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COMMISSION STAFF WORKING PAPER

Summary of responses to the public consultation on universal service principles in e-communications

Accompanying the document

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

**Universal service in e-communications: report on the outcome of the public consultation
and the third periodic review of the scope in accordance with Article 15 of Directive
2002/22/EC**

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1. OVERVIEW

The Commission held a public consultation on future universal service principles in the area of electronic communications networks and services from March to May 2010. A public workshop was held on 30 March 2010, attended by over 200 people.

A total of 149 contributions were received. 21% came from national and regional governments, NRAs and other public or semi-public bodies, 12% from organisations representing consumer and user interests, trade unions and people with disabilities, 13% from private citizens, 26% from business organisations and 28% from communications operators, service providers, manufacturers and other companies. The various responses to the consultation illustrate the wide debate on universal service in electronic communications. Views are diverse, ranging from calls for the phasing out of the relevant EU rules to arguing for harmonised universal service obligations ("USO") across the EU.

2. ISSUES COVERED

2.1. The concept of universal service (*Questions 1 and 2*)

Most respondents considered that USO should continue to act as a safety-net. Several consumer organisations argued, however, that USO should become a pro-active tool in the context of broadband. National administrations tended to prefer no fundamental changes. By contrast, respondents from the industry argued that market forces made the competitive provision of e-communications services ubiquitous and affordable, thereby contributing more to their universality than any USO. Accordingly, there would be a need for a major reform or phasing out of the current regime.

2.2. The role of universal service in meeting the 'broadband for all' objective (*Questions 3 and 4*)

On this question many governments were cautious, arguing that competition could be adversely affected if USO could realistically only be met by cross-subsidisation of the incumbent by other market players. Some governments thought, though, that USO might have a complementary role in this respect.

Many consumer organisations argued that internet had become utility-like and a broadband connection was increasingly needed for online services in everyday life. USO should therefore become a tool at EU level to bring broadband or very high-speed internet to all. Several respondents highlighted the need to drive internet take-up and to address digital literacy and access to skills and terminals. Disability organisations argued that internet access for the disabled was hampered by inaccessible services and unaffordable technologies.

Both incumbents and new entrants stressed that while the EU's broadband coverage targets deserved support, USO were not the right tool to achieve them because of their impact on investment, innovation and employment (due to the levies imposed on operators). Measures supporting the commercial provision of broadband (e.g. releasing spectrum and targeted State aid) were more efficient and less market-distorting. New entrants saw rigorous implementation of the EU's pro-competitive framework, complemented by wireless technologies, as the way forward.

Mobile operators argued that in the absence of market demand, mandating broadband as a USO would not make it more widely available, but would lead to market distortions by influencing the mix of technologies and service providers on the market. The satellite industry stated that the EU should reaffirm its commitment to the objective of 'broadband for all', rather than invoking USO for this purpose.

2.3. Balance between a coordinated EU response and national flexibility (*Questions 5 and 6*)

National administrations generally welcomed their increased flexibility in defining functional internet access although some called for more legal certainty and others for further flexibility. A few governments argued that a target or minimum level for basic broadband could be set at EU level in the future. Others thought that increased EU harmonisation could distort competition and deter investment, or would not take enough account of national circumstances.

The Body for European Regulators in Electronic Communications underlined the need for national flexibility, as a common EU approach would probably result in higher costs for users and negative effects on competition, investment and markets.

Many operators expressed concern over legal certainty regarding Recital 5 CRD and called for further guidance. Some consumer organisations saw a need for national flexibility regarding broadband speeds, while calling for more clarity in this respect.

2.4. Financing (*Questions 7 and 8*)

Most governments favoured maintaining the current financing regime (allowing both tax-based and sectoral funding) while some argued that public funding should be considered only as a supplementary measure. Views varied on the financing of USO associated with broadband. A few administrations considered that given the benefits of ubiquitous broadband, other funding methods, e.g. contributions beyond the telecoms sector or increased use of public funding, could be considered in the future.

Several market players argued that the EU broadband targets constituted economic and social policies that should be funded via general taxation, if needed, and not through a sectoral fund. This view was generally shared by business users, as services provided over broadband would be mostly non-telecoms services.

In particular, incumbents argued that USO represent an unfair indirect tax on operators and their customers. Both incumbents and new entrants argued that the current financing and costing provisions were being implemented in a fragmented way, with undertakings finding it difficult to obtain compensation.

Some consumer organisations thought that USO should in general be funded by the sector, while in the context of broadband roll-out, public funding would be the best way forward.