CPME response

Public consultation on the future of electronic commerce in the internal market and the implementation of the Directive on electronic commerce (2000/31/EC)

The Standing Committee of European Doctors (CPME) aims to promote the highest standards of medical training and medical practice in order to achieve the highest quality of health care for all patients in Europe.

CPME is also concerned with the promotion of public health, the relationship between patients and doctors and the free movement of doctors within the European Union.

CPME represents the National Medical Associations of 27 countries in Europe and works closely with the National Medical Associations of countries that have applied for EU membership as well as specialized European medical associations.

CPME welcomes the opportunity to reply to the public consultation on the future of eCommerce in the internal market and the implementation of Directive 2000/31. In its response, the CPME focuses on key issues of the consultation with relevance to the medical profession.

Question 19: What are your views on the growth of the economic development of electronic commerce and information society services in Europe, in general and compared to its most important competitors?

eCommerce has experienced a remarkable development over the past decade. For the healthcare sector equally significant changes could be seen. The relevance of eHealth and telemedicine continues to increase rapidly.

CPME has long-since contributed to EU-level policy initiatives working towards the creation of a responsible, safe and interoperable environment for the exchange of medical information through information society services across Europe. In this process, the safeguarding of patient safety and quality of care is our leading principle, as we believe that eHealth services should adhere to the same clinical and ethical standards as traditional medical services.

Against this background, we are concerned whether the current Directive on eCommerce can comply with these requirements.

Firstly, we would like to emphasise that the practice of medicine is neither a commerce nor a trade and the rules governing medical services may therefore not be equated to those for the provision of services in other sectors. In the interest of patient safety and quality of care, CPME favours a restrictive interpretation of the Directive when applied to the provision of medical services.

As stated at the time of the Directive’s negotiation, one of our main concerns is the ‘country of origin’ principle enshrined in Art. 3(1) and (2). The application of this principle to the healthcare sector is contrary to the reasoning behind the legislative framework that governs the provision of cross-border medical services and poses a grave danger to the safety of patients. Not only the well-established legislation on access to the medical profession and practice (e.g. Directive 2005/36/EC on the recognition of professional qualifications), but also the current proposal for a Directive on patients’ rights in cross-border healthcare (COM (2008)414 final) stipulate that the ethical and clinical standards applicable to the provision of
healthcare are those of the Member State in which the service is provided in. This principle is intended to ensure legal certainty and transparency as to the quality of care for patients. Art. 3(1) and (2) undermine this certainty.
CPME therefore continues to call for the provision of medical services to be given a special position within the Directive beyond the option set out in Art. 3(4) by granting it a derogation in the Annex.

Question 37: In your view, are there other rules or practices which hinder the provision or take-up of cross-border on-line services? If so, which?

CPME calls for the creation of and support for effective measures to ensure patient safety in cross-border care by facilitating the electronic transfer of patient data. CPME underlines the need for secure systems that safeguard confidentiality and treat relevant medical information only. Furthermore, it is essential that the patient’s prior consent is given and that the transfer of data is carried out for medical purposes only.

Question 44: Are you aware of codes of conduct covering on-line commercial communications for certain regulated professions in one or more Member State(s)? If so, please specify.

CPME adopted the ‘European Good Practice Guide for Publicity Relating to Physicians’ Professional Practice on the Net’ in 2002 (CPME 2002/028) which sets out recommendations for members and encourages the drafting of national guidelines in accordance with the principles and, at minimum, adhering to the standards of the Guide. These address:
1. Identity of the service provider
2. Registration status with professional bodies
3. Diplomas and professional qualifications
4. Access and on-call services
5. Partners/Associates
6. Fees
7. Technology and medical equipment