

COUNCIL OF EUROPE
COMMITTEE OF MINISTERS

RECOMMENDATION No. R (99) 14

**OF THE COMMITTEE OF MINISTERS TO MEMBER STATES
ON UNIVERSAL COMMUNITY SERVICE CONCERNING NEW COMMUNICATION
AND INFORMATION SERVICES**

*(Adopted by the Committee of Ministers on 9 September 1999
at the 678th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Recalling the commitment of the member states to the fundamental right to freedom of expression and information as guaranteed by Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms, and to entrust the supervision of its application to the European Court of Human Rights;

Reaffirming that freedom of expression and information is necessary for the social, economic, cultural and political development of every human being, and constitutes a condition for the harmonious progress of social and cultural groups, nations and the international community, as expressed in the 1982 Declaration on the Freedom of Expression and Information;

Stressing that the continued development of new communication and information services should serve to further the right of everyone to express, to seek, to receive and to impart information and ideas, for the benefit of every individual and the democratic culture of any society;

Welcoming this development as an important factor enabling all member states and everyone to participate in the establishment of a coherent information society throughout the European continent;

Referring to the Declaration and Action Plan of the 2nd Summit of the Heads of State and Government of the Member States of the Council of Europe of 11 October 1997, where the Heads of State and Government resolved to develop a European policy for the application of the new information technologies;

Referring to the declaration and resolutions on the information society adopted by the participating ministers at the 5th European Ministerial Conference on Mass Media Policy, which was held in Thessaloniki on 11 and 12 December 1997;

Convinced that new communication and information services will offer everyone new opportunities for access to information, education and culture;

Convinced also that the use of new communication and information services will facilitate and enhance the possibilities for everyone to participate in the circulation of information and communication across frontiers, so fostering international understanding and the mutual enrichment of cultures;

Convinced that the use of new communication and information services will facilitate the participation of everyone in public life, communication between individuals and public authorities, as well as the provision of public services;

Aware of the fact that many people in Europe do not have sufficient opportunities to have access to new communication and information services, and that the development of access at community level can be achieved in an easier way than at individual level;

Aware of the social, economic and technical differences which exist at national, regional and local levels for the development of new communication and information services;

Aware of the possible synergetic effects of co-operation between public authorities and the private sector for the benefit of users of new communication and information services;

Resolved to encourage the implementation of the principle of universal community service concerning new communication and information services, as defined in Resolution No. 1 of the 5th European Ministerial Conference on Mass Media Policy,

Recommends to the governments of member States:

1. to implement the principles appended to this recommendation, taking account of their respective national circumstances and international commitments;
2. to disseminate widely this recommendation and its appendix, where appropriate accompanied by a translation; and
3. to bring them in particular to the attention of public authorities, new communication and information industries and users.

Appendix to the Recommendation No. R (99) 14

Guidelines for a European policy for the implementation of the principle of universal community service concerning new communication and information services

Principle 1 – Access

1. Member States should foster the creation and maintenance of public access points providing access for all to a minimum set of communication and information services in accordance with the principle of universal community service. This should include encouraging public administrations, educational institutions and private owners of access facilities to new communication and information services to enable the general public to use these facilities.

2. Member States should foster the provision of adequate and internationally connected networks for new communication and information services, and in particular their extension to areas with a low communication and information infrastructure.

3. Member States should foster the provision of adequate facilities for the access to new communication and information services by users requiring support.

Principle 2 – Content and services

1. Member States should encourage public authorities at central, regional and local levels to provide the general public through new communication and information services with the following basic content and services:

a. information of public concern;

b. information about these public authorities, their work and the way by which everyone can communicate with them via communication and information services or through traditional means;

c. the opportunity to pursue administrative processes and actions and actions between individuals and these public authorities such as the processing of individual requests and the issuing of public acts, unless national law requires the physical presence of the person concerned, and

d. general information necessary for the democratic process.

2. The services referred to in paragraph (1) should not replace traditional ways of communicating with public authorities, in writing or in person, as well as the provision of information by public authorities through traditional media and official publications.

3. Member States should encourage educational institutions to make their educational services available to the general public through new communication and information services.

4. Member States should encourage cultural institutions, such as libraries, museums and theatres, to provide services to the general public through new communication services.

Principle 3- Information and training

1. Member States should promote information about the public access points referred to in Principle 1, the content and services which are accessible via these access points, as well as the means of and possible restrictions to such access.

2. Member States should encourage training for all in the use of the public access points referred to in Principle 1 as well as the services which are accessible via these access points, including as regards the understanding of the nature of these services and of the implications related to their use.

3. Member States should consider including education in new communication and information technologies and services in the curricula of schools as well as institutions for continuing or adult education.

Principle 4 – Financing the costs of universal community service

1. Member States should examine appropriate ways of financing the implementation of the principle of universal community service, such as by granting subsidies or tax incentives, mixed public and private funding including sponsoring.
2. Member States should ensure that the provision of financial support and sponsoring does not lead to the exercise of any undue influence over the implementation of the principle of universal community service.

Principle 5 – Fair competition safeguards

Member States should ensure that fair competition between providers of new communication and information services is not distorted by the implementation of the universal community service.

Principle 6 – Information to be provided to the Council of Europe

Member States should inform the Secretary General of the Council of Europe about the implementation of these principles with a view to their periodical evaluation and a possible amendment of them in the future, as well as in order to achieve a common and coherent European policy for the implementation of the principle of universal community service.

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EXPLANATORY MEMORANDUM

I Introduction

1. The rapid development of new means of communication and information will offer new opportunities in terms of access to information, interactive information processing and public or private communication. Not everyone may be able to participate in this development, which might lead to a division of society into “information-rich” and “information-poor”.
2. This division may be felt stronger than the existing differences in access to traditional media, where States have traditionally pursued policies for a wide access by the users to communications and information infrastructures and services at an affordable price and irrespective of their geographic location, often complemented by regulatory measures. As regards access to content, reference can be made to the notion of public service broadcasting which seeks to guarantee at least one comprehensive programme service comprising information, education, culture and entertainment which is accessible to the general public. As regards access to communications infrastructure, universal service norms have been designed in the field of telecommunications in order to provide certain basic services to users.
3. In preparation of the 5th European Ministerial Conference on Mass Media Policy, which was held in Thessaloniki in December 1997, the *Group of Specialists on the impact of new information technologies on human rights and democratic values* (MM-S-NT) of the *Steering Committee on the Mass Media* (CDMM) considered possible policies to promote the development of a coherent Information Society and concluded that the development of a wide access to these new services might be achieved in an easier and faster way by promoting access at

community level as compared to access at individual level. The Ministers participating in the Thessaloniki Ministerial Conference endorsed this in the principle of “universal community service” as expressed in their Declaration and Resolution No. 1 on the Information Society.

4. Against this background, the CDMM gave the MM-S-NT the mandate to examine, inter alia, ways of promoting and applying the principle of universal community service. The work of the Group led to this Recommendation and its Explanatory Memorandum. The Committee of Ministers adopted the Recommendation on 9 September 1999 and authorised the Secretary General to publish this Explanatory Memorandum.

5. In this context, it should be noted that the Heads of State and Government of the member States resolved, in their Declaration and Action Plan adopted at their Second Summit meeting in Strasbourg on 11 October 1997, “to develop a European policy for the application of the new information technologies, with a view to ensuring respect for human rights and cultural diversity, fostering freedom of expression and information and maximising the educational and cultural potential of these technologies.” The issue of a wide access for everyone to new communications and information services was also addressed in the Declaration of the Committee of Ministers on a European policy for new information technologies, which was adopted on the occasion of the 50th anniversary of the founding of the Council of Europe on 7 May 1999.

6. Given the large differences between member States with regard to their respective infrastructures and resources at national or regional levels, the importance of the principle of universal community service will be even greater in those member States where the development of individual access to new communications and information services is lower. In this respect, the principle might help to lower the differences between States concerning the accessibility of new information and communications services for their population. In the same vein, experience has shown that people differ widely as regards their ability and readiness to use these new services. Especially for those who have a lesser affinity to these new services, access at community level may facilitate their participation in the Information Society.

7. Due to the rapid technological development and the enormous expansion of new communications and information services at present, the MM-S-NT concluded that the principle of universal community service should be regarded possibly as a transitional step and should be evaluated periodically.

II. General commentary

8. The Recommendation uses the term “new communications and information services” without defining these services. This term or similar variants are widely used, commonly referring to digital communications and information services, such as the Internet with its World Wide Web and E-mail. The express mention of the Internet is avoided by the Recommendation, because of the rapid and unpredictable technological development in this field and the possible limitation which might result from an exclusive reference to the Internet. The word “new” indicates this recent and on-going development, although some aspects of this development might not be qualified as new in the near future. In the light of the descriptive nature of the term, member States have the discretion to be more specific in accordance with their national circumstances and policies. It must be acknowledged, however, that the word “Internet” is commonly used as a generic term for these new communications and information services.

9. Resolution No. 1 of the 5th European Ministerial Conference on Mass Media Policy defines universal community service as the principle “whereby, to the extent possible given the different

national and regional circumstances and resources, new communications and information services shall be accessible at community level by all individuals, at an affordable price and regardless of their geographical location.” The Recommendation on universal community service further illustrates the principle and the ways of its implementation. The term “universal community service” is to be understood in an original and unprecedented sense. It is not meant to refer to universal service in telecommunications, and the two concepts or principles are equally distinct as to their meaning.

10. The Recommendation is addressed to the governments of member States. Any Recommendation of the Committee of Ministers is an instrument of political commitment, and not a legally binding instrument. The political character of the Recommendation on universal community service is underlined by the fact that the Principles attached to the Recommendation are described as “guidelines for a European policy”.

11. The means of implementation of the Recommendation and its Principles are not specified in the Recommendation. This enables member States to select any appropriate means of implementation at their own discretion. Such means might comprise national law and practice, the establishment of voluntary self-regulation or other initiatives by providers of new communications and information services, or an adequate framework for the functioning of competitive market forces.

12. The Recommendation does not seek to address directly the private sector and in particular the new communications and information industry. It is up to member States themselves to define any appropriate arrangements for ensuring that the private sector takes part in the implementation of this Recommendation. In this regard, it is recalled that the Declaration and Action Plan of the Second Summit of the Heads of State and Government of the member States of 11 October 1997 encourage to seek “suitable partnership arrangements” with the private sector for the application of the new information technologies. In addition, local and regional authorities might be instrumental in the implementation of the principle of universal community service, because of their greater proximity to potential users at community level.

13. Member States are recommended to implement the Recommendation and its appended Principles “taking account of their respective national circumstances and international commitments”. This reflects the discretion of member States referred to above, and underlines that existing international commitments are to be taken into account by member States. Such “international commitments” can comprise treaty obligations under public international law, legal obligations under primary European Community law for the member States of the European Union, as well as binding international political commitments.

14. Member States are held “to disseminate widely this Recommendation and its Appendix, where appropriate accompanied by a translation”, and “to bring them in particular to the attention of public authorities, new communications and information industries and users.” The dissemination of the Recommendation is a prerequisite for its proper implementation, as this will help public authorities, the private sector and users to understand the principle of universal community service and contribute actively to its application.

15. The specific recommendations or Principles are appended to the Recommendation. This Appendix is part of the Recommendation itself. It is only for sake of clarity that the individual Principles concerning “a European policy for the implementation of the principle of universal community service” are grouped in the Appendix.

III. Commentary to the Appendix

Principle 1 (Access)

a. (Public access points)

16. The principle of universal community service is based on the assumption that access at community level can in many cases be established easier. It is, therefore, consequent to recommend in the first place “the creation and maintenance of public access points”. The term “public access points” refers to a category, rather than to a particular type of access terminal.

17. Principle 1, paragraph *a* recommends that member States should, therefore, encourage “public administrations, educational institutions and private owners of access facilities (...) to enable the general public to use these facilities”. Public access points could, for example, be installed in public buildings, public administrations, public libraries, educational institutions, public housing centres or other publicly accessible locations, such as shopping centres, post offices, underground stations, train stations, airports or hotels. In certain instances, public administrations and private owners could also be encouraged to consider offering as a special public relations service, employers could be encouraged to offer access to their employees, or educational institutions could be encouraged to offer access also to the general public. This could be achieved, for example, by offering incentives to operators of private access facilities who agree, possibly under certain conditions, to allow public use.

18. The phrase “minimum set of communications and information services in accordance with the principle of universal community service” indicates that member States are recommended to define this minimum set in view of their national circumstances and policies and in accordance with their international commitments. The basic content and services mentioned in Principle 2, paragraph *a* could be taken as a reference in this respect, but member States may go further.

b. (Network infrastructure)

19. Access to new communications and information services requires not only access points, but also “adequate and internationally connected networks” for the transmission of data. Member States are therefore recommended to foster the establishment of such networks and their international connections. Special attention should be paid to areas with a low or inadequate communications and information infrastructure.

c. (Users requiring support)

20. Individuals differ widely as regards their ability to utilise new communications and information services. Principle 1, paragraph *c* mentions in this regard the term “users requiring support”. These users might be persons who have difficulties to use new communications and information services or who could use them to compensate other disadvantages linked to their person or situation, such as users with low income, users with physical disabilities, users who have difficulties to read and write, users who did not have prior training in new communications and information technologies, or users in remote areas with a low infrastructure.

Principle 2 (Content and services)

a. (Basic content and services by public authorities)

21. Public authorities provide the public with a multitude of services and information. New communications and information services can facilitate and enhance these services and the relation between public authorities and individuals. In this respect, the Preamble of the Recommendation stresses that “the use of new communications and information services will facilitate the participation of everyone in public life, the communication between everyone and public authorities as well as the provision of public services.” Therefore, Principle 2, paragraph *a* lists the “basic content and services”, the provision of which should be encouraged.

22. “Public authorities” might comprise, for example, governmental bodies, parliamentary bodies and courts or other judicial bodies, as well as local authorities. The Recommendation could be extended to private bodies which fulfil public service functions.

23. “Information of public concern” is to be understood as a general and wide category, including for example emergency warnings or public announcements, such as water levels during flood situations, forecasts for pollution in the air, addresses and opening hours of vaccination services or the publication of acts of local administrations.

24. “Information about these public authorities, their work and the ways how everyone can communicate with them” is also necessary for the participation of everyone in public life as well as for the public awareness of the functioning of public administration and public services. Examples could be the publication of the opening hours, contact addresses for the various services and the administrative requirements for the processing of requests by the administration.

25. Member States are also recommended to encourage administrative processes and actions via new communications and information services. An “on-line” communication with public authorities is only possible where national law does not require the physical presence of the person concerned. Member States might, however, reconsider the need for such a requirement in the light of the new possibilities offered by new communications and information services (see, for example for the area of written proof, Recommendation No. R (81) 20 on the harmonisation of laws relating to the requirement of written proof and the admissibility of reproductions of documents and recordings on computers). An administration could offer, for example, the on-line payment of public fees, the filing of documents on-line by individuals or the issuing of administrative permissions via E-mail.

26. “General information necessary for the democratic process” may, for example, refer to public information services about the political system, its functioning and the general historic and political context in which democratic decisions are taken. Such information might be provided by governmental information offices, educational institutions and political bodies, and could comprise, for example, the results of elections, statistical information or information on the structure and mandate of political bodies.

b. (Parallelism between traditional ways of communication and new services)

27. Despite the rapid development of new communications and information services at present, not all individuals will be able or willing to use these services. Therefore, member States are recommended to maintain “traditional ways of communicating with public authorities, as well as the provision of information by public authorities through official publications and traditional media.”

c. (Provision of educational services)

28. Principle 2, paragraph *c* recommends to member States to encourage educational institutions “to make their educational services available to the general public through new communications and information services”. Such educational services could range from the possibility for students to follow courses via new communications and information services to making certain educational material also available to persons who are not enrolled as students.

d. (Provision of cultural services)

29. Cultural institutions, such as libraries, museums and theatres, fulfil an important public function in society and are often publicly supported. The use of new communications and information services could increase access to such institutions and enable a larger public to enjoy their services. In the same vein, these cultural institutions could offer their services in a decentralised way to persons in remote areas and persons with physical disabilities, for example. Therefore, it is recommended in Principle 2, paragraph *d* to encourage such cultural institutions to provide services to the general public through new communications and information services. These services could range from libraries certain material of which can be read on-line to “cyber-museums” which provide for a virtual tour of their exhibitions or theatres which display performances on the Internet.

Principle 3 (Information and training)

a. and b. (Information and training concerning public access points and accessible content and services)

30. Opportunities for access to new communications and information services require knowledge and understanding on the side of the potential users, in order to be used. It is therefore essential for the implementation of the Recommendation that information about and training in the use of public access points and the accessible services is provided to the public at large. This does not imply that everyone should be compelled to pursue training courses or that training courses should be offered to everyone. The importance of information and training is, however, underlined by Principle 3, paragraphs *a* and *b*.

31. Member States have their own margin of appreciation of the need for such information and training, possibly taking account of the general education nationally available about new communications and information technologies and services (see Principle 3, paragraph *c* below). In this regard, information and training should especially be addressed to teachers, pupils, students, users requiring support, elderly persons and users afraid of new communications and information services as well as to employees of public authorities and private institutions providing public services, in particular educational institutions. In this respect, the training of trainers might multiply the effect of such efforts.

32. The “implications” related to the use of new communications and information services referred to in Principle 3, paragraph *b* might include the legal validity of communications via these new services (see, for example for the area of written proof, Recommendation No. R (81) 20 on the harmonisation of laws relating to the requirement of written proof and the admissibility of reproductions of documents and recordings on computers), the collection of personal data of users (see, for example, the Guidelines for the protection of individuals with regard to the collection and processing of personal data on the information highways which may be annexed to codes of conduct, published by the Council of Europe in 1998) as well as the credibility and authenticity of information available on public access points.

c. (Education in new communications and information technologies and services)

33. General education in new communications and information technologies and services would also enhance the understanding of the services offered in accordance with the principle of universal community service. It is therefore consequent that member States are recommended to consider including such education “in the curricula of schools as well as institutions for continuing or adult education” and the continuing education of teachers.

Principle 4 (Financing the costs of universal community service)

a. (Financing)

34. The implementation of the principle of universal community service through the provision of public access points and basic content and services will generate costs. Therefore, Principle 4, paragraph *a* recommends that member States “should examine appropriate ways of financing”, without specifying or ranking the various possible measures and approaches. Member States should hence decide on the appropriateness of these measures, taking account of their existing national law and practice, their international commitments and their national circumstances. The examples given in paragraph *a* are only indicative. Typically, such measures may comprise direct public funding or subsidies, indirect public funding through tax incentives or similar measures, private funding such as charitable donations, as well as the conclusion of sponsoring contracts, i.e. the conclusion of contracts between public authorities and the private sector for advertising purposes. In certain cases, mixed forms of the above-mentioned measures might also be suitable. In this regard, it might be particularly advisable to examine ways of exploiting synergies between both public authorities and the private sector for the benefit of the public at large.

b. (Independence of the choice of content and services from financial support)

35. Member States should ensure that the provision of financial support does not lead to “the exercise of any undue influence”. Such undue influence could take place when, in return for granting financial support, a natural or legal person would have the right to decide on the operation of a service developed thanks to this support, especially where such influence aims at the provision of services which violate human rights, fundamental freedoms and democratic values or which constitute a form of disguised or surreptitious commercial or political advertising. National authorities in the member States have their margin of appreciation when evaluating a particular influence.

Principle 5 (Fair competition safeguards)

36. National measures for the implementation of the principle of universal community service might have an impact on competition on the new communications and information markets. This applies in particular to the provision of a wide access under Principle 1, the provision of content and services under Principle 2 and their public or private financing under Principle 4. This could be case, for example, where sponsored services of a public administration would lead to a monopoly position of the sponsor with regard to linked follow-up services, such as the purchase of other hard or soft ware by that administration and its future up-grading. Principle 5 reminds member States of this possible effect and recommends that member States “should ensure that fair competition between providers of new communications and information services is not distorted by the implementation of the principle of universal community service.” Providers in this sense should include network operators, access providers, content providers and other service providers.

Principle 6 (Information to be provided to the Council of Europe)

37. Due to the rapid technological development and the enormous expansion of new communications and information services at present, the principle of universal community service should be regarded as a possibly transitional step to be evaluated periodically. Therefore, member States are recommended to regularly inform the Secretary General of the Council of Europe about the implementation of the Recommendation and its Principles. In addition, such information might provide for a mutual exchange of experiences and hence for a framework for a common and coherent European policy for the implementation of the principle of universal community service.