European Commission: Amended Proposal for the E-Commerce Directive

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On 1 September 1999 the European Commission presented an amended proposal aiming at establishing a coherent legal framework for the development of electronic commerce within the single market. The first proposal of the Directive dates back to 18 November 1998 (see IRIS 1999-1: 3). The main reason behind the proposal is the need to provide solid guarantees for services in the information society in order to benefit fully from the freedom of movement of services and the freedom of establishment within the EU.

The proposed directive embraces the fields of commercial communications, electronic contracts, dispute settlements and liability issues. Many, though not all, of the amendments proposed on 6 May 1999 by the European Parliament have been transposed into the Commission's modified proposal.

The main goal of the Commission in applying some of the suggested modifications, was to strive towards substantial simplification and clarification of some of the concepts and principles already contained in the original proposal. A considerable effort has also been made to link explicitly the amended proposal to the already existing EU legislation, for example by way of clarifying the connection between the present proposed directive and the already existing directives on consumer protection and protection of personal data. Furthermore, an explicit reference has been made to emerging fundamental issues like the protection of minors. Other interesting points emerging from the amended proposal involve the formalisation of the criteria adopted to establish the moment of conclusion of on-line contracts.

The amended proposal, moreover, obliges member states to ensure the establishment of opt-out registers for consumers as a remedy against unsolicited commercial communications.

The controversial amendment proposed by the European Parliament concerning the liability of intermediaries is among those rejected by the Commission.

Amended Proposal for an E-Commerce Directive. COM (1999) 427 final, 98/0325(COD).

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