European Commission: Proposal for a Directive on Electronic Commerce

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On 18 November 1998, the European Commission introduced a proposal for a directive to establish a coherent legal framework for the development of electronic commerce within the European Union. The proposed directive aims at harmonising rules which enable the free movement of information society services for businesses and citizens. Information society services are defined as those normally provided against remuneration, at a distance, by electronic means and at the individual request of a customer. This definition encompasses services which are free to the recipient, e.g. funded by advertising or sponsorship revenue and services allowing for on-line electronic transactions such as interactive teleshopping and on-line shopping malls. Examples of sectors and activities covered include electronic newspapers, on-line data-bases, on-line entertainment services such as video on demand, on-line direct marketing and advertising and services providing access to the World Wide Web. The proposed directive contains a country of origin rule comparable to the one in the "Television without Frontiers" directive.

The proposal would establish specific harmonised rules only in those areas where they are strictly necessary to ensure that businesses and citizens could supply and receive information society services throughout the EU, irrespective of frontiers. These areas include the establishment of service providers, commercial communications, electronic contracts, liability of intermediaries, dispute settlement and the role of national authorities.

The proposal defines what constitutes a commercial communication and makes it subject to certain transparency requirements to ensure consumer confidence and fair trading.

With regard to the liability of intermediaries, the proposed directive would establish an exemption from liability for intermediaries where they play a passive role as a "mere conduit" of information from third parties and limit service providers' liability for other "intermediary" activities such as the storage of information.

Proposal for a European Parliament and Council Directive on certain legal aspects of electronic commerce in the internal market: COM(98)

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