

SERVICES OF GENERAL INTEREST IN EUROPE

(96/C 281/03)

INTRODUCTION

1. Solidarity and equal treatment within an open and dynamic market economy are fundamental European Community objectives; objectives which are furthered by services of general interest. Europeans have come to expect high-quality services at affordable prices. Many of them even view general interest services as social rights that make an important contribution to economic and social cohesion. This is why general interest services are at the heart of the European model of society, as acknowledged by the Commission in its recent report on the reform of the European Treaties ⁽¹⁾.
2. The importance of general interest services was brought out by the Heads of State or Government, who acknowledged them as part of the set of values shared by all our countries that helps define Europe ⁽²⁾.
3. There are, however, differences between one Member State and another and between one sector and another in the design, scope and organizational approaches of general interest services, owing to different traditions and practices. More recently, adjustments have had to be made in response to technological change, the globalization of the economy and users' expectations.
4. These developments have given rise to worries about the future of these services accompanied by concerns over employment and economic and social cohesion. The economic importance of these services is considerable: for instance, public-sector companies, which provide only some of these services, account for around 9 % of employment, 11 % of non-agricultural activity and 16 % of

investment within the Community. Hence the importance of modernizing and developing services of general interest, since they contribute so much to European competitiveness, social solidarity and quality of life. It was against this backdrop that the Commission felt it was time to reaffirm the principles of its policies and set out its objectives for the future.

DEFINITION OF TERMS

Services of general interest

This term covers market and non-market services which the public authorities class as being of general interest and subject to specific public service obligations.

Services of general economic interest

This is the term used in Article 90 of the Treaty and refers to market services which the Member States subject to specific public service obligations by virtue of a general interest criterion. This would tend to cover such things as transport networks, energy and communications.

Public service

This is an ambiguous term since it may refer either to the actual body providing the service or to the general interest role assigned to the body concerned. It is with a view to promoting or facilitating the performance of the general interest role that specific public service obligations may be imposed by the public authorities on the body rendering the service, for instance in the matter of inland, air or rail transport and energy. These obligations can be applied at national or regional level. There is often confusion between the term public service, which relates to the vocation to render a service to the public in terms of what service is to be provided, and the term public sector (including the civil service), which relates to the legal status of those providing the service in terms of who owns the services.

Universal service

This evolutionary concept, developed by the Community institutions, refers to a set of general interest requirements which should be satisfied by operators of telecommunications and postal services, for example, throughout the Community. The object of the resulting obligations is to make sure that everyone has access to certain essential services of high quality at prices they can afford.

⁽¹⁾ Reinforcing political union and preparing for enlargement — Commission opinion for the Intergovernmental Conference, COM(96) 90 final, 28 February 1996:

'Europe is built on a set of values shared by all its societies and combines the characteristics of democracy — human rights and institutions based on the rule of law — with those of an open economy underpinned by market forces, internal solidarity and cohesion. These values include access for all members of society to universal services or to services of general benefit, thus contributing to solidarity and equal treatment.'

⁽²⁾ Cannes European Council, 26 and 27 June 1995 — Conclusions of the Presidency, SN 211/95, point A.I.1.7.

I. SERVICES OF GENERAL INTEREST: A KEY ELEMENT IN THE EUROPEAN MODEL OF SOCIETY

5. The Community's involvement with services of general interest is within the context of an open economy which is based on a commitment to mutual assistance ('solidarity' for short), social cohesion and market mechanisms.

A. SERVING THE PUBLIC

1. Shared values

6. European societies are committed to the general interest services they have created which meet basic needs. These services play an important role as social cement over and above simple practical considerations. They also have a symbolic value, reflecting a sense of community that people can identify with. They form part of the cultural identity of everyday life in all European countries.
7. The roles assigned to general interest services and the special rights which may ensue reflect considerations inherent in the concept of serving the public, such as ensuring that needs are met, protecting the environment, economic and social cohesion, land-use planning and promotion of consumer interests. The particular concern of consumers is to obtain high-quality services at prices they can afford. The sector-specific economic characteristics of the activities they cover also enter into the equation, since they have considerable knock-on effects for the economy and society as a whole and may require the use of scarce resources or large-scale long-term investment. This implies certain basic operating principles: continuity, equal access, universality and openness.
8. Central to all these issues are the interest of the public, which in our societies involves guaranteed access to essential services, and the pursuit of priority objectives. General interest services are meant to serve a society as a whole and therefore all those living in it. The same applies in the Community to the universal service concept.

2. Different organizational set-ups

9. These shared values translate into different ways of organizing general interest services, varying from one country or region to another and from one sector to another. Although the same sort of services are provided, the way in which this is done will reflect the different circumstances, such as geographical or technical limitations, the political and administrative set-up, history and traditions.

10. The services may be provided — in either a monopoly or a competitive situation — by private companies, public bodies or by public-private partnerships. The activities of these operators, who are sometimes known as service managers, may be regulated by local, regional or national authorities with different roles and statuses. There may also be considerable variation in the nature of the relationship between the regulatory authority and the operator.

11. This diversity may give rise to a certain amount of terminological confusion. It is all too easy to treat public sector and public service as synonyms and fail to distinguish the legal status of a service provider from the nature of the service being provided⁽¹⁾. European policy is concerned with general interest, with what services are provided and on what terms, not with the status of the body providing them.

12. Be this as it may, these very different circumstances constitute a challenge for European economic integration. But rather than being an obstacle, they provide a range of possibilities that may be drawn on to identify the methods of organization that are the best suited both to the general interest in a fast-moving economic context and, that are the most effective for achieving European integration.

3. The challenge of change

13. The context in which general interest services are provided has changed enormously over recent years and differs in important respects from the context in which they were originally introduced. The major developments are as follows:

- consumers are becoming increasingly assertive in exercising their rights and desires as users of general interest services, including at European level, and are more demanding in terms of choice, quality and price,
- worldwide competition is forcing companies using services to seek out better price deals comparable to those enjoyed by their competitors,
- in contrast to the years immediately following the Second World War, it would now seem that private funding for maintaining and developing infrastructure networks is not as difficult to raise as public resources,

⁽¹⁾ See the definitions.

— new technologies are changing the economic profile of sectors traditionally operated as monopolies, such as telecommunications, television and transport, paving the way for new services,

— in certain countries and sectors modernization has been slow to get off the ground, leaving little scope for change.

14. The creation of the single market and the introduction of greater competition requires providers of general interest services to meet the challenge of these developments and turn them to good account by improving range and quality and by lowering prices. This shift goes hand in hand with the implementation of an economic and social cohesion policy. The Community is also helping the modernization of general interest services to ensure that essential needs continue to be met and to improve performance. This dynamism is the life blood of the European model of society, without which European citizenship will never become a reality.

B. GENERAL INTEREST AND THE SINGLE EUROPEAN MARKET: WORKING FOR EACH OTHER

15. Market forces produce a better allocation of resources and greater effectiveness in the supply of services, the principal beneficiary being the consumer, who gets better quality at a lower price. However, these mechanisms sometimes have their limits; as a result the potential benefits might not extend to the entire population and the objective of promoting social and territorial cohesion may not be attained. The public authority must then ensure that the general interest is taken into account. This is the reason for the Commission's action on the following fronts.

1. Respecting diversity

16. The Community's commitment to the European model of society is based on respect for the diversity of the organization of general interest services in Europe, which is underpinned by two basic principles:

— neutrality as regards the public or private status of companies and their employees, as guaranteed by Article 222 of the Treaty. The Community has nothing to say on whether companies responsible for providing general interest services should be public or private and is not, therefore, requiring privatization. Moreover, the Community will continue to clamp down on unfair practices, regardless of whether the operators concerned are private or public,

— Member States' freedom to define what are general interest services, to grant the special or exclusive rights that are necessary to the companies responsible for providing them, regulate their management and, where appropriate, fund them, in conformity with Article 90 of the Treaty.

17. Respect for national choice over economic and social organization is a clear example of subsidiarity in action. It is for the Member States to make the fundamental choices concerning their society, whereas the job of the Community is merely to ensure that the means they employ are compatible with their European commitments.

18. It should be pointed out that the conditions of Article 90 do not apply to non-economic activities (such as compulsory education and social security) or to matters of vital national interest, which are the prerogative of the State (such as security, justice, diplomacy or the registry of births, deaths and marriages). The contribution these services make to various Community policies is essential hence the development of European-level cooperation and partnerships in these areas. However, it is clear that general interest services that are non-economic or the prerogative of the State are not to be treated in the same way as services of general economic interest. Any Community action in such areas, as is made clear in the Treaty, can be no more than complementary.

2. Striking a balance: the Community objective

19. The real challenge is to ensure smooth interplay between, on the one hand, the requirements of the single European market and free competition in terms of free movement, economic performance and dynamism and, on the other, the general interest objectives. This interplay must benefit individual citizens and society as a whole. This is a very tricky balancing act, since the goalposts are constantly moving: the single market is continuing to expand and public services, far from being fixed, are having to adapt to new requirements.

20. The Community approach is, therefore, necessarily a gradual one and the balance sought must be capable of responding rapidly to developments. Services of general economic interest are normally subject to the Community rules designed to create the single market. This includes monopolies, which may obstruct the smooth functioning of the market, in particular by sealing off a particular market sector. The operation of these rules encourages these services to evolve accordingly, but the general interest services must be kept intact.

21. The suppliers of certain services of general interest may be exempted from the rules in the Treaty, where the rules would obstruct the performance of the general interest tasks for which they are responsible. Definitions of general interest duties do not necessarily determine how they are to be carried out. This is why any exemption from the rules is subject to the principle of proportionality. This principle, which underlies Article 90 of the Treaty, is designed to ensure the best match between the duty to provide general interest services and the way in which the services are actually provided, so that the means used are in proportion to the ends sought. The principle is formulated to allow for a flexible and context-sensitive balance that takes account of the Member States' different circumstances and objectives as well as the technical and budgetary constraints that may vary from one sector to another. It also makes for the best possible interaction between market efficiency and general interest requirements, by ensuring that the means used to satisfy the requirements do not unduly interfere with the smooth running of the single European market and do not affect trade to an extent that would be contrary to the Community interest.
22. The results achieved to date by this interaction have been extremely positive, in terms of both effectiveness of general interest services and implementation of the rules.
23. In terms of efficiency and quality, the provision of general interest services in the Community compares favourably with other areas of the world in many cases. Europe's showing is often very good when it comes to, say, the reliability of energy distribution, air transport safety or the quality of radio and television broadcasting. These achievements owe something to the Community's arrangements, which weed out unfair advantages, encourage openness in management and require general interest remits to be clearly and precisely defined. Gains in efficiency as a result of competition are, indeed, one of the best ways of lowering the cost of services and, in many cases, making them accessible to a larger number of people. They also make firms, in particular smaller firms, more competitive. There is none the less scope for improvement in many areas. The quest for higher quality and greater cost-effectiveness in services of general interest can in many cases require new approaches and a substantial effort to enhance efficiency.
24. The Community has always applied the rules impartially and been responsive to the concerns of industry, society and the political world. The legislative framework has been set up by the Council of Ministers and the European Parliament. All the legal instruments concerning air transport, rail transport and electricity were adopted unanimously by the Member States in the Council. The universal service concept for telecommunications and the postal service was also adopted by the Council and the European Parliament. In one-off cases the Commission has had to adopt measures on the basis of Article 90⁽¹⁾. However, before the final adoption of any such measures, the Commission always takes care to carry out extensive consultations with the European Parliament, the Council, the Member States and the parties concerned to reach the broadest possible consensus. For example, the two main directives adopted on the basis of Article 90 concerning telecommunications terminals and telecommunications services and the amendments to them received the support of the Member States within the Council.
25. As the appeal body and interpreter of the law, the Court of Justice has confirmed these instruments, making its own contribution to achieving the right balance. The Court has accepted that economic considerations, such as the overall cost-effectiveness of a general interest service, and other considerations, such as environmental protection, are admissible as legitimate grounds⁽²⁾.
26. In their approaches, the Commission, the European Parliament, the Council and the Court of Justice have also respected the different national definitions of the general interest, which are based on each country's special social and cultural characteristics and their choice of society.
- ### 3. Promoting the European general interest
27. As a source of economic vigour and efficiency, the economic integration of Europe, based on the single market and the cohesion policy, has had to take on board the issue of the general interest at European level with the concept of universal service or other public service obligations. The concept of universal service, which was originated by the Commission, has been developed in European Parliament and
- (¹) Since 1958 only eight directives plus amendments and seven decisions have been based on this Article.
- (²) Case C-320/91 *Corbeau v. Kingdom of Belgium* (Public Prosecutor) [1993] ECR I-2565; Case C-392/92 *Almelo v. Energiebedrijf IJsselmij NV* [1994] ECR I-1509; Case T-32/93 *Iadbroke v. Commission* [1994] ECR II-1994.

Council resolutions and implemented in various sector-specific pieces of legislation⁽¹⁾.

28. The basic concept of universal service is to ensure the provision of high-quality service to all at prices everyone can afford. Universal service is defined in terms of principles: equality, universality, continuity and adaptability; and in terms of sound practices: openness in management, price-setting and funding and scrutiny by bodies independent of those operating the services. These criteria are not always all met at national level, but where they have been introduced using the concept of European universal service, there have been positive effects for the development of general interest services⁽²⁾.
29. Universal service is, none the less, a flexible concept, which evolves gradually in line with specific structural and technical features and sector-specific requirements. It is also evolutionary in the way it has to adapt to technological change, new general interest requirements and users' needs.
30. There is nothing to prevent the Member States from defining additional general interest duties over and above universal service obligations, provided that the means used comply with Community law. For some services, the provisions of the universal service concept leave Member States the choice of whether or not to impose the general interest obligations and to offer compensations. In this way the development of the universal service concept at European level is sensitive to diversity, by continually taking account of the different national views of general interest, determined by each country in line with its own traditions and needs.
31. Public service obligations may also be imposed, subject to certain conditions, for reasons of general interest connected with matters such as land-use planning, security of supply and the environment.
32. The completion of the single market provides consumers with better services and puts European businesses in a stronger position to face up to international competition. The universal service principle and the other public service obligations

contribute to the objectives of equal treatment. They protect the general interest for the benefit of the public and European society. Universal service is the expression in Europe of the requirements and special features of the European model of society in a policy which combines a dynamic market, cohesion and solidarity.

II. THE COMMUNITY CONTRIBUTION: DYNAMISM, FLEXIBILITY AND SOLIDARITY

A. A SECTOR-SPECIFIC APPROACH

33. The principles and the approach outlined above combine the dynamism of opening up markets with general interest requirements at European and national levels. The Commission has already taken steps in this direction in several areas, such as telecommunications, postal services, transport and energy. These are solid examples of how the single market can protect and improve the satisfactory provision of general interest services to the public on the basis of universal service or public service obligations. Each case was approached in a flexible way, respecting the special characteristics of each sector, the principle of subsidiarity and the concern to get the best deal for everyone. The approach has always been a gradual one and involved consulting all the parties concerned.

Telecommunications

34. The Community approach to telecommunications is intended to improve the service provided to the public in the Community, by offering a greater range, while at the same time improving quality and keeping prices affordable. The market has been opened up gradually in accordance with a precise schedule. Since proposals made in 1987, consumers have been able to choose whichever fixed or mobile phone, fax or modem they wish. Measures were then introduced to provide free choice between at least two mobile phone or satellite service operators. By no later than 1 January 1998 (or 2003 in certain countries) voice telephony infrastructures and markets are to be opened up. For this purpose, regulatory bodies are to be separate from the operators and public networks will be open to other operators.
35. The opening-up of markets and infrastructures goes hand in hand with the definition of universal service obligations, which the Community has asked Member States to impose on operators to ensure the provision of a wide range of basic services. The Commission communication of 1996 on universal service stipulates that this service should provide

⁽¹⁾ European Parliament resolutions of 22 January 1993, OJ No C 42, 15. 2. 1993, p. 240; 1 May 1994, OJ No C 105, 25. 7. 1994, p. 551; 25 June 1995, OJ No C 166, 3. 7. 1995, p. 109; 14 July 1995, OJ No C 249, 25. 9. 1995, p. 212.
Council Resolutions of: 22 July 1993, OJ No C 213, 6. 8. 1993, p. 1; 7 February 1994, OJ No C 48, 16. 2. 1994, p. 1; 22 December 1994, OJ No C 379, 31. 12. 1994, p. 4; and 18 September 1995, OJ No C 258, 2. 10. 1995, p. 1.

⁽²⁾ See the example of telecommunications in point 35.

affordable access for everyone to a network of voice, data and fax transmission and a voice telephony service. The Regulation lays down a framework for the financing of the costs relating to this service by market actors. The definition of this universal service is to be reviewed in 1998 and thereafter at regular intervals. The dynamic approach adopted is designed to adapt the service in line with technological developments, consumer needs and general interest considerations. The treatment of telecommunications as a universal service is already having a positive effect on how telecommunications services are being approached at national level. For example, the idea of guaranteeing access at affordable prices for everyone, including the socially, medically and economically disadvantaged, which was not an established principle in several countries, has now been introduced by the universal service concept.

36. In some Member States which have acted ahead of schedule, telephone services, in particular mobile phone services, are already being provided by new operators and this has helped to increase the spread of the telephone and the range of new services. A more open market will make it easier for telephone services to take on board the current flurry of technological developments at the same time as meeting customers' increasingly sophisticated demands and keeping prices down.

Postal services

37. The measures proposed by the Commission in July 1995 are being examined by the European Parliament and the Council. They aim to introduce common rules for developing the postal sector and improving the quality of service, as well as gradually opening up the markets to competition in a controlled way by the year 2000.
38. The basis of the proposal is to safeguard the postal service as a universal service in the long term. Universal postal service means providing a high-quality service countrywide with regular guaranteed deliveries at prices everyone can afford. This involves the collection, transport, sorting and delivery of letters as well as printed matter, catalogues and parcels within certain price and weight limits. It also covers registered and insured ('valeur déclarée') items and would apply to both domestic and cross-border deliveries. Due regard is given to considerations of continuity, confidentiality, impartiality and equal treatment as well as adaptability.
39. To guarantee the funding of the universal service, a sector is to be reserved for the operators of this universal service. The scope of the reserved sector will be determined by two criteria: weight and price. The issue of mailing circulars is being looked into, as is that of incoming cross-border mail. In any case, the range of reserved services will be reviewed in the year 2000 in the light of technological, economic and social developments.
40. The remaining funding for the universal service may be found by writing certain obligations into commercial operators' franchises; for example, they may be required to make financial contributions to an equalization fund. There are also plans to keep regulatory authorities and postal service operators separate.

Transport

41. In civil aviation, national airlines often used to enjoy a monopoly in their country of origin, which allowed them to offset profit-making activities against loss-making activities connected with their public service role. The three aviation packages of 1987, 1990 and 1993 have gradually opened up the markets, while safeguarding the general interest.
42. For services to outlying areas and low-density regional services, which are vital for regional development, but not economically viable if left to market forces, the regulations allow Member States to impose public service obligations for a specific route, select a sole operator on the basis of a Community-wide invitation to tender and provide financial compensation for operating these services. Public intervention in the market is thus limited to the strict minimum.
43. Now that the process is nearly completed, it must be acknowledged that the opening-up of European aviation markets has succeeded in maintaining service and reliability levels and improved the quality of services for travellers appreciably. Competition is keener in terms of both traffic and prices, making air transport more accessible to a wider public.
44. The regulations governing the freedom to provide maritime transport services within a Member State (known as 'cabotage') allow Member States to impose public service obligations, without any discrimination between Community shipowners, as a condition for operating scheduled services to, from and between islands. Member States may take into account only considerations relating specifically to the ports to be served, the regularity, continuity and frequency of the service, the capacity to provide the service, the prices charged and the crew of the vessels. Apart from this, in a communication entitled

'Towards a new shipping strategy' the Commission has put forward the possibility of public funding to support general interest services.

45. For inland transport (rail, road and inland waterways) the Treaty itself refers (Article 77) to certain obligation inherent in the concept of a public service. In 1969 the Council adopted regulations interpreting this article and guaranteeing the supply of adequate transport services which contribute to sustainable development, social cohesion and regional balance. A great deal of progress has already been made in the process of opening up the inland transport markets and the importance of the quality of public services in this area has been fully taken into account.

46. In its Green Paper on the citizens network the Commission confirmed this approach and at the same time highlighted the need to improve the effectiveness of these regulated public services. Similarly, for rail transport, in a recent White Paper the Commission defended its 1995 proposals to open up the freight and international passenger markets and announced a study on the best practical means of introducing market rules in domestic passenger services, with due account for public service requirements. Two other proposals have been put forward in 1996 to strengthen the internal road passenger transport market; they comply in full with the proportionality principle and the public service regulations.

Electricity

47. The draft directive that is currently going through the adoption procedure is intended to open up electricity markets to new operators gradually over a period of nine years. In order to protect the very long-term investments which are typical of this sector and to take account of the diversity of national structures, Member States are being offered two options: either access to the networks for third parties or a single buyer system. It will be up to the Member States to decide who are the eligible parties, subject to certain conditions.

48. The proposed solution is based on free competition, but gives Member States the possibility of laying down general interest obligations. In line with the principle of subsidiarity, the Member States will be responsible for defining these obligations in terms of general interest objectives on the basis of openness, objectivity and equal treatment.

49. The Commission is sure that this policy will succeed in reducing energy costs for European industry and therefore boost its competitiveness on the international scene. Lower prices should also be one of the benefits passed on to consumers.

50. An initial mid-term evaluation of the directive will be carried out by the Commission, after which it will be reviewed once it has been in force for nine years.

Broadcasting

51. In most Member States, television and radio have a general interest dimension, despite the structural and technological changes affecting these markets. The general interest considerations basically concern the content of broadcasts, being linked to moral and democratic values, such as pluralism, information ethics and protection of the individual. The way these general interest considerations are catered for varies considerably from one country and region to another, particularly as regards how they are funded.

52. The main piece of Community legislation directly relating to this sector is the so-called Television without frontiers Directive of 1989, which provides the legal framework to guarantee freedom of movement for television programmes by coordinating the national rules which might have raised legal obstacles to free movement. The coordinated areas are rules applying to promotion of the production and distribution of television programmes, advertising and sponsorship, the protection of minors and the right of reply. The Member States must ensure freedom to receive programmes and must not hinder the retransmission of programmes broadcast from other Member States for reasons relating to the coordinated areas. The European Parliament and the Council are currently in the process of revising the Directive to clarify and adapt the present rules.

53. In addition, the rules on competition provide a safeguard against the abuse of dominant positions and, via the merger control arrangements, prevent the development of oligopolistic and monopolistic market structures.

B. THE CONTRIBUTION OF OTHER COMMUNITY POLICIES

54. The Community's involvement in developing general interest services goes beyond just the development of the single market, incorporating other activities

under various Community policies such as:

- drawing up standards to ensure the interoperability and interconnection of networks; developing certification systems.
- developing European plans for major trans-European transport, energy and telecommunications infrastructure networks that form the backbone of the information society; policy coordination and financing for the development of these infrastructures,
- supporting investment projects as part of economic and social cohesion policy, particularly for infrastructure in less-advantaged regions of the Community and regions undergoing industrial reconstruction, and for projects designed in general to promote general interest services in partnership with local and regional actors,
- research and development activities in general interest service sectors, such as rail and air transport, the audiovisual industry, information technology, education and training, and health,
- encouraging legislators, regulators and operators to exchange experiences and emulate the best practices, for example as regards financing methods, price-setting and serving the public⁽¹⁾.

In all these activities the Community is attentive in particular to the need for a healthy and sustainable environment and consumer interests. The Community is taking measures for consumers to promote choice, quality openness, access to objective information, rapid and inexpensive means of redress and participation.

55. However, none of these Community activities will be effective, unless the various parties concerned work together in the necessary way. Partnerships between the public and private sectors will inevitably play a decisive role, particularly when it comes to investment and research, but partnerships also need to be developed between the regional, national and European levels.

56. As regards non-economic services⁽²⁾, various cooperation activities undertaken at European level

may help to support or add an extra dimension to national policies, for example in the areas of employment, welfare, public health, education and training and culture. The Community is encouraging cooperation between the Member States on combating cancer. The education and training exchange and cooperation programmes, Leonardo and Socrates, involve large numbers of students and young workers. The Community also supports various activities to preserve and protect Europe's cultural heritage. These activities do not, of course, imply harmonization at the European level, but rather they are additional ways in which the Community supports the general interest and are vital for achieving the Community's cohesion and solidarity objectives.

III. OBJECTIVES FOR THE FUTURE

57. The Community's aim is to support the competitiveness of the European economy in an increasingly competitive world and to give consumers more choice, better quality and lower prices, at the same time as helping, through its policies, to strengthen economic and social cohesion between the Member States and reduce certain inequalities. This objective, which is laid down in the Treaty, is served mainly by the Structural Funds and the trans-European networks. General interest services have a key role to play here, since they contribute to economic and social cohesion and economic performance. The Community is committed to maintaining these services intact, while improving their efficiency.

58. The importance of striking this balance was brought out by the Heads of State or Government at their summit in Cannes in June 1995⁽³⁾:

'The European Council reiterates its concern that the introduction of greater competition into many sectors in order to complete the internal market should be compatible with the general economic tasks facing Europe, in particular balanced town and country planning, equal treatment for citizens, including equal rights and equal opportunities for men and women, the quality and permanence of services to consumers and the safeguarding of long-term strategic interests.'

⁽¹⁾ An example of this in the area of public transport is the recent Commission communication *The citizens network*, COM(95) 601 final, 23 January 1996.

⁽²⁾ See point 18.

⁽³⁾ Cannes European Council, 26 and 27 June 1995, conclusions of the Presidency, SN 211/95, point A.I.1.7.

59. Both this political statement and the changes currently under way point to the need to clarify future objectives. In this vein, the Commission is planning to promote European general interest services on three fronts: by making the most of operations to boost the single market and European competitiveness; by strengthening European solidarity and coordination; and by deploying Community instruments. These developments should be reflected in the Treaty, when it comes up for discussion at the Intergovernmental Conference.

A. A EUROPEAN PERSPECTIVE

1. Making the most of operations to boost European competitiveness

60. The opening up of markets on a sector-by-sector basis for economic services and, in particular, networked services, and the introduction of universal service obligations should be continued, given the positive effects they have on the general interest functions and on the competitiveness of the European economy in the world. These activities are crucial for the modernization of the services, enabling Europe to make the most of its competitive advantages in the sectors in question and enabling the companies that use the services to obtain quality at lower cost.

61. Whatever happens, the Commission will continue to play its role of impartial referee. It intends to apply the following principles in its policy of opening up markets in the future:

- introducing evaluation tools to assess the operation, performance and competitiveness of general interest services on a sector-by-sector basis, so that the best examples can be emulated and the services adapted in line with technological changes, new consumer needs and new public interest demands. The Commission has already launched a study to get an overview of forms of regulation and methods of organizing and financing networked services in the Member States,
- adopting a step-by-step approach based on consultation with the various parties concerned, including consumers,
- applying openness by issuing a communication on the application of the Article 90 procedures.

This approach should get the best out of the activities undertaken, particularly as regards the development of the universal European service concept.

62. It is, however, important that the decisions on the Commission's pending proposals should be taken as soon as possible. The Commission is expecting the Directive on the opening up of the internal market in electricity, which had been blocked, to be finalized soon. The Commission is also counting on the Council and the European Parliament adopting the drafts on the opening up of international markets in rail passenger transport, completing the opening up of the rail freight markets and the opening up of the natural gas markets. These proposals incorporate the general interest considerations.

2. Strengthening European coordination and solidarity

63. In the interests of solidarity, the general interest criteria could be extended to other activities following the evaluations referred to above. There are several sectors that have a cross-border dimension, especially in terms of their particular technical characteristics, which means that the general interest role is not necessarily best fulfilled at national level. There are other sectors with European implications too, such as land-use planning and environmental protection.

64. To meet the requirements of these sectors and ensure the best possible performance and service, the Commission could envisage future activities, in some form or another and using the powers it already possesses, designed to facilitate the coordination of national general economic interest bodies in matters such as public financing arrangements and control systems. Development of the universal service concept or public service obligations could be a fruitful avenue to explore, particularly in terms of the quality of service and users' rights.

65. The level of European integration in certain sectors could also give food for thought on means of increasing European-level coordination for monitoring the activities of regulators and operators in these sectors. In some cases, more developed forms of cooperation could be envisaged, such as the introduction of a regulatory body for air traffic control, which is under discussion⁽¹⁾.

⁽¹⁾ See Commission White Paper entitled 'Air traffic management: freeing Europe's airspace', COM(96) 57 final.

3. Deploying Community instruments

66. Economic and social cohesion, harmonious urban and rural development and environmental conservation are objectives of shared interest in Europe. In this context, general interest services share the same objectives as various other common policies introduced by the Community.

67. This is why the Commission will be pushing ahead with those policies which are needed to get the most out of general interest services. With this in mind, next year the Commission is due to submit a draft plan on developing land use in the Community to the European Parliament, the Council and the Committee of the Regions. This is to be based on the recommendations of the 'Europa 2000 plus' document, which will give general interest services the sort of coverage they deserve.

68. The Commission is planning to develop the trans-European networks in line with the commitments already made by the Heads of States or Government. The commitments should be acted on as soon as possible, particularly on the financial level. The networks have such huge potential that their introduction should not be held up any longer.

When presenting its initial guidelines for the fifth research framework programme (1999 to 2003), the Commission stressed the need for research to be made to work resolutely for the benefit of the European citizen.

69. Making sure that everyone is provided with other general interest services, such as health, welfare, education, water and housing, is a matter of national or regional responsibility. None the less, there are ways in which the Community can help (cooperation, financial support and coordination activities) and greater use should be made of them in connection with these services to promote equality of opportunity and to combat poverty and marginalization ('social exclusion').

B. A REFERENCE IN THE TREATY

70. Now that the Union is discussing reforming its institutions in preparation for the transition to a new political phase, the debate is open on how to

consolidate and clarify our commitment to the European model of society and the values on which it is based, as reiterated by the Commission in its opinion for the Intergovernmental Conference⁽¹⁾. The provision of public interest services is central to these values.

71. One option would be to leave the Treaty as it stands. Article 90 has proved its worth in fully guaranteeing the beneficial interaction between liberalization and general interest. It is best left untouched. The Treaty also contains various other instruments that provide ways and means of supporting the European model of society in several ways, for example as back-up for general interest roles: trans-European networks, Community research, consumer policy and social and economic cohesion.

72. The Commission feels, however, that the role of general interest services in the development of the concept of European citizenship should be commensurate with the place they occupy among the shared values on which the European societies are founded. With this in mind, the stage should be set for developing general interest services in Europe and for deploying the means available to achieve this end in a coherent way.

73. The Commission is advocating in the Intergovernmental Conference that a reference be inserted in the Treaty. This would mean adding a new paragraph (u) to Article 3 to read as follows:

'(u) a contribution to the promotion of services of general interest.'

74. This would confirm, given the programmatic value of Article 3, that general interest services already fall within the Community remit. They none the less continue to be primarily an area for action by the Member State. Without actually creating a new legal basis, this addition would establish that general interest services are something which the Community should take into account when drawing up its policies and planning its activities.

(¹) 'Reinforcing political union and preparing for enlargement'. Commission opinion on the Intergovernmental Conference, COM(96) 90, 28. 2. 1996.