

Procedure file

Basic information			
COD - Ordinary legislative procedure (ex-codecision procedure) Directive		2000/0183(COD)	
Electronic communications: universal service, users' rights relating to networks and services		Procedure completed	
Amended by 2007/0248(COD) Amended by 2013/0309(COD) Repealed by 2016/0288(COD)			
Subject 2.40.02 Public services, of general interest, universal service 3.30.05 Electronic and mobile communications, personal communications			
Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	JURI Legal Affairs and Internal Market	PPE-DE HARBOUR Malcolm	13/09/2000
	Former committee responsible		
	JURI Legal Affairs and Internal Market	PPE-DE HARBOUR Malcolm	13/09/2000
	Former committee for opinion		
	ENVI Environment, Public Health, Consumer Policy	GUE/NGL PAPAYANNAKIS Mihail	10/10/2000
	BUDG Budgets	The committee decided not to give an opinion.	
	ECON Economic and Monetary Affairs	The committee decided not to give an opinion.	
	CULT Culture, Youth, Education, Media and Sport	PSE APARICIO SÁNCHEZ Pedro	10/10/2000
	ITRE Industry, External Trade, Research, Energy	PSE CAUDRON Gérard	05/12/2000
Council of the European Union	Council configuration	Meeting	Date
	Education, Youth, Culture and Sport	2408	14/02/2002
	Transport, Telecommunications and Energy	2395	06/12/2001
	Transport, Telecommunications and Energy	2374	15/10/2001
	Transport, Telecommunications and Energy	2364	27/06/2001
	Culture	2361	21/06/2001
	Telecommunications	2340	04/04/2001
	Telecommunications	2325	22/12/2000
	Telecommunications	2293	03/10/2000
European Commission	Commission DG	Commissioner	
	Communications Networks, Content and Technology		

Key events			
11/07/2000	Legislative proposal published	COM(2000)0392	Summary
08/09/2000	Committee referral announced in Parliament, 1st reading		
03/10/2000	Debate in Council	2293	
22/12/2000	Debate in Council	2325	
04/04/2001	Debate in Council	2340	
29/05/2001	Vote in committee, 1st reading		Summary
28/05/2001	Committee report tabled for plenary, 1st reading	A5-0202/2001	
12/06/2001	Debate in Parliament		
13/06/2001	Decision by Parliament, 1st reading	T5-0324/2001	Summary
21/06/2001	Debate in Council	2361	
13/09/2001	Modified legislative proposal published	COM(2001)0503	Summary
16/09/2001	Council position published	10421/1/2001	Summary
19/09/2001	Committee referral announced in Parliament, 2nd reading		
15/10/2001	Debate in Council	2374	
27/11/2001	Vote in committee, 2nd reading		Summary
26/11/2001	Committee recommendation tabled for plenary, 2nd reading	A5-0438/2001	
06/12/2001	Debate in Council	2395	
10/12/2001	Debate in Parliament		
12/12/2001	Decision by Parliament, 2nd reading	T5-0679/2001	Summary
14/02/2002	Act approved by Council, 2nd reading		
07/03/2002	Final act signed		
07/03/2002	End of procedure in Parliament		
24/04/2002	Final act published in Official Journal		

Technical information	
Procedure reference	2000/0183(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amended by 2007/0248(COD)
	Amended by 2013/0309(COD)

	Repealed by 2016/0288(COD)
Legal basis	Rules of Procedure EP 050; EC Treaty (after Amsterdam) EC 095
Stage reached in procedure	Procedure completed
Committee dossier	JURI/5/14835

Documentation gateway

Legislative proposal		COM(2000)0392 OJ C 365 19.12.2000, p. 0238 E	12/07/2000	EC	Summary
Committee of the Regions: opinion		CDR0274/2000 OJ C 144 16.05.2001, p. 0060	14/12/2000	CofR	
Committee opinion	ENVI	PE297.216/DEF	28/02/2001	EP	
Economic and Social Committee: opinion, report		CES0229/2001 OJ C 139 11.05.2001, p. 0015	01/03/2001	ESC	
Committee draft report		PE294.936	14/03/2001	EP	
Committee opinion	CULT	PE286.748/DEF	19/03/2001	EP	
Amendments tabled in committee		PE294.936/AM	19/04/2001	EP	
Committee opinion	ITRE	PE297.110/DEF	20/04/2001	EP	
Amendments tabled in committee		PE294.936/AMC	23/05/2001	EP	
Committee report tabled for plenary, 1st reading/single reading		A5-0202/2001	29/05/2001	EP	
Text adopted by Parliament, 1st reading/single reading		T5-0324/2001 OJ C 053 28.02.2002, p. 0133-0195 E	13/06/2001	EP	Summary
Modified legislative proposal		COM(2001)0503 OJ C 332 27.11.2001, p. 0292 E	14/09/2001	EC	Summary
Council position		10421/1/2001 OJ C 337 30.11.2001, p. 0055	17/09/2001	CSL	Summary
Commission communication on Council's position		SEC(2001)1407	18/09/2001	EC	Summary
Committee draft report		PE308.466	30/10/2001	EP	
Amendments tabled in committee		PE308.466/AM	21/11/2001	EP	
Committee recommendation tabled for plenary, 2nd reading		A5-0438/2001	27/11/2001	EP	
Text adopted by Parliament, 2nd reading		T5-0679/2001 OJ C 177 25.07.2002, p. 0081-0142 E	12/12/2001	EP	Summary
Commission opinion on Parliament's position at 2nd reading		COM(2002)0077	07/02/2002	EC	Summary
Implementing legislative act		32003D0548 OJ L 186 25.07.2003, p. 0043-0045	24/07/2003	EU	Summary
Follow-up document		COM(2003)0715	19/11/2003	EC	Summary
Follow-up document		COM(2005)0203	24/05/2005	EC	Summary

Document attached to the procedure		SEC(2006)0445	07/04/2006	EC	Summary
Follow-up document		COM(2006)0163	07/04/2006	EC	Summary
Document attached to the procedure		SEC(2006)0817	29/06/2006	EC	
Follow-up document		COM(2006)0334	29/06/2006	EC	Summary
Follow-up document		COM(2008)0572	25/09/2008	EC	Summary
Follow-up document		SEC(2011)1019	08/09/2011	EC	
Follow-up document		SEC(2011)1020	08/09/2011	EC	
Follow-up document		C(2011)6269	08/09/2011	EC	
Follow-up document		COM(2011)0795	23/11/2011	EC	
Follow-up document		SEC(2011)1398	23/11/2011	EC	

Additional information

European Commission

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Final act

[Directive 2002/22](#)
[OJ L 108 24.04.2002, p. 0051-0075](#) Summary

Electronic communications: universal service, users' rights relating to networks and services

PURPOSE : to bring forward and consolidate existing texts in telecommunications regulation and update them in response to technological and market developments. CONTENT : the aims of the proposed directive are as follows: - to adapt and modernise existing measures on universal service so as to define the scope of the service, the rights of users and the measures for compensating providers of the service without distorting competition. - to create a process for reviewing the scope of universal service provision - to lay down specific users and consumers rights where necessary - to carry forward current measures on and ensure the viability of leased lines in the EU until competition in these services develops; - to allow National Regulatory Authorities (NRAs) to take measures on behalf of users and consumers; - to underpin industry's efforts to ensure interoperability of consumer digital television equipment. The first chapter sets out the scope and aims of the directive. The second chapter focuses on traditional universal service obligations, and includes provisions for designations of operators by Member states for the revision of universal service, as well as new provisions on costing and recovery by designated operators. The third chapter relates to users and consumers rights but includes an important article on retail price regulation. NRAs must provide for retail tariff regulation of any organisation with significant market power to prevent it from setting its tariffs or terms in such a way as to disadvantage some or all consumers or to prevent other operators or service providers from competing against it. This chapter also addresses consumer contracts, the quality of services, the transparency of information available to the public and guarantees access by all users to emergency services and directory enquiry services. It also confirms the international access code of '00' and deals with completion of calls originating with the new '3883' European regional code. New provisions on interoperability for digital television equipment have been included in this chapter while another new provision ensures proportionate compensation to network operators that bear 'must carry' obligations in relation to public service broadcasting. The fourth chapter carries forward existing provisions for leased line services, but provides for progressive elimination of these provisions, in cooperation with the Commission as the market for these services become competitive in each Member State. A provision on other mandatory services is also included. The fifth chapter, relating to procedures, provides for consultation by NRAs with user groups before an NRA adopts measures.?

Electronic communications: universal service, users' rights relating to networks and services

The committee adopted the report by Malcolm HARBOUR (EPP-ED, UK) amending the proposal under the codecision procedure (1st reading). The key points raised by the report included the need to ensure that the connection provided allowed users effective access to the internet and that Member States took special measures to ensure that disabled users and those with special needs could take advantage of the choice of companies and service providers available to the majority of users. However, the definition of users with special needs should be decided after public consultation. The committee also wanted tariffs to be structured so as to be affordable for people on low incomes or with special social needs. To ensure that users' needs were met even in cases of durable market failure, undertakings identified as having significant market power should provide services under reasonable, transparent and non-discriminatory conditions and not charge excessive prices or inhibit market entry. Member States should publish transparent, accurate and up-to-date information and national regulatory authorities should publish regular reports on trends in tariffs. Member States should also take all necessary steps to safeguard services in the event of catastrophic network breakdowns. Other amendments dealt with such issues as the European telephone numbering code '3883', data security and the European emergency number '112'. On the latter point, the committee stressed that the provision of caller location information

to authorities handling emergency calls should not compromise data protection or civil liberties. Compliance with the directive on personal data protection in electronic communications was essential.?

Electronic communications: universal service, users' rights relating to networks and services

The European Parliament approved, by a majority of 476 to 25 and 44 abstentions, the report by Mr Malcolm HARBOUR (EPP-ED, UK) on electronic communications networks and services, the aim of which is to update existing measures on universal service and lay down specific rights for users. The House wants users of electronic communications services to enjoy greater protection in the liberalised electronic communications market in the future. Parliament's amendments to the Commission proposal therefore includes a call for a minimum set of high quality services to be made available to all users at an affordable price, although without distorting competition. (Please refer to the previous document). ?

Electronic communications: universal service, users' rights relating to networks and services

Given that many of the amendments to the proposed Directive on universal services and users' rights relating to electronic communications networks and services, are deemed to strengthen or clarify the Commission's original proposal, the European Commission is able to support either in full, in part or in principle a large majority of Parliament's amendments. In total 65 amendments were proposed by the European Parliament following its first reading of the proposed Directive. The following is a summary of the most pertinent substantive amendments accepted by the Commission followed by a summary of those amendments rejected by the Commission. The Commission accepts the Parliament's amendment which refer to the following issues: - exclusive rights which clarify that retail controls would only be permitted under the Directive where wholesale regulation would be ineffective; - NRA's obligations to consult publicly on measures relating to retail regulation; - wholesale regulation of SMP operators in the 'Access and Interconnection Directive' needs to be realised; - NRA's taking corrective measures to address justified complaints; - the publication of details of discount schemes for undertakings with cost orientation obligation; - the development of facilities of tone dialling and calling line identification on a pan-European basis; - co-regulation - the Commission feels that there may be a need to maintain formal regulation even where co-regulatory measures are applied; - extending the coverage of universal service obligations to measures helping disabled users; - changes made to the definition of 'public telephonenetwork'; - the requirement whereby Member States take account of prevailing technologies in determining date rates; - plans that would require prevailing 'prices and tariffs' to be included in the contract; - giving consumers the right to be informed of their right to withdraw from contracts when notified of an intention to change the terms of their contract; - ensuring network integrity even in the event of a catastrophe as well as the continued availability of access to emergency services from fixed locations; - a European emergency number. Lastly, in terms of the amendments rejected by the Commission, these are largely done so on the grounds that they duplicate existing Community legislation. Accordingly, Parliamentary amendments introducing new security measures, including network security are rejected by the Commission. The Commission also rejects Parliamentary calls for: - a study into the use of the European regional code '3883'; - for more transparent consumer contracts; - attempts to make all directory services free or subject to a minimal charge; - access to conditional access services, this is rejected on the grounds that it duplicates existing EU legislation; - plans relating to the disconnection of telephones. Lastly, the Commission rejects attempts which would require a common interface to be fitted to television sets allowing consumers to operate their set with any decoder system, given that this measure would be more prescriptive than required.?

Electronic communications: universal service, users' rights relating to networks and services

The Council's common position essentially endorses the core elements proposed by the Commission relating in particular to the scope and financing of universal service and the level of protection for end-users. The large majority of changes relate to the restructuring of the text in order to improve the coherence of the Directive. Further, the Council has attempted to bring the text into line with the structure and approach of the Framework and Access Directives. Other more substantive changes relate firstly, to the scope of universal service and its review. In this context, the Council shares the view of the European Parliament, that Article 4 (2) requires greater clarity regarding the question of Internet access. Accordingly, the common position ensures that Internet access should be 'functional' as well as adding certain criteria to evaluate the level of access similar to those suggested by the Parliament. Secondly, concerning the regulatory controls on retail services, the Council has adopted a more measured approach in an attempt to curtail over-regulation. This refers in particular to requirements whereby there should first be a consideration of whether a remedy under the Access Directive might not be more effective. A further requirement states that any obligations imposed should be proportionate and justified in light of the objectives set down in the Framework Directive. This approach is in line with Parliamentary suggestions. Thirdly, on the 'must carry' obligations, the common position introduces several crucial changes the most significant of which are: - a requirement for such obligations to be 'reasonable'; - the possibility to impose obligations in respect of networks 'used' (rather than 'established') for the public distribution of radio and television broadcasts; - the deletion of 'compensation', which was included in the Commission's original proposal. Fourthly, on the matter of consumer digital equipment and the comitology provisions, the Council, in line with Parliamentary thinking, decided to delete the possibility of the Commission amending the provisions on standards in this area via the comitology procedure.?

Electronic communications: universal service, users' rights relating to networks and services

The Commission supports the Council's common position remarking that there are few differences between the Council's text and that of the Commission's original proposal. Moreover, the Council has decided to adopt many of the Parliament's amendments adopted following its first reading of the proposed Directive. The Commission notes that more specific measures regarding the incorporation of provisions for the disadvantaged and disabled are absent from the common position as are measures relating to public consultation. Other than that the Commission recommends the text to Parliament for a second reading.?

Electronic communications: universal service, users' rights relating to networks and services

The committee adopted the report by Malcolm HARBOUR (EPP-ED, UK) amending the Council's common position under the codecision procedure (2nd reading). A number of the amendments were designed to improve provision for disabled users. For example, the committee wanted Member States and/or NRAs to ensure that public pay-phones, as well as the directory inquiry services of another Member State, were accessible to disabled people. It also said that "must carry" obligations which Member States may impose on undertakings under their jurisdiction could include services specifically designed to improve access for disabled users. In an amendment which went further than the common position, the committee said that Member States should be able to impose reasonable "must carry" obligations for the transmission of specified radio and television broadcast channels and services, not only on undertakings providing electronic communications networks used for the distribution of radio or television broadcasts to the public, but also on undertakings providing conditional access systems and other associated facilities. The aim was to ensure that "must carry" obligations also applied to satellite, conditional access systems and undertakings providing access to digital television platforms. Finally, in order to increase price transparency, the committee called on Member States and in particular NRAs to make accurate and up-to-date information available to both end-users and consumers.?

Electronic communications: universal service, users' rights relating to networks and services

The European Parliament adopted the report by Mr Malcolm HARBOUR (EPP-ED, UK) which accepts a series of amendments to the Council's common position on the Commission's proposal for a directive on universal service and user's rights relating to electronic communications networks and services. (Please refer to the previous text). ?

Electronic communications: universal service, users' rights relating to networks and services

The European Parliament adopted 25 amendments to the Universal Service directive on 12 December 2001. The Commission can accept all of them in full. They relate in particular to issues such as: - "must carry": the amendment recognises that MS have the possibility to include specific measures for appropriate access by disabled users within "must carry" obligations imposed under the directive. This amendment makes clear that MS may impose, in the context of 'must carry' obligations, requirements for network operators to transmit certain services to ensure access by disabled, which the Commission fully supports; - standard for digital TV: the Parliament came back in its second reading to provisions on interoperability, in particular implementation of the so-called Multimedia Home Platform (MHP) standards for interactive services on digital TV. The EP amendment avoids mandating the MHP standard and endorsed the approach whereby standardisation should be industry-led and voluntary. This compromise strikes a good balance between the two positions. It leaves to the industry the task to agree on a common standard for display and presentation of digital interactive television services by means of a market-driven mechanism, which the Commission fully supports; - rights of disabled users and quality of service standards: several amendments adopted by the European Parliament in second reading extend specific provisions on quality service standards, performance standards and relevant parameters to cover the quality of service for disabled users. These are important additions to the directive. Other amendments ensure that disabled users' needs are considered when providing public pay telephones; their view must be considered during the public consultations that Member States conduct under the directive while another amendment encourages interested parties to develop codes of conduct and operating standards in order to improve the general quality of service provision.; - consumer protection, retail price regulation and price and information transparency: this amendment no longer requires that NRAs adopt a reasoned opinion before concluding that wholesale regulation would not correct the competition problem in the relevant market. The amendment has nonetheless strengthened the common position text in that NRAs were only required to "consider" that wholesale regulation would be insufficient before imposing retail tariff regulation. The amendment adopted by Parliament in second reading introduces greater rigour into the regulatory assessment by NRAs. Another amendment specifies that the 'particulars of prices and tariffs' must be included in subscriber contracts. Further modification of contract terms is covered by another provision of the directive whereby subscribers may withdraw without penalty if the terms are proposed to be modified. There is also an amendment which encourages NRAs to facilitate the provision of information on prices and the development of interactive guides. The original wording of the amendment at first reading prescribed the obligation as falling on NRAs to ensure the development of interactive on-line guides. The text of this amendment was re-formulated in second reading to improve its drafting; - use of co-regulation: an amendment was adopted which endorses the principle of co-regulation for achieving quality of standards and improved performance, but stipulates that co-regulatory measures should be guided by the same principles as formal regulation; - extending regulation to SMEs: amendments adopted allow the Member States to go beyond the minimum harmonisation prescribed so as to allow extension of certain obligation of the Directive, that must cover all consumers, to cover also small and medium-sized enterprises; - emergency number: this amendment recognises that the obligation for the network operators to provide caller location information to national emergency authorities is limited to the technical feasibility of the equipment. Another amendment notes additionally that any such information must be received and used in accordance of the Data Protection Directive.?

Electronic communications: universal service, users' rights relating to networks and services

PURPOSE : to ensure the availability throughout the Community of good quality publicly available services through effective competition and choice and to deal with circumstances in which the needs of end-users are not satisfactorily met by the market. **COMMUNITY MEASURE :** Directive 2002/22/EC of the European Parliament and of the Council on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive). **CONTENT :** Within the framework of Directive 2002/21/EC (Framework Directive), this Directive concerns the provision of electronic communications networks and services to end-users. The aim is to ensure the availability throughout the Community of good quality publicly available services through effective competition and choice and to deal with circumstances in which the needs of end-users are not satisfactorily met by the market. This Directive establishes the rights of end-users and the corresponding obligations on undertakings providing publicly available electronic communications networks and services. With regard to ensuring provision of universal service within an environment of open and competitive markets, this Directive defines the minimum set of services of specified quality to which all end-users have access, at an affordable price in the light of specific national conditions, without distorting competition. This Directive also sets out obligations with regard to the provision of certain mandatory services such as the retail provision of leased lines. Member States shall determine the most efficient and appropriate approach for ensuring the implementation of universal service, whilst respecting the principles of objectivity, transparency, non-discrimination and proportionality. They shall seek to

minimise market distortions, in particular the provision of services at prices or subject to other terms and conditions which depart from normal commercial conditions, whilst safeguarding the public interest. Member States shall ensure that national regulatory authorities can impose obligations on undertakings in order to ensure that public pay telephones are provided to meet the reasonable needs of end-users in terms of the geographical coverage, the number of telephones, the accessibility of such telephones to disabled users and the quality of services. Member States shall ensure that it is possible to make emergency calls from public pay telephones using the single European emergency call number "112" and other national emergency numbers, all free of charge and without having to use any means of payment. Member States shall, where appropriate, take specific measures for disabled end-users in order to ensure access to and affordability of publicly available telephone services, including access to emergency services, directory enquiry services and directories, equivalent to that enjoyed by other end-users. Member States may designate one or more undertakings to guarantee the provision of universal service so that the whole of the national territory can be covered. Member States may designate different undertakings or sets of undertakings to provide different elements of universal service and/or to cover different parts of the national territory. When Member States designate undertakings in part or all of the national territory as having universal service obligations, they shall do so using an efficient, objective, transparent and non-discriminatory designation mechanism, whereby no undertaking is a priori excluded from being designated. Such designation methods shall ensure that universal service is provided in a cost-effective manner and may be used as a means of determining the net cost of the universal service obligation. Where, on the basis of the net cost calculation, national regulatory authorities find that an undertaking is subject to an unfair burden, Member States shall, upon request from a designated undertaking, decide: - to introduce a mechanism to compensate that undertaking for the determined net costs under transparent conditions from public funds; and/or - to share the net cost of universal service obligations between providers of electronic communications networks and services. The Commission shall periodically review the scope of universal service, in particular with a view to proposing to the European Parliament and the Council that the scope be changed or redefined. A review shall be carried out, the first occasion being 24/04/2005 at the latest. This review shall be undertaken in the light of social, economic and technological developments, taking into account, inter alia, mobility and data rates in the light of the prevailing technologies used by the majority of subscribers. The Commission shall submit a report to the European Parliament and the Council regarding the outcome of the review. Member States shall ensure that, where subscribing to services providing connection and/or access to the public telephone network, consumers have a right to a contract with an undertaking or undertakings providing such services. The contract shall specify at least: - the identity and address of the supplier; - services provided, the service quality levels offered, as well as the time for the initial connection; - the types of maintenance service offered; - particulars of prices and tariffs and the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained; - the duration of the contract, the conditions for renewal and termination of services and of the contract; - any compensation and the refund arrangements which apply if contracted service quality levels are not met; and - the method of initiating procedures for settlement of disputes. Member States shall ensure that, in addition to any other national emergency call numbers specified by the national regulatory authorities, all end-users of publicly available telephone services, including users of public pay telephones, are able to call the emergency services free of charge, by using the single European emergency call number "112". Member States may impose reasonable "must carry" obligations, for the transmission of specified radio and television broadcast channels and services, on undertakings under their jurisdiction providing electronic communications networks used for the distribution of radio or television broadcasts to the public where a significant number of end-users of such networks use them as their principal means to receive radio and television broadcasts.

ENTRY INTO FORCE : 24/04/2002. IMPLEMENTATION : 24/07/2003.?

Electronic communications: universal service, users' rights relating to networks and services

ACT : Commission Decision 2003/548/EC on the minimum set of leased lines with harmonised characteristics and associated standards referred to in Article 18 of the Universal Service Directive.

CONTENT : Article 18(3) of the Universal Service Directive provides for the publication of the minimum set of leased lines with harmonised characteristics and associated standards to be published as part of the list of standards referred to in Article 17 of Directive 2002/21/EC (Framework Directive). The minimum set of leased lines was previously defined in Annex II to Council Directive 92/44/EEC on the application of open network provision (ONP) to leased lines. That Directive was repealed by the Framework Directive.

This Decision provides continuity of the legal basis for the minimum set of leased lines, for the purpose of implementation of the relevant provisions in the Framework Directive and the Universal Service Directive. The minimum set of leased lines in this Decision is the same as that in Directive 92/44/EEC, except that the references to European Telecommunications Standards (ETs) have been replaced by references to European Standards (EN), as agreed by the European Telecommunications Standards Institute in 2001. However, leased lines that comply with the previous ETS standards should continue to be deemed in accordance with the requirements for the minimum set of leased lines.

This Decision identifies the minimum set of leased lines with harmonised characteristics and associated standards and forms an integral part of the list of standards published in accordance with Article 17 of the Framework Directive 2002/21/EC. The current version of the list of standards, only containing voluntary provisions, was published in the Official Journal of the European Union in December 2002. For reasons of differences in procedure and in legal effect, this Decision distinguishes the chapters of the list of standards that include mandatory provisions in this Decision from those chapters that only include voluntary provisions.

Electronic communications: universal service, users' rights relating to networks and services

The purpose of this communication is twofold. The primary purpose is to examine and assess, as required by Article 15 of the Universal Service Directive, whether the current scope of universal service should be changed or redefined in the light of technological, social and economic developments, taking into account in particular mobility and data rates. 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.

The Commission will publish a second Communication at a later stage that includes the results of the public consultation and the final Commission assessment and position.

Having examined the technological, market and social developments affecting consumers of e-communications services, having analysed the mobile and broadband markets, and having applied the criteria for determining the scope of universal service set out in the Universal Service

Directive, the Commission concludes that neither of these services fulfils the condition for inclusion in the scope at this time. Therefore the scope of universal service should remain unchanged. The Commission invites comments on this conclusion and it will consider any data which might be relevant to this assessment.

The Commission also considers that it is appropriate to encourage a forward-looking policy debate on universal service provision by putting forward a number of longer-term questions, to which contributions are invited as well:

- 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?

- 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)?

- 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?

- 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?

- 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?

The second longer term consideration in this context concerns the financing of universal service : Is a universal service funding scheme an appropriate means to address the objective of social inclusion in a competitive communications environment? Is funding from general taxation a viable alternative?

Electronic communications: universal service, users' rights relating to networks and services

COMMISSION'S IMPACT ASSESSMENT

For further information regarding the context of this issue, please refer to the summary of the Commission's Communication to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Region: Report regarding the outcome of the Review of the Scope of Universal Service in accordance with Article 15(2) of Directive 2002/22/EC? COM(2006)0163.

1- POLICY OPTIONS AND IMPACTS

The Commission considered three policy options.

1.1- Option 1: Include mobile communications within the scope of universal service;

1.2- Option 2: Include broadband Internet access within the scope; and

1.3- Option 3: 'Status quo', i.e. keep the scope unchanged.

CONCLUSION: The Commission has undertaken a review of the scope of universal service in accordance with Article 15(1) of the Universal Service Directive. The result of this review is that the Commission will not propose any change in the scope of universal service at the present time (i.e. Option 3). However, the contributions received by the Commission on the longer-term issues provide a good basis to continue a forward-looking policy discussion on the universal service provision in the context of the general regulatory review of eCommunications starting in 2006. This review will provide the opportunity to address the necessity of securing technology-neutral provision of universal service.

IMPACTS

Any change - or non-change - of the scope of universal service may affect the following categories of population and/or aggregates:

- Individuals and households: any change to the scope ? or non-change in the context of an evolving communications environment ? must be assessed against the increasing market capacity to provide, in a liberalised environment, quality services to all at an affordable price. Particular attention needs to be given to an evaluation of the risks to certain groups in the population (who currently benefit from universal service obligations) of social exclusion, for geographic, economic or any other reasons;
- Society as a whole: the capacity of electronic communications services to convey social benefits to all consumers must be assessed against the underlying costs which would result from any public intervention to deliver these services based on sector funding mechanisms. Any policy in this area must ensure that any financial burden resulting from a change in the scope of universal service would not fall unfairly on consumers with lower income (Recital 25, Universal Services Directive);
- Industry: any decision on the scope of universal service obligations must ensure that certain technological choices are not artificially promoted above others, and that a disproportionate financial burden is not imposed on sector undertakings, thereby endangering market developments and innovation;
- Economy as a whole: e-communications services reduce the transaction costs of economic activities and contribute to enhancing productivity and competitiveness. In addition, they have the capacity to contribute to the development of the local and regional economic fabric. A change ? or non-change - to the scope of universal service can thus have an impact on the economy as a whole, due to the existence of network effects;
- Environment: it is anticipated, at this stage, that impacts are most likely to be social and economic (e.g. competition, markets, households, rural versus urban areas, labour market access and consumer rights). In general, the development of e-communications services can have positive effects on the environment, for instance, by providing an alternative to the physical transportation of goods and persons (e.g. teleworking), as well as negative effects arising from, for example, laying cables, installing radio masts, etc.

For the present, the balance of risks and opportunities suggests that no change to the scope of universal service is appropriate at this stage. However, the current rapid developments in technologies and markets will require close monitoring.

2- FOLLOW-UP

A number of studies are being launched to support empirical analysis required for the review of the electronic communications regulatory framework (including Universal Service Directive) in 2006. However, useful data on markets are often problematic: under conditions of fast changing technologies, including new-generation networks and the convergence of services and platforms (e.g. transmission of voice and data and moving images on the same device), market developments are likely to be rapid but, in many cases, difficult to predict. Economic foresight data, cost-benefit analyses and even econometric forecasts are likely to suffer in terms of robustness and reliability. Despite these constraints, all available empirical evidence will be gathered.

The review of the scope of universal service has been informed by public consultation and by extensive empirical data. These data will continue to be gathered.

Electronic communications: universal service, users' rights relating to networks and services

In May 2005, the European Commission published a Communication entitled 'On the Review of the Scope of Universal Services', which was accompanied by a Commission Staff Working Paper (please refer to previous summary). This first periodic review, based on Article 15 of Directive 2002/22/EC, considered whether or not the scope of universal service should be maintained or changed to include mobile or broadband communications. Prior to forming its conclusions the Commission began a public consultation exercise. A number of long-term questions were addressed in order to encourage a forward-looking policy discussion capable of feeding into the general review of the regulatory framework for electronic communications in 2006. Thus, in accordance with Article 15 this Communication provides a report to the European Parliament and the Council on the Commission's review, taking account of the public consultation exercise.

The Commission considers that the public consultation has provided widespread support for the preliminary position taken in the Communication of May 2005 and that therefore no new rationale has emerged to change the Commission's previous conclusions ? i.e. that neither mobile nor broadband communications fulfils the conditions of the Universal Service Directive. They should, therefore, not be incorporated into the scope of the Directive.

Taking account of technological and market developments, the Commission will shortly revisit the whole eCommunications regulatory framework in order to ensure that the overall objectives continue to reflect the Lisbon agenda. In addition, this review will allow the Commission to address the necessity of securing technology neutral provisions of a universal service.

Electronic communications: universal service, users' rights relating to networks and services

This Communication concerns the second periodic review of the scope of universal service as required by Article 15 of the European Parliament and Council Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services. It sets out some reflections for the future role of universal service in the provision of e-communications services. It raises the question whether the concept and scope of universal service at EU level should be changed and if so, whether universal service is an appropriate tool to advance broadband development, or whether this should be left to other EU policy instruments or to national measures.

In the EU, universal service in electronic communications (e-communications), as currently defined, means 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, either by the market or in the case of market failure by public intervention.

The Directive defines universal service as a minimum set of e-communications services available to all end-users upon reasonable request at an affordable price and specified quality, independently of geographical location within a Member State.

The Directive establishes certain considerations (in Annex V) to be weighed by the Commission in deciding whether a service should be included in the scope, namely:

- a minority of consumers would be excluded from society by the lack of availability or non-use of specific services that are both available to and used by the majority;
- inclusion of these services within the scope would convey a general net benefit to all consumers in cases where they are not provided to the public under normal commercial circumstances.

The Commission is required to review the scope of the universal service every three years in the light of technological, social and economic developments. The first review of the scope of universal service in 2005-2006 concluded that there was no need to change the scope of the USO, in particular with regard to broadband and mobile services. This review highlights the following issues:

Mobile communications: mobile usage has been growing strongly during the last few years: while an average of 81% of the EU-25 population was using mobile services in early 2004, the penetration reached 112% of the EU-27 population in October 2007. Users are increasingly switching from fixed to mobile phones, with around 24% of EU-27 households only using mobile. The proportion is significantly higher in the new Member States (39%) than in the EU-15 (20%), with the exception of Finland (61%) and Portugal (48%). The European consumer can now, on average, buy a low usage basket of mobile services more cheaply (?13.69 monthly) than the cost of a monthly rental of a fixed line (?14.90).

Conclusion: this analysis reaffirms the conclusion in the first review that the competitive provision of mobile communications in the EU has resulted in consumers already having widespread affordable access to mobile communications. The considerations for including mobile communications within the scope of universal service (as set out in Annex V of the Directive) are therefore not fulfilled.

2) Broadband: the first review found that in mid-2004, fixed broadband access networks covered around 85% of the EU-15 population. In October 2005, broadband take-up was 11.5% of the EU population. In late 2007, coverage of broadband networks is now very high in most Member States, being available, on average, to 90% of the EU population. Use of the internet is now approaching the level of a service used by the majority, with 49% of EU households using the internet, 36% of which are on broadband.

Conclusion: although broadband is not yet used by the majority of consumers (the first of two considerations identified in Annex V of the

Directive) and is therefore not encompassed by the USO as laid down and described by the present wording, take-up is approaching the threshold of use by a majority of consumers. Furthermore, it is reasonable to anticipate that, in a relatively short horizon of time, narrowband will no longer answer the requirement of being "sufficient to permit functional internet access". Thus the situation does need to be kept under review.

Reflections for the future: while, on the existing interpretation of the Directive, neither mobile nor broadband fall within its scope, it seems clear that the substitution of mobile for fixed voice telephony as well as the increased levels of take-up and importance of broadband in daily life raise questions about the universality of access to e-communications services for the future.

Broadband enhances active participation in society: e-health, e-learning, e-government and e-business services are increasingly being used by citizens. This has resulted in more active economic and social participation in society, providing better possibilities to find employment, do business and study, irrespective of location.

The main question is therefore whether universal service at EU level is an appropriate tool to advance broadband development and, if so, when and how it should be invoked, or whether other EU policy instruments - and, in such case, which ones - would be more efficient. This question goes beyond the issue of the scope of the universal service.

The Commission considers it of the greatest importance that, within the EU, key services such

as e-communications are widely available to citizens and businesses, independently of their geographical location, and at an affordable price and specified quality

This communication provides the basis for a discussion on the range of relevant issues in order to open a substantial European debate that would allow all stakeholders to express their views and discuss alternative approaches, in the course of 2009. On the basis of this debate, the Commission will issue a Communication in the second half of 2009, summarising the debate. It could follow this up in 2010 with concrete proposals if they are needed to update the Universal Service Directive.