



The voice of blind and partially sighted people in Europe

QUESTIONNAIRE

FOR THE PUBLIC CONSULTATION ON THE EVALUATION
OF THE REGULATORY FRAMEWORK FOR ELECTRONIC
COMMUNICATIONS AND ON ITS REVIEW

1. GENERAL INFORMATION

Question 1: You answer as:

- Other** (please specify)

The European Blind Union (EBU) is the NGO which represents the interests of the some 30 million blind and partially sighted people in Europe.

Question 2: Is your organisation registered in the Transparency Register of the European Commission and the European Parliament?

- Yes. Our Interest Representative Register ID is 42378755934-87**

Please enter the name of your institution/organisation/business.

European Blind Union

Question 3: What is your country of residence? (In case of legal entities, please select the primary place of establishment of the entity you represent)

The EBU represents 44 member countries; our office is in Paris

1.1. General questions on the current regulatory framework

Question 8: As regards the **relevance** of the regulatory framework, to what extent is a regulatory framework for electronic communications at EU level still necessary for EU citizens and businesses in the following areas:

b) Universal service and end-users' protection

Significantly

Please explain your responses.

The framework is still necessary, even if, despite some improvements when it was last revised, its provisions are still insufficient to fully ensure its objectives in relation to people with disabilities. There is still a need for many of the services that have been developed for people with disabilities under this regulatory framework. Please see the list under the response to question 13 for details

Question 13: In your opinion, what is the additional value resulting from the implementation of the EU regulatory framework for electronic communications? Please explain your responses.

The October 2015 BEREC report on equivalent access and choice for disabled end-users gives many examples of the adjustments made by Member States as a result of the regulation.

http://berec.europa.eu/eng/document_register/subject_matter/berec/public_consultations/5418-update-of-the-report-on-equivalent-access-and-choice-for-disabled-end-users

It seems reasonable to conclude that many measures to facilitate disabled person's access might not have happened without the regulatory framework. The national regulators (NRAs) which instigated these changes refer in the report above to the framework as the reason for their having put these measures in place. Examples of these measures are:

- free directory enquiry service for users with visual impairments
- various sorts of adapted telecoms terminal equipment
- adapted public payphones
- accessible service information / contracts
- special tariffs
- accessible billing systems
- accessible emergency assistance
- text relay services (more relevant to deaf or hearing impaired people priority fault repair schemes)

1.2. Sector-specific regulation for communications services

Question 99: To what extent has the current regulatory framework for electronic communications, as last amended in 2009, contributed to effectively achieving the goal of ensuring a high level of consumer protection in the electronic communications sector across the EU?

Significantly

Please explain your response and indicate the provisions which have contributed the most/less to this goal.

We can only answer as regards blind and partially sighted people (or “consumers”), rather than for consumer protection more broadly. The regulatory framework has contributed as evidenced by our response to question 13. However, its relatively weak disability-related requirements have limited its usefulness. For more information on this regulatory weakness, see our answer to Question 103 below.

Question 103: The regulatory framework has among its policy objectives and regulatory principles ensuring that users, including disabled users, elderly users, and users with special social needs, derive maximum benefit in terms of choice, price and quality (Article 8 of the Framework Directive). With respect to disabled users, the Universal Service Directive contains specific requirements under the universal service obligation (Article 7) and regarding the equivalence in access and choice (Article 23a).

To what extent has the current regulatory framework been effective in achieving the goal of providing equivalent access to persons with disabilities in terms of choice, price and quality?

Significantly

Please explain your response and illustrate with examples.

As evidenced above in response to Question 13, significant –if limited- measures have been put in place to help disabled people access electronic services. However, the way the regulatory framework is written circumscribes the power of Member States and NRAs to do all that could be done to ensure full accessibility for blind, partially sighted and other disabled people.

For example, Article 7.1 of the Universal Service Directive only covers some, and not all, electronic communications services. We believe that the last revision of the regulatory framework should have taken the opportunity to extend this definition to electronic communications services in general. During that last revision, the European Parliament had proposed an amendment to Article 7 to “ensure access and affordability of electronic communications services”. That proposal –which did not make it into the revised regulatory framework- sought to avoid limiting the scope to just basic telephony.

The disability-related aspect of Article 23 is also weaker than it could be, since it sits in Chapter IV of the Universal Service Directive, rather than Chapter II. Chapter II lists the universal service obligations and makes provisions for their financing. This is not the case for Chapter IV.

We believe also that there is too much discretion conferred on national regulators in achieving these objectives, by use of the vague and restrictive clause “where appropriate” in Article 23 (a). This has led to a wide, inconsistent diversity of approaches to the matter of ensuring “equivalence of access and choice for disabled users” across the EU Member States. The October BEREC report section 7.3, clearly shows how this vague formulation has confused some NRAs, and in any case led to varying approaches to the accessibility of terminal equipment.

The regulatory framework is also weak in that Article 23 states that Member States shall “encourage” the availability of terminal equipment, rather than require it. Furthermore, the Framework Directive only covers “certain aspects” of terminal equipment to facilitate access for disabled users.

If you identified any shortcomings, how could the effectiveness of the provisions be improved and what would be the related benefits and costs?

The USD could be revised to strengthen it and make good the weaknesses described above. So, Article 7.1 of the USD should be extended to electronic communications services in general.

The term “where appropriate” should be deleted from the disability-related aspect of Article 23(a). Article 23 should say that Member States shall “require”, not “encourage”, the availability of terminal equipment.

Question 105: To what extent do you consider the scope and requirements established in Article 26 of the Universal Service Directive still relevant in order to ensure an effective access to emergency services?

Significantly

Please explain your response, and indicate possible areas for amendments.

Access to emergency services is essential: such access cannot logically be considered an “optional extra”. Though the means of access to these services have and will continue to evolve, the essential nature of access to these services remains as important as ever. To that extent, EBU believes that it is important to retain Article 26 (4), pertaining to equivalent access for disabled people, in the regulatory framework.

e) Scope of 'must carry' and Electronic Programme Guide provisions¹

If broadcast content is considered relevant *inter alia* for pluralism, freedom of speech or cultural diversity, ‘must carry’ obligations ensuring the transmission of specified TV and radio channels can be imposed on providers of broadcast networks (e.g. cable TV or terrestrial TV networks).² Similar obligations cannot be imposed on platforms which provide TV services over the open Internet (such as e.g. Netflix, Magine). Furthermore, traditional TV and radio channels represent a declining share of audiovisual consumption patterns and relevant content can also be presented in videos, audio- and text files provided over the Internet

¹ Similar issues have been raised in the context of media regulation, see the consultation document at http://ec.europa.eu/newsroom/dae/document.cfm?action=display&doc_id=10119 pp 18-29. Further information on the consultation is provided at <https://ec.europa.eu/digital-agenda/en/news/public-consultation-directive-201013eu-audiovisual-media-services-avmsd-media-framework-21st>

² The obligations may include the transmission of services specifically designed to enable appropriate access by disabled users.

and viewed on devices other than a TV set (e.g. smartphones, laptops, PCs).

Member States can also influence the scope and determine the order of TV channel listings in electronic programme guides in TV sets (electronic programme guides, EPG). Some stakeholders have suggested to extend these navigation facilities, e.g. to a general 'findability' facility which would make it easier for end users to find any particular item of relevant content via Internet access.

Question 143: Is there a need to adapt or change the provisions on

	Yes	no
'Must carry'	x	
Electronic Programme Guides (EPG)	x	<input type="checkbox"/>

Please explain your response.

As EBU stated in our response to the recent consultation on Audiovisual Media Services (AVMS) “Must Carry” obligations should apply to both linear and non-linear services. After all, for viewers, the distinction between linear and non-linear programmes is not important. Both are TV programmes. Currently, as we understand it, the framework rules only apply to linear services. We believe the European Broadcasting Union proposed a change during the last revision of the Directive so that Article 31 would apply to non-linear broadcasts too, but this was not incorporated into the final text. Also, in Article 31.1, the wording ‘may impose reasonable “must carry” obligations’ is too weak. It should state “shall” rather than “may”; after all, the caveat in Article 31 that such obligations be “reasonable” should allay any fear that an unrealistic or overly-burdensome obligation be imposed.

1.3. The universal service regime

With the opening of the telecommunications market to competition there was a need to provide safeguards for those circumstances where competitive market forces alone would not satisfactorily meet the needs of end-users, in particular the case where they lived in areas which were difficult or costly to serve, or who had low incomes or disabilities.

The three basic characteristics of the current universal service concept relate to availability, affordability and accessibility, while minimising market distortions. The scope of universal service as determined at EU level includes: (i) access at a fixed location comprising: a connection to a public communications network enabling voice and data communications services at data rates sufficient to permit functional internet access, and access to *publicly available telephone services* (PATS); (ii) a comprehensive directory; (iii) comprehensive directory enquiry service; (iv) availability of public payphones. Furthermore, Articles 7 and 9 of the Universal Service Directive contain additional elements which may be a part of the universal service obligation(s), namely measures for disabled users and affordability of tariffs.

The current rules do not explicitly mandate the provision of a broadband connection within the scope of universal service at EU level. However, Member States have the flexibility to do so in light of their national circumstances. So far, a few Member States (Belgium, Croatia, Finland, Malta, Spain, Sweden and, only for disabled end-users, Latvia) have decided to include broadband connections within the scope of universal service (from 144kbps up to 1 and 4 Mbps).

The universal service regime provides for the following means to finance the universal service obligations: (a) a public fund, (b) a fund to which providers of electronic communications networks and services are required to contribute, or (c) a combination of both.

The EU has developed other policy tools outside the universal service regime in order to address the needs of users, in particular as regards the deployment of broadband and access to digital services. For instance the Directive 2014/61/EU on measures to reduce the cost of deploying high-speed electronic communications networks; promotion of and usage of public funding from Structural Funds or from the Connecting Europe Facility; promotion of stability of prices for regulated wholesale access to SMP copper networks, and pricing flexibility for non-discriminatory regulated access to SMP NGA networks; advocacy of broadband coverage requirements in less densely populated areas as part of the spectrum assignment conditions; and adoption of the EU state aid rules to support the deployment of broadband networks in areas where there is a market failure.

1.3.1. Evaluation of the current rules on universal service

The first set of questions aim at providing input for the evaluation of the functioning of the current regulatory framework.

Question 146: Has the universal service regime been an efficient policy tool to ensure that end-users are safeguarded from the risk of social exclusion??

Moderately

Please explain your response.

We say “moderately”, as it only goes so far. TV equipment is still largely inaccessible to blind and partially sighted people. Though the technology exists, for instance, to make TV equipment accessible to blind and partially sighted people, the market has largely not delivered such equipment, and to our knowledge EU regulators have not used the relevant parts of the regulatory framework to try to ensure that such equipment is designed to be accessible.

The “Must carry” provision has not been used as a tool by EU NRAs to make access services available, and these services are still lacking in almost all EU Member States. Please see our answer to 6.3 of the 2015 AVMS consultation for Member State-specific examples on this matter, to be found here:

<http://www.euroblind.org/press-and-publications/publications/nr/46>

Furthermore, the limited scope of the regulatory framework, covering mainly traditional publicly available telephone services or “PATs,” makes impossible the efficient and effective avoidance of social exclusion in the era of broadband and “online everything”.

Question 147: Is the current universal service regime coherent with other provisions and underlying principles of the EU telecom regulatory framework and other EU policies (such as state aid)?

Do not know

Please explain your response.

EBU is not best-placed to analyse all relevant EU policies in order to fully answer such a broad question. However, we can say that due to the partial nature of its provisions for disabled people, the regulatory framework is not fully consistent with the provisions of the UN Convention on the Rights of Persons with Disabilities. For example,

Article 9 of the Convention, “Accessibility”, says:

“ 1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas;”

We feel confident that, in the light of our comments above about the holes in the framework (from the perspective of disabled people) and the resulting exclusion, the framework does not fully meet the needs of EU citizens with disabilities.

1.3.2. Review of the universal service rules

a) Universal service regime

Question 150: Does universal service have a role in future in the sectorial context of electronic communications in order to provide a safety net for disabled end-users, as opposed to being left to general law?

Strongly agree

Please explain your response, in particular what should be the elements which should be considered.

Yes; the universal service regime will still be needed, but it should be revised to better regulate new technology and circumstances. Such a regime should ensure that accessible terminal equipment is widely available to people with disabilities. People with disabilities and particularly those who are blind or partially sighted are far less likely to be financially well-off than the rest of the EU's citizens. This is the case because they are significantly less likely to be in work than their peers, and also incur extra costs due to their disability (for instance, taxi fares due to inaccessible transport systems; the cost of screen-reading text-to-speech software, and so on). The financial crisis and lessening in many EU Member States of much-needed state financial support for blind and partially sighted people has compounded this situation. Therefore, the USO requirements on affordability remain important.

Due to the continuing inaccessibility of many websites, it is harder for blind and partially sighted people to compare and switch

services. This needs to be assisted as now by requirements from the regulatory framework on choice and access.

Television equipment remains largely inaccessible to blind and partially sighted people. For instance, the technology exists for televisions to have electronic programme guides which can “speak” out loud to those who cannot see them. However, very few TV sets carry this feature.

Many blind and partially sighted people still use telephone handsets with features such as enlarged buttons, and this sort of adaptation should continue to be permitted by the framework.

b) Scope of universal service

Technological and market evolution has brought networks to move to internet protocol technology, and consumers to choose between a range of competing voice service providers. 36% of Europeans use voice over IP applications from a connected device to make cheaper or free phone calls (see "[Special Eurobarometer 414: E-communications and telecom single market household survey of January 2014](#)").

At the same time, mobile telephony services are widely available and the tendency for fixed-to-mobile substitution is increasing. While there are still some localised problems with mobile "not spots" even for basic 2G services such as voice telephony, widespread availability and reasonable affordability of mobile telephony significantly reduce the need for a separate access to PATS at a fixed location.

Question 151: Do you consider the current universal service scope adequate in the light of latest as well as expected future market, technological and social developments?

Disagree

Please explain your response.

EBU disagrees. Please see our response to question 103 above. The Universal Service Directive (USD) could be revised to strengthen it and make good the weaknesses described in response to question 103. So, Article 7.1 of the USD should be extended to electronic communications services in general.

The term “where appropriate” should be deleted from the disability-related aspect of Article 23(a). Article 23 should say that Member States shall “require”, not “encourage”, the availability of terminal

equipment.

Recent surveys show a declining usage of some of the services under the current universal service obligations, in particular with regard to public payphones, directory enquiry services and phone directories (see "E-Communications and Telecom Single Market Household Survey" (2014),; for phone directories see "[E-Communications Household Survey Report \(2010\), Special Eurobarometer 335](#)"). At the same time, it can be observed that many Member States have relaxed their universal service obligations related to these services. Some Member States have never imposed universal service obligations in this respect. In general, comprehensive directories and comprehensive directory services are often deemed to be satisfactorily delivered by the market without the need for a public intervention, while public payphones are often considered of declining significance due to widespread availability of comparable services such as mobile telephony, for example.

Question 154: Given the latest and expected future market and regulatory developments related to provision of the following services, is it justified to maintain them in the scope of universal service?

a) public payphones

Agree

b) comprehensive directories

Agree

c) comprehensive directory enquiry services

Strongly agree

Please explain your response.

In our experience the special provision in these areas for blind and partially sighted people is still valued, used and therefore needed.

Article 7 of the Universal Service Directive on specific accessibility and affordability measures for disabled end-users related to network connection and PATS gives a clear preference to similar (not mandatory) measures being taken under Article 23a of the Universal Service Directive, where requirements enabling access and choice for disabled end-users can be imposed on a much wider scope of undertakings (all undertakings providing electronic communications services as opposed to only those with a universal service obligation).

Question 155: Would it be reasonable to require mandatory measures for disabled end-users to be imposed on all undertakings providing electronic communications services (strengthening Article 23a of the Universal Service Directive) as opposed to only those with a universal service obligation (Article 7 of the Universal Service Directive)?

Strongly agree

Please explain your response.

In order to ensure fairness and equality of access for disabled people, this requirement makes sense. Placed on all undertakings, it would also ensure a “level playing field” for the electronic communications service providers.

c) Provision of broadband connectivity and access to Internet service to all end-users

Access to the Internet through a broadband connection has become an essential service over which a number of specific services are being used by a majority of consumers. On average, 75% of Europeans use Internet, either via fixed or wireless means. New developing services, such as digital media content, cloud computing, Internet of Things, eHealth or eGovernment are becoming crucial for EU citizens and businesses to actively participate in the digital society. It can be reasonably expected that in future, the role of broadband as an enabler of access to services becomes even more prominent.

By 2014, basic broadband has been made available to all in the EU, when considering all major technologies (xDSL, Cable, Fibre to the Premises, WiMax, HSPA, LTE and Satellite). Fixed and fixed-wireless terrestrial technologies covered 96.9% of EU homes in 2014. However, coverage in rural areas is substantially lower for fixed technologies (89.6%) (See [Digital Agenda Scoreboard](#)).

Broadband take-up has increased considerably in past years. 78.3% of EU households had a broadband connection in 2014, however the number of connected households in rural areas is substantially lower. Fixed broadband penetration (by households) rose to 69.9% and mobile broadband was used by 72% per 100 inhabitants.

In view of rapid deployment of 4G in recent years, and further deployment of fixed networks in parallel (in rural and sparsely populated areas facilitated by available public funding or through territorial coverage requirements in spectrum licences or national legislation), it is likely that

the 30 Mbps DAE broadband target will largely be met by 2020 through a combination of fixed and mobile technologies.

However, even assuming a very broad deployment of 4G, some areas, including extremely low density areas and places with very difficult geographical conditions (such as mountain valleys, islands, or other peripheral areas) are likely to remain not covered with networks providing 30 Mbps connectivity.

Question 157: Do you see reasons for or against explicitly including access to a broadband network connection allowing functional Internet access within the scope of universal service at EU level?

For including

Please explain your response, in particular what would be the possible implications for the economy and society.

So much information is sent and received over broadband. So many services sought and provided. So many goods bought and sold. In this day and age, broadband is becoming a new utility, therefore. Furthermore, many accessibility services can most easily be delivered through broadband access. Examples include technology which provides speech recognition, image recognition, access services for video content, talking book services, and electronic text/audible instruction manuals. In this context, a universal broadband service would decrease disability-related inequalities.

As such, we do feel access to a broadband network connection, allowing functional internet access, should indeed be explicitly included within the scope of the universal service at EU level.

Question 159: If broadband connection were to be included in the universal service regime and defined "by services used", what would be such 'essential' minimum online Internet services? (*more than one answer is possible*)

- Sending/receiving E-mails Voice communication over the internet
- Access to information (online news; information about goods and services)
- General Web browsing cloud services E-Government

- Internet banking E-health E-learning E-Commerce/
online shopping
- Social Networking Maps and transport Streaming music/internet
radio
- Streaming video/video on demand Other Multimedia Gaming
- Assistive tools for persons with disabilities Other

Please explain your response.

Obviously, we would wish to see “Assistive tools for persons with disabilities” in such a list. However, in reality, all of the above would be appropriate.