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COMMUNICATION FROM THE COMMISSION  
TO THE EUROPEAN PARLIAMENT

pursuant to the second subparagraph of Article 189 b (2) of the EC-Treaty

**ON THE COMMON POSITION OF THE COUNCIL**  
**ON THE PROPOSAL FOR A EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE ON**  
**CONNECTED TELECOMMUNICATIONS EQUIPMENT AND THE MUTUAL RECOGNITION OF**  
**THE CONFORMITY OF EQUIPMENT (COM(97) 257)**

## 1. BACKGROUND

On 29 January 1998 the European Parliament adopted its opinion on the Commission proposal for a European Parliament and Council Directive on connected telecommunications equipment and the mutual recognition of the conformity of equipment (COM(97) 257).<sup>1</sup> The Economic and Social Committee adopted its opinion on 10 December 1997.<sup>2</sup>

Under the codecision procedure the European Parliament adopted a favourable opinion in first reading on 29 January 1996, and proposed 19 amendments to the Commission proposal.<sup>3</sup>

In view of these amendments, the Commission adopted an amended proposal incorporating several Parliament amendments, which was transmitted to the Council.<sup>4</sup>

The Council, acting in accordance with Article 189b(2) of the Treaty, reached a common position on 26 February 1998 which was formally adopted on 8 June 1998.<sup>5</sup>

This communication gives the Commission's opinion on the Council's common position, in accordance with Article 189b(2) of the Treaty.

## 2. PURPOSE OF THE ORIGINAL COMMISSION PROPOSAL

The Directive will create a single market in telecommunications terminal and radio equipment and proposes a substantial relaxation of the regulations governing the placing on the market, free movement and the putting into service of such equipment. Not only does the Directive replace two Council Directives (91/263/EEC on telecommunications terminal equipment<sup>6</sup> and 93/97/EEC on satellite earth station equipment<sup>7</sup>), but it simplifies the application of two other Council Directives (93/68/EEC on conformity marking<sup>8</sup> and 89/336/EEC on electromagnetic compatibility<sup>9</sup>) and will replace a large number of national regulations.

The major elements of the new Directive are as follows:

- 2.1 the scope is extended to include radio equipment;
- 2.2 a set of new definitions make the Directive future-proof by taking into account the liberalisation of infrastructure and competition between operators;
- 2.3 the specific essential requirements of telecommunications are expanded to take account of technological trends;

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<sup>1</sup> OJ C 248, 14.8.1997, p. 46

<sup>2</sup> OJ No C 73, 9.3.98, p. 10

<sup>3</sup> A4-0023/98, PV 29.01.986

<sup>4</sup> COM(98)176 final, 26.3.1998

<sup>5</sup> P.M.

<sup>6</sup> OJ No L 128, 23.5.1991, p. 1.

<sup>7</sup> OJ No L 290, 24.11.1993, p. 1.

<sup>8</sup> OJ No L 220, 30.8.1993, p. 1.

<sup>9</sup> OJ No L 139, 23.5.1989, p. 19.

- 2.4 under the principles of the new approach,<sup>10</sup> standards play a crucial role without being made mandatory;
- 2.5 a flexible decision-making process allows easy coverage of future network infrastructures and systems;
- 2.6 there is a simplified conformity assessment regime based on manufacturer's declarations.

The Directive complements other legislative developments in telecommunications and is a response to the inevitable changes to the radio and telecommunications terminal equipment market caused by the liberalisation of telecommunications infrastructures and services.

### **3. COMMENTS ON THE COMMON POSITION OF THE COUNCIL**

#### **3.1. Summary of the Commission's position**

The Commission considers that the Council's common position is acceptable. The compromises reached do not prejudice the Commission's original aims. Safeguards have been introduced by Council which allow Member States to put into place certain obstacles to the placing on the market and putting into service of Radio and Telecommunications Terminal Equipment (R&TTE). Although the Commission can accept these provisions, it would have preferred clearer wording.

#### **3.2. Amendments put forward by the European Parliament in first reading**

The approach adopted by the Council goes some way towards meeting the substance of the amendments presented by the Parliament in first reading.

At the first reading, the Parliament proposed 19 amendments to the Commission's proposal. The Commission accepted 8 amendments in full, 8 in part or in principle, and rejected the 3 others.

More information is provided in the Commission's explanatory memorandum to the amended proposal on how the amendments submitted by the European Parliament in first reading were taken into account by the Commission.

- Amendments accepted by the Commission and integrated into the Common Position: Most amendments accepted by the Commission have been integrated into the Common Position. The texts of amendments 1, 2 and 5 have been included as they stand, whereas amendments 4 and 5 have been introduced with different wording. The spirit of amendments 9, 17 and 18 is reflected in the Common Position. Further details are contained in Annex 2.
- Amendments accepted by the Commission but not integrated into the Common Position (and position of the Commission in this respect): 8 (in part), 15 (in part), 17, 23 (in part).

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<sup>10</sup> Council Resolution of 7 May 1985 on a new approach to technical harmonisation and standards - OJ No. C 136, 4.6 1985 p. 1

- Major points of disagreement between the Commission's amended proposal and the Common Position:
  - The Commission considers that Common Position requirement 3.1.c should be applicable on a case-by-case basis and should thus be in Article 3.3;
  - The Commission regrets the deletion of all the provisions on liability, whether proposed by the Commission or the European Parliament.

### 3.3. New provisions introduced by the Council and position of the Commission

- **Discussion in Council**

Although the Council supported the main thrust of the Commission's proposal, it appeared not to provide a sufficient basis for arriving at an agreement. The Council Presidency presented a compromise text which maintained the objectives of the proposal and led to adoption of a common position by the Council.

The Council made a number of changes to the proposal which, together with the amendments proposed by the European Parliament and accepted by the Council, represent compromises which the Commission is prepared to accept since they do not fundamentally prejudice the original aims.

The discussions focused on the following main issues.

#### 3.1 Essential requirements

Some delegations were concerned about the deletion of the requirements of the current regime, which provide for extensive protection of networks ("*interworking with the network*" and "*no harm to the network*"). A compromise was reached. A requirement was introduced which applies generally to all apparatus and which calls for the *prevention of harm to the network or its functioning which causes an unacceptable degradation of service to those other than the user of the apparatus*. In this context it should be emphasised, that *physical harm to the network*, e.g. as caused by using high voltages on a network interface, which damages the network infrastructure is covered by both the Commission proposal and the Common Position (Art.3.1.a).

#### 3.2 Harmonised standards and technical specifications

The introduction of the term *technical specifications* as an alternative to harmonised standards for demonstrating compliance with the essential requirements was considered confusing. Some delegations felt that technical specifications would imply conformity with the essential requirements, so they should be treated in the same way as harmonised standards. It was finally decided, in line with the principles of the new approach, not to give technical specifications specific status under the Directive.

#### 3.3 Placing on the market and the right to put into service radio equipment operating in bands not harmonised in the Community

Council was divided on the question as to whether equipment which operates in bands not harmonised in the Community and cannot therefore be used throughout the Community should be allowed to be placed on the market anywhere in the Community. A number of Member States considered that the safeguard provided in the Commission proposal, whereby Member States could prohibit the putting into service of such equipment, was adequate. Other Member States considered that such an approach would not be enforceable in their territories, mainly for cultural reasons. They therefore requested safeguards in the Directive which would allow them to bar such products from their markets. In addition they requested further safeguards to facilitate market surveillance. Although considered disproportionate by a number of Member States, these safeguards were introduced (additional marking, compulsory information on packaging, notification of intent to place these products on national markets).

#### 3.4 Liability

Council agreed almost unanimously not to include any provisions in the Directive aimed at harmonisation of liability legislation in the Community, beyond the harmonisation already provided for by Directive 85/374/EEC. Such a provision would mean a revision of national liability laws, which are under the responsibility of other national ministries.

If necessary, this could be tackled not in a product Directive but by negotiating extensions, for example to Directive 85/374/EEC.

#### 3.5 Conformity assessment

Council agreed with the manufacturer's declaration procedures proposed by the Commission for wired equipment and radio equipment using harmonised standards. However, the procedures proposed by the Commission for radio equipment which does not conform to harmonised standards were considered too light. Although some Member States wanted prior testing of this equipment, Council agreed on a "technical construction file" procedure. This procedure, which is a variant of the manufacturer's declaration, does not imply prior testing but obliges manufacturers to lodge their technical file with a notified body, which may issue an opinion if it considers that compliance with the essential requirements has not been demonstrated.

Council further agreed to maintain the conformity assessment procedures of the EMC and LVD Directives in parallel with the procedures of this Directive to enable manufacturers to maintain internal working procedures with these Directives.

#### 3.6 Information for the user and marking

Council extended the obligations on manufacturers to inform users about the intended purpose of equipment. Information should be provided both on the equipment (by marking) and on the packaging.

### • Commission's position on the new provisions introduced by the Common Position

The Commission can accept the new provisions introduced by the Council. Its position on the main changes made by the Council is as follows.

### 3.7 Essential requirements

The requirement which calls for the *prevention of harm to the network or its functioning which causes an unacceptable degradation of service to those other than the user of the apparatus* (Article 3.1(c)) was made applicable to all apparatus in order to arrive at a compromise. The Commission would have preferred its original proposal, i.e. to introduce a requirement designed to avoid (specific and identified) situations where equipment would degrade service to other users. The Commission can accept the provision, which was an important element in reaching a common position, but considers that care should be taken when implementing the Directive to ensure that this provision is applied in a pragmatic and proportionate way.

### 3.8 Harmonised standards and technical specifications

The Commission can fully accept deletion of the references to *technical specifications*.

### 3.9 Placing on the market and the right to put into service radio equipment operating in bands not harmonised in the Community

The safeguards introduced in the Directive to give Member States the necessary tools to protect their spectrum are acceptable to the Commission. This applies to the use of EC marking to inform users and the obligation to include information for the user in the declaration of conformity.

The notification procedure, which the Commission does not consider necessary but which it is willing to accept as a compromise, should not unnecessarily delay the placing of products on the market. It should therefore be applied pragmatically and be allowed to coincide with the four-week waiting period referred to in Annex 4.

### 3.10 Liability

Harmonisation of liability legislation would certainly be welcomed by the market. Even though the Commission appreciates the Council's concern that liability legislation should preferably not be introduced on a sectoral basis in a product Directive, further harmonisation in this field should be pursued.

The Commission is however ready to accept that harmonisation is not pursued in this Directive as it would only concern specific equipment.

### 3.11 Conformity assessment

The Commission welcomes the fact that the Council agreed not to retain *prior* conformity assessment procedures and is ready to accept the compromises reached.

Annex 1 contains an Article by Article summary of the Commission's comments on the Common Position.

### **3.4. Committee procedures**

The Commission regrets that the Council insisted on introduction, in Article 14, of a type IIIA regulatory committee procedure in an Article 100a Directive.

## **4. CONCLUSION**

Generally the changes made by the Council in its Common Position do not affect the main objectives of the Commission's original proposal; in fact, they clarify a number of aspects by:

- seeking to provide safeguards for Member States to properly manage the national spectrum and to facilitate market surveillance;
- strengthening requirements on telecommunications terminal equipment;
- clarifying the role of harmonised standards;
- strengthening the conformity assessment procedures whilst retaining the principle of manufacturer's declaration.

The Commission can accept the Common Position, assuming that the compromises reached in it are applied in a pragmatic and proportionate way.

**ANNEX 1**  
**DETAILED COMMENTS BY THE COMMISSION ON THE COUNCIL'S COMMON POSITION**

Recital/ Article	Common Position	Explanation of Commission position
Recital 18	New recital on interworking via networks	Consistent with legal text
Recital 20	New recital on voluntary certification	The removal of prior market controls makes the sector more responsible for regulating itself. Voluntary certification schemes contribute to this.
Recital 21	Emphasises that networks should be robust	Operators should not try to impose excessive requirements on equipment.
Recital 25	New recital on MS and Community obligations to ensure fairness of the regulatory framework	It balances the previous recital.
Art.1.2	Includes within the scope of the Directive medical and implantable medical devices	The Council Directives mentioned in the Articles will not necessarily cover all requirements of this Directive (e.g. effective use of the radio spectrum).
Art.1.3	Includes within the scope of the Directive vehicle-mounted equipment	The Council Directives mentioned in the Articles will not necessarily cover all requirements of this Directive (e.g. effective use of the radio spectrum).
Art.1.4	Excludes equipment from the Directive	See further comments under Annex I.
Art.1.5	Exclusion of apparatus used exclusively for national security	This paragraph is not necessary as the Treaty itself already provides for such exemptions. In ONP Directives, this is reflected in a recital.
Art.2	New set of definitions and concepts deviating substantially from the Commission proposal	This resolves ambiguities found in the set of definitions proposed in the Commission text. The Commission considers that the definition of terminal equipment indirectly includes connected equipment (e.g. equipment behind private switches) and that harmonised standards are always full European Standards, i.e. not other specifications like ENV or ES.



Art.3.1.a	Only extension of voltage limits lower than those covered by Directive 73/23/EEC - the Council considers that this Article incorporates the health risk requirements	Although acceptable in the spirit of compromise, the Commission would have preferred the inclusion of voltage ranges higher than those covered by Directive 73/23/EEC as proposed by the Commission. The Commission can accept the inclusion of health requirements here, but would have preferred a separate article.
Art.3.1.a and b	Inclusion of the LVD and EMC requirements in this Directive	It is essential that LVD and EMC requirements be applied consistently, whether contained in this Directive or in the LVD and EMC Directives. For this reason the Commission would have preferred the requirements to have been kept in these Directives, but is willing to accept the Council position as a compromise.
Art.3.1.c	Fixed essential requirement on prevention of harm to the network or its functioning, causing an unacceptable degradation of service to those other than the user of the apparatus	The Commission would have preferred its original proposal, i.e. to introduce a requirement designed to avoid (specific and identified) situations where equipment would degrade service to other users. The Commission can accept the provision, which constituted an important element to reach a common position. However, care should be taken when implementing the Directive to ensure that this provision is applied in a pragmatic and proportionate way
Art.3.2	Makes effective use of the spectrum applicable to all radio equipment	All radio equipment indeed has to comply with this requirement. The Commission interprets effective use of the spectrum to mean that harmful interference is avoided..
Art.3.3.c	Additional specific essential requirement on avoidance of fraud	This requirement is justified.
Art.4.1	Notification and classification of nationally regulated interfaces into equipment classes	The Commission takes the view that after entry into force of this Directive, national regulations should be notified under this Directive. Classification will lead to the removal of market access barriers and will enable <i>inter alia</i> free circulation of radio equipment operating in bands, which are not fully harmonised in the Community.  The Commission further assumes that equipment for which no equipment class has yet been determined needs to comply with the essential requirements 3.1. and 3.2..
Art.5	Removal of provisions on technical specifications	There is indeed no need to provide for technical specifications, which are not harmonised standards, which was not the intention of the Commission in its proposal.

Art.5.3	Possibility for the Commission to handle interpretation problems with standards and errors in standards	In principle this is a task for the standardisation bodies. It was intended to resolve ambiguities found in standards. Since the Commission assumes it will be applied only in exceptional circumstances the compromise text can be accepted.
Art.6.1	Free movement	Although the wording deviates from other comparable Directives it can be accepted. The Commission assumes that the text implies that Member States shall not prohibit, restrict or impede the placing on the market in their territory of the products referred to in Article 1 bearing the CE marking referred to in Annex 7, which indicates their conformity with the appropriate essential requirements identified in Article 3 when they are properly installed and maintained and used for their intended purpose.
Art.6.2	Introduction of dates when special essential requirements will have to be complied with	There is a need to clearly define the date of applicability of such requirements.
Art. 6.3	Obligation to inform the user extensively on the intended use of equipment.	This information is required to avoid unintended use of equipment.
Art 6.4	Introduction of obligations for manufacturers to notify national authorities of their intent to place radio equipment using non-harmonised frequency bands on the market	The Commission does not consider the provision necessary but can accept it as a compromise. It should not however in practice be used for prior control purposes. The Commission assumes that the notification period is allowed to overlap with the 4-week period for notified bodies to review a technical file as contained in Annex 4 of the CP and that Member States are allowed to impose shorter waiting periods than the 4 weeks.
Art.7.1	Obligation to allow putting into service	The Commission assumes that in line with other new approach Directives this Article implies that Member States shall not prohibit, restrict or impede the putting into service in their territory of the products referred to in Article 1 which conform with the appropriate essential requirements identified in Article 3 when they are properly installed and maintained and used for their intended purpose.
Art 7.2	Recognises the need for the licensing of radio equipment.	The Commission can agree with this provision and assumes that the term "licensing" is to be interpreted in a general way to mean any authorisation as defined in the Directive on licensing (97/13/EC).
Art. 7.4	Right to disconnect.	The Commission considers it useful to introduce this right and assumes it will be applied only in exceptional cases and only after consultation of the manufacturer.

Art. 8.1 to 8.4	Safeguards	These safeguards are in line with provisions of other new approach directives. The first sentence of 8.2 is unclear and should read: " <i>The Member State concerned shall immediately notify any such measures, and the reasons for its decision, to the Commission, which shall inform other Member States...</i> "
Art 8.5	Safeguard permitting Member States to prohibit or restrict the placing on their market of radio products, which might cause harmful interference	Although the Commission would have preferred the safeguard to have gone through a normal comitology procedure in which Member States and the Commission can say whether such measures are proportionate, any measures should be compatible with the Treaty, which provides for procedures to challenge them.
Art.9.2	Alternative conformity assessment under the EMC and LVD Directives	The Commission is aware that this provision constitutes an innovation in the new approach. Attention should therefore be paid to its practical implementation.
Art.11	Extension of marking to include notified body number and equipment class identifier	Although the Commission would have preferred a simpler marking scheme, the Council text is acceptable. The CE mark indicates that all applicable Directives are complied with.
Art.17.1	Use of standards in Directives 73/23/EEC or 89/336/EEC as harmonised standards under this Directive.	The Commission assumes that standards on LVD and EMC aspects are to be published only under these horizontal Directives.
Art.17.3	Transitional period requested by France for a requirement on voice terminals	Since the provision was only called for in response to a technical problem, specific to the network of the incumbent French operator, the Commission assumes that it will only be applied by France. It should not delay further new voice services, such as voice over the Internet.
Art.19.2	Repealing articles from the EMC Directive	The modifications imply that Article 10(5) of the EMC Directive no longer applies and may be repealed.
Annex 1 (1)	Explicit exclusion of radio equipment used by radio amateurs	The Commission takes the view that kits sold to manufacturers for building equipment are not to be regarded as equipment which is commercially available and are therefore not covered by this Directive.
Annex 4	Overlap of 4-week period with 4-week period for notifying the intention to place products on the market	As mentioned under Article 6, it is assumed that the 4-week period in Annex 4 may overlap with the 4-week period in Article 6.4.

Annex 5	Introduction of full quality assurance	Although the Commission does not consider this necessary it is willing to accept it as a compromise.
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ANNEX 2

COMPARISON OF COMMISSION AND COUNCIL POSITION ON EP AMENDMENTS (SHADED PARTS INDICATE PARTIAL OR FULL DISAGREEMENT BETWEEN COMMISSION AND COUNCIL)

EP Amendment n°	Recital / Article	Contents	Whether in amended proposal	Treatment by the Council
1	Title	The term " <i>Connected telecommunications equipment</i> " is replaced by the term " <i>Radio and telecommunications terminal equipment</i> "	yes	Accepted
2	Recital 3a (new)	Stresses the need to cover radio equipment	yes	Accepted
3	Recital 10	Rewording of the recital, emphasising the need to use the frequency spectrum efficiently	yes	The proposed new wording " <i>is to be ensured and promoted</i> " was considered not to be the main aim of this Directive and was replaced by slightly looser wording " <i>should be encouraged</i> ".
4	Recital 14	Stresses the need for equipment to be usable by disabled people	yes	EP proposed wording emphasising that <i>whenever possible</i> equipment should be usable by disabled people. Council, agreeing in principle with EP considered this too wide a scope and proposed slightly less constraining wording (" <i>in appropriate cases</i> "). This is in line with Article 3, where the related essential requirement is made applicable only after an explicit decision of the Commission.
5	Recital 20a (new)	States that this Directive does not apply to self-build equipment by radio amateurs	yes	Accepted

6	Article 1	Proposes to remove from the scope the framework for putting into service radio equipment operating in non-harmonized frequency bands.	no	Not accepted on the same arguments as in the explanatory memorandum of the amended proposal. The Common Position does indeed provide for a framework for the putting into service of such equipment, recognising the right of Member States to restrict the putting into service on justified grounds (notably frequencies).
7	Article 2(e) (in CP 2(h))	Puts more emphasis on and recommends the use of harmonised standards by slight rewording	no	Not accepted on arguments similar to those of the Commission. The principle that the use of harmonised standards should be promoted is fully supported but is already enshrined in the more onerous conformity assessment procedure, which applies when harmonised standards are not used.
8	Article 3(1) - (i) (new)	Prescribes that equipment should not endanger the health or safety of the user or any other person	yes	Not accepted on the grounds that it is already contained in the objectives of Article 3.1.a of the CP.
	Article 3(1) - (ii) (new)		no	Not accepted on grounds similar to the Commission argument that in principle market forces should and will ensure this. Where the market fails, however, regulators should be able to intervene and to enforce usability on certain classes of products. This is provided for by the flexible requirement 3.3.(e)
	Article 3.1.(a)	Rewording	yes	Council proposes to extend the application of the objectives of the low voltage Directive only for voltages lower than those covered by Directive 73/23/EEC and not to include voltages higher than those covered by this Directive.
	Article 3.2	Addition of reference to ITU Radio Regulations and ERC Decisions	in part	Not accepted. Not considered necessary to make reference to ITU Radio Regulations. Agreement with argument of the Commission that ERC Decisions cannot be referred to.

	Limiting the scope of essential requirements for radio amateur equipment to emissions outside the radio amateur bands	no	Not accepted. Agreement with argument of Commission that, although technically such a limitation may be justified, it is up to the standardisation bodies to make such an assessment.	
Article 3.3(a)	Requirements specific to terminal equipment that misuse of network resources causing unacceptable degradation to service should be prevented.	no	Accepted in part. A requirement (3.1.c) to prevent harm to the network or its functioning, causing an unacceptable degradation of service <i>to those other than the user</i> has been introduced replacing Article 3.2.a of the original proposal. This requirement applies to <b>ALL</b> apparatus. The Commission takes the view that the requirement of the EP is acceptable provided that it applies only to identified equipment classes.	
Article 3.6 (new)	The essential requirements applicable to be determined by ETSI	no	Not accepted. Agreement with the Commission that the role of standardisation bodies is to produce standards which give presumption of conformity with the essential requirements. The establishment of the essential requirements themselves is a regulatory task to be performed by the authorities.	
9	Article 4.1	Proposes more precise wording	yes	Accepted.
	Article 4.2	Proposes more precise wording	yes	Accepted.

10	Article 5.1	The amendment makes the use of harmonised standards mandatory where they exist. Manufacturers may use other specifications only where harmonised standards do not exist. In addition these specifications must be publicly available.	no	Not accepted. Council follows argument from the Commission that making harmonised standards mandatory is contrary to the principles of the new approach to standards and technical regulations, which are the basis of the proposal from the Commission. Standards should only give presumption of conformity with the essential requirements. Manufacturers should have the freedom to use any specification they deem appropriate to demonstrate that they comply with the essential requirements. Such specifications do not need to be publicly available.
		Specificities that the conformity assessment in Article 9.4 is to be used when harmonised standards are not used	yes	In part. Council considered that Article 9.4 should apply only to radio equipment.
	Article 5.2	Obliges Member States in addition to harmonised standards also to discuss specifications, which are inappropriate	yes	Accepted in spirit. Council considered that there is no need for such a provision in this Article and that the safeguards (Art. 8.2.c, 8.3) have this effect.
	Article 5.2 (new para)	Provides for an emergency procedure in cases, where harmonised standards have defects with grave consequences	yes	Accepted as new Article 5.3
13	Article 6.3.c	Provides for a right to disconnect terminals when they cause damage to the network or are not properly used	In part	Council agrees with Commission that this is acceptable provided that the right is controlled by the public authorities.
15	Article 11.1	All Directives applicable to it should be complied with before CE mark can be affixed	yes	Accepted



		Notified body number to be imposed as far as possible	In part	Accepted. Council proposes to affix the notified body number whenever a notified body is involved in the conformity assessment process. This is in fact equivalent to the suggestion made by the EP.
		Identification of person liable for any damages which could be caused by the equipment	yes	Not accepted. Council apparently considers the addition of this element to 11.4, as proposed by the Commission in its amended proposal unnecessary
		Emphasis that any other marking is clearly distinguished from the CE marking	no	Not accepted. The existing wording already implies this.
	Article 11.2	Additional reference to harmonised standards	no	Not accepted. The additional words do not change the provision.
16	Article 12.1	Requires the Commission to consult the industry on a continuous basis	yes	Accepted but wording of 12.5 considered adequate.
	Article 12.2 and 12.4	Obligation for the proceedings of the Committee to be made public on the Internet	no	Not accepted. The Community is bound by Council Decision 87/373/EEC which does not allow for proceeding of such Committees to be made public.
17	Article 13	Details elements to be included in the progress reports to be produced by the Commission	yes	Not accepted. It is recognised that the Commission is free to include in the report whatever it deems appropriate.
18	Article 14	Harmonised standards under current Directives to give presumption of conformity under new Directive	yes	Accepted.
19	Article 16	Repeals current Directives only for equipment produced in the Community and equipment produced in countries, providing reciprocal access to the Community	no	Not accepted. Council agrees with Commission that it is not desirable to build in reciprocity provisions in an equipment Directive.

20	Article 6(2)	Allows network operators to refuse connection of equipment in emergency cases to protect the network but only when the user can be offered an alternative solution	In part	In part. Council agrees with the Commission that refusal of connection can be accepted if equipment seriously affects the operation of a network. Usage of such a measure should however be controlled by the regulators in order to avoid abuse as laid down in Art.6a.
21	Article 7.1 to 7.4a	Instead of withdrawing products from the market automatically when non-compliant, it is suggested that MS be allowed to take less drastic action depending on the problems resulting from non-compliance. Introduction of detailed procedures to handle the case of non-compliance, including discussions with market players and initiation of the withdrawal of harmonised standards	yes	Accepted.
23	Article 8.1	Emphasises that the persons placing the products on the markets are liable.	yes	Not accepted. Council proposes deletion of Article 8
		Liability not only for direct economic damage but also for indirect damage. Clarification that the manufacturer is liable towards any party suffering damage.	no	
	Article 8.2	No liability when equipment not intended to be used in the Community.	no	