

ANEC COMMENTS ON THE COMMUNICATION FROM THE COMMISSION TO THE COUNCIL, THE EUROPEAN PARLIAMENT, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS (COM(2005) 203)

On the Review of the Scope of Universal Service in accordance with Article 15 of Directive 2002/22/EC

Introduction

The purpose of the Commission Communication is twofold. The primary purpose is to examine and assess whether the current scope of universal service should be changed or redefined in light of the technological, social and economic developments, particularly taking into account mobility and data rates (section A).

The second purpose is to launch a broader policy debate on universal service provision, particularly in view of the overall assessment of the EU regulatory package for electronic communications scheduled for 2006, when the Universal Service Directive will be also reviewed in its entirety (section B).

The present scope of the Universal Service as defined by the Directive is as follows:

1. Right to connection to the public telephone network at a fixed location;
2. Access to public phones including free dial for the European emergency number 112;
3. Access to comprehensive telephone directories;
4. Access for users with disabilities to publicly available telephones .

Executive Summary

ANEC appreciates the opportunity to respond to the consultation on this Communication on the review of the Universal Service Directive. Our comments follow the sequencing of the Commission Communication (COM(2005) 203).

In ANEC's opinion, the scope of universal service should be extended to be accessible at any location. It is ANEC's understanding that Universal Service represents the basic set of services which all consumers are entitled to expect.

As such, it is inevitable that it evolves with time as technological and social conditions change.

Whilst recognising that a significant majority of consumers are using mobile communications services, ANEC would like to highlight the fact that many consumers, older people and people with disabilities in particular, rely only on the provision of universal service (connection to the public telephone network at a fixed location). A minority of consumers are indeed excluded from society by not being able to use specific services as enjoyed by the majority.

ANEC calls for applying the set of Universal Service obligations to all publicly available communications services as the access to communication infrastructure is linked to service provision elements.

A. Scope of Universal Service

Mobile Communications

After analysing the main development in the electronic communications sector and their implications for the scope of the Universal Service, the Commission draws the following conclusion:

“... the evidence demonstrates that the competitive provision of mobile communications has resulted in consumers already having widespread affordable access to mobile communications. The conditions for including mobile communications within the scope of universal service (as set out in the Directive) are therefore not fulfilled”.

It is ANEC's understanding that Universal Service represents the basic set of services which all consumers are entitled to expect. As such, it is inevitable that it evolves with time as technological and social conditions change otherwise consumers who are reliant upon the application of Universal Service obligations will find that they are left with a service model which most consumers are not using anymore.

ANEC believes that the two criteria of Annex V of Directive 2002/22/EC¹, condition sine qua non for any change of scope of the Universal Service, are met

¹ According to Annex V of Directive 2002/22/EC, any change of scope is subject to the following criteria: a) A minority of consumers would be excluded from society by not being able to afford specific services that are both available to and used by the majority; and b) Inclusion of these

in the case of mobile communications services because a minority of consumers (19% of the EU population according to the Commission's data), is excluded from society by not being able to use specific services as enjoyed by the majority. The second condition set out in Annex V, concerning "general net benefit for all consumers", is met as consumers who cannot use the state-of-the-art network cannot be called or contacted by other consumers.

Therefore, while recognising that a significant majority of consumers are using **mobile communications services**, ANEC would like to highlight the fact that many consumers with disabilities, deaf and hard of hearing in particular, are excluded from the use of **real time communication services** as mainstream mobile services do not support character-by-character based interactive texting solutions.

If mobile services were considered as part of the universal service provision, then they would need to support the introduction of character-by-character based interactive texting solutions that work across various networks, platforms and relay services and easy, cheap access to the handsets and equipment that supports interactive texting.

This would give deaf and speech impaired people fully equivalent functionality to hearing people using voice telephony.

Proper access to the telephone network is particularly important in the context of access to emergency 112 services through relay services in an effective and reliable manner. SMS access, for example, is completely inadequate in this context.

Given the popularity of SMS we believe that Interactive texting will enhance the experience of all users, not just deaf and hard of hearing people, if this facility is built into mainstream products and services.

In addition, we express some doubts on the Commission's conclusions regarding **the affordability and quality of service of mobile communication services**. Prepaid cards in fact tend to be more expensive than subscriptions, hence consumers using prepaid cards are more likely to have 'passive access' i.e. the opportunity to be called rather than making the call themselves. Besides, the high prices of International Roaming Charges that consumers are paying while

services within the scope would convey a general net benefit to all consumers in case they are not provided to the public under normal commercial circumstances.

traveling across Europe have already been a concern for some time, both to the Commission, and national regulators.

Broadband Internet Access

We note the consultation acknowledges that intensifying competitive pressures have seen a dramatic growth in broadband deployment. Nevertheless, since only a minority of European consumers have taken up broadband, the Commission considers it should not be considered for inclusion in the Universal Service. However, given that this current review of the scope of the Universal Service will not be implemented in Member States until 2009 and that any further review of the Universal Service Directive would not be implemented in Member States until 2012, the Commission should give further thought to including access to broadband in the Universal Service provision as it could encourage a higher take up by consumers.

B. Longer Term Issues consultation (specific Commission questions)

- (a) Taking into account existing and expected technological developments, should universal service at some point in future separate the access to infrastructure element from the service provision element and address only access to the communications infrastructure, on the grounds that competitive provision of services, (e.g., telephone service provided using Voice over IP) will ensure their availability and affordability?

ANEC calls for applying the set of universal service obligations to all publicly available communications services as the access to communication infrastructure is linked to service provision elements. We do express some concerns on the current status of the access to electronic communications services, as a large number of consumers, and especially the most vulnerable, have failed to reap the benefits. Geographical coverage and reduced costs do not mean accessibility as such. Universal Service should ensure accessibility of both the network and the service in order to limit the “digital divide” as much as possible.

- (b) In as much as consumers are increasingly mobile while using communications services, should universal service continue to address access at a fixed location, or should it address access at any location (including access while on the move)?

In ANEC’s opinion, the scope of universal service should be extended to access at any location. It is ANEC’s understanding that Universal

Service represents the basic set of services which all consumers are entitled to expect. As such, it is inevitable that it evolves with time as technological and social conditions change.

- (c) With widespread affordable access to mobile communications, the demand for public payphones is declining. Is it still appropriate to include provisions on public payphones, and as they are currently conceived, within the scope of universal service?

Yes but it would be advisable to transform public payphones into “multimodal kiosks” (voice, text and video communications) to keep up with the market offer and demand.

- (d) In view of the competitive provision of directory enquiry services in many countries, for how long will there be a need to keep directories and directory enquiry services within the scope of universal service?

We believe that regulation on directories and enquiry services is needed to ensure that directory services on the market are accessible for all consumers.

- (d) Taking into account the complexity of the ever evolving communications environment as described above, and noting the challenges presented to date for existing universal service provision, it is likely that advanced services will bring both benefits and new difficulties for users with disabilities. Should special measures for such users in the context of universal service provision be further harmonised at EU level?

Yes, special measures are needed as long as the risks exist, that the development of the next generation networks and services follow the same path of the fragmented present PSTN² market.. Overcoming the risks would be possible if, instead of special measures, accessibility features were built in mainstream services with effect from the design phase, according to Design for All principles.

ANEC in Brief

ANEC is the European consumer voice in standardisation, representing and defending consumer interests in the process of standardisation and certification,

² Public Switched Telephone Network (PSTN).



also in policy and legislation related to standardisation. Our aim is a high level of consumer protection.

ANEC was set up in 1995 as an international non-profit association under Belgian law. It represents consumer organisations from the European Union Member States and the European Free Trade Association (EFTA) countries. Our General Assembly is composed of one national member per country, nominated jointly by the national consumer organisations in their country. The European Commission and EFTA fund ANEC, while national consumer organisations contribute in kind.

www.anec.org