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THE SOCIAL SHAPING OF THE INFORMATION HIGHWAYS "
Workshop Bremen
October 1995

contribution of **Y. Pouillet** and F. van der Menbrughe

II. Some fundamental elements of community policy in the field of telecommunications

Determining the content and the obligations which are attached to the universal service (must be defined) is defined by Member States and by the European Union, within the spheres of their respective competence. It may indeed become necessary to achieve a common, pan-European, definition of the principles of universal service in order to ensure true competition between operators. Article 3B of the European Union Treaty, concerning the rule of subsidiarity limits the sphere of competence of the Community. Community intervention must begin only when Member States' action is not sufficient. In this context, subsidiarity also means that Member States are not deprived from the possibility to provide obligations which are attached to the universal service in view of their own national situations. This is nevertheless only true in so far as the complementary obligations do not limit the access to the market. Competition and universal service are fully linked together. More generally, two further questions come to mind in this field: the first concerns effective conflicts of competence between the states and the European Community. This issue has of course an effect on the ability to put this rule of subsidiarity to a jurisdiction and is only mentioned here (in the United States, the "pre-emption" phenomenon is recurrent in case of conflicts between the federal administration and the states).

Many factors have served to refine the Community's telecommunications policy over the years. Some have already been mentioned such as the pursuit of the equilibrium between liberalisation and harmonisation or even the revival of interest for article 90 of the EEC Treaty which will alone manage to considerably disrupt operators who are in charge of carrying out tasks that are traditionally considered as "public service" missions. In the current context, mention will be made of three complementary factors i.e. the role of the Court of Justice in the interpretation of Community legislation (1), the rule of subsidiarity (2) and the universal service concept applied to telecommunications (3).

A. The role of the Court of Justice of the European Community

The Court of Justice's part in refining the Community's telecommunications policy has been vigorously illustrated since the British Telecom case of 1985 and has never failed to assert itself ever since on the grounds of a teleological interpretation of the provisions of the Rome Treaty. The most recent example of the part played by the Court of Justice is illustrated in a judgement dated 24 March 1994 opposing the Commission to Belgium concerning Belgian legislation applicable to radiocommunications. In this case, the Commission brought the state of Belgium before the Court of Justice on the basis that it had failed to fulfil an obligation under the Treaty (article 169 of the EEC Treaty). The proceeding concerned the approval and ministry licensing procedures which are provided in articles 3 and 7 of the Belgian Act of 30 July 1979 concerning radiocommunications. In other words, the Commission maintained that the obligation to render receptor appliances (which are for sale or leased) subject to an administrative licensing procedure was in breach of article 30 of the EEC treaty on the free movement of goods (the same problem arose in relation to a ministry licensing procedure for the detention of such appliances). The State of Belgium, on its side, not wishing to relinquish all forms of control, proposed to install a "declaration" system instead of the licensing and ministerial authorisation procedures. This system would not, according to Belgium restrict the free movement of goods. During the hearing, Belgium recognised that no text had been published about the declaration procedure and that the interested parties be informed by getting in touch with the "appropriate services". Therefore and according to constant case law of the Court of justice:

"Mere administrative practices, by nature modifiable by the administration and lacking adequate publicity, could not be considered as amounting to a valid fulfilment of the Treaty's obligations"

Under these conditions, the Court recognised that Belgium had failed to fulfil its obligations under article 30 of the EEC Treaty.

Without further illustrating the foregoing, it is obvious in this area, as in others, that Community law has served as a federate and driving element towards European integration. In so doing, an equilibrium has had to be found between Community intervention and the telecommunications policies followed by the Member States. It is through the rule of subsidiarity that this effort has been oriented.

B. The rule of subsidiarity

The rule of subsidiarity applies in all areas which do not belong to the exclusive competence of the Community. Let us recall that it limits the scope of intervention of the Community "in so far as the objectives of the envisaged action cannot be achieved in a sufficient manner by the Member States and can therefore, in view of the dimensions or effects of the envisaged action be better achieved at a Community level.

The concept of subsidiarity is subject to controversy in so far as it determines the sharing of competence between the Community and the inferior levels of public authority. It could potentially lead to relinquishing certain attributions which have traditionally been considered as "Community" competence to the Member States, and even to put into question "established Community grounds".

Specifically, in the telecommunications field, which is shared competence, the Council has recognised as a key factor: "the elaboration of a precise and stable framework, on the basis of the rule of subsidiarity" for the elaboration of the future telecommunications regulation policy in the Community. Concerning the universal service, it was seen above that the determination of the content and obligations attached to the universal service is determined (is to be determined) by the Member States and by the European Union according to their respective competence. In other terms, Member States could determine obligations attached to the universal service in view of their own national situation, provided the access to the concerned market is possible without discrimination. Nevertheless, the Commission has clearly recognised the necessity of Community intervention in numerous areas, in view of the needs of the users and of the necessity to harmonise and in order to maintain competition at a Community level. The need for Community intervention is indeed apparent today in the telecommunications field and especially when reading the "Delors" White paper (Employment, Growth, Competitiveness) where the need to mobilise willpower and means in order to make "multimedia" possible and to constitute a common information area (concerning both advanced interconnected networks, general electronic services and telematics applications). As we will show in the next point, the political and cultural dimension of the universal service will probably gravely emphasise the scope of application of this principle and therefore put into question the power of intervention of the European Union in certain areas.

C. The universal service

The evolution of the Community's telecommunications policy has led, as we have seen, to radical changes to the traditional landscape of the organisations who are in charge of implementing the missions of "public service". In so doing, the concept of universal service only appeared late (it was used for the first time in official Community literature two years ago) as the "obliged" continuation of the objective of the Community's policy of liberalising the telecommunications sector. It was a case of preserving the obligations pertaining to general interest service. Such is the case in Council resolution of 22 July 1993 which recommended to "liberalise the whole of the voice telephony services while maintaining a universal service".

In this context, the Council adopted on 7 February 1994 a resolution on the principles of universal service in the field of telecommunications. This resolution supports the achievement of the objective of universal service in a competitive environment and sets out the main elements of this service.

In addition to recalling the maintenance and the development of a universal telecommunications service as a key factor for the future development of telecommunications in the Community, the text states that: "the principles of universality, equality and continuity are at the root of such a service in order to ensure the access to a number of minimal services of a certain quality", as well as providing such services to all users, independently from their geographical localisation.

In this context, four questions arise out of the implementation of the universal service. The first concerns the determination of the content of the universal service in the telecommunications sector (i). The second relates the determination of the authority who is in charge of defining this universal service(ii). The third question tackles the financing of the universal service (iii). Finally, the fourth seeks to determine the operator(s) in charge of the universal service(iv).

a. Content and extension of the notion : Europe v. United States

i. The European conception. The Commission defined in a declaration of 16 February 1994 a "schedule of conditions" for the universal service in the field of telecommunications which repeats to a large extent the essential elements of ONP as it has already been emphasised. A plurality of service providers and network operators are called to provide a universal service. Under these conditions, it is important to

insure an equal and non discriminatory access to the networks and services (see above). According to the Council of the European Union, it is obvious that in the telecommunications field, "the application of measures concerning the open telecommunications network (ONP)... are at the root of the definition of the universal service. Therefore, and "in the short run", the ONP principles should be applied for"... questions such as the universal service". This declaration draws a distinction between the basic elements of the universal service and the supplementary elements.

Ten basic elements appear out of the Commission's declaration:

- the provision of a basic public telecommunications network and of the vocal telephony service is at the top of the basic elements: "Specified" services should be provided on the whole of the territory;
- the quality of the service : quality objectives for users should be provided, and the levels of quality achieved by the providers of services and network operators should be controlled and publicised;
- a tariff policy : prices should be determined in relation to costs but special arrangements should be made possible for certain categories of persons with low income and for disabled users;
- the publication of information concerning a service, including the conditions of service provision and use, licensing, tariffs etc..
- a procedure for dispute settlement for users : emphasis is put here on the availability of these procedures and on the necessity to insure they are carried by an independent organisation;
- telephone directories;
- assistance of an operator and directory enquiry service;
- public telephones : such as telephone card telephones;
- access to emergency services : access to a common European emergency number -112- should normally be free of charge;
- specific conditions for disabled and persons with specific needs.

Concerning the additional elements of the universal service, the Commission's declaration first refers to features which are put forward for the public telecommunications network and the vocal telephony service (i.e. detailed billing, services which are available on "free numbers", identification of the caller, number transfer, etc.). Furthermore, the declaration mentions a number of minimal leased lines, and it finally concerns recommended offers within the RNIS framework and paquet-switched data services (PSDS).

Let us recall that the Council of the European Union has invited the Commission to examine and organise with "among other persons" national legislative authorities consultations on questions raised by the definition of the universal service. A report should be presented to the European parliament and to the Council on this question before 1 January 1996. Part II of the Green Paper on the liberalisation of telecommunications infrastructures and cable television networks recalls that "the universal service remains a primary requirement, and adds and the emphasis is new: "in view of technology progress and of its effects on costs and on the ever increasing number of sophisticated services to which is added **the necessity to ensure that the advantages of the information society are accessible to all citizens, it is essential to give a dynamic definition of the universal service**". Such a declaration leads to make believe that the European Union could, as is the case for the United States' N.I.I. policy, decide to make the universal service an essential element of the creation of a democratic and equal information society. It must be noted that through implementing such a concept, it is a matter of not only fighting against individual disparities "information haves" and "information have nots" but is also a matter of fighting the unequal development between regions, since telecommunications are considered as a decisive factor for regional development.

ii) The American conception. The obvious widening of the notion of universal service which is implicit in the latest Commission documents leads to examine the understanding and extension of this concept in the United States. According to the current debates which came with the N.I.I. Policy declaration, if mere voice transport ("POTS") obviously amounts to an objective of universal service, the concept of universal service is original in the sense that it develops in line with technology progress and of the development of the needs of the users. The potential applications are numerous and some speak already of "present explosion of the content of the universal service concept applied to telecommunications". In the long run, the content of this notion also depends on the desire of the society to *share* the new services. In so doing it will reflect the values of this society and its more or less equal aspirations. In the United States, within the framework of the "National Information Infrastructure"(NII), "information" will enter the notion of public service precisely in order to assure a certain amount of equality and to limit the dichotomy between the "information haves" and the "information have-nots". In the light of the foregoing, a number of minimal services defined as amounting to the universal service could include:

- telephone numbers linked to individuals and not to places;

- varied information services including airline, train etc....time tables, classified advertisements, access to certain data bases , "community" services", the fight against illiteracy , the vocalisation of written information for the blind, the writing of oral information for the deaf, the automatic translation for people who do not master the local language, etc.,..
- "transactional" services (or "electronic commerce") including home banking services, home shopping, collaborative engineering, etc.;
- convenience services, such as call waiting, call identification and call forwarding;
- various forms of health services such as "telemedecine" (the possibility for doctors to consult specialists at a distance, to have access to medical files, and to X rays), telediagnostic or telealarm ("Personal Emergency Response Systems" or "PERS");
- no encryption of television programs which are considered of general interest;
- Access to fax services in public areas.

On the international scale, let us note in the same direction as the broadening of the notion, the position of the International Telecommunications Union (ITU). This Union acknowledges the importance of the information/telecommunications relation as it is now in charge of a new task which is provided at article 1 of its Constitution: "Promote at the international level the adoption of a more general approach of telecommunications questions in view of the world-wide dimension of the economy *and of the information society,*".

On top of the concern to avoid living in a two-tier society, the content of the universal service could be determined by net economic profits it could generate. As an example, the economy saved by preventive information in the health sector and, more generally telemedecine, could be considerable. Some have put forward that the economy made through this preventive politic, estimated at 1% of the current spending of 670 billion dollars for the American healthcare could be well enough to finance the offer of the information.

The consequences of such a positive approach which places the development of the information society on the opening up of our liberties puts into evidence the importance and the necessity of redefining the universal service, understood not only as the possibility for the intermediaries to have access to technical methods of communication (the infrastructure and the voice transport service) but also as the requirement of creating and putting information contents at the disposal of final users to which everyone must be able to have access to. Therefore, information could enter the

concept of universal service in view of what is considered as "essential" or "vital" in order to ensure that citizens participate in a democratic society. According to the American expression which characterises the definition of the "National Information Infrastructure", it is a matter of not introducing a discrimination between the "information haves" and the "information have nots".

Above meaning access to communication techniques, it is interesting to note that the universal service is understood in the United States as meaning the possible access for all to certain information services, as well as in some states, the prohibition for cable operators to encrypt certain programs which are of public interest, in others, the positive obligation given to the administration to set up on line assistance services to complete administration forms, in other cases, information services in the health care field, statistic or other, duty from which comes the State's obligation to subsidise certain institutions in particular education in order to have access to such data and to be able to broadcast it.

In short, the universal service is no longer considered as the mere offer of an information infrastructure, that is to say the access to telephone and the interconnection of infrastructures but as the offer of specific services which are now defined in terms of content. It is a matter for the universal service to meet social or economic objectives, which are fixed outside the telecommunications sector.

b. The authority in charge of defining the universal service

So long as European policy understood the universal service as a basic service which is necessary for the development of a competitive market for the services which use this basic service, in other terms, so long the universal service only required an open infrastructure and a public telephony service, the European Commission and Council took the view that it was part of their attribution to define this universal service and running rules through the adoption of multiple pieces of ONP regulation and more recently the interconnection of the network. Such an attribution could be easily inferred from the European Union's attribution in the field of competition, the freedom of establishment and the creation of a free market for services and goods. The broadening of concept through the recognition of the role of the information in the creation of a democratic information society partially puts into question the Commission's competence to define the universal service.

This broadening evidences the State's duty which is not only passive in the sense that through the universal service it ensures the free competition of services but is also active that is to say that it defines certain information contents such as access for all, at affordable prices which appear as a necessary prerequisite to the democratic development of our societies. Telecommunications regulation does not only have the vocation to guarantee an optimum for investments in the sector, it is also getting a truly policy nature.

The development of multimedia and more generally the convergence of telecommunications and media will deepen even more this reflection, evidencing the link between technology and culture and the necessity of choices which can no longer be technology oriented but will require the definition of our willingness to live together. It emphasises the delicate problem of the subsidiarity of Community intervention, only slightly competent in cultural matters which can not easily be substituted, because of its democratic deficiency, for decisions of national parliaments.

In addition to this, the question arises within the national territory of which entity is going to be able to tackle social and cultural problems as well as those of information technologies. This question is likely to be even more delicate in federal countries who clearly separate cultural competence from technical-economic attributions, the first belonging to the federalised entities and the second to the federal state.

It must be clear that the problem of the universal service as a method of enhancing a democratic society is not a technical issue, as it has up until now been understood by the Commission, "that is to say to determine the competition structure of the market", but has entered the conceptual sphere and meets fundamental economic and society choices.

In this context, what can be said of the Community's competence? The rule of subsidiarity is spelt out as follows in article 3B of the Maastricht Treaty:

"The Community shall act within the limits of the powers conferred upon it by this Treaty and of the objectives assigned to it therein.

In the areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore by reason of the scale or effects of the proposed action, be better achieved by the Community.

Any action by the Community shall not go beyond what is necessary to achieve the objectives of the Treaty;"

Council resolution n° 93/C213/01 precisely refers to the principle of subsidiarity when it is stated that its objective is to promote "the elaboration of a clear and stable regulatory framework which is based on the principle of subsidiarity". The recent Green Paper on the liberalisation of networks recalls that the determination and content of the universal service as well as the obligations which are attached to the universal service are of Member States' competence. At the same time however, the Commission emphasises the necessity of Community intervention because of the need of harmonisation and competition in the whole of the Common market. In short, the principle of giving the Member States an autonomy in the choices to make in the field of the universal service, is counterbalanced by the desire to not let this freedom damage the good functioning of the European Union. How can these two desires be harmonised?

Would it be possible to consider one service as universal in one state and not in another ? It could well be imagined for instance because it is less developed because a competitive structure is weaker, or for reasons of political or social options, some States consider such or such a telecommunications service as a universal service in line with European directives which, it must be said limit already to a large extent this possibility.

Would it be possible to consider that a so-called general or universal interest service, such as data transport be regulated by a schedule of conditions in one State and not in another because of the competitive situation which guarantees in the second State the obtaining of the objectives of universal service?

Is the role of the European Institutions limited to the definition of a certain amount of minimal services, leaving the Member States the task of completing the list and keeping the right to intervene only when the definition by these states or prerogatives attached to the universal service as it has been defined, or the attribution methods or prerogatives left to the operator conflict with the European competition rules or impede the market functioning ? These are questions with which the European instances are faced if they wish to avoid an action being brought by a Member State before the Court of Justice which, according to articles 173 and following of the Treaty of Rome, as modified by the Maastricht Treaty, controls the legality of the actions of the European institutions.

c. The financing of the universal service

The third question which must be taken into consideration concerns the financing as such of the universal service. The economic interest for a service provider or a network operator having the obligation to offer certain services implies a financing through "original" methods. As such, whereas tariffs should *progressively* be determined in relation to costs, the universal service should be financed by internal transfers, access fees or "other mechanisms". It is precisely a matter of ensuring an equal distribution of the burden which represents the offer of a universal service. In the context of a costly modernisation of the infrastructure, this question is considered as crucial.

Part II of the recent Green Paper on the liberalisation of infrastructures contains long developments on the calculation of the cost and financing of uneconomic universal services. Without being exhaustive on this point, let us not the proposed definitions:

"The universal service cost is the net cost of providing service to uneconomic customers, plus any cost associated with the uneconomic provision of public telephones, emergency services and other social obligations. It takes account of all traffic sensitive costs and revenues associated with those customers".

-"Uneconomic customers would be those whom, in the absence of regulatory obligations, the incumbent would choose not to continue to serve at affordable rates".

It is added that the cost calculation supposes the definition of rules of analytical accounting enabling to isolate the costs and revenue of the universal service. In addition, the Commission refers in more than one places to the concept of efficient operator to determine the costs to be taken into consideration. The Commission proposes a method of financing which is primarily based on the setting up of a universal service fund (that is to say a specific device which would be administered by an independent institution which would have the objective of receiving the contributions from the eligible operators for the cost of the obligations of universal service and to distribute these funds to the concerned operators), and incidentally by access fees, which is considered as a more discriminatory mechanism. Each operator would have the choice to subscribe or not to the obligations of universal service and therefore to benefit from the universal service fund.

In any event, as for the definition of the universal service, the question of how to finance it should be the subject of a report of the Commission which should be

presented to the Parliament and to the Council before 1 January 1996. In so doing, the Commission should be conscious of the heavy burdens which were borne by the public companies in the past, in particular the important burdens which are linked to employment policies which are often generous and can be explained more easily by the concern to ensure full employment than by the profitability of a company which is then not subject to competition rules. Such burdens are not carried by new companies entering the market and therefore distort competition rules. This being said, it is possible to conceive that public operators should progressively find solutions with the State in order to find socially acceptable solutions in order to reduce costs.

d. The operator in charge with the universal service

Does the concern placed on the universal service which should be carried out lead to the dismantling of monopolies and to the disappearance of the public enterprise? It is clear that the old equation public service and public enterprise is no longer valid and that public enterprises can no longer claim the right to monopolise the exploitation of this public service. Does this mean that the states can no longer ask them to carry out such an exploitation? The answer is not clear cut.

First, it must be said that each and every universal service must be considered in particular and the fact that there are often a number of operators, private or public, who are able to carry it out, is the best way to vivify the service. The notion of public service is plural. This concern to become better acquainted with the numerous components of the public service in the field of telecommunications leads to envisage actions at different levels by using different means to achieve these objectives: true competition, licensing systems, creation of public enterprises which are granted a monopoly, standardisation, subsidisation of private activities etc.... Therefore, the solution which is adopted by the public authority in order to carry out a public service such as the certification of electronic messages or telemedicine will definitely not be the same that will be adopted for the exploitation of mobile telephones or for the cable network.

Taking into consideration in a different way the various universal services leads to analyse in a different way the financing and the way to achieve this financing of each of these services. There can therefore be no question of globalizing the whole of the universal services in order to subsidise some of them. Therefore if at the current time, the telephony service, the data transport service and mobile telephone services are all carried out by the same operator who "re balances" them when it is thought necessary, in the future, because of the context of liberalisation and increased privatisation, the

equality between operators vis à vis the offer of these services will lead to consider each service separately. Such a conclusion will put into question the global contractual approach which characterises management contracts, and other types of contracts which are provided by recent telecommunications regulations. Such contracts seek to determine all the relations between the state and the former public operator concerning a particular public service as a whole, its performance, its method of financing and exploitation as well as the relations with the users. The questioning of such an approach and the obligation to consider each universal service individually would enable the public operator or the former public operator not to suffer claims for cross subsidisation between the different public services. Such a division of the public service into a number of universal services can not be suddenly made mandatory for fear of damaging the beneficiaries of certain uneconomic universal services which are currently financed by the income generated by other universal services, but in the long run, the reality of the costs and the transparency of the profits which are linked to each of the universal services will enable the state to withdraw some of the profits earned by the operators of the economic universal services in order to subsidise the operators of uneconomic services. It can therefore be envisaged that on day mobilophony will subsidise local telephony.

Even deprived of the legal monopoly and as is suggested in the previous paragraph, without a specific relationship with the state, the public enterprise nevertheless maintains certain advantages vis à vis the private enterprise with who it will be in competition in order to carry out the partial or entire exploitation of certain universal services. The public enterprise will, probably better than the private one, be able to meet the needs of the users in so far as it will be able to foresee in its structure, places where these users will be able to express their needs. Secondly, the heads will take account of the long term profitability, faced with heavy investments and will acknowledge the need for research and development which is essential for its development.

Thirdly, certain specific missions will be able to be imposed in order to take into consideration difficult economic and social situations. In short, the structure of the public enterprise, its social object, i.e. the public service will better enable it to understand and carry out its implications whereas the "introverted" finality" of the private enterprise will consider the public service which is given to it as something which is outside its main objective.

On top of these arguments it is added in order to guarantee the universal service a strong argument relating to the difference of information held by the regulator and the

operator who is in charge of the universal service: how is it possible to know the cost of the universal service, its profitability, the level of efficiency of the enterprise who is in charge of carrying it out, as many elements which are necessary in order to determine the necessary running subsidies, which is the major question that is sought to be resolved in part II of the Green Paper by setting up a universal service fund. On this point, the structural link the state could have with the enterprise could serve to enhance the transparency which is necessary for the regulator to intervene.

Lastly, within the framework of the offer of an open network, in view of the considerable levels of investments which are required by the participants, is it not possible to fear the creation a certain number of "hard core" investors who will take all the profits ? Is it a real market liberalisation or just the subsidisation of private monopolies by public ones ? From a political point of view and no longer from the economic one, even more serious questions arise. If states thought it necessary to grant exclusive or special rights to certain enterprises in order to carry out certain services which are considered to be socially useful, this amounted to the expression of social regulation through economic methods. From this point of view, Community action could be perceived not only as seeking to establish a single market but at the same time as destroying a number of social regulatory instruments which had enabled, leaving the wild liberalisation era behind, by getting a certain freehold on capitalism.

CONCLUSIONS

1. The progressive establishment of the universal service at the centre of the telecommunications regulation's concern appears in the first place as the establishment of the full liberalisation of the sector and in the second place under the influence of the American model, as a consequence of the increasing awareness of the importance of information in our society.

The debate is of course not as advanced as it is in the United States where the universal service is the cornerstone of the National or Global Information Infrastructure.

2. The increasing importance of the universal service is likely to change the order of priority of regulatory action. The universal service can no longer be understood as the exceptional obligation imposed on one or more operators to set up an open information infrastructure on which the offer of services can be carried out in free competition (it would more or less be the ONP principle). In its broadened understanding, the content of the universal service and the methods of achieving its aims will have to be defined in a positive manner both from the point of view of the

way it will be financed and from the point of view of the constraints (schedule of conditions) which are imposed in order to meet the objectives.

3. The consequences of such a positive approach which bases the development of an information society on the blossoming of our liberties evidences the importance and the necessity to redefine the universal service which should no longer be construed as the mere access to the technical methods of communication (infrastructure and voice transport service) but also as a requirement to create and to put at the disposal of users information content to which each and everyone has a right to. Thus, information could enter the concept of universal service in view of what is considered "essential" or "vital" to ensure the participation of the citizens in a democratic society. It is a matter, according to the American expression which characterises the "National Information Infrastructure"'s policy, of not introducing a discrimination between the "information haves" and the "information have nots".

4. This understanding of the universal concept justifies its extension well beyond the services which are generally considered. It is a matter of obliging the state to recognise a broad concept, a modern universal service which will evidence the fact that each citizen will easily, at an affordable price, without consideration of situation in particular, geographical be able to have access to developed communication and information infrastructures.

This understanding means that particular attention will have to be brought to the process through which its changing content is built which goes beyond the technical and economic spheres and enters the social and cultural ones. It is important that in this process, all the interested parties are heard including the cultural and consumer associations.

In this way, the universal service seeks to be an instrument to promote our liberties. In order to achieve this, it implies first the possible access to all methods of communication : in this direction, if the interoperability of networks the development of wide capacity infrastructures, the access at the current time to vocal telephony, and tomorrow to message certification services are the first element of the universal service, the creation which exists already in the United States of "Access Community Televisions" which allow all interest groupings (consumers, political movements, syndicates,..)to not only have access to cable networks but also to the required training for the production of audio-visual works appear already as an element of this universal "Infoservice" applied this time to media.

On top of access to techniques, it is interesting to note that the universal service is understood in the United States as the possible access for all to certain information services and in some states, it also implies that cable operators are prohibited to encrypt certain programs which are considered as public interest programmes, in others it implies the positive obligation for the Administration to provide either on line assistance services on how to complete administration forms or even to provide information services in the health sector, statistical or other types of information, obligation from which it is inferred that the state has a duty to subsidise certain institutions, in particular education institutions in order to have access to such data and even to broadcast it.

5. The emergence of multimedia and more generally the convergence between telecommunications and media will deepen this thought evidencing the link between technology and culture and the necessity to make choices which are no longer technology oriented but which require a definition of our willingness to live together. It stresses the delicate problem of the subsidiarity of Community intervention which is only competent to a small extent in the field of culture and which can not easily replace decisions of national parliaments in view of its democratic deficiency .

Furthermore, in some countries, in particular federal ones, the question arises as to which authority is capable to address social and cultural issues as well as those relating to information technologies.

6. The explosion of the universal service in different component parts requires each universal service to be taken into consideration separately. If in all cases, the old equation according to which public service=public enterprise=monopoly, a public enterprise can still have certain assets for the offer of certain types of universal services. It is nevertheless important to recognise next to this the role which will become more and more important of the independent authority. Furthermore, it is a matter, from the legal definition of the content of the universal service to

- help the legislators in re-evaluating periodically its content,
- define practically the statement of schedules in order to achieve it,
- ensure methods of financing it.

It appears that this question of universal service is essential for the debates which will arise tomorrow in relation to the construction of the information society, and that instead of weakening the role of the state, this notion assigns the state what

amounts in the long run to its essential task, the leading of a societal debate between all the interested parties and following this debate, the setting up of regulatory conditions of this "willingness to live together".