Opinion of the European Economic and Social Committee on: An independent evaluation of services of general interest

(2008/C 162/10)

On 16 February 2007, the European Economic and Social Committee, under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

An independent evaluation of services of general interest.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 23 January 2008. The rapporteur was Mr Heneks.

At its 442nd plenary session, held on 13 and 14 February 2008 (meeting of 14 February 2008), the European Economic and Social Committee adopted the following opinion by 162 votes to 24, with 11 abstentions.

1. Conclusions and recommendations

1.1 The reform of the Treaties adopted by the European Council on 17 and 18 October 2007 breaks new ground on services of general interest (SGIs), with the inclusion in the provisions on the functioning of the Union of a clause of general application on services of general economic interest (SGEIs) (Article 14) which is to be applied to all European Union (EU) policies, including on the internal market and competition, and a protocol appended to the two treaties on all services of general interest, including services of non-economic general interest (SNEGIs).

1.2 SGI, SGEI and SNEGIs all help to ensure the wellbeing of society as a whole and the effectiveness of citizens’ fundamental rights. These services, which are provided in the general interest, are a matter of political choice and accordingly fall under the remit of the legislator.

1.3 It follows that there is not only a stronger obligation for the EU and Member States to ensure that services of general economic interest operate effectively, which implies that the evaluation of the performance of such services should be an ongoing process, but also that the decision-making institutions need to agree on a clear definition of the concepts, objectives and purposes of the three categories of services. Until this is done, evaluations of their performance will not provide citizens with the legal certainty they have a right to expect from both their national and European institutions.

1.4 The purpose of evaluation will be to enhance the effectiveness and efficiency of services of general economic interest and their adaptation to the changing needs of citizens and business, while providing public authorities with what they need to make the best choices; in addition, it will have a key role to play in achieving a balanced trade-off between markets and general interests, and between economic, social and environmental objectives.

1.5 In view of the importance of SGI in combating social exclusion and promoting justice and social protection, which are set as objectives of the EU in the Treaty, regular evaluation is imperative, not only of the services of general economic interest already covered by Community rules, but also of services of non-economic general interest (SNEGIs) at Member State level.

1.6 At national, regional and local levels in Member States, evaluation of SGI (economic and non-economic) will have to be independent, involve multiple parties and take the differing points of view into account; based on a full range of criteria, it will have to cover the three pillars of the Lisbon strategy, and be conducted in consultation with all stakeholders.

1.7 At Community level the task will be to lay down the procedures for exchange, collation, comparison and coordination, and to stimulate the independent evaluation process, while respecting the subsidiarity principle, by defining a harmonised evaluation methodology at European level based on common indicators, through dialogue with the representatives of stakeholders.

1.8 To ensure the relevance and usefulness of this evaluation, a Steering Committee should be set up, operating in complete independence and representing multiple parties, with representatives from the European Commission, the European Parliament, the permanent representations of the Member States to the EU, the Committee of the Regions and the European Economic and Social Committee.

2. Current situation

2.1 The Treaties include services of general economic interest among the European Union’s common values, particularly in view of their contribution to social and territorial cohesion. The amended Treaty adopted by the European Council on 17 and 18 October 2007 confirms this by providing for the European Parliament and the Council of the European Union to lay down principles and conditions, by means of regulations, enabling SGEIs to fulfil their missions, without prejudice to the competence of Member States to provide, to commission and to fund such services, while emphasising the shared responsibility of the Member States and the Community.

2.2 Thus, it is up to the Union and the Member States, each within their respective powers and within the scope of application of the amended Treaty, to ensure and verify that such services operate effectively on the basis of principles and conditions, in particular economic and financial, which enable them to fulfil their missions.
3. The need to evaluate services of general interest

3.1 Among other things, the obligation to ensure that services of general economic interest operate effectively set out in Article 14 of the amended Treaty implies that the evaluation of the performance of such services should be an ongoing process.

3.2 The EESC feels that for an SGEI to be considered as operating effectively, it should comply with principles such as:

— equality, universality, affordability, accessibility, reliability, continuity, quality and effectiveness, while guaranteeing users' rights and achieving economic and social viability;

— taking account of the specific needs of certain groups of users such as disabled, dependent and disadvantaged persons, etc.

3.3 Even though the amended Treaty does not mention evaluation explicitly, it does imply that there is a need for vigilance, and evaluation is a suitable means of exercising such vigilance.

3.4 Member States or the EU will need to define and adapt the tasks and objectives of services of general economic interest within their remit in a transparent and non-discriminatory manner, while complying with the proportionality principle and ensuring that services are in the interest of all users and meet with their general satisfaction.

3.5 In order to check whether tasks of general interest are correctly and effectively performed and that objectives — depending on whether the services in question are SGEIs or services of non-economic general interest, or on the actual nature of the service — are or will be met, the competent authority must put in place a system for evaluating performance, efficiency and quality which goes beyond mere opinion polls and surveys.

3.6 Evaluation is therefore the systematic analysis and monitoring of the conditions for effective implementation of the particular general interest mission in the light of its fulfilment and capacity to meet the needs of consumers, businesses, citizens and society, and of EU objectives, particularly with regard to economic, social and territorial cohesion, the social market economy, the Lisbon strategy and guaranteeing the exercise of fundamental rights.

3.7 Services of general economic interest typically have to try to achieve a series of trade-offs:

— between markets and the general interest,

— between economic, social and environmental objectives,

— between users (individual users, including disadvantaged groups, businesses, local authorities, etc.), not all of which have the same needs and interests,

— between Member State competences and Community integration.

3.8 These trade-offs can shift as a result of economic and technological change, and of changing individual and collective needs and expectations, and also reflect the need for consistency between diverse situations in each country, specific geographical circumstances and sectoral characteristics.

3.9 Performance evaluation is a separate activity to regulation, but is also an aspect of it. Regulatory activity can benefit by basing itself on and stimulating evaluation. At the same time, evaluation must provide insight into situations in which services do not function properly, and into differences in terms of quality and/or type of service between different countries, thus highlighting adaptation to changing expectations depending on users' and consumers' needs and concerns and changes in the economic, technological and social context.

4. Which services should be evaluated

4.1 In view of the objectives assigned to services of general interest and their importance in the implementation of various Community policies, regular evaluation is essential not only for economic services, which are covered by Community rules, but also for non-economic services. The latter are part of the effective implementation of fundamental rights, and their operation is underpinned by the solidarity principle and respect for human dignity, with due reference to the common values which are inherent in the European social model.
4.2 Given that the Protocol appended to the amended Treaties confirms that services of non-economic general interest are the exclusive responsibility of the Member States, SNEGIs will have to be evaluated at the national, regional or local levels only.

4.3 Given that services of non-economic general interest, just like SGEIs, relate to a range of EU objectives (respect for fundamental rights, promoting citizens’ well-being, social justice, social cohesion, etc.) and that the European Union is partly responsible for the achievement of these objectives, it must at least ensure that Member States carry out regular evaluations of the operation of such services of non-economic general interest.

5. The approach followed by the EU institutions

5.1 At the Nice (2000) and Laeken (2001) European Councils, agreement was reached on the need for effective and dynamic evaluation at Community level of the competition effects and performance of services of general interest, while taking due account of national, regional and local specificities and competences.

5.2 It was also considered that this evaluation should be carried out within existing structures, in particular through horizontal and sectoral reporting and the Commission’s Cardiff report on economic reform, and should cover market structure and performance, including employment aspects, an economic and social assessment of public service obligations, and citizens’ and consumers’ opinions on the performance of services of general interest and the impact of liberalisation on them.

5.3 Since 2001, a horizontal evaluation — confined to network industries (electricity, gas, electronic communications, postal services, air and rail transport) — has been conducted annually (except in 2003) by the European Commission, based on a method defined in a Commission communication (1); however, not all stakeholders are in agreement on this evaluation, which according to some is more an evaluation of Commission involvement as a producer of horizontal evaluations.

5.4 In 2003, in connection with the Green Paper on services of general interest, the European Commission launched a public consultation to establish how the evaluation should be organised, what criteria should be used, how citizens could be encouraged to participate, and how the quality of data could be improved. The main conclusions of this consultation were the need for a multi-dimensional evaluation and a review of evaluation mechanisms; however, according to the Commission, there was a lack of consensus on who should conduct the evaluation.

5.5 The White Paper on services of general interest (2) emphasised the evaluation process which in the future would have to precede any adjustment to the Community legislative framework, particularly concerning the liberalisation of services.

5.6 In its White Paper the Commission recognised the particular responsibility of the Community institutions, with the help of data provided at national level, in the evaluation of services that are subject to a sector-specific regulatory framework established by the Community. It did not exclude the possibility of an evaluation at Community level also being considered in other areas if it could be established in specific cases that such an evaluation would create added value.

5.7 Finally, the Commission ordered an in-depth assessment report on evaluation methods from an external consultant, the main conclusions of which will be summarised in a new communication scheduled for 2008.

5.8 The Commission claims that this external audit will have to assess the need for a performance evaluation of SGEI provision at EU level by network industries, put forward recommendations on improving horizontal evaluations, and evaluate the significance of Commission involvement as a producer of horizontal evaluations.

5.9 In its Communication on SGIs (3), the Commission considers it important, for the quality and transparency of the decision-making process, to regularly conduct in-depth evaluation and to disclose its methodology and results, so that they are open to scrutiny.

6. Principles and criteria of evaluation

6.1 In its Communication COM(2002) 331, the Commission committed itself to involving civil society in the horizontal evaluation of SGI performance, in particular by setting up ‘a permanent mechanism for the monitoring of citizens’ opinion and their evolution “and ensuring that” Stakeholders, including the social partners, will also be consulted on an ad-hoc basis for specific issues’.

6.2 The way in which society is evolving is reflected in the growing expectations of the public — in this case, users and consumers — not only that their rights will be acknowledged but also that their specific circumstances will be taken into account. There is a close correlation between how services of general interest are carried out and the societies in which they are provided.

6.3 The variety of structures and statutes (public or private operators, public-private partnerships) used by national, regional and local public authorities to provide services of general interest mean that multi-dimensional evaluation is needed.

6.4 In addition, evaluation at Member State level has to be pluralist, with the involvement of all stakeholders: the authorities in charge of defining and implementing services of general interest, regulators, operators/providers responsible for carrying out services, representatives of consumers, trade unions and civil society, etc.


6.5 Apart from involving multiple parties, this evaluation will have to be independent and take the differing points of view into account given that not all stakeholders have the same interests, and that in some cases they may even clash, with inconsistencies between information and appraisals provided by them.

6.6 The economic and social effectiveness of services of general interest together with their activity and performance cannot be assessed on the basis of a single criterion, in this case competition rules; a full range of criteria must be used.

6.7 As the CIRIEC and the CEEP emphasise in a report drawn up in 2000 (4) at the request of the European Commission, evaluation is ‘only meaningful if taken in connection with the designated objectives and tasks, which in their definition derive from three sources — the consumer, the citizen, and the society — and have three components — guarantee of the exercise of people’s fundamental rights, social and territorial cohesion and the definition and conduct of public policy’.

6.8 Evaluation will need to cover the three pillars of the Lisbon strategy (economic, social and environmental) and simultaneously to involve internal market, competition, consumer protection and employment policies as well as all relevant sectoral policies.

6.9 The evaluation therefore needs to refer to multiple criteria, with particular reference to:

— the definition of the conditions governing the public service obligations and the relevant authorisation to provide the service,
— the effective implementation by operator(s) of specifications or obligations linked to a universal service or the authorisation to provide the service,
— the price and quality of the service, its accessibility for people with disabilities, and user satisfaction,
— positive and negative external factors,
— the attainment of public policy objectives,
— the adaptation of provisions to reflect legal constraints.

6.10 This process will therefore involve providing information and evaluation of actual practices and the impact of actions on different types of users, enabling the structural imbalance in information which is inherent in relations between operators/providers, regulators and consumers to be overcome.

7. Implementing evaluation

7.1 The evaluation system will have to be based on periodic reports drawn up at national or local levels by evaluating bodies set up by the Member States in line with the above principles.

7.2 At Community level the task will be to lay down the procedures for exchange, collation, comparison and coordination. It will therefore be up to the European Union to stimulate the process of independent evaluation, while respecting the subsidiarity principle and the principles set out in the Protocol appended to the amended Treaties, by defining a harmonised evaluation methodology at European level based on common indicators and the means whereby SGIIs operate, through dialogue with the representatives of stakeholders.

7.3 To ensure the relevance and usefulness of the evaluation, a Steering Committee should be set up representing the diverse interests of all stakeholders (public authorities, social partners, operators, regulators, individual and business users, trade unions); at Community level, it could comprise representatives from the European Commission, the European Parliament, the permanent representations of the Member States to the EU, the Committee of the Regions and the European Economic and Social Committee.

7.4 This Steering Committee would be responsible for:

— evaluation methods,
— defining the indicators,
— specifications for the requisite studies,
— commissioning such studies on the basis of multiple expert opinions,
— a critical review of reports,
— recommendations,
— disseminating findings.

7.5 Discussions with all stakeholders on assessment reports could take the form of an annual conference on SGEI performance on the lines of the existing conferences on network industries held over the last few years at the European Economic and Social Committee, or they could be held in conjunction with the spring social summit.


The President
of the European Economic and Social Committee

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CIRIEC: International Centre of Research and Information on the Public and Co-operative Economy.

CEEP: European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest.