



The Consumer Voice in Europe

BEREC's Broadband Promotion Report

BEUC response

Public consultation

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Summary

In order for the consumers to fully enjoy the advantages of the Digital Era, access to telecom networks and services is essential and needs to be guaranteed. Broadband access is one of the modern world necessities, but despite increasing broadband connection speeds, huge group of consumers can not benefit from it. Therefore, the European Consumers' Organisation (BEUC) regrets the current position of the European Commission and calls for the inclusion of broadband in the scope of the Universal Service Obligation.

Moreover, there are still many hindering factors such as the cost related to the broadband access and the lack of digital skills which stop consumers from becoming a part of the digital environment. In our view, the most important prerequisites for the successful broadband promotion and take-up are high level of competition, increased consumer choice, affordable price and effective consumer protection.

BEUC welcomes the demand-side measures identified in BEREC's Broadband Promotion Report and strongly believes that if adopted, can indeed help to promote broadband.

In particular, BEUC has identified a number of key issues that need to be addressed:

- **Price of broadband access** – National Regulatory Authorities should ensure consumers benefits by overseeing a competitive European network and access for alternative operators so that consumers have more choices of broadband services at a fair price.
- **Quality of service and advertising** – Information provided to consumers should be accurate and up-to-date as this can increase consumer trust in the services provided and enable consumers to make a well-informed choice. More efficient approach in guaranteeing the quality of services is needed, in order to motivate consumers to step up to using broadband.
- **Information on service and transparency of offers** - One of the tools how consumers can receive clear, precise, complete and accurate information is a well-functioning tariff comparison available online.
- **Contractual terms** – As consumers often face unfair terms and conditions or are misled by unfair commercial practices when provided with information related to the advantages of a particular offer, the rights for consumers must be guaranteed.
- **Customer services and complaint handling** – Clear information about the complaint handling of the service provider should be stated in the contract terms and effective complaint handling procedures as well as consumer redress should be in place.
- **Digital and media literacy** - Since the objective is to make the benefits of broadband penetration and the digital society available to all, it should be ensured that the current imbalance in terms of digital skills and access to technology and online services between digital natives and non-natives is addressed.

Introduction

For consumers to reap the benefits of the Digital Era, access to telecom networks and services needs to be guaranteed. Yet, according to the figures provided by the European Commission, 150 million Europeans - some 30% - have never used the Internet.

The costs related to internet connection, the slow take-up of broadband penetration in some Member States, the lack of digital skills and competences and affordability concerns are the major hindering factors to get connected to the digital environment.

With the 'Granada Ministerial Declaration' and the forthcoming Digital Agenda for Europe and the broadband strategy, the political decision to have 100% broadband coverage for all by 2013, has been taken. The question is now how this objective can be put into practice and even more important, how we progress from potential access to actual take-up.

BEUC therefore welcomes the commitment of BEREC to achieve the objectives included in the Digital Agenda, EU Broadband Strategy and the Commission's Recommendation on Next Generation Access Networks among others.

Question 1 (section 5):

What elements do you consider essential for the successful definition and implementation of governments' strategies to promote broadband:

- a) Overall at the national level? What role, if any, could NRAs play to enhance the effectiveness of those strategies?
- b) Specifically at rural and peripheral areas? What role, if any, could NRAs play to enhance the effectiveness of those strategies?

- a) Broadband access has become a necessity – people are looking for a job online, contacting their government or generally using online public services, shopping¹ or networking. Access to broadband can improve people's quality of life, enable electronic communication as well as increase competition.

Despite increasing broadband connection speeds, the EU is still behind its targets of providing every European citizen with an access to basic broadband

¹ Consumers when being online can access better deals with utilities and save often remarkable amount of money when buying cheaper goods and services online. More information: Universal Service Principles in E-Communications, Questionnaire for BEUC's answer to the public consultation, 2010

by 2013 and fast and ultra-fast broadband by 2020². Moreover, broadband take up continues to slow-down and on average just over half of all EU households have broadband internet access (55%)³.

As highlighted by the European Commission' Broadband Communication, every EU Member State must adopt ambitious national broadband strategy ensuring all consumers can, in short term, access at least basic broadband. National Regulatory Authorities (NRAs) should monitor if the targets established in the national plans are achieved and, where appropriate, propose corrective measures.

In addition, BEUC strongly believes that the Universal Service Directive is an appropriate instrument to ensure broadband is available and used by all. We therefore regret the position of the European Commission⁴ that it would be premature to revise the scope of the Universal Service Obligation.

Moreover, the EU needs to ensure ultra-fast broadband markets remain competitive by allowing new technologies to be developed and innovation to be promoted to the benefit of consumers. In this respect, BEUC believes that NRAs and Government should put more emphasis on the Next Generation Access (NGA) Networks roll-out at the national level as the successful roll-out of new NGA networks will significantly enhance consumer choice. Moreover, for competition to be effective, access to the network should be made at affordable prices, cost-based, on a transparent basis and discriminatory practices should be forbidden between operators or co-investors.⁵

National Regulatory Authorities have a crucial role to play to monitor the implementation of measures and promote competition, ensure access to alternative operators and provide consumers with more choices at affordable price. Only well-regulated telecoms markets can ensure increased choice and lower prices for consumers.

- b) There are still many consumers living in rural and remote areas that have poor or no access to broadband. Access to broadband is equally important for these consumers in order to be able to communicate, interact with public authorities, buy goods and services etc. In order to narrow the gap between those with and those without broadband access, all consumers should be entitled to high-quality connection. For this goal to be achieved, a more co-ordinated approach

² [The Digital Agenda for Europe](#) declared that all households should have access to broadband of at least 30 Mbps by 2020, with at least 50% of households subscribing to speeds of 100Mbps or above.

³ Eurobarometer: E-Communications Household Survey, July 2011

⁴ http://ec.europa.eu/information_society/policy/ecomm/doc/library/communications_reports/universal_service/comm_us_en.pdf

⁵ Electronic Communications – Non-discrimination Obligations and Costing Methodologies for Key Wholesale Access Prices, BEUC's response to the public consultation, 2011

and funding is needed to ensure that rural and remote areas are able to access broadband.

Question 2 (sections 6 and 9):

Among the main supply-side obstacles to broadband promotion, NRAs have perceived the low expected return on investment, the lack of access to financial resources and the access to spectrum. In addition, NRAs have considered, among the main demand-side obstacles to broadband promotion, aspects such as the citizens' lack of perceived need to adopt broadband, the high price of broadband, the fact that NGA is still in an initial stage of the product life cycle and, mostly in rural areas, the lack of choice between operators.

2.1. What of the above mentioned factors, if any, would you not consider as obstacles? And what other factors, if any, would you add to the list of main obstacles to broadband promotion? Please reply with specific regard to:

- a) Supply-side obstacles;
- b) Demand-side obstacles.

Question 2.2:

Taking into account namely your assessment of the existing and potential obstacles to broadband adoption, what elements do you consider essential for the successful definition and implementation of NRAs' strategies, in particular from a demand-side viewpoint, to promote broadband?

When replying to question 2.2, please mention also what core strategic differences, if any, should be weighted regarding the consideration of those elements in rural/peripheral areas and in urban areas.

BEUC has identified the following obstacles:

Lack of competition

From BEUC perspective, it is important to keep in mind that to ensure fair prices for broadband services and effective competition in general, all operators should be guaranteed the access to the network at affordable prices reflecting the real costs. Different cost methodologies currently being used across the EU very often set artificially high charges for the wholesale access which consequently results in higher retail prices for all telecom services provided to consumers. Therefore, wholesale access charges for telecoms should be calculated on the basis of actual cost of the existing network rather than on the cost of building a new copper

network. It is equally important that the wholesale broadband access is provided on a non-discriminatory and transparent basis and the quality of service provided to wholesale service providers is the same as that of the owner and operator of the network. Therefore, a stable regulatory framework, compliance of the national law with the EU telecoms rules and a strong National Regulatory Authorities play a key role in the creation of the competitive telecoms market. Furthermore, BEUC encourages all NRAs to implement the NGA Recommendations since this will contribute to better services for consumers. Moreover, BEUC considers that broadband needs to be stimulated through other instruments such as its inclusion in a scope of Universal Service Obligation.

Affordability

As also concluded by the Digital Agenda Scoreboard⁶, one of the main barriers to wide use of broadband is still high price of broadband access caused by the lack of competition in particular. Prices are often very similar among various operators and consumers consequently do not benefit from cheaper prices.⁷ In addition to the cost of access to broadband, one must bear in mind that consumers have also to face the price for equipment required (pc, laptops etc). According to Eurobarometer⁸, only over two thirds (68%) of EU households have a computer. Computer ownership is highest in the Netherlands, Sweden and Denmark but lowest in Bulgaria, Romania and Hungary. Therefore, BEUC believes that BEREC has successfully identified a number of measures that can help reduce the prices and facilitate consumer's access to broadband.

Usability

Development of digital and media literacy skills and competences is crucial in order to ensure that Europeans will benefit from the opportunities provided by the new technologies. Bridging the gap between digital natives and non-natives will enable everyone to participate on a more equal footing on digital society. Consumers need the skills and confidence to become 'digital and media literate' and therefore BEUC considers that specific measures targeted at promoting digital

⁶ More information is available in the European Commission's report Broadband Internet Access Cost, 2011

⁷ As reported for instance by our Belgian member, Test-Achats, the Belgian retail market is still held by incumbent and cable operators leading to a situation where the 2 main operators held majority (more than ¾) of the total retail market and market shares of alternative operators are minor. Belgian consumers have to pay more expensive prices for their broadband packages in comparison with other European countries. Prices are stagnating and consumers may not benefit from cheaper prices for a long time. Also according to findings of the NRA, prices are characterized by a high level of homogeneity between operators.

⁸ Eurobarometer: E-Communications Household Survey, July 2011

literacy are needed, such as training programmes and broadband access at school or in designated centres.

Broadband access & consumers' expectations

Measures targeted to foster the take-up of broadband need to reflect the different needs and expectations of consumers. For instance, low income households are mainly interested in affordability, while elder people may not have the skills or the interest in going online. Additional problems need to be tackled, including concerns over privacy and security.

Question 3 (section 7):

What elements do you consider essential for the successful definition and implementation of operators' strategies, in particular from a demand-side viewpoint, to promote broadband, with regard to:

- a) Fixed broadband?
- b) Mobile Broadband?
- c) NGA Broadband?

When replying, please mention what role, if any, could NRAs play.

BEUC agrees with BEREC's assessment that special offers and promotional prices indeed may support broadband take-up. This may be in a form of price reductions or reduced cost of equipment. It should be however ensured and monitored by national regulators that consumers accepting these offers do receive accurate information and are not locked in the lengthy contract. This is mainly the case with bundled contracts, where switching becomes extremely difficult and time consuming, while consumers are often given the choice between a bundled offer or nothing. Bundling may also be used by companies with significant market power in one market to related markets.

Moreover, quality of service as well as consumer experience and trust are highly important since the people to motivate those who are not very interested are those people who already adopted broadband and have positive experience with this service (importance of word of mouth communications). Therefore, consumers should be provided in all cases (fixed, mobile and NGA broadband) with high quality services. Furthermore, equipment, services and products should be designed in such way so that they are user friendly and easy to use.

Question 4 (section 8):

What elements do you consider essential for the successful definition and implementation of public-private partnerships strategies, in particular from a demand-side viewpoint, to promote broadband? What role, if any, could NRAs play to enhance the effectiveness of those strategies?

BEUC finds the role of public-private partnerships (PPPs) as essential towards successful broadband deployment. The importance of PPPs is even more crucial in rural and remote areas which are not particularly attractive for operators to invest in. Moreover, BEUC believes that PPPs focused on specific groups of people (such as low income consumers, disabled consumers) or activities (such as training, education) are of utmost importance. NRAs should encourage the creation of PPPs and ensure there is convenient regulatory environment for PPPs to operate.

Question 5 (section 10):

In addition to the initiatives already taken by BEREC with regard to the promotion of broadband from a supply-side perspective, what other initiatives do you perceive it is important that BEREC develops in the future from that perspective?

N/A

Question 6 (section 10):

A list of potential measures was identified, in the present document that could be adopted or reinforced in order to promote broadband from a demand side perspective:

- a) Are there any identified demand-side measures that you consider inappropriate?
- b) What other demand side measures, if any, would you consider particularly important to promote broadband?

BEUC welcomes the demand-side measures identified in BEREC's draft report, which if adopted can indeed help to promote broadband.

Price of broadband access

As already stated above, one of the main obstacles to broadband take-up is a high price of this service. In order to increase broadband adoption rates, strong incentives should be in place, not only subsidies and tax incentives but also digital literacy trainings. However, it is important to note that affordability concerns not only the costs of subscription + equipment but also ongoing service.

Quality of service and advertising

Firstly, when consumers are choosing broadband services, the speed has become an important issue. Consumers sometimes pay extra money for faster broadband and expect that they receive what they signed up to. However, they are very often misled in terms of achievable broadband speeds as the average download speeds experience are, in many cases, much lower than the advertised 'up to' speeds⁹. Therefore, the use of the term 'up to' when advertising broadband speeds to consumers may be misleading and should not be used.

Secondly, many online services such as watching TV, streaming videos etc. require higher speeds enabling people to access high quality content. Also Eurobarometer (July 2011) proved consumer dissatisfaction with the download/upload speed and capacity which often do not meet the contract conditions (esp. in the UK, Spain and Romania). BEUC believes that consumers must be provided with accurate and up-to-date information as this can increase consumer trust in the services provided and enables consumers to make a well-informed choice. Therefore, the NRA in every country should monitor and ensure that relevant information on the service in terms of cost, in particular is available to consumers. In case of misleading or inaccurate information, NRA should enforce corrective measures so that user experience is positive. Consumer protection authorities also have an important role to play in enforcing consumer protection legislation, namely with regards to unfair commercial practices.

Information on service and transparency of offers

Consumers have the right to receive clear, precise, complete and accurate information. One of the tools how to achieve this goal is a well-functional tariff comparison. Consumer organisations play an important role in such a process as they may provide price/service-comparison on their website. Moreover, for

⁹ For instance, British regulator, OFCOM, found that average broadband speed is less than half advertised speed which was 6.2Mbit/s compared to average advertised speed 13.8Mbit/s in March 2011 (<http://media.ofcom.org.uk/2011/03/02/average-broadband-speed-is-still-less-than-half-advertised-speed/>).

instance our Danish member reported about the online price comparison tool – the Teleguide – established by the Danish regulator. The “Teleguide” is a prime example of how it can be done authoritatively, effectively and at little cost. In our view, each NRA should run the online comparison websites to ensure consumers get accurate and relevant information. At the same time, NRAs should provide guidance to all private price comparison websites so that information provided to consumers is impartial, up to date and accurate. This should be done by using accreditation schemes which will ensure that the comparison websites fulfils high standards.

Moreover, NRAs should coordinate efforts for the service providers to disclose information about their offers in an understandable and comparable manner. To this end, the development of standardized information for telecommunications services should be developed. Such forms have already been in place in France, where the information can be found on the website of each operator.

Contractual terms

Consumers often face unfair terms and conditions or are misled by unfair commercial practices when provided with information related to the advantages of a particular offer. Ability to end contract is also one of the main sources of consumer complaints. Lengthy ‘lock-in’ contracts are the result of complicated contractual terms and lack of consumer information which then lead to low switching rates. Moreover, another potential barrier to switching may be very often high termination fee. Even more problematic is switching bundles or when the consumers sign a long term contract to receive subsidised equipment. Although these offers may be interesting in terms of reduced price, the lack of flexibility prevents consumers from switching. Therefore, BEUC finds extremely important that the clauses in the contract that could limit the consumer’s right to switch should be subject to the unfairness test under the existing contract terms legislation. Enforcement in this area, for instance the use of injunctions proceedings brought by designated bodies (consumer organisations or public entities) should be encouraged.

Customer services and complaint handling

Several cases have been reported when the consumer lost the broadband signal for several hours or even days and could not expect any compensation. It is also sometimes difficult to obtain correct information on whom to contact in case when something goes wrong or when looking for help. Helplines are not always available or menus do not provide the right option and it is not always possible to talk to the staff member. Therefore, effective complaint handling procedures as well as consumer redress should be in place. Moreover, the consumer should always be informed in the contract terms about the complaint handling of the service

provider as well as about the details of the independent ADR so that the consumer knows where to turn to in case he is not satisfied with the solution provided by the company. Moreover, as foreseen in the proposal of the Commission for a directive on alternative dispute resolution for consumer disputes (COM(2011) 793/2), the service providers should not only inform consumers about the ADR entities which are competent to deal with potential disputes between themselves and consumers, but also specify whether or not the service provider commits to use the ADR procedure.

Increased consumer choice and more attractive services for consumers

Lack of choice and high prices for telecom services in general are clear signals of insufficient competition on the market. The near future of broadband in the EU should be characterised by consumer choice driving innovation, pricing transparency and therefore, NRAs should ensure consumers benefits by overseeing a competitive European network. Moreover, as already mentioned above, consumers are different and have various needs and motivations and thus, Member States should put in place appropriate communication strategies that take account of this diversity and that must consequently be monitored by NRAs.

Public online services and other services available online

BEUC supports BEREC's proposal to promote online public services as this will make it easier for consumers to access important public services online. However, we believe appropriate attention needs to be given not only to eGovernment but also to eHealth, eProcurement and other public services. At the same time, we are observing the broadband access having an increasing impact on other sectors. For instance, considering the current EU strategies in the energy sector, especially the Third Energy Package, at least 80% of all European households should be equipped by smart electricity meters by 2020¹⁰ to help consumer better manage their energy use among others. Since one of the possibilities for consumers is to receive accurate information on their energy consumption online, access to broadband is considered as an integral part of this plan.

¹⁰ Subject to the results of an economic assessment of all the long-term cost, benefits and energy savings if assessed positively.

Digital and media literacy

The benefits of broadband penetration and the digital society should be available to all. It is important to ensure that the current imbalance in terms of digital skills and access to technology and online services between digital natives and nons is addressed. This is also supported by the argument that in 5 years, 90% of jobs will require a certain level of digital literacy. Thus, Member States should ensure there are programmes and trainings organized for those who need it the most and that appropriate funding is available.

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