government guidance for business, with government departments converging content from their existing web channels by 2011.

⁶⁹ <http://www.businesslink.gov.uk>

Table B2: Summary of initial options appraisal (November 2007)

	Set-up costs (one-off, £m)	Annual costs (£m)	Annual benefits (£m)	Net benefit (£m, discounted over 5 years)	Benefit-cost ratio
Adapted Business Link	1	2.1 - 2.6	11	38 - 40	4.0 - 4.7
PSC 'Front-Page'	2	4	11	30	2.4
Establish new stand-alone site	50	10.6 - 12	11	-48 to -55	0.48 - 0.51

The estimates presented in Table B2 outline the costs and benefits⁷⁰ of the proposed options published in November 2007. This initial analysis clearly showed that the option that provided the greatest value for money for developing the UK PSC was Business Link. The high degree of overlap in content between what Business Link currently provides and what the Directive requires of the PSC meant that it was the option that provided the greatest benefit-to-cost ratio.

More up-to-date estimates of the expected costs are presented here. These are more representative of what is needed to implement the PSC and what is required for its continual operation, giving a truer reflection of the functioning of the PSC.

Analysis

Costs

Costs are presented for the following options:

1. Do nothing
2. An adapted version of Business Link
3. A separate PSC 'front-page' that integrates with Business Link
4. A new stand-alone system

Option 1: Do nothing

Under this option, no action would be taken to develop a UK PSC. The restrictions resulting from over-complex, non-transparent or discriminatory authorisation procedures will continue to remain, hampering services providers' ability to trade across the EEA. Business Link would be the closest approximation and over time would be likely to come closer to meeting the PSC requirements as it develops. Taking this option would mean that the requirements of the Directive would not be fulfilled so the UK could be infracted by the Commission and the UK would not capture the potential benefits of opening up the services market.

Benefit 0
 Cost cost of infraction for not complying with the Directive

⁷⁰ The discounted cost and benefit estimates presented in Table B2 are lifted from the consultation Impact Assessment from November 2007, are hence are over a 5 year horizon and not a 10 year horizon (as with all other net present values presented in this Impact Assessment).

Option 2: An adapted version of Business Link

The initial analysis carried out in 2007 identified that an adapted version of Business Link was the preferred option to develop the UK PSC. Not only would building the PSC as an adapted version of Business Link be consistent with the Transformational Government Strategy but both the risk and costs would be significantly lower. The reduced risk arises from making use of technical capabilities that Business Link currently has, minimising this as a source of ineffective implementation of the PSC. Costs are likely to be lower because the PSC will be able to make use of existing components at Business Link's disposal, avoiding an unnecessary duplication of resources.

A more detailed breakdown of the costs is available and is presented here. The greater detail reflects primarily a better understanding of what is required to develop and maintain the PSC as well as a more informed basis for these cost estimates.

Implementation costs

The costs associated with developing the PSC on the Business Link website are scheduled to be incurred over the first 4 years of project, starting in the financial year 2007/08. These costs, based predominantly on contracts that have been outsourced or budgetary estimates, can be broadly subcategorised into 3 groups:

- Defining the requirements and specifications of the PSC
- Building the PSC
- Engagement with regulators

(1) Defining the requirements and specifications of the PSC

This refers to specifying and managing the build of the PSC in the initial development stage. For example, these reflect the internal BIS resources used on specifically defining the functionality of the PSC (and what is required), project managing the build of the PSC and engaging with consultants with regards to procurement. The costs are not uniformly distributed over the 4 year horizon; the costs are predominantly incurred in the financial years 2008/09 and 2009/10.

(2) Building the PSC

These costs specifically refer to developing the various features of the PSC in direct response to what is required as outlined in the Directive. These include the need to provide support and assistance to both service providers and consumers that make use of the PSC, essentially through the provision of telephone and email support. The costs associated with building the PSC represent the large bulk of the implementation cost incurred in 2008/09 (approximately £2.4 million) and 2009/10 (approximately £9.3 million).

(3) Engagement with regulators

To realise the benefits of the PSC, the engagement strategy is an important aspect. This involves the use of internal BIS resources to specifically engage with regulators (both competent authorities and local authorities) in the run up to when the PSC comes into effect, liaising with other government departments with regards to the impact the Directive may have on regulations/ legislation that departments are responsible for. These costs, expressed in current prices, will primarily be incurred in the financial years 2008/09 and 2009/10 in the lead up to the PSC being implemented and immediately afterwards.

Annual operation costs

These costs have been based on estimates provided by Business Link and refer to the operation of the PSC (in terms of maintaining the IT infrastructure) and content maintenance. This refers to the information that is made available on the PSC. If the PSC is to facilitate trade in services within EU, then it is essential that the information provided is of a reliable and accurate nature. In total the operation costs are estimated at approximately £1.4 million

per year, most of which comes from maintaining the IT infrastructure. Maintaining the content of the PSC is estimated to cost around £365,000 annually.

Overview

This gives total annual costs of around **£1.4 million**. Over a 10 year period, a stand-alone system is estimated to cost around **£25.5 million** in net present value terms (this includes the initial implementation cost of approximately £9.6 million, which is incurred over the first 4 years of the project and has been discounted accordingly).

Option 3: A separate PSC 'front-page' that integrates with Business Link

Implementation costs

Evidence from the development of 'front-pages' for other partners of Business Link led Detica to suggest that the cost of establishing the 'front-page' could be from a few hundred thousand to £1 million. More recent consultation with BIS experts suggests that these are underestimates because of the complex infrastructure that would need to be developed for the PSC to function. However it could be feasible to develop a basic site for **£2 million**.

Annual operation costs

An existing micro site connected to Business Link suggests costs of the order of **£2.2 million** a year for content management. This is based on the assumption that 9 teams would be required to manage the content of the 'front-page' (each team consisting of 1 Grade 7, 3 Higher Executive Officers and 2 Executive Officers). E-mail based support is included in the cost of the content management team.

Discussion with experts suggests that hosting the 'front-page' may cost around £300,000.

Management, overheads and infrastructure are likely to cost several hundred thousand pounds. Based on Business Link figures and that the 'front-page' would be somewhat smaller in scope than Business Link, an estimate of £500,000 is presented.

A modest budget of £300,000 is suggested for marketing. Although the 'front-page' would probably not be able to completely rely on Business Link for marketing (as it would only be partially integrated within Business Link), there is also uncertainty regarding whether the Commission will provide links and branding to PSCs. The budget of £300,000 is seen as a compromise between the 2 possible outcomes.

Overview

This gives total annual costs of around **£3.3 million**. Over a 10 year period, a stand-alone system is estimated to cost around **£30.8 million** in net present value terms (this includes the initial implementation cost of £2 million).

There may be a cost to local authorities and other agencies during the implementation phase of the PSC (although the design of the PSC aims to minimise these costs and that BIS has provided assistance to help minimise these costs). No attempt has been made to estimate these potential costs due to a lack of information.

Option 4: A new stand-alone system

Implementation costs

This is likely to be of the order of tens of millions of pounds, possibly more. Detica estimated that a single 'point of completion', where all procedures, formalities and authorisations needed for access could be completed, would cost approximately £343 million to set up. However in practice a new stand-alone system is unlikely to cost as much as not all of the current content and functionality of Business Link would need to be replicated to meet the requirements of the PSC.

Given that a 'point of information' is estimated by Detica to cost £2 million, and that a stand-alone PSC would be more complex than this, an implementation cost of £50 million is estimated. This estimate attempts to take into account the numerous links that would need to be developed with existing providers to Business Link as well as the content that would need to be captured to set it up.

Annual operation costs

A new stand-alone system would require a higher level of content management than that currently used by Business Link. This is because the new site would duplicate the content provided by Business Link plus provide additional content required by the Directive. Detica indicate that Business Link uses 12 small teams of content managers, each larger than that required for the necessary additional content for conforming to the Directive. If each has 6 staff: 1 Grade 7, 3 Higher Executive Officers and 2 Executive Officers, each team would have an annual cost of approximately £320,000. As not all the content of Business Link would need to be replicated for a stand-alone PSC, it is assumed that 9 teams would be needed - this would have a total annual cost of around £2.2 million.

A stand-alone site would also generate annual costs for IT infrastructure, overheads and premises which, based on estimates made by Business Link for a new project, could be of the order of £2-3 million.

The costs of hosting a site, providing security and disaster recovery of its contents are based on estimates made by Business Link for a new project and may be of the order of £3 million a year.

Detica suggest that for the additional content required by the Directive, a team of 4 would be required: 1 manager, 2 professional staff and 1 administrator. However, more recent consultation with BIS staff involved with Business Link suggests that many more staff would be required to handle the complexity of co-ordinating the potential information requirements of the PSC. Therefore 3-4 teams of Grade 7, 4 Higher Executive Officers and 3 Executive Officers are assumed, which would cost £1.0 - 1.3 million.

Using Business Link estimates, there would need to be a marketing budget maybe of the order of £1 million a year.

Overview

The total annual cost of maintaining the site could therefore be £9.2 - 10.5 million. Over a 10 year period, a stand-alone system is estimated to cost in the region of £129.2 - £140.6 million in net present value terms (this includes the initial implementation cost of £50 million).

It is worth noting that the stand-alone system would replicate much of the content already provided by Business Link, and would likely be competing with Business Link for the provision of the overlapping content. Only the additional information required by the Directive would not compete with Business Link. The stand-alone system would be an inefficient use of resources since the majority of the cost would arise from this replication. The creation of a rival to Business Link could also create confusion for users who are unsure of which to use, and therefore, which is the most reliable in terms of information provided. In order for the PSC to be of value to its users, there must be confidence that the information provided is correct and complete. Overlapping websites could lower confidence in both sites, eroding their potential benefits. By replicating material already provided through Business Link, this option would require updating of this material by many of the same organisations, imposing an additional burden.

Benefits

The main purpose of establishing a PSC in each Member State is primarily to ease the administrative process for service providers. The PSC will enable businesses from across the UK and other EU Member States to:

- Find information, either that is generally valid for the UK or local information managed by local authorities, relevant to their business;
- Apply for a specific formality electronically and remotely either through using the online forms service or by directing the applicant to the relevant local authority's or regulator's own online form (if available); and
- Track progress on an application and receive notification electronically of its outcome.

The benefits will arise from the reduction in burden for businesses (specifically time saved by service providers when establishing in the UK, especially those from other Member States). The PSC will enable businesses to find information more easily and help them make better informed choices about where they might want to set up business in the UK. This will include information on, for example, the fees associated with a particular formality, the length of time a formality will take to process, and contact details for that formality within the relevant authority. The web portal will also allow secure messaging between an authority and a business about an application submitted via the PSC, as well as allow the applicant to upload additional information electronically.

The benefits are assumed to be the same for all options because the savings are only dependent on a PSC being established. This is independent of where the PSC is ultimately built as it is implicitly assumed in the options identification, that the PSC would deliver the same outcomes regardless of where it was positioned. (The difference in the level of overlap in content between what is currently provided by each option and what the Directive requires is captured in the costs, as well as in assessing the risk of the different options.)

The estimates presented follow the methodology used initially outlined in the Detica study, which captures the direct time savings to the user. The estimated benefit of the UK PSC is based on the product of 3 variables:

- Number of affected businesses,
- Time saved by each business and
- Value of this time.

Number of affected businesses

The number of businesses that could potentially be affected by the PSC is based on an estimate of the total number of businesses operating and the total number of service providers establishing in the UK. The benefits of the PSC is not just restricted to the service sector as regular users of the website that hosts the PSC can also make use of the additional services of the PSC. The number of UK incorporations is available from Companies House. The PSC is likely to be of use to those wishing to establish in the UK that are service providers; data on VAT registrations (broken down by industry) can be used as an indicator of the number of business start-ups in the service sector.

To account for the large year-on-year variation in both the incorporations and VAT registrations estimates, averages over the period 2001-2007 (for which data are publicly available) are taken. The average number of incorporations was 352,143 and the average number of VAT registrations was 170,996. Since there is an overlap between these 2 sets of estimates, an adjustment is made to account for this. Only corporate businesses and partnerships are recorded by Companies House, and these account for 67% of VAT registrations (114,567) so this is removed from the sum of incorporations and VAT registrations.

The number of establishments is estimated as: (number of incorporations) + (number of VAT registrations) - (67% of VAT registrations), i.e. $352,143 + 170,996 - 114,567 = 408,572$.

Detica further suggest that, based on ONS data of multinationals, 3% of establishments are foreign-owned. Given that not all foreign-owned establishments are multinationals, it is estimated that the current percentage of foreign-owned UK multinationals to be 4%. The number is therefore calculated as 96% of 408,572; this means that there is an estimated 392,229 UK establishments.

Time saved

Estimating the amount of time saved by businesses as a result of the PSC is difficult. Having talked to a few small-business owners it appears that confidence in the information supplied is important if it is to be trusted and used. Detica assumed that there would be no benefit for UK businesses since they already have access to Business Link but this ignores the features that the PSC will have *in addition* to the current Business Link service. Here a conservative estimate is used by assuming that UK businesses will save one hour on average as a result of the additional services provided by the PSC, such as enabling procedures and formalities to be completed through it. Detica suggest that service providers from other Member States will each save around 9 hours by using the PSC.

Value of time

Using the Standard Cost Model, an hour of time is valued at £20.2371 per hour. This will underestimate the value of time for some firms, particularly the smallest where there may only be one staff member, whose time spent setting up a business is time that could be spent finding clients or providing services to clients. However, since establishment statistics cover a range of firm sizes, we use this estimate as an average cost per hour per firm (as is also used in the Detica study).

Value of reduction in time burden

This indicates that there are benefits of the order of £7.9 million per year to UK businesses once the UK PSC has been established.

Benefits of the UK PSC will be primarily gained by firms from other Member States seeking to establish or operate temporarily in the UK. Using the estimate of the number of foreign firms establishing in the UK made earlier, there are around 16,343 per year (4% of 408,572). By increasing trade, the Directive will increase the number of establishments in the UK. In previous analysis a 10% increase in foreign direct investment (FDI) resulting from implementation was assumed. However, here the increase in foreign firms in the UK follows an *S-curve* as opposed to an immediate 10% increase after implementation. The features of this model mean that it is a more realistic representation of how the PSC is likely to be taken-up by non-UK service providers. It is assumed that the 10% increase in foreign firms will materialise after 5 years, with the rate of take-up following an S-curve in its 5 years.

It is estimated that benefits will extend to 18,157 foreign firms per year after 5 years. Detica suggest that they will each save around 9 hours by using the PSC. The same value of time as for UK firms is used, that is £20.23/hour, resulting in benefits of £3.3 million per year once the take-up has fully materialised. In the first 5 years after implementation, the annual benefits will be lower. This is because the number of foreign firms affected will be lower reflecting the gradual increase in take-up of the PSC by foreign firms (as opposed to an immediate 10% increase). The benefit in the first year of implementation will be £3.0 million, gradually rising to £3.3 million once the assumed 10% increase is fully realised.

Annual benefits to UK firms establishing in UK:

Estimate of number of firms	392,229
Time saved	1 hour
Value of time	£20.23/hour

$$\begin{aligned} \text{Total benefit} &= 387,100 \times 1 \times 20.23 \\ &= \text{£7,934,787} \end{aligned}$$

Annual benefits to Member State firms establishing in UK (5 years after implementation):

Estimate of number of firms	18,157
Time saved	9 hours
Value of time	£20.23/hour

$$\begin{aligned} \text{Total benefit} &= 17,700 \times 9 \times 20.23 \\ &= \text{£3,305,831} \end{aligned}$$

Increased compliance

Detica indicated that there could be benefits to regulators from more firms complying with regulations. This is because by providing information on business establishment and simplifying the process of complying, the PSC will enable firms to be better informed when establishing and therefore more likely to be aware of all the necessary procedures.

In scenario (a), if the PSC were to lead to a 1 percentage point increase in the proportion of businesses fully complying with regulations when they establish in the UK, there could be a 3.2% reduction in the overall long-term non-compliance rate. In scenario (b) where the PSC leads to a 1 percentage point increase in the proportion of compliant businesses remaining compliant *each* year, the Detica model predicts a 16% reduction in non-compliance. This suggests that a small increase in the probability of firms complying can have a larger effect on the overall rate of compliance. This effect is greater if it is the probability of operating compliance which increases rather than that of establishment compliance. This could result in a reduction in enforcement costs for regulators. However no attempt has been made to value

this effect due to insufficient data and the very speculative nature of the predictions as to how compliance may vary.

Other economic benefits

In practice, the main benefit of this to the UK arises not from the time firms from other Member States save, but from the effects of their entry to the UK market on price and productivity. These benefits are driven largely by lower barriers to entry to the services market. The effects of the PSC cannot be readily separated from the effects of the rest of the Directive when estimating these impacts, so it is not possible to include the contribution of the PSC in this part of the impact assessment. The benefit of the PSC is therefore considerably larger than the figures used in this detailed analysis suggest.

Distribution of benefits from the establishment of a PSC

The discussion below on the distribution of benefits is relevant to all the listed options with the exception of 'Do nothing'. This is because the method of delivery should not discriminate between groups with regard to the availability of information.

In 2007, SMEs accounted for between 46% and 83% of sectoral employment and 48% to 84% of sectoral turnover in the private sector. They are likely to benefit proportionally more from the PSC than larger firms. This is because larger firms are more likely to have in-house accountants, tax and legal advisors with expertise in establishing in the UK or in other Member States, so any time saving due to the PSC is likely to be lower for these larger firms. With in-house expertise, less time would be spent researching the regulatory and administrative requirements for establishing a business, since most of this information is likely to be known already. Time would be saved though if, as a result of the PSC, more transactions could be completed electronically.

The value of time used in calculating the benefits uses the value generated by the Standard Cost Model for calculating time burdens. In practice, this value is likely to be greater than £20.23 for smaller businesses. For example, in the case of an SME, or a micro-business, the individual who researches the requirements may be senior in the organisation. There is also the consideration that time spent researching could be time otherwise spent generating business revenue.

From discussion with a small number of people who have set up businesses, it seems that the advice and assistance of accountants, tax advisers or lawyers is sometimes sought in order to be sure that all regulations and formalities have been complied with. Whether this practice would be continued with the PSC is not clear at present. If businesses continue to be established in this way, the direct benefits will fall to these service providers, with some benefits passed on to those establishing businesses.

The PSC may lower the demand for these services when establishing a business. The extent to which this occurs will depend on whether those starting a business proceed further before requesting assistance or if they cease to use such services. Where accountants are used, their services will be required by the business when established, and they may offer assistance with establishing a business at a relatively low rate on the basis that they will provide ongoing services to the business.

Other benefits to UK service providers

It is important to remember that, for UK firms, the majority of the benefit will be gained not from the UK PSC but from the PSCs of other Member States. This is not only because of the expected increase in UK service providers operating in other Member States as a result of the Directive but that other Member States may have more complex procedures, which are not currently explained and consolidated in one website. (For instance, according to the World Bank's *Doing Business 2009* the number of days to start up a business in the UK, and the number of procedures, is lower than the average for all other Member States.) This can result in high search costs at present for UK firms. PSCs in other Member States could therefore save more time and costs per firm. Discussions with UK small businesses which have established in other Member States suggest that the proposed changes could potentially save a couple of days in time and - if the information is sufficiently up-to-date, reliable and it is available in English or written in accessible language equivalent to basic English - could save in the order of a couple of days of time in search costs. It is known that the Dutch PSC will be translated into English where other countries will have some of the content available in English.

An attempt to estimate these gains for UK service exporters is presented, although these are not included as benefits of the UK PSC. Using data on the stock of VAT registered firms at the start of 2008, it is estimated that there are approximately 1.45 million service providers in the UK that are in scope of the Directive. Based on International Trade in Services and Balance of Payments data, Detica assume that 3% of these export from the UK to the EU. This is used to estimate the number of UK service providers that would benefit from the PSCs of other Member States - around 44,000. Copenhagen Economics estimate that service exports are thought to increase between 0.4% and 6.1% as a result of implementing the Directive, and these growth rates are applied to the estimate of the number of UK service providers exporting to the EU (44,000). This gives a range of estimates of the total number of UK exporters that would benefit from the PSCs of other Member States. Estimating a saving of 14 hours per firm at a value of £20.23/hour, benefits are of the order of between £12.4 million and £13.1 million per year.

Risks

All Member States are required to implement the Directive by December 28 2009. As this deadline becomes closer, it is crucial for BIS to clearly identify the key risks that could hinder the effectiveness of implementation and to develop strategies accordingly to mitigate both the likelihood of the risks occurring and, if they do materialise, minimise the implications of these risks. The top 3 risks that have been identified for the PSC are:

- Engagement with national competent authorities is ineffective
- Business Link support facilities are inappropriate for PSC users
- The project is insufficiently resourced (or not sufficiently continuous)

Engagement with national competent authorities is ineffective

The PSC relies on information from competent authorities, and with there being over 500 UK competent authorities, it is essential that BIS engage effectively with each of them so that they understand their obligations from 28 December 2009. Competent authorities are also needed to help develop the central forms on the PSC and improve the Department's knowledge of how to collect applications held on Business Link (delays in providing form details will lead to a backlog for forms creation). A lack of buy-in to the system will result in either a lack of use of the PSC or a lack of general usability. Otherwise if competent authorities do not have electronic applications linked to PSC, this will ultimately result in infraction procedures.

In order to mitigate this risk, an engagement team has been established within BIS and a communication strategy has been developed, which is based around the key milestones of the PSC. Guidance material for competent authorities has also been developed and delivered, in addition to asking each competent authority to nominate an individual as a primary contact

point who BIS can directly liaise with on a one-to-one basis. There has been an increasing effort to engage with prioritised competent authorities.

Business Link support facilities are inappropriate for PSC users

If the support facilities are inappropriate, PSC users will be unable to get the support they need to use Business Link (including foreign users of the PSC) and will therefore likely give up on making use of the PSC. This will have the impact of an improper implementation of the Directive, with the estimated benefits of time saved to businesses not being realised (while service providers continue to experience the high level of uncertainty that is seen at present).

In order to ensure that the support facilities are developed appropriately, BIS is providing PSC input into Business Link support development plans. A business analyst has been recruited to specifically analyse the planned support proposals and, where necessary, to formulate specific PSC options and recommendations so that BIS can plan and work with Business Link to deliver these.

The project is insufficiently resourced (or not sufficiently continuous)

This risk also extends to key suppliers (for example, Serco & BT) where there may be conflicts over resources with other Business Link developments (or more generally experience difficulties in finding staff with the right expertise). Given the current economic climate, there are instances of suppliers downsizing their workforce to reduce costs, which could result in suppliers having less flexibility and/or there being longer lead times in delivery. The resultant effect is that the PSC project is either not completed on time or only partially completed by December 2009.

To reduce the possibility of the project funding being a real issue, the BIS in-house team is now supported by dedicated contractors - 3 business analysts and a Project Manager. The current anticipated level of funding is now in place for the initial delivery of the PSC.

Sensitivity analysis

In order to test the sensitivity of the costs and benefits that have been presented, “worst-case” scenarios have been presented where the:

- Annual costs have been increased by 10%
- Annual benefits have been decreased by 10%:

Increase annual costs by 10%

Table B3: Summary of the effect of increasing annual costs by 10%

	Total costs, (£m, discounted over 10 years)	Total benefits, (£m, discounted over 10 years)	Net benefit (£m, discounted over 10 years)	Benefits / costs ratio
Adapted Business Link	26.4	94.2	67.8	3.57
Separate ‘front-Page’	33.6	94.2	60.5	2.80
New stand-alone system	137.1 to 149.7	94.2	-43.0 to -55.5	0.63 to 0.69

Decrease annual benefits by 10%:

Table B4: Summary of the effect of decreasing annual benefits by 10%

	Total costs, (£m, discounted over 10 years)	Total benefits, (£m, discounted over 10 years)	Net benefit (£m, discounted over 10 years)	Benefits / costs ratio
Adapted Business Link	25.5	86.5	61.0	3.40
Separate ‘front-Page’	30.8	86.5	55.7	2.81
New stand-alone system	129.2 - 140.6	86.5	-42.6 to -54.1	0.61 - 0.67

Even in hypothetical ‘worst-case’ scenarios where annual costs are firstly increased by 10% and then annual benefits decreased by 10%, the benefit to cost ratio is greater than one indicating that there is a net benefit to establishing a PSC (provided that it is not a new stand-alone system).

Enforcement

Member States are required to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by 28 December 2009. The legislation will not increase the regulatory requirements for compliant businesses as the general intention of the Directive is deregulatory. It is aimed at removing or reducing the barriers to the European Internal Market in services.

The key challenges in the implementation of this Directive is to review the regulatory framework of the UK, with a view to ensuring that any such barriers do not continue to exist here, unless they can be justified under the terms of the Directive. Much of the work to achieve this will be within Government and with those bodies that have regulatory functions. Government will be responsible for ensuring the enforcement of the Directive and that it is fair, open and proportionate. It is too early however to quantify what the cost of enforcement will be.

There is the requirement to set up PSC. Their role is to facilitate access to services markets for service providers, by providing a single point of contact for all the procedures and

formalities needed to access and operate in the market, including applications for authorisation from the competent authorities.

Summary of costs and benefits for options

Table B5 provides a summary of the costs and benefits for each of the options identified. In practice, these estimates are likely to underestimate total benefits, as it does not include the indirect contribution of the PSC towards the overall benefit of implementing the Directive. As it is not possible to distinguish the contributions of the PSC to the economic benefits estimated by Copenhagen Economics, the benefits presented here only capture the reduction in time burden on exporters. As a result, the cost-benefit ratio is likely to be more favourable than suggested in Table B5.

These should be compared with the counterfactual where no PSC is established. Other than being infringed by the Commission for not implementing the PSC, these net benefits would not be realised and service exporters would continue to incur burdens relating to finding out about relevant rules and procedures in that Member State. Service providers would have to continue completing the necessary procedures and formalities to provide a service in that country without the assistance provided by the PSC.

Table B5: Summary of costs and benefits

	Total costs, (£m, discounted over 10 years)	Total benefits, (£m, discounted over 10 years)	Net benefit (£m, discounted over 10 years)	Benefits / costs ratio
Adapted Business Link	25.5	94.2	68.7	3.70
Separate 'front-Page'	30.8	94.2	63.4	3.06
New stand-alone system	129.2 - 140.6	94.2	-35.1 to -46.4	0.67 - 0.73

An adapted Business Link is the recommended delivery vehicle for the PSC because it has the higher ratio of benefits to costs and seems to be the lowest risk option.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	Yes
Small Firms Impact Test	Yes	Yes
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	Yes	Yes
Disability Equality	Yes	Yes
Gender Equality	Yes	Yes
Human Rights	No	No
Rural Proofing	No	No

Specific Impact Tests

Competition Assessment

The PSC should have a pro-competitive effect. This is because, by providing information about regulatory and administrative requirements in the UK, it will encourage EU service providers to enter the UK market and facilitate UK entrepreneurs in setting up their businesses.

Increased competition should be reflected in the form of falling prices, higher service imports and higher output and employment. The results of Copenhagen Economics suggest that the regulated professions sector - which has the highest barriers - should experience the largest relative fall in price and largest increase in value added and employment.

Small Firms Impact Test

Small firms are over-represented in the service sectors: in 2007, 44.2% of UK services (those which are broadly covered by the Services Directive as outlined in Table A1) turnover was generated by small firms (under 50 employees) compared with 18.7% for manufacturing.

SMEs are disproportionately affected by barriers to establishment and cross-border trade in services, because the costs of overcoming them are often independent of firm size. The creation of the UK PSC will therefore benefit both EU and UK SMEs. UK SMEs will also benefit from the PSC(s) of other Member States.

The creation of points of single contact should deliver cost savings to service providers considering establishing in other Member States like the UK. In some cases, the cost savings may be sufficiently large that they no longer constitute a barrier to trading in other parts of the EU. This may lead to increased numbers of UK SMEs benefiting from the business opportunities and efficiency savings that the larger market offers them (e.g. realisation of economies of scale).

Racial Equality Test

Benefits of the Directive are available to all who use services, which should not vary with race. At this stage of implementation, no racial equality issues have become evident due to the widespread access of the PSC, and availability of internet access in public places such as libraries, which should not mean that different racial groups are less able to access the PSC than others.

Disability Equality Test

Benefits of the Directive are available to all who use services; disabled people are therefore not expected to be disproportionately affected. As a website, the PSC will need to comply with Government website requirements, which are consistent with accessibility requirements. The PSC and email-based support should be accessible to all individuals who are able to use a computer and have access to the internet. However, not all websites are accessible by disabled people as there are many IT accessibility issues that need to be considered. BIS is currently undertaking work that looks into these issues, the outcomes of which will be made available in October 2009.

Gender Equality Test

Recital 4 of the Directive notes that services are a key employment sector for women in particular so they stand to benefit from the Directive. Benefits of the Directive are available to all who use services; this should not vary with gender. Provisions for quality of services will benefit all consumers of services, there is likely to be widespread access of the PSC, and availability of internet access in public places such as libraries, which should mean that there is no disparity between genders with regard to their access to the PSC.

Summary: Intervention & Options

Department /Agency: Department for Business Innovation and Skills	Title: Impact Assessment of Services Directive: Administrative Cooperation	
Stage: Final	Version: Final	Date: October 2009
Related Publications:		

Available to view or download at:

Contact for enquiries: Sumit Dey-Chowdhury

Telephone: 020 7215 2347

What is the problem under consideration? Why is government intervention necessary?

The Directive places obligations on the UK to provide mutual assistance to competent authorities in other EU Member States in the supervision of service activities within the scope of the Directive. Co-ordination failures are prevalent as competent authorities across the EU currently do not provide information to one another on service providers in a co-ordinated manner. This leads to a duplication and inefficient use of resources, both for competent authorities and service providers. The mutual assistance obligations should increase the level of mutual trust and confidence between competent authorities based across the EU, which currently is a barrier to intra-EU trade in services

What are the policy objectives and the intended effects?

The objective is to increase cooperation and the sharing of regulatory supervision between competent authorities across the EU. This exchange of information should enable a proper and more efficient supervision of services, ensuring control of service activities as well as reducing the burden on both competent authorities and service providers. This should facilitate the establishment and free movement of services throughout the EU. Implementing administrative cooperation will also ensure competent authorities take part and improve the level of mutual trust between them across the EU.

What policy options have been considered? Please justify any preferred option.

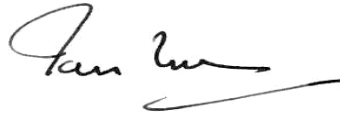
Administrative cooperation requires all UK competent authorities to register to the Internal Market Information (IMI) system; (1) Do nothing, (2) All CAs register on IMI system.

The UK will establish a National Liaison Point (NLP) to facilitate mutual assistance requests by directing regulators in other Member States to the relevant regulator in the UK. It has been decided to establish this within BIS, which is the most cost effective approach as it minimises the risk and can draw on existing resources and expertise.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The European Commission is required to review the application of the Directive by 28/12/2011 and every three years thereafter. BIS is also scheduled to undertake a Post Implementation Review in 2012.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

A handwritten signature in black ink, appearing to read 'Ian Curran', with a long horizontal flourish extending to the right.

Signed by the responsible Minister:

Date: 05 October 2009

Summary: Analysis & Evidence

Policy Option: All CAs register on IMI system	Description: Impact Assessment of Services Directive: Administrative Cooperation
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Costs are borne by government through establishing and operating the National Liaison Point. Competent authorities will incur a transition cost of the loss of staff time when they are being trained to use the Internal Market Information system.
	One-off (Transition)	Yrs	
	£ 35,000	1	
	Average Annual Cost (excluding one-off)		
£ 140,000	10	Total Cost (PV) £ 1.7m	
Other key non-monetised costs by 'main affected groups' The (negligible) cost to CAs arising from additional cases arising from the increase in cross-border activity as a result of the Directive.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Benefits to businesses arise from not having to provide information for regulators based in other Member States that have already been provided to a UK regulator. Time savings arise for regulators from the language and regulator-finding functions of the IMI system.
	One-off	Yrs	
	£ N/A		
	Average Annual Benefit (excluding one-off)		
£ 530,000	10	Total Benefit (PV) £ 4.6m	
Other key non-monetised benefits by 'main affected groups' These are the direct benefits of administrative cooperation. The main benefit will arise from an increase in intra-EU services trade but its direct contribution cannot be measured.			

Key Assumptions/Sensitivities/Risks Most of the estimated costs are not tangible (for example, estimating the value of time spent on training for the IMI system). All costs presented here are based on a series of assumptions. Risks include regulators not being made aware of their obligations and that the take-up of the IMI system is low.

Price Base Year 2009	Time Period Years 10	Net Benefit Range (NPV) £ N/A	NET BENEFIT (NPV Best estimate) £ 2.9m
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What is the geographic coverage of the policy/option?		EU		
On what date will the policy be implemented?		28 Dcember 2009		
Which organisation(s) will enforce the policy?		BIS/ Commission		
What is the total annual cost of enforcement for these organisations?		£ N/Q		
Does enforcement comply with Hampton principles?		Yes		
Will implementation go beyond minimum EU requirements?		Yes		
What is the value of the proposed offsetting measure per year?		£ N/A		
What is the value of changes in greenhouse gas emissions?		£ N/A		
Will the proposal have a significant impact on competition?		Yes		
Annual cost (£-£) per organisation (excluding one-off)	Micro N/Q	Small N/Q	Medium N/Q	Large N/Q
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)

(Increase - Decrease)

Increase £ N/Q Decrease £ N/Q **Net** £ N/Q

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

The issue

One of the main barriers identified by the Commission in their report on *The State of the Internal Market for Services* (2002) was a lack of mutual trust and confidence between Member States. The Commission highlights that Member States should rely on control by the authorities in the country of origin of the service provider. The Directive states that all “Member States shall give other mutual assistance, and shall put in place measures for effective cooperation with one another, in order to to ensure the supervision of providers and the services they provide”. The objective of administrative cooperation is primarily to address this barrier through improving Member States’ trust and confidence in each other’s control measures.

Competent authorities (CAs⁷²) are bodies/ authorities that have a supervisory or regulatory role in relation to service activities. The Directive requires that CAs in each Member State:

- supervise the activities of service providers operating on their territory
- exchange information with CAs in other Member States in regards to the conduct of service providers on their territory

Objectives

This exchange of information should enable a proper and more efficient supervision of services ensuring control of service activities, and reduce the burden on both CAs and service providers. This should facilitate the establishment and free movement of services throughout the EU.

The Directive stipulates that Member States must provide mutual assistance and that a National Liaison Point (NLP) must be established in each Member State to do so. The UK NLP will facilitate mutual assistance requests by directing CAs in other Member States to the relevant regulator in the UK, and likewise will direct UK CAs to NLPs established in other Member States. The NLP is also responsible for providing training to CAs and notifying any dangerous behaviour of UK firms operating in other Member States and for firms from other Member States operating in the UK. This is to ensure that service providers who are operating in more than one Member State are not causing either damage to the environment or danger to public safety.

To facilitate administrative cooperation, Member States will make use of the Internal Market Information (IMI) system. This is an electronic, web-based portal developed by the European Commission, will allow CAs to identify the relevant regulators in other Member States easily and exchange information efficiently. This enables CAs to respond to any information requests regarding service providers they may receive. UK CAs will be likely to use IMI in the following circumstances:

- Requesting information about UK service providers established or operating in other Member States
- Responding to requests from other Member States for information about service providers established or operating in the UK
- Supervision of firms from other Member States operating in the UK
- Sending alerts, to warn other Member States of dangerous behaviour

⁷² By definition, all local authorities (LAs) are CAs

Options identification

Registration of CAs on the IMI system was previously not a requirement of the Directive. The options outlined in November 2007 assessed the cost implications of the different ways in which the number of CAs could have registered on the IMI system. However CAs can no longer choose whether to register or not; it is now a requirement that if a CA receives an information request through the IMI system, that CA must respond through the IMI system. This means that in practice, most if not all CAs will eventually have to register on the IMI system. The costs presented here are based on all UK CAs registering on the IMI system.

Consequently there are 2 options that are presented;

1. Do nothing and
2. All 550 UK CAs register on the IMI system.

The option of "Do nothing" presents the counterfactual to compare the effects of implementation against. The internal market for services continues to function as it does at present and specifically the burden on both CAs and service providers in terms of information provision would still remain, continuing to hamper intra-EU trade in services. The second option is where all 550 CAs eventually register on to the IMI system. (The NLP was initially seen as acting as an intermediary between CAs in other Member States and UK CAs that would not be registered on the IMI system. But given that all UK CAs are expected to register on the IMI system, the burden on the NLP of dealing with cases is greatly reduced from previous estimates.)

Analysis

Outline of costs

There are 5 main costs to the UK arising from administrative cooperation.

5. Establishing and operating the UK NLP
6. Opportunity cost to each CA from staff in training - a cost will be imposed on each CA as members of staff will need training
7. Cost to NLP for providing training to CAs
8. Value of time spent by NLP dealing with unresolved cases
9. Value of time spent by NLP on sending alerts on dangerous behaviour

For costing the options for implementing administrative cooperation, the following assumptions have also been made:

- Since the IMI system itself is operated by the European Commission, the management and maintenance of its application will fall to the Commission rather than Member States. Therefore, the IMI system itself does not impose a cost to the UK.
- There are no significant infrastructure costs associated with implementing the IMI system at each CA. This is because the application will run in a standard web-browser, and it is assumed that all CAs already have the required technical infrastructure.
- Training for IMI will be for 4 people at each national and devolved CA and 2 at each local or private CA. Training will be provided by the staff of the UK NLP.

Given the nature of these costs and the assumptions that have been made, the only 'tangible' cost is the establishment and operation of the NLP. All other costs refer to the time that is spent by either CAs or the NLP in delivering what the Directive requires; attempts are made to model these as accurately as possible.

Outline of benefits

The direct benefits of the IMI system to the UK will arise from a reduction in administrative processes. These include:

- UK firms not having to provide information to regulators in other Member States that they have already provided to a UK regulator, saving time on information requirements when operating in other Member States.
- UK CAs can communicate directly or indirectly via the NLP with CAs in other Member States and with each other. The IMI system will provide time savings by reducing the time to search for their relevant CA and for their contact details. (The translation function will save time and enable CAs in all Member States to communicate with each other.)
- UK CAs will be able to work with CAs in other Member States to ensure that service providers are effectively supervised when providing services in a Member State other than that in which they are established, promoting mutual trust between Member States.
- The Directive requires electronic exchange of information. The IMI system provides a secure means of complying.

The real direct benefit of administrative cooperation will come from the difference in the time taken to resolve cases at present and how long it is likely to take when using the IMI system. Quantitative estimates of these benefits are from estimating the time savings made by both UK businesses and regulators that arise from using the IMI system.

To accurately estimate the likely costs and benefits of administrative cooperation, it is important to account for impact of the Directive. The implementation of the Directive should lead to an increase in the amount of intra-EU trade in services. As such, this will increase the number of requests for mutual assistance and ignoring this would not provide a realistic view of the impact of administrative cooperation. Therefore additional requests resulting from increased trade in response to the Directive, is taken into account.

Copenhagen Economics have estimated the effect of the adopted Directive on trade in services for the UK. Exports are estimated to increase by between 3.5% and 6.1%, while imports are estimated to increase by up to 3.5%. Although these estimated gains are not the same as the expected increase in the number of exporters or importers (these estimated increases also capture that existing service traders will increase the amount by which they trade), it is less of an issue when modelling the likely case load. By modelling the expected sectoral gains for regulated professions (the sector with the highest expected gains in trade), it means that the estimated number of cases presented here is likely to be an overestimate. This means that the estimated costs of administrative cooperation may be higher than they will be in practice.

National Liaison Point

The UK NLP will be based in BIS, given the Department's responsibility for implementing the Directive, and will be responsible for monitoring administrative cooperation requests involving the UK. BIS already houses the SOLVIT centre which helps businesses and citizens who are experiencing problems exercising their single market rights, and the NLP will be positioned alongside this service.

The cost of implementation is based on the internal resources that was used in 2008/09 specifically on establishing the NLP - this was estimated to be the equivalent of 0.5 Grade 773 working on this. Tables C6 and C7 outline the basis of the requirements on the NLP in terms of dealing with unresolved cases and sending alerts on dangerous behaviour. Based on

⁷³ The cost of labour is equal to the gross wage rate plus non-wage labour costs. These refer to social insurance expenditure and other labour taxes, which include national insurance, pensions and other costs that vary with hours worked. BIS uses 21% as an adjustment for non-wage labour costs - throughout all gross wages have been up-rated by 21% to account for such non-wage labour costs.

this analysis, it is expected that the NLP will need to be resourced by the equivalent of 0.5 Grade 7 and 2 Higher Executive Officers. The operation of the NLP is therefore expected to cost approximately £115,000 per year. Discounted over a 10 year period, the NLP is budgeted to cost £780,000 in total (in net present value terms), and will be borne by government.

Case load

To estimate the total number of requests, there are 4 types of request that have been modelled:

- Requests for information on service providers from the UK operating in other Member States
- Requests for information on service providers from other Member States operating in the UK
- Inspections
- Notification of dangerous behaviour

All figures presented are best-guess estimates, based on statistics and forecasts about the effect of the Directive on trade in services.

(1) Requests for information on service providers from the UK operating in other Member States

To estimate the number of requests for information about UK service providers operating in other Member States, Detica make use of data from the International Trade in Services survey. This indicates that there are around 43,600 UK service providers trading within the EU. Assuming the number of exporters were to increase by 6.1%, this would mean an additional 2,661 UK service providers operating in other Member States per year. Detica estimate that requests for information are made on 1% of UK service providers. Given that this seems to be an underestimate for other Member States providers in the UK, it is assumed that 5% is a more realistic figure. This results in an additional 133 cases per year for information on service providers from the UK operating in other Member States. This is in addition to the estimated 2,181 cases that are currently made.

(2) Requests for information on service providers from other Member States operating in the UK

To estimate the number of expected information requests on service providers from other Member States operating in the UK, Detica collated some evidence on the current levels of cross-border regulatory activity that has been collected from individual CAs.

- The Office of Fair Trading (OFT) received 4,632 cross-border complaints in 2004, of which most arose from UK consumers complaining about non-UK companies (EU and non-EU). In April 2005 there were 61 live cross-border cases. If this were a representative month, this would equate to 732 cross-border cases per year.
- The UK European Consumer Centre dealt with 776 enquiries in 2004, of which just over half were related to remote provision of goods and services
- The food complaints Single Liaison Body dealt with 96 complaints originating in the UK about EU producers.

Although this provides an indication of levels of cross-border regulatory activity, these numbers are for national CAs. These CAs are likely to have a higher case load than many other CAs. As such, they are not representative and can only provide a guide for larger CAs.

Detica assume that only 1% of firms generate information requests in a year. Along with the earlier assumption made about the number of foreign establishments in the UK (16,343 per year), this would result in only 161 information requests being made per year which seems implausibly low.

Given that it would appear that there are currently several thousand cases a year, 10% may be a better assumption of the number of firms that generate information requests a year; this would give an estimate of 1,634 cases per year. When the Directive has taken its full effect, the number of service providers from other Member States operating in the UK is estimated to increase by 3.5%, increasing the number of firms by 572, and resulting in an additional 57 information requests per year.

(3) Inspections

Under the terms of the Directive, service providers from other Member States operating in the UK may be inspected by the relevant UK regulator at the request of the relevant CA in the home Member State. CAs would be obliged to carry out this inspection upon receiving a properly motivated request and providing they have the necessary powers to do so.

Detica estimate the number of inspections using data from the Hampton review⁷⁴, in which it estimated that 600,000 companies are inspected by regulators each year. Detica estimate the number of companies in the UK to be 2 million, implying that there are 0.3 inspections per company per year. For the purposes of this analysis, the rate of inspections per company per year is increased to one-third to account for derogations.

Of the 600,000 firms that are inspected each year, an attempt is made to estimate what proportion of these are in the scope of the Directive. This is based on making the the same assumptions about:

- the proportion of foreign-owned companies (2.1%)
- two-thirds of which are from the EU
- 68%⁷⁵ of these are in services,
- of which a further two-thirds are covered by the Directive and
- a rate of inspection of one-third.

Taking the assumption of 600,000 inspections a year in the UK, it is estimated that 1,269 of these existing inspections will fall under mutual assistance.

To estimate the increase in the number of additional number of inspections as a result of the Directive, the earlier assumption of there being 16,343 foreign firms that establish in the UK each year is used. The same assumptions are made with regards to the number that are EU owned (two-thirds); the proportion of which are service providers (68%); the coverage of the Directive (two-thirds of services). If it is further assumed that as a result of the Directive that imports of services increases by 3.5%, this would increase the number of annual establishments by 173, and hence the number of inspections by 58 cases per year.

(4) Notification of dangerous behaviour

Detica found that the number of UK-based multinationals and the number of non-US based foreign multinationals with a presence in the UK to be 1.7% and 2.1% of relevant service providers respectively (according to UK Inward Investment). This gives a total population of around 56,000 firms, whose dangerous behaviour would have to be notified under the provisions of the Directive. It is then estimated that there would be around 50 cases per year, on the basis that it is a rare event and making the assumption of one case per 1,000 service providers.

In order to take account of the effect of the Directive, the increase in the number of service providers operating in the UK needs to be estimated. If there is an increase in the number of service providers from other Member States operating in the UK by 3.5% (and assuming that notifications of dangerous behaviour would continue to occur at a rate of one case per 1,000

⁷⁴ Hampton (2005), 'Reducing administrative burdens: effective inspection and enforcement'

⁷⁵ UKTI Inward Investment report 2007/08

service providers), this would increase the annual number of cases of notification of dangerous behaviour by 2 cases per year.

Table C1: Number of cases per year

	No. of information requests about UK providers in other Member States	No. of Information requests about other Member States providers in the UK	Inspections	Dangerous behaviour	Total requests
Currently	2,181	1,634	1,269	50	5,134
Service Directive	133	57	58	2	250
Total	2,314	1,691	1,327	52	5,384

Table C1 shows the overview of the total number of cases, and the additional increase as a result of there being more service exporters across the EU. As outlined earlier, these estimates are based on the expected trade gains for regulated professions - the barriers are greatest for the regulated professions and so the expected gains are higher. This means that effect of the Directive in estimating the number of cases is likely to be higher than that in practice.

Burden of cases on CAs

To estimate the burden on CAs to deal with these cases, it is necessary to estimate how long each case would take. The assumption made by Detica is used here, namely that cases can be generalised into 3 types of requests:

- simple requests that take 0.5 days to resolve,
- relatively more complex requests that take 2 days to resolve and
- complex cases that take 20 days to resolve.

Consultation with the UK SOLVIT Centre suggests that the average time to solve a case is around 5 days. It is assumed that dealing with Directive-related cases will take a similar length of time on average to resolve. A weighted average approach is used to infer the breakdown - it is assumed that 45% of cases take 0.5 days, 35% take 2 days and 20% take 20 days to resolve, giving an average of 4.9 days per case.

The increase in the number of requests for information as a result of the Directive will not occur immediately after implementation; instead it is assumed that this gradual increase in the additional number of cases as a result of the Directive will take place over 5 years. The full effect is assumed after 5 years. Table C2 shows the assumed roll-out of the total number of cases.

Table C2: Summary of roll-out of cases by type of case

Year	Case (i); 0.5 days	Case (ii); 2 days	Case (iii); 20 days	Total number of cases
0	2,400	1,867	1,067	5,334
1	2,406	1,871	1,069	5,347
2	2,412	1,876	1,072	5,359
3	2,417	1,880	1,074	5,372
4	2,423	1,884	1,077	5,384

It is assumed that each staff member provides 213 productive days per year. Fractions of staff are used because staff in CAs will have their time used by other activities; IMI system-related work will therefore form only a part of this. For the NLP it is envisaged that this will become integrated with SOLVIT; requests for mutual assistance will therefore only take up part of staff's time.

Option 1

Do nothing

Benefit 0

Cost cost of infraction for not complying with the Directive

Option 2

All CAs are registered on the system; this is modelled as 550 CAs.

Cost

To estimate the cost that arise from implementing this part of the Directive, there are 4 types of cost that are modelled.

- Cost to CAs of staff in training - for large CAs this is 4 staff members for one day; for smaller CAs, 2 staff members for one day
- Cost to the NLP for providing training - this includes staff costs for one staff member (Higher Executive Officer) per CA for one day, plus £300 travel and subsistence per CA
- Value of time spent by NLP dealing with unresolved cases
- Value of time spent by NLP on sending alerts on dangerous behaviour

It is assumed that each staff member provides 213 productive days per year. Fractions of staff are used because staff in CAs will have their time used by other activities; IMI system-related work will therefore form only a part of this. For the NLP it is envisaged that this will become integrated with SOLVIT; requests for mutual assistance will therefore only take up part of staff's time. This assumption will be used to estimate the burden (and benefit) of administrative cooperation on CAs and the NLP.

To estimate these costs, the roll-out of training shown in Table C3 is used. The costs associated with training are expected to be incurred in the first 5 years after implementation.

Table C3: Summary of roll-out of training across CAs

Year	National	Devolved	Local	Private	Total CAs
0	26	18	22	0	66
1	4	11	235	15	264
2	0	7	147	7	161
3	4	4	37	7	51
4	0	0	0	7	7
Total					550

Cost to CAs of staff in training

The cost to CAs of staff in training is based on the roll-out set out in Table C3 and the assumption that for large CAs this will require 4 staff members for one day and for smaller CAs, 2 staff members for one day. These costs are shown in Table C4.

Table C4: Summary of training time and its cost for the CAs

Year	National	Devolved	Local	Private	Total CAs	Total CA staff trained	Value of time (£)	Discounted value of time (£)
0	26	18	22	0	66	220	40,552	40,552
1	4	11	235	15	264	557	102,733	99,259
2	0	7	147	7	161	337	62,180	58,046
3	4	4	37	7	51	117	21,628	2,356
4	0	0	0	7	7	15	2,703	4,027
Total					550	1,700	229,797	219,720

Cost to the NLP for providing training

The cost to the NLP for providing training is based on the cost of one Higher Executive Officer per CA for one day, plus £300 travel and subsistence allowance per CA. It is assumed that the member of staff works 213 productive days a year. These are shown in Table C5.

Table C5 Summary of training time and its cost for the NLP

Year	Total CAs	Burden on NLP staff member (no. of days per year)	Staff cost (£)	Travel and subsistence cost (£)	Total cost (£)	Discounted total cost (£)
0	66	0.31	12,166	19,800	31,966	31,966
1	264	1.24	48,663	79,200	127,863	123,539
2	161	0.76	29,738	48,400	78,138	72,943
3	51	0.24	9,462	15,400	24,862	22,424
4	7	0.03	1,352	2,200	3,552	3,095
Total	550				266,381	253,967

Cost to the NLP for dealing with unresolved cases

Although all CAs are registered on the IMI system, some cases are expected to still go via the NLP. This is because if the relevant CA has a problem with dealing with the case; these requests may then be channelled via the NLP. There is likely to be more instances of this in the first few years, with reliance on the NLP reducing with time (as familiarity with the IMI

system increases). For the purposes of modelling these costs, it is assumed that 25% of cases will be channelled via the NLP in the first year decreasing to only 5% from the fifth year onwards. This decrease is modelled so that it follows a linear path over the first 5 years. It is assumed that these cases will take on average 0.5 days to complete. The costs are outlined in Table C6.

Table C6: Value of time taken by NLP dealing with unresolved cases

Year	Total number of cases	Number of cases channelled through the NLP	Time spent by NLP (days)	Number of NLP staff	Total cost (£)	Discounted total cost (£)
0	5,334	1,334	667	3.13	122,908	122,908
1	5,347	1,069	535	2.51	98,557	95,224
2	5,359	804	402	1.89	74,090	69,164
3	5,372	537	269	1.26	49,509	44,654
4	5,384	269	135	0.63	24,812	21,622
5	5,384	269	135	0.63	24,812	20,891
6	5,384	269	135	0.63	24,812	20,185
7	5,384	269	135	0.63	24,812	19,502
8	5,384	269	135	0.63	24,812	19,502
9	5,384	269	135	0.63	24,812	18,205
Total					493,937	451,199

Cost to NLP on sending alerts on dangerous behaviour

An 'alert mechanism' facility has been built into the IMI system to ensure that service providers who are operating in more than one Member State are not causing either damage to the environment or danger to public safety. This enables CAs who are responsible for regulating specific areas (and who have become aware of a service provider undertaking such activity), to immediately inform CAs in other Member States where it is known that this service provider operates. As such regulators in all Member States where a service provider is operating will be informed that there is a potential risk and be able to take the appropriate actions.

The burden on the NLP of sending alerts on dangerous behaviour will be relatively low. It is assumed that each alert will take the NLP on average 2 hours to send the alert and given that it is estimated that there are only likely to be 52 cases where dangerous behaviour has been notified, this is unlikely to represent a large cost (see Table C7).

Table C7: Value of time taken by NLP sending alerts on dangerous behaviour

Year	Time spent by NLP on sending alerts (hours)	Number of NLP staff	Total cost (£)	Discounted total cost (£)
0	104	0.07	2,739	2,739
1	104	0.07	2,739	2,646
2	104	0.07	2,739	2,557
3	104	0.07	2,739	2,470
4	104	0.07	2,739	2,387
5	104	0.07	2,739	2,306
6	104	0.07	2,739	2,228
7	104	0.07	2,739	2,153
8	104	0.07	2,739	2,080
9	104	0.07	2,739	2,009
Total			27,386	23,573

Case by case derogations

The Directive allows CAs to take action against service providers established in and regulated by another EU country on the grounds of safety in very limited and specific cases, known as case by case derogations. Given that these derogations are expected to be an extremely rare occurrence and would involve similar burdens to sending alerts, so no additional costs have been estimated. The associated costs have been incorporated into the costs estimated for sending alerts on dangerous behaviour.

Increased case load

Table C1 outlined the basis of estimating the total number of cases, and specifically also the *additional* increase in the number of cases as a result of there being more service exporters across the EU as a result of the Directive. This additional increase in cases as a result of the Directive should be modelled as in practice these will impose a cost to CAs. However given that only an additional 250 cases in total per year are estimated, these costs are negligible. If it were to be assumed that these additional cases were uniformly distributed across all UK CAs, it would mean that each CA would have an additional 0.5 cases to deal with. Using the prior assumption that one case on average takes 5 days to complete, this would mean that each CA would incur a cost of approximately £350 (based on a 7 hour working day and the UK standard Cost Model value of £20.23 per hour). Given the negligible nature, these have not been included.

Total costs

Based on the above assumptions and cost model, administrative cooperation is expected to have a total cost of **£1.7 million** over a 10 year period in net present value terms.

Benefits

Business

It is assumed that UK businesses operating in other Member States but established in the UK will benefit from administrative cooperation as they would only need to register with a CA in the UK. If a UK business has already submitted the relevant documents to a UK regulator, rather than sending further copies to a regulator in another Member States, it will now be possible for these regulators to liaise directly with their UK counterpart through the IMI system. This will be accepted by regulators in other Member States and therefore avoid potential duplication - a saving to UK service providers. From the Detica study it is assumed that there are approximately 43,600 UK businesses currently operating abroad and who would

be affected by administrative cooperation. Assuming that the UK enjoys growth of 6.1% in services, this suggests an increase in firms operating in other Member States of 2,661.

It is difficult to estimate what proportion of the UK businesses operating abroad have registered with foreign CAs and what proportion may expand further and operate in more Member States as a result of the Directive. On the basis that a proportion of firms will enjoy multiple benefits by operating in more than one other Member State, it is assumed that a steady number of 2,661 firms will reap the benefit of administrative cooperation each year.

Assuming that the time saving per company is equal to that assumed for simple information requests to competent authorities (half a day or 3.5 hours) and that this can be valued at £20.23/hr as per the Standard Cost Model, this represents an annual decrease in administrative burdens of £188,383 once the Directive has been implemented (see Table C8).

Table C8: Summary of benefits to UK business

Year	Number of firms	Benefit (£)	Discounted benefit (£)
0	2,661	188,383	188,383
1	2,661	188,383	182,012
2	2,661	188,383	175,857
3	2,661	188,383	169,910
4	2,661	188,383	164,164
5	2,661	188,383	158,613
6	2,661	188,383	153,249
7	2,661	188,383	148,067
8	2,661	188,383	143,060
9	2,661	188,383	138,222
Total		1,883,825	1,621,538

Note: Assumption - 3.5 hours per business, £20.23 per hour

CAs

Benefits are also gained by CAs through time savings related to searching for their relevant counterparts in other Member States and translation. No data has been available to guide and estimate what this time saving might be. An assumption of a 5% time saving is made on each type of case. This implicitly assumes that the time saving that will be made is proportional to the length of time spent by the CA dealing with the case. The reasoning for this is that for more complex cases that take more time, there is greater scope for time savings to be made in areas such as translation.

Given that the breakdown of cases is already estimated (it is assumed that 45% of cases take 0.5 days, 35% take 2 days and 20% take 20 days to resolve), the time saving to CAs is calculated as the difference between:

- When these cases take 0.5 days, 2 days and 20 days respectively to resolve
- When these cases take 0.48 days, 1.9 days and 19 days respectively to resolve

These figures, which should be treated with great caution due to the lack of evidence to support the 5% figure, are presented in Table C9.

Table C9: Summary of benefits to CAs from time savings from using the IMI system

Year	Case (i); 0.5 days	Case (ii); 2 days	Case (iii); 20 days	Total	Time saving (£)	Time saving NPV (£)
0	2,400	1,867	1,067	5,334	342,041	342,041

1	2,406	1,871	1,069	5,347	342,842	331,248
2	2,412	1,876	1,072	5,359	343,643	320,794
3	2,417	1,880	1,074	5,372	344,444	310,669
4	2,423	1,884	1,077	5,384	345,245	300,861
5	2,423	1,884	1,077	5,384	345,245	290,687
6	2,423	1,884	1,077	5,384	345,245	280,857
7	2,423	1,884	1,077	5,384	345,245	271,359
8	2,423	1,884	1,077	5,384	345,245	262,183
9	2,423	1,884	1,077	5,384	345,245	253,317
Total					3,444,440	2,964,017

Based on the above assumptions and model, administrative cooperation is expected to have a total benefit of **£4.6 million** over a 10 year period in net present value terms from when the Directive has been implemented. However, it should be stressed that the benefits presented here are an underestimate of the true benefits of administrative cooperation. These only reflect the direct burden savings to businesses and regulators and not the wider economic contribution of facilitating trade to the UK.

LAs

In evaluating the costs and benefits of Administrative Cooperation, no attempt has been made so far to distinguish between the different types of regulators. Although it is not realistic to estimate the impact of the Directive on an individual basis, it is worthwhile making a distinction can be made between CAs and LAs.

CAs are bodies with whom registration or membership is mandatory in law for a service provider to operate in a given sector. By definition, all LAs are CAs - for a service provider to operate in that LA, they must register with that LA. However for the purposes of estimating the quantified costs and benefits of Administrative Cooperation, it was not necessary to make this distinction. However, there are likely to be further benefits to those CAs that are LAs which should be outlined. These are likely to arise in the following areas:

- Administrative cooperation means that LAs will find more efficient ways of co-operating with each other in the UK and EU, both in terms of speed and ease. This improved level of cooperation is of more relevance to UK LAs as there is much greater interaction between them than there would be for CAs who would be responsible for different sectors
- There would be significant administrative savings for all LAs arising from, for example, the simplified procedures for obtaining various licences, the likely reduction in the duplications of administrative processes and the electronic processing of licence applications. The reduction in these burdens as a result of Administrative Cooperation means that this will free up resources for LAs.
- The principles of administrative cooperation do not only apply between different Member States but also different LAs; having supplied information to one UK CA (for example, the qualifications of the service provider) the same information does not have to be supplied to another UK LA. This means that UK LAs (as well as service providers) benefit from this increased level of cooperation.

Implementation of the Directive as a whole will also have the direct effect of increasing the level of competition in the UK service market. LAs may benefit from the increased competitive pressures as there will be a wider choice of suppliers to bid for those public services that are currently open to competition through public tendering.

Risks

In the final few months leading up to the Directive's implementation in December 2009, 2 key risks have been identified.

- CAs are not made aware of their administrative cooperation obligations
- The take-up or use of the IMI system is low

CAs are not made aware of their administrative cooperation obligations

The objective of administration cooperation is built on the exchange of information between CAs across all Member States, which in theory should enable a proper and more efficient supervision of services ensuring control of service activities. However if CAs are not made aware of their obligations under this part of the Directive, the impact will be that service providers operating across borders are not regulated effectively and the overriding objectives of the Directive are not met. In response to this risk, BIS have been actively raising awareness to CAs of what they are expected to do from December 2009. Guidance has been sent to all UK CAs, all of which have been invited to seminars that explain their obligations. One-to-one meetings have also been held with all of the large regulators. In the months leading up to implementation in December 2009, BIS will issue further guidance and awareness raising material to minimise the chances of this risk taking place.

The take-up or use of the IMI system is low

The IMI system is crucial to the functioning of mutual assistance as it will allow CAs to identify the relevant regulators in other Member States easily and exchange information efficiently. However if the take-up or use of the IMI system is low, it will mean that there are delays to responses to information requests, or that delays will arise for CAs processing applications and/or gathering evidence for enforcement action. This will undermine the aim of the IMI system, delaying the emergence of benefits and could extend the time taken to resolve cases in the short run. To mitigate this risk, BIS has developed a communications and engagement strategy for the Directive. A programme has been rolled out for all CAs (including LAs), aimed at training and registration for the IMI system. A pilot programme is underway to test out and refine the system. A national IMI coordinator for CAs will be assigned in BIS.

Given the intangible nature of the costs associated with administrative cooperation, there are likely to be risks arising from the various assumptions that have been made. Until the Directive has been implemented, it is not possible to assess how realistic these assumptions are. These include:

1. Communication between the NLP and CAs could take less or more time than estimated
2. Travel and subsistence for NLP staff when training CAs may be higher or lower than estimated
3. The number of firms obtaining benefits from administrative cooperation may be higher or lower than estimated
4. Time savings from administrative cooperation for the CAs may be less than estimated
5. The number of requests received by CAs could increase by more than expected, due to improved communication stimulating more requests

Sensitivity analysis

In order to test the sensitivity of the costs and benefits that have been presented, "worst-case" scenarios have been presented where the:

- Costs have been increased by 10%
- Benefits have been decreased by 10%:

Increase costs by 10%

Table C10: Summary of the effect of increasing costs by 10%

	Total costs, (£m, discounted over 10 years)	Total benefits, (m£, discounted over 10 years)	Net benefit (£,m discounted over 10 years)	Benefits / costs ratio
Administrative cooperation	1.9	4.6	2.7	2.4

Decrease annual benefits by 10%:

Table C11: Summary of the effect of decreasing benefits by 10%

	Total costs, (£m, discounted over 10 years)	Total benefits, (£m, discounted over 10 years)	Net benefit (£m, discounted over 10 years)	Benefits / costs ratio
Administrative cooperation	1.7	4.1	2.4	2.4

Even in hypothetical 'worst-case' scenarios where costs are firstly increased by 10% and then benefits decreased by 10%, the benefit to cost ratio is greater than one indicating that there is a net benefit to administrative cooperation.

Enforcement

Member States are required to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by 28 December 2009. The legislation will not increase the regulatory requirements for compliant businesses as the general intention of the Directive is deregulatory. It is aimed at removing or reducing the barriers to the European Internal Market in services.

The key challenges in the implementation of this Directive is to review the regulatory framework of the UK, with a view to ensuring that any such barriers do not continue to exist here, unless they can be justified under the terms of the Directive. Much of the work to achieve this will be within Government and with those bodies that have regulatory functions. Government will be responsible for ensuring the enforcement of the Directive and that it is fair, open and proportionate. It is too early however to quantify what the cost of enforcement will be.

It follows that much of the enforcement of this Directive will require ensuring that Government and other regulatory bodies apply rules, in relation to service providers, which accord with the principles laid out in the Directive and abide by administrative cooperation rules. BIS has developed a communications and engagement strategy to ensure systematic engagement with all UK LAs and other CAs. One of the aims of this strategy is to issue specific advice and guidance to regulatory bodies on key aspects of the Directive.

Summary of costs and benefits

Table C12 provides a summary of the costs and benefits for administrative cooperation. In practice, the total benefits are likely to be underestimated as they do not include the indirect contribution of administrative cooperation towards the overall benefit of implementing the Directive. As it is not possible to distinguish the contributions to the economic benefits estimated by Copenhagen Economics, the benefits presented here only capture those that will be realised by business and CAs. As a result, the cost-benefit ratio is likely to be more favourable than suggested in Table C12.

These should be compared with the counterfactual where there is no mutual assistance between CAs across the EU. Other than being infringed by the Commission for not complying with this part of the Directive, these net benefits would not be realised by businesses and CAs. Businesses would continue having to register with CAs in each Member State while CAs would not realise time savings related to searching for their relevant counterparts in other Member States CAs would not be registered on the IMI system.

Table C12: Summary of costs and benefits

	Total costs, (£m, discounted over 10 years)	Total benefits, (£m, discounted over 10 years)	Net benefit (£m, discounted over 10 years)	Benefits / costs ratio
Administrative cooperation	1.7	4.6	2.9	2.7

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	Yes
Small Firms Impact Test	Yes	Yes
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	Yes	Yes
Disability Equality	Yes	Yes
Gender Equality	Yes	Yes
Human Rights	No	No
Rural Proofing	No	No

Specific Impact Tests

Competition Assessment

The provisions for administrative cooperation should have a pro-competitive effect. This is because they will reduce burdens on business when operating in other Member States. They will do so by enabling information provided to the home regulator to be shared with the relevant regulator in the host Member State. This reduces the quantity of information that a firm will need to provide if providing services in other EU Member States.

Increased competition should be reflected in the form of falling prices, higher service imports and higher output and employment. The results of Copenhagen Economics suggest that the regulated professions sector - which has the highest barriers - should experience the largest relative fall in price and increase in value added and employment.

Small Firms Impact Test

Small firms are over-represented in the service sectors: in 2007, 44.2% of UK services (those which are broadly covered by the Services Directive as outlined in Table A1) turnover was generated by small firms (under 50 employees) compared with 18.7% for manufacturing.

SMEs are disproportionately affected by barriers to establishment and cross-border trade in services, because the costs of overcoming them are often independent of firm size. The development of mutual assistance will reduce the burdens on business when operating in other Member States. It will do so by enabling information provided to the home regulator to be shared with the relevant regulator in the host Member State. This reduces the quantity of information that a firm will need to provide if providing services in other EU Member States.

Racial Equality Test

Benefits of the Directive are available to all who use services; this should not vary with race. At this stage of implementation, no racial equality issues have become evident. Mutual assistance will be in place for all service providers and competent authorities, regardless of race.

Disability Equality Test

Benefits of the Directive are available to all who use services; people with disabilities are therefore not expected to be disproportionately affected. At this stage of implementation, no disability equality issues have become evident. Mutual assistance will be in place for all service providers and competent authorities, and should not be affected by disability.

Gender Equality Test

Recital 4 of the Directive notes that services are a key employment sector for women in particular, so they stand to benefit from the Directive. Benefits of the Directive are available to all who use services; this should not vary with gender. Provisions for mutual assistance will benefit all providers of services who wish to engage in intra-EU trade.

Summary: Intervention & Options

Department /Agency: Department for Business Innovation and Skills	Title: Impact Assessment of Services Directive: Quality of Services	
Stage: Final	Version: Final	Date: October 2009
Related Publications:		

Available to view or download at:

Contact for enquiries: Sumit Dey-Chowdhury

Telephone: 020 7215 2347

What is the problem under consideration? Why is government intervention necessary?

Services are an example of an experience good where its characteristics (such as quality) are indeterminable before they are consumed. This information asymmetry is more of an issue for services than it is for goods given their intangible nature, which means service providers know much more about the quality of the service being provided than the recipients. As it is more difficult for recipients to assess the quality of the service that they are being provided with, this results in low consumer confidence. This means there is more reluctance for UK consumers to purchase services from providers based in other Member States. To address this market failure, government intervention is required.

What are the policy objectives and the intended effects?

The Directive requires Member States to implement measures aimed at improving the level of information on the quality of services. It aims to promote high quality service provision and easier access to information about consumer rights on cross border trade in services within the EEA (by laying down means for encouraging the resolution of disputes).

The intention of the provisions on better information is to increase consumer confidence and their ability to make well-informed decisions when purchasing services, especially from providers based in other Member States.

What policy options have been considered? Please justify any preferred option.

To provide clear and unambiguous information that is up to date and easily accessible, the UK has decided to establish a 'consumer portal' (Article 21). Based on the assessment of risk, the UK branch of the European Consumer Centre has been chosen as the host.

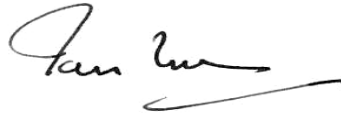
Information on providers and their services (Article 22) as well as on the settlement of disputes will be made available (Article 27).

To ensure that information about labels and quality marks is easily accessible to both providers and recipients, through the introduction of legislation or making it available on a website (Article 26).

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The European Commission is required to review the application of the Directive by 28/12/2011 and every three years thereafter. BIS is also scheduled to undertake a Post Implementation Review in 2012.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

A handwritten signature in black ink, appearing to read 'Ian Curran', with a long horizontal flourish extending to the right.

Signed by the responsible Minister:

Date: 05 October 2009

Summary: Analysis & Evidence

Policy Option: Quality of services provision	Description: Impact Assessment of Services Directive: Quality of Services
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' The cost of establishing a 'consumer portal' will be borne by government.
	One-off (Transition)	Yrs	
	£ 160,000	1	
	Average Annual Cost (excluding one-off)		
£ 160,000	10	Total Cost (PV) £ 1.1m	
Other key non-monetised costs by 'main affected groups' The requirement for service providers to provide information relating to their services may impose a burden, and service providers may be burdened by the possible increase in cases of redress.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' N/Q
	One-off	Yrs	
	£ N/Q		
	Average Annual Benefit (excluding one-off)		
£ N/Q		Total Benefit (PV) £ N/Q	
Other key non-monetised benefits by 'main affected groups' Quality of services provisions will address both the information asymmetry and associated commitment problem, which will increase the level of consumer confidence. This will benefit both service recipients and providers, and consumers should find it easier to settle disputes should they have a complaint.			

Key Assumptions/Sensitivities/Risks Risks include that the consumer portal does not deliver its requirements; service providers are not made aware of the requirements on them regarding the provision of information and redress.

Price Base Year 2009	Time Period Years 10	Net Benefit Range (NPV) £ N/A	NET BENEFIT (NPV Best estimate) £ N/Q
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What is the geographic coverage of the policy/option?			EU		
On what date will the policy be implemented?			28 December 2009		
Which organisation(s) will enforce the policy?			BIS/Commission/OF		
What is the total annual cost of enforcement for these organisations?			£ N/Q		
Does enforcement comply with Hampton principles?			Yes		
Will implementation go beyond minimum EU requirements?			Yes		
What is the value of the proposed offsetting measure per year?			£ N/A		
What is the value of changes in greenhouse gas emissions?			£ N/A		
Will the proposal have a significant impact on competition?			Yes/No		
Annual cost (£-£) per organisation (excluding one-off)		Micro N/Q	Small N/Q	Medium N/Q	Large N/Q
Are any of these organisations exempt?		No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)

(Increase - Decrease)

Increase	£ N/Q	Decrease	£ N/Q	Net	£ N/Q
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Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

The issue

Services are a prime example of an “experience good” where the characteristics of the product are difficult to observe in advance and can only be ascertained once it has been consumed. (This is in contrast to a “search good” where such characteristics are easily evaluated before consumption). Given the intangible nature of services, it means that their quality is indeterminable by the consumer until after they are purchased. This is the source of the information asymmetry, which can lead to market failures and explains the need for government intervention.

The Directive aims to promote high quality service provision (while avoiding unnecessary burdens on service recipients) and easier access to information about consumer rights on cross border trade in services within the EEA. This is particularly relevant to the EEA because as the market for services becomes more open, there is a greater need to improve consumer confidence in purchasing services from providers based in other Member States (as well as the EEA states of Iceland, Liechtenstein and Norway).

The following articles are of relevance to the quality of services provisions outlined in the Directive. A policy response has been developed to each of these and, where possible, attempts have been made to quantify the costs and benefits of each.

- Article 21: Assistance for recipients
- Article 22: Information on providers and their services
- Article 27: Settlement of disputes
- Article 26: Policy on quality of services

There is an underlying theme of providing better information to all of these provisions outlined in the Directive, which is aimed at addressing the information asymmetry associated with experience goods such as services. This in turn should give service providers greater incentives to commit to providing services of a higher quality. Service providers are more likely to comply with requirements if there is a greater likelihood that consumers will act upon the information that is available to them.

As outlined in Box 1 in the Executive Summary, Part 2 (Duties of Service Providers) of the Provision of Services Regulations 2009 has been applied to anyone providing a service in the UK, regardless of whether they are established in an EEA member state.

By applying these provisions to all those providing a service in the UK, the government considers this approach to further the aim of Articles 22 and 27, in ensuring a high quality of services for consumers, and in particular that they have access to a minimum amount of information and a complaints procedure. This approach is designed to avoid creating a parallel regime in the provision of information for consumers of services.

The class of service providers covered by the Regulations but not the Directive (i.e. established in non-EEA states) is not significant. Imported services from outside the EU in 2006 represented a small part of total consumption of services in the UK. For example, they represented only 5.6% of the value added of UK providers of communication services, or 0.3% of the value added of UK construction services.⁷⁶

Objective (1): Assistance for recipients

Article 21 requires that all Member States ensure that service recipients can obtain, in their Member State of residence, the following information:

- General information on other Member States' requirements relating to access to, and exercise of, service activities (in particular those relating to consumer protection)
- General information on the means of redress available in the case of disputes between a provider and a recipient
- Contact details for sources of practical assistance

This will enable consumers to obtain information on legal obligations applicable in other Member States, in particular consumer protection rules, as well as assistance on the way these are interpreted and applied. For example, to highlight the potential scale of this area, a survey conducted by TNS on behalf of BIS in June 2008 showed that nearly a third of consumers rated themselves as "not well informed" about their rights⁷⁷. Article 21 will make consumers better informed in general, which means that they will be better placed to make better choices. In terms of service provision, this should be to the detriment of non-compliant providers while those service providers who do comply will not be adversely affected by consumers knowing their rights. This should bring economic benefits to consumers, businesses and the economy as a whole.

The information and assistance provided has to be clear and unambiguous, up to date, and easily accessible (including by electronic means). This requires the UK to establish a 'consumer⁷⁸ portal', where service recipients can obtain the specified information online (or by e-mail). The options available to the UK for establishing a consumer portal are set out below.

Options identification (1)

Consumer Portal (article 21)

To establish a UK consumer portal, the following options have been identified as a potential host from which service recipients can obtain the specified information online.

1. Do nothing
2. Use the Euro Info Centre Network
3. Use the UK Point of Single Contact
4. Use the UK European Consumer Centre
5. Use Consumer Direct
6. Create a new website

⁷⁶ Data taken from 'UK Balance of Payments, The Pink Book 2007' (National Statistics)

⁷⁷ BIS (2008), 'General Public Survey of Consumer Rights' available at <http://www.berr.gov.uk/whatwedo/consumers/page51180.html>

⁷⁸ It is important to note that although the term 'consumer portal' is used here, the term consumer is defined to include all service recipients - the information provided through the portal would be available to all service recipients.

Analysis (1)

Costs

If the UK does nothing it will leave it open to infraction and the associated costs. It will also mean that consumers are not well informed with service providers having less incentive to provide services of a higher quality.

As with the PSC, the existing services of information provision that are available to consumers need to be assessed. Building the consumer portal on the existing service that already best meets the requirements of the Directive would likely be the most cost effective option. This would avoid the unnecessary duplication of content and resources in delivering the assistance for recipients through the consumer portal. Importantly it would also reduce the potential risk from a user perspective, as building on the most appropriate existing service would minimise consumer confusion.

Therefore, after comparing the different options available, it was decided that the Trading Standards Institute (TSI) was best placed to host the consumer portal (option 4). The TSI is already responsible for hosting the UK branch of the European Consumer Centre (UK-ECC), which is part of the European Consumer Centre Network established by the European Commission in order to provide advice and information to consumers when shopping in other Member States. The type of service it provides is very similar to that required by the consumer portal. The TSI is the most suitable organisation that is capable of providing the consumer portal by the deadline. In particular the TSI will be able to link to or re-use existing information already on the UK-ECC site (or in counterpart sites) and be able to direct users to the most appropriate information.

Given that the scope and requirements of the consumer portal is not as great as that for the PSC, the costs of implementation and operation are expected to be considerably lower. For 2009/1079, the implementation cost is approximately £150,000. Operation of the consumer portal is expected to cost £160,000 annually, which means that over the first 10 years of the project it is estimated to cost almost £1.1m in net present value terms.

Benefits

Doing nothing would provide no benefits, with there being no action to reduce the commitment problems associated with the information asymmetry. The benefits to the wider economy from consumers being better informed would be foregone.

With the PSC and the IMI system, it was possible to estimate direct time savings to service providers and regulators respectively. However it is more difficult to quantify the benefits of establishing a consumer portal because the aim of establishing a consumer portal is to enhance information available for consumers and improve their confidence in purchasing services from providers based in other Member States. The direct benefit is the value of this increased level of confidence (and how this translated to an increase in consumption of services from other Member States) but quantifying this is not possible. The provision of information about service providers increases their incentive to commit to providing services of a higher quality. The consumer portal will contribute to the level of competition in the services market but measuring its direct contribution to the benefits gained from the lowering of barriers to market entry is not possible.

⁷⁹ It is worth noting that 2009/10 represents the third year of the project and so these costs have been discounted accordingly.

For this reason, it has not been possible to quantify the direct effect of the consumer portal. Assuming that the information provided is clear and unambiguous, one would expect an increase in the competitiveness of the EU market for services.

Objective (2): Information on providers and their services

Article 22 requires Member States to ensure that service providers make certain information about them and their services readily available to the recipients, concerning in particular the identity and qualifications of the service provider, the characteristics and the price of the service and any after-sales guarantees. With such information being made more readily available, from 28 December 2009 consumers should be more easily able to compare services and how to contact the provider for further information or in the event of a dispute. This will give service providers greater incentive to commit to providing services of a higher quality. Recipients of services should be able to make better informed decisions when considering the use of services from other Member States.

The requirement in the Regulations for information provision will apply to all service providers in scope of the Directive, including those offering or providing services in the UK even if they do not provide services outside the UK. It will also apply to service providers even if they are established in a country outside the EEA. There are 2 essential provisions of information that have to be made; one that is always to be made available and the other that is to be made available at the recipient's request. Providers will have a choice of ways in which to make the information available, but it must be communicated in a clear and unambiguous manner in good time before either the contract is concluded or service provided (in the absence of a contract).

Analysis (2)

Costs

Article 22 will impose a cost on business as it places a requirement on service providers to make available information to service recipients. It is estimated from VAT registrations data that there are approximately 1.45 million service providers established in the UK that are in scope of the Directive. Although this could potentially affect all these service providers that are established in the UK, in practice these requirements should not prove to be an additional burden to businesses. Reputable service providers are already likely to be providing much of, if not all, this information so the additional burden of adhering to Article 22 should be minimal. Some of these information requirements complement existing Directives (the e-commerce Directive and the Unfair Commercial Practices Directive). The Services Directive allows for the information to be communicated by a variety of means (for example, a website or within the wording of a contract or at the provider's own initiative). Given that it is likely that a number of firms will already have a website that complies with many of the Directive's information requirements, updating it with a small amount of additional information will not be onerous and could be included in a regular website update at minimal cost.

It is difficult to estimate the likely cost to businesses as there is insufficient information available to determine for what proportion of businesses this would be a one-off cost (for example, by updating a website), and for which it would be an ongoing cost (for example, by providing this information orally). Although some business owners have suggested that this may take only a few minutes if it means only updating a website, at present it is still not known how long this may take in practice, and how long it may take firms to establish what additional information they will need to provide in order to comply with the Directive.

The burden of proof that action has been taken will fall to business as they are required to demonstrate compliance. Given that light-touch enforcement is being proposed, this may simply be demonstrating that a website was updated at a particular time or maintaining

contract documentation. Such records are likely to be maintained in the normal course of business, so are unlikely to impose an additional cost.

Benefits

As with the consumer portal, the benefits of providing information to service recipients are difficult to quantify. Whereas it is expected that these information obligations will increase consumer confidence, it is not possible to quantify by how much it will do this by and by how much it will increase the competitiveness of the EU market for services. It is even more difficult to attempt to estimate the relative benefits of different methods of enforcement.

Objective (3): Settlement of disputes

If consumers are made more aware of their rights and the channels of redress available to them, there will be a greater deterrence for service providers to engage in non-compliant behaviour. Service providers will have more of an incentive to commit to providing services of a higher quality. While this does not address the information asymmetry itself, it does directly tackle the commitment problems associated with it.

Evidence published by BIS80 showed that there are a significant number of consumers not knowing their rights, suggesting that government intervention to increase knowledge of rights could be beneficial. Article 27 requires providers to make information available to do with redress and to respond to complaints in a timely manner. The UK is required to ensure that service providers supply contact details to which all recipients can send a complaint or a request for information about the service provided.

Analysis (3)

Costs

There will be costs resulting from consumers seeking redress from service providers. Consumers will find it easier to seek redress given the availability of information about the service provider and what they can expect from the service, combined with information about redress accessed through the consumer portal. It is therefore expected that the likelihood of consumers taking action against a service provider will increase. This will represent a time burden to service providers as they are required to respond to the likely increase in complaints.

There is a lack of information available on estimating the cost of redress on service providers. It was hoped that analysis⁸¹ carried out for the proposed EU Consumers Rights Directive would be of use in estimating the costs and benefits. However the cost of redress from the Consumers Rights Directive is more likely to fall on consumers and not the retailers because the redress outcomes that are offered by retailers⁸² may not be aligned with what the consumer would have wanted.

The process of redress could result in an ongoing communication process between consumer and service provider but to reliably model this cost, information would be required on 3 parameters:

- The number of service providers that would be affected by redress (or alternatively an indication of how likely redress is likely to occur)
- The length of time service providers on average would spend dealing with the necessary processes

80 BIS (2009), 'A Better Deal for Consumers - Economic Narrative' available at <http://www.berr.gov.uk/files/file52074.pdf>

81 BERR (2009), 'Retail Harmonisation Survey' available at <http://www.berr.gov.uk/files/file51165.pdf>

82 Under the proposed Consumer Rights Directive, retailers would have the choice of whether to repair or replace (the 2 remaining redress options) the faulty item - currently consumers are able to exercise their preference for redress options. The 'right to reject' would also be removed from UK law meaning that refund as a redress option for consumers would no longer be available

- A value of this time

Whereas it is possible to value the time spent by service providers (the UK Standard Cost Model estimate of £20.23 an hour has been used elsewhere in this Impact Assessment), details still remain unclear on the first 2 parameters. It is difficult to provide a basis for what these may be and so a quantified cost has not been presented.

There will also be a cost of enforcement, which will be carried out in relation to information obligations under Articles 22 and 27. The available options are either to proactively check for compliance or to check in response to specific actions (for example, redress action). This will fall to regulators or to other enforcement agencies. There are relative benefits of the different methods available. Enforcement of these provisions forms Part 8 of the Enterprise Act, which would be proportionate and light touch, in compliance with the Regulatory Compliance Code. It is also thought that this will be captured by other regulatory checks so the additional cost that will arise is likely to be minimal. This will depend on the way in which enforcement is to take place - inspections on a random and continual basis would be more costly than only doing so in response to an alert of a discrepancy in behaviour. However it is estimated that these costs will be negligible.

Benefits

There are also likely to be indirect benefits to consumers of improved redress procedures since firms will have more incentive to provide services of a higher quality though, as with Article 22, these are difficult to quantify. Consumers will benefit from the fact that the greater provision of information will make the process of redress easier. There is also the positive externality of a precedent being set if consumers start pursuing redress on a more regular basis. If there is an increase in the number of cases of consumers seeking redress, this will likely deter service providers in the future to provide lower quality services because of the increased likelihood of consumers seeking redress. Better information provision will also reduce the search cost of finding the relevant information about the service provider, while the consumer portal will reduce the time they spend searching for information about the redress process.

As with the costs, providing a basis for the benefit parameters is difficult. Information is ideally required on:

- The number of service recipients that would be affected by redress (or alternatively an indication of how likely redress is likely to occur)
- The length of time service recipients on average would save through this process
- A value of this time

An average hourly wage could be used to provide a guide to the value of people's time since this captures the opportunity cost to pursuing the settlement of a dispute. Latest figures from the Office for National Statistics show that median hourly earnings rate for all employees is £10.5383 but information on the other 2 parameters is not as readily available. Consequently no quantifiable benefits are presented here.

Objective (4): Policy on quality of services

All Member States are required to encourage service providers to take action in order to ensure the quality of service provided. The UK is required to ensure that information about labels and quality marks is easily accessible to both providers and recipients. This directly addresses the information asymmetry that arises from services being an example of an experience good. This should make it easier for consumers to compare the different features of service activities in different Member States, which in turn will make the quality of the

service being provided less indeterminable *before* consumption. Options include making information available on a website and requiring organisations responsible for labels to provide information about them through the introduction of appropriate legislation.

Within the provisions set out in the Directive which relate to quality of services, the Government seeks to implement with the minimum burden on SMEs. In particular:

- The Government does not propose to require service providers to take part in codes of conduct, charters etc.
- The Government does not propose a general mandatory requirement for service providers operating a high-risk service to subscribe to professional liability insurance.

Options identification

There have been 3 options that have been identified for its implementation:

- Introduce legislation to require organisations that are responsible for labels to provide the information
- Make the information available on the internet, whether on an existing website, or a new website
- A combination of these 2 approaches

Option 1

This places the cost of information provision on organisations that are responsible for labels. The cost of this is difficult to estimate at this stage, since this requires an estimate of the number of organisations which are affected, the amount of information that should be provided and the way in which this could be done.

Option 2

Placing the information on one of these websites would place the cost of information provision on these website providers. Given that businesses have indicated that the reliability of information is important, this should be taken into consideration when deciding which website to use. Placing information on several sites has the risk that they are not updated simultaneously, creating confusion as to the most reliable source of information.

Option 3

This option places the burden on organisations to provide the information but doing so through one of the Government websites set out in option 2.

Analysis (4)

Costs

Analysis was carried out by BIS to determine whether the requirements of the Directive could be met through existing channels, which would be the most cost effective approach. It was decided that this information is already provided on various existing websites (such as Office for Fair Trading, Citizens Advice Bureau, ECC). This is why it the UK government will not be creating a website to bring together information on quality marks and labels, nor will it impose a requirement in legislation on CAs to supply such information.

Benefits

Labels are a guide to quality, but there are insufficient data available on the number of enterprises that use quality marks or labels, or those who would do if they had more information. Without this, it is difficult to estimate the benefit to business. As with the consumer portal, the benefits arise from increased consumer confidence in the services that are being provided but quantifying this benefit is difficult.

Businesses may benefit from their services being recognised by consumers, through a label or quality mark, as providing a level of quality. This could raise their ability to attract new clients and hence demand for their service. (Service providers who already provide high quality services will have an incentive to disclose this information publicly as it would allow them to distinguish from lower quality services.) However estimating by how much demand for these services will increase by cannot be estimated with the data available.

For customers, the provision of this information will enable them to better evaluate the quality of a service that they are considering purchasing. This is because a recognised mark can provide a reference to the quality of that service, reducing the perceived risk associated

with using a service provider previously unknown to the consumer. This should increase confidence in using service providers from other Member States and new UK start-ups, thereby increasing competition in the service sector.

Objective (5): Professional liability insurance and guarantees, commercial communications by the regulated professions and multidisciplinary activities

Articles 23, 24 and 25 also fall under the quality of services provisions outlined in the Directive. For completeness, a brief overview of each is provided here which in particular focuses on how these will improve the functioning of the internal market for services.

Article 23 gives Member States the option to make the holding of professional liability insurance (PLI) compulsory for providers of services posing a direct and particular risk to the health or safety of third persons or the financial security of the recipient. This will principally benefit service recipients across the EEA states, increasing consumer confidence in services being purchased from other countries. The UK does not propose to introduce a general mandatory PLI requirement though. This is because imposing a general requirement on EU service providers where such a requirement does not already exist may impose disproportionate burdens on service providers, which could act as a barrier to market entry. This would have a negative effect on competition and reduce the choice of services and service providers available to consumers.

Article 23 also prohibits Member States from requiring that providers established in their territory take out PLI or a guarantee if the provider is already covered by equivalent or essentially comparable cover obtained in another Member State where they are established. This will benefit service providers trading across Europe, who will no longer have to obtain additional cover in the country they wish to establish in (provided they already have equivalent or essentially comparable cover).

Article 24 requires that Member States eliminate any total prohibitions on commercial communications by the regulated professions. Member States must ensure commercial communications by the regulated professions comply with professional rules that meet certain requirements, such as being non-discriminatory. This is to the advantage of service providers in the regulated professions, who should now have greater freedom to advertise their services.

Article 25 is aimed at the interest of the service provider as it prohibits restrictions on multidisciplinary activities, with exceptions for two categories of provider. This means that the provider benefits from now being able to expand into other types of activity.

Risks

In the lead up to the implementation of the Directive in December 2009, 2 key risks have been identified in regards to Quality of Services provisions.

- Portal required by Article 21 does not deliver requirements
- Service providers not aware of the requirements concerning the provision of information and redress

Portal required by Article 21 does not deliver requirements

Article 21 requires that all Member States ensure that service recipients can obtain information relating to access to service activities (in particular those relating to consumer protection) and on the means of redress available. If the portal does not deliver these requirements, service recipients would not have access to required information and the UK would be in breach of the Directive. The market failure of an information asymmetry would not be addressed by government intervention with recipients continually finding it difficult to assess the quality of the service that they are being provided with. To mitigate this risk, BIS is

working very closely with the TSI, who has been selected to host the consumer portal to ensure requirements of the Directive are fully understood and met.

Services providers are not aware of the requirements concerning the provision of information and redress

If service providers are not aware of what they are required to do from December 2009, it would mean that they are not compliant with the terms of Directive while service recipients would not benefit from their entitlements. In order to reduce the likelihood of this risk occurring, BIS is running a business information campaign with business groups in the lead up to implementation.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	Yes
Small Firms Impact Test	Yes	Yes
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	Yes	Yes
Disability Equality	Yes	Yes
Gender Equality	Yes	Yes
Human Rights	No	No
Rural Proofing	No	No

Specific Impact Tests

Competition Assessment

The provisions for quality of services should have a pro-competitive effect. This is because it will provide consumers with information about services and service providers. This should increase their willingness to use the services of new entrants to the market and to switch service providers. This is important for driving competition.

Increased competition should be reflected in the form of falling prices, higher service imports and higher output and employment. The results of Copenhagen Economics suggest that the regulated professions sector - which has the highest barriers to entry - should experience the largest relative fall in price and increase in value added and employment.

Small Firms Impact Test

Small firms are over-represented in the service sectors: in 2007, 44.2% of UK services (those which are broadly covered by the Services Directive as outlined in Table A1) turnover was generated by small firms (under 50 employees) compared with 18.7% for manufacturing.

As consumers of services, SMEs will benefit from the provisions for quality of services, which will provide them with information that will assist them in choosing their service provider.

For SMEs that provide services, the provision for quality of services will require them to provide information to the recipients of these services. Much of this information is likely to be supplied already; additional information can be provided through a range of media, including websites. It is not envisaged that this will create a significant burden on business as, for example, a website will only need to be updated once.

Racial Equality Test

Benefits of the Directive are available to all who use services; this should not vary with race. At this stage of implementation, no racial equality issues have become evident. Information about quality of services will be available to all.

Disability Equality Test

Benefits of the Directive are available to all who use services; people with disabilities are therefore not expected to be disproportionately affected. As a website, the consumer portal will need to comply with Government website requirements (these are compliant with accessibility requirements). Both the consumer portal and information about labels and quality marks should be accessible to all individuals who are able to use a computer and have access to the internet. Since websites are not necessarily accessible by disabled people, BIS is currently undertaking work that looks into these issues. The outcomes of which will be made available when these Impact Assessments are revised in October 2009.

Gender Equality Test

Recital 4 of the Directive notes that services are a key employment sector for women in particular, so they stand to benefit from the Directive. Information about quality of services will be available to all who use services; this should not vary with gender.

Summary: Intervention & Options

Department /Agency: Department for Business Innovation and Skills	Title: Impact Assessment of Services Directive: Screening existing legislation	
Stage: Final	Version: Final	Date: October 2009
Related Publications:		

Available to view or download at:

Contact for enquiries: Sumit Dey-Chowdhury

Telephone: 020 7215 2347

What is the problem under consideration? Why is government intervention necessary?

Service providers based in one Member State can be hindered in their efforts to do business in another Member State because of the need to meet the different regulatory requirements in that country. Legal and administrative obligations placed on service provision (whether impacting on the provider or the recipient) can be unnecessary or overly complex and can act as obstacles to trade. Government intervention is necessary to address these barriers.

What are the policy objectives and the intended effects?

The UK is obliged to examine all its legislation and practices which regulate service provision, and check whether discriminatory, unnecessary or disproportionate provisions that act as a barrier to operating in that Member State remain. Where a particular requirement cannot be justified, it will either have to be repealed, or else amended to bring it into line with the Directive. The aim is for administrative simplification so that service providers across Europe will have fewer obligations to comply with, improving the competitiveness of the European services market.

What policy options have been considered? Please justify any preferred option.

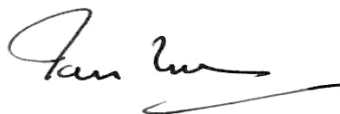
UK government has screened all national legislation, and for each piece of legislation it has been determined whether it is 'not in scope', 'in scope – justified' and 'in scope – not justified'. Where the legislation has been deemed to be 'in scope – not justified', UK government is responsible for changing the legislation to ensure that it is compatible with the Directive.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The European Commission is required to review the application of the Directive by 28/12/2011 and every three years thereafter. BIS is also scheduled to undertake a Post Implementation Review in 2012.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:



Date: 05 October 2009

Summary: Analysis & Evidence

Policy Option: Screening existing legislation	Description: Impact Assessment of Services Directive: Screening existing legislation
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' N/Q: BIS will undertake work to help estimate key monetised costs in the next few months, the results of which will be published in the final Impact Assessment in October 2009.
	One-off (Transition) Yrs	
	£ N/Q	
	Average Annual Cost (excluding one-off)	
£ N/Q	Total Cost (PV)	£ N/Q
Other key non-monetised costs by 'main affected groups' The cost of screening will be borne by both BIS and/or other government departments who are responsible for the legislation that is being screened.		

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' N/Q: BIS will undertake work to help estimate key monetised benefits in the next few months, the results of which will be published in the final Impact Assessment in October 2009.
	One-off Yrs	
	£ N/Q	
	Average Annual Benefit (excluding one-off)	
£ N/Q	Total Benefit (PV)	£ N/Q
Other key non-monetised benefits by 'main affected groups' Administrative simplification so that service providers across Europe will have fewer obligations to comply with overall and that there should be significantly fewer barriers to entering new markets. This should improve the competitiveness of the European services market.		

Key Assumptions/Sensitivities/Risks

Price Base Year 2008	Time Period Years 10	Net Benefit Range (NPV) £ N/A	NET BENEFIT (NPV Best estimate) £ N/Q
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What is the geographic coverage of the policy/option?		EU		
On what date will the policy be implemented?		28 December 2009		
Which organisation(s) will enforce the policy?		BIS/ Commission		
What is the total annual cost of enforcement for these organisations?		£ N/Q		
Does enforcement comply with Hampton principles?		Yes		
Will implementation go beyond minimum EU requirements?		Yes		
What is the value of the proposed offsetting measure per year?		£ N/A		
What is the value of changes in greenhouse gas emissions?		£ N/A		
Will the proposal have a significant impact on competition?		Yes		
Annual cost (£-£) per organisation (excluding one-off)	Micro N/Q	Small N/Q	Medium N/Q	Large N/Q
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)

(Increase - Decrease)

Increase	£ N/Q	Decrease	£ N/Q	Net	£ N/Q
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Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

The issue

Service providers based in one Member State can be hindered in their efforts to do business in another Member State because of the need to meet the different regulatory requirements in that country. Legal and administrative obligations placed on service provision (whether impacting on the provider or the recipient) can be unnecessary or overly complex, acting as as potential barriers to trade.

Objectives

Article 5 of the Directive states that “Member States shall examine the procedures and formalities applicable to access to a service activity and to the exercise thereof. Where procedures and formalities examined under this paragraph are not sufficiently simple. Member States shall simplify them.” This obliges the UK to examine all its legislation and practices which regulate service provision, and check whether discriminatory, unnecessary or disproportionate provisions that act as a barrier to operating in that Member State remain⁸⁴. A barrier is deemed ‘discriminatory’ if it discriminates a service provider on the grounds of nationality (or in the case of businesses, the location of the registered office). An ‘unnecessary’ barrier is one that is not justified by an overriding reason relating to the public interest (for example, public health or public security) while a barrier is ‘disproportionate’ when it goes beyond what is necessary to attain the objective pursued.

All requirements (for example authorisation schemes, licence applications, certification, registration processes, approval systems and continuing requirements) that are imposed on service providers must be screened to ensure that they are non-discriminatory, necessary and proportionate. Any requirements that cannot be justified under the terms of the Directive will need to be amended or abolished in order to be compliant with the Directive. There are 2 objectives to the screening process:

- Identify unnecessary regulatory requirements
- Remove restrictions that cannot be justified

The aim of screening is for administrative simplification so that service providers across Europe will have fewer obligations to comply with overall and that there should be significantly fewer barriers to entering new markets. This should improve the competitiveness of both the European and UK services market. Those obligations which remain should be as simple as possible. For the UK, this fits with the better regulation objectives and efforts to reduce administrative burdens. (As an aside, it is also required that any future legislation introduced into the UK complies with the Directive.)

⁸⁴ A full list of the Acts that have been screened, together with the results, can be found at <http://www.berr.gov.uk/servicesdirective>

Analysis

To ensure compliance with the Directive, BIS (alongside other government departments) has screened all UK national legislation, and for each piece of legislation it has been determined whether that act is:

- 'not in scope'
- 'in scope - justified'
- 'in scope - not justified'

Where the legislation has been deemed to be 'in scope - not justified', BIS and/or the relevant government department are responsible for changing the legislation to ensure that it is compatible with the Directive. As a result of recent business simplification work that has been undertaken by government in recent years, the number of acts that have been identified as needing to be amended is relatively small.

Cost

The cost of screening will be borne by both BIS and/or other government departments (in terms of time and resources) who are responsible for the legislation that is being screened. So far, over 6,000 Acts have been screened to see whether they were in scope of the Directive and work is continuing on the remaining few pieces of legislation where a decision has not yet been made. However it is not possible to quantify with any precision the burden this has placed on BIS and other government departments. This is because of the large variation in the work involved with screening each individual Act meaning that it is not possible to estimate with any accuracy the average (or total) time spent by government in reviewing each piece of legislation.

Benefit

In terms of the direct impact for service providers, the screening of UK national legislation means that service provision in the UK should be made easier. Where existing legislative acts has been deemed discriminatory, unnecessary or disproportionate, they have been amended so that they comply with the Directive. There is the scope for administrative burden savings to be realised. An administrative burden is the cost imposed by government regulation on enterprises when complying with an obligation or checking on compliance stemming from government regulation. For example, this covers requirements for forms to be completed or providing information to third parties.

The nature of some of the amendments that are being made means that it is not possible to estimate the total administrative burden saving to service providers. This is because some of the amendments that have been made as a result of screening are aimed at making all requirements consistent with the Directive; this is not always aimed at reducing information obligations (and hence cannot always be mapped to the obligation type in the 'Administrative Burdens Calculator'). For example, in the screening exercise *Transmissible Spongiform Encephalopathy Regulations* was identified as an act that was in scope that needed to be amended. This is because it debar any laboratory outside the UK from being approved for the UK's testing programme. The amendment removes the requirement for laboratories to be located in the UK, making it consistent with the Directive, but it is not the case that any of the obligation types associated with this act have been removed.

There are also the expected benefits that are realised through the pro-competitive effect on the UK services market. The more that service sectors are affected by barriers that are discriminatory, unnecessary or disproportionate, the greater the scope for the screening exercise to result in a more competitive market. Competition brings benefits of wider choice and lower prices to consumers, in addition to a positive productivity effect on firms who seek to be more efficient in a more open and competitive market. Competition also promotes investment and innovation, which also helps to improve productivity as foreign market

entrants can drive this process further as their knowledge and technology gradually passes to domestic firms.

Risks

The biggest risk that has been identified is that the screening process is not complete, so that discriminatory, unnecessary or disproportionate provisions that act as barriers to operating in that Member State are not removed. For example, it may be that an act has been initially deemed to be out of scope, only to be then determined in scope of the Directive (and hence needs to be screened accordingly and then it needs to be determined whether it should be amended/repealed or not).

BIS has been working closely with other government departments and Devolved Administrations to ensure that national legislation is compliant with the Directive. Efforts are being made to firstly correctly identify which acts are in scope of the Directive, and that these acts are screened accordingly. BIS has published information specifically for government departments to help them with the screening exercise. This includes updated guidance to help them through the steps involved in screening any (current or future) requirements that they impose on service providers for compliance with the Directive.

Monitoring and evaluation

Mutual Evaluation is a peer review process to ensure that all Member States have implemented in a similar manner. BIS' plan is to highlight all the restrictions removed by other Member States and to challenge vigorously others where they have attempted to maintain existing barriers to services providers from other countries. Member States must review their regulatory systems in the light of the conditions laid down in the Directive.

Each report will be submitted to other Member States, who may submit observations, and the Commission will consult interested parties. The Commission will then present a summary report with proposals, where appropriate, for additional initiatives to the European Parliament and Council. The evaluation of each Member States' screening of legislation will be of importance to ensure the success of the Directive and help formulate future plans in improving the internal market for services.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
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Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	Yes	Yes
Disability Equality	Yes	Yes
Gender Equality	Yes	Yes
Human Rights	No	No
Rural Proofing	No	No

Specific Impact Tests

SPECIFIC IMPACT TESTS

Competition Assessment

The screening process should have a pro-competitive effect. This is because of the administrative simplification that it results in, which will mean that service providers across Europe will have fewer obligations to comply with overall and that there should be significantly fewer barriers to entering new markets. This should improve the competitiveness of the European services market.

Increased competition should be reflected in the form of falling prices, higher service imports and higher output and employment. The results of Copenhagen Economics suggest that the regulated professions sector - which has the highest barriers to entry - should experience the largest relative fall in price and increase in value added and employment.

Small Firms Impact Test

Small firms are over-represented in the service sectors: in 2007, 44.2% of UK services (those which are broadly covered by the Services Directive as outlined in Table A1) turnover was generated by small firms (under 50 employees) compared with 18.7% for manufacturing.

As consumers of services, SMEs will benefit from the provisions for quality of services, which will provide them with information that will assist them in choosing their service provider.

For SMEs that provide services, the provision for quality of services will require them to provide information to the recipients of these services. Much of this information is likely to be supplied already; additional information can be provided through a range of media, including websites. It is not envisaged that this will create a significant burden on business as, for example, a website will only need to be updated once.

Racial Equality Test

Benefits of the Directive are available to all who use services; this should not vary with race. At this stage of implementation, no racial equality issues have become evident. The effects of screening existing legislation will be experienced all service providers.

Disability Equality Test

Benefits of the Directive are available to all who use services; disabled people are therefore not expected to be disproportionately affected.

Gender Equality Test

Recital 4 of the Directive notes that services are a key employment sector for women in particular, so they stand to benefit from the Directive. The effects of screening existing legislation will be experienced all service providers; this should not vary with gender.

Annexes

Analytical Framework

This provides an overview of the analytical framework, including key features, assumptions and limitations of the analysis. Furthermore, it highlights issues that are particularly important for the current application of the framework. A complete and detailed description of the methodology is provided in Copenhagen Economics (2005).

The analysis was restricted to 4 service sectors:

- Regulated professions (represented by accountancy services)
- Business Services (represented by IT services)
- Distributive Trade (represented by wholesale and retail trade combined)
- Construction

Identification and quantification of barriers to service provision

The first stage of the analytical framework is a detailed assessment of current barriers to service provision. The assessment is based on a comprehensive set of objective and detailed questions regarding restrictions on service provision in the Internal Market. The questionnaire is based on the barriers identified by the European Commission in its survey of the state of the Internal Market for services (European Commission, 2002). The questions are organised into categories and sub-categories, corresponding to 7 stages in the value chain of service providers (Table H1).

Table 1: IMRIS categories

Number	Category	Number of sub-categories	Barrier type
1	Establishment	7	Establishment
2	Uses of inputs	5	
3	Promotion	8	Ongoing operations
4	Distribution	5	
5	Sales of services	5	
6	After sales aspects	4	
7	Non-legal barriers	4	

Source: Copenhagen Economics (2005)

The qualitative information on specific restrictions is transformed into a quantitative measure called the IMRIS (Internal Market Restrictiveness Index in Services) using index methodology. Barriers for domestic and foreign firms are measured by creating a domestic IMRIS and a foreign IMRIS respectively, with different weights for individual restrictions to reflect de facto discrimination. When the Directive is analysed, the IMRIS indices are recalculated, taking into account which restrictions will be removed when the Directive is implemented.

The detailed bottom-up construction of indices of barriers to service provision enables the evaluation of how changes in specific restrictions on a very detailed

level will affect overall barriers. Still, a number of assumptions and limitations of the barrier measurements should be noted:

- **Not all relevant barriers may be included.** Though the IMRIS indices are very comprehensive, service providers may face additional barriers. Furthermore, there is uncertainty as to the actual discriminatory effect of existing barriers. If the IMRIS indices underestimate the difference in regulatory environments between Member States, the analysis will overestimate the impact of the Directive.
- **Data is incomplete.** Due to lack of information, the IMRIS database is not complete. Where no data was available, the analysis assumes that no restrictions exist. Furthermore, the IMRIS indices only cover 5 sectors (IT services, accountancy, construction services, wholesale trade, and retail trade). The sectors were chosen to represent different types of service provision with diverse characteristics. Accountancy and IT services are both knowledge-intensive services, but accountancy services are generally regulated, whereas IT services are unregulated. Retail and wholesale trade are different types of distributive trade and account for a large share of the service sector. The effects of the Directive on other sectors are not included.
- **No explicit distinction in IMRIS indices between cross-border supply and foreign establishment.** The IMRIS indices only distinguish between domestic and foreign firms. There is no explicit distinction between foreign firms that are established in a Member State and foreign firms that supply services cross-border into the same Member State. The analysis therefore assumes that foreign firms established in a Member State and foreign firms supplying services cross-border into the same Member state face identical barriers to ongoing operations.
- **Only legal changes that have an impact on the IMRIS indices are included.** The IMRIS indices are based on the barriers identified by the European Commission in its 2002 survey of the state of the Internal Market for services. Only legal changes that have an impact on these barriers are captured in the analysis. This means that provisions in the Directive that cannot be interpreted in terms of the barriers identified in the Commission survey are not included in the analysis.
- **One interpretation of the Directive applies to all sectors and types of firms.** The Directive is assumed to have identical impacts on barriers across sectors and firm types. For example, an article in the Directive that bans discriminatory authorisation requirements is assumed to eliminate such barriers for both domestic and foreign firms in all sectors included in the analysis.

In all, these limitations and assumptions generally imply that the economic impact of the complete Directive is likely to be underestimated in the analysis.

Estimation of direct price and cost effects

In the second stage of the analytical framework, the direct effect of barriers on the costs and prices of service provision are estimated. The overall objective of this stage of the analysis is to translate the information found in the detailed IMRIS indices into 'tariff equivalents' that can be incorporated into an economy-wide

general equilibrium model (in the third stage). The tariff equivalents can be thought of as hypothetical taxes that are computed to create economic effects equivalent to those of the actual barriers, as measured by the IMRIS indices⁸⁵.

A thorough econometric analysis is applied to estimate the direct economic impact of barriers to service provision, based on a comprehensive data set covering more than 275,000 firms. This is by far the most complete study on the impact of barriers to trade in services to date. The econometric analysis uses a specification of firm profitability that explicitly takes both the influence of barriers and firm-specific differences into account. At the firm level, each firm's profitability is affected by several factors specific to that firm. The econometric model controls for these factors by including: profits earned on other activities, operational efficiency, firm size, capital- and labour-intensity in production, and solvency of the company.

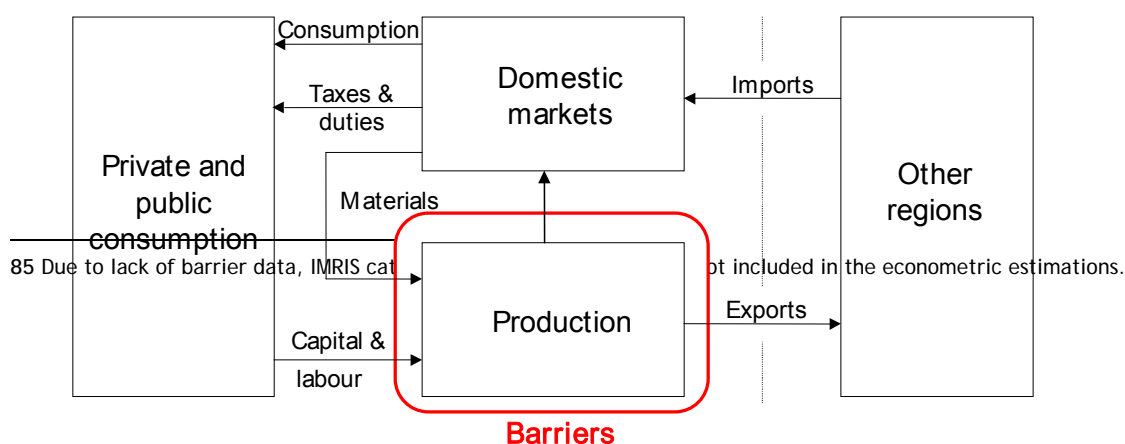
The econometric estimations are based on the performance of actual firms and show the effects of barriers on firm-level performance. This means that it is not possible to calculate different estimates for, e.g., domestic supply and cross-border supply to foreign markets. Also, to the extent that not all relevant barriers may be included in the analysis, there is uncertainty as to the actual impact of these barriers (i.e. the barriers not included) on firm-level performance.

The econometric model shows that, in countries with high barriers, service providers can inflate prices and have higher costs of operation. Conversely, the model shows that providers in countries with lower barriers operate with lower costs and supply services that are less costly for consumers and users.

The main conceptual drawback of the econometric analysis is its reliance on historical data for firm behaviour. This means that the econometrics assume that firms will react to price and cost changes as they have done in the past. If the Directive were to lead to a radical change in firm behaviour, for example by acting as a stepping stone to increased cross-border activity, it would not be reflected in this analysis.

This study draws on the econometric estimates provided in Copenhagen Economics (2005) to transform the updated IMRIS indices into new tariff equivalents.

Figure 1: Overview of the Copenhagen Economics Trade Model



Source: Copenhagen Economics

The economy-wide effects of the Directive are calculated using the Copenhagen Economics Trade Model (CETM). The CETM model is a global, multi-regional general equilibrium model. The model represents state-of-the-art developments within models of the services trade and it has been specially designed for the analysis of barriers to trade and foreign direct investment, price reforms and market integration. The model captures all linkages between the different sectors of the economy and it therefore allows an economy-wide assessment of barriers to services trade. Specifically, the model captures both the *direct* effects on the service providers and the *indirect* effects on their suppliers and customers. The model, therefore, captures the important backward and forward linkages both among firms and between firms and final consumers (households and government organisations).

The current version of the CETM model has been adapted specifically to the analysis of barriers to services trade within the EU. This implies that the model focuses particularly on the individual countries in the EU and on the sectors where barriers have a significant economy-wide impact. The model represents all of the current EU Member States, including the new Member States.

Figure G1 above gives an overview of the markets, the agents and the flows of goods, services and factors in the model. Firms producing goods and services represent the supply side of the model. All goods and services are being produced with materials and primary factors (capital and labour). A representative agent represents final demand and he finances his consumption with income from sales of capital and labour. Finally, a government provides public goods financed through taxes and duties.

Users of services distinguish between individual varieties of services and between services from providers of different nationalities. For example, French customers are assumed to view services provided by French firms as better substitutes for each other than services provided by, say, the French subsidiary of a German multinational. Also, services provided locally, whether by a purely national firm or by an established foreign firm, are better substitutes for each other than services provided cross-border.

To maintain consistency with the econometric estimations (that are based on firm-level performance), barriers affect firms' total production.

The CETM model represents the state-of-the-art in terms of models for services trade, but a number of assumptions and limitations may influence the accuracy of the calculations:

- **Limited sector coverage.** The representation of barriers in the model analysis is limited by the sector coverage of the IMRIS indices, which is discussed earlier. In the CETM model, the tariff equivalents estimated for accountancy services are assumed to be representative for all regulated professions. Similarly, it is assumed that the tariff equivalents for IT services are representative for all business services. Finally, it is assumed that the weighted average of barriers to wholesale and retail trade is representative for the distributive trade sector of the CETM model. These extrapolations should be kept in mind when interpreting the sector-level results of the model analysis.
- **No explicit distinction between small and large firms.** The CETM model does not distinguish between small and large firms. Because the econometric estimates are based on the performance of firms of all sizes, the firms in the model are representative of average firm behaviour. Since only average firm behaviour is considered, the model cannot be used to measure, e.g., specific effects for small- and medium-sized enterprises.
- **Barriers apply to total production, irrespective of destination market.** Since the econometric analysis is based on firm-level performance, barriers in the model apply to the total production of firms, irrespective of destination market. Estimations of different cost and price effects for different markets would require knowledge of intra-firm processes that is not available. Though barriers apply to total production, they are adjusted to take into account that barriers may be higher for cross-border supply to foreign markets.
- **Foreign subsidiaries only supply services to local markets.** The CETM model assumes that firms establish foreign subsidiaries for the purpose of supplying services to the local market in the Member State where the subsidiary is being established. This means that the model does not allow for foreign establishments in a lightly regulated jurisdiction for the sole purpose of re-exporting services to the original country of origin.

Again, the assumptions and limitations generally imply that the calculations are likely to underestimate the economic impact of the Directive.

The Provision of Services Regulations 2009: Transposition Note (DRAFT)

This Transposition Note, in tabular form, explains how The Provision of Services Regulations 2009 ([reference]) (the Regulations) transpose Directive 2006/123/EC of 12 December 2006 on services in the internal market (the Directive).

This is a complex and wide-ranging Directive. The table seeks to explain how the main elements of the Directive are being transposed, including cross-references to the specific provisions of the Regulations.

These Regulations do more than is necessary to implement the Directive only in the following areas:

- Regulation 5(4) limits the definition of ‘provider’ in regulation 4 to those established in an EEA state, in accordance with Article 4.2 of the Directive, but this limitation does not apply to Part 2 of the Regulations (Duties of Service Providers). This means that anyone providing a service in the UK is subject to Part 2 of the Regulations, regardless of whether they are established in an EEA state. The purpose is to ensure that recipients in the UK will benefit uniformly from the provisions in Part 2.
- Part 3 of the Regulations (Duties of Competent Authorities in relation to Provision of Services in United Kingdom) transposes Chapter III, which contains provisions on the freedom of establishment for providers from another Member State. Although Chapter III only applies to situations where there is a cross-border element, we have extended the provisions in Part 3 to cover a provider of UK origin supplying services to a recipient of UK origin. Therefore Part 3 applies even where there is no cross-border element.
- Regulation 33 transposes Article 23.2, which requires Member States to recognise equivalent or essentially comparable professional liability insurance or guarantees held by a provider in another Member State where the provider is established. The duty in Article 23.2 benefits only providers establishing in the UK, not those operating temporarily. In contrast, regulation 33 extends the duty to both these categories of provider. The purpose is to ensure that providers operating temporarily enjoy the benefit of having their existing insurance recognised, as those establishing in the UK will do.
- Regulations 31(2) and 31(3), which transpose Article 5.3, apply where a competent authority requires a provider or recipient to supply a certificate, attestation or any other document proving that a requirement has been satisfied.

The first sentence of Article 5.3 requires the competent authority to accept any document from another Member State which serves an equivalent purpose or from which it is clear that the requirement has been satisfied. Regulation 31(2), which transposes this provision, requires the competent authority to accept any such document, regardless of whether it is from another Member State or not. This takes into account that the documents which prove that particular requirements have been satisfied may differ between England, Wales, Scotland

and Northern Ireland. In these circumstances, the relevant competent authority would be required to accept the document under Regulation 31(2).

The second sentence of Article 5.3 prohibits the competent authority from requiring a document from another Member State to be produced in its original form (subject to the derogations in regulation 31(3)(a) and (b). Regulation 31(3), which transposes this provision, prohibits the competent authority from requiring such a document to be produced in its original form (subject to the derogations), regardless of whether it is from another Member State or not. This means that it would be open to a competent authority to require a document from the UK to be produced in its original form in circumstances where the derogations in regulation 31(3)(a) or (b) apply.

Otherwise, these Regulations do what is necessary to implement the Directive, including making consequential changes to some domestic legislation to ensure its coherence in the area to which they apply. Further consequential changes will be included in other instruments or as a result of administrative changes.

Article 30.2 provides that a Member State shall not refrain from taking enforcement measures in its territory on the grounds that the service has been provided or caused damage in another Member State. The Government will consider whether changes to UK legislation are necessary to implement this provision once a common approach has been agreed with other Member States.

The Directive has been incorporated into the EEA Agreement and accordingly the Regulations apply in relation to the EEA states of Iceland, Liechtenstein and Norway in addition to the EU Member States.

Transposition Table

In this table, CA means ‘competent authority’ and ORRPI means ‘overriding reason relating to the public interest’.

Article	Objectives	Regulations cross-reference	Implementation
1	Sets out policy areas exempt from the Directive	5(1)	Regulations 5(1)(a) to (d) specify areas of policy and law that are excluded from the scope of the Regulations.
2	Sets out sectors exempt from the Directive	2(2) 5(2)	Regulation 2(2) specifies which sectors are excluded from the scope of the Regulations. Regulation 5(2) specifies that taxation is excluded from the scope of the Directive.
3.1	Provides that where a provision of another Community act governing specific aspects of access to or exercise of a service activity in specific sectors or for specific professions conflicts with provisions of the Directive, then that other provision prevails	6	Regulation 6 provides that a requirement imposed on CAs or on providers under Parts 2, 5 or 6 of the Regulations (regulations 7 to 12 and 29 to 35) does not apply if it is not possible to comply with both that requirement and with an earlier requirement relating to specific aspects of the access to or exercise of a service activity, whether in another enactment implementing a Community instrument or in a directly applicable Community instrument. It also provides that a requirement imposed on CAs by Parts 3 or 4 (regulations 13 to 28) does not apply if it is not possible to comply with that requirement and an earlier requirement relating to specific aspects of the access to or exercise of a service activity, whether in a directly applicable instrument or in an enactment, including an enactment which implements a Community instrument.
3.2	Provides that the Directive does not concern rules of private international law, in particular	5(1)(e)	Regulation 5(1)(e) provides that nothing in the Regulations affects the rules of private international law,

	rules governing the law applicable to contractual and non-contractual obligations, including rules guaranteeing that consumers benefit from the protection granted to them by the consumer protection legislation in force in their Member State		in particular rules governing the law applicable to contractual and non-contractual obligations, including those rules which guarantee that consumers benefit from the protection granted to them in the UK.
4	Defines certain terms used in the Directive	2(1) 3 4 5(3) 5(4)	Regulations 2(1), 3 and 4, define certain terms used in the Regulations. Regulations 5(3) and 5(4) apply the Regulations to certain categories of provider and recipient.
5.1	Requires Member States to simplify procedures and formalities relevant to service provision	-	Specific provision is not necessary as the UK has already simplified much legislation as a result of the better regulation and administrative simplification agendas.
5.3	Obliges Member States, when they require a particular certificate or other document from a provider or recipient, to accept any documentation that makes clear the requirement is satisfied. Member States may continue to require non-certified translations.	31(1) 31(2) 31(3) 31(4)	Regulations 31(1) to 31(3) require CAs to accept any documentation that makes clear that a requirement is satisfied in the event that a certificate or other document is required as proof. Regulation 31(4) allows CAs to go on requiring non-certified translations into English.
6	Requires Member States to ensure that providers can complete authorisations procedures and formalities through a point of single contact	38(1) 38(2)	Regulation 38(1) imposes an obligation to create an electronic assistance facility that will operate as the UK's point of single contact. The UK is setting up one such point of single contact through Business Link.
7	Stipulates the information and assistance that must be available to providers and recipients through the point of single contact. Requires that CAs and the point of single contact must provide assistance on how authorisation procedures are interpreted. Requires a quick response to a request for assistance and the	36 37 38(1) 38(2)	Regulation 36 requires CAs to provide the stipulated information, which should be clear and unambiguous and kept up to date, while regulation 38(1) provides for its inclusion in the electronic assistance facility which will comprise the UK's point of single contact. Regulation 37 sets out an obligation to respond to requests for information. Regulation 38(2) provides for a

	use of plain language.		support facility within the point of single contact.
8	Requires Member States to ensure that users can complete procedures and formalities relating to a service activity through the point of single contact by electronic means and at a distance, unless the requirement is for an inspection or physical examination	32(1) 38(1)	Regulation 32(1) requires CAs to ensure that all procedures and formalities concerned with a service can be easily completed at a distance and by electronic means. Regulation 38(1) imposes an obligation on the Secretary of State and the Commissioners for Revenue and Customs to create a facility for the completion of procedures and formalities by electronic means that will operate as the UK's point of single contact.
9.1	Prohibits Member States from making service provision subject to an authorisation scheme unless it is non-discriminatory, justified by an ORRPI and proportionate.	14(1) 14(2)	Regulations 14(1) and 14(2) prevent CAs from subjecting service providers (other than service providers to which Part 4 applies) to an authorisation scheme unless it is non-discriminatory, justified by an ORRPI and proportionate.
9.3	Clarifies that 9.1 does not apply to aspects of authorisation schemes governed by other Community instruments	14(3)	Regulation 14(3) clarifies that regulations 14(1) and 14(2) do not apply to aspects of authorisation schemes governed by a provision of an enactment implementing a Community obligation or a provision of a directly applicable Community instrument.
10.1 10.2	Gives criteria on which authorisation schemes must be based to preclude competent authorities from exercising their power of assessment in an arbitrary manner	15(1) 15(2)	Regulations 15(1) and 15(2) provide that authorisation schemes must be based on certain criteria that preclude CAs from exercising their power of assessment in an arbitrary manner.
10.3 10.4 10.5 10.6	Stipulate requirements relating to the granting of authorisations to providers	15(3) 15(4) 15(5) 15(6) 15(7)	Regulations 15(3) to 15(8) require that the granting of authorisations to providers take place in line with the manner specified in the Directive.
11.1	Prohibits Member States from granting an authorisation for a limited period, except in certain circumstances	16(1)	Regulation 16(1) requires that authorisations must be granted for an indefinite period, except in certain specified circumstances.
11.3	Requires providers to inform the relevant	16(3)	Regulation 16(3) requires that service providers

	PSC of the creation of subsidiaries or other changes in situation that result in the conditions for authorisation no longer being met		disclose the creation of subsidiaries or other changes in situation that result in the conditions for authorisation no longer being met.
11.4	Allows Member States to revoke authorisations	16(4)	Regulation 16(4) states that regulation 16 does not prevent revocation or suspension of an authorisation when the conditions for authorisation are no longer being met.
12.1	Requires Member States to have a transparent and impartial procedure in place when the number of authorisations is limited	17(1) 17(2)	Regulations 17(1) and 17(2) require that there must be transparency and impartiality when the number of authorisations is limited.
12.2	Requires that when authorisations are limited that authorisation be granted for a limited period and not automatically renewed	17(3)	Regulation 17(3) requires that when authorisations are limited, they should be granted for a limited period and not be automatically renewed or confer an advantage on a previously authorised candidate or a person having any particular links with such a candidate.
12.3	Sets out the considerations Member States may take into account when establishing selection procedure rules	17(4)	Sets out ORRPIs which CAs may take into account when establishing rules for selection procedures
13.1	Requires that authorisation procedures be clear, public and dealt with objectively and impartially	18(1)	Regulation 18(1) requires that authorisation procedures be clear and public and ensure that applications are dealt with objectively and impartially.
13.2	Requires that authorisation procedures are not dissuasive or complex, are easily accessible, and that associated charges are proportionate, not exceeding the cost of the procedures	18(2) 18(3) 18(4)	Regulations 18(2) to 18(4) require that authorisation procedures are not dissuasive or complex, are easily accessible, and that associated charges are proportionate, not exceeding the cost of the procedures.
13.3	Requires that applications for authorisation are handled within a reasonable, published time period, to run only when all documentation has been submitted. Allows competent authorities to extend the time	19(1) 19(2) 19(3) 19(4)	Regulations 19(1) and 19(2) require that applications for authorisation are handled within a reasonable, published time period, to run only when all documentation has been submitted. Regulation 19(3) allow CAs to extend the time period once when justified.

	period once when justified; and states that the provider must be notified of the extension, reasons for the extension, and reasons for the extension, and its duration.		Regulation 19(4) states that the provider must be notified of the extension, reasons for the extension, and its duration.
13.4	Stipulates that if a provider has not received a response within the published (or extended) time period, then authorisation must be automatically granted, unless there are different arrangements justified by an ORRPI.	19(5) 19(6)	Regulations 19(5) and 19(6) require that if the application has not been processed within the set (or extended) period, then authorisation is automatically granted, unless there are different arrangements justified by an ORRPI.
13.5 13.6 13.7	Requires that applications be acknowledged, and that applicants be informed that an application is incomplete or has been rejected, as quickly as possible.	20	Regulation 20 requires that applications must be acknowledged, and that applicants be informed that an application is incomplete or has been rejected, in all cases as quickly as possible.
14	In relation to freedom of establishment, prohibits Member States from making service provision in their territory subject to compliance with the listed requirements	21	Regulation 21 sets out the requirements that CAs cannot impose on service providers.
15.1 15.2 15.3	In relation to freedom of establishment, requires Member States to ensure that where service provision is subject to any of eight listed requirements that these are non-discriminatory, justified by an ORRPI and proportionate; and otherwise to amend or eliminate them	22(1) 22(2) 22(3)	Regulations 22(1) to 22(3) prohibit CAs from imposing the eight requirements on service providers, unless they are non-discriminatory, justified by an ORRPI and proportionate.
15.5	Requires Member States to notify the Commission of requirements to be abolished, amended or justified	-	The Government will notify the Commission of any requirements listed under regulation 22 that have been abolished, amended or justified.
15.7	Requires Member States to notify the Commission of any new requirements falling within the list in Article 15.2 and reasons why they are justified	22(6) 22(7)	The Government will ensure that any new requirements needing justification under Article 15 of the Directive are reported to the Commission. Regulation 22(6) provides that competent authorities must notify the SoS of proposals for new requirements.
16.1	In relation to the free movement of services,	24(1)	Regulation 24(1) prohibits CAs from imposing

	prohibits Member States from imposing requirements that do not respect the principles of non-discrimination, necessity and proportionality			requirements, on service providers established in another EEA state providing a service in the UK from that state, that do not respect the principles of non-discrimination, necessity and proportionality
16.2 16.3	Lists seven requirements Member States may not impose to restrict the free movement of services on providers established in other Member States, except where justified for public policy, public security, public health or the protection of the environment and compliant with Article 16.1, or applied in relation to rules on employment conditions	24(2) 24(3)		Regulation 24(2) sets out the seven requirements CAs cannot impose on providers. Regulation 24(3) allows CAs – to impose such requirements where they can be justified for public policy, public security, public health or the protection of the environment and are compliant with regulation 24(1), and to apply rules on employment conditions.
17	Specifies the areas where the terms of Article 16 do not apply	25		Regulation 25 specifies the areas where regulation 24 does not apply.
18	Allows Member States to take measures relating to the safety of services in exceptional circumstances by way of derogation from Article 16	26 44		Regulations 26 and 44 contain measures allowing CAs to take action in spite of the rules in regulation 24 in exceptional circumstances, if necessary to ensure the safety of services.
19	Prohibits Member States from imposing requirements on recipients that restrict their usage of a service from a provider established in another Member State	29		Regulation 29 prohibits CAs from imposing requirements on recipients that restrict their usage of a service provided from another EEA state by a provider established in that state
20.1	Requires Member States to ensure that recipients are not made subject to discriminatory requirements based on nationality or place of residence	30(1)		Regulation 30(1) imposes a duty on CAs not to subject recipients to discriminatory requirements based on nationality or place of residence.
20.2	Requires Member States to ensure that providers' general conditions of access to a service do not contain discriminatory provisions relating to the nationality or place of residence of a recipient, while permitting differences that are justified by objective	30(2) 30(3) Race Relations Act 1976		Regulation 30(2) imposes a duty on providers not to include in their general conditions of access discriminatory provisions based on place of residence. Such discrimination on grounds of nationality is already unlawful under sections 20 and 29 of the Race Relations Act 1976. Regulation 30(3) qualifies the duty

	criteria			in regulation 30(2) by permitting differences that are justified by objective criteria.
21.1 21.3	Requires Member States to ensure that recipients can obtain certain information relating to consumer protection in other Member States by electronic means and at a distance; and that the body charged with this responsibility liaise in relation to making or receiving requests for information with its counterparts in other Member States	36(1) 36(2)		Regulation 36(1) and (2) require competent authorities to provide to the Secretary of State certain information relating to consumer protection in the UK including, if the Secretary of State requests, requirements relating to access to or exercise of a service activity. This has the effect of enabling the UK to respond to information requests from other EEA states.
22.1	Requires Member States to ensure providers make certain information available to recipients	8(1)		Regulation 8(1) imposes a duty on providers to make certain information, as listed in Article 22(1), available to recipients.
22.2	Specifies four ways in which providers can make the information required by Article 22.1 available	8(2)		Regulation 8(2) gives providers a choice of four ways in which to make available the information required by regulation 8(1).
22.3	Requires Member States to ensure providers supply certain information to recipients on request	9		Regulation 9 imposes a duty on providers to supply certain information, as listed in Article 22.3, at a recipient's request. Specific provision to implement Article 22.3(e) is not necessary because Article 27.4, transposed in regulation 10, imposes the same information requirement irrespective of whether there is a request.
22.4	Requires Member States to ensure that information a provider must supply is communicated in a clear manner and in good time before a contract is concluded or service provided	11		Regulation 11 imposes a duty on providers to communicate the information required by regulations 7 to 10 in a clear manner and in good time before the contract is concluded or the service provided.
23.1	Gives Member States the option to make the holding of professional liability insurance compulsory for providers of services posing a direct and particular risk to the health or	-		Specific provision to implement is not necessary.

	safety of third persons or the financial security of the recipient			
23.2	Prohibits Member States from requiring that providers established in their territory take out professional liability insurance or a guarantee if the provider is already covered by equivalent or essentially comparable cover obtained in another Member State where they are established. Allows Member States to require a top-up when equivalence is only partial. Requires Member States to recognise attestations of cover issued by institutions based in other Member States.	33(1) 33(2) 33(3)	Regulations 33(1) and 33(2) prohibit CAs from requiring that providers take out professional liability insurance or a guarantee if they are already covered by equivalent or essentially comparable cover obtained in another EEA state where they are established. These regulations have the effect that CAs are allowed to require a top-up when equivalence is only partial. Regulation 33(3) requires that CAs recognise attestations of cover issued by institutions based in other EEA states. Regulation 33 applies whether or not the provider is established in the UK.	
24.1	Requires that Member States eliminate any total prohibitions on commercial communications by the regulated professions	34(1)	Regulation 34(1) prohibits CAs from imposing total prohibitions on the use of commercial communications by providers in the regulated professions.	
24.2	Requires that Member States ensure commercial communications by the regulated professions comply with professional rules that are non-discriminatory, justified by an ORRPI and proportionate; and that relate in particular to the independence, dignity and integrity of the profession and to professional secrecy	34(2) 34(3)	Regulations 34(2) and 34(3) impose a duty on relevant CAs that commercial communications by providers in the regulated professions comply with professional rules that are non-discriminatory, justified by an ORRPI and proportionate; and that relate in particular to the independence, dignity and integrity of the profession and to professional secrecy.	
25.1	Prohibits Member States from subjecting providers to requirements obliging them to exercise a given specific activity exclusively, with exceptions for two categories of provider	35(1) 35(2) 35(4)	Regulation 35(1) prohibits CAs from subjecting providers to requirements obliging them to exercise a service activity exclusively. Regulations 35(2) and 35(4) specify exceptions for two categories of provider.	
25.2	Requires Member States to ensure that where either of the exceptions in Article 25.1 applies, providers permitted to engage in multidisciplinary activities abide by rules	35(3) 35(5)	Regulations 35(3) and 35(5) impose a duty on relevant CAs to ensure that, where either of the exceptions in regulations 35(2) and 35(4) apply, providers permitted to engage in multidisciplinary activities abide by rules	

	relating to conflicts of interest, impartiality and compatibility of rules		relating to conflicts of interest, impartiality and compatibility of rules.
26.2	Requires Member States to ensure providers and recipients can easily access information on certain labels and other quality marks that relate to services	-	Specific provision to implement is not necessary as information on certain labels and quality marks is already easily accessible on consumer websites.
27.1	Requires Member States to ensure providers give contact details where recipients can send complaints or information requests and respond to complaints as quickly as possible, making best efforts to find a satisfactory solution.	7 12(1) 12(2)	Regulation 7 imposes a duty on providers to make available contact details where recipients can send complaints or information requests. Regulation 12(1) requires providers to respond to complaints as quickly as possible and to make best efforts to find a satisfactory solution. Regulation 12(2) releases the provider from making best efforts to find a satisfactory solution if the complaint is vexatious.
27.2	Requires Member States to ensure providers are obliged to demonstrate compliance with the obligations in the Directive concerning the provision of information, and that the information is accurate	48 Enterprise Act 2002	The relevant enforcement agencies already have powers to request information from the provider and to take action for non-compliance under Part 8 of the Enterprise Act 2002, which regulation 48 has the effect of extending to cover the Directive.
28.1	Requires Member States to give each other mutual assistance in supervising providers	39(1)	Regulation 39(1) requires that CAs must provide assistance to relevant CAs in other EEA states.
28.2	Requires Member States to designate a liaison point to assist with providing mutual assistance	-	The UK's national liaison point will be located in the Department for Business, Innovation and Skills.
28.3	Requires that requests for information and the carrying out of checks, inspections and investigations are duly motivated and that information exchanged is only used for the purposes of the request	39(2) 39(3)	Regulation 39(2) allows CAs to refuse to meet a request for information or to carry out a check, inspection or investigation if such a request is not for a proper purpose or no reason is given. Regulation 39(3) specifies that if the request is not for a proper purpose or no reason is given, then the CA must inform the relevant authority and the SoS.
28.4	Requires Member States to ensure that	-	Specific provision is not necessary as Member States

	providers established in their territory cooperate with competent authorities in response to a request for assistance from another Member State in compliance with their national laws		are required to act in compliance with their existing national laws - CAs can exercise existing powers to obtain information from providers.
28.5	Requires Member States to inform a Member State requesting information or an inspection if there is a problem with meeting that request	39(3)	Regulation 39(3) requires that if a CA has difficulty in meeting a request for information or a request to carry out any check, inspection or investigation, then the CA must inform the relevant authority and the SoS.
28.6	Requires Member States to supply the information requested electronically and within the shortest possible period of time	39(4)	Regulation 39(4) requires that information requested be supplied through the electronic IMI system as quickly as possible.
28.7	Requires Member States to ensure that registers of providers can be consulted by competent authorities in other Member States	39(5)	Regulation 39(5) specifies that any registers of providers held by CAs which are accessible to other competent authorities in the UK must be easily accessible on the same terms to CAs in other EEA states.
29.1	Requires Member States to give information on providers established in its territory and which are operating in another Member State to that Member State on request.	40(1) 40(2) 40(3))	Regulations 40(1) and 40(2) require CAs to give information on providers established in the UK and which are operating in another EEA state to a CA in another EEA state on request.
29.2	Requires Member States to undertake checks and inspections of providers established in its territory on request from another Member State, acting to the extent of their powers; and that they inform the requesting Member State of the results.	40(4) 40(5)	Regulation 40(4) requires CAs to undertake checks, inspections and investigations of providers established in their territory on request from an authority in another EEA state, and that they inform the requesting EEA state of the results. Regulation 40(5) stipulates that nothing in regulation 40(4) allows CAs to do anything which they could not lawfully do otherwise.
29.3	Requires Member States, within the shortest possible time, to inform all other Member States and the Commission upon gaining knowledge of activity potentially dangerous to	42	Regulation 42 requires CAs to inform the SoS as quickly as possible if they become aware of acts or circumstances relating to service activity that could cause serious damage to people's health or safety or to

	health and safety or to the environment by providers established in their territory who operate in other Member States			the environment in an EEA state.
30.1 30.3	Subject to Article 31.1, 30.1 stipulates that the Member State of establishment is primarily responsible for the supervision of providers in accordance with its powers. 30.3 clarifies that the Member State has no duty to carry out factual checks and controls in the Member States where the service is provided.	-	-	Specific provision is not necessary.
30.2	Stipulates that the Member State of establishment not refrain from taking action against service providers just because the offence has been committed in another Member State	-	-	Clause 127 of the Coroners and Justice Bill disappplies the limitations on penalties that can be imposed in regulations implementing the Directive via the European Communities Act 1972. There is therefore power to make regulations so that CAs can take action against UK-based providers on an equal footing whether offences are committed in the UK or elsewhere in the EEA.
31.1	Stipulates that where requirements are imposed and justified under Article 16 the Member State where the service is provided is primarily responsible for supervising providers in accordance with its powers.	41(1)		Specific provision is not necessary.
31.3 31.4	Requires CAs in the Member State where the service is provided to carry out checks, inspections and investigations necessary for ensuring effective supervision at the request of the Member State of establishment, to the extent of their powers. Permits CAs in the Member State where the service is provided to make certain proportionate and non-	41(2) 41(3)		Regulations 41(2) and 41(3) require a CA to carry out checks, inspections or investigations when requested to do so by an authority in the EEA state of establishment, acting within its powers in so doing.

	discriminatory checks on their own initiative.			
32.1	Requires Member States, within the shortest possible time, to inform all other Member States and the Commission of any serious specific issues or acts relating to a service activity that could seriously harm people's health and safety or the environment in the Member States	42	Regulation 42 requires CAs to inform the SoS as quickly as possible if they become aware of acts or circumstances relating to service activity that could cause serious damage to people's health or safety or to the environment in an EEA state.	
33.1 33.2 33.3	Requires Member States to supply information that calls the good repute of a provider into question in response to a duly substantiated request by another Member State, in conformity with national law and in compliance with rules on personal data, and informing the relevant provider.	43	Regulation 43 requires CAs to supply information that calls the good repute of a provider into question in response to a duly substantiated request by an authority in another EEA state, in conformity with national law, informing the relevant provider.	
35	Lays down measures for mutual assistance in the event of action being taken pursuant to Article 18 (case-by-case derogations from Article 16 on the freedom to provide services)	27 44	Regulations 27 and 45 specify measures for mutual assistance in the event of action being taken pursuant to Regulation 26.	
39.1	Requires Member States to provide a report to the Commission with information relevant to implementation of Articles 9.2, 15.5 and 25.3, by 28 December 2009	-	The Government will provide a report to the Commission with information relevant to implementation of Article 9.2, 15.5 and 25.3 by 28 December 2009.	
39.2	Requires Member States to submit observations on the reports referred to above within six months of receipt	-	The Government is working with other Member States and the Commission to develop a procedure for peer reviewing Member State reports.	
39.5	Requires Member States to submit a report to the European Commission, justifying national requirements retained in conformity with Article 16, by 28 December 2009; and thereafter, any changes in these	28	The Government will report to the Commission in relation to Article 16 by 28 December 2009. Regulation 28 imposes a duty on CAs to notify the SoS of any new requirements in relation to service provision, stating why they believe these requirements comply with regulation	

44	requirements or any new requirements, with justifications. Requires Member States to transpose the Directive into national legislation and practices by 28 December 2009, with a reference to the Directive included	1(2) / Title	24. The Government will then supply this information to the Commission. Regulation 1(2) specifies that the Regulations come into force on 28 December 2009.
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Additionally:

Regulation 48 has the effect of extending Part 8 of the Enterprise Act 2002 to cover the Directive. This means that the relevant enforcement agencies can enforce the duties imposed on providers using the enforcement mechanism in Part 8.

Regulations 45 to 47 and 49 make amendments to existing legislation as a result of the Directive.