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#### LA NOUVELLE GENERATION DE RAPID (NG) sera disponible en Mai 2004

Durant mai 2004 la base de données Rapid contenant tous les communiqués de Presse de la Commission européenne et de la plupart des autres Institutions va évoluer vers une version compatible avec les nouvelles langues des pays intégrant l'Union Européenne en mai 2004.

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### Preparation of Competitiveness Council, Brussels, 17-18 May 2004

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#### MEMO/04/114

Brussels, 14 May 2004

#### Preparation of Competitiveness Council, Brussels, 17-18 May 2004

(Fabio FABBI, Thorsten MUENCH, Peter SANDLER, Tilman LÜDER and Jonathan TODD)

#### Competitiveness and Innovation and Better Regulation (PS and FF)

The Council will debate together the issues of competitiveness, innovation and better regulation and is expected to adopt two sets of conclusions. It is likely to note the Commission's recent analysis that while there is no general process of deindustrialisation underway, there is no room for complacency. Action is thus needed across a range of Community policies. It is also likely to note the opportunities created for EU industry by enlargement and the general challenge of boosting European competitiveness and growth. The Council is expected to note that insufficient innovation and investment in R&D could severely undermine the competitiveness of European industry and that actions to boost innovation in SMEs, a barrier-free internal market, the development of a knowledge-based economy are imperative.

The Council is expected to identify specific actions from Member States and the EU institutions, highlight the value it attaches to a pro-active competition policy, recall the importance of the biotechnology and life sciences sector and call for further work on simplifying the regulatory environment and improving use of impact assessments. In particular, in relation to life sciences and biotechnology it will recognise the need for strengthened collaboration between Member States and the Commission to support the EU Strategy launched in 2002 (COM 2002/27).

The Council is also expected to call on the Commission and Member States to continue to reduce the overall level of state aid and modernise the state

aid framework particularly to focus on innovation and R&D. It will also call for policies and measures to encourage innovation, private research investment, excellence in public research, increase skilled researchers and to stimulate enterprises to network with universities. Finally, the Council will commit itself to ensure important internal market legislative decisions help improve the protection of intellectual property rights, remove the barriers to trade in services and develop a single EU capital market are adopted without delay.

The debate will draw on the results of the recent informal Ministerial Meeting on Competitiveness in Shannon and on recent Commission documents, including Communications on industrial policy and on a pro-active competition policy, 20 April (see IP/04/501), and the 2<sup>nd</sup> progress report on the implementation of the Life Science and Biotechnology Strategy (COM 2004/250). (IP/04/531).

### **A pro-active competition policy for a competitive Europe (TL)**

The Commission's 20 April 2004 Communication on this topic describes the contribution to competitiveness made by the full range of competition policy instruments, i.e. antitrust, merger control, liberalisation and State aid control. It seeks to pursue a proactive approach which means:

- an improvement of the regulatory framework for competition which facilitates business activity, wide dissemination of knowledge and efficient economic restructuring;
- an enforcement practice which actively removes barriers to entry and impediments to effective competition that most seriously harm competition in the internal market.

The Communication summarises the recent and ongoing comprehensive reform of EU competition law and shows how a pro-active enforcement practice contributes with streamlined procedures and a more economic approach to removing administrative burdens from business, in particular small and medium-sized enterprises, and to allowing the Commission to free resources in order to focus on the most serious and damaging competition problems, notably cartels, competition in liberalised utility sectors, liberal professions and financial services. It also describes the specific contribution of State aid policy to competitiveness. Also, in conducting its State aid policy the Commission is taking an economic approach. Since the late 1990s the Commission has increasingly re-oriented its State aid policy toward cases and issues of real significance for the internal market and EU industry, i.e., to instances where the Commission can really make a difference or bring added value. On the other hand, it has tried not to be burdened down with issues and cases where this is not the case.

### **State aid scoreboard: Spring 2004 update (TL)**

The spring 2004 update of the State aid Scoreboard includes a series of indicators that allow us to monitor Member States progress towards the commitments made at Stockholm to reduce and redirect public aid. The total level of such aid in the 15 Member States in 2002 was €49 billion or 0.56% of GDP. Compared to 2001, this represents a decrease of around €1 billion. Although aid levels are falling less sharply than in the late 1990s, in the current economic climate, this small decrease is nevertheless to be welcomed and is in line with the Stockholm commitments. Disparities between Member States are diminishing but they remain - particularly with when looking at more distortive forms of aid, such as sector-specific subsidies or ad hoc aid. While several Member States re-directed virtually all their aid to horizontal objectives in 2002 (Belgium, Denmark, Greece, Italy, Netherlands, Austria and Finland), other Member States still have some work to do in order to realign State aid to the commitments made at Stockholm.

### **REACH Policy Debate (PS)**

The Council will hold a policy debate on the proposed new regulatory framework for chemicals proposed last autumn after a long process of consultation. The new system, REACH (Registration, Evaluation and Authorisation of Chemicals) aims to improve the protection of human health and the environment, while maintaining the competitiveness and enhancing the innovative capability of the EU chemicals industry. REACH would give greater responsibility to industry to manage the risks from chemicals and to provide safety information on the substances.

The new system introduces a requirement for enterprises making or importing more than one tonne of a particular chemical to register it with a new European Chemicals Agency. Additional data requirements are proposed for substances produced in volumes of more than 10 tonnes. Certain substances would be subject to evaluation by the Member State authorities and the substances that present the most serious risk to health or the environment would be subjected to an authorisation system. The Presidency intends to focus the policy debate on three specific issues: (1) whether a different approach should be taken to registration - e.g. by further prioritisation, by reconsidering data requirements or by requiring the compulsory formation of consortia; (2) whether the Agency should have an enhanced role in the evaluation process; and (3) whether the proposal adequately sets out the "duty of care" on industry. Further information on the proposal can be found at:

<http://europa.eu.int/comm/enterprise/chemicals/chempol/whitepaper/reach.htm>

### **Future of EU research (FF)**

European Research Commissioner Philippe Busquin will present the guidelines for future research policy in the EU, the basis for a forthcoming Communication on "Science and Technology, the Key to Europe's Future", as discussed at the Commission meeting on May 12. These guidelines are based on the proposals for the future EU budget presented by the Commission on 10 February, which allow a doubling of EU research funding. They focus on six major priorities, related to six main research issues in Europe: stimulating competition among individual research teams, in particular in basic research; launching "Joint Technology Initiatives" to support a European industrial policy; developing new European research infrastructures; reinforcing skilled research human resources; creating "European poles of excellence" by increasing co-operation between labs, enterprises and research centres through trans-national networks and projects; and promoting the co-ordination of national and regional research programmes. The new actions would be implemented through new approaches, which would strengthen the links between European and national research activities, while mobilising a critical mass in funding from public, private, national and European sources.

### **ITER (FF)**

Commissioner Busquin will present the state of play of negotiations on the ITER (International Thermonuclear Experimental Reactor) research project on nuclear fusion energy. Through international co-operation ITER is leading the way in fusion power production. The construction of ITER is estimated to cost around €4.5 billion. Negotiations between the European Union, Japan, Russia, the People's Republic of China, South Korea and the United States are continuing on where ITER should be located. Cadarache in France is the favoured European site, with Rokkasho-Mura, in northern Japan, the alternative site. The Commission is actively contributing to these discussions in order to reach consensus for ITER in Europe.

### **Third country researchers' visa (FF)**

The Council will hold an exchange of views on a Directive and two Recommendations (COM(2004)178 final, 16.03.04) proposed by the Commission to help third country researchers come to, work in and move

through the EU. Ministers will elaborate on key issues, such as the proposed central role and responsibilities of the host organisation welcoming third country researchers, the general approach proposed to facilitate the entry of third country researchers and their families into the EU and on their mobility within the EU.

The proposed Directive provides for a fast track procedure for the admission of researchers. Immigration authorities of the host country will deliver the stay permit allowing them free movement within all EU Member States for the purpose of the scientific project. Third country researchers, who are already legal residents in a Member State, will also be able to submit applications for such stay permits directly to the authorities in that Member State without returning home first.

The Directive is complemented by two Recommendations. The First Recommendation will accelerate the procedures to obtain work permits for researchers and ease the procedure for the stay permit. It also covers family reunification and the co-operation between Member States and the Commission. The Second Recommendation deals with the rapid delivery of short-term visas to participate in conferences and seminars.

### **Consumer protection co-operation: No hiding place for rogue traders (TM)**

The Presidency will confirm the first reading agreement reached between the European Parliament and the Council on a Commission proposal for a regulation on consumer protection cooperation (see IP/03/1067). The formal adoption will take place after the approval of all language versions by jurist-linguists.

Cross-border problems are growing as rogue traders adapt to new technologies and opportunities. The aim of the proposed regulation is to enable national authorities to exchange information and cooperate with counterparts in other Member States as easily and seamlessly as with other authorities in their own country. The regulation will guarantee that each Member State effectively enforces EU law in its territory on behalf of all European consumers. Once it enters into force, unscrupulous traders will no longer be able to evade consumer protection authorities by targeting consumers living in other EU countries. Health and Consumer Protection Commissioner David Byrne said: "We know that consumers are reluctant to shop in other EU countries if they feel their rights are not going to be protected.

Co-operation between national consumer protection authorities is the best way to catch these cross-border rogue traders. This, coupled with common rules guaranteeing high standards of consumer protection EU-wide, can help give consumers and honest businesses the confidence they need to take full advantage of the Internal Market."

### **Unfair commercial practices (TM)**

Following the first reading in the European Parliament on 20 April, the Council is expected to reach political agreement on the Commission proposal on unfair business-to-consumer commercial practices (see IP/03/857). "The scope we propose is the right balance to secure agreement on EU level so that we can tackle the current lack of consumer confidence and obstacles for legitimate businesses", said Health and Consumer Protection Commissioner David Byrne.

EU-wide surveys have confirmed that unfair commercial practices, and uncertainty about what protection is in place to tackle them, undermine consumer confidence (see e.g. Eurobarometer 57.2 and Flash Eurobarometer 128). At the same time, nearly one in two businesses (47%) cite the need for compliance with different national regulations on commercial practices, advertising and other consumer protection regulations as important obstacles to legitimate cross-border advertising

and marketing (see Eurobarometer 57.2). Advertising and marketing are two examples of areas covered by the proposed Directive.

The Commission's proposal aims to overcome these barriers to the Internal Market and to achieve the same high level of consumer protection throughout the EU by establishing common EU-wide rules. It lays down the principles for determining whether a commercial practice is unfair and defines a limited range of "sharp practices" to be prohibited EU-wide. Once these EU-wide standards of protection are in place, businesses will only have to comply with the requirements of their country of origin when selling to consumers around the EU.

### **Regulation on Sales Promotions (JT)**

The Council will seek to reach a political agreement on the proposed Regulation on Sales Promotions, put forward by the Commission in October 2001 (see IP/01/1351). The Council will discuss the application of the principle of mutual recognition in this field. In this respect it will consider the length of a transition period before which this principle (whereby a promoter established in one Member State can communicate and use sales promotions in other Member States on the basis of the law in his country of origin) would be fully applied. The Commission believes this period should be short. Internal Market Commissioner Frits Bolkestein will remind Ministers that if they are really committed to boosting competitiveness by opening a genuine Internal Market for services, then accepting the discipline of mutual recognition in this key field is essential.

The proposed Regulation would remove barriers to cross-border sales promotions caused by divergent national rules on discounts, premiums, free gifts, promotional contests and promotional games.

### **Proposal for a Directive on the Recognition of Professional Qualifications (JT)**

The Council will also aim to reach a political agreement on the proposed Directive on Professional Qualifications. Following the Commission's proposal in March 2002 (see IP/02/393), the European Parliament adopted an opinion at first reading in February 2004 (IP/04/197).

The proposed Directive is a concrete example of progress towards increased competitiveness and it aims at making it easier for those holding professional qualifications to get their qualifications recognised, and thus to provide their services across the EU, whether they wish to move to another Member State on a permanent basis or simply to work occasionally in EU countries other than the one where they are established.

The proposal, which aims to replace fifteen existing Directives, consolidates and simplifies an important part of the existing legislation in the field of the recognition of professional qualifications. This would constitute the first comprehensive modernisation of the EU system since it was conceived over forty years ago. A number of changes are proposed compared with the existing rules, including making it easier for qualified people to provide their services across borders, more automatic recognition of qualifications, increased flexibility in the procedures for updating the Directive and more cooperation between the Commission and Member States in order to keep citizens better informed about their rights and to give them more help in getting their qualifications recognised.

### **Proposal for a Directive on the Patentability of Computer Implemented Inventions (JT)**

The Council is expected to adopt without discussion, on the basis of an Irish Presidency compromise text supported by the Commission, a political agreement on the proposed Directive on the Patentability of Computer Implemented Inventions. The compromise text includes 21 amendments proposed by the European Parliament at its first reading in September 2003

but restores the overall balance between the interests of the rights holders and other parties (competitors and consumers) struck by the original Commission proposal presented in February 2002 (see IP/02/277 and MEMO/02/32).

The proposed Directive aims to boost innovation by ensuring that those who invest in developing genuinely new products that depend on computer implemented technology could, like those who develop other products, get a fair reward. Such computer-implemented inventions account for about 15 % of new patent applications.

The proposal would achieve its aim without stifling competition or sealing off the software market to new initiatives and new inventions. It would prevent patents being granted for computer programs or business methods as such in the current situation of legal uncertainty that the proposal seeks to remedy, there is a need to eliminate the possibility that such patents could be granted.

### **Proposed Community Patent Regulation (JT)**

The Presidency will seek to achieve political agreement on the Regulation to establish a Community Patent and, if that is reached, approval of the proposal to revise the European Patent Convention in line with the Regulation.

An agreement on the broad outlines of the Regulation was reached in March 2003 (see MEMO/03/47) and further progress was made towards overall agreement at the November 2003 Council. However, a small number of points remain outstanding, in particular on requirements for the translation of patents and on how infringements of patents which might arise as a result of mistranslations should be treated. These could not be resolved at the March 2004 Council (see MEMO/04/58) and the Presidency will now make another attempt.

Mr Bolkestein will again thank the Presidency for its unstinting efforts. He will remind Ministers that it is no good adopting Resolutions expressing the urgent need to boost EU competitiveness if they are not prepared to go the extra mile to achieve compromises that can achieve that in practice. European industry urgently needs more affordable patents covering the whole Union, if it is to compete better with the US and Japan.

Recent calculations show that the Community Patent will cost no more than a European patent covering five countries. That would represent a cost saving to around two-thirds (68 %) of all applicants for European patents, at least 30 000 granted patents a year. For full EU coverage the Community patent would cost only 50% of a European patent for the 25 individual member states a saving of at least €30 000 per patent over 10 years.

In addition to the lower costs, Community Patent holders would benefit from far greater legal certainty, because disputes over interpretation would be heard before a single Community Patent Court with pan-EU jurisdiction (see also IP/04/137).

A European Patent can currently be challenged in each and every country in which it is valid, which can give rise not only to uncertainty and potentially divergent interpretations but also to higher costs.

For further details of the benefits that would flow from the introduction of the Community patent and also of the linked proposal to create a pan-EU jurisdiction, see a new set of frequently asked questions at:

[http://www.europa.eu.int/comm/internal\\_market/en/indprop/patent/index.htm](http://www.europa.eu.int/comm/internal_market/en/indprop/patent/index.htm)

### **Proposal for a Directive on Services in the Internal Market (JT)**



The Presidency will circulate an information note concerning current negotiations on this proposal. There will be no discussion.

The Commission's proposal of January 2004 (see IP/04/37, MEMO/04/3) aims to create a real Internal Market in services by requiring Member States to cut administrative burdens and excessive red tape that can currently prevent businesses from offering their services across borders or from opening premises in other Member States. By encouraging cross-border economic activity and boosting competition, the proposed Directive would increase choice, improve quality and bring down prices for consumers and also for businesses which use services. It would also encourage innovation in the sector which at EU level creates the most jobs. The effect on the economy as a whole would be to improve competitiveness and create high quality jobs.

Contrary to some recent assertions in the media and elsewhere, the proposed Directive would facilitate the freedom of establishment only for service activities which are already open to competition. It would have no effect on the way governments organise and finance public services and services of general economic interest, for example in the field of health.

Neither would this proposal open the way to "social dumping". When service businesses send workers to work in another Member State, they would continue to be subject to employment laws and collective bargaining agreements prevailing in the host country and in particular to rules on minimum rates of pay, work periods, rest periods, annual holiday, health and safety and non-discrimination, in accordance with the existing Directive on posting of workers (Directive 96/71/EC). Indeed, better cooperation between Member State authorities, as required by the proposed Directive, would reinforce effective control over businesses operating across borders while at the same time reducing administrative burdens on the businesses concerned.

#### **Any Other Business: Presidency Conference on Tourism (PS)**

The Presidency will present written information about the Conference it organised on 5 April in Dublin on "Charting Tourism Success" Irish Presidency Conference on Competitiveness and Sustainability of European Tourism. The Conference brought together representatives from the Irish and European tourism industry, together with representatives of the European Commission and other policy makers to discuss issues of common interest and to contribute to a deeper understanding of issues related to the competitiveness and sustainability of the sector.