

EUROPEAN ECONOMIC AREA

STANDING COMMITTEE OF THE EFTA STATES

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SUBCOMMITTEE II ON THE FREE MOVEMENT OF CAPITAL AND SERVICES SUBCOMMITTEE III ON THE FREE MOVEMENT OF PERSONS SUBCOMMITTEE IV ON FLANKING AND HORIZONTAL POLICIES

EEA EFTA Comment on the proposal for a Regulation of the European Parliament and of the Council on administrative cooperation through the Internal Market Information System ('IMI')

1. PREFACE

1. The EEA EFTA States, Iceland, Liechtenstein and Norway, have studied with interest the proposal for a Regulation of the European Parliament and of the Council on administrative cooperation through the Internal Market Information System ('IMI') (COM (2011) 522), presented by the Commission on 29 August 2011. The EEA EFTA States welcome the proposal and would like to take this opportunity to comment on some aspects covered by it.
2. The EEA EFTA States welcome the Commission's intention of improving the governance of the Internal Market through greater cross-border exchange of information. We believe this proposal is a step in the right direction to broadening and developing the Internal Market Information System (IMI). The EEA EFTA States support the establishment of a common set of rules for IMI to govern its operation and future development, and the flexible and decentralised approach to cross-border administrative cooperation. We believe that the potential of the Single Market may be unleashed to a larger extent through better enforcement across the EU/EEA-countries.

2. DATA PROTECTION

3. The EEA EFTA States are satisfied with the way personal rights regarding personal data (or 'data protection') are ensured in the Internal Market Information System. We are pleased that the Regulation refers to the existing legislation on personal data protection, Directive 95/46/EC, even if the rapid technological developments have brought new challenges for the protection of personal data. In this respect, the EEA EFTA States believe that the additional safeguards regarding sensitive data could require some further clarification.

3. THE EXTENSION OF IMI TO NEW LEGISLATIVE AREAS

4. The EEA EFTA States note that the draft Regulation would empower the Commission to extend IMI to new legislative areas identified in Annex II by means of a delegated act. The Commission should be empowered to extend IMI only when a need for sharing data has been identified and agreed to for a specific legislative or administrative area. Such possible extensions of IMI must meet the test of necessity and proportionality before any action is taken. We recognise that any expansion of IMI to new legislative areas will have cost implications, but we support a procedure for extending the coverage of IMI to additional internal markets areas, rather than setting up separate, self-standing information exchange systems. We furthermore believe it is important to ensure that IMI's functions are adapted adequately and given the appropriate safeguards, to perform the tasks new policy areas might require.

4. TRANSPARENCY AND ACCESS TO DOCUMENTS

5. The EEA EFTA States note that Article 11(1) states that *'Each Member State shall apply its rules of professional secrecy or other equivalent duties of confidentiality to its IMI actors and IMI users, in accordance with national legislation'*. Furthermore, Article 11(2) states that *'IMI actors shall ensure that request of other IMI actors for confidential treatment of information exchange by means of IMI are complied with by IMI users working under their authority'*. The latter raises questions of transparency and access to documents. This might be a problem for some of the EEA EFTA States in light of the national law which makes it compulsory to publish certain documents for transparency purposes. We believe that this issue also could be relevant for some of the EU Member States as well.
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