

## Implementation of the Services Directive – 4<sup>th</sup> November 2010

Ladies and Gentlemen

Thank you very much for inviting me to this event as a speaker. I have been involved in the Services Directive since it went through Parliament and also its implementation phase in the UK.

Today I want to give you an insight into the state of play in the UK, where I am based with my company as an IT consultant and where my home organisation, the Federation of Small Businesses has done extensive research on this subject. The FSB is a member of the European Small Business Alliance, an organisation that looks after the interest of micro and small businesses on a pan-European level.

Let me give you some background information on the situation in the UK. We know from our British membership of some 215,000 companies that over half of them trade locally and 25% nationally. Only 5.4% trade EU wide, a figure that is disappointingly low.

When it comes to Internet use the figures look much better with 90% using the Internet and  $\frac{3}{4}$  using the Internet for advice, guidance and information. Over half make payments online and there is no significant difference between urban or rural businesses.

These figures tell you that there is very little trade going on in the UK with the EU as far as micro and small companies are concerned. However, the use of the Internet is an important tool.

Clearly from this perspective alone the Services Directive is important, not only to increase the chance of increased trade in the internal market, but also as an information tool for local companies. I will come back to this subject a little later.

When the Services Directive was due to be implemented in the UK, the British Government made the plausible decision to involve the view of small and big businesses throughout the implementation phase by allowing 2 people on the board overseeing this task in addition to regular communication with stakeholder groups. I was invited to represent small business in the UK and contributed throughout the 3 years of implementation.

This gave me a unique insight into the challenges of implementation and afforded me close contact with civil servants. In addition I was also involved in the set up and testing of the British Point of Single Contact as a business advisor and user.

I became acutely aware of the tremendous challenges this directive poses to competent authorities. As usual the devil lays in the detail. Although it was an

effort to screen all legislation and amend where necessary, this process seemed well in hand by and large. The real problems started with the implementation of the PSC., in particular the roll out to local authorities.

Let me give you the latest pictures from the UK according to a study by the Department for Business, Innovation and Skills:

- The majority of the 540 competent authorities' websites are not complying with the spirit of the Services Directive;
- Only 5 per cent were complying fully;
- 18 per cent were rated as 'satisfactory';
- 59 per cent were rated as 'poor';

This means the implementation of the SD is patchy at best

The reasons given for this lack of implementations are as follows:

- Significant investment in our infrastructure
- Difficulties with the required technical infrastructure;
- Software training for staff who have to create the electronic application forms;
- Testing of the software and the payment module to make sure everything is robust: this makes application forms online very labour intensive – 'we can do one a week';
- Technical issues relating to ELMS portal;
- BIS correspondence on SD/ELM being onerous for staff;
- Limited resources for such a major implementation (Orkney Islands);
- Software package for online payments not yet ready;
- Technical problem with the online payment system;
- Development of robust electronic payment module.

Other more general reasons are:

Local authorities (and there are 433 of them) are not informed, not interested or think they comply when they are not.

So despite the major effort made by central government to get everyone on board, the implementation on the ground is simply not good enough. The reasons given are quite understandable and to me, show, how little this has been thought through by politicians when it was voted for in the first place.

I am not here to defend local authorities, but I think we all need to hear both sides. Now let me give you my view as a business representative and a businessperson who has actually used the portal for the purpose it was meant to fulfil.

The most striking feature of this development is that clearly any competent authority that has not fully implemented the Directive is **BREAKING THE LAW**.

As a business I am given dates when to comply with new laws and as you know there are countless ones every year. If I don't comply I am liable to penalties and these can be devastating. I have to ask why we have one section of society that get's penalised for non-compliance and another section that does not (as yet). Especially micro and small businesses are seriously struggling with new laws and get no sympathy when they can't cope. So although I do have sympathy for local authorities having to cope with this Directive, I do believe that they have to be taken to account as we are as businesses.

Given the upcoming budget cuts in the UK for local authorities I wonder how new IT systems will be put in place to enable online applications, when choices have to be made between complying with the Services Directive and providing services to the public. I leave that conclusion to your imagination.

In March this year I had to apply for a license for a House with Multiple Occupancy. This license is applicable for instance if a house is let to students. I have such a house and my current license was to run out in two months time.

The Point of Single Contact is mainly geared towards attracting business in the internal market, but there is another use to it. Local companies can use the Portals just the same to get information and make online applications. Even for companies that will not trade outside their national borders, this feature is highly valuable. In my view this benefit is quite underrated.

I took the opportunity to apply for my license online and realised very quickly that I couldn't. I could download a form, but that was all. I then tried to compare fees for the license in neighbouring local authorities. The Directive quite clearly states that fees should reflect cost and not be used as an income generator. The City Council I had to apply to charged a very high amount which caused me to investigate further. Some sites gave fees, others did not. So I went back to the old fashioned way and picked up the phone to speak to someone. The result was that, unfortunately for me, the place where I needed to apply charged the highest amount of all. One local authority actually had calculated their cost and come up with half of what I had to pay.

The point I want to make is that costing of fees are not compliant with the Services Directive either, as shown in my case.

Knowing that this particular Council was breaking the law on two accounts, a) not providing online applications and b) overcharging, I had the choice to try and enforce my rights or keep stumm and get my license. I decided to pay the price and get my license.

And here is my last point. As a micro company I cannot afford to enforce my rights. I am dependent on this license or I end up having to pay for an empty house. This is the reality for small business. Having rights and actually enforcing them is not the same thing.

What I can do is tell anyone about it who cares to listen. If the Commission does not enforce this right, no one will.

As a business in the UK, I am disappointed. As a business representative I can see the problems and have sympathy for the complexities and priorities involved.

So what's to be done? In my view infringement procedures are essential or the full implementation on the ground will not happen. As much as the British Government has tried to fully comply, their influence of local authorities is quite clearly limited. Another aspect that was obviously overlooked by policy makers in Brussels. What counts for small business is what is happening on the ground and that current situation is not good enough. If I, as a local company cannot easily apply, then a company from another EU country will have even more problems. The main attraction is gone.

One last comment on the awareness of the PSCs. We know that very few companies in the UK are aware of these portals. There are no funds to promote the portals in the UK and frankly as long as there are major problems with the implementation at the local level that money would probably be wasted anyway. There is nothing worse than promoting a service when it is not there.

I believe it will take a long time for this Directive to reap benefits. When it works it is excellent and will stimulate trade within the EU. Until that happens we need to push and cajole and push again to make it happen.

Thank you!

Tina Sommer