

CEEP.2010/Opinion7
31 May 2010

CEEP answer to the questionnaire for the public consultation on universal principles in e-communications

May 2010

CEEP welcomes the initiative of the European Commission in broadly consulting on future universal service, the provision of access to basic e-communications services being a factor of social value for national inclusion and cohesion.

Throughout the current questionnaire launched on the 2nd of March, the European Commission reopens reflection considered in the Communication of 2008 - “whether universal service at EU level is an appropriate tool to advance broadband development and so if, when and how it should be invoked, or whether other EU policy instruments – and, in such case, which ones – would be more efficient. This question goes beyond the issue of the scope of universal service”

In that regard, CEEP welcomes and appreciates the balanced reasoning of the European Commission’s questionnaire, sharing the approach that consists in considering and assessing different solutions enabling the most efficient way to maintain the fundamental objective of universal provision of basic e-communications services.

In a second time, the Commission investigates the very deep rationality for extending universal service principles to the evolutionary context of e-communications services while seeking to evaluate the risk of hampering and freezing competitive markets development.

However, CEEP considers that the current consultation does not concern the periodic comprehensive review of the scope of universal service foreseen by the Article 15 of the Universal service directive. The current consultation is limited to the investigation of the relevance of the concept and principles of universal service. That seems to be the explanation why the EC does not ask any questions on the merits of maintaining current universal service obligations such as the provision of directories, directory inquiry services or public pay telephones.

CEEP’s understanding is that the Commission will launch other initiative to address those questions later. Indeed some mandatory services, such as provision of public pay telephone, may prove to be outdated in respect of market evolution, specifically the high level of penetration of mobiles.

1 - 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 the sections of society, thereby ensuring social inclusiveness?

To answer this question, it is important to consider the market situation in order to assess if the demand for basic e-communications services is correctly addressed. The sector-specific regulation put in place for establishing a sustainable competitive field has proved to be efficient and the existence of wholesale offers guarantees the reproducibility of offers and services by all the competitors. This competitive market led to a wide range of products and services which makes consumers choice more effective and easy and ensures affordable prices for consumers.

According to the 14th 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, insofar as the technological neutrality principle enshrined in the Framework directive and reaffirmed in the universal service directive allows the use of mobiles in case of unavailability of fixed lines, the provision of a universal access is better addressed, in particular in the countries where fixed coverage is lower.

At the end of 2008, the average EU mobile penetration rate had reached 119%. Those favourable conditions led to sustainable competitive markets able to satisfy and meet consumers' geographical and social needs.

In that context, it is 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. Therefore, if ever the Commission decided to maintain the concept, it should be kept to the most limited scope.

Question 2: If so, what is the best policy to allow disabled consumers, those on low incomes and those living in geographically remote and isolated areas to access and use basic e-communications services?

The increasing elderly population has a direct and rational influence on the undertakings' marketing strategy. Today, it becomes economically viable to design new and innovative offers in the independent and healthy life field. Those products and services which enhance the autonomy and quality of life while reducing the costs associated with elderly care have a twofold target insofar as they are convenient both to elderly and/or disabled users. It is a quite new challenge in terms of marketing and commercial issues to consider the development of new business in wellbeing and ageing well. Moreover, thanks to the

digitalisation, e-communications services enable bespoke offers which better fit to specific handicaps.

Many operators and manufacturers are now interested in developing dedicated and easy-use equipments, particularly in the mobile field. Indeed, while only 42% of the +70 years old people possess a mobile handset, this may be a factor of growth for the mobile market which is beginning to get out of breath; for example, the Swedish Group Doro which is a leader-designer for mobile handsets dedicated to the senior market, provides for very easy-using mobile phones with larger keys, amplified sound and compatible with ear prosthesis.

In this regard, 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 social viewpoint regarding autonomy and independency and economic viewpoint by putting incentives on healthcare systems for reducing their costs and opting for ICT solutions.

Moreover, 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. Therefore, a dialog with national health authorities as well as disabled persons associations are also necessarily essential contributors to this debate.

Regarding the availability of social tariffs adapted to low income, undertakings are providing voluntary commitments. For example, in France Orange France proposes a social tariff plan for mobiles which allow consumers to limit their monthly flat rate at a very low price (limited consumption of air time and permanent possibility to be called).

As for the availability of basic e-communications services for people living in geographically remote and isolated areas, CEEP is of the opinion that tanks to the principle of technological neutrality and the high level of mobile coverage, this obligation is met by the market. It is worth reminding that mobile licenses (e.g. the French ones) comprise mandatory coverage targets which guarantee a large coverage, including rural and remote areas.

Moreover, spectrum needs for wireless broadband should be addressed in a comprehensive manner, taking account of all relevant frequency bands, technological developments and market conditions.

2 - 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?

CEEP endorses European policy objective regarding broadband for all which will positively impact the development of the Digital Agenda in the coming year, and is aware of the importance of the development of ICT and their positive role into growth and innovation beneficial to the whole society.

Many countries have launched Digital Plans to favour and speed up the roll-out of broadband networks. All of those Digital Plans introduce precise objectives of coverage rate and objectives of data bandwidth speed.

Those policies while targeting an improvement of broadband supply should only focus on the areas where it is not economically viable to roll-out the networks. In all the other areas, the market should be the sole driver.

All those national digital plans go in the right direction and fuel the Broadband for all European strategy.

Other means related to national policies have proved to be efficient too. We can quote in particular public-private partnerships between local public authorities and voluntary undertakings, solutions which can help to achieve a better coverage or to make public services closer to the citizens in remote areas.

The Annex 3 of the questionnaire which lists the main EU policies tools to advance broadband coverage such as State Aids goes in the same way. Insofar as the use of those tools is compliant with the granting subsidies conditions and rules and only addresses the underserved areas, they are useful to achieve a universal coverage.

Regarding measures for sustaining demand, public policy would also have a huge impact and a key role to play by setting up programs to improve citizens' digital skills and giving fiscal incentives to population for encouraging PC purchase.

Given the setting-up of several efficient instruments, universal service obligation does not seem to remain the most appropriate tool and should only be considered as a last resort instrument when all other means have failed to achieve the objective.

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?

As this question is strongly linked to the question 3, the previous answer shall be taken into account here.

It is important to add that in any case, universal service has to serve as an instrument for fostering networks roll-out. That would put a sound competition between network operators at risk and lower the incentives to invest in the building-up of networks.

Such an interpretation of the universal service concept would change the fundamental meaning of the universal service objective which is to favour and ensure social cohesion.

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?

CEEP is in favour of a common European objective such as “Broadband for all” insofar as the local specificities and the particular means of each Member State are taken into account. 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.

According to the principle of subsidiarity, Member States might widen the scope of universal service to advanced e-communications services, such as broadband. However, the resulting additional financial burden would have to be borne through alternative mechanisms to those set up for the offset of universal net costs (e.g. general taxation).

3 - 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?

The way in which universal service is funded in a competitive environment is of huge importance due to the risk of market distortion. The current funding in some Member States is very discretionary because of the lack of any precise definition of unfair burden in the directive. It results in inconsistent approaches by the EU Member States, especially in the establishment and implementation of US fund.

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. Any extension of the scope such as broadband inclusion as a universal service obligation should lead to reconsider the financing issue. 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.

Concerning the specific 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 Government social policy objective and financed by the public budget.

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 e-communications 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?

Insofar as the roll-out of Broadband networks provides a benefit to society as a whole, public financing would be a mechanism to limit the financial arrangements of universal service to market players. In this regard, broadband coverage in less populated and remote areas could be efficiently improved by granting structural funds, either national or European funds.

4 - 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 consider 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.
