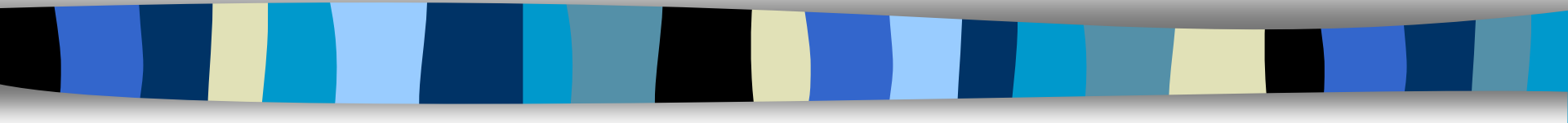


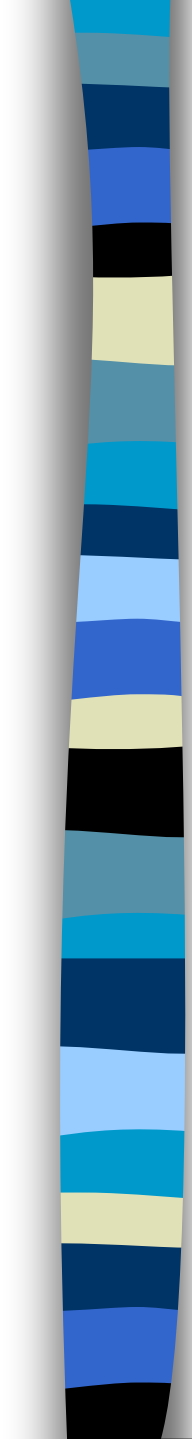
discrimination in goods, facilities and services

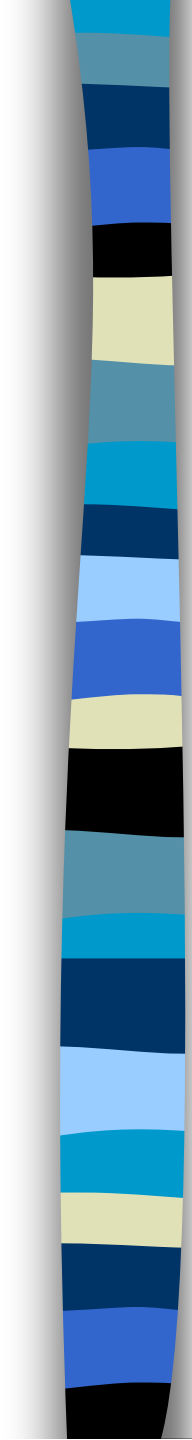


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the legal framework



- 
- Directive 2000/43 (race/ethnicity)
 - Directive 2004/113 (gender)
 - proposed Directive on sexual orientation/ religion and belief/ disability/ age

- 
- very little litigation to date on goods and services
 - why?
 - costs and risks of litigation;
 - relatively low stakes;
 - ignorance of the law;
 - relative unavailability of “representative actions”



findings on Directive 2004/113

- *Sex-segregated Services*
(December 2008)
- *Sex Discrimination in the Access to and Supply of Goods and Services and the Transposition of Directive 2004/113/EC* (July 2009)



summary of findings

- problems of transposition
 - definitions (or lack of definitions) of “goods” and “services”
 - uncertainty
 - complexity
 - problems of “fit” with national legislation



issues arising

- material scope:
 - exclusion of education,
 - content of advertising/ media
- permitted differential treatment
 - positive action
 - sex segregated services
 - financial services



extent of differential treatment

- general
- insurance/ finance
- pregnancy-related
- sex-segregated services
- sex-related pricing



sex-segregated services/ pricing

- extent
- nature
- rationale
 - decency
 - safety etc
 - counteracting stereotypes
 - sex as a proxy
 - services with a sexual component
 - differential exercise of skill
 - social reasons



proposed Directive

■ material scope

- social protection, including social security and health care, social advantages, education, access to and supply of public goods and services including housing

■ “within the limits of the powers conferred upon the European Community”



proposed directive

- definitions of discrimination
 - inclusion of harassment
 - denial of reasonable accommodation
- permitted differential treatment
 - age
 - financial services
 - religious schools



core questions

- defensible grounds? – religion or belief
- regulation of “harassment”
- proper approach to “discrimination”
- defensible hierarchy?
- intersecting grounds
- enforcement