

10 June 2003

***Contribution by Mr H.Königshaus, Chairman of UNICE's SGEI Task Force , to  
the EP hearing on services of general economic interest (SGEI)***

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UNICE is grateful to the EMAC Committee for this opportunity to present its position on calls from many sides for a reshaping of the framework conditions for SGEI.

The discussion in recent months has concentrated primarily on satisfaction of the essential needs of consumers and private households. However, in our view, this approach is too narrow. No less than the private consumer, European business relies on high-quality services of general economic interest everywhere in Europe if the internal market is to function properly. Inasmuch, the attention of the Parliament, the Council and the Commission for this area is fully justified.

However, UNICE in no way shares the demand for more far-reaching rules in this area. Developments over the last few years have demonstrated that the existing rules are completely adequate. They neither limit the ability of states and local communities to perform the tasks devolved on them, nor do they stand in the way of the desired liberalisation and further quality improvements in these areas. It should not be forgotten that the notable improvements in services of general economic interest in terms of choice, quality and competitiveness have also developed within the existing legal framework.

Given the wide variety of forms and different traditions in the Member States, it also seems difficult - as well as unnecessary - to identify a uniform definition of services of general and more particularly general economic interest such as suggested in the recently adopted green paper.

In its green paper the Commission gives an essentially positive assessment of the results of liberalisation in this area. Initial fears that market opening could have negative consequences for employment or for the provision of these services have not been confirmed, according to the Commission. On the contrary, services as a whole have become more affordable; in network industries, EU-wide liberalisation has led to the creation of almost one million new jobs.

The quality of these services has not suffered as a result of liberalisation. This is demonstrated by the Eurobarometer (58) commissioned by the Directorate-General for Health and Consumer Protection. This finds that European consumers in all Member States have access to high-quality services at an acceptable price. Populations are well satisfied with these services, social standards for employees in this area have not deteriorated. Problems that have arisen in individual areas can usually be ascribed to how market opening has been implemented, above all in the continued existence of some regulations, and certainly not to liberalisation per se.

Against this background, the reasons advanced in demands for a framework directive or even an explicit framework in the constitutional treaty for services of general interest are unconvincing.

Insofar as specific rules seem necessary for individual sectors, these are already laid down in the relevant directives. Rules encompassing the entire spectrum of services do not seem sensible against the background of dynamic developments in individual areas, because such rules could not even start to do justice to the characteristics of the highly diverse situations in individual areas and individual Member States.

On the contrary, block exemptions for these services, as advocated by proponents of a new legislative framework, would encourage an extension of the public sector into existing markets, hamper competition and strengthen the protectionist tendencies that already exist. In addition, this would lead to distortions of competition and crowding-out, to the particular disadvantage of small and medium-sized firms. UNICE is furthermore concerned that exempting SGEI from competition, including state aid, and internal market rules would make them less efficient and more expensive for citizens.

For instance, in the waste management sector, the waste framework directive has initiated a certain degree of liberalisation. However, some Member States did not wish to use the whole potential of the directive and did not open their markets entirely. What is more, efforts to return areas now open to the market to public control can already be discerned.

Let me take up another set of arguments put forward by the protectionist side. It can be summarized by the assertion that it is “profits first – environment second” for the private sector. This widespread idea is flawed, though. Private companies have heavily invested in up-to-date facilities to comply with environmental protection laws and to even exceed legal demands in order to improve their image. By contrast, many examples of public enterprises could be given to show that it is the public sector in particular where environmental protection is often strictly dependent on cash flow considerations.

For these reasons, UNICE argues against all efforts to shelter services of general economic interest from competition and internal market rules via the constitutional treaty or in a framework directive, to the detriment of competition and competitors. Only competition oriented legislation guarantees a competitive economy. The liberalisation successes documented by the Commission prove that public interest objectives can be achieved better through competition and not isolated from competition, also in the area of services of general interest.

Insofar as an extension of the existing rules is deemed necessary, either in the treaty or in a framework directive, a definition of services of general (or general economic) interest would be necessary. In addition, any such rules must make it clear that their purpose or justification is not an extension of public monopolies. It must be specified that any party granted a monopoly must not be active in competitive areas while benefiting from its protected position. Furthermore, one needs to keep in mind that, where a universal service obligation is fully justified, taking care of non-profitable market segments and customers can be arranged by other and less market distorting measures than direct public aid to the service provider.

UNICE is aware that a discussion has started about defining and implementing SGEI missions with a view to tackling environmental and sustainable development challenges. UNICE is concerned by the idea of establishing such SGEI missions as a central tool in sustainable development strategies, and of looking immediately at subventions as a means for financing these SGEI missions. This entails the risk of seriously compromising the contribution that market based approaches have to play for promoting sustainable development. A framework directive should not be introduced as a basis for implementing such a model of sustainable development strategy.