Reply
(1 March 2002)

The Council does not have in its possession any information concerning the question asked by the Honourable Member.

(2002/C 147 E/125)

WRITTEN QUESTION E-3170/01
by Sebastiano Musumeci (UEN) to the Commission
(19 November 2001)

Subject: Regulating services of public interest in the European Union

In view of the technological developments taking place and the new needs arising from the changes in lifestyles, it is important to identify clearly what is meant by services of public interest in the 21st century.

Regulatory practices in respect of services of public interest vary considerably from one Member State to another.

A Community of over 250 million people, with a single currency and single market, cannot continue to apply such divergent rules in this sector. In view of the above:

1. Would the Commission not agree that there is an urgent need to harmonise regulations on services of public interest (electricity, telephony, water resources, gas) before the candidate countries join the European Union?

2. Does the Commission not consider that, for the purposes of guaranteeing the provision of an effective and safe service to consumers, steps should be taken with a view to separating infrastructure and network owners and providers of end-user services?

3. Has the Commission put forward legislative proposals to this end, or does it intend to do so?

4. With a view to establishing new infrastructures and networks (water and gas pipelines, telephone cables, electricity lines), to bringing existing systems into line with technological developments and to improving safety standards, will the Commission take action to tackle a number of specific problems, such as the state of water pipelines in the south of Italy, which fall well short of the EU average?

Answer given by Mr Monti on behalf of the Commission
(10 January 2002)

1. In its Communication on Services of General Interest in Europe of 20 September 2000(1), the Commission explains that Community law leaves it primarily to the Member States to define what they regard as services of general economic interest on the basis of the specific features of the activities in question. Member States' freedom to define or not to define a certain economic activity as a service of general economic interest leads to different results according to the policy choices of each Member State. Article 86(2) of the EC Treaty basically acknowledges and protects such differences and the resulting scope for Member States' to shape their policies in the area of services of general economic interest. Nevertheless, the EC Treaty rules, and in particular the competition rules and the internal market rules, are in principle applicable to these services. On the basis of the proportionality principle enshrined in Article 86(2), the application of these rules can only be limited to the extent necessary to ensure the proper functioning of the service of general economic interest at issue.

The Commission follows the proportionality principle also where it adopts or proposes secondary legislation for the liberalisation of markets in which services of general economic interest can be
performed, such as the electricity, gas, telecommunications, post and transport sectors. In many of these areas, the secondary legislation enacted by the Community does not harmonise the notion of services of general economic interest and basically leaves Member States their freedom to define these services, while at the same time giving examples of what can be considered a service of this kind. In the postal sector, the situation is different in as much as Directive 97/67/EC of the Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service (2), requires the Member States to ensure a universal postal service with specific quality standards. Also, in the telecommunications sector, Community legislation adopted by the Parliament and the Council has to an important extent harmonised national regulations on services of general economic interest. The Universal Service Directive, which is now in the end-stage of adoption, will confirm and further specify the universal service which must be guaranteed by Member States throughout the Community at affordable prices (3). In the water sector, some harmonisation as regards the protection of public health and the environment is already in place.

The reaction by Member States and Community institutions to the above-mentioned Commission’s Communication of 20 September 2000 has shown that the above-described system under the EC Treaty is a successful combination of (a) Member States’ freedom to give different scope and content to sectors in which services of general economic interest are performed, (b) harmonisation where there is consensus in the Parliament and amongst Member States in the Council to do so, and (c) ensuring the Community objectives of open and competitive markets.

The Commission has for the time being no reason to believe that the current system of Community law with regard to services of general economic interest would not work successfully after accession of the candidate countries.

2. The Commission considers that a separation between the ownership of the infrastructure and the provision of the service will often present advantages but that there is no uniform reply to this question which would be valid across the board for all sectors of the economy or all network industries. The issue should rather be examined separately for each sector, taking account of its state of development and of specific problems arising in the provision of effective and safe services to consumers.

3. In the area of energy supplies, the Commission has just proposed a Directive (4) for accelerated liberalisation which provides for a legal separation of network services and sales of electricity and gas.

In the postal, telecom and drinking water areas, the Commission is to date not preparing legislative initiatives to separate ownership of the infrastructure and the provision of the service.

4. The Community structural funds have been providing and continue to provide financial support for the modernisation of infrastructure networks in less developed areas of the Community. In addition, loans are available from the European Investment Bank.

Specifically, with regard to water pipelines in the south of Italy it has to be underlined that a pipeline not properly maintained and entailing insufficient water quality for the consumer would be an infringement of the Drinking Water Directive, Council Directive 80/778/EEC of 15 July 1980 relating to the quality of water intended for human consumption (5) as amended by Council Directive 98/83/EC of 3 November 1998 (6). In the case of leaking water pipelines leading to losses and waste of water, rehabilitation measures might be selected by the Italian authorities for financial support under Community Structural Funds and Rural Development Programmes.

(3) Member States will further be competent to decide what affordable prices are in their territory, taking into account national conditions. In addition, they retain the right to ensure that further services are available in their territory in addition to the universal service defined at Community level.