Comparative overview on Parliament's Position adopted at First Reading on 16 February 2006 and the Modified Proposal adopted by the European Commission on 4 April 2006

Article 1
Subject matter

The Commission's text has not incorporated the amendment referring to services pursuing social welfare objectives and accordingly, it has opted for the exclusion of only a few social services from the scope in Article 2 (see below under Scope). Furthermore, the Commission has sorted out an inconsistency which arose after Parliament's vote regarding healthcare services. The Commission has thus opted for a total carve-out of these services from the proposal, by not including Parliament's amendment to Article 1 in favour of Parliament's amendment to Article 2. Finally, although the Commission's text has been redrafted, it fully reflects the exclusion of labour law from the scope, including the so-called Monti clause (the exercise of fundamental rights including collective agreements and industrial action).

Article 2
Scope

The Commission's modified proposal has incorporated all Parliaments' exclusions, except legal services provided by lawyers and notaries. Furthermore, the revised text has narrowed down the definition of social services to those relating to social housing, childcare and support of families and persons in need. As regards services of general interest, the Commission has, in the end, only removed the reference to "as defined by Member States".

Article 3
Relationship with other provisions of Community law

The Commission's revised text has finally taken into account all of Parliament's amendments to Article 3. As regards private international law and consumer protection, the revised text has incorporated Parliament's amendment, subject to some minor redrafting.

Article 6
Points of single contact

The Commission has not retained either Parliament's amendments regarding electronic pro forma registration via the points of single contact or the creation of a European point of single contact. Nevertheless, the Commission's text has taken into account Parliament's amendment whereby the points of single contact should apply both to the freedom of establishment and to the free movement of services.

Article 15
Requirements to be evaluated

Parliament opted to exclude all SGEI from the application of Article 15. The Commission's revised text has redrafted Parliament's amendment and it states instead that Article 15 will only apply to legislation in the field of SGEI in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular task assigned to them. The so-called "stand-still clause", whereby Member States could not introduce any new requirements unless they fulfil the criteria set out in paragraph 6, and the notification of any new measures to the Commission, have been reintroduced in the Commission's revised text.

Article 16
Freedom to provide services

The Commission's revised proposal fully reflects Parliament's compromise on Article 16. Its paragraph 3 has been slightly redrafted in order to provide greater legal certainty. Thus, the revised paragraph 3 clearly states its interrelation with the other paragraphs of Article 16.
Article 17
Additional derogations from the freedom to provide services

The Commission's revised text fully reflects Parliament's amendments on SGEI, since it also excludes all Services of general economic interest from the application of the provision on the freedom to provide services. A new recital establishes that "For the purposes of this Directive, services may only be considered as Services of General Economic Interest in this directive and without prejudice to Article 16 of the EC Treaty, if they are provided in application of a special task of public interest entrusted to the provider by the Member State concerned. This assignment must be made by way of one or more acts, the form of which is determined by each Member State, and must specify the precise nature of the special task"

Article 27
Professional liability insurance and guarantees

The Commission's revised text fully reflects Parliament's amendment which makes the professional liability insurance non-mandatory.

CHAPTER V
Administrative cooperation
(Articles 33 to 38)

The Commission's revised text is mainly based on the text prepared by the Council Working Group. These provisions do not therefore seem to fully reflect Parliament's amendments regarding administrative cooperation. Firstly, the chapter has not been placed before the provisions regarding the free movement of services (Articles 16 ff), as adopted by Parliament. More importantly, the revised text seems to place the main responsibility for the supervision of the service provider and his activity on the Member State of establishment. Thus, the Member State where the service is provided would only be responsible for the supervision of the service activity in its territory with respect to its national requirements which may be imposed pursuant to Article 16 or Article 17.

Final provisions

The Commission's revised text establishes that Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 2 years after the entry into force of this Directive, whereas Parliament's amendment established three years for the implementation of the Directive. However, the Commission's revised text also establishes three years for the implementation of certain provisions of the Directive, particularly as regards the points of single contact, the right to information through the points of single contacts and the procedures by electronic means (Articles 6, 7 and 8).