

Status and Trends in the Provision of Universal Service in the IRG Countries

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Outline

- ❑ **Scope of the Universal Service**
- ❑ **Designation of Universal Service Providers**
- ❑ **Financing of the Universal Service**

Scope of the Universal Service in the IRG Countries

Rationale for Universal Service in the EU

- ❑ Liberalisation of the telecommunications sector in the EU in the late 90's was accompanied by the introduction of the concept of **Universal Service**.
- ❑ Universal Service was meant to act as a "safety net" where the market alone did not deliver basic services. The aim was to prevent **social exclusion** by ensuring that citizens had affordable access to services, thereby allowing a minority to catch up with the great majority who already enjoy those services essential for participation in society.

(EC Questionnaire for the Public Consultation on Universal Service Principles in e-Communications, March 2nd, 2010)

EU Regulatory Framework for Universal Service – Directive 2002/22/EC

Scope of Universal Service

- **Services part of the scope:**
 - **Access at a fixed location for:**
 - ✓ making and receiving local, national and international calls
 - ✓ fax communications
 - ✓ data communications at data rates sufficient to permit functional internet access
 - **Availability of at least one comprehensive directory of subscribers and directory enquiry service**
 - **Availability of public pay telephones**
 - **Special measures to ensure access and affordability of services for users with disabilities/special needs and users on low incomes**

Periodic Reviews of the Scope of Universal Service

- **Review of the scope every 3 years in the light of technological, social and economic developments**
- **Two criteria for including a service in the scope of Universal Service:**
 - **(1) The service is both available to and used by a majority of consumers and its lack of availability or non-use would result in social exclusion for a minority of consumers**
 - **(2) Inclusion of the service within the scope of the Universal Service would convey a general net benefit to all consumers in case the service is not provided to the public under normal commercial circumstances**

European Commission's Periodic Reviews of the Scope of Universal Service

- **First review of the scope of universal service (2005-2006)** concluded that there was no need to change the scope of the USO, in particular with regard to broadband and mobile services:
 - **Mobile** – it was found that competitive and open markets had resulted in widespread affordable access for consumers (2nd criterion not met)
 - **Broadband** – the overall proportion of the EU population using fixed broadband did not indicate use of the service by a majority of consumers, and broadband accordingly had not yet become necessary for normal participation in society such that lack of access implied social exclusion (1st criterion not met)

- **Second review of the scope of universal service (Communication of the European Commission - 2008):**
 - **Mobile** – same conclusions as the 1st review
 - **Broadband** – although not yet used by the majority of consumers, its take-up is approaching this threshold; also, it is reasonable to anticipate that in the near future narrowband will no longer be *"sufficient to permit functional internet access"* (as required by the Directive). **Conclusion: the situation needs to be kept under review.**

The Universal Service Obligation in the Practice of the IRG Countries

- ❑ In the vast majority of IRG countries there is an **Universal Service Obligation (USO)** = an obligation to provide one or several services included in the scope of the Universal Service. However, there is a very limited number of countries where there is no USO or where, despite there being an USO, it has not been imposed on any undertaking (4 countries).
- ❑ In the vast majority of IRG countries all of the services included in the scope of the Universal Service as per the Universal Service Directive were included in the USO at national level. However, in some countries there are services which are not *or* no longer included in the USO, particularly the comprehensive Directory of Subscribers and Directory Enquiry Service or the Public Pay Telephones.
- ❑ 4 countries indicated that they have extended the scope of the USO to e.g. Internet access for schools, public libraries and hospitals at an affordable price, distress and safety communications etc.

Current EU Legislative Context: The Amended Universal Service Directive

In the context of the EU Framework Review (completed 2009), Recital 8 of the Universal Service Directive has been amended to offer more flexibility to Member States seeking to expand the minimum guaranteed services to include broadband:

- **Limitation of the universal service requirement to a single narrowband network connection has been removed, same as the references to the data rate of 56 kbit/s.**
- **Data rates which are sufficient to permit functional internet access are to be defined by the Member States, "taking due account of specific circumstances in national markets, for instance the prevailing bandwidth used by the majority of subscribers in that Member State or technological feasibility".**
- **Flexibility is required to allow Member States to take measures where necessary to ensure that a data connection can offer functional internet access, "provided that these measures seek to minimize market distortion" – therefore, care should be taken as to their impact on competition**
- **Reference to alternative financing of infrastructure rollout has been introduced: "Alternative financing of underlying network infrastructure, involving Community funding or national measures in accordance with Community law, may also be implemented."**

Current EU Policy Context (I): The Ongoing Consultation on the Universal Service Principles in e-Communications – General Approach

- ❑ The questionnaire launched by the European Commission on March 2nd, 2010 is intended to stimulate an open-ended and wide-ranging public debate on the principles of universal service provision in electronic communications announced by the Commission in its 2008 Communication and in its Declaration to the European Parliament in November 2009.
- ❑ The Commission invites written comments to be submitted by 7 May 2010.
- ❑ A public workshop will be held in Brussels on March 30th, 2010.
- ❑ The Commission will issue a Communication summarising the debate, and may, if necessary, bring forward legislative proposals to update the Universal Service Directive 2002/22/EC.
- Amendments brought to Recital 8 of the Universal Service Directive are deemed by the Commission not to be enough to reform the Universal Service mechanisms in the EU. The amendments set out a new principle only in a recital without corresponding changes in the body of the legislative text, which gives rise to questions of interpretation and which might affect legal certainty.

Current EU Policy Context (II): The Ongoing Consultation on the Universal Service Principles in e-Communications – Questions

- ❑ **Basic concept of universal service:** The current concept of universal service was designed for traditional voice-based telecoms services.
 - Is this approach still valid in today's digital environment? Which policies should be used to ensure that consumers in remote and rural areas or those on a low income can access and use basic telecoms services?
- ❑ **Broadband:** Wide broadband coverage is crucial to foster growth and jobs in Europe. But 23% of people in rural areas do not have access to fixed broadband networks.
 - Should universal service help to reach the EU's goal of “broadband for all”, or would competition on the open market or other policy options be more effective?
- ❑ **National flexibility and a coordinated EU approach:** The state of development of telecoms markets, broadband availability and take-up, and government responses to the “digital divide” can vary considerably from country to country.
 - What is the right balance between a coordinated EU-wide response and the need for national flexibility?
- ❑ **Financing:** Appropriate financing mechanisms must be identified for the future.
 - Should there be a financial contribution from the telecoms sector to ensure universal broadband coverage, or should the public purse intervene since other sectors of the economy and society as a whole also feel the benefits?

Designation of Universal Service Providers in the IRG Countries

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Designation of the Universal Service Provider(s) in Practice (I)

- ***Provision of different elements of the universal service***
 - In 20 countries (60% of the IRG countries) all the USO elements which have been imposed are provided by a single undertaking, the incumbent being designated in all cases as the Universal Service Provider (USP).
 - 8 countries organised separate procedures for the different elements of the USO, giving the opportunity of designating multiple USPs.
 - In one country, all providers are designated by law to provide one of the elements of the USO (social tariffs).
 - In 4 countries there is no USO imposed on any undertaking.
- ***Provision of universal service in different areas of the national territory***
 - 25 countries (78% of the IRG countries) designated USPs for the whole national territory in respect of all USO elements.
 - Only 4 countries (12%) designated USPs for different geographical areas. However, 2 of them designated USPs for the entire national territory in respect of the Directory Enquiry Services. No uniform criteria for defining different areas were identified.

Designation of the Universal Service Provider(s) in Practice (II)

□ *Designation procedures*

- **The IRG countries designation with designated USPs have followed so far 3 generic types of procedures (there is a fairly balanced distribution of countries):**
 1. **Nomination without public consultation** – mostly done by law
 2. **Nomination with public consultation**
 - ✓ An intermediate form between the first two is nomination after a public consultation which included a call for expressions of interest from the (other) market players, following which only one or no such expression of interest were submitted
 3. **Public tender** – either directly or following a public consultation with call for interest where more than one expression of interest were received
- **Less than 25% of IRG countries actually designated the USPs by tender. This may change in the future, since in some countries new procedures have recently been introduced by law. 20 countries (~ 2/3 of the IRG countries) have now public tender procedures stipulated in the law.**
- **The relatively low number of countries who have eventually designated their USPs via public tender may be explained legally (national law excludes the public tender), but also pragmatically:**
 - ✓ There is a very limited number of competitors with technical and financial standing needed for an USP designation
 - ✓ There is an inherent reluctance of market players to compete for being assigned obligations additional to those normally imposed on any provider under the framework

Designation of the Universal Service Provider(s) in Practice (III)

□ *Designation criteria*

- **Designation criteria vary largely among countries and USO elements but are tailored to meet the market conditions and consumer needs in individual countries .**
- **The majority of IRG countries employ a combination of technical and economic-financial criteria, applied at the different stages of the designation process.**
- **The role of the various criteria is also different across jurisdictions, depending on the type of designation procedure. Where public tender is used, there are normally 2 layers of criteria:**
 - ✓ **qualification criteria** - applied in order to ensure that the participants to the selection procedure have the necessary qualifications to stand as a candidate for designation
 - ✓ **selection or evaluation criteria** – applied to ensure that the candidate who best meets the USO requirements is selected for designation as USP
- **Technical criteria** include:
 - ✓ economic and financial standing of the undertaking
 - ✓ end-user tariffs
 - ✓ net cost/amount of financial compensation required to fulfil the USO
- **Economic-financial criteria** include:
 - ✓ availability requirements (e.g. possibility of its subscribers to be reached by subscribers of largest service providers)
 - ✓ quality requirements (exceeding the minimum levels imposed by the NRA)
 - ✓ experience in the provision of the service concerned or of similar services
 - ✓ absolute and/or relative size of provider's business, including the extent, density and resilience of its communications network in the area covered by the USO

Financing of the Universal Service in the IRG Countries

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Calculating the Net Cost of the Universal Service Obligations

- The methods that may be used for the calculation of the USO net cost are set out in Directive 2002/22/EC:
 - ✓ **Method (a)** – calculates the difference between the net cost for the USP of operating with the USO and operating without the USO, taking into account any market benefit which accrues to the USP; this method is used by the vast majority of the IRG countries
 - ✓ **Method (b)** – makes use of the costs identified by a designation mechanism; it is only used in 2 countries, in alternation with method (a)
- **Net cost calculations are available in only 8 countries.** Other 8 countries mentioned that no calculation took place mostly because the USP claimed no net cost. In 2 countries a review of the calculation rules/an evaluation of a request for compensation are ongoing.
- **The intangible benefits are hardly quantifiable.** These may include: ubiquity, life-cycle effect, brand enhancement and corporate reputation, advertising on public telephone booths, customer database. Some countries use specific methodologies to assess the intangible benefits.
- **10 countries have included a reasonable rate of return in the net cost calculation.** In the majority of cases this is determined on the basis of WACC, the CAPM model being used to estimate the cost of equity.
- **In the majority view, economies of scope should be considered for the total net cost.**
- Where an USP is designated following a tender which also identifies the net cost, a controversial issue is whether the NRA can verify *ex post* if the net cost claimed was the real net cost incurred and make adjustments in case the two are different.

Financing of the Universal Service Obligations

- **Directive 2002/22/EC identifies two types of financing mechanisms that may be introduced by the EU Member States:**
 - ✓ (a) **Compensation from public funds**
 - ✓ (b) **Sharing mechanism among providers of e-communications**
- **Three conditions have to be met for setting up a financing mechanism:**
 - ✓ A finding of an unfair burden by the NRA, based on a net cost calculation carried out in accordance with the Directive
 - ✓ A request from a designated USP
 - ✓ A decision of the NRA to launch the financing mechanism
- **USO financing mechanisms have been activated in only 8 IRG countries.**
- **There is no common understanding as to what is deemed to constitute an unfair burden.** In most cases, the NRA has discretion to decide. Elements considered in the analysis relate to market conditions and degree of competition in the market.
- **In the IRG countries there is an overwhelming preference for the sharing mechanisms, based on contribution by e-communications providers in proportion to turnover** (exemptions possible under certain threshold). In 27 countries this is the exclusive option, in 2 countries it may be used in alternation with public funds, only 3 countries use exclusively public funding.
- **The NRA is administering the Universal Service Fund in most of the countries.**



THANK YOU!

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