



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 27 May 2010

10244/10

TELECOM 59

NOTE

from:	COMMISSION
to:	COUNCIL
Subject:	Universal service - Outcome of the public consultation - Information from the Commission

The 10-week consultation, which closed on 7 May, aimed to facilitate a wide ranging public debate on the future of universal service, examining in particular whether a revision of EU provisions on universal service could have any role in meeting the universal coverage objective of 'broadband for all'. In total, 150 responses were received. This note provides a short summary of the main contributions.

Telecoms industry players generally argued for a major reform of the current system, including the financing regime, which was seen as outdated and having adverse effects on competition and markets. Most incumbents and new entrants expressed doubts whether harmonised universal service obligations (USOs) and funding from the sector were the right tool to achieve full broadband deployment, claiming that other EU and national policy and financing measures - such as State aid, Structural Funds and spectrum policy - should be utilised instead. Many operators raised concerns about legal certainty regarding the use of Recital 5 of the Citizens' Rights Directive (on national flexibility for defining internet connection speeds) for imposing new and potentially costly USOs on them.

Consumer organisations argued that internet has become a utility and broadband is now necessary in everyday life for using a wide range of online services. They also claimed that since USOs provide legal certainty, universal service should be used as a pro-active tool at EU level to bring broadband or very high-speed internet for all (irrespective of the levels of actual take-up or demand). Some organisations did however see a need for national flexibility in setting the criteria for broadband speeds, while calling for more guidance and clarity in this respect. Business users saw the sector as an inappropriate source to fund the delivery of non-telecoms services by extending USOs to broadband.

On the whole, Member States did not see a need for major changes to the concept of universal service and its financing mechanism. Recital 5 as referred to above was generally welcomed as a flexible approach, although better legal certainty or further national flexibility were called for. Some Member States argued that an overall target or floor for broadband should be set at the EU level while others considered that this would distort competition and deter investment at this stage. Nonetheless, at least one Member State believed that a harmonised USO might need to encompass broadband availability if other approaches and policies failed. As for financing possible USOs associated with broadband, views were varied. Some considered that taking into account the potential benefits of ubiquitous broadband - e.g. delivery of e-Government and e-commerce services - there may be value in considering ways in which funding could be provided for. BEREC underlined the need for national flexibility regarding broadband access, as a one-size-fits-all common approach would probably result in higher costs for all users and negative effects on competition, investment and markets. According to BEREC, if a common approach is needed, only a minimum safety net should be established at EU level, with the possibility to adapt to national circumstances.

The widely varying views expressed by the participants in the public consultation can be broken down into the following main potential policy options for further examination:

- Phasing out the current sector-specific universal service provisions at EU level;
- Providing clarity and legal certainty within the current EU legislative provisions on universal service, in particular regarding national flexibility on internet / broadband access; and
- Amending the EU legislative provisions on universal service in order to contribute meeting the universal coverage objective of 'broadband for all'.

These options and issues need to be further examined in the context of the 2009 Telecom Package and in the light of the Europe 2020 strategy and the European Digital Agenda. The Commission plans to come forward with the final report in September.
