



UNICE

Union of Industrial and Employers' Confederations of Europe
Union des Confédérations de l'Industrie et des Employeurs d'Europe

eEUROPE

An Information Society for All

**Communication on a Commission Initiative for
the Special European Council of Lisbon, 23-24 March 2000**

UNICE preliminary comments

Brussels, 9 March 2000

Executive Summary

- ◆ UNICE agrees about the urgent need to modernise the European economy for the digital age in a manner which promotes sustainable growth and employment, whilst shaping new forms of subsidiarity, self-regulation and networked e-governance.
- ◆ This move towards the information society and e-economy is expected to transform the business and trade environment radically within the EU as well as globally. The new economy will drive a stimulating and modernising shock wave through society at large. In particular, the new economy is of paramount importance for Europe's economic growth, new employment and competitiveness.
- ◆ UNICE therefore supports the “eEurope” Communication by the Commission, together with other recent e-initiatives by the Commission and the Portuguese Presidency to stimulate expansion of the information society.
- ◆ Europe is a world leader in mobile communication and digital television, but lagging behind in other key areas of the information revolution, with profound consequences for economic growth and employment in all sectors. UNICE welcomes the eEurope initiative as recognition of this situation.
- ◆ Due to the strategic importance of the digital economy, Europe should play a commensurate political, economic and cultural role in internet governance if it wants to retain its identity. It must ensure that European and global representative procedures are accessible and transparent for all stakeholders.
- ◆ UNICE urges Heads of State at the eEurope Lisbon Summit to concentrate on key priorities to deliver on perspectives for the intended e-economy transformation. The ten e-policy areas of the Presidency document for the Lisbon Summit supplement the ten priorities of the eEurope Communication. However, these policy areas have to be streamlined for clarity.
- ◆ The envisaged concise Lisbon action plan should be limited to the essential. The action plan should not only identify specific benchmarks, but also set realistic timetables to speed up implementation of a competitive regulatory framework to support e-economy development.
- ◆ To achieve this, the **three key priority issues** for UNICE are:
 - Creation of a constraint-free **e-commerce regulatory framework**, adapted to the needs of users and providers alike, measured by concrete economic benefits,
 - Facilitating **internet access and local loop unbundling**, measured by implementation of the 1999 communications review,
 - Recognition of the importance of **life-long learning and ICT skills upgrading** adapted to the new economy, measured by benchmarks on digital literacy.

- ◆ In the build-up to the Lisbon Summit, e-policy priorities as set out in the Presidency document, the eEurope Communication or elsewhere should be further streamlined to clarify the primacy of eEurope encompassing existing economic and social reform processes.

*

1. eEurope shaping

UNICE welcomes the “eEurope” Communication by the Commission¹ as well as the complementary Portuguese Presidency document². Major eEurope initiatives, including the 1999 communications review³,

- send positive signals and constitute a sign for modernisation and re-shaping of a networked Europe, highlight the challenges posed by globalisation and take a stand in favour of sustainable technology and innovation,
- advocate a pro-active strategy to improve regulatory framework conditions, self-regulation, and exploitation of the potential for innovation and knowledge in the EU,
- recognise adequate sustainable economic growth as a necessary condition for reaching other objectives such as achieving high employment levels and safeguarding the social protection system,
- see development of a knowledge-based, widely digital economy as key for achieving these objectives.

2. eEurope primacy

For the sake of simplification and clarity, co-ordination of existing e-policies and processes is highly recommended. The already complex task of co-ordinating existing processes could overtax the responsible institutions if a further “Lisbon process” were added, which could have counterproductive results. Instead, the Lisbon eEurope Summit should encompass existing economic and social reform processes and put these processes into the wider perspective of the new economy. That is what eEurope is about.

In the build-up process towards the Lisbon eEurope Summit, the 10 March Ministerial meeting in Noordwijk should be used to clarify this eEurope primacy and to streamline e-policy priorities as set out in the Presidency document, the eEurope Communication or elsewhere.

3. eEconomy sustainable growth

In UNICE’s view, the objective of achieving a substantial growth rate over a longish period must receive highest priority. Sustainable economic growth has positive fallout for society as a whole, including higher levels of employment, strengthening of social protection systems, reduction of

¹ “eEurope - an information society for all”, Communication on a Commission initiative for the special European Council of Lisbon, 23-24 March 2000, dated 8 December 1999, COM(1999)687 final, ^{as} presented by the President of the European Commission, Mr R. Prodi, at the Helsinki Summit on 10 December 1999

² “Employment, economic reforms and social cohesion - towards a Europe based on innovation and knowledge”, document from the Presidency, Lisbon, January 2000 (referred to as the “Presidency document”)

³ “Towards a new framework for Electronic Communications infrastructure and associated services”- The 1999 Communications Review - COM(1999)539, dated 10 November 1999; see “UNICE’s preliminary comments”, dated 15 February 2000 (<http://www.unice.org>)

budget deficits. Such economic growth can only be achieved through prompt and decisive development of the new economy.

In support of this objective, UNICE urges the Commission to carry out and/or co-ordinate at European level research and further analysis of the environmental impact of e-commerce, intelligent transport and other e-economy applications to confirm positive effects of e-economy on the environment and thus on sustainable economic growth. Inquiries so far have shown that e-economy could lead to a significant downward revision in energy and carbon dioxide emission forecasts.

4. eGovernance and networked self-regulation

UNICE welcomes as guiding principles non-binding measures and self-regulation in the area of innovation and knowledge (recommendations, guidelines, benchmarks, best practice, etc.). However, these measures should be agreed upon and monitored with close involvement of stakeholders concerned to avoid the danger of disproportionate bureaucratic exercises.

As one of the examples of e-economy self-regulation, UNICE has – on many occasions – advocated low-cost and effective alternative dispute resolutions (ADRs) such as arbitration and mediation in co-operation with consumers and other e-economy stakeholders. Such co-operative self-regulation or co-regulation throughout the network pattern of e-economy needs ample chances to grow.

UNICE therefore welcomes the initiative by the Commission also to address co-regulatory issues under the 1999 communications review as a guiding principle for the overall eEurope regulatory framework.

UNICE stresses the need to exploit technological solutions alongside self-regulatory ones and suggests a role for EU research to contribute thereto. Models that might work in some areas will not necessarily be satisfactory in others. Action should only be taken on the basis of a thorough evaluation of the needs of all stakeholders - pragmatism should be the guiding force and proliferation should be avoided.

E-stakeholders are aware that it is not possible for one interest group or organisation to derive lasting benefits from advanced digital economies in the age of globality without the co-operation of others. UNICE therefore reiterates its view that e-commerce users and providers have to become networked through associations focusing on either individual companies, sectoral clusters or worldwide industries.

Thus, networked e-governance in a global digital economy will transcend limited national perspectives and grow into a new functional sovereignty of associated stakeholders themselves. This is what shaping the new economy means.

Understood in this functional, and no longer exclusively in the traditional hierarchical sense, subsidiarity would even justify primacy of co-operative e-governance over disproportionate and dysfunctional government regulation.

The core element of e-governance in this perspective is the co-operation of e-stakeholders in an effective, autonomous and balanced scheme. In conclusion, UNICE urges that an authentic

eEurope approach to e-governance self-regulation has to elucidate the relevance of co-operative associations.

This elucidation includes emphasis on the need for awareness-raising and communication as a complement to self-regulation. Any action is pointless unless target groups know about it.

5. eEurope learning society

UNICE agrees with the need for far-reaching education and training reform to enhance creativity, lifelong learning, and entrepreneurship as overarching priorities for a knowledge-based economy. Schools and universities in Europe with worldwide highest creativity ratings, as recognised by UNESCO and other international institutions, indicate avenues for European education reform. European benchmarks in the education field should therefore be measured against the best creativity models worldwide.

UNICE advises a policy geared to lifelong learning as an essential pre-condition for both effective economic development and social cohesion liaising strongly with early practical learning in all sectors of economic activity. UNICE believes that giving such wide scope to education and training makes it both necessary and desirable for schools and universities to work closely with companies, in particular in the ICT sector.

If new technologies are to be accepted and their benefits exploited, education should seek to help people understand as well as to use new technologies, i.e. the digital divide needs to be bridged.

UNICE agrees with the opinion that a re-shaped networked economy in Europe needs strong and independent educational institutions that operate in a transparent and accountable way and enjoy full confidence. In particular concerning eEurope educational reform, UNICE strongly supports the view expressed by President Prodi⁴ that

“we have to stop thinking in terms of hierarchical layers of competence separated by the subsidiarity principle and start thinking, instead, of a networking arrangement, with all levels of governance shaping, proposing, implementing and monitoring policy together”.

This realistic vision might serve as a guiding principle for reforming education in view of a digital economy in a knowledge-based society.

6. eCommunication access

UNICE agrees with the overall objectives and principles of the 1999 communications review. In particular, UNICE welcomes the fact that the proposed regulatory review (which forms an integral part of the eEurope initiative) is based on:

- promotion and sustainment of an open and competitive European market,

⁴ Romano Prodi, President of the European Commission, “2000-2005: Shaping the New Europe”, European Parliament, Strasbourg, 15 February 2000 (speech/00/41)

- simplification and reduction of relevant legislation accompanied by non-binding measures,
- strengthening of alternative dispute resolutions and e-economy co-regulation,
- greater reliance on general competition rules,
- technology neutrality for network infrastructures and transmission services.

In view of European competitiveness and against the background of the global convergence process, UNICE would like to underline the importance of creating an overall regulatory framework for communication infrastructures and associated services in the EU and of support for this development by parallel initiatives in international fora and organisations.

UNICE supports the Commission's generic proposals regarding e-communication access and interconnection arrangements and would like to underline the approach whereby more emphasis would be placed on general competition rules. Where effective competition is established, including the local loop, competition issues should be dealt with using competition law, as in other sectors of the economy.

Thus, conditional upon effective general competition rules, UNICE strongly favours full unbundling of the local loop for completion of telecommunications liberalisation. UNICE therefore supports urgent action in order to mandate this in all Member States without further delay.

6. eCommerce regulatory framework

Despite repeated political declarations in favour of constraint-free e-commerce regulatory framework, companies in Europe remain extremely concerned about ongoing endeavours to bring about a substantial extension of court jurisdiction at the place of the consumer's domicile under the proposed July 1999 Brussels Regulation⁵.

Decision-makers are very well advised not to underestimate the negative ramifications of the proposed Regulation for the development of e-economy in Europe and its damaging effects on economic growth and employment.

In conclusion, industry and trade, with the growing consent of the European Parliament and the Economic and Social Committee, urge:

- to reinstate into the proposed Brussels Regulation the original wording of the 1968 Brussels Convention with a recital stating that websites which do not actively solicit foreign consumers do not fall within the scope of the Regulation,
- to determine – if at all possible – an objective characterisation of a website as actively targeting a foreign consumer in a global economy, compared with so-called passive websites, and accordingly,
- to postpone any decision on the Brussels Regulation or to defer completely e-commerce provisions therefrom to allow time for clarification of issues that may arise.

⁵ Proposal for a Council Regulation (EC) on Jurisdiction and the Recognition and Enforcement of Judgements in Civil and Commercial Matters, COM(1999)348 final, dated 14 July 1999; see: UNICE preliminary statement on proposals to adopt the amended Brussels Convention and the draft Rome Convention as EU Regulations pursuant to Article 65 of the Amsterdam Treaty, dated 28 October 1999 (<http://www.unice.org>)

These difficult legal questions clearly require further reflection as well as thorough and timely consultation, including regulatory options in the context of the Hague Conference on private international law, and in particular its draft Convention on jurisdiction and the effects of judgements in civil and commercial matters.

The issues of ADRs and of jurisdiction under the draft Brussels Regulation are related but should not be procedurally linked. Finding constructive solutions on ADRs (like the proposed European Extra-judicial Network) will not solve the jurisdiction problem as such. It would be misguided to consider that combining ADRs with a Brussels Regulation as currently drafted would be balanced and meet the concerns of both companies and consumers. The present draft meets neither, since it cannot deliver either legal certainty or procedural efficiency.

Consumers deserve low-cost and effective redress procedures which are not in the present blueprint for the e-regulatory framework. Urgent action is therefore required to deliver a constraint-free regulatory framework for e-economy in Europe. That is what the eEurope initiative is committed to doing.

To secure technical neutrality the off-line framework as well the on-line one should be critically assessed. If regulation is to be effective it needs to offer pragmatic solutions that work both on-line and off-line.

8. eEurope action plan

UNICE calls for a framework eEurope action plan, including concrete targets, benchmarks and realistic timetables. The action plan has to indicate concrete measures for sustainable growth through a knowledge-based and digital economy, and should provide binding inputs for other processes. As such the eEurope action plan should serve as prime reference and master plan for other processes of economic and structural reform (including the 1999 communications review and the action line for a European research area) to be integrated into the overall move towards a European e-economy and service society.

The eEurope master plan should be developed through a transparent public process in close co-operation with industry, educational bodies, and other e-economy stakeholders concerned. ^{Guiding principles of the plan should be} discussed at the March Ministerial meeting in Noordwijk, agreed upon at ^{the} Lisbon Summit, completed at the ^{April 2000 Presidency conference} and followed up ^{with rigorous monitoring at the} Feira European Council ^{in June 2000} and beyond.

9. Conclusion

The shaping of a networked eEurope, including participatory e-governance and e-democracy, is a challenge that will require a strong helping of vision and realism from all stakeholders involved. UNICE expects to continue to do so and in particular to assist in the development of self-regulatory and non-binding measures to accompany the new eEurope and, in particular, e-economy regulatory framework.

UNICE is prepared to contribute further to the success of the eEurope initiatives, to provide more detailed proposals, and to forward additional comments in view of the implementation process.

