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## **UNIVERSAL SERVICE PRINCIPLES IN E-COMMUNICATIONS**

The European Commission has recently launched a public consultation on the future of universal service, aimed at establishing whether the current EU rules and definitions on universal service obligations for telecoms need to be updated for the digital age, and in particular whether they should be extended to cover broadband access.

The universal service principle to ensure provision of access to basic e-communications services is a factor of social value for inclusion and cohesion. BUSINESSEUROPE welcomes the opportunity to contribute to this important debate.

### **GENERAL REMARKS**

The telecommunications sector, as part of the Information and Communication Technology (ICT) sector, is a key factor for economic growth and competitiveness and it supports productivity and innovation in many other sectors. The ICT market in Europe represents 4.5% of EU GDP and accounts for about 4% of European jobs, with more than 5 million workers. It is an essential driver for competitiveness, job creation and growth of the European economy. It can also drive up productivity across a range of industries, and help achieve key public policy goals such as the move to a low-carbon economy. The EU policy framework is decisive for the nature of the available services, affecting such matters as choice of supply, quality and price, and it has a direct impact on key investment decisions by operators and manufacturers and on the long-term competition landscape in the telecoms and IT sector.

BUSINESSEUROPE believes that the future European policy on ICT should create a framework in which European businesses - as consumers and providers of ICT products and services - can flourish and make optimum contribution to society and to the economic growth, productivity and competitiveness of Europe.

However, the telecoms sector is challenged and under high competitive pressures, in particular in the context of the difficult economic and financial situation globally. The rules governing the telecoms sector have a direct impact on key investment decisions by operators and manufacturers. Regulators need to facilitate investment, optimise legal certainty for investors and encourage innovation, research and infrastructure competition. We need to create a sustainable model which will maintain Europe's leading position worldwide. This will work most effectively in a Single Market based on efficient and consistent application of rules, with regulation kept to the minimum necessary for competition in accordance with the principles of subsidiarity and proportionality.

Policy-making in this area should focus on the contribution that ICT can make to Europe's competitiveness, both within the Single Market and globally. This means encouraging and incentivising investment in deployment of new ICT infrastructures, and competition and choice in the supply of innovative services. Especially in the current times of serious economic crisis, its stimulating effects are needed more than ever. To this end, a Single Market based on efficient and consistent application of rules is decisive, with regulation kept to the minimum necessary for competition.

The Single Market must be further integrated and existing barriers removed. Member States must transpose the revised EU Telecoms Framework effectively and on time. The Commission has an important role to play in assisting them and Member States should cooperate with the Commission during the transposition and implementation phase.

Next-generation networks are a key driver for jobs, growth, innovation and competitiveness in the 21st century. Integrated infrastructure and technologies are growing dramatically in importance worldwide. The timely rollout of high-speed broadband is a major concern for Europe's economy. Investments of billions of Euros are needed to provide the necessary world-class communications infrastructure that Europe's consumers and companies need in order to compete successfully in today's knowledge-based societies.

BUSINESSEUROPE highlights the need for the Commission to support approaches that foster investment, competition and access to further develop the Digital Single Market. The privately funded development of state-of-the-art broadband infrastructure should be further promoted by encouraging investment and innovation. Flexible and technology-neutral regulations in a competitive environment are key elements for comprehensive broadband coverage for the benefit of the entire economy. The liberalisation of frequency policy should be taken forward and the availability of all existing and new passive infrastructure for use by operators, where appropriate and efficient, should be promoted to facilitate network development.

## SPECIFIC REMARKS

Widespread availability of modern broadband is essential for European industry as well as consumers. The use of newly available frequencies (through the Digital Dividend) and synergies with expansion and build-out of fixed broadband networks are of key importance. State intervention should be carefully targeted on cases where there is no commercial case for private investment.

BUSINESSEUROPE supports the Commission's attention to avoiding a digital divide in the context of information society. This is a sensitive issue because of the large discrepancies in geographic coverage and use of broadband by the population across the various Member States. We also support the wider reflection initiated by the Commission to re-examine the concept of universal service and to integrate it in a comprehensive perspective, taking into account all the possible mechanisms to ensure universal geographic and social access to Internet services.

However, BUSINESSEUROPE considers that the most efficient mechanism to achieve fast and wide broadband deployment is private investment resulting from competition. In this context, we invite the Commission to consider the risk that an enlargement of the

scope of universal service obligations might hamper competition and place a brake on innovation.

As well as encouraging investment and competition, EU policy needs to look at demand-side factors that may inhibit take up and penetration of new services. There are many reasons why people are not using the Internet, such as a lack of interest, not having the equipment, lacking the skills or confidence, concerns about running costs and having insufficient time. The Commission also needs to consider other factors in relation to digital inclusion, such as disability, gender and geography. We support the work of the Commission addressed at identifying the reasons for low household take-up of broadband and internet and its conclusions<sup>1</sup>, which generally point to the need for a strong focus on education, training and skills, in order to allow those still not connected to be able to use the Internet.

## RESPONSES TO THE QUESTIONNAIRE

### Basic concept of universal service

*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?*

The market has already delivered broadband to the majority of households. In some Member States, this extends to 90% of the population. According to the 14<sup>th</sup> report of implementation, “*the electronic communications sector in the EU is continuing to bring significant benefits to users and consumers. EU countries are world leaders in broadband take-up, mobile Internet is growing rapidly, prices for most services are continuing to fall and consumers are increasingly availing themselves of bundled services.*”

Moreover, the technological neutrality principle enshrined in the framework directive and in the universal service directive allows the use of mobiles in case of unavailability of fixed lines. Consequently, the provision of universal access can be better addressed even in areas where fixed coverage is lower.

However, in a number of rural and remote locations there is still a limited case for private sector investment in broadband infrastructure and it is unlikely that telecoms operators will deliver 100% coverage on a purely commercial basis. To achieve universal engagement, some form of public sector intervention may be a sensible alternative.

In this context, it is however relevant to reconsider whether the concept of universal service, designed at the origin as a safeguard to accompany the liberalisation process and to guarantee provision of a minimum set of services in case of market failure, is still useful and the best appropriate given the level of competition and the wide-range of products and services available to meet geographical and social needs. If ever the Commission decided to maintain the concept, its scope should be kept as limited as possible.

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<sup>1</sup> Europe's Digital Competitiveness Report, European Commission, p. 27, “*Barriers to household take up of the internet*”.

**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?

The question of social needs and provision of offers allowing inclusion of elderly, disabled, and low-income users go far beyond the responsibility of service providers. It is rather a question of social cohesion. Concerning specifically the social tariffs, they refer to a solidarity policy which logically should lie on the government rather than on the e-communications services providers. Moreover, in a fully liberalised market environment, social universal service obligation should be included in governmental social policy objectives and be financed by public budgets.

Furthermore, EU institutions and Member States' Governments have an array of tools at their disposal to increase take-up rates of e-communication services (e.g. business rates, direct funding, greater focus on IT skills, etc). Wherever possible, it is vital that public sector intervention remains technologically neutral and avoids artificially distorting the EU telecoms markets.

Policy-makers could play a key role in coordinating supply and demand, facilitating the improvement of citizens' skills regarding e-communications services. They can be enablers for linking the social viewpoint (autonomy and independency) with the economic viewpoint by incentivising healthcare systems to reduce their costs and opting for ICT solutions.

## 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?*

BUSINESSEUROPE endorses the European policy objective of "broadband for all" which will positively impact the development of the Digital Single Market. We agree with the importance of the development of ICT and its positive role into growth and innovation beneficial to the whole society.

Ubiquitous broadband will also help achieve a range of economic and social benefits (such as helping in the move to a low carbon economy, help to achieve greater efficiencies in the delivery of public services and enable a range of direct engagements on e-government services). To make this possible, policy makers must however take into account the need for increased take-up rates as well as infrastructure rollout. Any targets for 'broadband for all' need to be supported by rigorous analysis, and need to recognise that, for very high speeds, both the scale of funding and likely take-up are of a completely different order from either traditional universal service obligations or current generation broadband.

The concept of broadband for all is not particularly well-defined. Traditional universal service is concerned with making sure a minority is not excluded from a service enjoyed by the majority, and which is essential for active social engagement. The European Commission should clearly differentiate between the objectives of universal service and broadband for all. The key challenge for policy makers is to select the most economically efficient approach to achieve the desired outcome of broadband for all.

A range of different policy options may have to be deployed simultaneously in order to fully build a Digital Single Market. Many countries have launched Digital Plans to favour and speed up the rollout of broadband networks. All of those Digital Plans introduce precise objectives of coverage rate and objectives of data bandwidth speed. These plans should only focus on the areas where it is not economically viable to rollout the networks. In all the other areas, the market should be the sole driver.

Other means related to national policies have also proved to be efficient. In particular public-private partnerships between local public authorities and undertakings can help to achieve a better coverage or to make public services closer to the citizens in remote areas. As an example, a recent study on the broadband markets<sup>2</sup>, reports that “*public initiative networks, funded by a combination of public and private investment have brought tangible benefits to France by extending broadband availability, stimulating competition and investment, and connecting businesses and the public sector*”.

*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?*

To enable private investment in the rollout of digital infrastructure, it is important to ensure that EU obligations do not conflict with national policies or artificially distort existing market arrangements. A thorough review of the concept and functioning of universal service in a digital world is essential, and a complete overhaul of existing rules could have pervasive effects on future investments, as businesses need certainty to make investment decisions. Public sector intervention in the telecoms market should remain restricted to those areas where the commercial case for market-led investment is weak.

*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?*

Response to Question 5 and 6:

The EU telecoms industry varies considerably from country to country. Each Member State has a different set of priorities, key challenges and market players. Full harmonisation of telecoms principles could undermine the capacity that national regulators have to interpret and adjust their regulatory frameworks to meet customer demands, or to promote efficiencies in the rollout of telecoms infrastructure. On the other hand, an EU telecoms industry would benefit from close cooperation across borders and from greater coordination of outputs and regulatory frameworks. BUSINESSEUROPE supports close cooperation of

<sup>2</sup> « The French approach : an alternative model for broadband deployment », September 2009, study by Ovum.

national regulators via BEREC, the Body of European Regulators for telecoms. We would welcome a coherent and flexible EU approach to telecoms regulation, supported by active dialogue with industry throughout the EU.

In such a context, the best solution would be to let some flexibility to the Member States in addressing and achieving the common objective. Moreover, in many EU countries, the demand for broadband services remains low and will have to be sustained through public policy and public subsidies for improving the broadband penetration rate.

### **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 ecommunications 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?*

Response to questions 7 and 8:

The way in which universal service is funded is of huge importance due to the risk of market distortions. The current funding criteria are discretionary because of the lack of any precise definition of unfair burden in the directive. This results in inconsistent approaches by the EU Member States, especially in the establishment and implementation of universal service funding.

Ubiquitous digital connectivity has broad social and economic benefits, and it is therefore appropriate that contributions for universal service are widespread. Indeed, the model of funding provided exclusively by the e-communications sector has become questionable as from now on new kind of actors are part of the value chain and that convergence redefines the activities' borders. Maintaining such a model would lead to an unfair burden on the e-communications providers and a form of discrimination between the various actors.

Where sectoral funding mechanisms are adopted in the telecoms sector, they should be widely based, and should be complementary to private sector investment, and not a substitute for it. Regulators should be mindful not to artificially distort the market by skewing private sector investment in favour of a range of technologies or providers in areas that could be served by the market.

The question of the scope of universal service is closely linked to the financing issue because an enlargement of the scope is a risk for a higher financial burden on the e-communications sector. Thus any extension of the scope such as broadband inclusion as a universal service obligation should lead to a reconsideration of the financing issue.

Insofar as the rollout of broadband networks provides a benefit to society as a whole, public financing would be the most appropriate mechanism to limit the financial arrangements of

universal service to market players. In this regard, broadband coverage in less populated and remote areas is efficiently improved by granting structural funds, either national or European.

If ever it was decided to maintain a sector-specific universal service funding, in order to restore a level playing field, it would be at least necessary to enlarge the scope of contributors to all players in the converged market.

### **Other issues**

- Public pay telephones

With widespread affordable access to mobile communications, the demand for public pay telephones is declining. Upgrade and maintenance of these public pay telephones induces very high costs whereas the commercial viability is strongly declining and impaired due to costs generated by vandalism and maintenance in remote areas. The current universal service obligation to provide public pay telephones represents a considerable burden on the sector.

Therefore, in the next review of the scope, the Commission and the EU legislator should reconsider the maintenance of that universal service obligation. A return to a market-based provision of the service would not mean the end of the service. The maintenance of public pay telephones should be considered on a case-by-case basis in order to provide the service in still underserved areas.

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