

AMENDMENT 251

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 251

Article 2, paragraph 2, point (- a) (new)

*(-a) services of general interest and services
of general economic interest;*

Or. en

8.2.2006

A6-0409/252

AMENDMENT 252

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 252

Article 2, paragraph 2, point (c a) (new)

*(ca) social services such as social housing
services, childcare and family services;*

Or. en

8.2.2006

A6-0409/253

AMENDMENT 253

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 253
Article 2, paragraph 2, point (c b) (new)

(cb) education services;

Or. en

8.2.2006

A6-0409/254

AMENDMENT 254

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 254

Article 2, paragraph 2, point (c c) (new)

*(cc) cultural services, including services of
intellectual property rights collective
management societies;*

Or. en

8.2.2006

A6-0409/255

AMENDMENT 255

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 255

Article 2, paragraph 2, point (c d) (new)

(cd) distribution and purification of water;

Or. en

8.2.2006

A6-0409/256

AMENDMENT 256

by Evelyne Gebhardt, Harlem Désir, Hannes Swoboda, Anne Van Lancker, on behalf of the PSE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 256
Article 2, paragraph 2, point (c e) (new)

(ce) funeral services;

Or. en

8.2.2006

A6-0409/257

AMENDMENT 257

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 257

Article 2, paragraph 2, point (c f) (new)

*(cf) areas of service activities that are
governed by sector-specific legislation at
Community level.*

Or. en

AMENDMENT 258

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report**A6-0409/2005****Evelyne Gebhardt**

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 258
Recital 8 a (new)

(8a) This Directive should apply to neither services of general interest nor services of general economic interest, given the place these services occupy in the common values of the Union and with regard to their role in promoting social and territorial cohesion, as referred to in Article 16 of the Treaty. Therefore, services of general interest and services of general economic interest should be subject to a framework directive that takes full account of their specificity.

Or. en

8.2.2006

A6-0409/259

AMENDMENT 259

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 259

Article 9, paragraph 3 a (new)

3a. This Article shall not affect the capacity of the Member States to impose special authorisation schemes for services of general economic interest, as justified by Article 86(2) of the Treaty.

Or. en

8.2.2006

A6-0409/260

AMENDMENT 260

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 260
Article 14, point 5

(5) the case-by-case application of an economic test making the granting of authorisation subject to proof of the existence of an economic need or market demand, or an assessment of the potential or current economic effects of the activity, or an assessment of the appropriateness of the activity in relation to the economic planning objectives set by the competent authority;

deleted

Or. en

8.2.2006

A6-0409/261

AMENDMENT 261

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 261
Article 14, point 6

(6) the direct or indirect involvement of competing operators, including within consultative bodies, in the granting of authorisations or in the adoption of other decisions of the competent authorities, with the exception of professional bodies and associations or other organisations acting as the competent authority;

deleted

Or. en

8.2.2006

A6-0409/262

AMENDMENT 262

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 262
Article 14, point 7

*(7) an obligation to provide or participate
in a financial guarantee or to take out
insurance from a service-provider or body
established in their territory.*

deleted

Or. en

8.2.2006

A6-0409/263

AMENDMENT 263

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 263
Article 14, paragraph 1 a (new)

*Points 1 to 8 shall not apply to legislation
in the field of services of general economic
interest.*

Or. en

8.2.2006

A6-0409/264

AMENDMENT 264

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 264

Article 15, paragraph 2, point (a)

(a) quantitative or territorial restrictions, in particular in the form of limits fixed according to population, or of a minimum geographical distance between service providers;

deleted

Or. en

8.2.2006

A6-0409/265

AMENDMENT 265

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 265

Article 15, paragraph 2, point (c)

*(c) requirements which relate to the
shareholding of a company, in particular
an obligation to hold a minimum amount
of capital for certain service activities or to
have a specific professional qualification in
order to hold capital in or to manage
certain companies;*

deleted

Or. en

8.2.2006

A6-0409/266

AMENDMENT 266

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 266

Article 15, paragraph 2, point (f)

*(f) requirements fixing a minimum number
of employees;*

deleted

Or. en

8.2.2006

A6-0409/267

AMENDMENT 267

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 267

Article 15, paragraph 2, point (g)

*(g) fixed minimum and/or maximum tariffs
with which the provider must comply;*

deleted

Or. en

AMENDMENT 268

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report**A6-0409/2005****Evelyne Gebhardt**

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 268
Article 17

*Article 17**deleted*

*General derogations from the country of
origin principle*

Article 16 shall not apply to the following:

*(1) postal services within the meaning of
point (1) of Article 2 of Directive 97/67/EC
of the European Parliament and the
Council;*

*(2) electricity distribution services within
the meaning of point (5) of Article 2 of
Directive 2003/54/EC of the European
Parliament and of the Council;*

*(3) gas distribution services within the
meaning of point (5) of Article 2 of
Directive 2003/55/EC of the European
Parliament and of the Council;*

(4) water distribution services;

(5) matters covered by Directive 96/71/EC;

*(6) matters covered by Directive 95/46/EC
of the European Parliament and of the
Council;*

*(7) matters covered by Council Directive
77/249/EEC;*

(8) the provisions of Article [...] of Directive .../EC on the recognition of professional qualifications;

(9) the provisions of Regulation (EEC) No 1408/71 determining the applicable legislation;

(10) the provisions of Directive .../EC of the European Parliament and the Council [on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, amending Regulation (EEC) 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC], that lay down the administrative formalities that beneficiaries must undertake before the competent authorities of the host Member States;

(11) in the case of the posting of third country nationals, the requirement for a short stay visa imposed by the Member State of posting, subject to the conditions set out in Article 25(2);

(12) the authorisation regime provided for in Articles 3 and 4 of Council Regulation (EEC) No 259/93;

(13) copyright, neighbouring rights, rights covered by Council Directive 87/54/EEC and by Directive 96/9/EC of the European Parliament and of the Council as well as industrial property rights;

(14) acts requiring by law the involvement of a notary;

(15) statutory audit;

(16) services which, in the Member State to which the provider moves temporarily in order to provide his service, are covered by a total prohibition which is justified by reasons relating to public policy, public security or public health;

(17) specific requirements of the Member State to which the provider moves, that are directly linked to the particular

characteristics of the place where the service is provided and with which compliance is indispensable for reasons of public policy or public security or for the protection of public health or the environment;

(18) the authorisation system applicable to the reimbursement of hospital care;

(19) the registration of vehicles leased in another Member State;

(20) the freedom of parties to choose the law applicable to their contract;

(21) contracts for the provision of services concluded by consumers to the extent that the provisions governing them are not completely harmonised at Community level;

(22) the formal validity of contracts creating or transferring rights in immovable property, where contracts are subject, under the law of the Member State in which the property is located, to imperative formal requirements;

(23) the non-contractual liability of a provider in the case of an accident involving a person and occurring as a consequence of the service provider's activities in the Member State to which he has moved temporarily.

Or. en

AMENDMENT 269

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report**A6-0409/2005****Evelyne Gebhardt**

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 269
Article 19

*Article 19**deleted**Case-by-case derogations from the country of origin principle*

1. By way of derogation from Article 16, and in exceptional circumstances only, a Member State may, in respect of a provider established in another Member State, take measures relating to any of the following:

(a) the safety of services, including aspects related to public health;

(b) the exercise of a health profession;

(c) the protection of public policy, notably aspects related to the protection of minors.

2. The measures provided for in paragraph 1 may be taken only if the mutual assistance procedure laid down in Article 37 is complied with and all the following conditions are fulfilled:

(a) the national provisions in accordance with which the measure is taken have not been subject to Community harmonisation in the fields referred to in paragraph 1;

(b) the measures provide for a higher level of protection of the recipient than would be the case in a measure taken by the Member

State of origin in accordance with its national provisions;

(c) the Member State of origin has not taken any measures or has taken measures which are insufficient as compared with those referred to in Article 37(2);

(d) the measures are proportionate.

3. Paragraphs 1 and 2 shall be without prejudice to provisions, laid down in Community instruments, which guarantee the freedom to provide services or which allow derogations therefrom.

Or. en

AMENDMENT 270

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report**A6-0409/2005****Evelyne Gebhardt**

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 270
Recital 40

(40) It is necessary to provide that the rule that the law of the country of origin is to apply may be departed from only in the areas covered by derogations, general or transitional. Those derogations are necessary in order to take into account the level of integration of the internal market or certain Community instruments relating to services pursuant to which a provider is subject to the application of a law other than that of the Member State of origin. Moreover, by way of exception, measures against a given provider may also be adopted in certain individual cases and under certain strict procedural and substantive conditions. In order to ensure the legal certainty which is essential in order to encourage SMEs to provide their services in other Member States, those derogations should be limited to what is strictly necessary. In particular, derogation should be possible only for reasons related to the safety of services, exercise of a health profession or matters of public policy, such as the protection of minors, and to the extent that national provisions in this field have not been harmonised. In addition, any restriction of the freedom to provide

deleted

services should be permitted, by way of exception, only if it is consistent with fundamental rights which, as the Court of Justice has consistently held, form an integral part of the general principles of law enshrined in the Community legal order.

Or. en

AMENDMENT 271

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report**A6-0409/2005****Evelyne Gebhardt**

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 271
Recital 41

(41) In cases where a provider moves temporarily to a Member State other than the Member State of origin, it is necessary to provide for mutual assistance between those two States so that the former can carry out checks, inspections and enquiries at the request of the Member State of origin or carry out such checks on its own initiative if these are merely factual checks. Moreover, it should be possible in the case of posted workers for the Member State of posting to take action against a provider established in another Member State in order to ensure compliance with the employment and working conditions applicable under Directive 96/71/EC.

deleted

Or. en

AMENDMENT 272

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report**A6-0409/2005****Evelyne Gebhardt**

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 272
Recital 42

(42) It is appropriate to provide for derogation from the rules of the country of origin in the case of services covered by a general prohibition in the Member State to which a provider has moved, if that prohibition is objectively justified by reasons relating to public policy, public security or public health. That derogation should be limited to general prohibitions and should not, for example, cover national schemes which, while not prohibiting an activity in a general manner, reserve the exercise of that activity to one or several specific operators, or which prohibit the exercise of an activity without prior authorisation. The fact that a Member State permits an activity, but reserves it to certain operators, means that the activity is not subject to a general prohibition and is not regarded as inherently contrary to public policy, public security or public health. Consequently, the exclusion of such an activity from the scope of the Directive would not be justified.

deleted

Or. en

AMENDMENT 273

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report**A6-0409/2005****Evelyne Gebhardt**

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 273

Recital 43

<p><i>(43) The country of origin principle should not apply to specific requirements, laid down by the Member State to which a provider has moved, the rationale for which is inextricably linked to the particular characteristics of the place where the service is provided, and which must be fulfilled in order to maintain public policy, public safety, public health or the protection of the environment. Such would be the position, for example, in the case of authorisations to occupy or use the public highway, requirements relating to the organisation of public events or requirements relating to the safety of building sites.</i></p>	<p><i>deleted</i></p>
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Or. en

AMENDMENT 274

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report**A6-0409/2005****Evelyne Gebhardt**

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 274
Recital 44

(44) The exclusion from the country of origin principle of matters relating to the registration of vehicles leased in a Member State other than that in which they are used follows from the case-law of the Court of Justice, which has accepted that a Member State may impose such an obligation, in accordance with proportionate conditions, in the case of vehicles used on its territory. That exclusion does not cover occasional or temporary rental.

deleted

Or. en

AMENDMENT 275

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report**A6-0409/2005****Evelyne Gebhardt**

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 275
Recital 45

(45) A number of Directives concerning contracts concluded by consumers have already been adopted at Community level. However, the approach followed by those Directives is one of minimal harmonisation. In order to limit as far as possible divergences between consumer protection rules across the Community that fragment the internal market to the detriment of consumers and enterprises, the Commission stated in its Communication on consumer policy strategy 2002-2006 that one of the its key priorities would be full harmonisation. Furthermore, the Commission stressed in its Action Plan on "A more coherent European contract law" the need for greater coherence in European consumer law which would entail, in particular, a review of the existing law on contracts concluded with consumers in order to remedy residual inconsistencies, to fill gaps and to simplify legislation.

deleted

Or. en

AMENDMENT 276

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report**A6-0409/2005****Evelyne Gebhardt**

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 276
Recital 47

(47) It is necessary to allow Member States the possibility, exceptionally and on a case by case basis, of taking measures which derogate from the country of origin principle in respect of a provider established in another Member State, for certain reasons such as the safety of services. It should be possible to take such measures only in the absence of harmonisation at Community level. Moreover, that possibility should not permit restrictive measures to be taken in areas in which other Directives prohibit all derogation from the free movement of services, such as Directive 1999/93/EC or Directive 98/84/EC of the European Parliament and the Council of 20 November 1998 on the legal protection of services based on, or consisting of, conditional access. Nor should that possibility permit the extension or limitation of derogations provided for in other Directives, such as Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

deleted

or Directive 2000/31/EC.

Or. en

AMENDMENT 277

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report**A6-0409/2005****Evelyne Gebhardt**

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 277
Article 16

Country of origin principle

(1) Member States shall ensure that providers are subject only to the national provisions of their Member State of origin which fall within the coordinated field.

(2) Paragraph 1 shall cover national provisions relating to access to and the exercise of a service activity, in particular those requirements governing the behaviour of the provider, the quality or content of the service, advertising,

Principles governing the cross-border provision of services

1. As regards access to a service activity, including requirements relating to qualification, authorisation or notification enabling service providers to operate legally in a Member State other than the Member State of establishment, service providers shall comply with the national provisions of their Member State of establishment.

As regards the exercise of a service activity in a Member State other than the Member State of establishment, including requirements relating to the promotion, sale, supply and quality of services, as well as to the behaviour of the service provider, service providers shall comply with the national provisions of the Member State where the service is provided.

2. Paragraph 1 shall apply to business services and to services performed in commercial transactions and for the consumer.

contracts and the provider's liability.

(3) The Member State of origin shall be responsible for supervising the provider and the services provided by him, including services provided by him in another Member State.

(4) Member States may not, for reasons falling within the coordinated field, restrict the freedom to provide services in the case of a provider established in another Member State, in particular, by imposing any of the following requirements:

(a) an obligation on the provider to have an establishment in their territory;

(b) an obligation on the provider to make a declaration or notification to, or to obtain an authorisation from, their competent authorities, including entry in a register or registration with a professional body or association in their territory;

(c) an obligation on the provider to have an address or representative in their territory or to have an address for service at the address of a person authorised in that territory;

(d) a ban on the provider setting up a certain infrastructure in their territory, including an office or chambers, which the provider needs to supply the services in question;

(e) an obligation on the provider to comply with requirements, relating to the exercise of a service activity, applicable in their territory;

(f) the application of specific contractual arrangements between the provider and the recipient which prevent or restrict service provision by the self-employed;

(g) an obligation on the provider to possess an identity document issued by its competent authorities specific to the

3. The Member State in which the service is provided shall be principally responsible for supervision of the provider and the services provided in compliance with the conditions for mutual assistance and close cooperation with the service provider's Member State of establishment, in accordance with this Directive.

4. Member States may continue to apply national provisions in respect of access to a service activity that are more restrictive or prescriptive than the rules applicable in the Member State of establishment, provided that such provisions are not applied in a discriminatory fashion and are justified by reasons relating to the public interest, in particular as regards social policy, consumer protection, environmental protection, public safety and public health. Such provisions must also play a part in attaining the objective pursued, and must not go beyond what is necessary in order to attain that objective.

The Member State shall notify the Commission forthwith of all national provisions applied on the basis of paragraph 4.

exercise of a service activity;

(h) requirements which affect the use of equipment which is an integral part of the service provided;

(i) restrictions on the freedom to provide the services referred to in Article 20, the first subparagraph of Article 23(1) or Article 25(1).

5. By [two years after the entry into force of this Directive] at the latest, and after consulting the European Parliament and the Council, the Commission shall propose the harmonisation measures necessary as regards the rules governing access to and the exercise of a service activity.

Or. en

AMENDMENT 278

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report**A6-0409/2005****Evelyne Gebhardt**

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 278
Recital 37 a (new)

(37a) In line with the approach proposed by the Commission in its second biennial report on the application of the principle of mutual recognition in the single market, a clear distinction should be drawn between the different stages involved in the provision of a service activity. It is on the basis of that approach that a clear distinction is drawn in Article 16(1) of this Directive between that which relates to access to a service activity and that which relates to the exercise of a service activity.

Or. en

8.2.2006

A6-0409/279

AMENDMENT 279

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 279
Recital 37 b (new)

(37b) As regards the conditions governing access to and the exercise of a service activity, Member States may continue to apply national provisions that are more prescriptive and restrictive than the rules in the Member State of establishment, in accordance with Articles 95(4), 153(5) and 176 of the EC Treaty, and with the case-law of the Court of Justice.

Or. en

AMENDMENT 280

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report**A6-0409/2005****Evelyne Gebhardt**

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 280
Recital 6

(6) This Directive establishes a general legal framework which benefits a wide variety of services while taking into account the distinctive features of each type of activity or profession and its system of regulation. That framework is based on a dynamic and selective approach consisting in the removal, as a matter of priority, of barriers which may be dismantled quickly and, for the others, the launching of a process of evaluation, consultation and complementary harmonisation of specific issues, which will make possible the progressive and coordinated modernisation of national regulatory systems for service activities which is vital in order to achieve a genuine internal market for services by 2010. Provision should be made for a balanced mix of measures involving targeted harmonisation, administrative cooperation, the country of origin principle and encouragement of the development of codes of conduct on certain issues. That coordination of national legislative regimes should ensure a high degree of Community legal integration and a high level of protection of general interest objectives, especially of consumer protection, which is

deleted

*vital in order to establish mutual trust
between Member States.*

Or. en

8.2.2006

A6-0409/281

AMENDMENT 281

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 281
Recital 32

(32) The prohibition of economic tests as a prerequisite for the grant of authorisation covers economic tests as such, but not requirements which are objectively justified by overriding reasons relating to the public interest, such as protection of the urban environment. That prohibition does not affect the exercise of the powers of the authorities responsible for applying competition law.

deleted

Or. en

8.2.2006

A6-0409/282

AMENDMENT 282

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 282
Recital 34

(34) The restrictions to be examined include national rules which, on grounds other than those relating to professional qualifications, reserve access to activities such as games of chance to particular providers. Similarly, among the requirements to be examined are "must carry" rules applicable to cable operators which, by imposing an obligation on an intermediary service provider to give access to certain services delivered by specific service providers, affect his freedom of choice, access to programmes and the choice of the recipients.

deleted

Or. en

AMENDMENT 283

by Evelyne Gebhardt, Harlem Désir, Robert Goebbels, Hannes Swoboda, Anne Van Lancker,
on behalf of the PSE Group

Report**A6-0409/2005****Evelyne Gebhardt**

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 283

Article 43

Following the summary report referred to in Article 41(4), the Commission shall, every three years, present to the European Parliament and to the Council a report on the application of this Directive, accompanied, where appropriate, by proposals for its amendment.

1. By ... at the latest, the Commission shall submit to the European Parliament and the Council a comprehensive report on the application of this Directive, in particular as regards its scope, the application of Article 16, the scope for further harmonisation of Community law relating to access to and the exercise of a service activity or to specific service sectors, and as regards any measures that need to be taken at Community level to ensure that appropriate levels of consumer and social protection are maintained. That report shall be accompanied by a proposal to revise this Directive and by further harmonisation measures.*

2. The European Parliament and the Council shall endeavour to act, in accordance with the Treaty, within two years of the presentation by the Commission of any proposal submitted under paragraph 1.

** Three years after the entry into force of this Directive.*

Or. en