Conference or Workshop Item

Title: Protocol 26 and the promotion of user rights

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Protocol 26 and the Promotion of User Rights

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Protocol 26 and the Promotion of User Rights

Who’s a user?

Promotion of User Rights
  Judicial interpretation / Treaty revisions and secondary legislation

Protocol 26 & Article 14 TFEU
  Focus and objectives

User Rights and the other Values in Protocol 26
  The content of user rights / Universal and public service obligations / User access to data

Rights and Realities
  Enforcing rights and the complaints process
User Rights and the Values of Protocol 26

Who’s a User?

— Telecoms – end-user; consumer; customer; subscriber
— Post – user; consumer; customer; citizen; sender; addressee
— Energy – user (end; storage; facility; system; network); consumer (citizen; business); customer
— Transport – user; passenger; traveller; public; general public
Promotion of User Rights

*Judicial interpretation*

*Case 120/78 Cassis* - mutual recognition - the defense of the consumer and consumer choice

*Case C-362/88 GB-INNO-BM* – information and market access

*Case C-320/91 Corbeau* – public service obligation - *on behalf of all users*

Case C-402/07 Sturgeon – right to compensation
Promotion of User Rights

Policy and legislative development

• Preliminary Programme (1975) OJ C 92/2
• SEA 1986 – ‘a high level of protection’ in consumer policy
• The legislative development of the consumer *acquis*
• COM(2000) 580 final – Services of General Interest
Promotion of User Rights

Policy and legislative development

• COM(2000) 580 final – Services of General Interest - Principles

  • clarity of obligations
  • good quality service provision
  • high levels of public health and physical safety
  • full transparency
  • choice of service and where appropriate supplier
  • regulatory bodies independent of operators
  • redress in the form of complaint handling and dispute settlement mechanisms
Protocol 26 & Art. 14 TFEU

Focus and objectives

– Services of General Economic Interest (SGEI)
– promoting social and territorial cohesion
– basis of principles and conditions
– providing, commissioning and organising SGEI
– diversity between various SGEI
– differences in the needs and preferences of users
– as closely as possible to the needs of the users
– a high level of quality, safety and affordability, equal treatment and the promotion of universal access and of user rights.
## User Rights and the Values of Protocol 26

### The Content of User Rights

<table>
<thead>
<tr>
<th>Values</th>
<th>Operational Objectives</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quality</td>
<td>Quality of Service (quality)</td>
</tr>
<tr>
<td>Safety</td>
<td>Market information (choice)</td>
</tr>
<tr>
<td>Affordability</td>
<td>Transparency (services and costs)</td>
</tr>
<tr>
<td>Equal treatment</td>
<td>Affordability (universal access)</td>
</tr>
<tr>
<td>Universal access</td>
<td>Non-discrimination (equal treatment)</td>
</tr>
<tr>
<td></td>
<td>Continuity of service (safety of supply?)</td>
</tr>
</tbody>
</table>

### Details:

- **Quality**: Refers to the provision of services that meet certain standards or levels of performance.
- **Safety**: Ensures that services are provided in a way that minimizes risks to users.
- **Affordability**: Relates to the cost of services and the economic burden on users.
- **Equal treatment**: Ensures that all users are treated equally, regardless of their circumstances.
- **Universal access**: Aims to ensure that all users have access to the services provided, without discrimination.

These values and operational objectives are crucial in establishing public services that are high-quality, safe, and accessible to all users.
User Rights and the Values of Protocol 26

Information and essential conditions – Obligations

- National independent regulatory authorities
- Contract – specifying the service to be offered
- Performance monitoring – QoS measures
- Consumer (User) consultation and contact
- Transparent complaint handling processes
- Operating transparency
- Choice and competition
- Personal data privacy
- Independent complaint and ADR bodies
- Social welfare
User Rights and the Values of Protocol 26

**access to data**

- Art. 8 - Charter of Fundamental Rights - the right to protection of personal data & and of access to data
- Directive 95/46/EC – protection and free movement of personal data
- Data protection rules are divergent and inconsistent
- Proposals for change
  - COM (2012) 9 final (framework)
  - COM (2012) 10 final (directive)
  - COM (2012) 11 final (regulation)
User Rights and the Values of Protocol 26

access to data

- Proposals for change - Rights of the data subject

- COM (2012) 10 final (proposed directive)

- Article 11 - Information to the data subject
- Article 12 - Right of access for the data subject
- Article 13 - Limitations to the right of access
- Article 15 - Right to rectification
- Article 16 - Right to erasure
Rights and Realities

Enforcing rights and the complaints process

- 750 + diverse ADR schemes
- Energy sector - a lack of awareness and a lack of respect of core principles
- User engagement/or the lack of it – EB 342 consumer empowerment
  - the value of the detriment
  - too much effort, too expensive or takes too long
  - ADR threshold values
  - Complaining redress and vulnerable consumers