

From: Richard Baron [richard.baron@iod.com]  
Sent: 02 May 2002 13:29  
To: 'ecom@dti.gsi.gov.uk'  
Subject: Implementation of the e-commerce directive

Dear Mr Russell

The IoD would like to make two points on the proposal for implementing the E-Commerce Directive.

It is most unfortunate that the country of origin principle is not being extended to courts' jurisdiction. We wonder whether the directive really precludes this. On the one hand article 4 seems to block it. On the other hand, recital 23 in the preamble, while reflecting article 4, goes on to say that the provisions of applicable law designated by private international law must not restrict the freedom to provide information society services. Allowing anything other than country of origin to apply could amount to just such a restriction on freedom to provide. If the directive were a piece of English law, then it would certainly be interpreted in such a way that the specific words of article 4 would over-ride the more general statement in the second half of recital 23. But it is not a piece of English law, and given the great benefit to businesses of country of origin, we suggest that country of origin should be applied to the greatest extent possible.

The regulation 16 right of cancellation at any time is excessive. It might ensure that people keep to the rules, but in a draconian fashion. We believe that the right of cancellation should be time-limited, perhaps to three months. Recital 10 in the directive requires proportionality, and a time-limited right would be more proportionate than an indefinite right.

Kind regards

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