

COMMISSIONER'S OPENING SPEECH TO THE EP JURI COMMITTEE ON 29 NOVEMBER 2005

Introduction

Chairman, Honourable Members.

This is my first visit to this Committee, and it's a pleasure to be here.

You have asked me here to discuss the Commission's work in the area of professional services, particularly with respect to the legal professions.

To set the context for our discussion, I will set out the Commission's rationale and objectives in pressing for reform in the area of professional services regulation. I will show how it brings added value and why it is important in the wider context of the agenda for growth and jobs. I will also explain how our work on the legal professions contributes to enhanced access to justice.

Rationale

Better regulation features as a cornerstone of the reinvigorated Lisbon Strategy. Regulation should support European competitiveness rather than hinder it, and foster growth and jobs. This means regulation that is proportionate, grounded on clear evidence, and where the benefits of the rules clearly justify the cost.

The better regulation agenda therefore rightly includes both improving new legislation and simplifying existing regulation too, as well as reviewing or abolishing obsolete rules. The Commission is working closely with Member States to meet these objectives.

In the competition field we have introduced competition screening through which we will routinely examine draft European legislation to assess its quality, and ensure it has minimum effect on market operation whilst still delivering what it was designed to achieve.

We have also launched two sector inquiries at European level in the energy and financial services sectors. These are proactive investigations into the functioning of these markets to see whether they are delivering well-priced quality products and services to end-users, and, where they are not, to identify the causes and possible solutions, working openly with stakeholders.

Objective

Our work in the professions is a further contribution to this. It is about better regulation of the professions; freeing the sector of unnecessary or overly burdensome rules which do not benefit the professions, nor consumers, nor European citizens. More competition in this area would be good for the EU economy, promoting cost-efficiency, better quality and more innovative services, and increasing demand.

In a nutshell this is what the Commission is trying to achieve, and is the key message in both the 2004 report on Competition in Professional Services, and our second progress report published in September 2005.

But I would emphasis that we are not advocating complete de-regulation. That would be irresponsible and inappropriate. We fully recognise and appreciate that some regulation in this sector is essential to protect user interests and ensure good governance of the professions.

Process

In keeping with the subsidiarity principle, we are therefore asking Member States themselves to review existing regulation, working closely with all stakeholders, using a proportionality test to assess the extent to which restrictive rules truly serve a clearly defined public interest, and are no more restrictive than is needed to achieve the desired objective.

If regulation does not meet this test, it should be eliminated or remodelled. These principles apply both to State rules and self-regulation.

Let's look at regulation governing access to the professions. Whilst some regulation is needed to regulate entry requirements and ensure quality, what we are saying is that this should not be

excessive, but proportionate. For example, it should not act to artificially limit supply and drive up prices.

For the same reasons, you will understand why the Commission is also calling for a review of territorial or quantitative restrictions which partition a market.

I also have difficulty seeing how things like price fixing – in the form of fee scales – and advertising bans can be objectively justified. There may be a need for some limited and carefully targeted price regulation to protect access for the lower paid, for example, but surely not for all consumers or business users. Most are likely to be better off with a number of offers from different service-providers to compare and choose from.

Bans on advertising are also difficult to justify. Advertising provides a means by which users can identify those services that best suit their needs and means.

Does this conflict with access to justice?

I am of course aware that some – including Honourable Members of this Committee – have suggested that pursuing greater competition in the area of legal services will be detrimental rather than beneficial to consumers in the area of access to justice. I cannot agree.

Access to justice not only requires that legal advice is sound but also that it is provided in a cost-effective, consumer-friendly way. And, in a European Union founded on the rule of law, I believe that government has a duty to ensure this happens.

Competition is a key factor in delivering this. Greater competition in professional services will lead to more innovation in service provision and more choice for users – both in terms of service providers and the range of services available.

This makes me convinced that our work will enhance access to justice rather than hinder it, and make our legal professions more effective.

Progress made during 2004/2005

Finally a few words about how the reform process is going.

Our 2005 progress report welcomes steps taken during 2004/2005 by some Member States, but finds that regulations which seriously restrict competition are still too common in many others.

This is disappointing. Progress appears to be hampered by several factors, including a lack of national political support and reticence from the professions themselves. Few appear really ready to look at alternatives - to think outside the box, and to release the great potential this sector has for generating more economic growth and more jobs.

What next?

So we will continue with our work of promoting reform. We remain committed to wide-scale change that is in the consumer interest, and will continue to work towards this goal. We are encouraging Member States to build reform of the professions into their National Reform Programmes for implementing the Lisbon Agenda to give the project clear national political backing, and to step-up reform efforts.

I hope my comments have been useful in setting the backdrop to our work and thank you for listening. I look forward to hearing and responding to your views.

