

UNIVERSAL SERVICE PRINCIPLES IN E-COMMUNICATIONS

QUESTIONNAIRE FOR THE PUBLIC CONSULTATION

BEUC's answer

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BEUC, the European Consumers Organisation, is a federation of 41 national and independent consumer organizations from 30 European countries. Our task is to defend consumer interests towards the European Policy makers.

Summary

- With the "Granada Ministerial Declaration" and the forthcoming digital agenda for Europe and the broadband strategy, the political decision to have 100% broadband coverage for all by 2013, has been taken. The question is now how this objective can be put into practice and even more important, how we move from access to take up. Given that over broadband services like banking, communication, health or governmental communication can be done cost-effectively, a universal use of broadband means in practice the possibility to have a universal service for basic bank account, communication and many more services.
- Over the last decades, the telecommunication sector has witnessed rapid and positive changes, making the current concept of universal service obligation outdated. The concept firstly needs to address usage and take-up. In order to do so, digital and media literacy need to be included in the concept, to allow the less literate to use broadband.
- Secondly, including broadband in the scope of the universal service will advance put flesh to the bone of the political goal of broadband for all. At EU level, this objective has to be spelled out, while leaving the implementation and concrete quality objectives such as upload and download speeds or latency, up to the member states.
- BEUC also highlights that the universal service instrument should be supplemented with competition policies and rules around use of public funds. As far as competition is concerned, the national regulatory authorities should pursue rigorously pro-competitive policies both in the classical copper as in the new fiber environments. As far as state aid policies are concerned, BEUC supports the commission in its efforts to be able to use structural funds and recovery funds for broadband deployments and in its recent clarification on the involvement of local and national authorities in the roll-out of high speed broadband.
- As far as the financing is concerned, BEUC finds the current mechanism sound. The Altmark ruling is still valid and provides a sound framework for providing compensation in the case of universal service. Given that current broadband offers are sold without subsidies from content providers, BEUC estimates that including them in the financing mechanism would distort the market. On a more fundamental level, it would endanger the end-to-end connectivity which has been the power and innovative driver of the internet. The difficulties of concluding the latest reform of the telecommunications sector shows that a decision in that sense should not be taken lightly.

100% broadband coverage by 2013

ICT services have become central to consumer's and citizen's life for personal but more and more professional life: Finding work or contacting our governments has been greatly simplified by the use of online services. Furthermore, ICT are given a central place in addressing future challenges such as the aging of our consumer population or the immense threat that global warming means. Equally important is the fact that ICT services, based on 100% availability and use of internet, constitute a universal service for other sector. A universal basic banking account can be delivered in a cost effective way through the internet.

In that context, the Council has adopted the political goal of ensuring 100% coverage of basic broadband to all citizens by 2013 and to promote the wide take-up of high speed broadband by 2020 in its "Granada Ministerial Declaration"¹. Furthermore, the ministers also highlighted the need to stimulate the use of ICT. The declaration anticipates the Commission's Communication on Europe's digital agenda which will address broadband for all as well. Equally ambitious goals on broadband coverage and uptake will be included in the forthcoming broadband strategy. Furthermore, it is widely expected that the Commission will also address the need to further increase digital and media literacy². The political decision to ensure 100% coverage by 2013, to advance rapidly on the up-take of high speed broadband and to address digital and media literacy has thus in practice been taken.

BEUC has drafted its own digital agenda, highlighting the need to ensure high-speed broadband markets remain competitive. Furthermore, we have highlighted the need to include broadband in the scope of the universal service³. BEUC has also highlighted the need for competitive forces when rolling out the next generation networks⁴.

Within this context, the question is thus how to adapt the universal service so that it ensures 100% coverage of broadband by 2013, while at the same time not endanger the roll-out of high speed network and promoting digital and media literacy. It is through this angle that BEUC will answer the questions put up for public consultation.

¹ Granada Ministerial Declaration on the European Digital Agenda: Agreed on 19th April 2010.

² Forthcoming Communication from the Commission to the European parliament, the council, the European economic and social committee and the committee of the regions: a digital agenda for Europe.

³ BEUC digital agenda 2010-2014.

⁴ New generation access networks - BEUC statement on second consultation on draft recommendation BEUC X/057/2009.

Questions of the consultation

1. Update the concept of universal service to include digital and media literacy

Question 1: In today's competitive environment, can the market be relied on to meet demand for basic e-communications services from all sections of society, thereby ensuring social inclusiveness?

Question 2: If not, what is the best policy to allow disabled consumers, those on low incomes and those living in geographically remote or isolated areas to access and use basic e-communications services?

BEUC finds that the market has only partially delivered access and use of basic telecommunication services. Information from our German member makes this very clear:

"The German national regulatory authority Bundesnetzagentur first tried to motivate net providers to offer voluntarily a special telecommunication service for deaf and visually impaired people. Unfortunately, it didn't work so that in the end and after long bilateral discussions, the regulator had to impose a formal obligation.

As far as the difference between urban and rural areas is concerned, the investments are based on economic principles. As figures from the Commission services show, only 77% of users in rural areas can access broadband services. Furthermore, as information from BEUC's members indicate, low income consumers are much less likely to access and use broadband services. As is nevertheless clear from the questions put to forward, the Commission is aware of the need to address broadband specifically. We will therefore detail our answer on broadband below.

Case study: Low income users in the UK (From our member Consumer Focus)

A report by Price Waterhouse Cooper commissioned by the Digital Inclusion Taskforce in the UK, concluded that¹:

- Digitally excluded families are missing out on savings of £560 per year from shopping and paying bills online;
- The most economically disadvantaged families are missing out on savings;
- The most economically disadvantaged families are missing out on savings of over £1 billion;
- 1.6 million children in digitally excluded families could increase their lifetime earnings by £10.8 billion.

The best way forward is to update the concept of the universal service but taking into account the social and economic starting points. (See answers to questions 5 and 6). Since the time that the concept of universal service was established in EU law, the telecommunication sector has undergone a spectacular and positive change. While the idea of providing a safety net is still very much valid, the concrete way to do so has been outdated. Technological change has brought digital and media literacy to the forefront. **BEUC calls on the commission to include digital and media literacy in the concept of universal service so that the provisions foreseen in the universal service and users' rights directive**

apply⁵. By doing so, the concept of the universal service will become holistic and aimed not only at accessing a service, but also to the use of the service.

A basic part of accessing and using a service is still affordability. As our UK member Consumer focus notes, several studies in the UK have found that affordability is an important barrier.⁶⁷ It is important to note that affordability concerns not only the costs of equipment and ongoing service but also issues related to consumer protection that may exacerbate overall costs. Those include poor quality of service, lack of transparency about the costs and quality of service, lock in lengthy contracts, poor customer services, lack of interoperability of products and equipment.

As to social tariffs for telecommunication services, our Belgian member Test-Achats calls for a reduction in the form of a percentage (for example: 50% of the normal rate) which can change with eventual price adaptations rather than having a price fixed by the authorities⁸. These reductions should be applied to all the standard tariffs offered by an operator which will allow the social tariff to be the lowest in the market

But, apart from pure affordability issues, the take up of services is much more complex. Usability of equipment and software also poses a significant barrier. Consumers need the skills and confidence to become 'digital and media literate'. Trust is crucial in this respect. The commission can drive the process through its Digital Agenda 2010-2015 and allocating more funding, for example through European Structural Fund. Understanding and skills acquisition should also be assisted by the design of equipment, services and products so that they are easy to use and follow certain standards.

The need for a more holistic approach to the universal service concept is highlighted in very recent work, again by Consumer Focus. Their recent study on low income consumers' attitudes to broadband "Broadband Minded" shows that the reason for not taking up broadband includes:⁹

- A fear that the internet may undermine face to face communication with friends and family;
- Concerns over online security and privacy;
- Age: elder people are less interested.

The Commission services have done an important amount of work in this sense already and we are confident that once the will is present to include literacy as a concept in the universal service, the commission can easily do so¹⁰. The

⁵ Art. 9 and art. 10 of DIRECTIVE 2009/136/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws.

⁶ Communication Consumer Panel, Not online, not included, June 2009.

⁷ Age Concern, Introducing another world: older people and digital inclusion, September 2009.

⁸ <http://www.ibpt.be/ShowContent.aspx?levelID=196&objectID=1042&lang=fr&forLang=en>

⁹ Jillian Pitt, Broadband Minded? Overcoming consumers' barriers to internet access, Consumer Focus, March 2010.

¹⁰ See for example: eInclusion Communication (COM(2007) 694 final); Digital Literacy Report: a review for the i2010 eInclusion Initiative European commission staff working document; Digital Literacy: High-

recommendation of the digital literacy high- expert group set up by the commission provides a case point that the Commission itself understands the issue and has the necessary studies available. The recommendation states:

"Although the question of access remains relevant, it is now increasingly important to consider motivation as a key driver to engage individuals in the use of technology and to keep their digital literacy skills up-to-date."

3.2. Broadband

- Question 3:** Broadband for all is a widely-stated policy objective at national and European level. What role if any should universal service play in meeting this objective?
- Question 4:** What impacts could an extension of the role of universal service to advance broadband development have in relation to other EU and national policies and measures to achieve full broadband coverage in the EU? What other impacts would be likely to arise regarding competition, the single market, competitiveness, investment, innovation, employment and the environment?
- Question 5:** If universal service obligations should prove necessary to achieve the policy objective of broadband for all, at what level (EU or national) should such obligations be defined, taking into account the different levels of market development across the current Union of 27 Member States?
- Question 6:** If a common harmonised universal service needs to be defined at EU level, should a mechanism be put in place to balance the need for national flexibility and a coherent and coordinated approach in the EU?

BEUC finds the universal service an appropriate instrument to ensure broadband is available and used by all and as such, it should be introduced in the scope of the universal service. Access should be considered in the light of the current technological evolution and societal habits. Nevertheless, increasing competition in the telecommunications markets should be continued rigorously as there remain important differences between member states in terms of prices to broadband access. As we have stated in our comments on the review of the regulatory framework, the role of regulators is crucial. Access to broadband at competitive prices is very much ensured by local loop unbundling, especially in areas where competition based on infrastructure is problematic. BEUC members regularly compare the internet offers in a sample of EU member states and important price differences are noted, due to a lack of competition.

In addition to competition, broadband needs to be stimulated through other instruments like the universal service as many services are now exclusively available online.

Level Expert Group Recommendations; Study "Digital Literacy Review - Public policies and stakeholder initiatives in support of Digital Literacy" (2009).

Case study: Services only available on internet in Germany (From VZBV)

- Exclusive offers, cheap flights; theater – and similar tickets for special events, no-frills mobile contracts, attractive interest rates of private banks ONLY accessible through internet
- Future regular data exchange to allow a more effective and climate preserving use of electrical energy (see: smart grids resp. smart metering).
- Extensive software updates to enhance the security of the private and commercial internet communication are delivered today online only.
- Changed behavior in media use of specific social groups which are increasingly using the internet only for their information and entertainment needs.
- Growing number of public online services of all kind. The intention here is to reduce administration costs and to make it easier for the citizens and the economy to access important public services such as tax declaration, residence or car registration without personal appearance.

We are nevertheless aware of the wide differences within the European Union. Our Danish member, Forbrugerradet highlights that the access and take up of broadband in Denmark is amongst the best in the world. 99% of all households in Denmark have the possibility of an ADSL connection (2007 figures). Our Danish member nevertheless states that when it comes to the service, the picture is less impressive. At the end of 2007 70% of all broadband connections had a downstream capacity of at least 2 Mbit/s while in the middle of 2007 no one had an upstream capacity of more than 144 Kbit/s. The government now has its focus on upstream capacity being more and more relevant as consumers start to send data and not just receive data, e.g. because of peer-to-peer-technology.

Allowing a high degree of flexibility is therefore crucial. At EU level the policy objective to have a universal service in broadband should be stated. This is in line with the objectives of the EU to advance economic and social development, to include all in social, cultural and economic activities. Member states should then define how this objective relates to the specificities of the country, as they actually currently already do. The UK government has committed to a speed of 2Mbit/sec, Ireland, in its National Broadband scheme has committed to a speed of 1.2Mbit/sec, in Germany a speed of 1Mbit/sec is foreseen and in France a speed of at least 512Mbit/sec has been stated. Given the technological evolution, BEUC finds that the EU should commit to a minimum speed of 2Mbit/sec as a universal service at this stage and much higher service quality, including not only speed but also latency, at a later stage.

When moving beyond those speeds, BEUC favours open and competitive networks. We have highlighted in our comment to the public consultation on regulated access to Next Generation Access networks the importance to allow all operators to access network in order to have a wide choice of services for consumers. Transparency and non-discrimination are key words in this respect.¹¹

¹¹ See 4 supra.

Our German member highlights that the inclusion of broadband should be seen in the context of ongoing increases in speed and reduction of providers of those very high speed services, which highlights the need to apply open models to the next generation models. This open model is not only in providing the infrastructure, but equally in providing the services, i.e. ensuring the networks are neutral.

3.3. Financing of universal service

Question 7: Irrespective of the scope of universal service, are mechanisms whereby funding is provided by the sector appropriate in the context of a regulatory environment that seeks to eliminate distortions of competition and promote market entry?

Question 8: In the context of the roll-out of broadband in Europe, is it still appropriate to limit the financial arrangements of universal service to market players in the e-communications sector, while this provision would have wide-ranging benefits outside the sector, for instance, the delivery of information society services and digital content? Are other means of financing more appropriate?

Over the years, the European Union has developed a clear thinking in relation to the financing of universal services. Universal service can be ensured by designating a universal service provider through transparent and objective procedures and compensating for any net losses that are incurred from the provision of the universal service. In this respect, the principles set out in the Altmark judgement of the European Court of Justice apply.¹²

BEUC believes that at this stage, the financing of the universal service should be done by the telecommunications sector and if the obligation results in a net loss, the provider should be compensated for it. The market currently also provides broadband service without including the benefits for content providers or other companies. It is essential to consider the internet as an end-to-end connectivity network, aimed at delivering the information packages in a neutral way, without interference in the kind of services, applications or content. This will guarantee the openness of the internet and its capacity to innovate. In the current business models, other sectors are not taxed and as such we very much oppose any extension of the players to be taxed. BEUC understands the appeal of it, but finds the dangers enormous as it questions the basic and fundamental openness of the internet. Furthermore, in practice, it will be very difficult to design “universal social network providers” or “universal VoIP providers” or “universal music video providers” to name just a few services.

On that same point, our German member VZBV notes: *“Because of our clear demand for a wide reaching net neutrality concerning the access to services of all kind we do not support or accept demands of network operators that services and content providers shall have to pay for the use of the networks depending on the volume of data they deliver. From our point of view such an unbalanced financing system will lead to an unfair competition at content/ services level and will endanger net neutrality and the free choice of the consumer.”*

¹² Judgement of the ECJ, C280 of 24 July 2003.

When discussing the roll-out of high speed broadband, BEUC thinks that using public funding is the appropriate way forward. We support the Commission's policy to use the European Structural Funds to facilitate roll out of broadband to areas that are at risk of digital exclusion. In the UK, the scheme has already benefited some parts of rural Wales and north and west parts of rural Scotland from improvement in a delivery of high speed internet connection.¹³

Berkman, in a study of February 2010, highlighted the role which continuous public funding has played in bringing Japan, Korea and Sweden in a leading position in terms of internet speed. We support the Commission in facilitating public funding for the roll-out of high speed internet and extending the reach of broadband to underserved and sparsely populated areas in the work it does on state.

¹³ <http://www.walesonline.co.uk/business-in-wales/business-columnists/2010/03/06/opportunity-for-a-broadband-plan-to-transform-rural-wales-91466-25972530/>