

EUROPEAN PARLIAMENT

2004



2009

Session document

FINAL
A6-0275/2006

14.9.2006

REPORT

on the Commission White Paper on services of general interest
(2005/2101(INI))

Committee on Economic and Monetary Affairs

Rapporteur: Bernhard Rapkay

Draftsman(*):

József Szájer, Committee on the Internal Market and Consumer Protection

(*) Enhanced cooperation between committees – Rule 47 of the Rules of Procedure

CONTENTS

	Page
MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION.....	3
EXPLANATORY STATEMENT	13
OPINION OF THE COMMITTEE ON INTERNATIONAL TRADE.....	16
OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS	20
OPINION OF THE COMMITTEE ON INDUSTRY, RESEARCH AND ENERGY	24
OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION.....	28
OPINION OF THE COMMITTEE ON TRANSPORT AND TOURISM.....	33
OPINION OF THE COMMITTEE ON REGIONAL DEVELOPMENT	36
OPINION OF THE COMMITTEE ON LEGAL AFFAIRS	39
PROCEDURE.....	42

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the Commission White Paper on services of general interest (2005/2101(INI))

The European Parliament,

- having regard to the Commission communication entitled 'White Paper on services of general interest' (COM(2004)0374),
- having regard to the Commission communication entitled 'Implementing the Community Lisbon programme: Social services of general interest in the European Union' (COM(2006)0177),
- having regard to Commission Decision 2005/842/EC of 28 November 2005 on the application of Article 86(2) of the EC Treaty to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest¹,
- having regard to Article 36 of the Charter of Fundamental Rights of the European Union, which concerns access to services of general economic interest,
- having regard to Articles 2, 5, 16, 73, 86, 87, 88 and 295 of the EC Treaty,
- having regard to its previous resolutions on services of general interest, particularly its resolution of 13 November 2001 on the Commission communication 'Services of General Interest in Europe'², its resolution of 14 January 2004 on the Commission Green Paper on services of general interest³ and its resolution of 22 February 2005 on State aid in the form of public service compensation⁴,
- having regard to its legislative resolution of 16 February 2006 on the proposal for a directive of the European Parliament and of the Council on services in the internal market⁵,
- having regard to the Conclusions of the Presidency of the Lisbon European Council of 15 and 16 March 2000, the Nice European Council of 7, 8 and 9 December 2000, the Laeken European Council of 14 and 15 December 2001 and the Barcelona European Council of 15 and 16 March 2002 on services of general interest,
- having regard to the case law of the Court of Justice of the European Communities in the field of services of general interest, particularly the Teckal judgment of 18 November 1999⁶, the Chronopost judgment of 3 July 2003⁷, the Altmark judgment of 24 July 2003¹, the

¹ OJ L 312, 29.11.2005, p. 67.

² OJ C 140 E, 13.6.2002, p. 153.

³ OJ C 92 E, 16.4.2004, p. 294.

⁴ OJ C 304 E, 1.12.2005, p. 117.

⁵ *Texts adopted*, P6_TA(2006)0061.

⁶ Case C-107/98, Teckal Srl/Comune di Viano and Azienda Gas-Acqua Consorziale (AGAC) di Reggio Emilia, ECR 1999, I-8121.

⁷ Joined cases C-83/01 P, C-93/01 P and C-94/01 P, Chronopost et al., ECR 2003, I-6993.

Enirisorse judgement of 27 November 2003, the Stadt-Halle judgment of 11 January 2005², the judgment of 13 January 2005³, the Corbeau judgment of 19 May 1993 (Case C-320/91) and the Gemeente Almelo judgment of 27 April 1994 (Case C-393/92),

- having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Committee on Internal Market and Consumer Protection, the Committee on Culture and Education, the Committee on Legal Affairs, the Committee on Employment and Social Affairs, the Committee on Transport and Tourism, the Committee on International Trade, the Committee on Industry, Research and Energy, and Committee on Regional Development (A6-0275/2006),
- A. whereas the Treaties provide for an open social market economy and whereas, amongst others, the following principles stand as terms of reference and are important in this context:
- solidarity, bringing people together based on the objectives of social, economic and territorial cohesion and sustainable development,
 - cooperation, enabling the realisation of the transnational and European aspirations in the Treaties and programmes,
 - open borders and an internal market with the freedom of movement for persons, goods, services and capital, in order to integrate economies and societies and increase wealth and social well-being of European citizens,
 - competition, enabling the completion of the internal market on the basis of social market economy rules and governed by competition law, which is an essential area of democratic law and, above all, to avoid the abuse of monopolies and economic power and to guarantee innovation, high quality at an affordable price, diversification of consumer choices and legal protection for consumers,
 - subsidiarity, based on Article 5 of the EC Treaty, ensuring the plurality of the Member States and the different traditions in the EU and that the EU acts as efficient and close as possible to the citizens, when, but only when, this will achieve a better result than actions on the national or sub-national level,
 - proportionality, according to which any action by the Community shall not go beyond what is necessary to achieve the objectives of the Treaty, and

¹ Case C-280/00, Altmark Trans GmbH and Regierungspräsidium Magdeburg/Nahverkehrsgesellschaft Altmark GmbH, ECR 2003, I-7747.

² Case C-26/03, Stadt Halle and RPL Recyclingpark Lochau GmbH/Arbeitsgemeinschaft Thermische Restabfall- und Energieverwertungsanlage TREA Leuna, ECR 2005, I-1.

³ Case C-84/03, Commission/Spain, ECR 2005, I-139.

- democracy, under which universal suffrage is the source of legitimacy for the national and local public authorities which determine and organise the missions, service provision and funding of services of general interest (SGIs).
- B. whereas, SGIs are not only an important element of social and economic cohesion, but also contribute considerably to the competitiveness of the European economy,
- C. whereas competition, which is intended to facilitate the completion of the single market based on the rules of social market economy and is regulated by competition regulations, is a key democratic right, curbing not only bureaucratic power but above all the misuse of economic power and protecting consumers' rights,
- D. whereas the case law of the Court of Justice of the European Communities is now extensive, is continually developing and concerns various aspects of SGIs, including State aids, equal treatment and/or the distortion of competition,
- E. having regard to the development in the cases brought before the Court of Justice relating to the compatibility of SGIs with the internal market rules and European competition rules, and having regard to the need to respond to this by clarifying positive European law in this area,
- F. whereas the evolution of markets and the way in which societies organise themselves is subject to dynamic development which is different in each Member State, the application of rigid rules and definitions would constitute an obstacle to achieving optimal economic and social results,
- G. whereas it is impossible to define SGIs uniformly, in a social and economic environment as diverse as that of the EU,
- H. whereas the availability of efficient SGIs is an integral part of the economic, societal and social systems of all Member States; whereas this availability varies considerably from Member State to Member State and whereas the objective of successfully completing the internal market should enable Member States to introduce effective and efficient SGIs, fully respecting the interest of the citizen in his dual role of consumer of services and taxpayer as well as the Member States responsibilities and without interfering in the freedom of local and regional authorities to establish and implement high-quality, frequency, affordability and accessibility of those services,
- I. whereas SGIs and services of general economic interest (SGEIs) should be provided equally in all parts of the EU; whereas economic and social cohesion has as its objective the reduction of disparities between the levels of development of the various regions and the promotion of the overall harmonious development of the EU, especially in the new Member States,
- J. whereas, taking into account the principle of subsidiarity pursuant to Article 5(2) of the EC Treaty, it is for the Member States and their regional and/or local authorities to define their SGIs, to decide which services should be covered, and how they are organised, financed, delivered, evaluated and controlled, and this should be fully respected when drafting further legislation,

- K. whereas, in the matter of compatibility between internal market and competition rules and the smooth operation of SGEIs, legal certainty must be created in order to give the relevant national, regional and local authorities the necessary room for manoeuvre to take decisions and avoid conflicts and legal proceedings, with due respect for the internal market and the Parliament's above-mentioned legislative resolution on services in the internal market as well as clear implementation of internal market and competition rules,
- L. whereas sectoral EC directives on SGEIs in network industries and other sectors in which market opening has been achieved or begun have been successful in providing better services at lower prices and provide a reliable framework,
- M. whereas the multitude of sector-specific initiatives relating to the opening of the internal market in the area of services and the Parliament's above-mentioned resolution on services in the internal market enlarges the opportunities for competition and better operation also in the areas of SGEIs, which underlines the need for legal clarity regarding SGEIs,
- N. whereas SGEIs have a direct effect on the internal market for services, and a number of sectors which provide SGEIs have been successfully modernised and integrated in these service markets; whereas this integration was achieved in a controlled way and accompanied by measures to protect the general interest, in particular the concept of universal services,
- O. whereas Article 16 of the EC Treaty recognises the importance of SGEIs, whereas Articles 43 to 49 of the EC Treaty provide a legal basis of the formulation of Community action with regard to the free provision of services; whereas Articles 86 and 87 of the EC Treaty and the case law of the Court of Justice give clear indications on how to deal with State aid, modalities and levels of funding of SGEIs; whereas Article 95 of the EC Treaty is the appropriate legal basis for dealing with issues related to public procurement procedures and matters related to these;
- P. whereas, while Articles 16 and 86(2) of the EC Treaty refer to SGEIs, the EC Treaty offers no definition thereof; whereas SGIs are not referred to in the EC Treaty but were introduced only by the Commission in a communication and whereas, pursuant to the Parliament's above-mentioned legislative resolution on services in the internal market, SGEIs should be exempt from the scope of Article 16 of the Services Directive and SGIs are wholly exempt from the directive,
- Q. whereas the different forms of administration and partnership between economic operators carrying out these services are being encouraged , and whereas this should occur in compliance with the responsibilities of the Member States regarding the provision and procurement of those services in the interests of effective and high-quality,
- R. whereas the Community objective of a high level of consumer protection together with strict compliance with the principle of subsidiarity should be brought into sharper focus,

- S. whereas the Charter of Fundamental Rights of the European Union recognises and respects access to SGEIs with a view to promoting the social and territorial cohesion of the Union,
1. Considers that its previous, above-mentioned, resolutions on SGIs of 13 November 2001, 14 January 2004 and of 22 February 2005 remain valid, particularly in view of
- the principle of subsidiarity,
 - deregulation, and
 - the achievement of the internal market and the need to provide services of high quality;
- recalls that the important factor is not who provides SGIs, but rather that quality standards and an equitable social balance be maintained and the criteria be based on reliability and continuity of supply; recalls that the Parliament considers that SGEIs cover a very broad range of industries;
2. Notes that it is particularly important, so as to exploit fully the opportunities offered by the internal market, for the conditions and provisions regulating the modernisation of markets to guarantee fair, transparent and efficient competition, while maintaining social cohesion and universal service accessibility, and avoid abuses of dominant position and the formation of new monopolies, which hamper access to the market for new participants;
3. Stresses that SGIs should be of high quality, should encompass comprehensive coverage, should be provided at optimum cost, should respect social balance and should be provided on the basis of lasting security of supply; and emphasises that the majority of SGIs can be provided under conditions of fair competition, according to the principle that private and public undertakings must receive equal treatment;
4. Requests that the Commission submit to Parliament a comprehensive analysis of the effects of liberalisation to date, in particular on the situation of consumers and the employees concerned;
5. Emphasises that most SGEIs are supplied in the internal market and are therefore, as a matter of principle, subject to internal market, public procurement, competition and State aid legislation and Commission controls on abuses in so far as the application of such legislation does not obstruct the performance, in law or in fact, of the particular tasks assigned to them, as provided in Article 86(2) of the EC Treaty; emphasises that, in accordance with Article 16 of the EC Treaty concerning SGIs, the Community and Member States are responsible, within their respective powers, for ensuring that such services operate on the basis of principles and conditions that enable them to fulfil their missions;
6. Underlines that especially after the enlargement of the European Union, cohesion must be ensured in the field of SGEIs and that in the framework of structural policy, Member States' infrastructures for network-based SGEIs must be interlinked and cross-border cooperation enhanced in order to create a real internal market and to facilitate standardisation;

7. Takes into consideration the economic weight of these services and their importance for the production of other goods and the provision of other services; underlines that the way in which SGEIs are organised can affect the internal market, for example by prohibiting establishment in the country in which the service is provided;
8. Considers that the objective of competition rules should be to improve the quality of service provision, consumer choice and affordable prices and to realise other public interest objectives, including sustainable development;
9. Calls on the Commission to clarify the distinction between SGIs and SGEIs by developing operational criteria, taking into account Member States' national tradition, based on the nature of collective goods and public funding or by solidarity mechanisms of SGIs; underlines that for many SGIs making the distinction between economic and non-economic aspects is extremely difficult due to the dynamic character of these services and their rapid development; welcomes, therefore, the fact that, in its White Paper on SGIs, the Commission indicates that "the effective performance of a general interest task prevails, in case of tension, over the application of Treaty rules"; recognises that broad areas of SGIs must not be withdrawn from the scope of the rules of the internal market and competition through an attempt to define SGIs; notes that a precise definition of SGEI and SGI would run counter to the freedom of Member States to define their SGIs;
10. Recalls the fact that the rules in force in this area are defined by the case-law of the Court of Justice and by the Commission's, interpretation of individual cases, and that neither the necessary legal certainty nor adequate transparency has therefore yet been achieved;
11. Requests furthermore clarification from the Commission in particular on two major questions: consequences of the jurisprudence of the Court of Justice based on a sectoral approach and application of competition law to SGIs and SGEIs, especially with regard to the financing of these services;
12. Notes that local and regional authorities have proved to be the appropriate level, close to the citizen, for providing SGIs, and that they are still the appropriate level for guaranteeing the right of involvement, consumer protection and public welfare in respect of such services; notes that the European level of government must help ensure that the capacity of the local and regional level of government to provide such services is not jeopardised;
13. Is of the opinion, therefore, that, in the interests of:
 - local, regional and national authorities, in order that they where it is needed might provide and guarantee appropriate services in the interests of all citizens with due respect for the internal market and the Parliament's resolution on services in the internal market,
 - the (public, profit-making or non-profit-making) companies that provide or offer these services, in order that they might be aware what conditions and obligations can

be imposed on them by the authorities under the internal market and the legislation in force, given the general interest missions that are entrusted to them, and

- service users, in order that they can be certain that the services defined and developed by Member States and their local authorities in accordance with local conditions can be provided subject to proper conditions on competition, where possible, accessibility, quality, affordability, innovation, adaptability, continuity, durability, equality of treatment, long-term planning, safety, universality, etc.,

considers that the Commission should come forward with legal clarifications, guidelines and principles on a number of problematic topics, in particular including the application of internal market and competition rules in the field of SGIs and SGEIs while ensuring democratic accountability on the application of rules to SGIs and SGEIs to the Member States, regional, and local authorities; notes that there is a need to clarify how responsibilities are shared between the EU and Member States and considers that the sectoral approach which takes into account the specific situation in the relevant sectors should be an important element in this respect; underlines in this context, that after a due evaluation of the Treaty and the jurisprudence of the Court of Justice SGIs remain to be defined by the Member States; notes, moreover, that there is no legal basis for a proposal seeking the non-application of the relevant EC Treaty provisions to particular services;

14. Emphasises that the need for existing or future sector-specific regulations based on internal market rules and respect for subsidiarity and that sector-specific rules should not be called into question; recalls the success of these sector-specific regulations and recommends that the sectoral approach be expanded into other sectors;
15. Calls on the Commission to create more legal certainty in the area of social and health care SGIs and to come forward with a proposal for a sector-specific directive of the Council and the Parliament and those fields where it is appropriate;
16. Urges the Council, therefore, to adopt a common position as soon as possible on the revision of Regulation (EEC) No 1191/69 of 26 June 1969 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway¹;
17. Recommends that, when a competent authority identifies the supply of a service as a service of general economic interest, the public service obligation should be assigned either by way of a fair and transparent tendering procedure or by way of a suitable legal act that must satisfy transparency criteria and must be based on equal conditions for all competitors;
18. Welcomes the proposed Community legal framework for State aid in the form of compensation for public service obligations and the plan to revise the transparency directive;
19. Recommends that, when a competent authority intends to finance SGEIs other than through direct funding from its general budget, the authority in question should choose, a

¹ OJ L 156, 28.6.69, p. 1.

form of funding that is in compliance with the provisions of the EC Treaty, particularly of Article 86(2), especially when granting exclusive and special rights, granting compensation for the supply of public services or when setting up a fund for the supply of public services, notes that in all cases this will require a transparent tariff system as well as appropriate and transparent financing;

20. Recommends that, when a competent authority intends to grant compensation for the supply of public services in order to ensure the funding of a service of general interest, such compensation should not be considered State aid in the meaning of Article 87 of the EC Treaty, provided that:

- the beneficiary is entrusted with a clearly defined public service mission;
- the parameters for calculating the compensation payments is established in advance in an objective and transparent manner;
- the level of compensation does not exceed the costs incurred in the discharge of the public service obligations, allowing a reasonable profit;
- the beneficiary is chosen in a public tender or compensation does not exceed the costs of a well-run undertaking that is adequately equipped with the means to provide the public service; and
- a transparent procedure has been issued;

stresses, however, that the amount of compensation may not exceed what is necessary for the operation of the service and must not be used to finance activities outside the scope of the service in question (in the form of cross-subsidies); points out that compensation must be available to all operators entrusted with providing SGIs, irrespective of their legal status;

21. Points to the importance of applying the provisions of Commission Decision of 28 November 2005 on the application of Article 86(2) of the EC Treaty to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of SGEIs¹ must be implemented clearly; emphasises, however, that the payment of pure compensation for public service obligations should not be deemed to be State aid, and that the law should be amended accordingly;
22. Emphasises that it is for the competent authority to decide whether to supply a service of general interest directly by a unit of its own or, to entrust supply thereof to external profit or non-profit service providers, while exercising the same control as that provided for directly supplied services; in case the competent authority decides to externalize the services a call for tenders must be issued; moreover the principle of local and regional self-government should be respected, which gives the competent authority the right to choose, taking into account the public interest, how best each service should be delivered;

¹ OJ L 312, 29.11.2005, p. 67.

23. Is of the opinion that outsourcing the supply of a service of general interest normally imposes on the authority in question the obligation to assign the service on the basis of a public service contract, following a public tender procedure; notes that the principle of awarding a public service contract should allow the competent authority the opportunity to transfer a public service contract in emergencies; calls on the Commission, together with the Member States and the Parliament, to clarify the relevant criteria in the procurement directives or in the form of a regulation; in this context, affirms that local authorities should be able to assign service tasks directly to inter-communal companies or similar forms of joint arrangements, or to companies that they own or control, provided that such bodies carry out the essential part of their activities for the controlling authority or authorities, and do not compete on external markets but constitute only a domestic organisational practice and an arrangement must be found which does not categorically exclude private participation from the outset;
24. Calls in this connection, and in the interests of possible improvements in efficiency through the involvement of new operators and ways of providing SGIs, for more legal certainty as a matter of urgency as regards the different forms of inter-authority organisations (cooperation between local authorities, public-private partnership, awarding of concessions), a clarification of European law on competition, on the award of contracts and on State aid, and of the general criteria applicable throughout Europe; stresses that there should be legal clarification concerning the outsourcing of public services, which is different in kind from public contracts; calls on the Commission to spell out the rules for awarding such outsourced services and to make a clear distinction between those rules and the rules governing public contracts;
25. Is of the opinion that the competent authority should ensure that in the sectors in which it has laid down rules for public universal service obligations or particular objectives, the types of regulation and instruments appropriate to each sector should be applied on the basis of transparent rules;
26. Is also of the opinion that guidelines at national and local level are necessary in the following areas, in the interests of transparency and consumer protection:
- defining the procedures for access to existing networks where access is necessary for the provision of services;
 - defining the price and/or tariff conditions for the supply of services;
 - securing competition and opportunities for new entrepreneurs where possible ;
 - rules on out-of-court settlements between the supplier of services and the user, regardless of the possibility of legal action; and
 - consultation of and, as appropriate, referral to the competition authorities regarding any element that might point to a breach of the national competition rules or of those laid down in the EC Treaty;
27. Recommends, in the interests of high-quality and efficient SGIs, encouraging voluntary benchmarking and quality measurement mechanisms at national and European level; the exchange of experience and the promotion of best practices should be supported and

involve all stakeholders concerned; suggests that such measures address the following aspects :

- the development of comprehensive evaluation methods, including economic, social and environmental criteria, should be developed;
 - the protection and safety of service users;
 - the appropriateness and proportionality of the standard in relation to the cost of the service;
 - the widest possible dissemination and publication of the standard; and
 - simple and effective monitoring of adherence to the standard, which could be laid down on the basis of a charter or of a code of conduct;
28. Stresses the importance of strengthening Member States' supervisory capacities in order to ensure that public policy objectives, including affordability and quality standards, are effectively achieved; stresses further that it is necessary for the relevant public authorities to have adequate instruments and expertise at their disposal to be able to enforce competition and to ensure consumer protection;
29. Calls on the Commission, on the basis of its resolution of 14 January 2004, its resolution of 9 March 2005 on the mid-term review of the Lisbon strategy¹, and the present resolution, to come forward with appropriate legal initiatives and recalls that codecision rights, where foreseen by the Treaty, should be fully exercised by all parties involved in the field of SGIs and SGEIs;
30. Points out that the international agreements concluded by the Community and the obligations attaching thereto must be compatible with internal Community policies and rules;
31. Instructs its President to forward this resolution to the Council and the Commission.

¹ OJ C 320 E, 15.12.2005, p. 164.

EXPLANATORY STATEMENT

The importance of public services

Access to high-quality public services is a key political issue. Good schools and hospitals, clean water, safe and reliable transport and energy, for example, figure in most definitions of a good quality of life.

However, public services are not only an essential element in the quality of life of individual citizens. They have a key role to play in the EU's flagship Lisbon strategy, which aims to build on the strengths of Europe's social and economic model to create the world's most dynamic, cohesive and sustainable economy. Good public services can help to overcome economic stagnation, social exclusion and isolation; strengthen social and territorial cohesion; and improve the functioning of Europe's internal market and its external competitiveness.

High-quality public services - open and transparent, with equal access for all - are therefore essential elements in the European model of society. Market forces alone cannot respond always to the dynamic nature of public services. That is why public authorities at every level are deeply involved in providing, regulating, organising or - to various degrees - financing or supporting such services. It is not the EU's job to interfere in the provision of such services - instead, in the view of the rapporteur, the EU should create more legal certainty which allows public authorities at every level to do their job of safeguarding the public interest in provision of these services. And the EU has also a role to play in guaranteeing adequate standards across the European Union, making good, efficient and high-qualified public services a tangible expression of European citizenship.

What are public services?

Different people mean different things by "public services". Some people think of public services as being those provided, or financed, by the public sector. For others, the key criterion is whether they are provided "in the public interest" ... and in this complicated debate, many other definitions have been offered.

In the view of the rapporteur, it is necessary to start to clarify the different concepts of public services and to distinguish between SGIs which are, on the one hand those of a commercial nature and mainly financed by the user, which the EC Treaty qualifies as services of general economic interest (SGEI) in line with Article 16 of the EU Treaty, and, on the other hand, those which are not of a commercial nature and are financed mainly by public or social funds, which may be regarded as services of non-economic general interest (SNEGI), such as services of general interest exercising exclusively social functions or prerogatives of public authorities.

The idea behind Article 16 is to single out those services which could significantly affect the operation of the single market, because they are economic in character, from non-economic services which do not. Non-economic services, including for example police and the administration of justice, are seen as matters wholly for national and sub-national government, for which the EU has no competence. Unfortunately, current EU law gives no clear guidance on

how to distinguish between services of general economic interest, services of general interest and other services – which means that it is not clear, in individual cases, whether and to what extent EU rules on the single market apply. The rapporteur would therefore like to start a debate of possible clarification in this context.

Respecting different national traditions

Throughout Europe, good public services are seen as an essential element in a civilised society. But national traditions - what is provided, how and by whom - vary greatly, creating misunderstandings and confusion about what exactly is meant by public services and a reluctance even to attempt to develop common European criteria and guidelines.

National, regional and local authorities are attached to their autonomy to define their policies for their citizens in their own way. But in practice they are often confronted with interference by the European Commission or by the European Court of Justice, which have judged their activities from the perspective of the EU's internal market rules - for example, deeming cross-subsidisation to be contrary to state aid rules; imposing onerous public procurement obligations; or treating some public service obligations as barriers to the European single market.

In the view of the rapporteur, neither effective safeguards for local autonomy, nor the legal certainty which public service providers, public authorities, private businesses and service users is for the moment guaranteed.

The aim to develop more legal certainty must be to clarify the situation, in order to safeguard local autonomy, and the principle of subsidiarity, by defining the relationship between - on one hand - single market rules and - on the other - the pursuit of public interest objectives in the provision of those services of general interest which do have a significant economic dimension and could affect the operation of the single market.

Confusion and uncertainty in current laws

Although the proposed Constitutional Treaty, once ratified, would provide constitutional safeguards for services of general interest, detailed legislation - accumulated over many years - leaves great practical uncertainty, because the Treaty sets out only the most general principles governing public services, whereas there is a detailed body of EU legislation interpreting and implementing its single market provisions.

It is not clear to what extent services of general interest or general economic interest are covered - for instance - by competition law, single market legislation, or rules designed to regulate subsidies or open up public procurement. The law evolves through the - often unpredictable - twists and turns of the Commission or European Court of Justice. And the liberalisation of various public services networks over the years - such as telecom, post, energy and rail - has been based each time on different rules, adding to the legal complexity and uncertainty. Moreover, the financing and management of public services in Europe depend on the unpredictable development of case law and judicial interpretation.

The Commission's recent Green and White Papers on Services of General Interest, and the new Communication on Social Services of General Interest, have disappointed those who hoped for a

new, surer legal situation for public services: the Commission documents give no more legal certainty on all mentioned aspects. Moreover, proposals towards a service directive are putting forward new questions regarding future conditions for dynamic public services.

Call for Action: greater legal certainty for public services

To safeguard services of general interest and put an end to legal uncertainty, Europe needs - without delay, and in parallel to current work on the broader Services Directive - a general legal framework for public services, complementary to existing sectoral and national provisions, and introduced on the basis of joint decision-making with the European Parliament.

The new legal framework must:

- clarify the division of responsibilities between the EU and Member States
- introduce criteria for a clear distinction between services of general "economic" and "non-economic" interest, to which different legal provisions apply
- enshrine the sovereignty of local authorities regarding the design and management of the public services for which they are responsible
- guarantee citizens' right to a local input, ensuring that their needs, claims and problems are examined promptly and directly, and protecting consumer and civil rights
- respect the need for specific sectoral legislation for some services, and establish a clear relationship with such legislation, and with the Services Directive currently before the Parliament
- guarantee respect for the principles of transparency; openness; solidarity; a high quality of service; universality; equality of access; partnership with civil society; and workforce participation
- clarify the principles governing the funding and public procurement obligations of public services, in particular regarding different and new forms of provision and management in a dynamic public service sector.

The actual definition, formulation, organisation and funding of services of general interest, whether economic or non-economic, must remain a task for the Member States and their regional and local authorities. Subject to meeting the key standards and criteria set out above, the rapporteur envisage the widest variety of solutions for the provision of services at local level, responding to local needs.

31.5.2006

OPINION OF THE COMMITTEE ON INTERNATIONAL TRADE

for the Committee on Economic and Monetary Affairs

on the Commission White Paper on services of general interest
(2006/2101(INI))

Draftswoman: Françoise Castex

SUGGESTIONS

The Committee on International Trade calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Considers that the WTO Doha round must focus on development and, accordingly, that negotiations on trade in services must serve both the interests of the EU and the economic growth of the poorest countries;
2. Recalls that GATS is causing concern among the citizens of Europe; stresses, therefore, the vital need for transparency in the negotiation process, and for the assessment of the impact of liberalisation on public services;
3. In the interests of greater legal certainty as regards the functioning of services of general interest, supports the political objective that the provision of services must be centred on freedom of choice for the level of government responsible and that such services must be provided on its own initiative, in cooperation with private undertakings or by third parties; considers that the Commission must seek to secure this objective in all the negotiations it conducts in the context of world trade;
4. Stresses that the fundamental objectives pursued by SGIs (equality of access, security of supply, high quality, universal service, continuity, legal certainty, accountability, and consumer and user protection) can most often be achieved by means of appropriately regulated competition between private or public service providers, and that a needlessly restrictive attitude on the part of the Member States would risk closing off access for European operators to a number of international markets in services;
5. Stresses the contribution by services of general economic interest and non-economic services to promoting social and territorial cohesion and ensuring public access to affordable, high quality services, giving particular attention to agricultural regions, regions undergoing

industrial conversion and regions confronted with serious ongoing geographic or demographic problems, such as the sparsely populated regions of the far north, islands and cross-border and mountain regions;

6. Maintains that trade in services of general interest should be taken into account in all negotiations and processes aimed at the liberalisation of trade in which the EU is involved;
7. Points out that no new obligations may be entered into in respect of education and health services, and that cultural services, in particular audiovisual services, must remain exempt, as is currently the case;
8. Stresses that water quality guarantees and universal access to drinking water are essential for the people of Europe and of the world, particularly in less developed countries, which means that this sector must not be open to liberalisation and deregulation;
9. Calls on the Commission to not enter into new obligations with respect to infrastructure services of general interest, such as energy and water provision and waste water treatment, until such time as a framework directive defines which services public authorities at all levels in EU Member States may designate as services of general interest with reference to public interest objectives;
10. Recalls, firstly, that the principles of GATS do not impose either privatisation or deregulation, nor do they prescribe a particular degree of liberalisation as such or exclude the imposition of public service obligations; secondly, recalls that under GATS, WTO members have the right 'to regulate (...) the supply of services within their territories in order to meet national policy objectives';
11. Calls, nevertheless, for a precise clarification from the Commission of the limits on the right to regulate, with a view to assessing under what circumstances the application of commercial criteria such as the "necessity requirement" and the "least trade-restrictive requirement" endangers the public authorities' freedom of regulation;
12. Considers that the legitimate requirements of general interest must not be used as a pretext for the improper closure of markets in services to international providers when the latter undertake to respect these requirements and are in a position to do so;
13. Points out that the international agreements concluded by the Community and the obligations attaching thereto must be compatible with internal Community policies and rules;
14. Emphasises, therefore, that specific commitments entered into in the context of GATS negotiations must not go beyond granting to foreign service providers the market access and national treatment that Community service providers enjoy within the internal market in sectors open to competition, in accordance with the rules in force; account must, however, be taken in this connection of the extent to which liberalisation has been implemented in various sections of the internal market, and a prior evaluation of the economic, social and environmental impact of the liberalisation process should be carried out;
15. Recalls that no balanced liberalisation of international trade can take place without a concomitant opening of the markets in goods and services, and that it must be possible for

the technical skills of the major service providers from the developed world to be placed at the service of the developing countries, which implies some reciprocity in the opening of services markets within and outside the European Union;

16. Recalls that, as regards the financing of services of general interest in respect of which commitments on market access have been entered into, the EU obtained a restriction to protect the granting of subsidies to the public sector; calls for this possibility to be maintained throughout the GATS negotiations;
17. Stresses, in the context of the new multilateral GATS negotiation method, the need for the European Union to ensure that the new process takes due account of the scope for flexibility offered by GATS, particularly Article XIX which states that the process of liberalization shall take place with due respect for national policy objectives and the level of development of individual Members, and that there shall be appropriate flexibility for individual developing countries for opening fewer sectors and liberalizing fewer types of transactions;
18. Considers that certain products, particularly water, and the services relating to those products, constitute global public goods with a special status, that they have a considerable direct impact on the everyday life of people and should therefore be the subject of special treatment in the interest of sustainable development;
19. Calls for the EU to defend this point of view in the WTO negotiations and to support the principle that opening up the market in services relating to the treatment, supply and purification of water should comply with the objectives of sustainable development;
20. Stresses that LDCs should not be placed under pressure to liberalise their services, particularly SGIs; considers that any failure of the current round of multilateral negotiations might lead, in the context of bilateral agreements, to additional pressure on poor countries to open their markets, particularly those relating to services;
21. Stresses that some developing countries and LDCs are finding it difficult to regulate service sectors which were formerly the responsibility of the public authorities or were in state ownership; calls, therefore, on the Commission to ensure that requests to developing countries relating to SGIs are accompanied by technical assistance and economic cooperation measures;
22. Considers that any proposals by the Commission in the debate on the reform of the WTO, and in particular proposals relating to services, should be discussed in good time and in depth with the European Parliament and its relevant committee;
23. Welcomes the fact that the Commission has publicised the Community's package of offers in the current GATS negotiations; considers, however, that the Commission should discuss current developments in greater detail with Parliament and its relevant committees.

PROCEDURE

Title	Commission White Paper on services of general interest
Procedure number	(2006/2101INI)
Committee responsible	ECON
Opinion by Date announced in plenary	INTA 18.5.2006
Enhanced cooperation – date announced in plenary	
Draftswoman Date appointed	Françoise Castex 15.3.2005
Previous drafts(wo)man	
Discussed in committee	3.5.2006
Date of adoption	30.5.2006
Result of final vote	+: 20 –: 2 0: 1
Members present for the final vote	Jean-Pierre Audy, Enrique Barón Crespo, Daniel Caspary, Françoise Castex, Giulietto Chiesa, Christofer Fjellner, Béla Glattfelder, Syed Kamall, Sajjad Karim, Caroline Lucas, Helmuth Markov, David Martin, Georgios Papastamkos, Godelieve Quisthoudt-Rowohl, Tokia Saïfi, Robert Sturdy, Johan Van Hecke, Daniel Varela Suanzes-Carpegna, Zbigniew Zaleski
Substitute(s) present for the final vote	Margrietus van den Berg, Saïd El Khadraoui, Elisa Ferreira, Mauro Zani
Substitute(s) under Rule 178(2) present for the final vote	
Comments (available in one language only)	...

24.4.2006

OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS

for the Committee on Economic and Monetary Affairs

on the Commission's White Paper on services of general interest
(2005/2016(INI))

Draftsperson: Proinsias De Rossa

SUGGESTIONS

The Committee on Employment and Social Affairs calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Notes that the debate on the Green Paper confirmed that services of general interest (SGIs) are a pillar of the European social model, essential for ensuring social and territorial cohesion and the implementation of the Lisbon Strategy, and that the services market offers considerable potential for economic growth and job creation;
2. Stresses that the market alone cannot ensure universal access to quality SGIs, which have an important role to play in promoting social, economic, and territorial cohesion in the EU; that public services and SGIs must be renewed and shaped on the basis of a European social model; and that a Community framework on SGIs should enhance the following objectives:
 - equal universal access,
 - guaranteed full territorial coverage and geographical and social accessibility, combined with high-quality service at affordable prices and uniformly high-quality standards, irrespective of the level of profitability of individual service providers, and
 - socially acceptable concessionary charges for certain sections of the population, such as disabled persons and low-income groups, as well as mechanisms designed to combat social exclusion, measures designed to guarantee sustainable development, a high level of environmental protection and the elimination of regional disparities, legal certainty

and compliance with the framework conditions for the provision of SGIs regardless of the identity or nationality of the provider.

3. Notes that in so far as SGIs that correspond to an economic activity may fall within the scope of the proposal for a directive on services in the internal market (Services Directive); and that in the light of the case-law of the Court of Justice of the European Communities, an increasing number of services are being regarded as economic services, and there is an urgent need to define clearly and distinguish between economic and non-economic services; calls on the Commission to carry out a thorough impact assessment of SGIs falling within the scope of the Services Directive, with particular regard to the impact on consumers, the workforce and the environment;
4. Considers that the proposed application of the Services Directive to economic SGIs increases the need for a framework directive laying down quality standards; considers that the EU and the Member States, within their respective competences and within the scope of the Treaty, must ensure that SGIs operate on the basis of principles and conditions that enable them to fulfil their missions; believes that a framework directive should establish these principles and set these conditions without prejudice to the competence of Member States, in compliance with the Treaty, with the main emphasis on the social dimension of universal access to quality services at affordable cost; regrets that the Commission has not given a firm commitment to formulating a legal framework for SGIs;
5. Considers that the full involvement of the social partners, regional and local authorities, and civil society is essential for the best possible operation and regulation of SGIs;
6. Welcomes the Commission's commitment to submit a communication on social and health services;
7. Endorses the Commission's commitment to review, this year, the situation of SGIs and the need for any horizontal measures; urges the Commission, as part of an ongoing evaluation of SGIs, to take particular account of the impact on the situation of consumers and the workforce as well as on the environment; calls on the Commission to submit an independent report assessing the impact of trade liberalisation already carried out as a result of regional, bilateral or multilateral trade agreements on the organisation of SGIs in the Member States, particularly on the quality and price of services, the competitiveness of the sector, equality of access, security of supply, the environment, and social cohesion;
8. Welcomes the Commission's commitment to clarifying how public service compensation may avoid classification as State aid within the meaning of Article 87(1) of the EC Treaty; affirms the need for the general features and principles of SGIs to be defined at Community level to avoid the possibility of their being overridden by competition rules; points out that the Commission's explanations on this subject reflect a narrow vision of the public interest and hence of the mission of essential service provision and that the framework for essential services is in need of a more comprehensive definition, with particular reference to overriding reasons of public interest, systems of mutual assistance, the special nature of the undertakings involved, and their funding in the health-care and social welfare sectors;
9. In the light of the indeterminate delay in the adoption of the Treaty establishing a Constitution for Europe, calls on the Commission to submit a proposal for a framework

directive on the basis of the existing Treaty provisions on the internal market (Article 95 of the EC Treaty), laying down at Community level the principles and objectives of SGIs to ensure that they cannot be rendered inoperative by the existing competition rules, and which must then be implemented by Member States in accordance with the distinctive features and requirements existing at national and regional and local level;

10. Draws particular attention to the fact that essential services must comprise a right of access, with particular regard to the principle of non-discrimination, which is a fundamental value of the EU, and that certain social groups, such as people with disabilities, must not be placed in a worse position in the future.

PROCEDURE

Title	Commission White Paper on Services of General Interest			
Procedure number	2005/2016(INI)			
Committee responsible	ECON			
Committee asked for its opinion Date announced in plenary	EMPL 18.5.2006			
Enhanced cooperation	No			
Draftsman Date appointed	Proinsias De Rossa 11.10.2004			
Discussed in committee	1.2.2005	15.3.2005	21.3.2005	20.3.2006 20.4.2006
Date suggestions adopted	21.4.2006			
Result of final vote	for: 23 against: 0 abstentions: 16			
Members present for the final vote	Jan Andersson, Roselyne Bachelot-Narquin, Jean-Luc Bennahmias, Milan Cabrnoch, Alejandro Cercas, Ole Christensen, Derek Roland Clark, Jean Louis Cottigny, Proinsias De Rossa, Harald Ettl, Carlo Fatuzzo, Joel Hasse Ferreira, Stephen Hughes, Karin Jöns, Jan Jerzy Kułakowski, Sepp Kusstatscher, Bernard Lehideux, Elizabeth Lynne, Thomas Mann, Mario Mantovani, Jan Tadeusz Masiel, Ana Mato Adrover, Maria Matsouka, Marie Panayotopoulos-Cassiotou, Pier Antonio Panzeri, Jacek Protasiewicz, José Albino Silva Peneda, Kathy Sinnott, Jean Spautz			
Substitutes present for the final vote	Edit Bauer, Mihael Brejc, Françoise Castex, Marian Harkin, Anne E. Jensen, Jamila Madeira, Elisabeth Schroedter, Evangelia Tzampazi, Yannick Vaugrenard, Anja Weisgerber			
Substitutes under Rule 178(2) present for the final vote				

31.5.2006

OPINION OF THE COMMITTEE ON INDUSTRY, RESEARCH AND ENERGY

for the Committee on Economic and Monetary Affairs

on the Commission White Paper on services of general interest
(2006/2101(INI))

Draftsman: Werner Langen

SUGGESTIONS

The Committee on Industry, Research and Energy calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Calls on the Commission to clarify as soon as possible the need for rules pursuant to Article III-122 of the draft Constitutional Treaty;
2. Welcomes the Commission White Paper on services of general interest and the initiatives and reviews of important horizontal and sector-specific measures announced therein;
3. Endorses the view that services of general interest represent one of the cornerstones of the European social model and that the objectives of an open, competitive internal market on the one hand and the development of universally accessible, high-quality services of general interest at affordable prices on the other, are mutually compatible;
4. Considers that it is essential to uphold and consolidate the European social model and high-quality public services to meet the public's needs and expectations, and that this creates an environment that is conducive to human progress and also helps the economy to perform better;
5. Stresses the importance of services of general interest for the European social model, but has reservations about horizontal rules that aim towards a uniform European social model and encroach on the competence of Member States;
6. Stresses that the Member States and their competent authorities have sole responsibility for defining their services of general interest and laying down the rules governing their financing;

7. Points out that the provision of services of general interest is also important for small and medium-sized firms;
8. Considers that freedom to choose at the relevant level should be a key element in the provision of services of general interest, regardless of whether the relevant national, regional or local authority provides the service itself or in cooperation with private undertakings, or entrusts the task to other entities in accordance with the applicable public procurement rules ; points out that local authorities are free to determine how the services of general interest for which they are responsible under national law are managed;
9. Considers that the Commission is responsible for overseeing compliance with EC competition rules and must take energetic action to remedy the current lack of legal certainty;
10. Welcomes the proposed Community legal framework for State aid in the form of compensation for public service obligations and the plan to revise the transparency directive;
11. Considers that it is necessary to develop models based on the approach that services of general interest contribute to overall sustainable development strategies such as social and territorial cohesion, environmental protection and cultural diversity;
12. Stresses that services of general interest should be of high quality, should encompass comprehensive coverage, should be provided at optimum cost, should respect social balance and should be provided on the basis of lasting security of supply and emphasises that the majority of services of general interest can be provided under conditions of fair competition, on the principle that private and public undertakings must receive equal treatment;
13. Expects services of general interest to be evaluated in a comprehensive manner and political, social, economic and environmental criteria to be considered; considers that proposals for uniform evaluation instruments should be formulated as soon as possible;
14. Considers that the gradual opening-up of the services sector in the European Union must proceed on the basis of maintaining the universal service requirement and complying with European minimum standards;
15. Requests that the Commission submit to Parliament a comprehensive analysis of the effects of liberalisation to date, in particular, on the situation of consumers and the employees concerned;
16. Considers that additional sector-specific obligations at EU level are not required at present, and that priority should be given instead to applying the existing sector-specific legislation; notes, however, that careful attention should be paid to developments in the various sectors, particularly with regard to security of supply;
17. Considers that the objective of competition rules should be to improve the quality of service provision, consumer choice and affordable prices and to realise other public interest objectives, including sustainable development;

18. Emphasises the request made in its resolution of 9 March 2005 on the mid-term review of the Lisbon strategy¹ for the establishment of a Community legal framework on services of general interest.

¹ *Texts Adopted*, P6_TA(2005)0069.

PROCEDURE

Title	Commission White Paper on services of general interest			
Procedure number	2006/2101(INI)			
Committee responsible	ECON			
Opinion by Date announced in plenary	ITRE 18.5.2006			
Enhanced cooperation – date announced in plenary				
Drafts(wo)man Date appointed	Werner Langen 2.2.2005			
Previous drafts(wo)man				
Discussed in committee	31.3.2005	26.4.2005	24.4.2006	30.5.2006
Date adopted	30.5.2006			
Result of final vote	+: 37 –: 5 0: 1			
Members present for the final vote	Jan Březina, Philippe Busquin, Jerzy Buzek, Joan Calabuig Rull, Jorgo Chatzimarkakis, Giles Chichester, Den Dover, Adam Gierek, Umberto Guidoni, András Gyürk, Fiona Hall, David Hammerstein Mintz, Rebecca Harms, Erna Hennicot-Schoepges, Ján Hudacký, Romana Jordan Cizelj, Werner Langen, Vincenzo Lavarra, Angelika Niebler, Reino Paasilinna, Umberto Pirilli, Miloslav Ransdorf, Vladimír Remek, Herbert Reul, Teresa Riera Madurell, Mechtild Rothe, Paul Rübig, Andres Tarand, Britta Thomsen, Patrizia Toia, Catherine Trautmann, Claude Turmes, Nikolaos Vakalis, Alejo Vidal-Quadras Roca			
Substitute(s) present for the final vote	María del Pilar Ayuso González, Cristina Gutiérrez-Cortines, Edit Herczog, Peter Liese, Francisca Pleguezuelos Aguilar, Vittorio Prodi, John Purvis			
Substitute(s) under Rule 178(2) present for the final vote	Maria Badia I Cutchet, Giovanni Berlinguer			
Comments (available in one language only)				

13.6.2006

OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION

for the Committee on Economic and Monetary Affairs

on the Commission White Paper on Services of General Interest
(2006/2101(INI))

Draftsman(*): József Szájer

(*) Enhanced cooperation between committees - Rule 47 of the Rules of Procedure

SUGGESTIONS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

- A. whereas Services of General Interest (SGIs) and Services of General Economic Interest (SGEIs) are not subject to specific rules in the Treaty,
- B. whereas with regard to SGIs different historic and cultural traditions of the Member States must be taken into account; whereas organisation and availability of efficient SGIs represent key objectives in the Member States' economic and social policies,
- C. whereas SGEIs have a direct effect on the internal market for services, and whereas Parliament approved by a substantial majority their inclusion within the scope of the proposal for a directive on services in the internal market (Services Directive),
- D. whereas Articles 43 to 49 of the Treaty provide the legal basis for Community action in the sphere of SGEIs,
- E. whereas Article 86 of the Treaty and the jurisprudence of the Court of Justice give clear indications as to how to deal with state aid and modalities and levels of funding of SGEIs,
- F. whereas Article 36 of the Charter of fundamental Rights of the European Union (Charter) lays down that the Union recognises and respects access to services of general economic interest as provided for in national laws and practices,

- G. whereas Article 38 of the Charter lays down that the policies of the Union shall ensure a high level of consumer protection,
- H. whereas the jurisprudence of the Court of Justice specifies that reimbursements for public service obligations must not be treated as state aid as long as they are clearly defined, objective, proportional and subject to public tender,
- I. whereas services which combine economic and non-economic activities in an indivisible unit should be regarded as an economic activity,

With regard to Services of General Economic Interest

- 1. Considers that guaranteed efficient and high quality SGEIs can only be achieved by enhancing competitiveness in these sectors and better cooperation between Member States, especially with regard to network based industries and the completion of cross-border linkages between services, and by promoting equal access for all; welcomes the new common policy of the Community on the energy sector;
- 2. Notes that SGEIs which have been opened up to competition have experienced an improvement in the quality of services, an increase in the number of competitors and a reduction in prices, all of which has resulted in the modernisation and integration of these services markets to the benefit of consumers; notes that this opening was done in a controlled way and was accompanied by measures to protect the general interest, in particular the concept of universal services;
- 3. Notes that the liberalisation of certain SGEIs has brought major benefits to consumers in terms of lower prices, better quality and greater choice;
- 4. Takes into consideration the economic weight of these services and their importance for the production of other goods and the provision of other services; underlines that the way in which SGEIs are organised can affect the internal market, for example by prohibiting establishment in the country where the service is provided;
- 5. Notes that it is particularly important, so as to fully exploit the opportunities offered by the internal market, that the conditions and provisions regulating the opening up of markets guarantee fair, transparent and efficient competition, while maintaining social cohesion and universal service accessibility, and avoid abuses of dominant position and the formation of new monopolies which hamper access to the market for new participants, ;
- 6. Underlines the importance of the experiences of the new Member States with regard to the transformation towards a market economy and the opening up of markets and asks the Commission to draw the necessary conclusions from this for further improvement of the regulatory framework;
- 7. Considers that Article 86(2) of the Treaty provides sufficient guarantees for the Member States to ensure that SGEIs are provided according to the universal service obligations established by Community law or by the Member States; follows the interpretation of the Court of Justice that there is a parallel between this evaluation and the examination of proportionality in the framework of Article 49 of the Treaty;

8. Underlines that especially after the enlargement of the European Union, cohesion has to be ensured in the field of SGEIs and that in the framework of structural policy, Member States' infrastructures for network-based SGEIs have to be interlinked and cross-border cooperation enhanced in order to create a real internal market and to facilitate standardisation;
9. Notes that SGEIs are included within the scope of the Services Directive; considers that the Services Directive will serve as a horizontal regulation on SGEIs, thus complementing the existing sector-specific legislation; notes that the Services Directive provides sufficient definitions for distinguishing between economic and non-economic services;
10. Considers it indispensable that there should be a better clarification of the division between SGIs and SGEIs, as the latter are subject to the same internal market rules as all other services with the sole exception of the application of Article 86(2) of the Treaty; notes that in the framework of Article 86(2) of the Treaty, SGEIs should be treated on the same basis as all other economic services except in those cases where the application of these rules would put into question the provision of these services;
11. Underlines that for those sectors that are excluded from the scope of the Services Directive, a sectoral approach seems to be appropriate so as to take account of the specific requirements and situations in the relevant sectors with a view to establishing an internal market for these services; notes that existing sectoral regulation should be constantly supervised;
12. Welcomes the new communication of the Commission on social services of general interest and the systematic approach to identifying the specific characteristics of social and health services;
13. Points out, in that connection, that the allocation of responsibilities between local authorities, for example on the basis of laws, regulations or public law agreements or through the establishment of special purpose associations, is subject to national law governing the organisation of public administrations;

With regard to non economic services of general interest

14. Considers, after due evaluation of the provisions of the Treaty and the jurisprudence of the Court of Justice, that there is no legal basis for a framework directive on SGIs if such a framework directive aimed at the non-application of the Treaty provisions to certain specific services;
15. Stresses that the specific issues related to SGIs do not allow for general solutions and that therefore a case-by-case approach to evaluate what is admissible with regard to state intervention in the framework of the provisions of the Treaty seems preferable on the grounds that technically a complete codification of the jurisprudence of the Court of Justice does not seem to be possible;
16. Stresses the importance of strengthening Member States' supervisory capacities in order to ensure that public policy objectives, including affordability and quality standards, are effectively achieved; stresses further that it is necessary for the relevant public authorities to have adequate instruments and expertise at their disposal to be able to enforce competition

and to ensure consumer protection;

17. Notes that there is no need to confer additional legal powers on the EU in the area of SGIs; notes, however, that there is a need to clarify how responsibilities are shared between the EU and the Member States in so far as there might be distortions of the free provision of services between Member States;

Conclusions

18. Considers that the Treaty and the jurisprudence of the Court of Justice give sufficient possibilities for the Member States to secure the overriding reasons related to the public interest with regard to the provision of SGIs;
19. Requests a clarificatory communication from the Commission on the consequences of the jurisprudence of the Court of Justice and giving guidelines on the application of Community rules in the fields of SGIs and SGEIs to the Member States and regional local authorities;
20. Furthermore calls on the Commission to come forward with a clarificatory communication with regard to the application of competition law in the field of SGIs and SGEIs, especially with regard to the financing of these services;
21. Is convinced that benchmarking is a vital instrument for maintaining and developing high-quality, accessible, affordable and efficient SGIs, and that the systematic evaluation and monitoring of performance of SGIs at Community level as well as at national level is crucial and must be based on common and broad criteria; asks the Commission therefore to propose a system for benchmarking SGIs in the framework of the Lisbon process.

PROCEDURE

Title	Commission White Paper on Services of General Interest			
Procedure number	2005/2101(INI)			
Committee responsible	ECON			
Opinion by Date announced in plenary	IMCO 18.5.2006			
Enhanced cooperation – date announced in plenary	18.5.2006			
Draftsman Date appointed	József Szájer 21.2.2006			
Previous drafts(wo)man				
Discussed in committee	31.1.2006	21.3.2006	19.4.2006	3.5.2006
Date adopted	12.6.2006			
Result of final vote	+: 19 -: 15 0: 0			
Members present for the final vote	Charlotte Cederschiöld, Mia De Vits, Evelyne Gebhardt, Małgorzata Handzlik, Malcolm Harbour, Edit Herczog, Anneli Jäätteenmäki, Pierre Jonckheer, Alexander Lambsdorff, Kurt Lechner, Lasse Lehtinen, Arlene McCarthy, Manuel Medina Ortega, Zita Pleštinská, Zuzana Roithová, Luisa Fernanda Rudi Ubeda, Heide Rühle, Leopold Józef Rutowicz, Andreas Schwab, Eva-Britt Svensson, József Szájer, Marianne Thyssen, Bernadette Vergnaud, Barbara Weiler, Glenis Willmott			
Substitute(s) present for the final vote	Ieke van den Burg, Simon Coveney, Benoît Hamon, Joel Hasse Ferreira, Othmar Karas, Anja Weisgerber			
Substitute(s) under Rule 178(2) present for the final vote	Roselyne Bachelot-Narquin, Sharon Bowles, Elisabeth Jeggle, Wolf Klinz			
Comments (available in one language only)	...			

2.9.2005

OPINION OF THE COMMITTEE ON TRANSPORT AND TOURISM

for the Committee on Economic and Monetary Affairs

on the Commission's White Paper on services of general interest
(2005/2016(INI))

Draftsman: Emanuel Jardim Fernandes

SUGGESTIONS

The Committee on Transport and Tourism calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

- A. whereas public transport is one of the fundamental sectors within services of general interest (SGIs); whereas it enables the basic requirements of the peoples of the European Union, with regard to both mobility and supply, to be met and whereas it makes a primordial contribution in this way to the Union's social, economic and territorial cohesion,
 - B. whereas the lack of a precise definition and description of services of general interest in Community law lays them open to growing legal uncertainty, as is shown by the sometimes contradictory case-law of the Court of Justice of the European Communities,
 - C. whereas action must be taken to ensure a fair balance between transport activities and compliance with Community competition and internal market legislation, as soon as that legislation jeopardises the smooth running of transport services and, in particular, their quality, accessibility, continuity and efficiency,
 - D. whereas, since the Treaty of Rome, transport has been covered by specific provisions, and Article 73, in particular, recognises the legality of State aid for the discharge of obligations 'inherent in the concept of a public service',
 - E. whereas the monitoring and assessment of services at national and Community level is essential to ensuring the quality and effectiveness of services of general economic interest (SGEIs), including those in the transport sector,
1. Highlights the need to preserve balance in and the smooth functioning of transport services

by promoting services of general interest and public service obligations of a high standard which are geared to meeting the essential needs of population groups and which receive the requisite financial support from the public authorities;

2. Welcomes the fact that the proposed services directive does not require Member States to open up services of general interest to competition and does not interfere with the way in which Member States or regions organise or finance such services;
3. Points out that promoting access to public transport services at an affordable cost for as many people as possible is also consistent with the objective of reducing greenhouse gases and external transport costs in general; also draws attention to the value of public transport in the context of rising oil prices and the risk of inadequate refining capacity at global level in the near future;
4. Takes the view that the special conditions for the functioning of services of general interest in transport should be treated through sectoral legislation adapted to this sector (state aid rules, public procurement, and so on); recalls, however, that, as an SGI activity, transport should also be subject to the application of general rules which would be contained in a general legislative framework defining the concept and criteria, that would apply to economic and non-economic SGIs as well as the principles guaranteeing the proper functioning of these activities, such as continuity, accessibility, consumer protection and user protection;
5. Urges the Council, therefore, to adopt a common position as soon as possible on the revision of Regulation (EEC) No 1191/69 of 26 June 1969 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway (Meijer report - A5-0364/2001);
6. Takes the view that, in accordance with the principle of subsidiarity, such a legal framework should also confer on public authorities, principally local and regional authorities, the right to determine the scale, scope, forms and structures of the provision of transport SGIs on their territory, notably the legal status of the service provider, taking into account the demographic and geophysical situation and specific characteristics of their region, to select management and financing methods and to establish assessment mechanisms;
7. Recalls the specific situation of the European Union's outermost regions, due to their particular constraints, vis-à-vis the SGI concept and the application of Community competition and internal market legislation and insists that the SGI concept must be expanded and provision made for the application of legislation adapted to cover the specific situation of those regions, with particular regard to transport activities.

PROCEDURE

Title	Commission's White Paper on services of general interest	
Procedure number	2005/2016(INI)	
Committee responsible	ECON	
Committee asked for its opinion Date announced in plenary	TRAN 18.5.2006	
Enhanced cooperation	Yes	
Drafts(wo)man Date appointed	Emanuel Jardim Fernandes 23.11.2004	
Discussed in committee	23.5.2005	29.8.2005
Date suggestions adopted	30.8.2005	
Result of final vote	for:	40
	against:	5
	abstentions:	0
Members present for the final vote	Margrete Auken, Inés Ayala Sender, Etelka Barsi-Pataky, Philip Bradbourn, Paolo Costa, Michael Cramer, Arūnas Degutis, Christine De Veyrac, Petr Duchoň, Saïd El Khadraoui, Robert Evans, Emanuel Jardim Fernandes, Luis de Grandes Pascual, Mathieu Grosch, Ewa Hedkvist Petersen, Jeanine Hennis-Plasschaert, Stanisław Jałowiecki, Georg Jarzembowski, Dieter-Lebrecht Koch, Rodi Kratsa-Tsagaropoulou, Jörg Leichtfried, Bogusław Liberadzki, Eva Lichtenberger, Patrick Louis, Erik Meijer, Robert Navarro, Josu Ortuondo Larrea, Willi Piecyk, Luís Queiró, Reinhard Rack, Luca Romagnoli, Gilles Savary, Renate Sommer, Dirk Sterckx, Gary Titley, Georgios Toussas, Corien Wortmann-Kool, Roberts Zīle	
Substitutes present for the final vote	Zsolt László Becsey, Johannes Blokland, Den Dover, Zita Gurmai, Elisabeth Jeggle, Anne E. Jensen, Zita Pleštinská	
Substitutes under Rule 178(2) present for the final vote		

21.6.2005

OPINION OF THE COMMITTEE ON REGIONAL DEVELOPMENT

for the Committee on Economic and Monetary Affairs

on the Commission White Paper on services of general interest
(2005/2016(INI))

Draftsman: Markus Pieper

SUGGESTIONS

The Committee on Regional Development calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

- A. whereas the European structural and economic and social cohesion policy makes an important contribution to the establishment of sustainable and regionally balanced services of general interest in the Member States, for example traffic infrastructure, public utilities and waste disposal services,
 - 1. Proposes that the liberalisation of already open sectors be ensured; emphasises the common market's vital contribution to economic, social and territorial cohesion and stresses the importance of public services in relation to sustainable economic and social development and the need for socially and regionally equitable access to services of general interest; recommends an economic and social assessment of the continuation of the liberalisation process for specific sectors;
 - 2. Notes that local and regional authorities have proved to be the appropriate level, close to the citizen, for providing services of general interest, and that they are still the appropriate level for guaranteeing the right of involvement, consumer protection and public welfare in respect of such services; notes that the European level of government must help ensure that the capacity of the local and regional level of government to provide such services is not jeopardised;
 - 3. Notes that in many Member States it is one of the tasks of local authorities to guarantee services of general interest, as well as universal access to such services, as regards security of supply, quality and fair charging; notes that the local authorities must, as a matter of principle, retain their capacity for action in respect of services of general interest when a definition of such services is drawn up at European level;

4. Considers a European monitoring role and the granting of appropriate powers to the national authorities to be key tools with a view to enforcing the sectoral regulations and taking the characteristics of the different industries and regions into account;
5. Calls on the Commission to differentiate with due haste between services of general interest and services of general economic interest and calls for special criteria for this purpose, especially since the latter will be eligible for public financial assistance;
6. Welcomes the Commission's intention to consolidate the legal framework with regard to the admissibility of aid, rules on public procurement, the transparency of public and private financial relations and the admissibility of concession contracts connected with European competition law; calls, however, for better consultation within the Commission of the departments responsible in order to prevent discrepancies in the various legislation on services of general interest;
7. Points out that although the Constitutional Treaty mentions the possibility of an additional, higher regulatory framework for services of general economic interest alone, it neither calls for nor warrants a European model of uniform services of general interest;
8. Fears that the standardisation of public interest requirements proposed by the Commission and the uniform definition of services of general interest does not take into account the different historical and social conditions in the EU of 25;
9. Takes the view, therefore, that in view of the subsidiarity principle and of EU competition law, responsibility for defining, organising, financing and monitoring services of general interest should rest with the national, regional and local authorities;
10. Calls on the Commission to make clear without delay whether it believes that an overriding framework directive over and beyond the planned clarification of concepts and the elimination of legal uncertainties can provide additional legal clarity with regard to services of general interest; takes the view that any framework directive should contribute to legal certainty, take into account the subsidiarity principle and EU competition law and therefore also establish where European law is not to be applied.

PROCEDURE

Title	Commission White Paper on services of general interest
Procedure number	2005/2016(INI)
Committee responsible	ECON
Committee asked for its opinion Date announced in plenary	REGI 18.5.2006
Enhanced cooperation	
Drafts(wo)man Date appointed	Markus Pieper 19.1.2005
Discussed in committee	30.3.2005
Date suggestions adopted	16.6.2005
Result of final vote	for: 41 against: 7 abstentions: 0
Members present for the final vote	Alfonso Andria, Stavros Arnautakis, Jean Marie Beaupuy, Rolf Berend, Jana Bobošíková, Graham Booth, Bairbre de Brún, Giovanni Claudio Fava, Iratxe García Pérez, Eugenijus Gentvilas, Lidia Joanna Geringer de Oedenberg, Ambroise Guellec, Konstantinos Hatzidakis, Mieczysław Edmund Janowski, Gisela Kallenbach, Miloš Koterec, Constanze Angela Krehl, Miroslav Mikolášik, Francesco Musotto, Lambert van Nistelrooij, Jan Olbrycht, István Pálfi, Markus Pieper, Francisca Pleguezuelos Aguilar, Bernard Poignant, Elisabeth Schroedter, Alyn Smith, Grażyna Staniszevska, Catherine Stihler, Kyriacos Triantaphyllides, Vladimír Železný
Substitutes present for the final vote	Alfredo Antoniozzi, Inés Ayala Sender, Jan Březina, Simon Busuttil, Den Dover, Mojca Drčar Murko, Věra Flasarová, Karl-Heinz Florenz, Louis Grech, Ewa Hedkvist Petersen, Eluned Morgan, Mirosław Mariusz Piotrowski, Richard Seeber, Thomas Ulmer
Substitutes under Rule 178(2) present for the final vote	Sharon Margaret Bowles, Albert Deß, Herbert Reul

11.9.2006

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS

for the Committee on Economic and Monetary Affairs

on the Commission White Paper on services of general interest
(2006/2101(INI))

Draftswoman: Gabriele Stauner

SUGGESTIONS

The Committee on Legal Affairs calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Is of the opinion that considerable doubts exist about a possible legal basis for action by the Community to create a framework directive for the area of services of general interest;
2. Calls on the Commission, therefore, to explain in a clear and detailed manner the legal basis from which it derives the authority to create a legislative framework;
3. Calls on the Commission, furthermore, to clarify how its statement in the White Paper that the powers of the Community with regard to services of general interest are appropriate and sufficient can be reconciled with the competence assumed by it in Article III-122 of the Constitutional Treaty;
4. Emphasises the need to comply with and apply the subsidiarity principle enshrined in Article 5 of the EC Treaty in the area of essential services;
5. States unequivocally that it is the sole task of the Member States and their appropriate authorities to define services of general interest and to make arrangements about their funding; services of general interest have grown historically in the 25 EU Member States and, with their basis in regional traditions, come in a very wide variety of forms; these well-functioning structures must not be destroyed by a European legislative framework;
6. Harbours considerable doubts as to whether a European legal framework for services can bring about a genuine improvement in terms of proximity to the general public and of the efficiency of essential services;
7. Points out that horizontal regulations striving for a uniform European social model are an inadmissible interference with the competence of the Member States;

8. Calls on the Commission to justify in detail and spell out clearly the need for any further sectoral obligations at Community level planned by the Commission.

PROCEDURE

Title	Commission White Paper on services of general interest
Procedure number	2006/2101(INI)
Committee responsible	ECON
Committee asked for its opinion Date announced in plenary	JURI 18.5.2006
Enhanced cooperation	
Drafts(wo)man Date appointed	Gabriele Stauner 30.5.2006
Previous drafts(wo)man:	
Discussed in committee	11.7.2006
Date suggestions adopted	11.9.2006
Result of final vote	+: 12 -: 11 0: 0
Members present for the final vote	Maria Berger, Carlo Casini, Rosa Díez González, Bert Doorn, Giuseppe Gargani, Piia-Noora Kauppi, Klaus-Heiner Lehne, Katalin Lévai, Alain Lipietz, Hans-Peter Mayer, Viktória Mohácsi, Aloyzas Sakalas, Gabriele Stauner, Andrzej Jan Szejna, Diana Wallis
Substitutes present for the final vote	Manuel Medina Ortega, Marie Panayotopoulos-Cassiotou, Michel Rocard
Substitutes under Rule 178(2) present for the final vote	Jens-Peter Bonde, Iles Braghetto, Esther Herranz García, Pierre Jonckheer, Aldo Patriciello, Bernard Piotr Wojciechowski
Comments (available in one language only)	

PROCEDURE

Title	Commission White Paper on Services of general interest				
Procedure number	2005/2101(INI)				
Committee responsible Date authorisation announced in plenary	ECON 18.5.2006				
Committee(s) asked for opinion(s) Date announced in plenary	DEVE 18.5.2006	EMPL 18.5.2006	ITRE 18.5.2006	IMCO 18.5.2006	INTA 18.5.2006
Committee(s) asked for opinion(s) Date announced in plenary	TRAN 18.5.2006	REGI 18.5.2006	CULT 18.5.2006	JURI 18.5.2006	
Not delivering opinion(s) Date of decision	DEVE 5.10.2005	CULT 20.6.2006			
Enhanced cooperation Date announced in plenary	IMCO 18.5.2006				
Rapporteur(s) Date appointed	Bernhard Rapkay 21.9.2004				
Previous rapporteur(s)					
Discussed in committee	29.3.2005 31.1.2006	19.4.2006 30.5.2006	20.6.2006	11.7.2006	
Date adopted	12.9.2006				
Result of final vote	+ 35 - 3 0 1				
Members present for the final vote	Zsolt László Becsey, Pervenche Berès, Sharon Bowles, Udo Bullmann, Ieke van den Burg, David Casa, Jan Christian Ehler, Jonathan Evans, Elisa Ferreira, Jean-Paul Gauzès, Donata Maria Assunta Gottardi, Benoît Hamon, Gunnar Hökmark, Karsten Friedrich Hoppenstedt, Ian Hudghton, Sophia in 't Veld, Othmar Karas, Piia-Noora Kauppi, Wolf Klinz, Christoph Konrad, Kurt Joachim Lauk, Astrid Lulling, Cristobal Montoro Romero, Joseph Muscat, John Purvis, Alexander Radwan, Bernhard Rapkay, Karin Riis-Jørgensen, Dariusz Rosati, Eoin Ryan, Antolín Sánchez Presedo, Manuel António dos Santos, Ivo Strejček, Sahra Wagenknecht				
Substitute(s) present for the final vote	Mia De Vits, Harald Ettl, Satu Hassi, Thomas Mann, Corien Wortmann-Kool				
Substitute(s) under Rule 178(2) present for the final vote					
Date tabled	14.9.2006				
Comments (available in one language only)					