

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93) 382 final

Brussels, 10 September 1993

Proposal for a

COUNCIL DECISION

**ON THE**

**IMPLEMENTATION BY THE MEMBER STATES OF MEASURES  
CONCERNING RADIO FREQUENCIES**

(presented by the Commission)

**A NEW APPROACH TO THE  
CO-ORDINATION OF RADIO-FREQUENCIES  
IN THE COMMUNITY**

**COMMUNICATION FROM THE COMMISSION**

**CONCERNING**

**PROPOSAL FOR A COUNCIL DECISION ON THE IMPLEMENTATION BY THE  
MEMBER STATES OF MEASURES CONCERNING RADIOFREQUENCIES**

**TABLE OF CONTENT**

<b>SUMMARY.....</b>	<b>3</b>
<b>I INTRODUCTION.....</b>	<b>4</b>
<b>II ACTION TO DATE.....</b>	<b>4</b>
<b>III THE COUNCIL RESOLUTION OF 28 JUNE 1990 ON THE COOPERATION ON RADIO FREQUENCIES .....</b>	<b>7</b>
<b>IV THE REFORM OF COORDINATION ACTIVITIES IN THE CEPT'S EUROPEAN RADIOCOMMUNICATIONS COMMITTEE (ERC) AND THE SETTING UP OF THE EUROPEAN RADIOCOMMUNICATIONS OFFICE (ERO)...</b>	<b>8</b>
<b>V THE RELATIONSHIP OF THE COMMUNITY WITH ERC/ERO.....</b>	<b>10</b>
<b>VI THE PROPOSED FUTURE APPROACH.....</b>	<b>11</b>
a) Objectives of Community actions .....	12
b) Intensity of Community action and measures to be taken .....	13
c) The new approach.....	14
<b>VII CONCLUSIONS.....</b>	<b>16</b>
<b>ANNEX : PROPOSAL FOR A COUNCIL DECISION ON THE IMPLEMENTATION BY THE MEMBER STATES OF MEASURES CONCERNING RADIOFREQUENCIES</b>	

## COMMUNICATION

### SUMMARY

The availability and allocation of radio-frequencies is an essential element for the establishment of an internal market for radiocommunications equipment and radiocommunications based services.

In its Resolution of 28th June 1990, the Council considered the strengthening of European co-operation in the field of radio-frequencies as a major policy goal in this area.

To date the Council has adopted, in cooperation with the European Parliament, three Directives based on Article 100a concerning the designation of frequency bands for services with a pan-European dimension.

Subsequently and in response to the adoption of the Council Resolution, the members of the European Conference on Postal and Telecommunications Administration (CEPT), including the EC Member States have substantially strengthened co-ordination procedures within the European Radiocommunications Committee (ERC) and established the European Radiocommunications Office (ERO), called for in the Council Resolution, within the general framework of the European Conference of Postal and Telecommunications Administrations.

In its Communication of 27th October 1992, the Commission has declared itself willing to pay particular attention to the possibility in certain cases of achieving the objectives set out in the Treaty through international agreements rather than via an internal instrument, when action is already being taken at international level and proving just as effective as Community action.

In such cases, and without prejudice to the Community's external competences, the Community may decide to abstain from regulation on the basis of the internal market in favour of an international agreement either at the European (CEPT) or global (ITU) level.

In negotiating such an agreement, the Common Positions would be coordinated *a priori* and during the negotiations.

With regard to the internal coordination of frequencies, at its meeting of 19th November 1992, the Council adopted a Resolution inviting the Commission to "give full consideration in future to the mechanism of ERC Decisions as the primary method of ensuring the provision of the necessary frequencies for new Europe-wide radio services. Such decisions

would naturally provide an important input to the EC position in any international negotiations regarding the coordination of frequencies. In its Resolution (PE-83-1676/92 rev. of December 1992) the European Parliament requested to be fully informed of developments in this area.

This Communication is submitted in response to this request.

## I INTRODUCTION

Radio frequencies are scarce resources for which rational, efficient and economic use must be ensured. Recent technological developments have led to a rapidly growing demand for frequency allocation in the field of radiocommunications in the Community and in particular for mobile radiocommunications, satellite communications, and broadcasting and made the efficient use of frequencies even more important.

Radio waves do not stop at borders. In the European Community the availability and the allocation of frequencies is an essential element for the establishment of an internal market for radiocommunications equipment and the development of pan-European radiocommunications-based services. A coordinated frequency allocation within the Community is therefore necessary to reap the full benefits of a Single Market for radiocommunications equipment and services.

The Community has undertaken substantial action to date in the most critical market segments. At the same time the members of the European Conference of Postal and Telecommunications Administrations (CEPT) have strengthened and extended co-ordination of frequencies within its framework which has in the past been a the focus of co-operation on radio-frequencies in Europe. The CEPT now comprises the Member States of the Community, the EFTA countries, and most countries of Central and Eastern Europe<sup>1</sup>.

This is set out in some detail below.

---

<sup>1</sup> The CEPT members are : Albania, Austria, Belgium, Bulgaria, Croatia, Cyprus, ex-Czech and Slovak Republik, Denmark, Germany, Finland, France, Greece, Hungary, Ireland, Iceland, Italy, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, United Kingdom and Vatican.(state on 1st February 1993)

## II ACTION TO DATE

With the emergence of a Community telecommunications policy and the development of new radiocommunications based equipment and services, the European Community has attached growing importance to the coordinated allocation of frequency bands for an efficient frequency use and the development of telecommunications markets. A number of measures have been taken in the area since 1987 at Community level.

The following steps should be noted :

- On the 25th June 1987 the Council adopted a Directive (based on Article 100a) "on the frequency bands to be reserved for the coordinated introduction of public pan-European cellular digital land-based mobile communications in the Community"<sup>2</sup> (the so-called GSM system). This Directive was introduced alongside a Council Recommendation "on the coordinated introduction of public pan-European cellular digital land-based mobile communications in the Community"<sup>3</sup> and provided for the reservation in the Member States of certain frequency bands for the GSM service.
- The Council Directive of 9 October 1990 on the frequency bands designated for the coordinated introduction of pan-European land-based public radio paging in the Community<sup>4</sup> (based on Art 100a) provided for the designation by the Member States of certain channels within a defined waveband for the pan-European land-based public radio paging service (ERMES) in order to facilitate the coordinated introduction of this service in the Community as proposed in a Council Recommendation of the same date<sup>5</sup>.
- In a "Council Directive of 3 June 1991 on the frequency band to be designated for the coordinated introduction of digital European cordless telecommunications (DECT) into the Community"<sup>6</sup> (based on Article 100a) Member States are required to designate a specific frequency band for the DECT service whose introduction was at the same time coordinated in a Council Recommendation.<sup>7</sup>
- In a proposal for a Council Directive on the frequency bands to be designated for Digital Short Range Radio<sup>8</sup> of 12 June 1991 the Commission proposed to designate

---

<sup>2</sup> O.J. No L 196, 17.7.87, p. 85

<sup>3</sup> O.J. No L 196, 17.7.87, p. 81

<sup>4</sup> O.J. No L 310, 9.11.90, p. 28

<sup>5</sup> Council Recommendation of 9 October 1990 on the coordinated introduction of pan-European land-based public radio paging in the Community, O.J. No L 310, 9.11.90, p. 23

<sup>6</sup> O.J. No L 144, 8.6.91, p. 45

<sup>7</sup> Council Recommendation of 3 June 1991 on the coordinated introduction of digital European cordless telecommunications (DECT) into the Community, O.J. No L 144, 8.6.91, p. 47

certain frequency bands for DSRR systems.

- On 22 July 1992 the Commission adopted a "Proposal for a Council Directive on common frequency bands to be designated for the coordinated introduction of the Terrestrial Flight Telecommunications System (TFTS) in the Community"<sup>8</sup>. This proposal aimed at making available the necessary frequency bands as a prerequisite to the coordinated introduction of a terrestrial flight telephone system which is considered as an essential element for the improved efficiency and effectiveness of the trans-European telecommunications network.
- With a view to the full use of the results of the Community research and development programme DRIVE (Dedicated Road Infrastructure for Vehicle Safety in Europe) the Commission submitted on 1st July 1992 a "Proposal for a Council Directive on the frequency bands to be designated for the coordinated introduction of Road Transport Telematic Systems in the Community, including Road Information and Route Guidance Systems"<sup>10</sup>. The proposed Directive designated certain frequency bands for systems requiring data communication between road vehicles and between vehicles and the road infrastructure for various information-based travel and transport applications. It was thus to contribute to the development of more efficient trans-European road transportation.

In all cases, the Directives or proposals for Directives were based on - or referred to - recommendations for frequencies for the system concerned worked out and adopted by the European Radiocommunications Committee (ERC) of the CEPT. The Council Directives adopted in the field of the pan-European digital mobile system (GSM), Digital European Cordless Telecommunications (DECT) and the pan European paging system ERMES, have turned out to be the solid base for trans-European implementation and/or the creation of Europe-wide markets.

In Spring 1992, the Community represented by the Commission participated for the first time at the World Administrative Radiocommunications Conference (WARC'92) held in the framework of the International Telecommunications Union (ITU) in Torremolinos, Spain. The Community's participation was based on a Communication from the Commission to the Council and the procedures decided by the Council in response to that Communication for Community participation and necessary co-ordination between Member States. European co-ordination was based on a set of European common positions worked out - in the framework of the CEPT - by an ad-hoc group of the ERC for the preparation of this Conference. The participation of the Community at the

---

<sup>8</sup> COM(92) 215 final, OJ N° C 189, 10.7.91, p. 14.

<sup>9</sup> COM(92) 314 final, O.J. No C 222, 29.08.92, p. 10

<sup>10</sup> COM(92) 341 final, O.J. No C 221, 28.8.92, p. 2

Conference helped ensure that overall satisfactory results from a Community telecommunications policy stand point were obtained.

### **III THE COUNCIL RESOLUTION OF 28 JUNE 1990 ON THE COOPERATION ON RADIO-FREQUENCIES**

The major objectives and principles guiding the Community's policy in the field of radio-frequencies were adopted by the Council in its Resolution of 28 June 1990 "on the strengthening of the Europe-wide cooperation on radio frequencies, in particular with regard to services with a pan-European dimension"<sup>11</sup>.

The following major goals were defined in the Resolution:

- strengthening European cooperation in the field of radio frequency coordination with the objective of providing for a sufficient frequency spectrum for new services, according to the needs of the European market and taking account of the requirements of existing services and of different categories of users;
- working in particular towards the timely allocation of sufficient frequency resources to mobile and satellite applications while taking due account of the demands on the spectrum of other users;
- promoting the most efficient use of the frequency spectrum by taking timely account of service and user requirements against the background of industrial developments and the development of standards;
- developing common European positions in relation to the use of the frequency spectrum concerning international frequency harmonization, in particular with regard to the ITU and its relevant administrative radio conferences, using mechanisms set up by CEPT;

---

<sup>11</sup> Council Resolution of 28th June 1990 on the strengthening of the European-wide cooperation on radio frequencies, in particular with regard to services with a pan-European dimension (90/C 166/02 ; OJ C 166, p. 4, 07.07.90)



- in order to facilitate the achievement of these objectives, encouraging the further development of the framework of cooperation between frequency experts from national authorities responsible for frequency management, telecommunications organisations and other service providers, industry and users developing the existing coordination mechanisms set up by the CEPT.

In addition, the Council expressed its support for the reform of radio frequency planning and coordination mechanisms undertaken in the framework of the CEPT and in particular the decision to create a European Radiocommunications Office (ERO). It invited the Commission, the Member States and the CEPT to support the further development of the new framework set up by the CEPT, including the setting up of the European Radiocommunications Office "on the basis of an appropriate statute making available all the resources necessary to ensure the efficiency of its operation and the rapidity of its response to demands, in the light of the obligations of the Member States under Community law, in particular the competition rules" and the general policy goals defined in the Council Resolution.

#### **IV THE REFORM OF COORDINATION ACTIVITIES IN THE CEPT'S EUROPEAN RADIOCOMMUNICATIONS COMMITTEE (ERC) AND THE SETTING UP OF THE EUROPEAN RADIOCOMMUNICATIONS OFFICE (ERO).**

In response to the Council Resolution, the European Radiocommunications Committee (ERC) has undertaken substantial reform of its activities in the framework of the CEPT. Its purpose is to co-ordinate frequency, regulatory, and technical matters concerning radiocommunications between all members of the CEPT, to liaise with relevant entities within CEPT dealing with regulatory telecommunications matters other than radio and to develop guide lines in respect of radiocommunications matters in the framework of the ITU and in particular the International Radiocommunications Consultative Committee (IRCC).

The reform of the ERC activities forms part of a general restructuring of CEPT subsequent to the adoption of the Green Paper on the development of the common market for telecommunications services and equipment in 1987 and the reforms resulting from it in the Member States. Following the general trend of separation of regulatory and operational functions in the post and telecommunications areas, CEPT is now an organisation of national authorities and bodies responsible for policy and regulatory matters.

The new structure of CEPT comprises a Plenary Assembly and three committees, one of them the European Radiocommunications Committee<sup>12</sup>.

In accordance with the Council Resolution of 28 June 1990 the ERC started preparing the establishment of a European Radiocommunications Office (ERO) in the field of radiocommunications. A Memorandum of Understanding on the creation of the ERO was opened for signature by CEPT members in September 1990 and signed by all Community Member States. The MoU will now be replaced by a Convention for the Establishment of the ERO. The ERO officially started operations in Copenhagen in May 1991. The ERO statutes are now being finalised and are expected to be adopted soon.

Since starting operations, the ERO has developed a substantial range of activities and greatly contributed to work in the framework of the ERC. The ERO has started to establish effective consultation procedures and to organise major conferences on European radiocommunications planning. This will ensure that the opinions from service providers, industry, users and standards bodies in researching the frequencies best suited for future applications are fully taken into account.

ERO has initiated, inter alia, a series of "Detailed Spectrum Investigation (DSI)" which are to result in the establishment of a European table of frequency allocations. It has also provided technical support to the ERC with regard to the preparation of the European Common Positions for the WARC'92 Conference

At the same time, the ERC has continued to strengthen its own co-ordination procedures. The ERC agreed to introduce the concept of "more binding agreements", additional to the recommendations which it traditionally adopted. The new instrument will be called an "ERC Decision". These amended rules of procedures were adopted at an ERC meeting in Madrid in October 1992. According to these amended rules, a written procedure is introduced by which Members will commit themselves to implement the terms of an ERC Decision.

The intention is that ERC members write to the ERC Chairman within two months of a Decision being approved at an ERC meeting, stating that they commit themselves to implement its terms. The Decision is then published<sup>13</sup> by CEPT together with a list of those ERC members who have committed themselves to implementation.

---

<sup>12</sup> The other committees are the European Committee for Telecommunications Regulatory Affairs (ECTRA) and the European Committee for Postal Regulations (CERP).

<sup>13</sup> in ERO's newsletter and is also available at the CEPT liaison office.

The purpose of these ERC Decisions is, inter alia, to achieve significant harmonisation of radiofrequency bands for new pan-European systems. An ERC Decision will be drafted in the appropriate Working Group and agreed at ERC level by a simple majority vote. Although CEPT Members will not be bound by these Decisions, they are asked to commit themselves to implement its terms, according to the procedure set out above.

At the ERC meeting in Madrid, the first two ERC Decisions were adopted concerning the frequency bands to be designated for the Terrestrial Flight Telecommunications System (TFTS) and for transport telematic systems. The content of the Decisions corresponds to the designated bands provided in the above mentioned proposals for Council Directives for these systems submitted by the Commission.

At its meeting of 19th November 1992, the Council adopted a Resolution inviting the Member States to commit themselves to implementing the above mentioned ERC Decisions<sup>14</sup>.

## V THE RELATIONSHIP OF THE COMMUNITY WITH ERC/ERO

Major steps have been taken to formalise the relationship between the ERC/ERO and the Community. The ERC Rules of Procedure adopted in October provide that the Commission has the status of Counsellor at ERC. It may participate in meetings of the ERC and its working groups, with the right to speak, and may propose experts to participate in project teams, unless ERC decides otherwise.

In order to create a stable long-term relationship between the Community and the ERC for the purpose of making available to the Community the necessary and appropriate technical expertise in the radio frequencies area, a Memorandum of Understanding (MOU) is to be signed by the Commission, on behalf of the Community and ERC/ERO.

Once in place the MOU will clearly define the cooperation procedures. The Community and the ERC/ERO will agree, on a yearly basis, on a common technical work programme with both parties ensuring that sufficient resources are made available to identify radio frequencies for the implementation and operation of Community wide trans-European systems and services. The ERC/ERO will provide the necessary and appropriate technical expertise and the Commission will be able to call upon the ERO for technical preparatory work in specific areas. These requirements will take the form of "Work Requirements".

---

<sup>14</sup> 92/C318/01, OJ C318, 4.12.92

The rules applicable to the work carried out for the Community by the ERO are to be laid down in a Framework Agreement with the ERO currently under discussion, which governs the legal, administrative and financial conditions applicable to all the technical work which the Commission plans to delegate to the ERO. Where the Commission identifies an area of particular relevance for the Community, it will give a Work Requirement to the ERO. Funding for this work is to be provided by the Community.

## **VI THE PROPOSED FUTURE APPROACH**

In the European Community the availability and the allocation of frequencies is an essential element for the establishment of an internal market for radiocommunications equipment and the development of pan-European and radiocommunications-based services. A coordinated frequency allocation within the Community is therefore necessary to reap the full benefits of a Single Market for radiocommunications equipment and services.

Given the fact that substantially strengthened co-ordination mechanisms have now been developed in the European context by the European Radiocommunications Committee and the European Radiocommunications Office, a review of the Community's approach to radio-frequency co-ordination seems appropriate.

### **a) Objectives of Community actions**

The principles governing Community action and Commission proposals in the field of radio-frequencies are linked to the achievement of the following objectives :

- Objective 1. to secure required radiocommunications frequencies for the implementation and operation, as far as possible in competition, of Community-wide trans-European systems and services to foster the creation of an Internal Market for radiocommunications equipment and services;
- Objective 2. to achieve Community-wide markets in order to allow economies of scale for the introduction of new equipment, in particular equipment produced according to European standards worked out by the European standardisation system ;
- Objective 3. to ensure common Community and wider European positions at the World Administrative Radiocommunications Conferences, in order to safeguard the Community's interest in the international arena.

In order to pursue these objectives the following actions have been taken so far;

**Objective 1.** has been a determining consideration for Community action in the field of pan-European cellular digital mobile communications (the GSM system), Digital European Cordless Telecommunications (DECT), and the pan-European paging system (ERMES) and the proposals made for the Terrestrial Flight Telecommunications Systems (TFTS) and road transport telematic systems. This objective is basic to ensuring the trans-European radiocommunications based infrastructure and services which meet the needs of European citizens.

**Objective 2.** has been an important additional factor for the actions and proposals mentioned above, as well as for the proposal for Digital Short Range Radio (DSRR). This objective will be essential in many cases if the Community wants to make full use of the work undertaken in the European Telecommunications Standards Institute (ETSI) where industry, telecommunications organisations, and users cooperate, and by the Committee for European Standardisation and the Committee for European Electro-Technical Standardisation (CEN-CENELEC)

**Objective 3.** is a direct consequence of the Council Resolution of 28th June 1990 calling for the development of common European positions, in particular with regard to the ITU and its relevant administrative radioconferences and has been confirmed by the Council with regard to Community participation at WARC'92 as set out above.

The objectives of Community action have focused on the resolution of cross border problems, the creation of critical mass and scale effects. In all cases, the consequences for the Community inaction would have been serious for the Community's citizens, the economy and industry.

The Commission therefore considers that the objectives of Community action applied in this field to date to determine key areas of Community interest should be maintained.

**b) Intensity of Community action and measures to be taken**

1. Future Community action in this field will be limited to that which is necessary to ensure the above Community objectives.
2. Once the necessity for action has been determined, applying the principle of proportionality will lead to a selective approach to regulatory solutions taking into account that support measures could be preferred to systematic harmonisation.

In the future, there will be two stages :

- in the areas selected according to the criteria in b1 above, the Community will take advantage of the new framework created by the ERC/ERO and the MOU and Framework Agreement, in particular through the issuing of Work Requirements financed or co-financed by the Community ; this will aim at ensuring the identification of radiocommunications frequencies for the implementation and operation of Community-wide trans-European systems and services.
- in cases, where a binding legal instrument is considered necessary in fields of particular Community interest to ensure that the required radiocommunications frequencies for the implementation and operation of Community-wide trans-European systems and services will be secured, consideration will be given in the first instance to the national implementation of ERC Decisions where this might render the adoption of a binding Community instrument unnecessary.

**c) The new approach**

Within the new framework set by the reform of the European Radiocommunications Committee and the creation of the European Radiocommunications Office and the close co-operation which has developed with these bodies, and given the considerations set forth above, the new proposed approach would then be as follows :

1. the Commission will identify , according to the criteria set out under b1) above, if Community action is required in particular areas of radio-frequencies ;
2. The Council shall, on a proposal from the Commission, adopt an annual work programme including ;
  - 2.1. guidelines relating to the position to be taken by the Member states in the framework of ERC and ERO with regard to the allocation of radio-frequencies,
  - 2.2. the areas where it may be appropriate to give Work Requirements to the ERO to carry out the necessary technical work aiming at identifying appropriate frequency ranges.
3. if binding measures are needed Community legislation would not be proposed in a given area if:
  - 3.1 the measures proposed by the technical bodies are in conformity with Community interests,
  - 3.2 all Member States implement the measures,
  - 3.3 all measures are implemented within a reasonable time scale,
  - 3.4 all measures are transposed into national law as follows,
    - 3.4.1 all measures are implemented in conformity with the requirements set out for the appropriate transposition of Community Directives in national law ,
    - 3.4.2 Member States transmit to the Commission within a reasonable period the text of the laws, regulations and administrative provisions necessary to comply with each ERC Decision,
    - 3.4.3 the Commission will publish in the Official Journal references to the implementing texts, in order to achieve adequate transparency.
  - 3.5 If any of the above conditions is not met, the Commission will propose a Community instrument for adoption.

The implementation of the above approach presupposes that agreement be first reached on the final text of the Memorandum of Understanding with the ERC and the related framework agreement with the ERO and a formal cooperation between the Community and these bodies is put in place on this basis.

It would also require the Council adopt a Decision authorising the Commission to take the appropriate initiatives and requesting Member States to take the necessary steps to ensure future Community participation at international conferences and relevant international organisations and to ensure the fulfilment of the conditions set out in point 3 above. To this end a draft Council Decision is attached to the present communication.

This provides that, without prejudice to the Community's external competence, the Community may decide to abstain from regulation on the basis of the internal market in favour of an international agreement either at the European (CEPT) or global (ITU) level, but that this case when negotiating such an agreement, the Community Common Position would be coordinated *a priori* and during the negotiations.

Pending the implementation of this approach and in response to the Council Resolution of 19th November inviting the Member States to "commit themselves to implementing the ERC Decisions on frequency bands to be designated for the co-ordinated introduction of TFTS and RTT systems, according to the procedure adopted by the ERC", the Commission has withdrawn the two proposals for Council Directives in this field. The Commission is considering withdrawing the proposal concerning frequency bands for Digital Short Range Radio (DSRR), given that the European Radiocommunications Committee has adopted an ERC Decision also in this field. At the Council of 19th November the Commission announced that in the event that national binding measures were not implemented by the Member States, the Commission reserved the right to propose Community legislative measures.

The Commission further intends to review the operation of this approach by the end of 1994 by a report to the Council and the European Parliament.

## VII CONCLUSIONS

The allocation of radiofrequencies is a vital component for the development of new radiocommunications based services in the Community, in particular in the fields of mobile communications, satellite communications and broadcasting. This is a necessary condition to reap the full benefits of a Single Market for radiocommunications equipment and services.

At the same time, full use should be made of the new coordination mechanisms established in the CEPT.

In the light of the above, the Commission proposes that the Council adopts the attached decision.



Proposal for a Council Decision of ...  
on the implementation by the Member States of measures  
concerning radio frequencies

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the proposal by the Commission,

Having regard to the opinion of the European Parliament,

Whereas on 28 June 1990 the Council adopted a Resolution on the strengthening of the Europe-wide cooperation on radio frequencies, in particular with regard to services with a pan-European dimension;<sup>1</sup>

Whereas on 19 November 1992 the Council adopted a Resolution on the implementation in the Community of the European Radiocommunications Committee Decisions;<sup>2</sup>

Whereas the Commission has submitted to the Council a communication relating to a new approach to be adopted by the Community and its Member States in the field of radio frequencies;

Whereas this communication is based on the concept that, in this area, the adoption of Community legislation is not dictated by Community interests, in so far as the measures taken by the competent international organizations meet the needs of the Community and its Member States;

Whereas the Community needs to be able to take part in the activities of all the international organizations and conferences working in the field of radiocommunications; whereas, therefore, the Member States are urged to support the Community's request that it be accorded an appropriate status within these organizations and conferences;

Whereas, however, the Commission has, in particular, established the necessary working relations with the European Radiocommunications Committee and the European Radiocommunications Office; whereas the Community has the status of adviser within the Committee; whereas, to the extent that its Member States pursue common measures within this framework, the Community is in a position to take decisions on the coordinated and consistent implementation by the Member States of the measures adopted;

Whereas the European Radiocommunications Committee should ensure that the opinions from service providers, industry, users and standards bodies in researching the frequencies best suited for future applications are fully taken into account;

Whereas the European Standards Bodies may need the ERC to specify the Requirements related to the effective use of the radio frequency spectrum as defined in Article 4e) of Directive 91/263/EEC<sup>3</sup>

1 90/C/166/02; OJ C 166/4, 7.7.1990  
2 92/C/318/01; OJ C 318/1, 4.12.1992  
3 OJ NO. L128, 23.05.1991, p.1

Whereas, with a view to ensuring that the Member States pursue common measures within this framework, The Council will draw up each year, acting on a proposal from the Commission, guidelines for the priority sectors corresponding to the needs of the Community and its Member States;

Whereas in the framework of cooperation between the Commission, on the one hand, and the European Radiocommunications Committee and the European Radiocommunications Office, on the other, the Commission will allocate specific tasks to the European Radiocommunications Office so as to enable it to carry out the technical work needed to identify the appropriate frequency bands in these sectors;

Whereas, if the measures adopted by the European Radiocommunications Committee and the European Radiocommunications Office are consistent with the Community's interests, there is no need therefore, for separate Community legislation containing similar provisions, provided that steps are taken to ensure that the Member States bring into force, in a uniform manner, the measures thus adopted within the periods specified;

Whereas a review should be carried out, after an experimental period, of the functioning of the procedure laid down under this Decision and of the results obtained both as regards relations with the relevant organizations and the manner of implementation by the Member States,

HAS DECIDED AS FOLLOWS:

#### Article 1

The Commission shall have authority to take appropriate initiatives to secure involvement of the Community, commensurate with its competences and responsibilities, in the international organizations and conferences dealing with the field of radiocommunications. The Member States shall support such initiatives.

#### Article 2

1. The Council, acting by a qualified majority on a proposal from the Commission, shall draw up, in the framework of an annual programme of work, guidelines on the positions to be adopted by the Member States in the framework of the European Radiocommunications Committee and the European Radiocommunications Office regarding the allocation of radio frequencies.

2. Under the annual programme of work, the Commission may call on the European Radiocommunications Committee and the European Radiocommunications Office to undertake certain technical tasks within specified periods. These technical tasks correspond to the identification and allocation of appropriate frequency bands as required by the Community for the development of Pan European services and the free movement of telecommunications terminal equipment.
3. If the measures adopted within these organizations correspond to the guidelines drawn up in accordance with the procedure described in paragraph 1, the necessary adjustments to be made by the Member States to their legislation shall be defined in accordance with the procedure laid down in Article 3(2). They shall include a specified deadline for the implementation of these measures on their territory.
4. On completion of the implementing procedures, Member States shall notify the Commission of the measures which they have adopted at national level. The Commission shall then publish these measures in the Official Journal of the European Communities with a reference to this Decision.

#### Article 3

1. The Commission shall be assisted by the Community Telecommunications Committee, made up of representatives of the national regulatory authorities of the Member States and chaired by a representative of the Commission.
2. The Commission representative shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on this draft within a period to be stipulated by the Chairman in accordance with the urgency of the point at issue and, where necessary, by taking a vote.

The opinion shall be entered in the minutes; furthermore, each Member State shall be entitled to request that its position be included in these minutes.

The Commission shall pay the utmost attention to the opinion delivered by the Committee and shall inform the latter of the manner in which it has done so.

Article 4

The Commission shall submit to the European Parliament and to the Council, not later than 31 December 1994, a report on the application of this Decision.

Done at Brussels, .....

For the Council,

## FINANCIAL OUTLINE

### I. FINANCIAL IMPLICATIONS

#### 1. Title of Action

*COUNCIL DECISION ON THE IMPLEMENTATION BY THE MEMBER STATES OF MEASURES CONCERNING RADIO FREQUENCIES*

#### 2. Budget Line

A 2510: Expenditure on meetings of Committees whose consultation is compulsory in the procedure for drafting Community legislation (group 3).

A 1178: Technical administrative assistance in support of different activities

Titles A1 and A2: Staff and operating expenditure

B5-4011: Standardisation

#### 3. Legal Basis

- Treaty of Rome.
- Council Resolution on the implementation in the Community of the European Radiocommunications Committee' Decisions, 92/C318/01; OJ C 318/1, 4.12.92.
- Communication of 27 October 1992 on subsidiarity, SEC (92) 1990final, 27.10.92.
- Council Resolution on the strengthening of the Europe-wide cooperation on radio-frequencies, 90/C166/02; OJ C 166/4, 07.07.90.

#### 4. Description

##### 4.1 Specific Objectives of the Action.

On the 19 November 1992 the Council adopted a Resolution on the implementation in the Community of the European Radiocommunications Committee' Decisions, inviting the Commission "to give full consideration in future to the mechanism of ERC decisions as the primary method of ensuring the provision of the necessary frequencies for new Europe-wide radio services".

On its Communication of 27 October 1992 on subsidiarity the Commission has declared itself willing to pay particular attention to the possibility in certain cases of achieving the objectives set out in the Treaty through international agreements rather than via an internal instrument, when action is already being taken at international level and proving just as effective as Community action.

In the spirit of the Council Resolution of the 28 June 1990 on the strengthening of the Europe-wide cooperation on radio-frequencies, in particular with regard to services with a pan-European dimension the members of the European Conference of Postal and Telecommunications Administrations (CEPT) have strengthened and extended coordination of frequencies within its framework which has been traditionally the focus of cooperation on radio frequencies in Europe.

In this context and applying the subsidiarity principle to radio frequencies coordination a review of the Community's approach seems appropriate.

The aim of the Decision is to establish an appropriate legal framework for this new approach.

The action has a strong impact on the development of mobile communications services in the Community and the rest of Europe and its justification lies in the necessity of establishing a Community-wide regime for services which are inherently international in nature. In addition, the action aims at supporting the European industry in their endeavours to take part in the manufacturing of mobile equipment and the provision of services. An appropriate Community approach and support will thereby establish a broad base for mobile services and equipments markets in the Community.

#### 4.2 Duration.

The proposed action is an annual action.

#### 4.3 Population aimed at by the Action.

The Decision directly concerns the mobile service and equipment industry in the field of mobile communications, which is expected to be a Community-wide mass market by the end of the decade.

#### 5. Classifications

- Non-obligatory expenditure
- Dissociated credits

#### 6. Nature of Spending

The Community's financial contribution shall, depending on the nature of the work, not amount to more than 50% to 100% of the resources invested. It will be needed for the establishment of coordinated frequencies allocations, through subventions given to ERC/ERO for the designation of these frequencies ranges.

#### 7. Financial implication for intervention credits

The proposal implies to give mandates to ERC/ERO for the designation of appropriated frequencies ranges. For this purpose an annual amount of about 200.000 ECU covered by line B5-4011 is needed.

Indicative timetable:

1994	200.000 ECU
1995	200.000 ECU
1996	200.000 ECU
1997	200.000 ECU
1998	200.000 ECU

## 8. Anti-fraud provisions

The control of payments or of any services, preparatory, feasibility or evaluatory studies requested is carried out by the Commission prior to payment taking into account any contractual obligations, economic principles and good financial or other management practice. Anti-fraud provisions (supervision, reporting requirements etc.) will be included in all agreements and contracts made between the Commission and the recipients of any payments.

## II. ADMINISTRATIVE EXPENSES.

The Community contribution will be covered by appropriations entered on budget items A-1 and A-2. They will be required to cover a contribution to the work done by ERC/ERO in establishing harmonised conditions for the provision of Europe-wide services, professional assistance, as well as committee meetings. The specific requirements for these last two items can be estimated to be about 1 man-year of expert services annually and 1 additional meeting per year of a Committee with 24 members which is constituted in the framework of Council Directive 93/.../EEC [on the mutual recognition of licences and other national authorizations to operate telecommunications services, including the establishment of a Single Community Telecommunications Licence and the setting up of a Community Telecommunications Committee (CTC)].

1994/1995

The estimated annual costs of the whole action in 1994 will be of about 215.000 ECU. They are not expected to increase in the following years. Mandates for ERC/ERO will require an additional amount of about 200.000 ECU annually which will be covered by budget line A-1178. The staff required (1 official) will be provided by redeployment of already existing resources. The additional meeting will cost about 15.000 ECU per year. This amount will be covered by budget line A-2510.



### III. ELEMENTS OF COST-EFFICIENCY ANALYSIS

#### 1. Objectives and coherence with the financial programation.

- 1.1 In the spirit of the Council Resolution of the 28 June 1990 on the strengthening of the Europe-wide cooperation on radio-frequencies, in particular with regard to services with a pan-European dimension the members of the European Conference of Postal and Telecommunications Administrations (CEPT) have strengthened and extended coordination of frequencies within its framework which has been traditionally the focus of cooperation on radio frequencies in Europe.

In this context and applying the subsidiarity principle to radio frequencies coordination a review of the Community's approach seems appropriate.

The aim of the Decision is to establish an appropriate legal framework for this new approach.

- 1.2 The action is provided for in the financial programation of the DG.
- 1.3 The objective of the proposed Decision corresponds to the general objective of the "establishment of an internal market for telecommunications equipment and services", defined in the financial programation of the DG.

#### 2. Justification of the Action

The proposed Decision contains a measure necessary for the establishment of an internal market in mobile services sector.

On its Communication of 27 October 1992 on subsidiarity the Commission has declared itself willing to pay particular attention to the possibility in certain cases of achieving the objectives set out in the Treaty through international agreements rather than via an internal instrument, when action is already being taken at international level and proving just as effective as Community action.

In the spirit of the Council Resolution of the 28 June 1990 on the strengthening of the Europe-wide cooperation on radio-frequencies, in particular with regard to services with a pan-European dimension the members of the European

Conference of Postal and Telecommunications Administrations (CEPT) have strengthened and extended coordination of frequencies within its framework which has been traditionally the focus of cooperation on radio frequencies in Europe.

In the spirit of the Council Resolution of the 28 June 1990 on the strengthening of the Europe-wide cooperation on radio-frequencies, in particular with regard to services with a pan-European dimension the members of the European Conference of Postal and Telecommunications Administrations (CEPT) have strengthened and extended coordination of frequencies within its framework which has been traditionally the focus of cooperation on radio frequencies in Europe.

As a consequence and following the adoption of two ERC' Decisions on the frequency bands for the Terrestrial Flight Telecommunications System (TFTS) and the Road Transport Telematic Systems the Commission withdrew on the same date the two proposals for Council Directives on the same fields. It has however stated that in case national binding measures are not implemented by the Member States, the Commission reserves the right to take Community legislative measures.

In this context and applying the subsidiarity principle to radio frequencies coordination a review of the Community's approach seems appropriate.

The aim of the Decision is to establish an appropriate legal framework for this new approach.

### **3. Follow-up and evaluation of the action.**

The proposed Decision sets out a reporting procedure which effectively consists of a requirement for the Commission to report regularly on any issue arising from the developments in this particular field.

*Lb*

ISSN 0254-1475

COM(93) 382 final

# DOCUMENTS

**EN**

**15**

---

**Catalogue number : CB-CO-93-427-EN-C**

**ISBN 92-77-58695-8**

---

**Office for Official Publications of the European Communities  
L-2985 Luxembourg**