



4 June 2007

### **COMMISSION CONFERENCE ON SOCIAL SERVICES OF GENERAL INTEREST 4 JUNE 2007**

#### **ADDRESS BY MS LOES VAN EMBDEN ANDRES, BUSINESSEUROPE SOCIAL PROTECTION WORKING GROUP**

I very much appreciate the opportunity to present the position of BUSINESSEUROPE on social services of general interest and on the Feedback report made by the Social Protection Committee.

Let me first start by saying that high quality and cost-effective social services are of great importance to the people in Europe, to the individual member states and for the preservation of the European social model. It is also important for private enterprises and employers.

The main question at stake is whether further legislative action at EU level is necessary. This question seems to be raised in particular by those representatives who want to maintain at all costs privileged or monopoly positions for operators of general interest services. In our view this is not in the interest of the people, who are potential beneficiaries of these services. It prevents modernisation of the services, the optimal use of public spending and improvement of quality and choice. Moreover, it would easily go against the principle of subsidiarity and the primary responsibility of member states to define and organize their social services.

BUSINESSEUROPE is very content with the outcome of the consultation, indicating that most member states see no need for a special legal instrument on social services of general interest.

In our view these social services do not constitute a legal category that is really distinct from the broader concept of services of general interest. Existing EU competition rules allows for the accommodation of the non-commercial nature of SSGI.

Jurisprudence of the ECJ clearly establishes that any activity consisting of the supply of goods and services by an undertaking constitutes an economic activity, regardless of the legal status on the undertaking and the way in which it is financed. At the same time, the ECJ also recognises the specificities of social services and provides the means to evaluate when a social service provider exercises an economic activity and when it fulfils a general interest task. For these reasons it not necessary to introduce an EU directive. It is neither desirable because we fear that it could eliminate the dynamism that is taking place in this sector. Dynamism, such as introducing benchmarking, decentralisation to local level or outsourcing of public tasks to private operators; trends aiming for an effective organisation of high quality services for the benefit of the users and the contributors of these services.



Is there a need to come to a definition at EU-level of SSGI? We approve the position taken by most respondents that this is not desirable. BUSINESSEUROPE broadly agrees with the list of organisational characteristics set out in the Commission's communication, with the exception of the not-for-profit characteristic. In our view it is the quality and the cost effectiveness that is key and not the ownership structure of the provider.

The feedback report also demonstrates that it will be impossible to agree on a European-wide definition of SSGI because the diversity between the MS is enormous and the opinions on what should be covered by the definition varies accordingly.

In our view it should continue to be the competence of public authorities in member states to define the obligations and missions of general interest and the way they are operated. In practice, almost all SSGI will be considered economic in nature, notwithstanding the general interest aims or the fact that they may be 'not for profit'. This doesn't create a real problem because EU competition rules, rules on public procurement and on state aid take into account the specificities of services of general interest.

We fully understand that these rules are not always fully known and clear to all people working for local authorities and to workers providing for the services. The same applies for the business community, who would welcome clarification from the Commission concerning public-private partnerships and service concessions. We therefore welcome the proposal of the Commission to publish biennial report and to organise exchanges of experiences or good practices between member states as part of the open method of coordination on social protection.

The feedback report strengthens me in the conviction that a special legal instrument on social services is not the solution to create more clarity about the provision of social services of general interest in relation to EU rules.

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