

Green paper on services of general interest Position of the Coalition for Fair Competition in the Services Market



The Coalition for Fair Competition in the Services Market gathers, on a voluntary basis, organisations having a commercial interest in those sectors in which Services of General Economic Interest (SGEI) are provided to the public. The specific characteristic of the coalition members lies in the fact that they represent companies offering these or related services on a competitive basis. Many of the signatories of this common paper are also providing the Commission with more specific comments from their specific sectoral perspective as well.



In the introduction to the Green Paper the Commission notes that a number of sectors in which SGEIs are provided have been subject to gradual market opening – a process, which began in the early 1980s. It goes on to state: *“Liberalisation stimulated the modernisation, interconnection and integration of these sectors. It increased the number of competitors and led to price reductions, especially in those sectors and countries that liberalised earlier”*. The Coalition for Fair Competition in the Services Market includes many of the sector organisations representing companies that have been able to take advantage of the opportunities thus created to bring to consumers innovative new services and which have in turn created an impulse for substantial improvements in the services of the former monopoly providers.



We fully share the GP’s finding that there is *“no evidence supporting the thesis that liberalisation has had a negative impact on their (SGEI) overall performance, at least as far as affordability and the provision of universal service are concerned”*. Indeed, the coalition’s starting point is that more effective liberalisation is now needed to drive forward ever better services for citizens.



Continue with the current liberalisation policy, clarify the scope of the debate

We therefore wholeheartedly welcome Commissioner Bolkestein’s emphasis on the need for further liberalisation to create the right environment for growth in the services sector, which will account for 70% of EU GDP between 2003 and 2006. This is essential if the EU is to get back on track with the Lisbon agenda (*“to be the most competitive, dynamic and growth-oriented economy in the world by 2010”*).



It would be counter-productive to use the GP process to create a means to introduce additional legislation in SGEI sectors as it is likely to interfere and confuse general and sector specific legislation that is already in place.

Indeed as liberalisation succeeds in delivering higher quality and affordable services, SGEI provisions, e.g. for universal service, should be lifted.

It would be equally counter-productive to extend SGEI regulation to competitive industries never previously envisaged as being SGEI.

Likewise, Community SGEI policy should not be extended towards SGI industries and sectors as these are not part of Community competence. For example, the Coalition agrees that respect of media pluralism is first and foremost a responsibility of Member States and that existing EC Competition rules are appropriate as long as they are adequately enforced.

Maintenance of effective competition policy enforcement

The coalition strongly supports the effective application of existing EU state aid rules and demands that the Green Paper review process not lead to the creation of exemptions from them. The need for tight and uniform enforcement of existing competition rules relating to cross-subsidisation and state aid is all the more important now that the traditional players increasingly combine public service obligations with commercial ambitions and given the increasing decentralisation of competition policy enforcement.

EU competition rules already take fully into account the existence and special funding needs of services of general interest and guarantee that they continue to be provided with the highest quality (Articles 16 (new Article III.6) and 86.2 of the EC Treaty). The competition rules provide an appropriate legal framework to intervene when market and non-market interests are at stake and endow the Competition authorities with sufficient flexibility to meet the necessity of public funding of SGEI user interests and commercial objectives. Changing the legal framework to remove the control mechanisms that are in place today would create a distortion of this subtle equilibrium and would harm citizen's rights, development of the internal market and the competitiveness of the European market.

The recent European Court of Justice decision in the Altmark case has set important principles that provide a welcome clarification of the state aid rules and their application to SGEI. The Court's judgement was reached after an unprecedented process of consulting member state views and provides much needed clarity. The Coalition does not believe that reform is necessary, but changing the rules would be particularly damaging now that the Court has clarified in detail how the rules apply.

No need for a Framework Directive

Given the heterogeneous nature of the liberalised SGEIs, let alone the rest of the SGEI sector, the Coalition does not believe that a framework Directive will prove useful¹. A Framework Directive could not embrace such broad diversity and would not, therefore, provide the most efficient way of guaranteeing the universal provision of high quality services. Indeed, a Framework Directive might lead to a reversal of the liberalisation process and signal a step backward for the SGEI sectors that are moving towards full liberalisation.

Where necessary, Community action in the area of network industries should continue on a sector-by-sector basis. The current system – of recognition of the role of SGEIs in the Treaty, together with Universal Service directives in many relevant liberalised sectors and case-by-case application by the Court – provides a valid and balanced framework. We see no need for additional political declarations, and therefore no need for a horizontal initiative of the type suggested.

An immediate corollary is that the Coalition believes that the last minute amendments to the current Article 16 of the EU Treaty - Article III.6 of the draft Constitutional Treaty – which advocate EU legislation should be rejected by the IGC when it convenes.

¹ The coalition recognises however that it represents sectors that generally have large cross-border impact, and that actions at Community level - short of a Directive - *may* help clarify the situation for some of the other SGEI sectors.

Coalition members



The Association of Commercial Television (ACT) represents private sector television companies in the European Union, all of whom compete, within their national markets and also on the European market, against publicly-owned broadcasters.



The Association of European Radios (AER) brings together 13 national associations from 11 EU countries and Switzerland. Its combined membership represents over 4,500 private and commercial radio stations across Europe reaching millions of listeners every day. AER exists since 1992 to represent the interests of European private and commercial radios before the institutions of the EU and serves as a platform for exchange of information and technical assistance.



The British Internet Publishers' Alliance (BIPA) formed in December 1998 comprises the online businesses of major newspaper groups, magazine publishers, radio and television broadcasters. The core purpose of the Alliance is to promote the growth and development of new Internet services in a way which permits a wide diversity of entrants to the market, on a free and fair competitive basis.



ECTA represents over 200 EU communications companies, delivering innovation, competition and choice to Europe's businesses and citizens.



The European Express Association (EEA) represents the interests of the European express companies, such as DHL, FedEx, TNT and UPS. The industry employs over 400,000 people in Europe and moves 20 million items per day in over 200 countries worldwide. The express industry and specialises in time-definite, reliable express transportation services for express items, revolutionising the way companies do business worldwide.



The European Publishers' Council (EPC) is a high level group of Chairmen and CEOs of leading European media corporations actively involved in multimedia markets spanning newspaper, magazine, Internet and on-line database publishing. Many EPC members also have significant interests in private television and radio.



The European Banking Federation (FBE) represents the interests of over 4000 European banks from the EU and EFTA countries, with over 2 million employees and total assets of some 20 000 billion euros.



The Federation of European Direct Marketing (FEDMA) represents the direct marketing sector at European level. Its national members are the Direct Marketing Associations (DMAs) representing users, service providers, and media/carriers of direct marketing. FEDMA also has 300 company members in direct membership. The direct marketing sector represents an expenditure of over 30 billion Euro and employs over 500,000 people directly, and many more indirectly, within the EU.



The Free and Fair Post Initiative (FFPI) is a unique European initiative that brings together users and competitors of the public postal operators who strongly believe in the benefit of a liberalised and more competitive postal market. Through its membership, the FFPI currently represents more than 7,1 million companies. The FFPI key objectives are to secure full liberalisation of postal services that should be in 2009 at the latest and a fair playing field in the postal sector to prevent public postal monopolies to turn into private ones.