

NHO FACTS: THE SERVICES DIRECTIVE

January 2007

THE OBJECTIVE OF THE SERVICES DIRECTIVE

The Services Directive is aimed at facilitating exercise of the freedom of establishment for service providers and the free movement of services within the Internal Market, while maintaining a high quality of services. Free movement of services constitutes one of the four freedoms of the EU Internal Market, and is already regulated by the general provisions of the Treaty and the EEA Agreement. The Services Directive shall ensure equal competitive conditions throughout the EEA by reducing national requirements and introducing simpler administrative procedures and authorisation schemes.

Important to SMEs

The services sector represents 70% of all economic activity and employment in the EU Member States as well as in Norway. In the future, the majority of new jobs will be created within the services sector. Still, services represent only 20% of the cross-border trade between EEA Member States within the Internal Market. A 2002 Survey conducted by the Commission showed that national requirements and authorisation schemes are important barriers to the free movement of services within the Internal Market.

Service providers wanting to establish themselves or to sell services in another EEA Member State run into a wall of bureaucratic procedures and national rules. Such barriers may be historically determined, or they may have been introduced to protect national business and industry.

Many enterprises choose not to export their services due to the cost related to complying with these specific national rules and procedures. The consumers, as well, feel insecure with regard to the right to lodge complaints and the right to claim compensation and damages. Thus, many of them are hesitant towards purchasing services from another Member State.

As a general rule, large enterprises will usually manage to adjust, irrespective of the legal framework. But the majority of enterprises within the services sector are small and medium-sized. For these enterprises, the Services Directive

will make it easier and less expensive to establish themselves in another EEA Member State due to the fact that their national authorisation will be accepted.

A complex and complicated framework which acts as a barrier to the free movement of services, does not only affect the services producer, but also the recipients of services, i.e. the businesses and consumers. A better functioning Internal market for services will result in higher quality and lower prices.

The Right of Establishment

The Directive provides for a new framework for authorisation schemes including conditions for the granting of authorisation, duration, procedures etc. Member States will be able to establish or maintain authorisation schemes only if certain conditions are met and these schemes will have to be non-discriminatory, necessary and proportionate. The Directive also provides for the creation of single points of contact in each EEA Member State

A technical engineering firm has estimated that they had to spend approximately 3% of their annual turnover to check different legal requirements which they would have to comply with in just two other EEA Member States where they wanted to offer their services.



Services covered by the Directive

The Directive applies to business-related services, services used by both consumers and enterprises and pure consumer services. Examples of such services include:

- management consultancy services
- testing and certification services
- advertising and marketing services
- distribution services
- recruitment services
- legal and fiscal advisory services
- estate agency services
- installation and maintenance services
- building and construction services
- car rental and travel agency services
- tourism, sport and entertainment services
- Within the meaning of the Directive, some household support services, such as help for the elderly that do not count as healthcare or social services.

Public supply services (water, electricity and gas) and waste management services are covered by the provisions relating to the freedom of establishment, but the provisions relating to cross-border trade in services do not apply to these services.

Services not covered by the Directive:

The Directive does not apply to public services offered without payment within the area of education, culture, the church or the legal system. In addition the Directive does not apply to services that are already covered by Community legislation, such as financial services, telecommunication services and transport services.

In addition the following services are excluded:

- private and public health services
- social services relating to social housing, childcare and support to persons and families in need provided by the State
- services of temporary agencies
- private security services
- audiovisual services
- gambling activities
- activities which are connected with the exercise of official authorities
- services in the field of taxation

through which providers can complete all procedures and formalities, also via electronic means. Naturally, these simplifications will also apply to those wanting to establish themselves as service providers within their own national borders.

The Right to Provide Services in Other Member States

Member states shall no longer be able to prevent a foreign service provider from offering his/her services on their territory. Member States may still stipulate their own national requirements, but only for reasons of public policy, public security, public health or protection of the environment. Such national requirements must also respect common Internal Market Principles of non-discrimination, proportionality and necessity. In order to make it easier to monitor such requirements, and to give service providers better and easier access to information on national requirements, all Member States are obliged to report and justify their national requirements to the Commission.

Common Monitoring and Enforcement

Authorities responsible for supervision will benefit from enhanced trust and confidence in each other through a newly established system of administrative cooperation, information exchange and mutual assistance. This will lead to more effective monitoring and uniform enforcement of the legal framework. The implementation of the obligations for exchange of information will be facilitated on a practical level through the establishment of an electronic system enabling the direct and efficient exchange of information between competent authorities in different Member States. Initiatives facilitating training and exchange of officials will also be envisaged.

What are the effects of the Directive?

Increased trade in services will result in increased competition which again will be contributing to improved quality and reduced prices. Thus, a better



functioning services market will serve to strengthen Europe's competitiveness and contribute to increased growth and job creation.

- **Providers of Services**

It will become easier to establish businesses, both at home and abroad, and it will become easier to provide services across national borders. This will lead to increased market access for services providers, but also to increased competition.

Stronger competition generates a pressure for increased efficiency and innovation. Researchers believe that half the services on offer in 2025 have not yet been invented. A more efficient market for services will contribute to making European business and industry into winners on the future services market.

- **Recipients of Services**

Both enterprises and consumers will benefit from increased competition in the services sector. Increased access to services results in improved quality and reduced prices, as indicated by experiences gained from the trade in goods and from the liberalisation of telecommunications and air travel services.

The rights of recipients of services will be strengthened through the information obligations put on service providers and through professional liability insurance and guarantees which providers whose services present a certain risk will have to obtain.

- **Workers**

The provisions of the Services Directive will not affect labour law or the social partners' right to enter into collective agreements or take industrial action in accordance with national law and regulations which respect Community law. The Directive also states that the Posting of Workers Directive, regarding the issue of which rules to apply in cases relating to the posting of foreign workers on assignment in another Member State, shall take precedence to the Services Directive.

NHO's Opinion

The Confederation of Norwegian Enterprise views the Services Directive as a first, important step on the road towards the development of a more efficient Internal Market for services. Norway has many small and medium-sized providers of services that are highly competitive. For these, improved market access will provide great opportunities. Increased competition will provide both consumers and the private sector with better access to services with high quality at reasonable prices.

The Directive is set to enter into force at the end of 2009, and there are a number of measures which must be implemented at national level before this time. The key to success depends on how the Member States transpose and enforce the provisions of the Directive into their national legislation. Several Member States have already begun preparations for national implementation of certain elements in the Directive, i.e. the establishment of single points of contact.

In NHO's view, the Services Directive needs to be included in the EEA Agreement as soon as possible and the Norwegian authorities must immediately begin the efforts of complying with the requirements relating to simplification and better information. Both Norwegian services providers and recipients must be able to enjoy the benefits provided by the Services Directive.

