

Telefónica

**Telefónica's contribution to the World Summit on
the Information Society**

Private Sector
Economic and social impact / Regulation

Private Sector – Economic and social impact

Governments and the private sector should consider the United Nations initiative to hold a World Summit on the Information Society as a basic option for promoting and harmonising efforts and actions to make progress in those countries and societies that are on the road to incorporating the advantages of the Information Society.

Aware of the importance of this opportunity, the ICT private sector would like to make its voice heard for the purpose of contributing to a harmonised outcome of this Summit so that the resulting resolutions and policies are formulated in such a way that they are tightly linked to the players that will be required to implement them.

Therefore, we wish to make the following considerations and proposals:

1. National strategies towards the Information Society. Public sector-private sector alliances

The private sector and the public sector must mutually consider one another as strategic allies in the transition process towards the Information Society. On various occasions, the same representatives of the public sector have explicitly recognised the key role that the private sector plays in the technological progress of networks and in applications.

Furthermore, there is a definite political willingness to promote co-operation between governments and the private sector for the purpose of developing and implementing strategies, plans, programmes and activities that will enable efficient performance, yielding short-term positive results. Models of co-operation between the public and private sectors need to be developed. Likewise, natural areas of mutual support have to be identified wherever co-operation can yield benefits for both parties.

We should rely on the private sector's involvement in defining the national strategies, since it is the sector that will bear a major portion of the investment in the changeover. Otherwise, very negative impacts might occur during the launching and implementation phases of these programmes. So it is essential that the private sector's involvement be promoted during the initial phases of developing national e-strategies.

2. Governments and Public Administrations as promoters of the Information Society

The private sector wishes to stress the importance of the role of governments in the development of the ICTs and the need for adopting initiatives and policies that allow this role to be carried out. Certainly there is no single path towards the Information Society rather various models of approach based on economic, social and cultural factors in each environment. In any case, it is essential that governments step up their efforts and promote the adoption of the following measures and courses of action:

- Adopt an appropriate regulatory framework designed to promote investments in infrastructures and ICTs under those conditions that allow for a fair return on investment.
- Adopt policies that promote actions aimed at fostering and stimulating the demand for new services and applications based on new technologies, that meet the genuine needs of users and involve the remaining players concerned, especially the private sector, in creating more favourable conditions for growth of the market.
- Increase public sector investment in ICTs, as exemplary users of the Information Society, incorporating new services and applications to modernise their processes. A government that transforms its governmental processes into digital format promotes their access to the citizens and companies by using the same method.
- Regarding the possibility of conducting administrative business over the Internet, for citizens and companies this should mean a significant improvement in the response time and user-friendliness via the network, in order to promote its use. In this respect, in order to guarantee efficiency, all administrations (including local ones) should offer a “one-stop” service. This “one-stop” service is especially important in the area of setting up companies, as a single point for handling all the administrative procedures.
- Adopt specific policies and measures that promote citizens’ access to the services of the Information Society, amongst others:
 - a) Facilitate the expansion of broadband, which is necessary for the development of the Information Society, and third-generation mobile telephone services.
 - b) Facilitate the penetration of information technologies in small- and medium-size companies, for the purpose of achieving the “Digital SME”.
 - c) Promote the development of new products, services and applications that are based on new technologies.
 - d) Increase connectivity and facilitate the penetration of information technologies in homes (“digital home”).
 - e) Facilitate the penetration of information technologies in the health care sector and education.
 - f) Promote the spread of e-commerce, by harmonising laws in the various countries, so that companies located in all of them may have access to this e-commerce under the same terms, and by enacting laws governing its security.
 - g) Promote teleworking practices through labour and fiscal policies and by providing incentives for the creation of telecentres.
 - h) Promote and encourage the training of the working population in operating information technologies, as a prerequisite for spreading the use of the same and support continuous training in this area.
 - i) Promote the creation of local content, which in turn encourages the adoption of new technologies by the user.

Governments have the primary responsibility of leading the development towards the Knowledge Society, of bridging digital divides and accessing information processes. Thus, the representatives of Governments who are meeting at the World Summit on the Information Society should reach firm and specific commitments, based on the aforementioned courses of action. These will allow the creation of suitable conditions so that the private sector may assume the necessary risks and invest in infrastructures and ICTs and so that favourable progress can occur in the development of the Global Information Society.

3. *Developing a strategy with a view towards the World Summit on the Information Society.*

The ICT private sector is submitting the following recommendations and courses of action for consideration by the representatives of the national governments who are meeting at the Conference:

- That the States adopt commitments that strengthen the involvement of the private sector in the development of the Information Society and promote the creation of sustainable alliances between the public sector and the private sector with a view towards the development and implementation of national e-strategies. These institutions, with the co-operation of private players, must be proactive when designing and implementing any strategy.
- That the States adopt regulatory frameworks and national policies that promote increased innovation and private investment in ICTs, which in turn permit the development of infrastructures and new services, as well as increase the level of connectivity.
- That commitments be made which stimulate the development of e-government, telemedicine, e-inclusion applications and, in general, any other innovative applications based on new technologies, which allow the benefits of the Information Society to reach the entire population.
- That commitments be made which stimulate the development of e-commerce by harmonising the various laws and adopting national tools, promoting self-regulatory mechanisms, that increase consumer confidence and guarantee the security of transactions and the privacy of data.
- That governments and public administrations assume their role as promoters of the Information Society and set in motion their ability to stimulate demand for ICTs by integrating new technologies in their administrative processes, with the resulting increase in efficiency and transparency in accessing public services.
- That the States adopt strategies and national policies that facilitate the penetration of information technologies in small and medium size companies, as well as facilitate and provide an incentive for the creation of new companies, services and products in the area of ICTs.
- The private sector wishes to stress the need for designing new strategies and programmes aimed at improving citizens' ability to use ICTs and measures designed to promote continuous training in this area.
- The private sector considers that alliances should be strengthened with the public sector to promote the development of applications and local content that meet the demands and requirements of each country and locality.
- The private sector considers that the Action Plan adopted by the World Summit should include specific actions and appropriate evaluation mechanisms – indicators - which allow the results of the Action Plan, adopted by the Summit to be evaluated and measured. The purpose of this is to determine which measures have proven efficient and those that have not yielded the anticipated results.

Private Sector - Regulation

A. A Regulatory Framework suited to the needs of the Information Society

The Information Society (IS) is a **structure** that requires a sound basis: a major aspect of the debate on IS aims at identifying what we might call **key promoting factors**: social and economic applications of Information and Communications Technologies with wide coverage, capable of creating economies of scale so that the building process is set in motion.

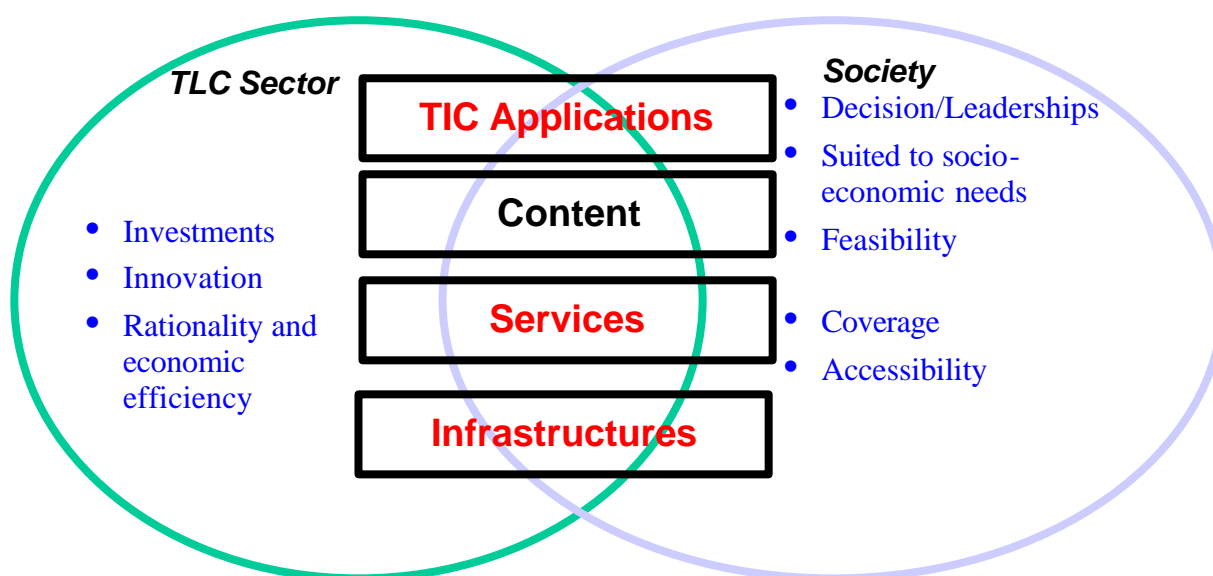


Figure 1: The "structure" of the services associated with IS

However, in order for **applications** from ICTs adapted to the **social and economic needs** of IS to be developed and to occur "on line" (this is one of the premises that distinguishes IS), there must be a set of "**layers**" of supports: **available services** on which these applications can run. These, in turn, have to be provided with **content**, as well as **infrastructures** that can support and provide **coverage and accessibility** to the new multimedia services that are required.

In other words, in addition to a major process of social innovation the deployment of IS **also requires a major investment effort in infrastructures and services** that must be supported, not to mention content.

I. **Broadband cannot be subject to the same regulatory system as traditional telecommunications services**

Evolution of the Telecommunications Sector

The restructuring of the telecommunications sector that occurred during the 1990's is one of the most interesting and far-reaching experiences of a sectoral transformation in our economy in recent times. It is difficult to find any other experience in which:

- *Such a drastic transformation has occurred in such a short period of time.*
- *The restructuring has occurred almost simultaneously on an international scale.*
- *The guidelines that steered the transformation (privatisation and a certain model of competition) were the same in all countries and all regions.*
- *Not only were governments involved but all multilateral international institutions (ITU, WTO, OECD, etc.).*
- *A substantial exchange of experience and learning took place on an international scale (involving best practices, benchmarking)*

However, at the end of the decade, countries in various regions of the world have experienced different outcomes. Let us take a look at developing countries. As far as fixed-line telephony is concerned, after having shown very strong investment growth and, therefore, growth in infrastructures during the privatisation phase – in the majority of cases – we note that the progress in the penetration of services started to decline. Furthermore, it almost totally ceased at the time that competition schemes were launched and aggressive opening of their respective national markets occurred.

It is necessary to review the decade more in depth in order to determine the strong and weak points of the regulatory doctrine that was implemented for fixed-line telephony. At this stage of the events, it can be asserted that the **regulatory models have not proven to be very suitable for sustaining the investment process when the economic cycle changed. Furthermore they did not succeed in reaching those sections of society with a lower purchasing power in developing countries** (which, in many of these regions, make up the majority of the population), at the same time that they were promoting the type of competition that they were striving for. And this is relevant when looking to the future, since access via fixed-line networks is going to be one of the key factors for developing new Broadband services.

From the point of view of the **Private Sector**, in order to guarantee the deployment of the Information Society, it is essential that an **appropriate regulatory framework** be adopted, which is designed to promote investments in infrastructures and ICTs under conditions that allow a fair return on investment.

The less intrusive model of regulation that has been implemented in the Internet arena, and to a large extent, in mobile services, has allowed various alternatives and greater flexibility to be granted to end users. It has yielded them benefits in meeting their specific needs instead of subjecting them to only a limited set of offers that are more or less similar and regulated. This trend has proven to be most effective when providing an incentive for operators to draw up business plans for different customer segments and to maintain relatively high investment rates in order to rely on the necessary infrastructure to offer new business plans. As a back-up, it would also be advisable to adopt a **favourable fiscal policy**, at least until the IS reaches a sufficient level of development, endeavouring as much as possible for those amounts collected to be reinvested in the development of ICTs.

Therefore, it would be a mistake **to extend** a sectoral regulation characteristic of the basic services and implemented, at the time, to facilitate the liberalisation of the section and the entry of new players, to include **new services** involving broadband, simply because they may **share** infrastructures with them, since:

- *It would involve implementing a regulatory system characteristic of other services, other networks and other historic moments to include emerging services.*

- *Dangerous **competitive asymmetries** that could not be easily justified would develop, since access to the same services would have **different** regulations depending on the **platforms** from which they were offered. For example, an ISP from BA could be accessed invariably via ADSL or cable modem. However, if these two access methods were contaminated by regulating the platforms that support them, then ADSL would be subject to traditional telephone sectoral regulation while the cable modem would be deregulated.*

Furthermore, although the proposed regulatory framework is being viewed as an objective to be achieved as quickly as possible, it is logical to acknowledge that there will still be a period of transition during which various regulations will subsist. These occurred historically under the various developments of the respective service markets and the particularities of the technological platforms and business models on which they are established.

Based on this acknowledgement, the path to be taken should be guided by the following:

- *Do not regulate emerging markets. Avoid transferring the regulation of mature markets to emerging ones in order to prevent jeopardising investment in and development of these markets.*
- *In any case, the right approach for regulatory frameworks is to evolve towards those systems that have developed favourably and not the other way around.*
- *The evolution towards a general model of competition between platforms does not mean that specific features involving certain technologies should be overlooked.*

The competition model will be a critical factor

When we speak about the services of the Information Society, we are implicitly referring to a very broad set of highly innovative multimedia services and, which due to their technical characteristics, require major bandwidth. In other words, we are speaking about broadband access. **Broadband is the gateway to IS.**

The important thing is to see that broadband involves a set of supports and emerging services. Although infrastructures can be shared with basic and/or traditional services, emerging services are essentially different from traditional ones.

In fact, broadband access can be provided over traditional fixed-line networks (although technologically innovative, with xDSL access) but also from other platforms, such as mobile networks (2.5G and 3G), cable (cable modem), radio-frequency access (LDMS, etc.), by satellite, etc.

So, at this new stage, it is critical that IS be provided with the necessary infrastructures. Moreover, the necessary competition that has to be developed must not be just any model of competition rather one that meets certain essential conditions, amongst them, the ability to promote investment and one that meets the needs of the most vulnerable sectors of society.

The aforementioned recommends that Broadband be placed outside the scope of regulation of basic services. At the same time, it is acknowledged that **competition in access** to broadband services will occur not only **between operators with the same platform** or technology (several fixed-line network operators, for example) but also between **different access platforms or technologies** (fixed-line networks, cable, mobile networks, satellites, wireless access, etc.).

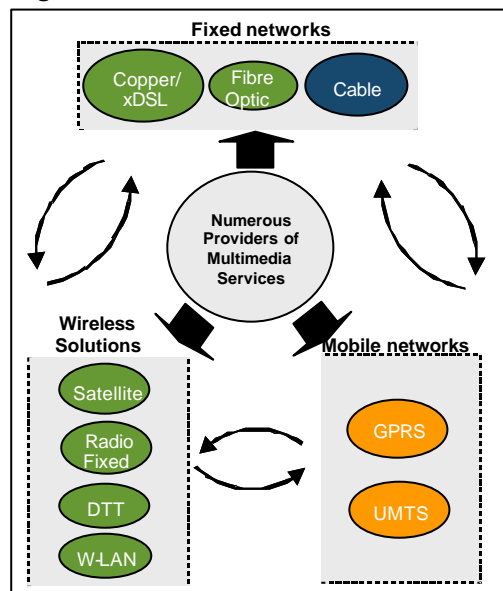
II. Encourage investment and demand for broadband.

The representatives of the **Private Sector** share a common vision of the Information Society:

- *Availability and generalised use of Broadband services. Investments in broadband will become the driving force behind growth of the economy in its entirety and will enable competition within the sector.*
- *Different platforms open to competition as a basis for providing broadband services by numerous multimedia service providers (see figure 2). This will result in the creation of a new content and broadband multimedia services industry.*

New business models will be developed based on providing content and innovative multimedia services, thus adding value to the current business models that are based on selling broadband connectivity. Those companies that are merely focused on the local resale of existing services and connectivity will further lose their economic viability and sustainability.

Figure 2: Broadband Platforms



In order to stimulate the demand for and investment in broadband, the members of the **Private Sector** are calling for the adoption of a non-interventionist approach in the emerging broadband markets, one that:

- *Limits future wholesale obligations to those that promote competition between infrastructures; above all wholesale access and resale should be based on commercial agreements governed by the laws of competition.*
- *Abstains from regulating retail prices for broadband access services.*
- *Does not consider broadband as a part of Universal Service.*
- *Promotes competition between platforms, avoiding asymmetric regulations between different platforms (technological neutrality)*
- *Recognises, in short, that the broadband market should be governed by the laws of competition*

... and that takes advantage of the entire weight of the public sector as the driving force behind broadband demand. This involves:

- *The use of resources by the States to stimulate broadband demand (including e-government, e-health, e-education)*
- *Programmes that promote the development of broadband services and content. (*)*
- *Guarantee that the current legal and regulatory obstacles are eliminated, when creating broadband multimedia services and content. (*)*

(*). See Section III

However, the fulfilment of this vision may be jeopardised by four bottlenecks that feed on one another:

1. *Loss of investor confidence, which is penalising those investments with long-term results.*
2. *An environment that is viewed as unstable and over-regulated, thus increasing the perception of investor risk.*
3. *Service providers who are slow in developing new broadband services due to the low penetration of broadband and,*
4. *Low demand due to the fact that services are still not widely available.*

III. Guarantee access to content without any discrimination

After Information Society multimedia services, the increasing importance which content has in the new value chain is already known. This is part of the sectoral revolution that is taking place. It involves the inrush of new players and the need for developing new activities in the creation of services so that each society and each region has a social project for these services which meet their own specific needs.

However as with any process of change involving a significant transformation, content will take on new features at amazing speeds. For example, up until a few years ago, "content" was nearly exclusively identified as database services or information that was previously formatted or configured (video, leisure, games, etc.). Today information exchanges in real time between individuals (P2P) represent more than half of the traffic over the Internet, which is changing the business model.

The creation of this broadband multimedia content and services industry will require focus, support and creativity by all parties involved including platform providers, application and content providers, telecom operators, regional organisations and administrations.

Likewise, the development of this market is going to depend on the creation of a relationship model that is based on risk and income sharing where all players on the market make the necessary investments in order to achieve a service and content business based on broadband.

Therefore, insofar as content conceived in the broad sense is configured as the fundamental link in the new value chain, we should also avoid the appearance of *new sectoral strangulation* involving content. This is not only due to the lack of suitable content, but also due to inappropriate social and economic management.

In other words, from a regulatory perspective, reference frameworks should be set up which:

Facilitate the creation of regional content adapted to the socio-economic reality of the regions.

Do not contaminate its economic aspects with intrusive rules originating from traditional sectoral regulation.

Guarantee fair, transparent access without discrimination from any platform.

Monitor the distortion of the joint market for multimedia services due to the appearance of anti-competitive practices supported in the monitoring of content.

IV. Surmounting the concept of Universal Service

The concept of Universal Service has been pervaded with the idea of “correcting deficiencies in the market” on one hand and has been more or less explicitly associated with fixed-line telephone services on the other. In other words, coming with individual physical lines in those geographic areas, social sectors and/or specific groups, which due to their individual features, cannot be served under normal market conditions.

This formula has worked in more developed economies and in those places where – due to the high penetration levels achieved – the social groups or territories that cannot be served by the market mechanisms are, in fact, small. However, given the socio-economic reality of other regions, due to the low income levels per capita that they exhibit, under the models of recent decades, it has been very difficult to extend traditional services beyond a penetration rate of around 25%. Thus, the social groups and territories that are not cost-effective in terms of markets cannot be covered with Universal Service mechanisms that are being implemented in more developed countries.

Thus, in these countries, it involves creating new conditions for providing services that should be based on some fundamental premises:

- *The political responsibility and leadership in providing service to these areas and groups should lie with the governments.*
- *Operators that are required to provide Universal Service must be made aware of these needs, basically by developing innovative and creative ways of helping to satisfy his provision of service. There are already examples in Latin America where the development of products, which are quite geared to the characteristics of the population with fewer resources, gradually allow these citizens and regions to be integrated into the info-communication world. However, experience in developing these cases involving genuine innovation in services seems to show that those operators that are striving to innovate must be granted flexibility so that they may create and configure their services.*
- *In many cases, the new services also require extensive social innovation: community centres, shared service centres for SMEs, etc. which mean a new method of relationships and sharing of resources.*

Developing these new methods of communication requires **the consensus and the co-operation of the sectoral players** and a **regulatory framework** that can guide this process of technical and social innovation.

B. Proposed principals for a regulatory framework capable of stimulating investment

Based on and as a result of the previous considerations, the **Private Sector** is proposing a series of **Principles** on which, in its opinion, these regulatory frameworks should be established so that they are sustainable over time and are adapted to the reality of the situation. These involve:

Competition

□ ***Regulation of Defence of Competition***

Traditional sectoral regulation should make way so that the sector is governed by the rules in defence of competition. In other words, relax regulations *a priori* (**or ex ante**) wherever they seek to impose competition conditions in advance, and head towards the monitoring and penalising of anti-competitive practices, any abuses involving dominant position, distortions of free competition, etc.

□ ***Model of Competition between platforms based on technological neutrality***

The evolution that has occurred in technology and markets has created a situation where telecommunication services involving IS are being offered from numerous platforms with an increasing capacity to integrate multimedia services (voice, data, and video). The platforms that are being configured involve:

- *Fixed-line networks*
- *Mobile networks*
- *Cable networks*
- *Satellites*
- *High capacity wireless access*

All of them will compete with one another, in all services or by families of services. Thus, all must be able to enjoy fair regulatory treatment so that no arbitration or discrimination occurs between players. And the regulatory treatment that should be applied – within the essential particularities of each business – should be none other than that of regulating competition.

□ ***Models of competition designed to promote investment***

Give priority to legislation that acts as an incentive and which reasonably rewards investment, so as not to discourage or restrict the investment process. Abandon the models of competition exclusively focused on reducing wholesale and retail prices to the point of compromising the sustainability of the sector which, in short, have helped to strangle the process of expanding and modernising networks and services.

□ ***Restrict (if it exists) the regulation of prices to only basic services***

And, whenever cost orientation is required, based on models of objective costs, in order to avoid subsidies between players, so that, over time, a reasonable return on investments can be achieved.

Legal stability

□ ***Legal Security***

Aside from being an important issue, any investment process required to provide funds for the infrastructures, networks and services necessary for IS is also a long-term matter. Therefore, rules of the game are required which are clear and predictable, so that private capital can assess and face the risk of each decision.

Convergence

□ ***A more horizontal regulation that deals with the various areas of convergence***

Ability to adapt the regulatory frameworks as well as the bodies in charge of the same, to the convergence of sectors which, up until now, have been managed by different institutional spheres and based on different criteria.

Content

□ ***Non-intrusive regulation independent from traditional regulation***

Prevent new sectoral strangulation from appearing.

□ ***Ex post monitoring of anti-competitive practices based on content monitoring***

- Monitoring abuse of dominant position based on content monitoring.
- Guarantee fair and transparent access, without discrimination, from any platform

□ ***Intellectual property***

- Efficient procedures for protecting intellectual property based on principles that benefit all parties involved.
- Adapt rules and copyright management bodies to the Internet.

Universality

□ ***Regulatory innovation for the development of products and services capable of including the most vulnerable sectors of society***

In order for the building of the Information Society to integrate all citizens in a positive and creative way. Otherwise, the new social class that is emerging will be blocked by a new type of social tensions (the 'info poor') which, in turn, will reinforce the pre-existing social imbalances.