

THURSDAY 13 DECEMBER 2007

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Present

Eccles of Moulton, B.  
Freeman, L. (Chairman)  
James of Blackheath, L.  
Paul, L.  
Walpole, L.

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Witnesses: **Mr Jorge Pegado Liz**, President, Single Market Observatory, **Mr Bryan Cassidy**, Vice-Chairman, Single Market Observatory, and **Mr Jean-Pierre Faure**, Head of Secretariat, Single Market Observatory, examined.

**Q415 Chairman:** We are having this meeting over lunch and, on behalf of Sub-Committee B, I would like to welcome Mr Bryan Cassidy, Mr Jorge Pegado Liz and Mr Jean-Pierre Faure to join us as our guests. I would be very grateful if I could turn to you, Bryan, first of all to put developments in a bit of a historical perspective.

**Mr Cassidy:** In a sense the big battles were fought and won some considerable time ago, beginning in 1987 with the Single European Act where the Parliament for the first time got the power to amend the European Commission proposals but then more dramatically with the launching of the single market programme in 1992 with Lord Cockfield as the Commissioner responsible, which achieved a number of giant steps in a relatively short time, taking examples which benefit consumers, the freedom of the skies, the opening up of the telecommunications market and in more recent years the opening up of mobile telecoms, which, of course, in 1992 barely figured in anyone's calculations. Compared with the heady days of 1991 we are now down to much more workaday and detailed things like consideration of the Markets in Financial Instruments Directive (MiFID) or the REACH proposal to do with the assessment of chemical products, which generate a lot of heat by people intimately

concerned with those industries, to which I would add also the Services Directive which caused the Parliament a great deal of anxiety, and indeed we ourselves because we have trade union members of our committee.

**Q416 Chairman:** A lot has been achieved. Are we nearing the end of the period of giant directives and regulations on the single market and moving more towards implementation?

**Mr Cassidy:** Yes, and hopefully towards implementation. I cannot think of major unresolved issues except that some of the things that are still on the agenda, which are for the Parliament and the Council, are giant things in their own right, and there are smaller things which are causing a great deal of anxiety, for example, 'in the country which I know best' (which is the great phrase used here) about temporary workers.

**Q417 Chairman:** Thank you. Jean-Pierre, we are all fascinated by the work of the SMO and EESC. Perhaps you would just say a brief word about that. I know Lord James has a specific question for you in just a moment.

**Mr Faure:** The Economic and Social Committee is an organ of the EU that was set up in 1957 alongside the other major institutions. It has a tripartite structure which means that it sees to it that something like interest group pluralism is pumped into this EU system. What we want is a consultative activity which is coherent, organised, visible and transparent simply because it is institutional but which does not exclude extra contacts that the Commission may want to have with interest group lobbies. This is all-inclusive, if you like; one type of consultation does not exclude the other, so what you want is pluralism, because civil society is a pluralistic concept, apart from lobbying. In this respect you allow this kind of qualitative advisory activity into the EU decision-making process. As far as the SMO is concerned, it was set up in 1994 but since 2000 we have focused increasingly on better regulation issues, again, the whole spectrum of items that you may think of in relation to this. The inter-

institutional agreement on better law-making in 2003 was in a way a starter to this, but I must say that 2005 was a key year because (a) we had the UK Presidency and one of the priorities of the UK Presidency was better regulation and, indeed, we were very actively involved in this one, as you may remember, Bryan, because we went to Whitehall and our colleagues from Whitehall came to Brussels. That is where I met Clelia and we produced an exploratory opinion at the request of the UK Presidency on better regulation, and at the same time we started mapping self- and co-regulation initiatives. 80 per cent of the initiatives collected in the database are of a self-regulatory nature while 20 per cent fall under co-regulation, so what the SMO (and by way of consequence the committee) is now about to become – and I am just back from Berlin from a conference on regulatory reform in the EU and also outside the EU – is a one-stop shop for information on self-regulation and co-regulation in particular and better regulation in general. Again, this is very important: members of the committee are representative of civil society organisations, that is, people like you, people who are active in everyday life and have a say because they know what they are talking about. We have developed a database, which is actually finalised and is up and running and will be launched formally in late February. We draft opinions involving our members, that is, civil society organisations. We organise hearings to dock on people on the ground in the various Member States, including lobbyists, and, of course, we work very closely with the Commission – DG Enterprise, DG Internal Market, the Secretariat-General, and we want to deepen our contacts with the Parliament, especially the IMCO committee and the JURI committees.

**Lord James of Blackheath:** I have expressed concern at the lack of clarity as to the control and direction of internet services provided from within Europe which may go cross-frontier to the point where they cause sociological and potentially other problems, because, and I have been thinking about this as you spoke, it is not just a question of bookmakers; we ought to extend this to the sale of sexual services and pornography as well which I think are coming

down with exactly the same problems. I would like the answer to embrace all those aspects please, because I would find it quite incredible if the European authorities were to say, “You cannot ban bookmakers from advertising but you can ban pornography from advertising”. There would be no equity in that arrangement at all, so I would seriously like an opinion from within Europe as to how this can be brought under control because both are sociological problems. Internet trading generally follows from this. There needs to be a code of practice from Europe on internet trading, which seems to be conspicuous by its absence at this time and we would like to know much more about the controls which can be applied nationally from within.

**Q418 Chairman:** It may be appropriate for the Committee to suggest that we remit this question to you.

*Mr Faure:* This is very good.

*Mr Pegado Liz:* Yes.

**Q419 Chairman:** Jorge, perhaps you could comment briefly on the Commission’s proposal to introduce some further research and perhaps initiatives in the field of SMEs, and particularly a new European small company initiative.

*Mr Pegado Liz:* I must say that I personally and the committee are studying nowadays the new initiatives of the Commission. We read attentively the new package on the single market and, in general, we found there some new initiatives of the Commission on SMEs and on consumers as well. These new initiatives, and especially a new statute for the SMEs in Europe and perhaps even some immediate new regulations on that aspect and a new policy approach, will be dealt within an opinion that we are preparing and, of course, we will be very happy to send it to you even in the state of draft because I think it is just being drafted. As soon as it is available we will send it to you.

**Chairman:** Thank you. We will be taking evidence this afternoon and Lady Eccles will be pursuing this.

**Q420 Lord Paul:** The Single Market Review says that they are going to simplify the regulations and make sure that that happens. You have given us a very nice document about improving the EU regulatory framework upstream and downstream of the legislative process, and you have mentioned that this is being done. Are we going to see a real change and also that the old regulations which exist and which are of no more value will not be applied any more?

**Mr Cassidy:** There is an increasing number of directives now that are updating existing directives and in the process of updating them there is a process of consolidation, with which, of course, you are familiar from the way we do things 'in the country we know best'. There is an increasing number of these examples where simplification is an element of consolidation. Directives have thus been piled one on top of the other, making life complicated for the end user. Here in Brussels something can be done about the upstream process. We have discovered that a lot of the concern arises from the downstream process, in other words what happens after a draft directive has gone through the Parliament and the Council and then goes to the Member States for implementation. As Roger and I know, going back to the 1990s, the Prime Minister at that time was very concerned about the process of 'gold-plating'. It still goes on and the other day in Berlin we had a presentation from someone from Sweden who identified 'gold-plating' as one of the problems that the Swedes have to cope with, so 'gold-plating' continues to be a problem. Associated with that is the fact that both at the European level and at national level part of the regulatory process is carried on behind closed doors. The Commission and the Parliament have now finally come to an agreement with the Council that the Parliament can have an oversight of something called the 'comitology procedure', the process whereby detailed regulations are drawn up, not by the Commission itself but by

national experts or national civil servants, to fill in the gaps in a Framework Directive. I think, Roger, that the same applies with Acts of Parliament, does it not?

**Q421 Chairman:** Certainly.

**Mr Cassidy:** Acts of Parliament establish the broad principle and the statutory instruments fill in the detail. In our case the comitology procedure produces Commission regulations which fill in the detail of the Framework Directive. Until recently the Parliament has not had much control over that. Downstream, of course, in Westminster, particularly the House of Commons, huge amounts of European legislation go through as statutory instruments. They are never debated on the floor of the House. I have monitored them quite carefully and I always spot the ones which are supposed to be based on European directives because in the Stationery Office daily list it always says “EC note. This regulation relates to Directive ...” et cetera. That is still going on and still causing bother, and the final point is that so much regulation in the United Kingdom and elsewhere is done by agencies, the Health and Safety Executive, for example. Another example, which I know politicians complain about is the Electoral Commission, which is nothing to do with Europe. That produces endless regulations that cause problems for active politicians. Similar things happen in other countries, not to do with the Electoral Commission but the implementation in Member States is a principal source of problems for business.

**Mr Pegado Liz:** If I may add another aspect which is very important, that is impact assessment, not only economic impact assessments but also social impact assessments. We are very keen on this and, by the way, I have seen that the United Kingdom refused to agree to the Consumer Credit Directive on the basis of it lacking an impact assessment.

**Q422 Baroness Eccles of Moulton:** And we have another example with Television Without Frontiers where the rules changed and it needed to have another impact assessment and it was not done.

*Mr Pegado Liz:* Yes, exactly.

**Chairman:** That seems an appropriate moment to conclude the formal session by thanking our guests and we hope very much to see them in the United Kingdom.