



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 6.6.2003
COM(2003) 313 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

on the safety of services for consumers

[SEC(2003) 625]

EXECUTIVE SUMMARY

I. General

This report responds to the invitation addressed to the Commission by the European Parliament and the Council in Article 20 of Directive 2001/95/EC (General Product Safety) to “identify the needs, possibilities and priorities for Community action on the safety of services”. It has been prepared in the light of wide consultations with the Member States and stakeholders and is based on a preliminary identification and qualitative assessment of the most relevant policy options. The main finding of the report is that there is a substantial lack of data and information on the factual aspects of risks and safety aspects of services. The conclusion of the present report is thus that the priority for Community action is the improvement of the knowledge base in this area.

This report focuses on the health and physical safety aspects of services provided to consumers and on services that are relevant in this respect. Protection of economic and financial interests of consumers is already considered within the framework of initiatives related to the EU consumer policy and the internal market and is not dealt with in this report.

II. Regulatory situation on service safety at EU level

At EU level there is no horizontal legislation on service safety. However, a number of existing instruments in various policy areas contribute indirectly to the safety of certain services. In particular, Community legislation harmonising the technical rules for certain professional products is very relevant for the safety of the service in which those products are used. On the specific important issue of fire safety in hotels, a Council Recommendation was adopted in 1986. Comprehensive specific Community legislation has been established for transport safety (air, sea and terrestrial), within the framework of the Treaty provisions on transport policy.

III. Policy and regulatory situation in the Member States

All Member States have adopted policies, legislation and administrative measures concerning service safety, but the approaches vary significantly. Certain Member States (Finland, France, Portugal, Spain and Sweden) have introduced general legislation specifically on the safety of consumer services, which supplements sectoral policies and legislation. A few Member States (United Kingdom and Ireland) cover the horizontal aspects of consumer, user and public safety of services via their occupational health and safety legislation. All Member States have sector-specific approaches, with a variety of provisions directly or indirectly relevant for the safety of various categories of services. Codes of practice and voluntary measures have also been established in some Member States, but on an ad-hoc basis and just for a few specific service sectors. In addition to the specific direct measures, regulation in other areas like safety of buildings and occupational safety is of significant indirect importance.

Due to the complexity and variety of the relevant measures, it is very difficult to make a comparative assessment of the regulatory situation in the Member States and

to identify specific gaps and weaknesses in the approaches in place or in their practical application and enforcement.

IV. Issues emerging from the assessment of the situation in the Member States

So far, no factual evidence has been found of specific barriers to intra-EU cross-border supply of services due to different safety requirements. No indication or complaint in that respect has resulted from the consultations. A Eurobarometer survey has indicated that European consumers may perceive that the safety level of products and services is less well protected abroad. That could depend, among other things, on their perception of a lower level of safety of services provided in countries other than their own. Improving consumer confidence in the safety of services through the EU is an important objective for the internal market, particularly in areas like tourism, leisure and sports activities.

Very substantial gaps have appeared in the available knowledge base on service safety and risks. Systematic monitoring and data collection on accidents and injuries is limited to a few sectors like transport and health. Data for other sectors are scarce. Moreover, the available information is in general not reliable and detailed enough and not comparable. Therefore, it cannot be used for conducting a systematic and comparative assessment of risks. Extrapolations at Community level from the few data available lead to meaningless or contradictory results.

V. Indications and expectations emerging from the consultations

In preparation of this report the Commission consulted national consumer associations on the functioning of national legislation as well as a broader European audience (public authorities, business, industry, trade and professional organisations, European consumer associations and standardisation bodies) on possible options for Community actions. The consultation indicated that consumer associations perceive a safety risk in some services sectors, such as sports and leisure, tourism and health care services. Consulted parties generally see a role for the Commission in developing actions to support national policies for consumer protection, such as enhancing the knowledge on safety risks and promoting various kinds of non-regulatory instruments. Expectations of consulted parties on the need for legally binding safety requirements at EU level diverged. The consumer side sees such legal requirements as essential in order to guarantee an adequate level of consumer protection in all Member States, whereas businesses and most public authorities do not see an added value for such requirements at this stage.

VI. Action at EU level

In line with the outcome of the consultation the Commission is of the opinion that the aim of Community action on service safety could be:

- To support the national policies and measures in order to contribute to their effectiveness and efficiency.
- To ensure that consumers can rely upon a consistent, high level of safety protection throughout the EU ;

- To facilitate the information on the cross-border provision of services or the establishment of subsidiaries of service providers.

A number of options for substantive action on safety of services have, therefore, been considered in order to assess the extent to which they might be justified in the light of these objectives.

However, the inadequacy of (a) the available data and (b) the lack of evidence of specific internal market difficulties make it difficult to justify any specific option for substantive Community action at this stage. The importance of services in the EU economy, the cross-border relevance of safety aspects of services related to tourism and sports and leisure activities as well as the expectations often expressed by EU citizens for a high level of safety throughout the EU, lead to the conclusion that initiatives at Community level should be considered in order to support the policies and measures of the Member States.

It therefore seems that the immediate priority should be to improve the present knowledge base and to monitor systematically the policies and measures of the Member States. European standards for specific service sectors or risks may also be necessary in order to support national measures.

In order to improve the knowledge base and to be in a position to set up, if necessary, European standards supporting national policies, a suitable framework should be put in place.

Such a legislative framework would aim at monitoring and supporting national policies and measures by:

- (1) Establishing a *procedure for exchange of information on policy and regulatory developments* and the results achieved and administrative co-operation between the authorities, taking into account the scope of relevant existing and forthcoming Community legislation on the provision of information in the field of technical standards and regulations related to services,
- (2) Setting provisions for the *systematic collection and assessment of data on risks* of services and the establishment of an EU database,
- (3) Aiming at the establishment of *procedures for setting European standards*, if and when the evidence indicates a need, to work in conjunction with broadly defined objectives related to the safety of services.

The framework will be designed in the light of careful assessment of potential benefits and burdens, with particular focus on the situation of small and medium-sized enterprises, and in close co-operation with the Member States. The objective will be to define the optimal scope and methods for monitoring and data collection, in order to ensure a genuine added value in a cost-effective manner.

It would be appropriate to focus on the sectors most relevant for consumers in a cross-border perspective, for example mass-accommodation services like hotels, camping or other tourist facilities as well as related sports and leisure activities.

REPORT

1. INTRODUCTION AND SCOPE

1. As economies develop, the relative share of the agricultural sector and the manufacturing industry tends to decrease rapidly whilst the services sector becomes increasingly important. Therefore, a post-industrial economy is commonly qualified as a “service” economy. This is not different for the EU economy, which is dominated by the services sector both in terms of wealth created and employment. This sector covers branches such as trade, transport, travel, communication, financial services, business activities, health and social work, public services. In order to work towards the progressive removal of barriers to trade in services, the Commission presented its two-stage internal market strategy for services in December 2000.¹ The first stage of this strategy was completed in July 2002 with a Commission report², which draws up an inventory of the internal market barriers that continue to inhibit services. In the context of this strategy the Commission recognised that, in addition to a horizontal harmonisation instrument to tackle barriers of a horizontal nature, specific harmonisation measures might be appropriate in areas with significant health and consumer protection considerations.
2. According to EUROSTAT data for 2000 the services sector in the EU accounted for 69.6%³ of Gross Value Added and for 68.6%⁴ of those employed. For the same year intra-EU trade in commercial services (i.e. services excluding government services) was estimated at 710.8 billion €. In terms of private household, consumer expenditure services accounted in 1999 for 59.4%⁵ (including housing, water, electricity, gas) of total expenditure.
3. These macro-economic figures clearly demonstrate the importance of services for the European economy, the internal market and consumer expenditure. Given the significant share of consumer income spent on services, there is a legitimate interest for the consumer that services put on the market, in the same way as products, do not represent a physical safety or health hazard. Transport, health and leisure services are examples of consumer services with potential risks to the health and physical safety of private individuals.
4. A large body of Community legislation regarding *product* safety has been established over the last decades. This legislation includes both sector directives, applicable to particular categories of products and/or risks, and general measures, in particular the recently revised Directive 2001/95/EC of the European Parliament and of the Council on General Product Safety⁶ and Council Directive 85/374/EEC on Liability

¹ COM(2000)888final of 29 December 2000

² COM(2002)441final of 30 July 2002

³ Of which 27.2% for financial services, business activities; 21.0% for trade, transport and communication; 21.4% for public services. Since the available statistical data do not allow for a distinction between products and services, there is a risk of over-estimating the services related expenditure.

⁴ Of which 13.9% for financial services, business activities, 25.4% for trade, transport and communication; 29.3% for public services.

⁵ Of which 3.2% for health, 14.1% for transport, 2.3% for communication, 1% for education and 8.1% for restaurants and hotels and 21.3% for housing, water and electricity.

⁶ European Parliament and Council Directive 2001/95/EC, OJ No L 11 of 15.01.2002 p. 4

for Defective Products⁷. The objective of this legislation was to harmonise national rules on safety and liability with a view to facilitating free movement of goods in the EEA area, whilst ensuring a high level of consumer health and safety protection.

5. With regard to the safety of *services*, there is currently neither a general Community regulatory framework, nor sector-specific legislation, except for transport services. However, some elements of Community legislation in other areas may be relevant for the safety of certain services. For example, Community requirements for specific products may have an influence on the safety of services where these products are used. With a view to establishing a more global approach to the safety of services, the European Parliament and the Council called upon the Commission in Article 20 of Directive 2001/95/EC to “*identify the needs, possibilities and priorities for Community action on the safety of services and to submit to the European Parliament and the Council, before 1 January 2003, a report, accompanied by proposals on the subject as appropriate*”.
6. This report is limited to *consumer services*, i.e. services provided to physical persons acting in their personal capacity. Professionals are usually better equipped to assess risks and have different needs compared to consumers.

The safety of food offered by service providers to consumers, e.g. in restaurants, is covered by the initiatives related to the revision of the Community food safety hygiene rules adopted in the framework of the “from farm to table” approach to food safety.

Non-food products supplied to or used by consumers as part of a service are covered by Directive 2001/95/EC. However, the safety of the equipment used by service providers themselves in order to supply a service to consumers is excluded from the scope of Directive 2001/95/EC and should, therefore, be considered within the scope of Community action on the safety of *services*. This is in particular relevant for equipment on which consumers travel or ride, but which is operated by a service provider.

Services of public interest related to public security and protection, such as defence, police or civil protection are left outside the scope of this report given their particular objectives, the nature of the “service provider” and the conditions under which the relevant activities are operated.

7. For the purpose of this report *safety* relates to health and physical integrity of consumers. In line with this definition consumer services, such as financial or electronic communication services that do not represent a health or physical safety risk are excluded from the scope of this report. It does not consider risks for damages to property and financial risks. They are more directly related to commercial practices, which are governed by contract law. Moreover, these risks are already addressed within the framework of Community initiatives related to the internal market and the EU consumer protection policy⁸.

⁷ OJ L 210, 07.08.1985, p. 29

⁸ See, for example, Green paper on European Union Consumer Protection, COM(2001)531 final of 2 October 2001 and Follow-up Communication to the Green Paper on EU Consumer Protection, COM(2002)289 final of 11 June 2002.

The safety of consumer services is mainly influenced by preventive “command and control” type of measures on the one hand and liability systems on the other hand. Rules establishing a framework for the safe provision of services have a direct beneficial impact on safety levels by preventing damage. Liability schemes, although very important for repairing the negative impact caused by defective services on consumers, have mainly an ex-post compensating function and a more indirect, preventive function with regard to service safety.

8. In 1990 the Commission addressed the liability for defective services in a proposal for a Directive⁹ on the liability of suppliers of services. The main purpose of this legislative initiative was

- to provide better protection for consumers suffering damage from services which injure the physical integrity of their person or their private property; this was achieved through the establishment of the principle of subjective liability of the supplier with reversal of the burden of proof in favour of the injured person, and
- to eliminate discrepancies between national legal systems which could prejudice the efficient operation of the internal market for services.

After extensive discussions in the European Parliament and the Council the Commission decided to withdraw its proposal in June 1994. In the light of the discussions the Commission took the view that the approach to the liability issue should be reviewed following, amongst others, an in-depth examination of the functioning of civil liability systems for remedying damage caused by defective services currently applicable in the Member States and a careful consideration of the specificity of the different categories of services.

The Commission is currently analysing Member States’ legal systems governing liability for defective services. It will assess again the need and possibility for Community action in this area once the outcome of this analysis is available.

9. The actual safety level of a service is basically determined by the aggregate effects of the following main components:

- The safety of the premises, structures and equipment used for providing the service;
- The qualifications of the service provider;
- The availability and quality of the information on the safety aspects of the service provided to the user/consumer of the service;
- The way in which the service is carried out by the service provider;
- The general abilities and behaviour of the consumer;
- The availability of emergency procedures and equipment to reduce damage in case of accidents.

⁹ COM(90)482final – SYN 308 of 20 December 1990, OJ C 12, 18/01/1991, p. 8

10. When looking into Community measures to address the safety risks of specific sectors of consumer services, transport and health constitute particular categories. Measures to improve the safety of the different modes of transport are an integral part of the common transport policy as enshrined in Article 71 of the Treaty. As set out below, a wide range of measures have been enacted under this Article to regulate the safety of the various modes of transport. In relation to health, Article 152 of the Treaty aims at a high level of human health protection and foresees that the Council shall contribute to the achievement of the objectives referred to in this Article through adopting incentive measures designed to protect and improve human health, excluding any harmonisation of the laws and regulations of the Member States concerning health services. In the light of such specific provisions and the nature and organisation of the relevant activities, Community measures to contribute to the safety of health services are best examined within the framework of the Community programmes and activities in that specific area. This report does not seek to identify and assess priorities for Community action on the safety of transport and health services.
11. In preparation of this report the Commission has carried out a wide consultation of Member States and stakeholders, including extensive discussions with Member States' experts in the Consumer Safety Working Party. In May 2002 a questionnaire was submitted to national consumer associations in Member States and EEA countries. The replies to this questionnaire provided a useful indication on how consumers perceive the functioning of existing national legislation on safety of services. In order to collect further input for this report, a large-scale consultation of stakeholders with a legitimate interest in the safety of consumer services and of public authorities was carried out in August – October 2002. Interested parties were invited to comment on the potential contribution to enhanced safety of consumer services of a number of policy options, taking into account existing policies and legislation in Member States and the Community. This consultation process delivered more than 70, often very detailed and relevant reactions, from various societal groups representing consumers, service providers, industry and commerce, standardisation bodies and public authorities.
12. The purpose of the present report is to assess the needs and possibilities for Community action related to the safety of certain categories of services. Due consideration has been given to the input received during the consultation process for the prioritisation of the different options for Community action.

2. THE SAFETY OF SERVICES IN THE EUROPEAN UNION

Existing Community policies and legislation impacting on the safety of services

13. At Community level the safety of services is at present directly regulated only in the area of transport. In addition, various Community legislative provisions and initiatives take into consideration, more or less directly, safety aspects of certain services. In most cases the main objective of such provisions is to ensure the proper functioning of the internal market. Four principal areas are particularly important: recognition of diplomas, certificates and other qualifications for the objective of the internal market, environment, energy and tourism.

14. The transnational character of *the transport sector* and the fact that Article 71 c) of the Treaty explicitly opens up the possibility for adopting measures aimed at enhancing transport safety, has made the sector a priority area for Community action.
15. Transport safety is mainly regulated through technical harmonisation with a view to maintaining a high level of safety or by harmonisation in the social and vocational training spheres aimed at ensuring sufficient safety at the level of the carrier providing the transport service. These provisions have a direct impact on the safety of the service. Road and maritime passenger transport offer numerous examples of provisions with a direct impact on safety; such as Council Directives 92/6/EEC¹⁰ and 92/24/EEC¹¹ on speed limitation devices on heavy goods and passenger vehicles, Council Regulation (EC) No 3820/85¹² on equipment installed on vehicles transporting passengers or goods to record the distances travelled, speeds, driving and rest periods, Council Regulation (EC) N° 3051/95¹³ on the safety management of roll-on/roll-off passenger ferries. For railways essential requirements on safety of the various subsystems (infrastructure, rolling stock, signalling, etc.) are laid down in Council Directive 96/48/EC¹⁴ on the interoperability of the trans-European high-speed rail system and in Directive 2001/16/EC¹⁵ of the European Parliament and of the Council on the interoperability of the trans-European conventional rail system. For aviation, an obligation to investigate accidents and incidents with a view to improving safety follows directly from the provisions of Annex 13 to the Convention on International Civil Aviation and Council Directive 94/56/EC¹⁶. This Directive is to be complemented by a Directive¹⁷ on the reporting of occurrence. Harmonisation of civil aviation safety is dealt with through Council Regulation (EC) N° 3922/91¹⁸ and Regulation (EC) N° 1592/2002¹⁹ of the European Parliament and the Council.
16. Improving transport safety remains a key objective in the reflections on the future of the common transport policy²⁰, together with efficiency, quality and reduced pressure on the environment.
17. The implementation of the principles established by the Treaty related to the freedom of establishment and the freedom to provide services has indirectly addressed the issue of safety of services in setting provisions on the *mutual recognition of professional qualifications* as well as on the harmonisation or mutual recognition of national rules on access to regulated professions. The impact is particularly important for certain professions in the medical sector such as nurses²¹ and doctors²².

¹⁰ OJ L 57, 02.03.1992, p. 27

¹¹ OJ L 129, 14.05.1992, p. 154

¹² OJ L 370, 31.12.1985, p. 1

¹³ OJ L 320, 30.12.1995, p. 14

¹⁴ OJ L 235, 17.09.1996, p. 6

¹⁵ OJ L 110, 20.04.2001, p. 1

¹⁶ OJ L 319, 12.12.1994, p. 14

¹⁷ Proposal for a Directive of the European Parliament and of the Council on occurrence reporting in civil aviation, OJ C 120, 24.04.2001, p. 148

¹⁸ OJ L 373, 31.12.1991, p. 4

¹⁹ OJ L 240, 07.09.2002, p. 1

²⁰ White paper on European transport policy for 2010: time to decide, COM(2001)370 final of 12 September 2001

²¹ Council Directives 77/452/EEC, OJ L 176, 15.07.1977, p. 1 and 77/453/EEC, *ibid.* p. 8

²² Council Directive 93/16/EEC, OJ L 165, 07.07.1993, p. 1

18. Also, *other internal market measures* influence the safety of consumer services. For instance, the provisions concerning medical devices²³ and legislation on foodstuffs have a positive indirect impact on safety levels of the services associated with them.
19. The protection of human health is one of the objectives of the *Community environmental policy*. The close link between the environment and human health provides the basis for various provisions which, although they do not have consumer safety as their direct objective, in practice lead to improved health and safety for consumers, also with regard to consumer services. For example, Community legislation on waste management, such as incineration, landfill and transport, contributes to improved safety of the service, by limiting the different types of pollution that might endanger human health. In other cases the link between environmental protection and safety of consumer services is of a more direct nature, for example in the case of Council Directive 98/83/EC²⁴ on the quality of water for human consumption.
20. The *common provisions on energy* have a limited and indirect impact on the safety of services. Energy policy contributes to the general objectives of Community economic policy, focusing on the integration and opening up of markets and the prevention of obstacles. Going beyond these general objectives, energy policy pursues specific objectives with a view to reconciling competitiveness, security of supply and protection of the environment. The European Parliament and Council Directive 94/63/EC²⁵ on the control of volatile organic compound (VOC) emissions resulting from the storage and distribution of petrol has a more direct impact on safety levels.
21. The Treaty does not provide for a specific legal basis for common actions in the *tourism sector*. The role of the Commission is mainly one of co-ordinator and catalyst. Consequently, there are few Community provisions with a direct and principal impact on the safety of services in the tourism sector. Where they do exist, they are dependent on other policy areas, and their primary objective is often the proper functioning of the internal market. This is the case, for example, with Council Directive 90/314/EEC²⁶ on package travel based on the former Article 100a (now Article 95) of the Treaty, which makes the organiser and/or retailer liable for damage suffered by the consumer as a result of non-performance or improper performance of the contract and with Council Recommendation 86/666/EEC²⁷ on a minimum level of fire safety in Community hotels. The Community's current policy on tourism is primarily concerned with the development and competitiveness of businesses. The safety of consumer services is not referred to in this context as a goal in itself, but rather as an indirect consequence of promoting the quality of the services offered with a view to the development of tourist activities.

²³ Council Directives 93/42/EEC, OJ L 169, 12.07.1993, p. 1 and 90/385/EEC, OJ L 189, 20.07.1990, p. 17

²⁴ OJ L 330, 05.12.1998, p. 32

²⁵ OJ L 365, 31.12.1994, p. 24

²⁶ OJ L 158, 23.06.1990, p. 59

²⁷ OJ L 384, 31.12.1986, p. 60

Member States' approaches, policies and legislation related to the safety of services²⁸

22. Several policies and regulatory measures in Member States *indirectly* contribute significantly to the safety of services. Examples include requirements related to the construction and operation of buildings and sites where services are provided, technical measures related to equipment and products, rules on qualification and authorisation of service providers and provisions regarding health and safety at work. A further analysis of these policies and areas of legislation would be extremely far reaching and falls outside the scope of this report. The focus in the following is on national policies and legislation where the measure directly addresses the *performance of the service* and where the *main objective* is the protection of the health and physical safety of the consumer.
23. There is no coherent or typical *overall approach* in this area in the Member States. Half of the Member States have established “safety of services” as a specific policy area, whilst the others deal with safety of services on an ad hoc basis or in connection with other policies. Three different national approaches can be identified. There are Member States with horizontal legislation on the safety of services supplementing sector-specific measures. This group includes Finland, France, Portugal, Spain and Sweden. Ireland and the United Kingdom have an extended scope for their horizontal legislation on safety at work with a view to covering also safety of consumers as a supplement to their sectoral policies and legislation. The remaining Member States have sector policies and legislation in place but no overarching, general structure.
24. The Member States that have adopted *general legislation* have chosen different legal frameworks and different legislative techniques. Finland and Sweden have integrated safety of services in their legislation on product safety. Hence, the general requirements for consumer services are more or less parallel to those for products. Authorities have the necessary competencies to monitor, control and take action against unsafe services. France, Portugal and Spain have chosen to include provisions regarding services in their general consumer legislation. As an example, Spain has a provision in its general Law for the Protection of Consumers and Users, which states that service providers shall only put safe services on the market. In the United Kingdom, the Health and Safety at Work Act makes it clear that the objective is to protect also the general public, including consumers, against the risks to health and safety arising from the activities of persons at work. The legislation includes provisions on the obligation to secure safety at premises made available to the general public, including premises where consumer services are offered. Ireland has a similar concept in place.
25. All Member States have adopted significant *sectoral legislation*. In addition to legislation on transport services, which to a large extent implements international and Community law, the legislation relates mainly to four sectors: health, accommodation largely related to tourism, sports and leisure and services of general interest such as installation of gas and electricity. Some Member States have also specifically targeted repair services, installation of products as well as personal services like hairdressers, suncentres etc.

²⁸ This part of the report is supported by a Commission Staff working paper {SEC(2003)625} providing for a factual summary of Member States' policies and legislation on safety of services

26. In the *health sector* all Member States have focused on legislation regarding qualifications of medical staff. In addition, there are significant regulations on the performance of health services and on the physical premises, including design, construction, maintenance and operation. In general terms, the health area is an area with significant legal obligations for the service providers with the main purpose to protect patients. It is noted that the clinical part of health services, in particular medical misadventure, is followed up by different institutions and authorities than those in charge of non-clinical issues, including safety of premises, design of floors to avoid slipping and falling etc.
27. *Accommodation services* are regulated in all Member States, mainly in connection with design and construction of buildings and mandatory safety equipment typically in relation to fire. The regulations vary significantly, not only nationally, but also regionally and locally according to local needs and specificity.
28. *Sports and leisure services* include a wide variety of activities ranging from pop concerts and discotheques to playgrounds, diving courses and skiing centres. The sector is increasingly being regulated by Member States, mainly on an ad-hoc basis according to concrete incidents or indications of higher than acceptable risks. A significant part of the legislation focuses on premises and buildings used for such services. In Sweden, for example, the legislation on technical requirements for buildings also covers development of ski centres and sport grounds. In addition, some Member States have introduced requirements for the service providers with regard to qualifications of staff or the performance of the service itself. In Denmark, for example, pyrotechnic operators must obtain an authorisation, whilst the legislation on public entertainment facilities provides for rules on training of staff and supervision of services, such as shooting ranges and slides.
29. *Certain services of general interest*, such as installation of gas and electricity have a significant risk potential, and are heavily regulated in all Member States. The regulation focuses on the qualification of the service provider, but also to some extent on the actual performance of the service. Waste services, waste water and the supply of water is also regulated, but mainly with the aim of reducing risks to public health and environmental risks, not primarily protecting the physical safety of consumers. For example, national regulation on incineration of waste, based on Community legislation, is aimed at reducing emissions of hazardous substances.
30. *Repair services, rental services and services relating to the installation of products* are services that are closely linked with product safety, but still the safety of the service is regulated specifically by certain Member States. In addition, *personal services* such as hairdressing and solariums have also been subject to specific regulation in a few Member States.
31. When looking into the concrete requirements of Member States for the various consumer services, some *key provisions* of a general nature can be identified both in horizontal and in sector-specific legislation.
32. First, there are examples of an *obligation to provide “safe services”*. In Finnish, French, Portuguese, Spanish and Swedish legislation there are general legal provisions that require service providers to market only “safe services”. Different definitions and criteria on what is considered to be a “safe” service support this obligation. Moreover, in areas of particular interest regulations are adopted in order

to specify this general requirement. Other safety obligations exist in sectoral legislation. The direct application of such general safety obligations seems to be very limited in practice in cases where there is no standard or clear point of reference.

33. Second, there are provisions, which oblige the service provider to introduce safety management procedures within business operations. Usually such provisions include obligations to identify and assess risks, to take reasonable measures in order to prevent damages to health and safety, to establish internal control systems to ensure systematic and safe organisation of the activities and to establish emergency procedures. In order to avoid disproportionate obligations for SMEs it is usually foreseen that internal control be adapted to the nature, activities, risks and size of the enterprise to the extent required to comply with requirements set out in safety legislation. In France, for example, in the regulations regarding public playgrounds, the responsible person is obliged to keep up-to-date the maintenance plan of the playground and records of the work carried out. The documents must be available to the authorities upon request. In the United Kingdom a general regulation obliges all service providers to conduct a risk assessment. Businesses with less than five employees are subject to less formal requirements than larger operators. Norway has a similar concept called “internal control” regulations.
34. Third, it is a common feature, at least in sectoral legislation, that service providers are obliged to inform consumers about serious risks connected with the service provided or to request information about consumers’ abilities and experiences. One example is the regional legislation in Austria on mountain guides, which stipulates that the guide must inform and be informed about possible risk factors. In the Finnish general legislation, the obligation follows somewhat indirectly from paragraph 4 of the Act, where it is stipulated that a service is deemed to be unsafe and therefore prohibited if “...any untrue, misleading or inadequate information supplied in respect of the service can produce an injury, poisoning, illness or any other hazard to health”. Thus there is an indirect obligation to provide adequate and sufficient information on risks. In addition, the Finnish Supervisory Authority *may* require the operator to inform the consumer of particular risks associated with a service. This option has never been used in practice, because the Finnish Consumer Authorities in concrete cases have chosen to inform consumers directly through the media etc.
35. Fourth, provisions on competencies for public authorities to conduct market surveillance and control service providers is an essential part of general as well as sectoral legislation. Competencies for the monitoring of consumer services is usually carried out in close connection with the monitoring of product safety and/or safety at work, either by consumer authorities or authorities responsible for safety at work. Finland, for example, has placed the competence in the Finnish Consumer Agency, whilst the United Kingdom has competencies within the Health and Safety Commission (HSC) and the Health and Safety Executive (HSE). The general competencies are to a large degree delegated to regional and local levels, and they are subsidiary to the competencies of sectoral authorities. In the United Kingdom, the HSE seeks to agree demarcation lines based on an assessment of expertise, economy, efficiency and suitability. On this basis fire safety is left to the fire safety authorities, most transport issues to the relevant transport authorities etc. The competent authorities usually have a wide range of measures available to them based on results of monitoring and inspections. In France and in Finland for example the competent authorities may order the service-provider to take measures to address the risk posed or they can prohibit the provision of the service temporarily or permanently. Fines

and criminal proceedings are considered in serious cases. In some instances the competent authorities also have the possibility of introducing pre-licensing requirements for certain services that involve significant risks. Member States with no general legislation or policy rely exclusively on sectoral authorities to control service providers.

36. Fifth, some key sectors such as transport and health services have a sophisticated system for *notification* of accidents and incidents with the aim of informing public authorities, limiting the damage of unsafe services and monitoring risk. Finland has introduced general notification requirements for service providers where a non-acceptable hazard is discovered and measures have been taken by the service provider.
37. In addition to the legislative measures taken in all Member States, in some cases *voluntary or non-regulatory measures* have been introduced, typically in the form of codes of conduct, guidelines, best practices and voluntary standards. In general with the exception of Finland, the development of such measures is done on an ad-hoc basis, although it seems that the sports and leisure sector is the main target area. Examples include standards for ski-rental services in France, pop-concerts and sport arenas in Ireland, equestrian centres in the Netherlands and diving courses in Sweden. In most instances service providers develop the codes of practice in co-operation with public authorities and/or consumer organisations. In Ireland and the United Kingdom some sectors with a significant risk potential, like the health sector and installation of gas are covered by non-regulatory measures, but this approach is being re-assessed at present.

Finland has a more systematic scheme for development of guidelines under its mandatory horizontal legislation. Guidelines are developed for key services by public authorities in close co-operation with service providers based on results from market surveillance, complaints etc.

38. From the above description it can be *concluded* that consumer services with a significant risk potential, such as passenger transport, health services and installation of gas and electricity have been extensively regulated and are monitored according to local, regional and national priorities and resources in all Member States. For other consumer services, typically in the sports and leisure sector, the approach varies more. Some countries have focused on sectoral initiatives with a different mix of regulatory and non-regulatory measures, whilst others have included additional horizontal provisions in their legislation as a “safety net” and a basis for responses to new emerging risks. However, there is no evidence at this stage that the differences in the policy and regulatory approaches of the Member States must necessarily imply significant differences in the level of consumer protection, even though many consumers seem to have a lack of confidence about the safety of products and services in Member States other than their own²⁹. Administrative capacity and priorities with regard to resources used for market surveillance and follow up of service providers seem to be more crucial for the actual safety levels. There is also a general problem of lack of knowledge and transparency as regards applicable regulation in other Member States. Both consumers and service providers have highlighted the lack of information about existing rules and their application in

²⁹ Gallup Europe, “study on consumers”, January 2002 and Eurobarometer survey EB 57.2/175

different Member States³⁰ as one of the obstacles to the creation of the internal market for services.

Factual situation of service safety in the Community

39. The tragic canyoning adventure tour in Interlaken, Switzerland in July 1999, where 19 people drowned in a heavy flooded river, the fire at a discotheque in Gothenburg, Sweden on 29 October 1998 where 90 people died and the tragedy at the Roskilde Rock festival in Denmark, 29 June 2000, where nine people died after panic at a crowded rock concert scene are among the well documented examples of recent cases where safety of services has been an issue. Several passenger transport accidents could be added. However, more *systematic* information and statistics regarding the factual situation on safety of services in the Community is hardly available, apart from the transport sector. Accident data that have been collected through the European Home and Leisure Accident Surveillance System (EHLASS), and through projects under the Injury Prevention Programme (IPP) are accessible in the database called Injury Surveillance System (ISS)). However, in the same way as data from EUROSTAT, national public authorities, European consumer organisations, European Insurance companies, academic institutions and some business organisations they are not capable of providing data for a systematic assessment of the safety of the most relevant service sectors.
40. The EHLASS data in the ISS database do not identify accidents caused by consumer services as a separate category. The limited description of the cause of the accident provided does not allow the identification of the precise cause of the accident. Of the approximately 26 million accidents reported in 1998, excluding road transport and occupational safety, a significant part are home accidents. Many of the remaining number occur when the injured persons are acting on their own initiative. Finally, many accidents are related to consumer products. There are no means available for estimating the share of accidents related to consumer services, although one might expect the share to be significant.
41. At national level, the United Kingdom, through the Health and Safety Executive, has one of the most advanced systems for collection of accident data in the European Union³¹. However, the statistics do not distinguish between accidents occurring to consumers and accidents occurring to bystanders. Of the total of 19,591 non-fatal injuries registered in 2000/2001 in the services industry a significant number would be injuries to bystanders. Again, a number of these accidents could have occurred when the consumer was acting on her/his own initiative and not as a recipient of a service provided by a third party or when a product rather than the service itself were the cause of injuries. Thus this data cannot be used as a basis of an extrapolation to European level.
42. The United Kingdom statistics also contain information on *fatalities*. In 2000/2001 the total number of fatal injuries to members of the public, both bystanders and consumers, caused by work in the United Kingdom was 445. However, 333 of these were related to transport, of which 298 were trespassers and suicides on transport systems, mainly rail. Of the remaining 112 fatalities 92 occurred in «the service

³⁰ COM(2002)441 final, op. cit.

³¹ Health and safety statistics 2000/01, Health and Safety Commission

industries »³² This group includes the categories « hotels and restaurants », « education », « health and social work » (42 fatalities) and « other community, social and personal service activities » (26 fatalities). It is difficult to estimate the “consumer” share of this, and impossible to analyse the share of injuries caused by consumer products. In addition, several of the fatalities are likely to have been caused by persons acting on their own initiative or where the connection with a service is remote.

43. Turning to sector-specific statistics, for the *transport* sector³³, the rate of fatalities per billion passenger kilometer (pkm) was 0.3 for buses and coaches, compared to 6.7 for passenger cars in 1999, mainly non-service related, except for taxis etc. The total number of road *fatalities* was 42,122, of which 24,599 were related to passenger cars. The total railway passenger fatalities was 16 in 1998 whilst the number of airline passenger fatalities in the EU territory was 52 in 1999, leading to a rate of fatalities per billion pkm of 0.7 and 0.1 respectively. 74 lives were lost in 1999 on passenger ships world-wide. Some of these figures vary significantly from year to year following single, large accidents. The number of accidents with *personal injury* in road traffic in 1999 was 1.3 million. Again it must be noted that a significant part of this is not connected to services, but to people driving their own car. In conclusion, statistics in the transport sector are well developed and sufficiently detailed to indicate risk rates and to make policy decisions in the context of the common transport policy.
44. In the *health* sector specific aggregate European statistics are not available, but in the ISS database there is an entry on non-fatal accidental injuries in “medical/socio-medical/health institutions”. It indicates approximately 100,000 accidents per year in the EU. Few of these accidents are likely to be linked to consumer products, to involve bystanders or to be linked to people acting on their own initiative. The statistics are, nevertheless, not sufficiently detailed to determine the risk level in terms of accidents per patient hour, for example. In addition to ISS/EHLASS, several countries register all incidents in health institutions according to national legal obligations, so that the statistical basis is solid in this area.
45. Similarly, there is no specific aggregated information at Community or at national level in the *sports and leisure* sector. In the ISS database, entries include accidents in “sports area”, “leisure area” and “natural area”. In total they indicate 6 million accidents per year, of which a significant part must be assumed to occur outside of a “service” situation, i.e. where the consumer himself initiates the activity. There is no simple means to draw a clear line between situations where the service is the major cause of the accident and where the consumer himself causes the accident. Normally accidents are caused by a mix of factors. For example, an accident to a child at a fairground could be caused partly by lack of parental supervision, flaws to the equipment and lack of training of staff.
46. Accidents in connection with some specific sports and leisure services with particular risks have been investigated at national level in the context of studies or ad hoc initiatives. In 1999 the French authorities³⁴ made an assessment of risks and

³² *ibid*, p. 47

³³ EU energy and transport in figures 2001, Directorate-General for Energy and Transport in co-operation with Eurostat

³⁴ Commission de la sécurité des consommateurs (CEC); opinion dated 11 April 2001

accidents in *equestrian centres*. They noted that “it has not been possible to obtain precise and exhaustive accident figures”. However, based on emergency room statistics, data from voluntary organisations and insurance businesses they estimated that between 500 and 2,000 horse riding accidents with non-fatal injuries happened per year in France³⁵. More than half of these were in equestrian centres, whilst the rest were connected with riding in natural surroundings, where the service element is less obvious. At least one or two fatal accidents were registered per year. No risk rate in terms of risk of accident per hour riding was estimated. Dutch, Austrian and US figures seem to indicate up to 100,000 accidents per year for a population the size of the EU. Thus it does not seem possible to extrapolate the French figures with any accuracy at Community level.

47. Accidents and fatalities in *skiing* areas are well documented in Austria, Sweden, France and other countries. In Austria³⁶ an average of 90 000 injuries and 30 fatalities were recorded per season. For France 45,000 injuries and 41 deaths were recorded on the slopes during the skiing season from 1 December 2000 to 31 May 2001³⁷. Again the connection with the provision of a consumer service cannot be firmly established due to the lack of precise information. Although the skiing centres with their lifts, marked trails etc are to be seen as services, accidents are often caused by skiers themselves overestimating their own abilities, not by lack of warnings, signs etc. No risk rate in terms of risk of accident per hour skiing has been produced from the statistics.
48. Attempts have been made to analyse accidents in “new” high risk *adventure sports* offered to consumers, such as diving, climbing, bungee-jumping, hang-gliding, kayaking, canoeing and white-water rafting. Although the number of fatalities and non-fatal incidents is quite limited in absolute terms, a British study conducted by the University of Lancaster³⁸ found that the risk of a fatality when climbing, canoeing and hang-gliding was much higher than the risk of a traffic fatality. The risk level seems mainly influenced by the behaviour of people pursuing these activities on their own, not necessarily in connection with a service. National statistics indicate that most diving accidents happen in connection with private diving. No overall risk rate has been estimated for diving courses.
49. In the Netherlands statistics exist for accidents in *swimming pools and waterslides*³⁹. Between 1987 to 1996 there were about 9000 accidents per year in swimming pools, including slides. Approximately seven drowning fatalities occur per year. The overall number of accidents has been reduced to 7,100 in 1998, whilst the number of accidents in water slides has been stable around 1,000 per year. No risk rate has been established.
50. Other examples of ad-hoc statistical data include Belgian and Danish authorities’ statistics on accidents and fatalities at playgrounds and in fun parks, Irish authorities’ information on accidents in connection with gas installations, United Kingdom

³⁵ *ibid*, p. 3-6

³⁶ Presentation by Dr. Rupert Kisser, Austrian Alpine Forum, 15 April 1999 and at Montreal Safety Seminar, May 2002

³⁷ Campagne nationale de prévention des accidents de ski et de snowboard, 2001-2002

³⁸ Quoted by Mr van Woudenberg at 3rd European Convention on Promotion of Safety and Injury Prevention, Vienna, 15-16 March 2001

³⁹ Consumer Safety Institute, CISE, N° 4, December 1999

authorities' statistics on fire safety in hotels, and French and Swedish statistics on accidents in sun-centres. In the same way as for the other sources mentioned, these data are not directly applicable for assessing risks in connection with consumer services.

51. The investigations and consultations carried out by the Commission as well as the outcome of a recent study⁴⁰ suggests that the perceived overall higher risk to non-nationals than to nationals in the service sector is largely unfound.
52. It results from the above that there is little systematic factual information on service safety, apart from transport and health services. The reporting structures in place are poor and few attempts have been made to streamline and utilise statistics on service-related consumer risks in national policy making. Structural problems in existing data collection schemes prevent any substantial improvement of the situation. For example, it is difficult to define the exact borderline between product and service related risks and accidents. In addition, many of the incidents registered do not distinguish between situations where the consumer is operating on his/her own initiative and where there is a service provider involved. Finally, many accident statistics do not distinguish between consumers and other members of the general public. All these problems make it impossible to interpret such data as does exist with any certainty. It is, therefore, not possible to assess risks associated with the various services, to compare risk levels in different countries, to monitor risk over time or to identify in a documented way possible weaknesses and gaps in the risk prevention and management systems in place in Member States. Moreover, any risk assessment should also include a qualitative and quantitative characterisation of the probability, frequency and severity of the known health and safety effects. Here too, figures on the frequency of use of services or the numbers of consumers are also missing. The few data available can, thus, only give a very general, imprecise idea of the level of the risk.

Possible options for Community action

53. On the basis of a preliminary identification of the gaps and weaknesses in the existing situation, a number of possible options for Community action on safety of services were identified. These were submitted for consultation to stakeholders and public authorities. Interested parties showed great interest in the issue of service safety and provided detailed comments, which are summarised below.
54. Taking account of the existing knowledge gap a first, obvious option concerned Community action to collect data on services related accidents and injuries. In addition, such action would be fully in line with the Commission's strategy for consumer policy⁴¹, which highlights the need to back consumer policy by relevant information and data in order to adjust policies and prioritise in the most appropriate ways. The consultation showed broad support for action aimed at improving the knowledge base, provided that it would be organised in a cost-effective manner and that the important methodological problems could be solved. Stakeholders felt that it

⁴⁰ Planistat in association with Consumer Risk Limited and Middlesex University, December 2000, Study of the needs and scope for Community action in the field of services safety and liability

⁴¹ Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on Consumer Policy Strategy, COM(2002) 208 final; OJ C 137, 08.06.2002, p. 137

should focus on a limited number of priority sectors and build upon existing experiences and instruments for data collection. In particular, it would be necessary to ensure co-ordination with the New Public Health Programme that will incorporate experiences and information gathered under EHLASS and IPP.

55. A second option related to the development and promotion of non-regulatory measures, such as best practices for service providers or professional categories and European voluntary standards would contribute to enhanced service safety for consumers through better information on the safety levels that they can expect and improved practices by service providers. The investigations undertaken have shown that there are such measures in place in the service area that are not well co-ordinated. The consultation showed broad support for the development and promotion of non-regulatory measures, either as a stand-alone self-regulatory instrument or as a flexible supplement to a legally binding framework. However, there is concern, in particular on the consumer-side, about the lack of enforcement powers for this type of soft law and the absence of sanctions in case of non-compliance.
56. A third option concerned the establishment at EU level of a scheme for certification of safety management systems, which would require common criteria against which compliance can be certified by an accredited certification organism. The consultation showed some support for such a scheme. It was stressed that the scheme should build upon existing national or international standards rather than introducing new criteria. There was, however, a general feeling that the attractiveness of the scheme for businesses would be limited, since safety issues seem more difficult to be used as a competitive tool than, for example, environmental ones.
57. Possible more far-reaching *harmonisation* measures were also part of the consultation process, in particular the introduction of legally binding safety requirements for service providers as well as the obligatory establishment of monitoring and market surveillance activities to be carried out by public authorities. The exact improvement of legally binding safety requirements would largely depend on the existence of European standards or other more precise common safety specifications for specific services.

The consultation showed a clear divergence of opinion on such requirements. Consumers preferred this type of legally binding measure as it offers legal certainty by providing the generic framework for preventive action. However, consumer associations highlighted a general problem of effective enforcement of legally binding safety provisions and a need for adequate sanctions in case of non-compliance with legal requirements. Businesses expressed doubts about the added value of such a measure. Member States expressed different preliminary observations, but the majority did not at this stage see a need or possibility to adopt such measures. On the obligatory establishment of market surveillance activities only a few consulted parties took position. Some interest was expressed in exchange of good practices. Most considered this action as a question of resources at national and local level and not as a matter for legislation.

From a legal point of view harmonisation measures would have to rely on Article 95 of the Treaty, which provides a legal basis for harmonisation measures related to the establishment of the internal market. In line with the relevant case law, the use of this Article would require an assessment of the actual or potential barriers to trade and

distortions of competition motivating Community action. This would again require knowledge about the cross border demand and supply of the most relevant consumer services and about the potential impact of proposed legislation both with regard to safety levels and with regard to harmonised safety requirements. However, there is currently no evidence about distortions of competition or barriers to trade caused by different national legislation. In addition, at this stage evidence is also missing to justify harmonisation measures related to safety of services under the general principles of Community law, in particular subsidiarity and proportionality. Therefore, it is impossible to draw conclusions on the need for legislative action aimed at *harmonising* safety requirements applied at national level in specific service sectors at this stage.

Priority sectors

58. Although transport and health services as well as services with limited or no risk to consumer health and physical safety like financial or electronic communication services are excluded from this report, a significant number of different types of consumer services are relevant. When designing Community policy it will be essential to *concentrate on some priority consumer services* in order to gain experience and to ensure that action is focused. Ideally, the focus should be on services with a documented significant risk for consumers and with a significant cross border dimension. However, the current knowledge gap both in terms of risk assessment and cross-border impact makes it impossible to establish a prioritisation based on firm evidence. Thus, instead of a quantitative approach, more *qualitative criteria* were used to tentatively identify priority sectors and services at this stage. These criteria included for instance the type and seriousness of potential risk, the cross border dimension, and the relevance for consumers with particular needs. Priorities of the Member States and stakeholders were also taken into account.
59. Based on these criteria, *services related to tourism*, especially those related to mass accommodation, in particular hotels, camping and caravanning, and *sports and leisure services*, in particular playgrounds, fairgrounds and amusement parks, swimming pools and other water sport services, riding schools, skiing and “new” adventure sports like bungee jumping and white water rafting, could be identified as priority sectors. Both sectors and the related services involve risks of fatalities and severe injuries, there is a clear cross border dimension, they often involve children and sometimes elderly, they are provided throughout the Community and they are considered to be a priority by Member States, consumer organisations and service providers. It is noted that the two sectors are often inter-linked as tourism increasingly involves organised sports and leisure activities.

3. POLICY CONCLUSIONS TO BE DRAWN FROM THE REGULATORY AND FACTUAL SITUATION ON THE SAFETY OF SERVICES IN THE EU

Conclusions to be drawn from the regulatory situation

60. At Community level there is currently no specific legislation to address the safety of services, except for Community measures directly regulating the safety of the various modes of transport as part of the common transport policy enshrined in Article 71 of the Treaty. However, Community legislation in other policy areas can have a beneficial side-effect on the safety of services. Measures on the mutual recognition

of certain professional qualifications aimed at facilitating provision of professional services throughout the Community, or those on the quality of bathing waters taken under the Community environmental policy, which contribute to the safety of tourism, are good examples. Moreover, Community legislation harmonising the technical rules for certain professional products and equipment is very relevant for the safety of the services in which such products are used. In the specific case of fire safety in hotels, Council Recommendation 86/666/EEC on a minimum level of fire safety in Community hotels was adopted in 1986. The safety of services will continue to benefit indirectly from the provisions in other areas of common policies.

61. All the Member States have legal, administrative and technical measures in place in the area of service safety. The approaches are different and involve a wide variety of measures, with no single model prevailing. Consumer associations have drawn attention to a general problem of enforcement of consumer safety provisions and a lack of adequate sanctions in case of non-compliance by service-providers with legal requirements. Nevertheless, due to the variety of sectors involved and the differences in the national approaches it is not possible at this stage to identify specific gaps in the regulatory, control and enforcement systems. It is equally impossible to determine whether the actual level of protection in the various Member States differs in any significant way. Consumer associations and service providers have highlighted the lack of information about existing rules and their application in different Member States as an obstacle to increased consumer confidence in the internal market for services. However, it has so far not been possible to identify evidence of barriers to trade or distortions deriving from the different requirements in the Member states. This would make it difficult to justify at this stage substantive Community action that would aim at harmonising Member States' service related safety rules.

Conclusions to be drawn from the factual situation

62. The analysis of the factual situation has shown that there is little systematic information on service safety. This can be partly explained by poor reporting structures and by the low priority given to the use of accidents and incidents statistics as a basis for policy-making in the area of service safety.

Therefore, improving the knowledge base on service safety is identified as a clear priority for Community action. The consultation itself confirmed that there is broad support for this, provided that it can be organised in a cost-effective manner and that the methodological challenges can be overcome. Focusing on a limited number of priority sectors or services, in particular services related to tourism and sports and leisure services, and building upon existing experiences and instruments for data collection can help to meet these conditions.

63. The improvement of the knowledge base is in itself a substantial objective since it requires all Member States to adopt a more systematic approach towards monitoring service safety in the most important sectors. The collection and assessment of the relevant data involves methodological and organisational issues that require careful examination in order to identify practical and cost-effective solutions. Clearly, this is an area where action at Community level might bring substantial benefits, provided that an appropriate approach is developed. When developing this approach due consideration should be given to the difficulties for small and medium sized enterprises to undertake additional administrative or cost burdens. This is particularly

relevant for individual tourism enterprises, 95% of which are small or micro sized entities.

64. Therefore, Community action on the safety of consumer services should, at this stage, focus on (a) improving available knowledge about risks and accident data and (b) on monitoring systematically the policies and measures of the Member States.
65. Experience to date shows that the work of data collection and of monitoring will not be conducted systematically and uniformly across the EU without a formal framework for the exercise. The enlargement of the EU can only reinforce this need.

Aims and contents of the proposed legislative framework

66. In the light of the above it is proposed to introduce a legislative framework which would establish procedures aimed at ensuring a systematic and consistent collection and assessment of data and information on service related accidents and injuries. The type of information expected from the data collection system would be determined by policy-making objectives that would be set out in the legislative framework. For reasons of cost effectiveness it would be appropriate to focus on the priority sectors and related services identified in this report, namely services related to tourism and sports and leisure services
67. Given the wide variety of measures currently applied by Member States to enhance safety of services, it would be mutually beneficial to be better informed about relevant service safety legislation and policies. Therefore, the legislative framework would also establish procedures for administrative co-operation between Member States authorities in order to systematically exchange information on policy and regulatory developments and the results achieved. This would be important for the identification of specific gaps in the regulatory, control and enforcement systems. This is particularly relevant since consumers and service providers have highlighted the lack of information about existing rules and their application in different Member States as one of the obstacles to the creation of the internal market for services. It is obvious that the procedures for the exchange of information should be conceived in such a way as to avoid any overlapping of relevant existing or forthcoming Community legislation laying down procedures for the provision of information in the field of technical standards and regulations related to services.
68. The framework could also provide for procedures aimed at setting and using European standards. The better knowledge base on service safety would indeed allow for the identification of specific sectors and risks where community standards may be necessary for supporting national policies and measures on safety of services for consumers.
69. The precise contents of the legislative framework will be designed in the light of careful cost-benefit analysis, pilot projects, surveys and further work to be carried out in close co-operation with Member States. The objective will be to define the optimal scope and methods for the monitoring and data collection, to ensure the added value of Community action in a cost-effective manner. It is obvious that the legislative initiatives envisaged in the context of the internal market for services should also be given due consideration when designing the legislative framework.

70. In the longer term the Commission would be in a better position to assess the possible need for more far-reaching Community legislation in the light of the evidence that has become available as a result of the implementation of the legislative framework. These longer-term legislative initiatives will require an analysis of the appropriate legal basis and of the economic impact. Recourse to Article 95 of the Treaty will, in particular, require an assessment of the actual and potential barriers to trade and distortions of competition resulting from diverging national regulation governing safety of services. Possible Community harmonisation measures related to safety of services would have to remain in line with initiatives developed within the framework of the internal market strategy for services.
71. In the meantime the Commission will also continue its assessment of the liability systems in the Member States. The outcome of this assessment will contribute to the identification of possible gaps in the national liability systems. It should make it possible to determine whether a new Community initiative in this area would be useful and justified.