

## Opinion of the European Economic and Social Committee on 'High-speed access for all: development of the scope of universal service for electronic communications'

(2009/C 175/02)

On 3 July 2008 the French presidency decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on

*High-speed access for all: development of the scope of universal service for electronic communications*

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 10 November 2008. The rapporteur was Mr HENCKS.

At its 449th plenary session, held on 3 and 4 December (meeting of 4 December), the European Economic and Social Committee adopted the following opinion by 125 votes to 3 with no abstentions.

### 1. Recommendations

1.1 Nowadays, the information and communication technologies (ICT) underpinning an information society which is open to all must incorporate the needs of all members of society.

1.2 Nevertheless, electronic means of communication remain inaccessible to many citizens who do not have access to networks and services or lack the skills. To date, the universal service for electronic communications, which requires a defined minimum service of specified quality to be made available to all users at an affordable price, has failed to close the digital divide.

1.3 Since its implementation, the scope of universal service has remained virtually unchanged and is still restricted to a single connection to a public telephone narrowband network.

1.4 However, general access to broadband is not just a key factor in the development of modern economies and an important aspect of the Lisbon agenda, but has become an essential aspect of welfare and digital inclusion.

1.5 Thus, the EESC considers it necessary to adapt universal service to technological developments and user needs, and therefore advocates:

- extending the scope of universal service and making universal availability compulsory (within reasonable timeframes to be established, and within a multiannual programme), DSL access with a minimum transmission speed of 2Mbps-10Mbps or mobile or wireless access (WIMAX, satellite, etc.) with similar transmission speeds;
- not focusing exclusively on geographic exclusion but also on the social exclusion that accompanies the lack of purchasing power or limited skills of certain user groups and that universal service should be expanded to ensure availability for all users regardless of their geographic, financial or social situation;

- supporting national and local digital inclusion projects as well as the micro-projects of communities and organisations that assist people experiencing difficulty in grasping technology tools. This would be done mainly through microfinance for local training projects, public internet access points and interactive internet kiosks in public areas offering free internet access;

- encouraging Member States to provide financial support for families or people who would find the cost of basic equipment (computer, software, modem), access and service prohibitive;

- facilitating the financing of universal service via national public subsidies and EU funds, which is the only alternative for countries where operators would be unable to bear the financial burden of universal service; and

- urging the Commission to publish examples of best practices in the field on a regular basis.

### 2. Introduction

2.1 In 1993 <sup>(1)</sup>, for the first time, the Commission took a detailed look at the concept of a universal service in the telecommunications sector, which, at the time, had been developed to serve as a safety net to ensure 'access to a defined minimum service of specified quality to all users everywhere and, in the light of specific national conditions, at an affordable price'.

2.2 The concept of universal service was subsequently consolidated in several directives <sup>(2)</sup> and, due to ongoing convergence between telecommunications, the media and information technologies, universal service was extended to electronic communication services.

<sup>(1)</sup> COM(93) 159 final.

<sup>(2)</sup> Directives 95/62/EC; 97/33/EC; 98/10/EC; 2002/22/EC.

2.3 The development of the information society has widened the divide between those who use the potential of electronic communication networks in their private and working lives and those who are not in a position to use its potential (the digital divide), either because they do not have access to ICT or because they lack the skills or interest.

2.4 According to a Eurobarometer survey <sup>(3)</sup>, 49 % of households in EU27 (in winter 2007) had an internet connection (52 % in EU15 and 33 % in the 12 new Member States), whereas more than half of Europeans (57 %) had a computer at home.

2.5 Although internet connection rates are rising constantly across the EU, the fact still remains that on average one out of two households in the EU — and less than a quarter of Bulgarian, Greek and Romanian households — have an internet connection.

2.6 As a result, these means of electronic communication, which are indispensable for the creation of the information society, are not accessible to many citizens, whereas a considerable amount of information is only available in ICT format.

2.7 For many years, the risk of digital divide has been a constant concern for the EU, which regularly adapts and builds on its electronic communications rules by introducing specific provisions for the preservation of a universal service, users' rights, and personal data protection, initiatives to which the EESC has contributed many opinions <sup>(4)</sup>.

2.8 In the Riga Declaration <sup>(5)</sup> on e-Inclusion, adopted on 11 June 2006, the Member States undertook to significantly reduce regional disparities in internet access across the EU by increasing broadband coverage in under-served locations, and to halve the gap in internet usage by 2010 for groups at risk of exclusion.

2.9 Despite this declaration, the scope of universal service remains unchanged.

2.10 In 2007, the Commission presented a wide-ranging proposal to recast existing EU rules on electronic communications including, inter alia, an amended Universal Service Directive <sup>(6)</sup>.

2.11 The main proposed amendments to the Universal Service Directive concern the improvement of information for end-users, use of and access to e-communications for disabled users, emergency service calls, and ensuring basic connectivity and quality of service <sup>(7)</sup>.

2.12 Disabled persons and people with special needs still face numerous difficulties in accessing services that are essential to social and economic life <sup>(8)</sup>. The EESC therefore clearly welcomes the fact that the 2007 proposal for an amendment of the Universal Services Directive <sup>(9)</sup> replaces the *possibility* for Member States to take specific measures for disabled users with an explicit *obligation* to do so <sup>(10)</sup>.

2.13 However, the proposal for an amendment to the Universal Service Directive does not alter the scope of universal service or its provision to consumers and end-users.

### 3. Current scope of universal service

3.1 Member States must ensure that all reasonable requests for connection at a fixed location to the public telephone network and for access to publicly available telephone services at a fixed location (telephone enquiry services, directories, public pay telephones, or special measures for disabled users) must be met by at least one undertaking.

3.2 Since national mobile telephony operators' licences entail total geographic and/or population coverage, voice telephony has, in the meantime, become universally available, even though pricing often lacks transparency.

<sup>(3)</sup> Special Eurobarometer 293/June 2008: E-Communications Household Survey, November — December 2007.

<sup>(4)</sup> Communication from the Commission — Electronic Communications: the Road to the Knowledge Economy COM(2003) 65 final, 11/2/2003; opinion CESE on *Europe at high speed* (rapporteur Mr McDonogh), OJ C 120, 20.5.2005, p. 22; opinion CESE on *Bridging the Broadband Gap* (rapporteur Mr McDonogh), OJ C 318, 23.12.2006, p. 229; opinion CESE on *i2010 — An information society for growth and employment* (rapporteur Mr Lagerholm), OJ C 110, 9.5.2006, p. 83; opinion CESE on *eAccessibility* (rapporteur Mr Cabra de Luna), OJ C 110, 9.5.2006, p. 26; opinion CESE on *Future eAccessibility legislation*.

<sup>(5)</sup> See [http://ec.europa.eu/information\\_society/events/ict\\_riga\\_2006/doc/declaration\\_riga.pdf](http://ec.europa.eu/information_society/events/ict_riga_2006/doc/declaration_riga.pdf).

<sup>(6)</sup> Proposal for a Directive amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks, 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 consumer protection cooperation (COM(2007) 698 final).

<sup>(7)</sup> See opinion CESE on *Electronic communications networks/Telecoms Reform Package* (OJ C 224 of 30.8.2008, p. 50, rapporteur: Mr Hernández Bataller).

<sup>(8)</sup> Progress Report on the Single European Electronic Communications Market 2007 (13th Report), COM(2008)153.

<sup>(9)</sup> COM(2007) 698 final.

<sup>(10)</sup> See opinion CESE on *eAccessibility* (rapporteur: Mr Cabra de Luna) OJ C 110 of 9.5.2006, p. 26.

3.3 The connection to the network is nevertheless limited to one narrowband connection. There is no requirement for a specific data or bit rate but the connection must be capable of supplying 'functional Internet access, taking into account prevailing technologies used by a majority of subscribers and technological feasibility' <sup>(11)</sup>.

#### 4. Widening the scope of universal service

##### 4.1 General comments

4.1.1 The concept of universal service and its scope should evolve to reflect advances in technology, market developments and changes in user needs.

4.1.2 In the second periodic review of the scope of universal service in electronic communications networks <sup>(12)</sup> the Commission considers that the conditions for broadening the scope of application as defined in Annex V of the Universal Service Directive are not currently fulfilled. However, it acknowledges that it is reasonable to anticipate that, in a relatively short horizon of time, narrowband will no longer answer the requirement of being 'sufficient to permit functional internet access'.

4.1.3 The EESC feels that an update is already necessary now and should focus on the following elements.

##### 4.2 Access to a basic set of services

4.2.1 While some cases of digital exclusion are due to behaviour or culture, and can be mitigated over time, others are linked to structural inequalities in the organisation of the economy and society.

4.2.2 This in turn leads to other inequalities with regard to unequal access to employment, training and lifelong learning opportunities; consumer goods and services; public services; social inclusion; the expression of citizenship; and democratic participation.

4.2.3 Digital exclusion is multifaceted, encompassing not only the equipment itself, but also access, the necessary training and user support; it requires parallel action on:

- access to training on new technologies,
- access to equipment; and
- connections.

<sup>(11)</sup> See COM(2007) 698.

<sup>(12)</sup> COM(2008) 572 final.

##### 4.3 User training

4.3.1 Undoubtedly, the increased skill levels required by the proliferation of digital technologies will increase usage and access inequalities, even if such technologies are opened up to all.

4.3.2 Those unable to use a computer or the internet, who often manifest a total lack of interest, are at an ever increasing disadvantage. This creates a social divide not only for the excluded but also for those who have difficulty adapting to new technologies.

4.3.3 For this reason, special attention should be given to older people who are reluctant to familiarise themselves with the digital environment (the generation gap), for whom digital literacy programmes should be set up to cater for their specific needs <sup>(13)</sup>.

4.3.4 Support should therefore be provided for national and local digital inclusion projects as well as the micro-projects of communities and organisations that assist people experiencing difficulty to get to grips with technological tools. This would be done mainly through microfinance for local training projects, public internet access points and interactive internet kiosks in public areas providing free internet access. The EESC believes that the Commission should publish examples of best practices in the field on a regular basis.

##### 4.4 Access to equipment

4.4.1 Many families and individuals are denied access to the electronic communications network and related services, as the basic equipment (PC, software, modem) can be prohibitively expensive for them.

4.4.2 The EESC calls on the Member States to provide economic support, within the universal service framework, to facilitate internet access and use.

##### 4.5 Connections

4.5.1 It is now evident that ICT, which underpin an information society that is intended to be open to all, must cover the needs of all persons in society, in particular those most vulnerable to social exclusion, to address the problem of the digital divide and an entrenched two-tier society.

<sup>(13)</sup> See exploratory opinion CESE 1524/2008 on *Taking into account the needs of older people*, (rapporteur: MsHeinisch).

4.5.2 The combined effects of the convergence of the global internet-based environment, networking and digitalisation increasingly demand a high speed network connection when using new applications.

4.5.3 According to the Communication of 20 March 2006 <sup>(14)</sup> on Bridging the broadband gap ‘*Widespread broadband access is a key condition for the development of modern economies and is an important aspect of the Lisbon agenda.*’ The Communication of 29.09.2008 recognises that ‘*that there will be geographic areas where it is unlikely that the market will provide the service on a reasonable timescale*’ and that ‘*there will come a time when “info-exclusion” becomes a significant issue.*’

4.5.4 For some years now the EESC has been calling for broadband access to be included in universal service.

4.5.5 The Universal Service Directive was supplemented in 2002 with the inclusion of *functional Internet access* within the scope of universal service. Functional access is defined here as the transmission of data communications at rates sufficient to enable internet access.

4.5.6 While this addition may have seemed a worthy improvement at a time when online communications were routed via dial-up telephone-based connections, these days, applications such as eHealth, eBusiness, eGovernment and eLearning, which are vital to European growth and quality of life in the years ahead, require broadband.

4.5.7 The EESC therefore considers it vital for *functional internet access* to be clarified and proposes that universal service providers be required (within a reasonable timeframe to be established, and within a multiannual programme) to provide DSL access at a minimum transmission speed of 2Mbps-10Mbps or mobile or wireless access (WIMAX, satellite, etc.) at similar speeds. This is because we are dealing with values that have to evolve according to technological developments and consumer needs.

#### 4.6 Availability for all users regardless of geographic location

4.6.1 In remote and rural areas, especially in some new Member States, the market is often unable to provide affordable access to electronic communication infrastructure at an adequate level of service.

4.6.2 With regard to high speed access, there are considerable differences between urban and rural areas. DSL coverage in rural areas is 71.3 % as opposed to 94 % in urban areas <sup>(8)</sup>. If transmission speed is too slow, it restricts the use of broadband by companies in rural areas as well as its introduction to households, which are unable to experience a genuinely multimedia environment.

4.6.3 Digital exclusion affects different social groups depending on certain variables, be they demographic (age, gender, type of household, etc.), socio-economic (education, employment, status, income, etc.) or geographic (housing, location, specific regional or local features, geopolitical factors, etc.).

4.6.4 Therefore, the focus should not solely be on geographic exclusion but also on the social exclusion that accompanies the lack of purchasing power or limited skills of certain user groups.

4.6.5 The EESC therefore thinks that universal service should be expanded to ensure access for all users regardless of their geographic, financial or social situation.

#### 4.7 Defined level of quality

4.7.1 In its proposal to amend the Universal Service Directive the Commission proposes granting power to the national regulatory authorities to prevent degradation of quality of service, the blocking of access and the slowing of traffic over the networks by setting minimum quality levels for network transmission services for end-users.

4.7.2 The EESC thinks that the minimum quality level should be the same for all Member States and that therefore, a priori, the European legislator should set minimum quality standards and not the national regulatory authorities.

#### 4.8 Affordability

4.8.1 Instead of affordable or reasonable prices, we should speak in terms of a ‘price that everyone can afford’, as this more accurately conveys what is intended.

4.8.2 Affordability of access and service at EU level is part of the definition of universal service, but not of its scope at EU level; this is because affordability is dependent on specific national conditions e.g. the average household income.

4.8.3 The EESC would suggest that Member States consider the possibility of introducing social rates for broadband internet access and use, as exist in certain Member States, as part of the universal service.

### 5. Financing

5.1 The EESC realises that universal service obligations for broadband entail a heavy financial burden for operators, which often can only be undertaken at a loss.

<sup>(14)</sup> COM(2006) 129 final.

5.2 These costs nevertheless depend largely on the technology used. If, on the one hand, these costs can be lowered by replacing landline connections with mobile connections, given the marginal cost of adding a new subscriber to the radio communications network of subscribers, we should not forget that, on the other hand, landline communication costs are cheaper for the user than mobile communication.

5.3 When a universal service obligation represents an unfair burden on a provider, the 2002 Universal Service Directive allows Member States to use different financing mechanisms, namely:

- recovery via public funds;
- levies on users;
- contributions from all or certain specified classes of undertaking.

5.4 The Structural Funds or rural development funds could, under certain conditions, also contribute to the development of lagging regions and rural areas.

5.5 At the EU level, with regard to access to ICT networks in areas and regions of Europe where the digital divide is felt, the EESC reiterates its request <sup>(15)</sup> that the Structural Funds, rural development funds and R&D funds should earmark specific amounts for e-inclusion.

5.6 The convergence of the global internet environment and the numerous operators (access infrastructure, Internet platforms and content providers) is making it increasingly difficult to define the range of markets contributing to the fund and is becoming a constant source of litigation and claims.

5.7 Furthermore, the levies on operators are generally reflected (at least partly) in the final price.

5.8 The EESC warns against the residual costs of universal service being compensated by the direct or indirect introduction of charges or increased rates for the end-user, which would be incompatible with the concept of 'affordability'.

5.9 The EESC believes that the financing of universal service via public subsidies, combined with investments financed by EU funds, is the only alternative for countries where the financial burden of universal service obligations is out of proportion with the normal conditions for running a business.

5.10 Financing universal service via a general taxation system, which distributes the burden across a very wide fiscal spectrum, means that the loss of social well-being will be much lower than it would be if universal service were financed solely by levies on operators and consumers.

Brussels, 4 December 2008.

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<sup>(15)</sup> Opinion CESE on *Future eAccessibility legislation*, (rapporteur: Mr Hernandez Bataller), OJ C 175 of 27.7.2007, p. 91.

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