

**e-invoicing and e-archiving: Update on the
legal status and practices in the EU**
eema Legal Seminar 2005
22-23 November 2005



Venue:

Lawfort Brussels, Woluwedal 20, B-1932 Zaventem-Brussels

Programme

Day One: 22 November

e-Invoicing

10:30	Short introduction on the EU legal framework	<i>Prof. Dr. Jos Dumortier, K.U. Leuven - ICRI/Of Counsel, Lawfort</i>
11:00	e-Invoicing by EDI in a large business organisation	<i>Ludwig Wouters, Founder and General Manager, TIE (Porthus Group)</i>
11:30	e-Invoicing by advanced electronic signatures and experiences as an e-invoice service provider	<i>Edwin Jacobs, Company Lawyer/Eddy Boogaerts, Finance Director, Isabel</i>
12:00	Outsourcing of electronic invoicing	<i>Anthony Belpaire, Head of Product Management, Certipost</i>
12:30 Lunch		
13:30	Legal status and practices regarding e-invoicing in selected member states: <ul style="list-style-type: none"> • Germany • The Netherlands/France/Sweden 	<ul style="list-style-type: none"> • <i>Andreas Ziska, Head of Business Development, D-Trust</i> • <i>Christiaan van der Valk, Vice President Compliance, TrustWeaver</i>
15:30	Status of the European e-invoicing standardisation initiative	<i>Stefan Engel-Flechsig, Chairman of CEN/ISSS e-Invoicing Focus Group</i>
16:00 Coffee		
16:30	Legal and practical obstacles for cross-border e-invoicing in Europe	<i>Marc Joostens, Senior Manager, PriceWaterhouseCoopers</i>
17.00	Discussion	

Evening Entertainment:

19:00 Dinner

Day Two: 23 November**e-Archiving**

09:00	Introduction	<i>Prof. Dr. Jos Dumortier</i>
09.10	A perspective of the business case for archiving	<i>Frans King, Global Messaging Director, Unilever</i>
09:30	Technological and organisational issues surrounding digital archives	<i>Filip Boudrez, e-David</i>
10:00	Moving from traditional to digital archival services	<i>Hartmut Wagner, IronMountain</i>
10:30 Coffee		
11:00	Assuring legal authenticity requirements in a digital environment	<i>Hannelore Dekeyser, K.U. Leuven - ICRI</i>
11:30	e-Archiving and information life cycle management: A vision	<i>Wilbert Hawinkel, EMC²</i>
12:00	Introduction and discussion to the eema paper on Business Guidelines for e-mail Archiving – led by Johan Stronghorse Strong Horse BV (Chair of eema Benelux RIG)	
12:30 Lunch		
14:00	e-Mail archiving and ‘compliance’	<i>Len Hawkes, Solicitor</i>
14:30	Legal status of trusted archival service providers in Europe	<i>Prof. Dr. Jos Dumortier/Hans Graux</i>
15.00	Overview of relevant standards and standardisation initiatives	<i>Speaker to be confirmed</i>
15.30	Discussion and conclusions	
16:00 Seminar ends		

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eema Legal Workshop Report
e-Invoicing/e-Archiving: an update on the legal status
and practices in Europe
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The Objectives

The **eema** Legal Workshop 2005 was hosted by the Brussels law firm Lawfort and sponsored by the two main Belgian e-invoicing service providers: Isabel and Certipost. As Professor Dumortier, chairman of **eema's** Legal Interest Group and Workshop chair pointed out in his introduction, the objective was twofold:

- to get a clearer view of the implementation of the European E-Invoicing Directive in the different Member States from a legal and practical perspective; and to draw conclusions from that about the possibilities of cross-border electronic invoicing in Europe.
- to report on the status of electronic archiving from a technical, business and legal point of view.

Day 1. Electronic Invoicing

According to the European Electronic Invoicing Directive, which had to be implemented by Member States before January 1 2004, any company may send invoices in electronic format if its business partners agree to receive them. The authenticity and integrity of the invoices must be guaranteed by way of either secure EDI or advanced electronic signatures (secure PKI-based signatures).

In his introductory presentation on EDI, Ludwig Wouters from the Porthus Group clarified a whole series of misunderstandings about EDI. In the context of e-invoicing EDI has to be understood in a wide sense as: 'the automated transfer of structured data between applications, running on different platforms and architectures, following general and global agreements'. As such it leaves the way open for choosing between many different standards and solutions, not only for the content and structure of the data (for example: XML) but also for its transport (for example: FTP). It can therefore be considered a perfect, future-oriented solution for electronic invoicing.

Edwin Jacobs and Eddy Bogaerts from Isabel presented the experience of an e-invoice sender and service provider using a solution based on advanced electronic signatures. In 2004 Isabel first introduced e-invoicing for its own invoices (540,000 invoices per year) to its customers (Isabel provides secure network services in the financial sector). Those customers were instructed how to handle and archive electronic invoices. During a transition period they received the invoices both in paper format and electronically. From 2005 onwards Isabel started to persuade its larger customers (such as Fortis, Randstand, etc.) to introduce e-invoicing for their own customers using the Isabel e-invoicing platform. This 'broadcasting' strategy resulted in more than 42.000 companies adopting electronic invoices in less than one year!

Antony Belpaire presented the experience of Certipost, the second main e-invoice service provider in Belgium. Unlike Isabel, Certipost provides an e-invoicing solution as part of an outsourced services platform (CertiONE) which additionally integrates centralised solutions for electronic ordering, e-billing and e-supply.

Andreas Ziska (D-Trust) gave an overview of the German approach. In Germany, the regulatory requirements for e-invoicing are among the strictest in Europe. Electronic invoices have to be signed with qualified electronic signatures (except when using EDI and collective invoices). Systems for the conveyance, archiving and conversion of electronic invoices must be set up according to the 'General Accepted Accounting Principles' and there is a legal obligation to document the whole process. Typically in Germany it is a requirement that, in accordance with the 'Principles for Data Access and Verifiability of Digital Documents', all electronic invoices have to be automatically machine-readable by the tax authorities. Other requirements are the archiving of the original (and converted version); storage of the signature key and encryption key if used;

the storage of the qualified certificate of the sender; and the archiving of the bill for 10 years. Every solution therefore has to take account of a very complex legal scenario. One such system is a complete end-to-end outsourced solution as provided by D-Trust.

Christiaan van der Valk (Trustweaver) presented an overview of the transposition of the European E-Invoicing Directive in Sweden, The Netherlands and France. Sweden (and the other Scandinavian countries) traditionally have a very informal approach towards invoicing, and have some difficulty getting to grips with the strict requirements of the European Directive. They have therefore tried to implement them in a somewhat minimalist manner. France and The Netherlands have introduced a more comprehensive but workable framework, with a fair balance between EDI and advanced electronic signatures.

The European standardisation body CEN/ISSS has set up a permanent workshop for the development of European standards for e-invoicing. Mr. El Houry, who acts as the technical editor for the CEN Workshop reported on the status of the activities in this forum.

The last speaker of the first day was Marc Joostens from Price Waterhouse Coopers. PwC very recently published a survey about e-invoicing. More than 25% of the respondents declared that they already used e-invoicing with their customers and/or suppliers and some 30% said their companies would introduce electronic invoicing within the next 12 months. The speaker pieced together information on the regulatory situation in all EU Member States and drew interesting conclusions regarding the possibilities of cross-border e-invoicing.

Summary

The most important characteristic of the first day was the exceptionally high degree of interactivity. Participants from a wide range of European countries (eg Turkey, Slovakia, Poland, Greece, Italy, France, Sweden, Bulgaria, Romania, etc) frequently contributed with reports of the legal status and practices in their own countries. The discussions were intensive and everybody agreed that the first day of the workshop had provided an excellent insight into the legal and practical situation regarding electronic invoicing in Europe.

The first day finished with a visit to the Brussels comic-strip museum (which was exclusively reserved for **eema**) where a conference dinner was enjoyed by all.

Day 2: e-Archiving

The second day of the workshop was dedicated to electronic archiving. It started with a report on the experience of Unilever (by Franz King). The report demonstrated that large international business organisations are confronted with an explosion of e-mail and have a problem keeping the volume of e-mail messages and attachments under control. The solutions they adopt are often designed to cope with immediate needs, without taking a long-term perspective or bothering much about legal constraints.

The presentation given by John Iball (Iron Mountain) taught us how a global player in the traditional archiving business starts to move into providing solutions for electronic archiving. The conclusion was that there is still an important gap between solutions currently on the market and the needs of business. It was therefore interesting to listen to the input of the archiving professional, Filip Boudrez (City of Antwerp Archives), who presented basic technical and organisational issues related to electronic archiving. He convinced the audience of the need for metadata to be able to restore the information contained in, for example, an e-mail message. A very important aspect of his presentation was the distinction made between preservation of bits and bytes, and archiving information. Two basic strategies were explained: migration and emulation, and the conclusion was that both should probably be combined. The speaker presented the solutions developed in the framework of the DAVID project (carried out by researchers of the University of Leuven and the City of Antwerp Archives).

Hannelore Dekeyser (ICRI, KU Leuven) presented the most important legal issues regarding digital archiving, in particular the preservation of the authenticity of legally relevant documents. One particular problem is how to marry the use of electronic signatures with rapid technological obsolescence. Wilbert Hawinkel (EMC²) opened the doors of the research laboratory in this area and gave the audience a view on the longer-term perspective. Research and development efforts are focusing on finding user-friendly solutions for archiving information in a networked environment.

The workshop ended with short presentations and discussions on the **eema** strategy paper on e-mail archiving (Johan Stronkhorst); the legal issues of e-mail archiving (Len Hawkes); the legal status of archival providers (Jos Dumortier); and the issue of standardisation in digital archiving (various participants). In a similar vein to the first day, the sessions were highly interactive with intense and stimulating discussions. The evaluation reports collected have demonstrated that the two days were very much appreciated by all participants.



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