



Raising standards for consumers



# Joint ANEC - EDF Reply to the Public Consultation on Universal Service Principles in eCommunications<sup>1</sup>

ANEC - EDF April 2010

*"In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations."*

**Article 4, paragraph 3 of the Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities**

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[http://ec.europa.eu/information\\_society/policy/ecomms/doc/library/public\\_consult/universal\\_service2010/presentations/questionnaire\\_en\\_100302.pdf](http://ec.europa.eu/information_society/policy/ecomms/doc/library/public_consult/universal_service2010/presentations/questionnaire_en_100302.pdf)



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## Executive summary

Universal service in electronic communications is defined as “ensuring that all who so request are provided with those services essential for participation in society and already available to the great majority of citizens, and either by the market or in case of market failure by public intervention”<sup>2</sup>.

At present, it consists of access at fixed location for telephone, fax and low band Internet networks and services, availability of directories and directory enquiry services and of public payphones and other public voice telephony access points. It also covers measures ensuring equal access and choice to publicly available telephone services to people with disabilities as well as certain aspects of terminal equipments to facilitate access for disabled end-users.

In this day and age of technical convergence, ANEC and EDF questions how mobile communications and broadband connections can be excluded from the basic set of services which all consumers are entitled to expect and therefore urge the European Commission to revise the scope of the Universal Service Directive. The definition of Universal Service is an inherited one. It was defined when mobile communications and broadband were not widely spread among the population. There is no doubt that if Universal Service were defined today, it would include mobile communications and broadband access.

Whilst recognising that a significant majority of consumers are using mobile communications services, ANEC and EDF would like to highlight the fact that many consumers, older people in particular, and people with disabilities to some extent, rely 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 access and use mobile phones and services as enjoyed by the majority.

Internet is also becoming a crucial instrument for full integration in society. There is evidence that online services often provide access to cheaper products and services and persons with disabilities require broadband connections to be able to communicate to the same extent as their non-disabled peers (e.g. video-relay-service for communication in sign language). So people, and especially persons with disabilities, who cannot access broadband Internet are clearly disadvantaged.

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<sup>2</sup> Communication from the European Commission on the second periodic review of the scope of universal service in electronic communications networks and services in accordance with Article 15 of Directive 2002/22/EC (COM/2008/572 final), 25 September 2008 (COM(2008)572Final), p. 2.

## 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 sections of society, thereby ensuring social inclusiveness?*

No, in ANEC and EDFs' opinion, the market cannot be the only actor to rely on to meet demand for basic e-communications services for all, including persons with disabilities. We consider that public intervention, and thus universal service obligations, should remain to ensure that no one is left behind the developments of the Information Society.

The digital divide is still a reality, and the gap between persons who have access to advanced Internet and those who have not is widening. Lots of consumers at risk, including persons with disabilities, are excluded from benefiting from the Internet services provided via broadband technology. With 114 million subscribers, the European Union (EU) is the largest world market for fixed Internet broadband access. However, even if broadband is available to more than 90% of the EU population, only 50% of households effectively use it because it is too expensive or complicated to use<sup>3</sup>.

Many consumers with disabilities and older consumers continue to face severe problems in accessing and using affordable mobile communications on equal terms with the vast majority of users. As stated by the study Measuring Progress of e-accessibility in Europe (MeAC study)<sup>4</sup>, except for Austria, the United-Kingdom and Spain, no countries have given attention to accessibility and affordability of mobile communications services. None has addressed accessibility of mobile communications equipment.<sup>5</sup> For instance, mobile operators provide dedicated information for consumers with disabilities on their websites in only seven Member States; Text relay services -essential for deaf and speech impaired people- are only available in half of the Member States, video-relay services in seven Member States only, most of them being on a pilot project basis; Emergency services are directly accessible by text telephone in only seven Member States. And, the total cost of accessible equipment, including software, can average €500 for a middle of range product for a blind or partially-

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<sup>3</sup> i2010 — Annual Information Society Report 2009, Benchmarking i2010: Trends and main achievements, {COM(2009) 390}.

<sup>4</sup> MeAC - Measuring Progress of e-accessibility in Europe - Assessment of the Status of e-accessibility in Europe, October 2007.

<sup>5</sup> MeAC Study, p. 23, 24.

sighted user. So far, the market has failed to deliver access to affordable mobile communication equipment and services to persons with disabilities.

Moreover, the latest Euro barometer e-communication household survey also demonstrates the exclusion of the elderly from Internet and mobile communications. Only 6% of the 75+ EU household use mobile communication contrary to 25% of all EU households<sup>6</sup>. 14% of the 75+ EU household have access to the Internet whereas 57% of the whole population has. In the United-Kingdom, 64% of those aged 65+ have never used the Internet and whilst 89% of adults use mobiles only 71% of those aged 65-74 and 54% of those aged 75+ use them which are the lowest use levels in all age groups<sup>7</sup>.

Geographical coverage and reduced costs do not mean accessibility as such. The criteria according to which "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"<sup>8</sup> should always be taken into account. Universal Service should ensure accessibility of both the network and the service in order to limit the digital divide as much as possible.

***Question 2: If not, what is the best policy to allow disabled consumers, those on low incomes and those living in geographically remote or isolated areas to access and use basic e-communications services?***

On 1 June 2005, the European Commission adopted the i2010 Information Society Initiative<sup>9</sup>, which is still in force today. Entitled 'A European information society for growth and employment', this new strategic framework defines the general policy guidelines for information society and media. One of its priorities is to avoid a 'digital divide' within the Union.

The i2010 strategy will now be succeeded by a new initiative, called the Digital Agenda for Europe 2010-2015 aiming at providing all European citizens with high-speed Internet access, creating a single digital market, reinforcing online security, fostering research and innovation. It will be part of the recently

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<sup>6</sup> More information online (PDF format) at: [http://ec.europa.eu/information\\_society/policy/ecommm/doc/library/public\\_consult/universal\\_service2010/presentations/s0401micas.pdf](http://ec.europa.eu/information_society/policy/ecommm/doc/library/public_consult/universal_service2010/presentations/s0401micas.pdf)

<sup>7</sup> UK Internet Access Households and Individuals 2009 <http://www.statistics.gov.uk/statbase/Product.asp?vlnk=5672> Internet Access Households and Individuals 2009

<sup>8</sup> Article 15 and Annex V of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal services and users' rights relating to electronic communications networks and services (Universal Service Directive).

<sup>9</sup> [http://ec.europa.eu/information\\_society/eeurope/i2010/index\\_en.htm](http://ec.europa.eu/information_society/eeurope/i2010/index_en.htm)

launched general “Europe 2020 Strategy” which should pave the way for the recovery of the EU economy and put it back on the track of growth.

Despite the political will concerned with ensuring an Inclusive Information society for all, ANEC and EDF believe that the lack of mandatory provisions concerning the right of people with disabilities to access Information Society products and services is the main reason behind the “digital divide”. For example, getting accessible websites or mobile phones is a problem and will not happen if left to market forces because it is not seen as economic opportunities to provide access for competitive companies. The same goes with getting broadband in rural areas because providing access is not economic for competitive companies; hence the need to incorporate it into the Universal service obligations.

We therefore reiterate our calls for an extension of the Universal Service Obligations to cover broadband access to Internet services and mobile communications because many people with disabilities are facing severe problems in accessing and using mobile communications and the Internet on equal terms with the vast majority of the other customers. We also consider that the Universal service Directive should be more service-focused rather than focused primarily on the technology. Since more and more Internet services are accessible via broadband technology, integrating broadband Internet access into the scope of the Universal service Directive will not only provide benefits to users with disabilities but to all consumers. Thus, there will be a general net benefit to all.

## 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?*

In ANEC’s and EDF’s opinions, the scope of universal service should be extended to permit access at any location. It is our 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.

ANEC and EDF reiterate that the scope of the Universal Service Directive should cover broadband Internet access as this Directive should be more service-focused rather than focused primarily on the technology. Moreover, given that

the next review of the scope of the universal service will not be implemented in Member States until 2012 and that any further review of the Universal Service Directive would not be implemented in Member States until 2013, the European Commission should give further thought to including access to broadband in the universal service provision as this could encourage a higher take up by consumers.

**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?*

Internet is a pervasive technology and is useful for everyday life as a source of information, as a communication tool, to access and deliver services, including public services and services of general interest, to benefit from education, training, jobs and leisure activities. It plays an increasing essential role in consumers' everyday lives, from shopping on-line to listening to music. In brief, Internet is becoming a crucial instrument to be fully integrated in society. Yet there is evidence that online services often provide access to cheaper products and services (e.g. cheaper air/rail fares, better savings rates for online banking, etc.) so people who cannot access broadband services are clearly disadvantaged. Besides, people with disabilities are excluded from accessing the Internet because of inaccessible and unaffordable technologies, even though broadband services would enable persons with disabilities to communicate at the same quality level as their non-disabled peers. For instance, broadband access to the Internet could enable persons with disabilities to use video-relay services or video phones to contact emergency services and receive information from early warning systems to the same quality level as other citizens. The vast majority of websites, hardware and software technologies cannot be used by users with disabilities.<sup>10</sup> The cost of accessing the Internet should not be underestimated. For example, a blind person will have to purchase screen reader software such as JAWS, which costs around €1000, and also pay for regular upgrades in order to maintain functional access to those websites that are accessible.

ANEC and EDF also think that the establishment of Universal Service Obligations on broadband Internet connections by National Regulatory Authorities (NRAs) will entail the setting of specific requirements on the quality of the connection

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<sup>10</sup> For more information, please refer to the MeAC study, and especially to chapter 4 on the World Wide Web and chapter 5 on computing, pp. 56-83.

offered. In order to implement quality of service requirements, the elaboration of standards may be needed.

**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?*

No answer.

**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?*

We consider the present concept of functional internet access to be a suitable mechanism. In the light of the current technological developments, access to narrowband Internet cannot be considered to deliver a “functional” internet access. The need for higher data communications and data rates to access and use the Internet is clear. It is inevitable that the scope of universal service will evolve with time as technological and social conditions change. Otherwise, consumers who are reliant upon the application of USO will find that they are left with a service model which most consumers are not using anymore. However, the exact “access rate” could be determined according to the national situation, thus allowing national circumstances to be taken into account. This is now foreseen in Recital 5 of the Citizens Rights Directive, amending the Universal Service Directive. On the other hand, defining a minimum set of USO, applicable European wide, will contribute to the development of a uniform single market for e-communications. If European consumers use e-communications networks and services, European manufacturers and service providers will be able to answer the demand accordingly.

## 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?*



ANEC and EDF consider that USO is a complementary but necessary tool to ensure that “broadband for all” becomes a reality. Whereas the development of a regulatory framework stimulating the competitive provision of widely available services, the application of structural funds, regional open access fibre network schemes and demand stimulation measures such as subsidies for purchase of subscriber equipment, training or awareness raising will create the grounds for a “broadband for all”, the USO mechanism will ensure that no one is left behind because of its income, age or disability.

The situation in countries outside the EU could also be of some inspiration. In the United-States of America (USA), the Telecommunications Relay Services Fund, which is separate from the Universal Services Fund, has been established in order to fund all relay services for persons with disabilities. All telecommunications companies operating in the USA must contribute to the fund via a “contribution factor”. A third party company operates the fund and pay the relay-services providers on the basis of the number of interpreted minutes. Thus, deaf and hard of hearing persons are not excluded from using phone services and can choose between several service providers, ensuring competition and innovation in the market.

***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?*

No answer

## **Any other issues**

Many consumers with disabilities continue to face severe problems in accessing and using mobile communications on equal terms with the vast majority of users.

As stated by the study Measuring Progress of e-accessibility in Europe (MeAC study) <sup>11</sup>, except for Austria, the United-Kingdom and Spain, no countries have given attention to accessibility and affordability of mobile communications services. None has addressed accessibility of mobile communications equipment.<sup>12</sup> For instance, mobile operators provide dedicated information for consumers with disabilities on their websites in only seven Member States; Text relay services -essential for deaf and speech impaired people- are only available in half of the Member States; and emergency services are directly accessible by text telephone in only seven Member States.

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 support interactive texting. This would give deaf and speech impaired people functionality that would be fully equivalent to that enjoyed by hearing people using voice telephony. Affordability of end-to-end mobile communications is also a key issue for people with disabilities, including blind and partially sighted persons. They need to purchase expensive 'smart phones' as basic affordable mobile phones do not have embedded operating systems and therefore cannot support assistive technology software such as text-to-speech or screen magnification. The total cost of accessible equipment, including software, can average €500 for a middle of the range product.

Thus, there is a clear need to provide better access to mobile communications. This should include availability and affordability of mobile communications equipment and services, availability of text and video relay services together with adequate equipment supporting these services, interoperability of existing systems to deliver end-to-end connectivity, and accessible emergency services.

It is apparent that the needs of mobile telephony users with disabilities have not been addressed by the market. To convey the benefit of mobile communications to ALL consumers, public intervention is needed. This is made more urgent by the fact that its use is increasingly taking over from fixed line telephony communications. Moreover, in the near future, third-generation mobile telephones and smart phones will not only be used as a communication tool but also as a device used to pay for bus or train tickets, exchange information via bluetooth connection, having constant access to the Internet, etc. It will be a crucial product to support the independent and community living of users with

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<sup>11</sup> MeAC - Measuring Progress of e-accessibility in Europe - Assessment of the Status of e-accessibility in Europe, October 2007.

<sup>12</sup> MeAC Study, p. 23-24.

disabilities. It is therefore essential to ensure that accessibility features are mainstreamed when mobile equipment is designed.

Therefore, ANEC and EDF call for an extension of the scope of the Universal Service Directive to cover mobile communications because many users with disabilities are facing severe problems accessing and using mobile communications.

In our comments on the revision of the EU electronic communications regulatory framework<sup>13</sup>, ANEC and EDF suggested the creation of a Community mechanism, supervising the compliance of Member States and stakeholders with their obligations on accessibility of electronic communications. ANEC and EDF are convinced that, in order for any regulatory measures or standards to have a real practical impact, strong market surveillance mechanisms should be put in place. Such a mechanism should be accountable to the European Parliament and the Body of European Regulators for Electronic Communications (BEREC)<sup>14</sup> would be responsible for suggesting European policies on e-accessibility, including provision of universal service, under the supervision of a committee composed of regulators, consumers and industry representatives.

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<sup>13</sup> ANEC-ICT-2009-G-026; EDF Position Paper on the Review of the European Union Regulatory Framework for Electronic Communications Networks and Services (The “Telecoms Package”), February 2009.

<sup>14</sup> Regulation of the European Parliament and of the Council establishing the European Electronic Communications Market Authority (COM(2007)699).

**ANEC** is the European consumer voice in standardisation, representing and defending consumer interests in the development of technical standards, in the application of certification schemes to standards, and in the creation or revision of legislation on products and services. ANEC brings together national consumer organisations from the EU Member States and EFTA countries in order to define European positions on matters affecting consumer protection and welfare. ANEC receives funding from the European Commission's DG SANCO and the EFTA Secretariat. In the EU context, consumers ensure that the public interest is represented in the standardisation work that complements European legislation and broader public policy initiative.

**Contact person at the ANEC Secretariat: Chiara Giovannini, ANEC** Research and Innovation Manager (Tel: + 32 (0) 2 743 24 72 - Email: [chiara.giovannini@anec.eu](mailto:chiara.giovannini@anec.eu)).

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**Should you have any problems in accessing the documentation, please contact the ANEC Secretariat (Tel: +32-2-743.24.70 - email: [anec@anec.eu](mailto:anec@anec.eu)).**

**The European Disability Forum (EDF)** is the European umbrella organisation representing the interests of 65 million disabled citizens in Europe. EDF membership includes national umbrella organisations of persons with disabilities from all EU/Economic European Area countries, accession countries and other European countries, as well as European NGOs representing the different types of disabilities. The mission of EDF is to ensure people with disabilities full access to fundamental and human rights through their active involvement in policy development and implementation in Europe.

**Contact person at the EDF Secretariat: Nadège Riche, EDF Policy Officer** (Tel: + 32 (0) 2 282 46 05 – Email: [nadege.riche@edf-feph.org](mailto:nadege.riche@edf-feph.org)).

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