

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions – Connecting Europe at high speed: recent developments in the sector of electronic communications'

(COM(2004) 61 final)

(2005/C 120/05)

On 29 March 2004 the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned communication.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 October 2004. The rapporteur was Mr McDonogh.

At its 412th plenary session of 27 and 28 October 2004 (meeting of 27 October) the European Economic and Social Committee adopted the following opinion by 163 votes to one with three abstentions:

1. Introduction

1.1 The Committee welcomes the analysis and recommendations in COM(2004) 61 final 'Connecting Europe at high speed: recent developments in the sector of electronic communications' communication from the Commission. It is an astute and timely report that combines strategic acuity with executive will to guide the European electronic communications sector through its next stage of growth.

1.2 While providing support for the analysis and thrust of the communication, this opinion also emphasises areas of specific concern to the Committee.

2. Background

2.1 On 3 February 2004, the Commission adopted its communication 'Connecting Europe at high speed: Recent developments in the sector of electronic communications'. This communication responds to the request of the 2003 spring European Council for a report on developments in the sector ahead of its spring 2004 meeting. It is a summary report on the electronic communications sector in Europe as it affects the Lisbon strategy, including an analysis of the key issues affecting future growth. It is also a call for political support of the actions necessary to support the further development of the sector.

2.2 The Lisbon Strategy recognises that information and communication technologies (ICT) are a key drivers of growth, improvements in productivity and competitiveness. They help to improve both economic performance and social cohesion. The Communication underlines the importance of the electronic communication sector – which includes both a service segment and an equipment segment – for the health of the European economy and its key role in boosting productivity. The sector plays such a role because of its size, dynamism and impact on nearly all other economic activities. Recent evidence

shows that it has been the largest contributor to European labour productivity growth.

2.3 In spite of vigorous growth in the early 1990s and the ambitions of the Lisbon strategy, Europe has fallen behind the USA and some Asian countries with the pace of production and use of information and communications technologies (ICT) and this shortfall in ICT investment hurts European competitiveness⁽¹⁾. Progress in the sector of electronic communications over the next 18 months is critical to the success of the eEurope 2005 Action Plan, and to the longer-term goals of the Lisbon strategy. This sector grew fast in the late nineties, but underwent a sharp downturn in 2000 and 2001 which led the Council and the Commission to closely monitor the situation in the electronic communications sector and to report ahead of the 2003 Spring European Council meeting.

2.4 After two years of consolidation the conditions now seem right for a return to higher rates of growth. According to the Commission, these conditions include improved financial conditions for operators, and continued growth in revenue from services. However, sustainable growth in this sector can be achieved only through a revival in capital spending and further deployment of new innovative services.

2.5 Since the burst of the Internet bubble, telecom operators have been reducing capital expenditure as part of their consolidation plans. A return to renewed growth for the whole sector requires a revival in capital spending. The rate of investment will be affected by what public policy makers do: the implementation of the new regulatory framework will provide greater legal certainty for investment; the implementation of national broadband strategies will increase access to service; the encouragement of new services and the availability of innovative content will stimulate demand; and the removal of regulatory and technical barriers will facilitate the roll-out of 3G networks.

⁽¹⁾ Van Ark, B. and Mahony, O. (2003), *EU Productivity and Competitiveness: An Industry Perspective*, http://europa.eu.int/comm/enterprise/enterprise_policy/competitiveness/doc/eu_competitiveness_a_sectoral_perspective.pdf.

This is why four priority areas for action are identified in the communication:

- a) *Addressing regulatory challenges.* Late or incorrect transposition by Member States of the new regulatory framework for electronic communications is holding back competition and creating uncertainty. Infringement proceedings are underway against a number of Member States who have failed to transpose the new measures. Securing full and effective implementation of these rules by both existing and the new Member States remains a top priority for 2004. In addition, the new rules must be applied consistently by national regulatory authorities. The common guidelines due later this year on the remedies that may be imposed on operators with significant market power will be of particular importance. They should help regulators to provide the right investment incentives and to ensure that emerging markets are not subject to inappropriate obligations.
- b) *Increasing broadband coverage in underserved areas.* In accordance with the eEurope Action Plan, Member States agreed to publish national broadband strategies and all of the EU15, plus a number of the new accession countries, have now done so. A particular focus should be identifying areas that risk being placed in the slow lane of the information society because of insufficient demand – under operator's profitability criteria - to justify the roll out of broadband services. EU funding may play a role alongside action at a national, regional or local level. Guidelines exist on how structural funds can be used in such areas. The exchange of best practice and innovative solutions will be helped by the creation of a Forum on the Digital Divide later this year. The Commission will report on the national strategies this summer.
- c) *Stimulating demand.* While the majority of households in the EU can access broadband, only a fraction of them have chosen to do so. Use rather than roll out is becoming the biggest issue for the broadband market. Experience of countries with the highest levels of broadband take-up show the importance of effective network-based competition to drive down prices and promote innovative on-line services. In addition, action by Member States to stimulate demand can also play a role. They are promoting the use of ICT within more and more key services – local and national government, health and education - and shifting them on-line. This must be accompanied by further steps to address security, digital rights' management and the inter-operability of different services and devices. The mid-term review of the eEurope 2005 Action Plan, due to be completed by the summer, provides an opportunity for further supportive action.
- d) *Successfully launching third-generation mobile communications (3G).* The report of the Mobile Communications and Technology Platform (comprised of key sector players) set-out a strategic vision for the future of mobile services, highlighting a range of commercial and regulatory challenges.

This converged, data-driven 3G world will be more complex than the voice-based world of GSM. If mastered, this can offer exciting new services and a significant boost to productivity in the Union. The Commission has outlined its approach to the mobile communications sector in its Communication of 30 June ⁽¹⁾ and will continue to work with stakeholders to define strategic research priorities in the mobile communications area.

2.6 At the European Telecom Council meeting, which took place on 8–9 March 2004 in Brussels, the Council underlined the political commitment to the Lisbon Strategy goals of sustainable growth, jobs and social cohesion by endorsing the calls to action in the communication [COM(2004) 61 final], and the *e-Europe Mid-Term Review* communication [COM(2004) 108 final].

Comments

3. General remarks

3.1 The communication deals with a wide and complex domain of critical importance to the Lisbon vision – the electronic communications industry. Over the years the Committee has adopted many opinions dealing with aspects of policy concerning the sector ⁽²⁾. We now welcome the opportunity to comment on the general development of the electronic communications industry, the provision of Broadband, the development of the mobile communications sector and the new regulatory framework for the industry.

3.2 The Commission has done an excellent job in supporting the development and execution of policy to support the growth of the electronic communications sector. With the vigorous efforts of commercial and social interests pursuing their own goals, aided by the strong political support of the Council of Ministers, national governments and regional authorities, this is a very fast moving and rapidly evolving domain.

⁽¹⁾ COM(2004) 447 final *Mobile Broadband Services*.

⁽²⁾ See OJ C 169 of 16/6/1999, p. 30; OJ C 368 of 20/12/1999, p. 51; OJ C 14 of 16/1/2001, p. 35; OJ C 123 of 25/4/2001, p. 61; OJ C 123 of 25/4/2001, p. 36; OJ C 139 of 11/5/2001, p. 15; OJ C 311 of 7/2/2001, p. 19; OJ C 48 of 21/2/2002, p. 33; OJ C 48 of 21/2/2002, p. 27; OJ C 221 of 17/9/2002, p. 22; OJ C 241 of 7/10/2002, p. 119; OJ C 61 of 14/3/2003, p. 32; OJ C 61 of 14/3/2003, p. 184; OJ C 220 of 16/9/2003, p. 33; OJ C 220 of 16/9/2003, p. 36; OJ C 80 of 30/3/2004, p. 66 and others.

3.3 Given the complex dynamic character of this topic and its importance to the economic and social development of the Union, the Committee believes it is important for all interested parties to regularly have their say so that a more complete and integrated policy can be implemented. The Committee supports the Commission's intention to continue working with stakeholders to inform policy in areas such as Intellectual Property Rights, Digital Rights Management, trust and security issues, interoperability and standardisation, spectrum management and coverage of remote and rural areas. The Committee will continue to take an active interest in the sector and all these issues.

3.4 We particularly support the emphasis the Commission has put on the need for interoperability and openness at various levels of the technology and services: device to network; device to device; network to network; and between content and/or applications. Without appropriate interoperability and platform openness, the development of a mass market for the new technologies will be severely hampered.

3.5 As stated at 1.1 above, the Committee is supportive of the communication and congratulates the Commission on the excellent work it is doing in this area. We note that extensive research and consultation has gone into the understanding of the electronic communications sector and the development of policy to foster strong and sustained growth: we are strongly supportive of the eEurope 2005 Action Plan and support the actions recommended in the communication COM(2004) 61 final.

3.6 For the sake of emphasis, we would like to stress the Committee's particular interest in a few areas:

3.6.1 Regulatory framework

3.6.1.1 The Committee welcomes the new Regulatory Framework for electronic communications which provides greater predictability, coherence and a more harmonised approach to the way markets operate across the Union. The greater certainty and transparency provided by the framework will encourage investment in the electronic communications sector and speed-up the pace of competition, and the introduction of new innovative services.

3.6.1.2 We agree with the Commission that a technology-neutral, open-standards, coordinated approach to the development of facilities-based competition on the supply-side of the electronic communications sector is critical to the creation of a vibrant and competitive market. The Committee is pleased that the new framework encourages fair competition between diverse access technologies (broadband, 3G, digital TV etc.).

Such an approach will lower network costs and the prices for services, and it will increase the ease of use and mobility for customers. A technology-neutral, open-platform approach to the sector will also greatly stimulate the demand for services.

3.6.1.3 Thus we welcome the technology-neutral approach taken by the new regulatory framework to reflect the convergence between fixed and mobile services, on-line and broadcast content and a whole range of different delivery platforms. We want the Commission to ensure that interoperable platforms are implemented in accordance with the Framework Directive 2002/21/EC.

3.6.1.4 A truly competitive market for services depends on competitive pricing for the connection to the customer's home or premises (the local loop). At present, in most markets, the introduction of new services and lower prices is hampered by control of the local loop by the dominant operators. The Commission should keep under review whether the regulatory framework is adequate to un-bundle the local loop from the dominant operators' control in every market.

3.6.1.5 The Committee deplores the fact that it was necessary for the Commission to take infringement proceedings in the European Court of Justice against Member States for failing to implement the new regulatory framework. We ask that the Commission continues to prosecute the full implementation of the framework in all States, including the new entrants.

3.6.1.6 We support the recent agreement among the European Regulators Group on a Common Position on how they apply remedies to address competition problems in the newly opened markets for electronic communications⁽¹⁾. Recognising that the purpose of the regulatory framework is to roll-back regulation and promote competition, the Committee asks the Commission to ensure the framework is implemented in a way that stimulates the emerging markets and services, and does not hinder their development. We ask the Commission to scrutinise the adequacy of remedies for infringement and their consistent application in the Member States.

3.6.2 Broadband roll-out

3.6.2.1 A widespread, secure broadband infrastructure is essential for the development and delivery of services and applications such as eHealth, eBusiness, eGovernment and eLearning, making broadband vital to European growth and quality of life in the years ahead. Broadband access is a public good, a utility that should be available to all EU citizens as a right. We recommend that the Commission consider the inclusion of broadband in the list of Universal Services.

⁽¹⁾ http://erg.eu.int/doc/whatsnew/erg_0330rev1_remedies_common_position.pdf.

3.6.2.2 The eEurope 2005 Action Plan calls for widespread broadband availability and use in the European Union by 2005, but we are lagging behind our ambitious targets. Unless the pace of broadband roll-out increases, particularly outside urban centres, the Union will not achieve the Barcelona objective ⁽¹⁾.

3.6.2.3 The Committee welcomes the submission of national broadband roll-out strategies by the EU15 Member States and notes that the new Member States will table their strategies before the end of 2004. We note the positive first assessment of the plans by the Commission ⁽²⁾ and we look forward to a more detailed report on the strategies in June.

3.6.2.4 However, we dislike the wide definition of 'broadband' used in various studies and reports (for example, access capacity as low as 144kbs is considered 'broadband' by the COCOM04-20 FINAL report referenced below, and the same report includes 3G connections in Italy's total of broadband access lines but not for other Member States). This lack of precise definition greatly reduces the transparency and usefulness of the term 'broadband' in all deliberations. We call on the Commission to legislate for a precise and demanding definition of the term 'broadband' for use in the Union.

3.6.2.5 We also dislike that the broadband coverage statistics do not deal with the quality of access available. We call on the Commission to include a minimum standard of connection quality in its precise definition of 'broadband'. Only then will broadband statistics be meaningful.

3.6.2.6 The Committee is strongly aware of the need to aggressively bridge the digital divide opening-up across Europe, which hurts the less advantaged and e-Inclusiveness. Although we note that the Council of Ministers has endorsed a shift in policy emphasis from connectivity to the development and the effective use of innovative services, we are concerned about the momentum and coverage of the roll-out of broadband. We are particularly concerned about the disparity between certain countries and regions in the latest broadband penetration statistics from the Communications Committee of the Commission ⁽³⁾. Within the EU15, 20 % of the European population is currently excluded from broadband access because network coverage is insufficient. We welcome the Commission's focus

in the communication on the need to roll-out broadband to underserved areas. And, in the detailed review of the national broadband strategies, we ask the Commission to emphasise the need for broadband networks to be extended to cover the whole of the Union in a timely fashion and to highlight network gaps in future reports.

3.6.2.7 We support the Quick-Start initiatives and the availability of structural funds to provide access in the rural and commercially less attractive areas of the Union, however we want the Commission to maintain close scrutiny of the implementation of the National Broadband Strategies of the member states and to focus on problems of pace, coverage and quality.

3.6.2.8 The Committee regrets that the Communication from the Commission deals only with the geographical digital divide (underserved areas) and does not deal with the financial digital divide (inability to afford network access). The Commission's argument that high-speed services improve living conditions by reducing distances and by facilitating access to health-care, education and public services applies not only to geographically isolated citizens but also to the poorest.

3.6.2.9 The Committee believes that the Commission's assertion that any government intervention to counter the digital divide must be carried out in accordance with the principles of and laws on competition is a fallacy: the digital divide exists because the market is not interested in the target population. There is therefore a need for a statutory public service remit setting out the precise nature of the public service obligations.

3.6.3 Roll-out and development of 3G

3.6.3.1 The Committee welcomes the setting-up of the Mobile Communications & Technology Platform by the Commission, last October, to bring together leading players from among mobile operators, equipment and component manufacturers and content providers. We also welcome the first report of this group ⁽⁴⁾ which set-out 20 recommendations on steps needed to support and sustain the roll-out of mobile networks and services across Europe – including action on research, standards, content, security, spectrum, international co-operation and regulation.

⁽¹⁾ COM(2002) 263 final *eEurope 2005: An information society for all*.

⁽²⁾ IP/04/626 *Connecting Europe at high speed: Commission takes stock of national broadband strategies*.

⁽³⁾ COCOM04-20 FINAL Communications Committee Working Document *Broadband Access in the EU: Situation at 1 January 2004*.

⁽⁴⁾ IP/04/23 *3rd Wave Mobile for Europe*.

3.6.3.2 We are pleased that in the Mobile Platform report, and in statements from the Commission, the emphasis for 3G is on providing a customer-focused, secure, environment to support 'anytime', any place access to high-speed data and entertainment services on the move through a range of broadband-enabled devices.

3.6.3.3 The Committee fully endorses the views expressed by all parties that open, interconnected networks and interoperability in applications and services is the goal and we welcome the commitment of the Mobile Platform to preparing a strategic research agenda for a future Wireless World within the 7th Research Framework Programme.

3.6.3.4 The Committee would like the Commission to bring-to-bear whatever pressure it can to make it easier and more cost effective to roll out the new 3G networks. In particular, the Member States must help to quickly resolve the planning and environmental impact problems that are holding-up the roll-out of this important new platform.

3.6.3.5 We are concerned about the high level of payments made by network operators for 3G licences in some Member States, and the negative effect this might have on future strategy. We would like the Commission to share its detailed views on this issue and advise measures to ameliorate any adverse affects on Union strategy for ICT deployment and use.

3.6.3.6 In the interests of consumers and the efficient use of resources in the EU, we would like the Commission to consider legislating for facility sharing among 3G operators, where this is practical. Such a policy would speed-up availability of access, reduce negative environmental concerns, reduce the cost of providing service. We note the Commission's advice that some major operators are against facility sharing for competitive reasons, but we believe that the best interests of the Union as a whole should prevail over the narrow commercial motives of a few operators.

3.6.3.7 We note that the Mobile Platform believes that a new overall policy framework is needed to address the 3G issues coherently. The group is meeting again in June and we look forward to the communication promised by the Commission in response to the outcome of the June meeting.

3.6.4 New services and the stimulation of demand

3.6.4.1 The Commission advises that even in areas where there is 90 % availability of broadband access, take-up is low (average of 12 %) and decelerating. The reasons for this are high prices, poor quality and lack of relevant content – consumers do not have sufficient interest in acquiring broadband service.

3.6.4.2 Developing content and services to stimulate the take-up of broadband connections is viewed as vital to the take-up of ICT, and hence to competitiveness, productivity growth and employment across the European Union. In this regard, the Committee welcomes the recent proposal from the Commission for an eContentplus programme (2005-2008) ⁽¹⁾ which aims to create conditions for broader access to and use of digital content.

3.6.4.3 The Committee recognises that demand stimulation on deployed broadband and 3G networks, the need for new, innovative services, competition and the roll-out of networks are all interrelated. Each development helps the other. Having dealt with the supply-side issues above, we welcome any initiatives taken by the Commission to encourage the development of new and innovative services that will boost consumer demand and leverage the power of the new technologies and networks.

3.6.4.4 The Committee believes that interoperability between networks, platforms and devices will provide a big stimulus to service adoption and growth. We encourage the Commission to push for interoperability within the regulatory framework, and in its dealings with all stakeholders in the electronic communications sector.

3.6.4.5 We support the Commission's call on Member States to maintain the momentum behind the roll-out of government e-services (including eHealth, eLearning etc.) and recognise the public sector to be a major driver of demand in the early stages of development of these new information services.

⁽¹⁾ COM(2004) 96 final, *Proposal for a Decision of the European Parliament and of the Council: establishing a multiannual Community programme to make digital content in Europe more accessible, usable and exploitable*. EESC Opinion: OJ C 117 of 30/4/2004, p. 49.

3.6.4.6 In particular, we welcome the Commission's commitment to work with industry to address the identified issues hampering the development of new services – Digital Rights Management (DRM) systems, interoperability, micro-payments, m-payments etc. In this regard, we welcome the recent communication ⁽¹⁾ and consultative process dealing with Intellectual Property Rights and we call the attention of the Commission to the Opinion of the Committee in 2003 on IPR ⁽²⁾.

3.6.4.7 The Committee stresses the importance of security issues to the take-up of new services by consumers. Consumer confidence in new technologies and services will depend on assurances re the protection of consumers' interests.

3.6.4.8 The Committee asks the Commission to continue its workshops with operators, internet service providers, content providers, broadcasters and the entertainment industry, on how they can adapt their activities through new forms of partnerships to create new business models and services for a convergent, mobile Union.

Brussels, 27 October 2004.

3.6.4.9 We also welcome the support given to R&D under the 6th Research and Development Framework Programme. In the electronic communications technology sector, as in all other areas of technology development, we stress the need for Europe to invest in R&D and innovation, in line with the targets we set ourselves under the Lisbon strategy. Recognising that this sector has undergone a period of consolidation and retrenchment of investment, the Committee now calls on all parties – the EU, Member States and the private sector – to demonstrate renewed commitment to investment in the future of electronic communications by significantly increasing the scale and rate of R&D activities.

3.7 Concluding remarks

Finally, the Committee further welcomes the publication of the *eEurope 2005 Action Plan: Mid-term review* [COM(2004) 108 final], and the confirmation that the eEurope 2005 targets remain valid in the context of the enlargement of the EU to 25 members. We look forward to reviewing the adjusted eEurope 2005 Action Plan and the comments on it by the June Council.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

⁽¹⁾ COM(2004) 261 final *The Management of Copyright and Related Rights in the Internal Market*.

⁽²⁾ COM(2003) 46 final *Proposal for a directive of the European Parliament and of the Council on measures and procedures to ensure the enforcement of intellectual property rights*. EESC Opinion: OJ C 32 of 5/2/2004, p. 15.