



Union of Industrial and Employers' Confederations of Europe
Union des Confédérations de l'Industrie et des Employeurs d'Europe

5 July 1999

ELECTRONIC COMMERCE – IS EUROPE MISSING THE BOAT? COMMISSION FAILS TO CONSULT CONSUMERS AND COMPANIES

The caretaker Commission is acting against European competitiveness. In particular, the much needed development of employment potential in electronic commerce is likely to be impeded. The recently proposed *regulations on jurisdiction and applicable law* are in flagrant contradiction with policies giving top priority by the European Union for creating new jobs, improving competitiveness for European companies, including SMEs, and promoting growth and entrepreneurship in Europe. If the proposed draft regulations are adopted Europe will again lose jobs to competitors elsewhere in the world.

Two draft Community regulations are currently the subject of internal consultation within the European Commission. These regulations, with great importance for the employment potential of electronic commerce, aim to revise the rules on jurisdiction (the so-called “*Brussels Convention*”) and applicable law (so-called “*Rome Convention*”) with particular effect on electronic commerce transactions. The revisions being discussed do not at this stage include any assessment of their economic impact, in particular on SMEs and job creation in Europe.

The definition of jurisdiction and applicable law under these revisions directly affects trade within the EU internal market, in particular in the area of electronic transactions.

Two weeks ago, UNICE urged the Commission to delay any decision on these major changes until after public consultation and thorough impact assessment. This request has not been answered. Instead, a second procedure has been launched on a regulation on applicable law for non-contractual obligations (so-called “*Rome II Convention*”).

UNICE is extremely concerned about the crucial impact of these proposed regulations on investment decisions for electronic business in Europe. Investment and employment in these major growth markets will go elsewhere. Europe will miss the boat.

In the light of its current caretaker mandate, the outgoing Commission, with some Commissioners already gone, has limited legitimacy to take such precipitate decisions without adequate consultation of interested parties, consumers and companies alike. The proposed regulations fly into the face of the Amsterdam Protocol on application of the principles of proportionality and subsidiarity. This Protocol imposes on the Commission the formal obligation to consult widely before proposing legislation. UNICE will not accept that public consultation on the proposed regulations is evaded. The present

wording of the proposed regulations will seriously inhibit the use of web-sites in particular by SMEs. Therefore, if necessary the regulations will be challenged before the Court of Justice.

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