

**COMMISSION DECISION**  
**of 24 October 2005**  
**establishing an expert group on electronic commerce**  
(2005/752/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Whereas:

(1) In the framework of the Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce)<sup>(1)</sup>, the Member States were asked to appoint one or several national contact points to enhance cooperation with other Member States (Article 19.2 of the Directive).

(2) Thereafter, the First Report on the application of Directive 2000/31/EC on electronic commerce (COM(2003) 702 final of 21 November 2003) in chapter seven envisaged that the Commission will now 'focus on ensuring the practical functioning of administrative cooperation and the continuous exchange of information between the Commission and the Member States themselves'.

(3) Moreover, it is useful to give Member States the possibility to discuss problems in the application of the Directive on electronic commerce and emerging issues in the area of electronic commerce. It is also important to encourage and facilitate cooperation between them and the Commission. The Expert Group will thus provide a useful forum to exchange views on the practical implementation and application of the Directive, including information on codes of conduct drawn up by consumer and professional associations, codes of conduct on on-line advertising by regulated professions; national case law, especially related to the liability provisions; new developments mentioned in Article 21 of the Directive, such as liability of providers of hyperlinks and location tool services and 'notice and take down' procedures; and to discuss the possible scope of the subsequent evaluation reports on the application of the Directive on electronic commerce.

(4) Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation)<sup>(2)</sup> establishes a network of public authorities responsible for the protection of consumers economic interests, partially harmonises their investigation and enforcement powers and provides mutual assistance arrangements between them. The provisions of Directive 2000/31/EC that protect consumers' economic interests enter within the scope of the Regulation. It is appropriate that the Committee set up for the implementation of Regulation (EC) No 2006/2004 regularly informs the Expert group on electronic commerce about its activities which may be relevant for the latter,

HAS DECIDED AS FOLLOWS:

*Article 1*

An expert group on electronic commerce (hereinafter referred to as the Group) is established.

*Article 2*

**Mission**

The Commission can consult the Group on any questions relating to the directive on electronic commerce. This covers, among others, the following areas:

- administrative cooperation in the context of Article 3(4) to (6) procedure to restrict the freedom to provide services against a given information society service provider,
- information on codes of conduct drawn up at Community level by trade, professional and consumer associations or organisations, designed to contribute to the proper implementation of Articles 5 to 15 of the Directive (Article 16 of the Directive),
- codes of conduct on on-line advertising by regulated professions (Article 8 of the Directive),
- national case law, especially related to the liability provisions, including decisions taken in out-of-court dispute settlement (Articles 17 and 19(5) of the Directive),

<sup>(1)</sup> OJ L 178, 17.7.2000, p. 1.

<sup>(2)</sup> OJ L 364, 9.12.2004, p. 1.

- areas currently outside the scope of the liability section of the Directive but referred to in Article 21, such as: 'notice and take down' procedures, hyperlinks and search engines,
- scope of the subsequent evaluation reports on the application of the Directive on electronic commerce (Article 21 of the Directive).

The chairman of the Group may suggest that the Commission consults the Group on any related matter.

Administrative cooperation matters that also fall within the scope of Regulation (EC) No 2006/2004 concerning the provisions of Directive 2000/31/EC that protect consumers' interests should also be dealt with by the Committee set up for the implementation of Regulation (EC) No 2006/2004. The latter will regularly keep the Expert Group informed.

#### Article 3

##### Composition — nomination

1. The members of the group should be national contact points appointed under Article 19(2) of the Directive on electronic commerce (one member per Member State) and representatives of the Commission.
2. The Group comprises the number of members corresponding to the number of Member States of the European Community and representatives of the Commission.
3. Members remain in function until their replacement or until the end of their mandate.
4. Members who are not capable anymore to contribute efficiently to the works of the group, who resign or who do not respect the conditions outlined under Article 3(1) or Article 287 of the Treaty, may be replaced by an alternative Member, for the remaining duration of their mandate.

#### Article 4

##### Functioning

The Group shall be chaired by a representative of the Commission.

The Group, in agreement with the Commission, may set up working groups to study specific subjects on the basis of a mandate. The working groups will be dissolved as soon as their mandates are fulfilled.

The Commission may invite experts and observers with specific knowledge to participate in the work of the Group and/or of the working groups.

Information obtained during the works of the group or of the sub-groups may not be disseminated if the Commission is of the opinion they are confidential.

The expert group on electronic commerce shall adopt agreed rules of procedure on the basis of a model adopted by the Commission (Annex III of SEC(2005) 1004).

#### Article 5

##### Meetings

The Group and the sub-groups shall normally meet at the Commission premises, in the form and according to the timetable determined by the Commission.

The Secretariat of the Group shall be provided by the Commission. Interested staff members from the Commission may be present at meetings of the Group and of the working groups and may take part in the debates.

The Commission may publish on the Internet, in the original language of the document concerned, any conclusion, summary, part conclusion or working paper relating to the Group or its working groups.

#### Article 6

##### Meeting expenses

Travel and subsistence expenses incurred by members, observers and experts, in connection with the activities of the Group, shall be reimbursed by the Commission in accordance with the provisions in force within the Commission. Their functions shall not be remunerated.

#### Article 7

##### Entry into force

This decision shall apply from the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 24 October 2005.

For the Commission  
Charlie McCREEVY  
Member of the Commission