



**Consumer  
Focus**  
Campaigning for a fair deal

# **Consumer Focus response to the European Commission's consultation on universal service principles in e-communications**

# About Consumer Focus

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Consumer Focus is the statutory organisation that champions the interests of consumers across England, Wales, Scotland, and for post, Northern Ireland.

We were formed through the merger of three organisations – energywatch, Postwatch and the National Consumer Council (including the Scottish and Welsh Consumer Councils).

Through campaigning, advocacy and research, we are the voice of the consumer in private and public sectors, working to secure fairer markets, greater value for money, and improved customer service.

# Summary and recommendations

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Consumer Focus supports the review of the universal service principles in e-communications. We call on the Commission to recognise broadband as an essential communications service and extend the scope of universal principles in e-communication to broadband.

We also urge the Commission to put consumers at the heart of the review and to incorporate a clear set of consumer protection rights backed up by effective regulations under the universal service principles in e-communication.

In summary, we recommend the Commission should:

- mandate a broad definition of broadband under the universal service principles that encompasses deployment of digital subscriber line (DSL), cable and wireless broadband on condition that they meet strict criteria on service quality and affordability
- ensure that universal service criteria give consumers living in geographically remote or isolated areas access to e-communication services including broadband
- address issues of broadband take-up such as affordability, usability, accessibility, online security and data protection, and other barriers that prevent consumers' digital engagement rather than purely focusing on broadband delivery and speed
- allow for national flexibility in setting up specific universal service criteria especially in relation to average speeds, usage of services, tackling barriers to digital inclusion and sources of funding
- consider a combination of financial instruments to provide resources for Universal Service Obligation to broadband to ensure 100 per cent connectivity. Those instruments could include licensing fees, spectrum reallocation and taxation. A consideration should also be given to assessment of the role of various industry players, including network operators and internet service providers, in the share of financial responsibility they bear. In addition, enhance the role of European Structural Funds in assisting broadband roll-out, especially to communities that are at risk of digital exclusion
- maintain provisions for fixed-line telephones, to secure service delivery at affordable rates. And in case of any plans to phase out existing 2G mobile networks and narrowband internet, conduct a full and rigorous analysis of the impact on consumers

# Introduction

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Consumer Focus welcomes the opportunity to respond to the Commission's consultation on universal service principles in e-communications.

Digital rights, in particular the right of individuals to access affordable digital technology, is a key policy area for Consumer Focus. We have carried out research<sup>1</sup> on broadband access and laid out our policy in our report. *The digital divide*<sup>2</sup> launched in May 2009. We have commented on the UK Government's proposals announced in *Digital Britain: The interim report*, the Government's spectrum modernisation programme and landline duty consultations, and Ofcom's consultation *Access and inclusion: Digital communications for all*.

We have also engaged in initiatives in this area at European level and responded to the European Commission's consultation *Post i2010: Priorities for new strategy for European information society (2010-2015)*<sup>3</sup>.

We support a review of the universal service principles in e-communications and believe the latter is essential for three reasons:

1. Recent years have been marked by an unprecedented development of information communications technology (ICT) that impacts on the ways consumers engage with telecommunication services. In the UK, take-up of communication services extended to multi-channel digital television, digital radio, mobile telephones and internet broadband, and many consumers regard those as essential services. While many households enjoy and benefit from access to new communication technologies, research suggests that a substantial percentage of the UK population is missing out<sup>4</sup>. For example currently 12 million people in the UK do not use or have access to the internet; with four million identified as the most disadvantaged and socially excluded<sup>5</sup>. Therefore it is important to assess whether the existing universal service principles
  - a. deliver essential communication services to consumers
  - b. provide a safety net that acts as an effective deterrent to a growing digital divide
2. Member states have been drawing up national strategies and setting up national targets for broadband delivery and usage in line with the agreement reached by the Competitiveness Council in March 2009<sup>6</sup>. Finland and Spain have already extended the scope of the Universal Service Obligation to broadband. The UK Government set the strategic framework for the communication sector, which includes a proposal for a universal service commitment to broadband for every UK household at a minimum speed of 2Mbps (megabytes per second) by 2012.

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<sup>1</sup> Consumer Focus Wales, *Logged in or locked out? Consumer access to the internet in Wales*, Sarah Richards, November 2009; Consumer Focus, *Broadband minded? Overcoming consumers' barriers to internet access*, Jillian Pitt, March 2010

<sup>2</sup> Consumer Focus, *The digital divide: Universal service and broadband*, May 2009

<sup>3</sup> Consumer Focus response to *Post i2010* <http://bit.ly/d9Zs9h> (PDF 365KB)

<sup>4</sup> Consumer Focus, *The digital divide: Universal service and broadband*, May 2009

<sup>5</sup> BIS and DCMS, *Digital Britain: Final report* <http://bit.ly/9a20Z2> (PDF 3.3MB)

<sup>6</sup> Lisbon strategy for growth and jobs <http://bit.ly/9yLjgD>

The Framework includes plans for rolling out a superfast broadband to 90 per cent of population by 2017<sup>7</sup>. To ensure increased take-up in broadband the Government created a Digital Champion for Inclusion to facilitate, develop and promote the digital inclusion needs of the most disadvantaged citizens and communities. The Government's commitment to rolling out broadband is also fuelled by plans to put key public services online as a means to generate substantial savings across the public sector. Therefore we think it is essential to carry out an impact assessment of member states' policies and market trends on the existing universal service principles.

3. The recently adopted telecommunication regulations (the Framework Directive) set new principles to define nationally 'functional internet access' and strengthen disabled user's rights that may result in amendments to the Universal Service Obligation at a national level. A review of the universal service principles would allow for more guidance, clarity and cohesion in this process across member states.

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<sup>7</sup> BIS and DCMS, *Digital Britain: Final report* <http://bit.ly/9a20Z2> (PDF 3.3MB)

# Universal access to broadband

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Contemporary society relies on internet communication and access to broadband is widely acknowledged as vital to fulfil peoples' social and economic needs. Having access to the internet can not only make a huge difference to quality of life, but is useful whether you are a student relying on information to help with studies or a consumer shopping around for the best-value deals, filling out a tax return, getting health advice, or finding help for a particular problem.

Digital exclusion has far reaching social and economic implications. For example a report by Price Waterhouse Cooper commissioned by the Digital Inclusion Taskforce<sup>8</sup> concluded that:

- digitally excluded families are missing out on savings of £560 per year from shopping and paying bills online
- the most economically disadvantaged families are missing out on savings of over £1 billion
- 1.6 million children in digitally excluded families could increase their lifetime earnings by £10.8 billion

In the UK the Government recognised access to broadband as an essential service and announced a Universal Service Commitment (USC) to delivery of broadband in the *Digital Britain* report. In March this year the Government set up Broadband Delivery UK (BDUK) to drive forward the Universal Service Commitment to deliver 2Mbps to every household in the UK by 2012, as well as manage the spend of the £1 billion Next Generation Fund to deliver super-fast broadband to 90 per cent of the country by 2017<sup>9</sup>.

However, in response to the Government's plans we raised concerns that the USC lacks a clear strategy of delivery and is unlikely to guarantee universal broadband access to 100 per cent of UK households, especially those in rural and remote areas that would benefit most from internet connection. Despite the fact that on average, 69 per cent of UK households recorded access to broadband in 2009, broadband coverage still remains a significant barrier in rural and remote areas. For example, according to an Ofcom report, availability of the two main technologies used to supply broadband services in the UK – DSL and cable modems – is lower in Scottish rural areas<sup>10</sup>.

Similarly deployment of mobile broadband faces difficulties due to problems with mobile phone coverage, quality of service and speed, and limited choice of mobile providers in rural areas. For example, cable modem broadband was limited to only 15 per cent of rural households in Scotland by the end of 2007, compared with a UK-wide average of 49 per cent.

Building infrastructure in rural or isolated areas is expensive and it is unlikely that the private sector will reach this market niche. It is also not clear how rural areas of the UK that record lower broadband access in comparison to other parts of the country would benefit from the roll-out of broadband under USC<sup>11</sup>.

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<sup>8</sup> *Champion for digital inclusion* <http://bit.ly/dfXdrs> (PDF 492KB)

<sup>9</sup> New distribution service for Government and the public sector <http://bit.ly/bfzsUq>

<sup>10</sup> Ofcom, *Communications Market Report*, 2008

<sup>11</sup> Consumer Focus Scotland submission to *Digital Britain*, March 2009

Therefore we believe that bridging the gap of access, speed, quality of service and price in broadband between urban and rural or remote areas will require a combination of tools such as addressing current radio spectrum holdings, incentives for businesses to invest in infrastructure, enhanced competition and regulations.

In response to the Government's Digital Britain interim report we recommended the Government mandate broadband under the Universal Service Obligation rather than USC<sup>12</sup>. We also recommend that the Commission extends the scope of the universal service principles in e-communications to broadband.

In order to ensure 100 per cent broadband availability we would like to draw the Commission's attention to 'universal service' targets that are often set at a figure lower than 100 per cent of the population (for example 98-99 per cent). This is problematic, as it leads to consumers in the most remote rural areas missing out. Ideally universal service targets should be set at 100 per cent. However if this is not possible we believe a suitable compromise needs to be found. A potential model for this might be found in the access criteria that are used for setting up post offices in the UK<sup>13</sup>. These access criteria were established at the same time as the post office closure programme from 2007–2009, to ensure that, despite the reduction in the overall size of the post office network, it would continue to give good access to post offices for consumers across the UK, including those in rural areas. Alongside the five national (UK-wide) criteria for post office access, there is also a specific local criterion which helps to ensure a minimum level of access within each postcode district. This is clearly beneficial for rural consumers, who may be most likely to miss out on services if national access criteria are set at less than 100 per cent<sup>14</sup>.

In order to maximise broadband coverage we recommend that under the Universal Service Obligation consideration is given to deployment of all three types of broadband (DSL, cable and wireless). However, assurance should be given that any type of broadband meets strict criteria on service quality and affordability.

When addressing the issue of broadband access, consideration should also be given to ensure minimum speeds necessary to maintain basic multi-purpose usage, in particular support for high-definition video and audio sites, video conferencing, voice and data services and proper interactive use of new-generation public services. According to Ofcom, 91 per cent of UK consumers say that the speed of broadband connection is important to them when signing up to a provider<sup>15</sup>. However the recent Ofcom research suggests that consumers are not provided with accurate information on connection speeds<sup>16</sup>.

The Government commitment to provide everyone with a speed of 2Mbps by 2012 may sound competitive in comparison with other European countries, but falls behind the

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<sup>12</sup> Consumer Focus response to *Digital Britain: The interim report*, March 2009

<http://bit.ly/burzVR> (PDF 576KB)

<sup>13</sup> There are five national criteria for post offices in the UK:

1. 99 per cent of the population will be within three miles of their nearest post office outlet
2. 90 per cent of the population to be within one mile of their nearest post office outlet
3. 90 per cent of the total population in deprived urban areas will be within one mile of their nearest post office outlet
4. 95 per cent of the total urban population to be within one mile of their nearest post office outlet
5. 95 per cent of the total rural population to be within three miles of their nearest post office outlet

<http://bit.ly/95YFv9>

<sup>14</sup> The local and regional criteria for post offices state that 95 per cent of the population of every postcode district is to be within six miles of their nearest post office outlet

<sup>15</sup> Ofcom press release *Ofcom reveals UK's average broadband speed* January 2009;

[www.ofcom.org.uk/media/features/brspeeds](http://www.ofcom.org.uk/media/features/brspeeds)

<sup>16</sup> Ofcom, Improvements to broadband speeds code of practice <http://bit.ly/c4EXNt>

current UK average speed of 4Mbps per household<sup>17</sup>. Moreover, in the UK, Virgin Media and BT are already rolling out high-speed fibre optic connections with capacity of around 50Mbps. Therefore we called on the Government to set a more ambitious minimum speed than 2Mbps.

We recognise that the UK model may not fit all member states for various reasons. Therefore we recommend national flexibility in setting criteria for minimum broadband speed. If any criteria for a required minimum speed service are to be set at EU level they should allow for national average speeds, usage of services, as well as taking account of the likely evolution of technology and the market.

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<sup>17</sup> Ofcom, Help us test broadband speed claims <http://bit.ly/dlyQwF>

# Addressing barriers to broadband take-up

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We strongly recommend focusing on the issue of broadband take-up, and what is required for domestic consumers to have access to broadband, rather than concentrating purely on broadband delivery and speed.

We pointed out in our policy paper *The digital divide* that simply focusing on physical connectivity and ignoring consumers' interest and needs (such as: affordability; usability of products and navigational tools; marketing practices in advertising broadband and related products and equipment; quality of service; trustworthy and affordable advice and support) undermines the goal of universal access and use<sup>18</sup>.

We believe that acknowledging these issues in the review of the universal service principles is key to achieving universal service and tackling the problem of growing technological deprivation among the most vulnerable consumers<sup>19</sup>.

Our recent study on low-income consumers' attitudes to broadband, *Broadband minded*<sup>20</sup>, pointed to several barriers to take up that include:

- a fear that the internet may undermine face to face communication with friends and family
- motivation
- usability
- affordability
- concerns over online security and privacy
- a generation issue with elder people less interested in the internet

Motivation is increasingly a key obstacle to broadband take-up, as indicated by the recent Eurobarometer survey<sup>21</sup>. According to our research, many people without home internet do not express a desire to adopt it, whereas some with internet access have no interest in using it<sup>22</sup>. Therefore we recommend the Commission focus its efforts on understanding the complexity of what motivates consumers to take up the internet in the home and designate funds to help member states promote relevant messages to increase take-up.

Difficulty in using equipment and software also poses a significant barrier that prevents consumers from engaging in digital media. Some consumers need the skills and confidence to become 'media literate'. They also need trustworthy and affordable support and advice when things go wrong. Special help should be provided to individuals who have not previously used the internet so they can learn how to navigate around the internet.

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<sup>18</sup> Consumer Focus, *The digital divide: Universal service and broadband*, May 2009, p. 3

<sup>19</sup> Consumer Focus Wales, *Logged in or locked out? Consumer access to the internet in Wales*, Sarah Richards, November 2009, p.25; Delivering digital inclusion annex <http://bit.ly/cxYSLt>

<sup>20</sup> Consumer Focus, *Broadband minded? Overcoming consumers' barriers to internet access*, Jillian Pitt, March 2010

<sup>21</sup> Eurobarometer survey <http://bit.ly/a9ULr7>

<sup>22</sup> Consumer Focus, *Broadband minded? Overcoming consumers' barriers to internet access*, Jillian Pitt, March 2010, p.14

We welcomed the Government announcement in March this year of the National Plan for Digital Participation that introduces the national roll-out of the Home Access scheme for low-income families, and increased funding for UK Online centres<sup>23</sup>. However there needs to be more schemes like these available, especially in socially deprived communities. We recommend the Commission drives this process at policy level through its Digital Agenda 2010–2015 and allocates more funding, for example through the European Structural Funds. Understanding and skills acquisition should also be assisted by the design of equipment, services and products that are easy to use and follow certain standards. We want the Commission to show leadership in putting an obligation on industry to improve usability of products and services and provide clearer information.

Affordability still remains a barrier to low-income consumers. The Communications Consumer Panel research *Not online, not included* found that for groups on low incomes, the issue of affordability and getting online was a greater challenge<sup>24</sup>. Cost and affordability is also mentioned as barrier in Age Concern's report which looked at older people's experiences of digital inclusion<sup>25</sup>. Affordability concerns not only the costs of equipment and ongoing service but also issues related to consumer protection that may exacerbate overall costs. These include: poor quality of service; lack of transparency about the costs and quality of service; lock-in to lengthy contracts; poor customer service; and incompatibility of products and equipment (known as a lack of interoperability). For example Consumer Focus's mystery shopping survey on the use of mobile phones conducted in 11 countries found that many shoppers incurred financial loss because digital products bought over mobile phones did not work due to lack of interoperability of software<sup>26</sup>. Also a Which? survey on broadband internet service providers found that three-quarters of respondents were dissatisfied with their service and complained about connection, speed, costs or customer support<sup>27</sup>.

Concerns over viruses, spam and security of personal data puts people off going online and constitutes a barrier to broadband take-up. We see the Commission's intention to strengthen consumer's privacy online as a significant step forward to increase consumers' trust in the online environment that can pave the way for universal online engagement<sup>28</sup>.

In summary we strongly recommend the Commission incorporates a clear set of consumer protection rights backed up by effective regulation in the universal service, such as: transparent information disclosure; and fair advertising on contract terms and conditions, performance and price that enable consumers to make easy comparisons. There is also a role for regulators to take more effective steps to clamp down on anti-competitive practices that present barriers to consumers, such as high penalties for ending contracts and lack of interoperability<sup>29</sup>.

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<sup>23</sup> BIS, National plan for digital participation <http://bit.ly/cnNbs1>

<sup>24</sup> Communication Consumer Panel, *Not online, not included*, June 2009

<sup>25</sup> Age Concern, *Introducing another world: older people and digital inclusion*, September 2009

<sup>26</sup> Consumer Focus, *Pocket shopping*, Marzena Kisielowska-Lipman, December 2009

<sup>27</sup> Which? Computing, March 2009

<sup>28</sup> Europa press releases, *Commission acts to bolster citizens' data protection, protect defendants' rights and enhance immigration and asylum cooperation* <http://bit.ly/ccQVeB> and *European Commission plan to deliver justice, freedom and security to citizens (2010–2014)* <http://bit.ly/9GUtoU>

<sup>29</sup> Consumer Focus, *The digital divide: Universal service and broadband*, May 2009

# Financing universal access

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The debate around how universal service access is financed is a complex one and should include consideration of how the role of various industry players, including network operators and internet service providers, is reflected in the share of financial responsibility that they bear. Those who are responsible for financing universal connectivity should commit to specific targets, which could include:

- minimum broadband speeds
- penetration and prioritisation of access to some areas
- products that deliver minimum service at limited prices that supplement media literacy initiatives
- improved access for disabled or disadvantaged consumers

Moreover if the costs are to be spread across the industry we recommend licence conditions for all broadband network operators and service providers that ensure the provision of affordable broadband services with specified performance and quality standards. Similar roll-out obligations were imposed on 2G and GSM operators via licenses before<sup>30</sup>.

Licensing should be looked upon as a source of raising additional funds, alongside opening up the spectrum. We welcomed the Government's proposal for the spectrum modernisation programme launched in October 2009<sup>31</sup>. The proposal will improve the management of existing spectrum holdings and facilitate the release of new spectrum, giving network operators the ability to offer more sophisticated services and applications. It aims to encourage a more competitive market, and better coverage and delivery of mobile broadband to rural and hard-to-reach areas<sup>32</sup>. We are aware of the legislative delays that have prevented the spectrum modernisation being enacted to date, but intend to press for a set of proposals to be ratified without further unnecessary delay.

However, assuming the market may not deliver broadband service to all households in the UK, we suggest the Commission considers collecting funds through central taxation. This would be a less regressive and a more equitable way of raising funds in comparison to a cross-subsidisation mechanism, such as a levy system. We advocated against the Government's proposal of a 50p levy placed on fixed telecommunication lines to finance delivery of super-fast broadband in the UK<sup>33</sup>. We believe that the levy was an ill-directed charge that would place a disproportionate cost on a majority who would not reap the benefits of that charge, for example older age groups and people living in rural and remote areas.

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<sup>30</sup> *Consumer Focus response to Digital Britain: The interim report*, March 2009, p.17 <http://bit.ly/burzVR> (PDF 576KB)

<sup>31</sup> *Consumer Focus response to BIS consultation on a direction to Ofcom to implement the wireless radio spectrum modernisation programme* <http://bit.ly/9KWImR> (PDF 190KB)

<sup>32</sup> BIS consultation on a direction to Ofcom to implement the wireless radio spectrum modernisation programme <http://bit.ly/ciEZHv>

<sup>33</sup> *Consumer Focus response to BIS consultation on implementing a landline duty: draft legislation and impacts* <http://bit.ly/di8Acm> (PDF 214KB)

We support the Commission's policy to use the European Structural Funds to facilitate roll-out of broadband to areas that are at risk of digital exclusion. The scheme has already benefited some parts of rural Wales and north and west parts of rural Scotland by improving the delivery of high-speed internet connection<sup>34</sup>. Therefore we strongly recommend utilising this funding avenue further.

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<sup>34</sup> WalesOnline.co.uk, Opportunity for a broadband plan to transform rural Wales  
<http://bit.ly/98nZXm>

# ‘Legacy’ technologies

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Despite a rapid development of new communication technologies such as broadband and 3G mobile networks, we would like to point out that there are still a significant number of consumers that rely on ‘legacy technologies’ such as fixed lines, 2G mobiles and narrowband internet.

For example 88 per cent of UK households have fixed-line telephone connections amounting to 33 million fixed lines. This indicates that alongside mobiles fixed-line telephones will remain a key form of communication for the foreseeable future. In addition, fixed-line phones with features including large displays and buttons are important for people with disabilities.

We therefore recommend the universal service principles continue to mandate fixed line telephones at affordable prices.

As far as mobile telephones are concerned GSM and 2G services still retain considerable popularity among consumers in the UK in comparison to 3G services that only reached 25 per cent of total mobile subscriptions in 2009. The higher cost of 3G handsets is a potential deterrent to low-income consumers who are more likely to use 2G mobile phones<sup>35</sup>. Therefore we recommend that 2G networks are supported properly under the universal service principles. In case of any future plans to phase out 2G networks, full and rigorous analysis of the impact on consumers should be conducted.

Similarly any plans to phase out narrowband internet service should include an impact assessment analysis on consumers’ detriment. According to the 2008 Ofcom Communications Market Report a substantial proportion of internet users over 65 in the UK seem to be satisfied with a narrowband service and do not seek a faster broadband connection.

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<sup>35</sup> *Consumer Focus response to BIS consultation on a direction to Ofcom to implement the wireless radio spectrum modernisation programme* <http://bit.ly/9KWlmR> (PDF 190KB)



## **Consumer Focus's response to the European Commission's consultation on universal service principles in e-communications**

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