



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 13.02.1998
SEC(1998) 252 final

97/0250 (COD)

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 MODIFIED PROPOSAL FOR A

**Directive of the European Parliament and the Council amending Directive 97/33/EC
with regard to operator number portability and carrier preselection**

1. BACKGROUND

On 1 October 1997 the Commission presented a proposal for a Council Directive amending Directive 97/33/EC with regard to operator number portability and carrier preselection (COM(97)480 final).

In the framework of the co-decision procedure, the European Parliament delivered its opinion in first reading on 20 November 1997 including a proposal for an amendment.

In view of this amendment, the Commission submitted by letter of 28 November 1997 an amended proposal for a European Parliament and Council Directive (COM(97)674 final).

The Economic and Social Committee adopted its opinion on the proposal on 10 December 1997.

The Council adopted its common position on 12 February 1998.

2. PURPOSE OF THE COMMISSION PROPOSAL

The objective of the Commission 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.

3. AMENDMENT SUBMITTED BY THE EUROPEAN PARLIAMENT IN THE FIRST READING

The European Parliament has proposed only one amendment which was incorporated in the modified proposal by the Commission and in the common position, Article 1.4, of the Council.

The 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.

4. COMMENTS ON THE COMMON POSITION

- (1) In Article 1.1, definitions of 'subscriber' and 'geographic number' have been added. The definition of a 'subscriber' is the same as used in the ONP Voice Telephony Directive (pending formal adoption after agreement was reached in conciliation in December 1997). The definition of a 'geographic number' has been added to be able to render more explicit in Article 1.2 that operator number portability should be available for both geographic and non-geographic numbers..
- (2) In Article 1.2 and 1.3, references to Integrated Services Digital Networks (ISDN) were added to clarify that number portability and carrier preselection should be made available regardless of the type of network used by the subscriber.
- (3) The common position has set the ultimate date for introduction of operator number portability and carrier preselection at 1 January 2000 for ten Member States. Luxembourg and Spain will have to ensure compliance later in the year 2000, respectively by 1 July and 1 December. Portugal and Ireland may take until 1 January 2002, and Greece until 1 January 2003.

Obviously this is a less ambitious timetable than the one originally proposed by the Commission, setting a date of 1 January 2000 for all. However, given the fact that by the end of the year 2000 the vast majority of EU subscribers will be able to benefit from number portability and carrier preselection, with less than 10 % of the EU market possibly having to wait until later, the Commission can accept the target dates established by the common position as part of an overall compromise.

Moreover, according to the text of the common position all Member States commit themselves to have the facilities introduced as soon as possible, even before the set deadlines. The Commission is convinced that it will be possible, even for Member States with full liberalisation deadlines beyond 1 January 1998, to insist with their operators on an earlier introduction of number portability and carrier preselection since much of the technical preparation can and should be integrated with the overall upgrading of networks for which transition periods were granted. The Commission will closely scrutinize progress made.

- (4) In Article 1.3 , the possibility has been added for national regulators to require other operators than those with significant market power to offer carrier preselection as well. Depending on the level of competition already achieved in a particular market, this may in fact be in the interest of the subscribers. However, various elements will have to be evaluated , in particular the need not to create barriers to entry in the market for new operators and thereby harming the long term interests of subscribers. This has been clarified in a recital.
- (5) Finally, in Article 1.3 , a provision already existing in the Interconnection Directive for number portability, regarding the need to keep the charges for consumers within reasonable limits, has been copied to cover carrier preselection as well. This is a very important aspect since unreasonable charges which are not cost oriented could easily work as a strong disincentive for consumers to use the new facilities.

5. COMMISSION POSITION ON THE COMMON POSITION

At this stage and taking into account the urgent need to amend Directive 97/33/EC, the Commission can give its support to the common position adopted by the Council.