



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 28.11.1997  
COM(97) 674 final

97/0250 (COD)

Amended proposal for a

**EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE**

amending Directive 97/33/EC with regard to operator number portability and carrier pre-selection

(presented by the Commission pursuant to Article 189 a (2)  
of the EC-Treaty)

## EXPLANATORY MEMORANDUM

The Commission hereby presents a modified proposal for a European parliament and Council Directive amending Directive 97/33/EC with regard to operator number portability and carrier pre-selection. The modified proposal incorporates the single amendment proposed by the European Parliament in first reading.

### **1. Introduction**

#### **a) Background**

The Commission adopted its original proposal on 1 October 1997 (COM(97) 480) and it was formally transmitted to the European Parliament and to the Council on 3 October 1997.

The European Parliament adopted a resolution on 20 November 1997 approving the proposal subject to one amendment.

#### **b) Scope and aim of the proposal**

The objective of the present proposal is to strengthen the existing provisions on equal qualitative and quantitative access to numbering resources for all market players in the Community's current legal framework for telecommunications. The availability of operator number portability and carrier pre-selection will make it easier for consumers to choose alternative service and network providers. This will enable them to benefit directly from competition in the telecommunications market. By offering consumers a non-discriminatory and user friendly way of choosing between different providers of telecommunications services, consumer choice can act as a catalyst in the process of achieving better quality telecommunications services at more competitive prices.

### **2. EP amendment accepted by the Commission**

The European Parliament has proposed only one amendment which is acceptable for the Commission.

This amendment will extend an existing deferment clause (Article 20(2) of the Interconnection Directive 97/33/EC ) which gives a certain flexibility for the date of implementation of number portability in cases where Member States can prove that this will impose an excessive burden on the operators concerned. With the amendment the clause will also apply for carrier pre-selection. Under this clause, temporary deferment may be granted by the Commission, on the basis of objective arguments and taking account of "the particular situation in the Member State and the need to ensure a coherent regulatory environment at a Community level".

### **3. Conclusion**

In accordance with Article 189a paragraph 2 of the Treaty, the Commission modifies its initial proposal, incorporating this amendment.

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*Original text*

*Modified text*

**Article 1**

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Directive 97/33/EC<sup>1</sup> is hereby amended as follows :

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1. Paragraph 5 of Article 12 shall be replaced by the following :

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“5. National regulatory authorities shall encourage the earliest possible introduction of number portability whereby end-users who so request can retain their number(s) on the fixed public telephone network at a specific location independent of the organisation providing service, and shall ensure that this facility is available by 1 January 2000 at the latest.”

“5. National regulatory authorities shall encourage the earliest possible introduction of number portability whereby end-users who so request can retain their number(s) on the fixed public telephone network at a specific location independent of the organisation providing service, and shall ensure that this facility is available by 1 January 2000 at the latest.”

2. A new paragraph shall be inserted after paragraph 6 of Article 12 :

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“7. National regulatory authorities shall require Organizations operating public telecommunications networks as set out in Part 1 of Annex I and notified by national regulatory authorities as Organizations having significant market power, to enable their subscribers to access the switched services of any interconnected provider of publicly available telecommunications services. For this purpose facilities shall be in place by 1 January 2000 at the latest, which allow the subscriber to choose these services by means of permanent pre-

“7. National regulatory authorities shall require Organizations operating public telecommunications networks as set out in Part 1 of Annex I and notified by national regulatory authorities as Organizations having significant market power, to enable their subscribers to access the switched services of any interconnected provider of publicly available telecommunications services. For this purpose facilities shall be in place by 1 January 2000 at the latest, which allow the subscriber to choose these services by means of permanent pre-

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<sup>1</sup> Directive 97/33/EC of the European Parliament and of the Council of 30 June 1997 on interconnection in Telecommunications with regard to ensuring universal service and interoperability through application of the principles of Open Network Provision (ONP), OJ No L 199, 26.7.97, p.32.

which allow the subscriber to choose these services by means of permanent pre-selection with a facility to override the pre-selected choice on a call-by-call basis by dialling a short prefix.”

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3. Paragraph 2 of Article 20 shall be replaced by the following :

“2. Deferment of the obligations under Article 12(5) and 12(7) may be requested where the Member State concerned can prove that they would impose an excessive burden on certain organizations or classes of organization. The Member State shall inform the Commission of the reasons for requesting a deferment, the date by which the requirements can be met, and the measures envisaged in order to meet this deadline. The Commission shall consider the request taking into account the particular situation in the Member State and the need to ensure a coherent regulatory environment at a Community level, and shall inform the Member State whether it deems that the particular situation in that Member State justifies a deferment and, if so, until which date such deferment is justified.”

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