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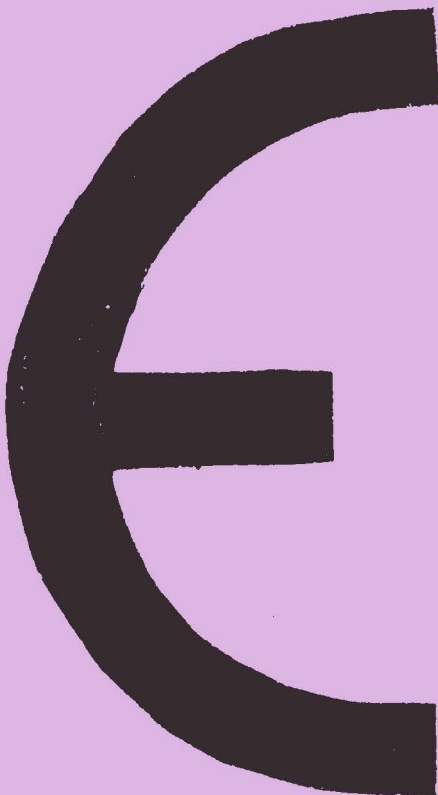
OFFICIAL DOCUMENTS

COMMUNITY

TELECOMMUNICATIONS

POLICY

1991



OFFICIAL DOCUMENTS
OF COMMUNITY TELECOMMUNICATIONS POLICY
1991

This publication is intended to facilitate easy reference to European Community legislation related to the field of Telecommunications Policy.

It represents in Part I a compilation of EEC Directives, Decisions, Regulations and Recommendations adopted since 1984. In Part II, Proposals under discussion are reproduced for selected areas.

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Documents in Part I have been officially adopted, which means that they are stable and will not be amended, although they may of course be superseded by later documents on the same subjects.

Documents in Part II are selected proposals currently under discussion; they may be amended to a greater or lesser degree and, until they are adopted, should only be regarded as indicators of possible new measures.

Part I: Reprints of official documents as published in the Official Journal of the European Community

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- Green Paper on the development of the Common Market for Telecommunications services and equipment (COM(87)290, 30.06.87)
- Green Paper on a common approach in the field of satellite communications in the European Community (COM(90)490, 20.11.90)

Nor does it include the Guidelines on the application of EEC competition rules in the telecommunications sector (C(91)1437) (adopted on 26.07.91 ; to be published in the Official Journal).

These documents should be ordered separately.

Community Decisions in closely related fields have not been included, such as those relating to the field of television (standards for direct satellite television broadcasting : 86/529/EEC ; OJ L311/28) ; High Definition TeleVision : 89/337/EEC, OJ L142/1-2, 89/630/EEC, OJ L 363/30).

Also not included are specific IT application programmes : Drive: 88/416/EEC; OJ L206/1; Delta:88/417/EEC, OJ L206/20; Aim:88/577/EEC; OJ L134/22 ; the Insis and Caddia (85/214/EEC; OJ L96/35-86/23/EEC; OJ L33/28 - 87/288/EEC; OJ L145/86) programmes; and the implementation of the information services market (programme IMPACT : 88/524/EEC, OJ L288/39). Most of the former programmes are now integrated in the general programme on telematics systems : 91/353/EEC, cited above.

Further, reports on the above initiatives are not included : eg TEDIS - 1988-89 Activity report (COM(90)361);CADDIA-Annual report(SEC(90)79 22Jan90); IMPACT - Report on Phase I activities SEC(90)1990,20 Sep 90;ISDN - Progress Report 1989 concerning the coordinated introduction of ISDN in the European community (COM(90)123);Report on the implementation of council recommendation 87/371/EEC and Directive 87/372/EEC on the coordinated introduction of the pan-European digital cellular mobile communications system.COM(90)565].

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**PART I : REPRINTS OF OFFICIAL DOCUMENTS AS PUBLISHED IN THE
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II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL RECOMMENDATION

of 12 November 1984

concerning the implementation of harmonization in the field of telecommunications

(84/549/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee⁽²⁾,

Whereas there is a need to use the full potential of telecommunications in order to assure the economic development of the Community;

Whereas in this context it is essential to achieve, amongst others, the following two objectives:

- the creation of a range of harmonized telematic⁽³⁾ services offering users throughout Europe the chance to communicate efficiently and economically,
- the creation of a dynamic Community market for telecommunications equipment;

Whereas the introduction of the new integrated services digital networks (ISDNs), and of new broad-

band communication services, of special use notably to business users, by all telecommunications administrations and private operating agencies recognized by the Community and offering telecommunications services, hereinafter referred to as the 'telecommunications administrations', offers a prime opportunity for the harmonization that is essential to achieve these objectives;

Whereas it is necessary to support the Community telecommunications administrations in the implementation of the urgent harmonization programmes established by the European Conference of Postal and Telecommunications Administrations (CEPT), the European Committee for Standardization (CEN)/the European Committee for Electrotechnical Standardization (Cenelec), the International Telegraph and Telephone Consultative Committee (CCITT) and the International Organization for Standardization (ISO) and to assist them in ensuring that the necessary resources, particularly of skilled manpower, are available to them,

HEREBY RECOMMENDS:

that the Governments of the Member States ensure that:

- the telecommunications administrations:

1. consult each other, preferably in the framework of CEPT, before they introduce any new service, notably between Member States, with a view to establishing common guidelines so that the necessary innovation takes place under conditions compatible with harmonization;

⁽¹⁾ OJ No C 144, 15. 6. 1981, p. 71.

⁽²⁾ OJ No C 138, 9. 6. 1981, p. 26.

⁽³⁾ The word 'telematic' applies to all those services, systems, apparatus and products which are based on the combined use of electronic techniques of information, i.e. digital processing and transmission. The word 'telematic' is a generic term and does not of course refer to any particular commercial product under that name.

2. ensure that all new services that are introduced from 1985 onwards are introduced on the basis of a common harmonized approach, notably with regard to services between Member States, so that compatible services are offered throughout Europe, taking into account the progress of work in CEPT, CEN/Cenelec, CCITT and ISO;
3. from 1986 onwards, when they order digital transmission and switching systems that are designed for progressive integration of services,

do so taking full account of recognized standards in the Community,

- the Commission is regularly informed of the progress of work, which it will examine periodically with the Senior Officials Group on Telecommunications set up by the Council on 4 November 1983.

COUNCIL RECOMMENDATION

of 12 November 1984

concerning the first phase of opening up access to public telecommunications contracts

(84/550/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Having regard to the communication from the Commission to the Council on telecommunications of 18 May 1984,

Having regard to the growing importance of telecommunications for the economic development of the Community,

Whereas, with a view to attaining the basic Treaty objective of creating a common market, the Council Declaration of December 1976 invited the Commission to propose measures whereby supply contracts awarded by the bodies in Member States responsible for telecommunications services can become subject to effective competition at Community level, on a reciprocal basis;

Whereas at the present stage of development it seems appropriate to differentiate between terminal apparatus on the one hand and switching and transmission apparatus forming part of the public networks on the other hand;

Whereas the Commission and the Member States have taken steps to develop a common market for telecommunications equipment, in particular by contributing to the elimination of barriers to trade, by means of measures that should lead progressively to the definition of common type-approval specifications for terminal apparatus and mutual recognition by administrations of type approvals for such apparatus;

Whereas the harmonization programme now being undertaken by the telecommunications administrations within the framework of the European Confe-

rence of Postal and Telecommunications Administrations (CEPT) should open up increasing possibilities for cross-frontier procurement during the 1980s;

Whereas for the purposes of this recommendation :

- 'telecommunications administrations' means the administrations and recognized private operating agencies recognized by the Community and offering telecommunications services,
- 'terminal apparatus' means apparatus connected to the extremities of a public telecommunications network to send, process or receive information,
- 'conventional terminals' means telephone apparatus for main telephone sets, private automatic exchanges (PABX) for conventional telephony, ordinary teleprinters and modems,
- 'new telematic terminals' means terminal apparatus other than conventional terminals,
- 'switching and transmission apparatus' means any apparatus other than terminal apparatus that is purchased by telecommunications administrations for use in their networks;

Whereas the purpose of this recommendation is to develop a common market for telecommunications equipment; whereas it therefore aims to offer telecommunications administrations a wider choice and to meet the absolute necessity to establish or consolidate a European industrial potential in the technologies concerned;

Whereas it is therefore to the Community's advantage that the telecommunications administrations should, in the course of an experimental phase, gradually contribute to the creation of this common market by inviting tenders in the other Community countries on a non-discriminatory basis for at least a minimum proportion of their supply contracts,

HEREBY RECOMMENDS :

- that the Governments of the Member States ensure that the telecommunications administrations provide opportunities for undertakings established in the other Community countries, following their usual procedures and on a non-discriminatory basis, to tender for :

⁽¹⁾ OJ No C 144, 15. 6. 1981, p. 71.

⁽²⁾ OJ No C 138, 9. 6. 1981, p. 26.

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1. all new telematic terminals and all conventional terminals for which there are common type-approval specifications;
 2. their contracts for switching and transmission apparatus and conventional terminal apparatus for which there are no common type-approval specifications for at least 10 % in value of their annual orders,
- that the Governments of the Member States report to the Commission at the end of each six-month period, starting at the end of 1984, on the measures taken by the telecommunications administrations to implement this policy, their practical effects, the problems encountered and any further action needed. These data will be examined by the Commission with the Senior Officials Group on Telecommunications set up by the Council on 4 November 1983.
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II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 25 July 1985

on a definition phase for a Community action in the field of telecommunications technologies — R & D programme in advanced communications technologies for Europe (RACE)

(85/372/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee⁽²⁾,

Whereas the Community has as its task, by establishing a common market and progressively approximating the economic policies of Member States *inter alia* to promote throughout the Community a harmonious development of economic activities and closer relations between the Member States;

Whereas the Heads of State or of Government, meeting in Stuttgart, Athens, Fontainebleau and Brussels, emphasized the importance of telecommunications as a major source for economic growth and social development;

Whereas the European Parliament, in its assessment of the situation and development of telecommunications, stressed the key role of telecommunications for the future political, social and economic development of the Community;

Whereas on 17 December 1984 the Council agreed on the main elements of a Community telecommunica-

tions policy, including the objective of developing advanced telecommunications services and networks by actions at Community level;

Whereas, with the emergence of new services and the progressive convergence of telecommunications, data processing and entertainment, the evolution may develop towards a Europe-wide integrated broadband network (integrated broadband communications, IBC) capable of supporting a wide range of customers and service providers;

Whereas developments in telecommunications will benefit the international competitiveness of the European economies in general and of the telecommunications industries in particular;

Whereas, in response to the requirement of using fully the economic and market potential of telecommunications, the Commission has submitted a programme of action which has been recognized as a base for further work by the Council;

Whereas R & D can make a major contribution, notably by facilitating the evolution towards future integrated broadband communications in terms of transnational connections, and also at regional and local levels;

Whereas the Council approved, in its resolution of 25 July 1983⁽³⁾, the principle of framework programmes for Community research, development and demonstra-

⁽¹⁾ OJ No C 175, 15. 7. 1985.

⁽²⁾ OJ No C 188, 29. 7. 1985, p. 16.

⁽³⁾ OJ No C 208, 4. 8. 1983, p. 1.

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tion, the scientific and technical objectives for the period 1984 to 1987, and in particular the importance given to the goal of promoting industrial competitiveness;

Whereas the Council, on 4 June 1985, recognized the importance of the rapid establishment of a definition phase for the RACE programme (R & D programme in Advanced Telecommunications Technologies for Europe) in order to prepare a general European framework for the development of advanced systems of communications for the future and to promote technical and industrial cooperation;

Whereas the constitution or consolidation of a specifically European industrial potential in the technologies concerned is an urgent necessity; whereas the beneficiaries must be network operators, research establishments, undertakings, including small and medium-sized enterprises, and other bodies in the Community which are best suited to attain these objectives;

Whereas it will not be possible to define and examine a Community R & D programme in this sector until the definition phase produces the relevant conclusions;

Whereas the Treaty has not provided the specific powers necessary for the adoption of this Decision;

Whereas the Scientific and Technical Research Committee (Crest) has expressed its opinion,

HAS DECIDED AS FOLLOWS:

Article 1

1. A definition phase for a Community action in the field of telecommunications technologies as described in the Annex is hereby adopted for a maximum period of 18 months beginning on 1 July 1985.

2. The activity is designed essentially to define precise objectives and to develop the approach to technological cooperation at Community level in concertation with public and private actions in the field of telecommunications technologies undertaken at national and international levels.

Article 2

1. The definition phase shall consist of two parts. Part I shall comprise analytical work required for the formulation of a reference model for integrated broadband communications (IBC) to be carried out by appropriate organizations, groups and other bodies and including, where required, contract work.

Part II shall comprise technology evaluation and exploration projects carried out by means of contracts, as required to clarify technology options and establish techno-economic feasibility of the reference model.

The contracts shall be concluded with network operators, research establishments, undertakings, including small and medium-sized enterprises, and other bodies established in the Community, hereinafter referred to as 'partners'. The work shall be carried out in the Community.

2. The projects of Part II shall be executed by means of shared cost contracts. The contractors shall bear a substantial proportion of the costs, normally at least 50 % of the total expenditure on any project.

In exceptional cases as specified in Article 6 (3), different conditions from those laid down in this paragraph may be adopted in accordance with the procedure in Article 7.

3. The activity will take account of requirements regarding the development of standards and common functional specifications to serve the interests of European industry, users and telecommunications operators in this field.

Article 3

1. Where contracts are required for the implementation of Part I, they shall be awarded by restricted tendering procedure.

2. The contracts for Part II shall be awarded by open tendering procedure and involve the participation of at least two independent industrial partners not all established in the same Member State. The open invitation to tender shall be published in the *Official Journal of the European Communities*.

Article 4

1. The Community shall contribute to the performance of the action within the limits of the appropriations entered to this end in the general budget of the European Communities.

2. The amount of the appropriations estimated necessary for the Community's contribution to Part I shall be calculated on the basis of Article 2 (1), and charged to the relevant part of the general budget of the European Communities.

The funds estimated necessary for Part II amount to 14 million ECU, including expenditure on a staff of 12, and will be used in accordance with the procedure laid down in Article 6 (3).

Article 5

The Commission shall ensure that the definition phase is properly performed and establish the appropriate implementation measures.

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Article 6

1. The Commission shall be assisted in the performance of the task referred to in Article 5 by a Committee. The Committee, consisting of two representatives of each Member State, shall be set up by the Commission on the basis of nomination by the Member States.

Members of the Committee may be assisted by experts or advisers depending on the nature of the issues under consideration.

The Committee shall be chaired by a Commission representative.

The proceedings of the Committee shall be confidential. The Committee shall adopt its own rules of procedure. The secretarial services shall be provided by the Commission.

2. The Commission may consult the Committee on any matter falling within the scope of this Decision. In addition, the Commission shall inform the Committee regularly in advance, of projects falling below the thresholds referred to in paragraph 3, fourth and fifth indents.

3. The Commission shall consult the Committee, in accordance with the procedure laid down in Article 7, on:

- the work to be undertaken in Part II; such consultation will have to be completed within a maximum period of three months following this Decision,
- any departure from the general conditions laid down in Articles 2 and 3,
- the evaluation of work undertaken in respect of Part I, by appropriate organizations, groups and other bodies,
- the contracts which may be necessary for the implementation of Part I, as well as the resultant Community financial contribution when the contracts require a Community contribution exceeding 100 000 ECU,
- the assessment of the proposed projects relating to Part II and the proposed level of cost-sharing referred to in Article 2 (2) as well as the Community's financial contribution to their execution when these projects require a Community contribution exceeding 400 000 ECU.

Article 7

1. Where the procedure laid down in this Article is to be followed, the chairman shall refer the matter to

the Committee, either on his own initiative or at the request of one of its members.

2. The Commission representative shall submit to the Committee a proposal for the measures to be taken. The Committee shall deliver its opinion on the proposal within a period that may be decided by the chairman in the light of the urgency of the matter and which shall normally be one month and shall in no case exceed two months. The opinion shall be adopted by a qualified majority. Within the Committee, the votes of the Member States shall be weighted in accordance with Article 148 (2) of the Treaty. The chairman shall not vote.

3. The Commission shall implement the measures where its proposals are in accordance with the opinion of the Committee. Where the proposal is not in accordance with the opinion, or where no such opinion is issued, the Commission may submit to the Council a proposal in the form of a draft Decision. The Council shall act by a qualified majority.

If the Council has not acted within a period which shall normally be one month and shall in no case exceed two months from the date on which the matter was referred to it:

- the Commission proposal shall be deemed to be rejected if it concerns matters falling under the second and third indents of Article 6 (3)
- the Commission may take a decision corresponding to its proposal if it concerns matters falling under the fourth and fifth indents of Article 6 (3).

Article 8

With regard to the concertation activities provided for in Article 1 (2), the Member States and the Commission shall exchange all appropriate information to which they have access and which they are free to disclose concerning activities in the areas covered by this Decision, whether or not planned or carried out under their authority.

Information shall be exchanged according to a procedure to be defined by the Commission after consulting the Committee, and will be treated as confidential at the supplier's request.

Done at Brussels, 25 July 1985.

For the Council

The President

J. POOS

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ANNEX

RACE DEFINITION PHASE

Summary of areas

PART I

Development of an IBC reference model

- I.1. Development of an IBC network reference model
- I.2. Definition of the IBC terminal environment
- I.3. Future application assessment

PART II

Technology evaluation and exploration

- II.1. High-speed integrated circuits
 - II.2. High complexity integrated circuits
 - II.3. Integrated opto-electronics
 - II.4. Broadband switching
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I

(Information)

COUNCIL

COUNCIL RESOLUTION

of 9 June 1986

on the use of videoconference and videophone techniques for intergovernmental applications

(86/C 160/01)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Whereas on 28 February 1984 the Council requested the Commission to undertake an analysis of the use of videoconference and videophone techniques to improve contact between Member States and the Community institutions;

Whereas the Council adopted the Commission communication on telecommunications dated 18 May 1984 (COM(84) 277 final), which included an analysis of intergovernmental videoconference and videophone applications as a line of action;

Whereas the Council, on 17 December 1984, agreed on the major objectives for a Community effort in the field of telecommunications, which included reference to the definition and implementation of an intergovernmental videoconference and videophone project;

Whereas the Commission has submitted the feasibility study requested;

Noting the feasibility study and the conclusions of the Commission,

INVITES THE MEMBER STATES:

1. To implement an initial operational intergovernmental videoconference and videophone system which takes account of the potential of videoconference and videophone techniques, in order to improve and make more efficient the bilateral and multilateral exchange of information between the Governments of the Member States and the Community institutions; to

that end, to entrust such implementation to the telecommunications authorities;

2. To complete the necessary installations, in accordance with the requirements they have ascertained;
3. To encourage the telecommunications authorities of Member States to proceed actively with establishment of the trans-Community broadband communications necessary to support an intergovernmental video conference and videophone system;

INVITES THE EUROPEAN PARLIAMENT AND THE COMMISSION:

1. To examine conditions for their participation in an initial operational intergovernmental videoconference and videophone system;

FURTHERMORE, INVITES THE COMMISSION:

1. To continue the cooperation that has been established with telecommunications authorities and users during the preparation of the feasibility study and in particular resolve problems specific to the use of videoconference and videophone facilities by Governments and the Community institutions, such as confidentiality, simultaneous interpretation and the possibility of multilateral conferences;
2. To submit a report to the Council on the experience gained during 1987, also covering the financial aspects of putting this resolution into practice, so that the applicability of the system to intergovernmental communications may be assessed and a decision taken as to whether the use of videoconference and videophone facilities for such communications should be encouraged further.

000017

COUNCIL DIRECTIVE

of 24 July 1986

on the initial stage of the mutual recognition of type approval for telecommunications terminal equipment

(86/361/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee⁽²⁾,

Whereas the mutual recognition of type approval for telecommunications terminal equipment features in the Commission communication to the Council of 18 May 1984 on telecommunications, in the Council recommendations of 12 November 1984 concerning the implementation of harmonization in the field of telecommunications and the first phase of opening up access to public telecommunications contracts, and in the Council conclusions of 17 December 1984 concerning a Community telecommunications policy;

Whereas the market in telecommunications terminal equipment and use of the full potential of the new telecommunications services are of considerable importance for the economic development of the Community;

Whereas it is absolutely essential to establish or consolidate a specifically European industrial potential in the technologies concerned;

Whereas it is highly desirable to make rapid progress towards establishing a common market in this sector, in particular in order to offer the industry an improved base for its operations and to facilitate the adoption of a joint position with respect to third countries;

Whereas the mutual recognition of type approval for telecommunications terminal equipment constitutes a major step towards the creation of an open and unified market for such equipment;

Whereas, since situations differ and technical and administrative constraints exist in the Member States, progress towards this objective should be made in stages;

Whereas in particular the mutual recognition of conformity tests on mass-produced terminal equipment should

constitute an initial stage of the mutual recognition of type approval for such equipment;

Whereas such an approach must be based on the definition of common technical specifications based on international standards and specifications and on the harmonization of general technical requirements for testing, measuring and approval procedures in the areas of telecommunications and information technology;

Whereas a general standardization programme is being implemented in the field of information technology in compliance with the Standards Code of the General Agreement on Tariffs and Trade (GATT);

Whereas there is a need for a more comprehensive framework to be drawn up in preparation for a second stage which would create an open and unified market in telecommunications terminal equipment, bearing in mind that for telecommunications this has to include both the free movement of equipment and unimpeded connection to networks, in accordance with the harmonized requirements;

Whereas Council Directive 73/23/EEC of 19 February 1973 on the harmonization of the laws of the Member States relating to electrical equipment designed for use within certain voltage limits⁽³⁾ and Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations⁽⁴⁾ are applicable, *inter alia*, to the fields of telecommunications and information technology;

Whereas the Memorandum of Understanding between the European Conference of Postal and Telecommunications Administrations (CEPT) and the Commission concerning standards and type approval for telecommunications equipment and the general guidelines agreed with the Joint European Standards Institution CEN-CENELEC henceforth make it possible to entrust specialized technical harmonization work to those bodies;

Whereas the mechanism introduced by certain CEPT administrations, including those of the Community Member States, under the agreement drawn up at Copenhagen on 15 November 1985, incorporates a formal adoption procedure and an undertaking to implement certain CEPT recommendations, which are then designated as 'NETS' (Normes européennes de télécommunications);

⁽¹⁾ OJ No C 36, 17. 2. 1986, p. 55.

⁽²⁾ OJ No C 303, 25. 11. 1985, p. 2.

⁽³⁾ OJ No L 77, 26. 3. 1973, p. 29.

⁽⁴⁾ OJ No L 109, 26. 4. 1983, p. 8.

Whereas it is necessary to set up a Committee, with the task of assisting the Commission in implementing this Directive and in progressively implementing the mutual recognition of type approval for terminal equipment,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The Member States shall implement the mutual recognition of the results of tests of conformity with common conformity specifications for mass-produced telecommunications terminal equipment in accordance with the detailed rules set out in this Directive.

Article 2

For the purposes of this Directive:

1. 'telecommunications administrations' means the administrations or private operating agencies recognized in the Community and providing public telecommunications services;
2. 'terminal equipment' means equipment directly or indirectly connected to the termination of a public telecommunications network to send, process or receive information;
3. 'technical specification' means a specification contained in a document which lays down the characteristics required of a product such as levels of quality, performance, safety or dimensions, including the requirements applicable to the product as regards terminology, symbols, testing and test methods, packaging, marking and labelling;
4. 'international technical specification in telecommunications' means the technical specification of all or some characteristics of a product, recommended by such organizations as the Comité international téléphonique et téléphonique (CCITT) or the CEPT;
5. 'common technical specification' means a technical specification drawn up with a view to uniform application in all Member States of the Community;
6. 'standard' means a technical specification adopted by a recognized standards body for repeated or continuous application, compliance with which is not compulsory;
7. 'international standard' means a standard adopted by a recognized international standards body;
8. 'approved testing laboratory' means a laboratory the conformity of which with the accreditation system established by the CEPT in close cooperation with specialized organizations and any relevant national accreditation organizations has been verified, with particular reference to the relevant ISO guides, by the appropriate Member State or a body recognized as competent by that State and which is approved by that Member State or body recognized as competent for conducting conformity tests on terminal equipment;
9. 'certificate of conformity' means the document certifying that a product or service conforms to given standards or technical specifications;
10. 'type approval of terminal equipment' means the confirmation delivered by the competent authority of a Member State that a particular terminal equipment type is authorized or recognized as suitable to be connected to a particular public telecommunications network;
11. 'conformity specification' means a document giving a precise and full description of the technical characteristics of the relevant terminal equipment (such as safety, technical parameters, functions and procedures and service requirements) together with a precise definition of the tests and test methods enabling the conformity of the terminal equipment with the prescribed technical characteristics to be verified;
12. 'type approval specification' means a specification setting out the full and precise requirements that must be satisfied by terminal equipment to be granted type approval. It includes the conformity specification and also administrative requirements and, where appropriate, requirements concerning quality control operations to be carried out during the manufacture of the equipment;
13. 'common conformity specification' means a conformity specification used in all the Community Member States by the authority competent for testing the conformity of terminal equipment. It also includes, where appropriate, requirements made necessary in a given State by historical network peculiarities or established national provisions concerning the use of radio frequencies;
14. 'common type approval specification' means a type approval specification which is used in all the Community Member States by all the authorities empowered to grant type approval for terminal equipment. It includes the common conformity specification and also administrative requirements and, where appropriate, requirements concerning quality control operations to be carried out during the manufacture of the equipment;
15. 'NET' (Norme européenne de télécommunications) is an approved technical specification recommendation of the CEPT or part or parts thereof which the signatories of the Memorandum of Understanding, established at the meeting of Directors-General of CEPT Administrations, in Copenhagen on 15 November 1985, adopted in accordance with the procedures set down in that Memorandum;

15. 'mutual recognition of the results of conformity tests on terminal equipment' means a situation where, when an approved laboratory or the competent authority in a Member State issues a certificate, accompanied by test data and identification details, stating that a terminal is in conformity with a common conformity specification or a part thereof, that certificate is recognized in the other Member States, so that if the terminal in question is the subject of an application for type approval in another Member State, it no longer has to be subjected to the tests for verifying conformity with that specification, or with the part of that specification concerning the tests carried out;
17. 'essential requirements' means those aspects of common conformity specifications of such importance as to necessitate compliance as a matter of legal obligation for the implementation of the mutual recognition of the results of conformity tests on terminal equipment as an integral part of the type approval procedure. These essential requirements are at present:
- user safety in so far as this requirement is not covered by Directive 73/23/EEC,
 - safety of employees of public telecommunications network operators in so far as this requirement is not covered by Directive 73/23/EEC,
 - protection of public telecommunications networks from harm,
 - interworking of terminal equipment, in justified cases.

Article 3

The Council, acting in accordance with the rules of the Treaty on a proposal from the Commission, shall supplement as necessary the list of essential requirements and shall make them more specific where necessary for certain products.

Article 4

The Commission shall:

1. draw up each year, after consulting the Committee referred to in Article 5 and with due regard to the general programme of standardization in the information technology sector:
 - a list of international standards and international technical specifications in telecommunications to be harmonized,
 - a list of terminal equipment for which common conformity specifications should be drafted as a matter of priority, on the basis above all of the essential requirements,
 - a timetable for this work;
2. request the CEPT to draw up the common conformity specifications in the form of NETs, within the speci-

fied time limits; in so doing the latter shall, when appropriate, consult other specialized standardization organizations such as the European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (CENELEC).

Article 5

1. In carrying out the tasks referred to in Article 4, the Commission shall be assisted by a Committee, which shall be the Working Party of Senior Officials on Telecommunications. The members of the Committee may be assisted by experts or advisers according to the nature of the question under discussion. The Committee shall be chaired by a Commission representative.
2. Apart from the cases listed in this Directive, the Commission shall consult the Committee on:
 - (a) the broad objectives and the future needs of the telecommunications standardization policy;
 - (b) problems raised by the approval of testing laboratories, and in particular the accreditation system referred to in Article 2 (8) and any amendment to that system which may appear necessary;
 - (c) the effect of technological progress on specification work already under way and the possible need to give a new or revised mandate to the CEPT.

At the request of its Chairman or of a Member State, the Committee may consider any question relating to the implementation of this Directive.

3. The Committee shall adopt its own rules of procedure.
4. The Secretariat of the Committee shall be provided by the Commission.

Article 6

1. For the purposes of this Directive, a 'NET' shall be regarded as the equivalent of the common conformity specification.

Reference to NETs shall be published in the *Official Journal of the European Communities*.

2. Without prejudice to the cases referred to in Article 8, the competent authorities of the Member States shall not have any further tests carried out in respect of a particular type of terminal equipment where results of tests carried out in accordance with Article 7 have given rise to the issue of a certificate of conformity with the relevant common conformity specification, the references to which are published in the *Official Journal of the European Communities*. Such certificate of conformity shall be recognized for the purposes of type approval of the terminal equipment in question.

3. The common conformity specifications shall be used in all Member States by the competent authorities for any verification demanded for type approval purposes of the relevant terminal equipment.

The procedure for exceptions referred to in Article 7 (4) may also be applied by the competent authorities of the Member States in respect to the first subparagraph.

Article 7

1. Member States shall inform the Commission of the authority or authorities competent in their territory to issue type approval for terminal equipment. The Commission shall publish a list of these authorities in the *Official Journal of the European Communities*.

2. Member States shall send the Commission a list of the laboratories which they have approved, or which have been approved by bodies recognized by them as competent, for the purpose of verifying the conformity of terminal equipment with the common conformity specifications. They shall regularly submit a report on the activities of these laboratories in the field covered by this Directive. Such lists and reports shall be transmitted to the Committee referred to in Article 5 for information.

3. For the purposes of Article 6, the certificate of conformity issued by the approved laboratory which has carried out the tests must be accompanied by the data obtained from the measurements performed during the conformity tests, all the information necessary for precise identification of the terminal equipment on which the tests were made and a precise indication of the common conformity specification, or part thereof, used for the tests.

4. Member States shall ensure that telecommunications administrations use common conformity specifications when purchasing terminal equipment covered by such specifications except in the following cases:

(a) where the equipment is to replace equipment connected to the network before the adoption of common conformity specification and is to the same technical specification as the equipment it replaces, or where, during any transition period between two systems, which is accepted as necessary and which is defined within the NET, a Member State needs to add a limited number of pieces of equipment complying with the specification of the first system. In both cases, the Commission shall be informed when such a waiver is invoked and kept informed of the number of pieces of equipment involved; this information shall be given to the Committee referred to in Article 5;

(b) where a careful consultation of the market — i.e. including the publication of a call for declarations of

interest in the *Official Journal of the European Communities* — shows there is no offer at economically acceptable conditions for such terminal equipment complying with those common conformity specifications. In this case, on the basis of an unavoidable need, a Member State may, for a limited period of time, apply only a part of the characteristics set out in the common conformity specifications. The Member State shall inform the Commission immediately and also state what departures from the common conformity specification it intends to permit. The Commission shall consult the Committee referred to in Article 5 as a matter of urgency and may request the CEPT to revise the particular common conformity specification. In addition, the Committee shall review the situation at least every six months during the period when this waiver is applied.

In the event that a request for revision is not made to the CEPT then his waiver shall cease when another Member State presents evidence to the Committee that terminal equipment conforming to that common conformity specification has been connected to its public telecommunication networks on a normal commercial basis.

However, a Member State may have the waiver extended provided that the Commission, on the advice of the Committee referred to in Article 5, agrees that the technical and economic conditions are sufficiently different in the two Member States as to warrant such an extension.

5. The Member States shall consult within the Committee referred to in Article 5, so as to create conditions of fair competition for carrying out the same series of conformity tests in all the approved laboratories.

Article 8

1. A Member State may, after examining the common conformity specification and the test results, suspend recognition of a certificate of conformity issued for the purpose of type approval:

- (a) if it discovers shortcomings regarding the application of the common conformity specification;
- (b) if it discovers that the common conformity specification itself fails to meet the essential requirements which it is supposed to cover.

If it exercises this option, the Member State concerned shall immediately inform the Commission and the other Member States, stating the reasons for its decision.

2. Where the decision of the Member State concerns the electrical safety of users of terminal equipment, the procedures set out in Article 9 of Directive 73/23/EEC shall apply.

3. If the reasons given for the Member State's decision are as described in paragraph 1 (a), the Commission shall immediately consult the Member States concerned. If no agreement is reached within four weeks, the Commission shall seek the opinion of one of the approved laboratories notified in accordance with Article 7 which is based outside the territory of the Member States concerned. The Commission shall communicate the opinion of this laboratory to all the Member States, which may submit their comments to it within a period of one month.

After taking note of any such comments the Commission shall, if necessary, formulate appropriate recommendations or opinions.

If in preparing its opinion a laboratory consulted unavoidably incurs expenditure, which may if necessary include additional tests, the Commission will defray that expenditure on production of documentary evidence. If, however, further to an opinion a decision to suspend recognition of a certificate of conformity is not maintained, the Member State which took it shall reimburse the Commission, in accordance with the procedures for payment then negotiated with the Member State.

4. If the reasons invoked in support of the Member State's decision are as described in paragraph 1 (b), the Commission shall refer the matter to the Committee referred to in Article 5, which shall express its opinion as a matter of urgency. On the basis of that opinion the Commission shall decide whether or not to withdraw the common specification in question from the list published in the *Official Journal of the European Communities*. If it withdraws the specification, the Commission shall inform the CEPT and may entrust it with a further brief.

5. If a Member State considers that terminal equipment which has already been approved does not meet one or more of the essential requirements, it may revoke the

type approval granted and shall in that case immediately apply the procedures set out in paragraphs 1 and 2.

Article 9

The Commission shall examine the detailed rules for the second stage of the establishment of a market in telecommunications terminal equipment without internal frontiers covering, in particular, the implementation of mutual recognition of type approval for terminal equipment. To this end it shall submit proposals to the Council within a period of two years following the implementation of this Directive.

Article 10

This Directive shall not prejudice the application of Directive 83/189/EEC.

Article 11

1. Member States shall introduce the measures necessary to comply with this Directive within a period of not more than one year following adoption thereof. It shall forthwith inform the Commission thereof.

2. Member States shall ensure that the Commission is informed of the main provisions of national law which they adopt in the field governed by this Directive.

Article 12

This Directive is addressed to the Member States.

Done at Brussels, 24 July 1986.

For the Council

The President

A. CLARK

I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EEC) No 3300/86
of 27 October 1986**

instituting a Community programme for the development of certain less-favoured regions of the Community by improving access to advanced telecommunications services (STAR programme)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1787/84 of 19 June 1984 on the European Regional Development Fund⁽¹⁾, and in particular Article 7 (4) thereof,

Having regard to the proposal from the Commission⁽²⁾,

Having regard to the opinion of the European Parliament⁽³⁾,

Having regard to the opinion of the Economic and Social Committee⁽⁴⁾,

Whereas Article 7 of Regulation (EEC) No 1787/84, hereinafter referred to as the 'Fund Regulation', provides for participation by the Fund in Community programmes the purpose of which is to help in solving serious problems affecting the socio-economic situation in one or more regions and which are designed to provide a better link between the Community's objectives for the structural development or conversion of regions and the objectives of other Community policies;

Whereas Ireland, the Mezzogiorno, Northern Ireland, Corsica and the French overseas departments, the regions in Greece and in Portugal and certain regions in Spain have to contend with particularly serious economic problems; whereas the level of telecommunications services, especially of advanced services intended for the productive sector in those regions, is inadequate and whereas this shortcoming has an adverse effect on both their socio-economic situation and their development prospects;

Whereas on 29 and 30 March 1985 the European Council endorsed objectives aimed at strengthening the technological base and competitiveness of Community industry; whereas those objectives include 'achieving a breakthrough in telecommunications'; whereas one of the lines of action adopted on 17 December 1984 by the Council in this field is designed to ensure 'improved access for less-favoured regions of the Community to the benefits of the development of advanced services and networks';

Whereas fuller integration of the least-favoured regions into telecommunications networks and appropriate use by them of advanced telecommunications services are necessary if they are to reduce 'the extent to which they lag behind in terms of economic development, since such services will reduce their isolation, will allow them to participate in the Community's technological breakthrough and will foster job creation';

Whereas use of advanced telecommunications services presupposes the establishment of the necessary infrastructures such as major links for the regions of the new networks, digitalization to promote more rapid introduction of integrated-services digital networks, the creation of additional capacities essential to the provision of advanced services notably in the field of high-speed data transmission, and the establishment and development of cellular radio infrastructures in a way compatible with the coordinated introduction of a future pan-European radio-telephony cellular digital system;

Whereas the establishment of modern telecommunications infrastructures must be accompanied by measures to promote the supply of, and the demand for, advanced services facilitating optimum use of those infrastructures; whereas such promotion includes aid for the preparation of regional or local programmes for the coordinated use of telecommunication systems, advisory and publicity measures, demonstration projects, aid for small and medium-sized enterprises in order to encourage them to use advanced systems and to promote their activities in the telecommunications fields, service centres, experimental tele-commuting projects and the development of regional specialized information services;

⁽¹⁾ OJ No L 169, 28. 6. 1984, p. 1.

⁽²⁾ OJ No C 147, 14. 6. 1986, p. 4 and

OJ No C 194, 1. 8. 1986, p. 7.

⁽³⁾ OJ No C 176, 14. 7. 1986, p. 189.

⁽⁴⁾ OJ No C 263, 20. 10. 1986, p. 35.

Whereas the Member States concerned have communicated the necessary information to the Commission;

Whereas, by helping the least-favoured regions to exploit the new telecommunications potential, the Community programme contributes to the furtherance of both regional development objectives and the Community's objectives in the field of telecommunications; whereas the level of Community participation must, therefore, be the maximum permissible under the Fund Regulation and whereas, at the same time, the programme is given priority in the management of Fund resources;

Whereas Council Regulation (EEC) No 2615/80⁽¹⁾, as amended by Regulation (EEC) No 214/84⁽²⁾, and Regulation (EEC) No 215/84⁽³⁾ instituting specific Community measures contributing to the development of certain regions in the context of Community enlargement permit the financing of certain measures in the telecommunications field and whereas aid granted under those Regulations should not be combined with aid granted under this Community programme;

Whereas Community assistance must be provided in the form of multiannual programmes drawn up by the competent authorities in the Member States concerned; whereas, in order to ensure sound financial management of the Fund, Member States will need to transmit such assistance programmes to the Commission within a specific period following the entry into force of the Community programme; whereas it is for the Commission, in adopting those programmes, to ensure that the operations proposed therein are in keeping with this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

A Community programme within the meaning of Article 7 of the Fund Regulation is hereby established in order to contribute to the development of certain less-favoured regions of the Community by improving access to advanced telecommunications services.

Article 2

The purpose of the Community programme shall be to contribute to strengthening the economic base in the regions concerned, to foster job creation and to help raise technological standards in those regions, by improving the supply of advanced telecommunications services and by integrating those regions into large telecommunications networks. To that end, the programme shall provide for the implementation in all the regions defined in

Article 3, and in the light of socio-economic needs, regional potential and long-term regional telecommunications requirements of a series of consistent, multiannual measures establishing modern telecommunications infrastructures and promoting the supply of, and the demand for, advanced telecommunications services.

The Community programme shall thereby seek to provide a better link between the Community's objectives for the structural development of regions and the objectives of Community telecommunications policy.

Article 3

1. The Community programme shall concern regions satisfying all the following conditions simultaneously:

- (a) a particularly difficult economic situation compared with the Community as a whole;
- (b) peripheral or insular geographical location;
- (c) inadequate supply of telecommunications services, notably advanced services for the productive sector;
- (d) as a general rule, eligibility under a national regional aid scheme.

2. The regions satisfying the conditions set out in paragraph 1 are:

- (a) in Spain:
 - the regions eligible for the national regional aid scheme as they will be determined by the Commission pursuant to Article 92 of the Treaty;
- (b) in France:
 - Corsica and the overseas departments;
- (c) in Greece:
 - all regions, except the nomos of Attica;
- (d) Ireland;
- (e) in Italy:
 - the regions and zones of the Mezzogiorno;
- (f) in Portugal:
 - all regions, except the Lisbon area;
- (g) in the United Kingdom:
 - Northern Ireland.

3. Exceptionally, the Community programme shall also apply to:

- the nomos of Attica and the Lisbon area in the case of operations provided for in Article 4,
- the autonomous community of Madrid, except the municipality of Madrid, in the case of both operations provided for in Article 4 (1)(a) and (c) and the feasibility studies relating to such operations pursuant to Article 4 (1) (f),

in so far as such operations are technically necessary for the consistency, continuity and full implementation of the Star programme as a whole.

⁽¹⁾ OJ No L 271, 15. 10. 1980, p. 1.

⁽²⁾ OJ No L 27, 31. 1. 1984, p. 1.

⁽³⁾ OJ No L 27, 31. 1. 1984, p. 5.

Article 4

The Fund may participate, under the Community programme, in the following operations :

1. Establishment of the basic equipment needed for advanced telecommunications services in order :

- (a) to integrate the less-favoured regions into the new advanced telecommunications networks being set up across the Community and to provide major telecommunication links. Investment projects may include land-based (including submarine) systems, notably those using optical fibres, and satellite systems ;
- (b) to encourage digitalization with a view to more rapid introduction of integrated-services digital networks for firms and consumers.

Investment projects may include :

- introduction of signalling systems between switches essential for integrated-services digital networks,
- digitalization of transmission lines and switching centres, including installation of digital switches and additional work on local switches for the digitalization of links to final users,
- digitalization of links to final users,

with a view to carrying out the operations prior to the introduction of integrated-services digital networks ;

- (c) to set in place and develop, pending the introduction of integrated-services digital networks, additional capacity essential to provision of advanced telecommunications services, notably in the field of data transmission. Investment projects may include establishment of the transmission lines and provision of equipment enabling the public to use the service, such as the establishment and development of packet switching networks, data bases and videotex access points, including the transformation of pilot schemes already financed by the Community into fully-operational systems ;
- (d) to establish and develop cellular radio infrastructures in a way compatible with the coordinated introduction of a future pan-European radio-telephony cellular digital system ;
- (e) to establish and develop laboratories to check and measure telecommunications material ;

- (f) to carry out feasibility studies relating to the investment projects specified in (a) to (e).

2. Promotion of the supply of, and the demand for, advanced telecommunications services. The following operations shall be eligible under this heading :

- (a) preparation of local or regional programmes for the coordinated use of advanced telecommunications systems. This shall include technical and economic feasibility studies on the provision of new telecommunications services to users, notably small and medium-sized enterprises (SME) in the industrial and service sectors, including tourism ; such studies shall take account of socio-economic development prospects and plans for the territories concerned ;
- (b) measures to promote the use of advanced telecommunications services. Such measures shall include publicity and information campaigns aimed at making potential users aware of the existence and advantages of modern telecommunications services, either through conventional marketing channels or by way of seminars, courses and briefings. Priority shall be given to measures for SME, including those involved in the field of tourism and in other sectors with a high development potential ;
- (c) measures to demonstrate, by means of specific integrated applications, the advantages of using advanced telecommunications services. Such measures shall include demonstration projects for SME, including those involved in the field of tourism and in other sectors with a high development potential ;
- (d) aid to encourage individual SME or groups of SME to use advanced telecommunications services and to promote the introduction of new activities or the adaptation of existing activities in the field of telecommunications.

Such aid may take the form of :

- (i) expert studies on the potential economies to be achieved through greater use of advanced telecommunications services, including computerized services available via data-transmission networks ;
- (ii) if the studies referred to in (i) so justify, equipment (such as terminals, modems, videotex servers and teletext message systems) giving users access to advanced telecommunications services ;
- (iii) investment in new undertakings or to facilitate the adaptation of existing undertakings to market potential in the field of telecommunications goods and services.

- (e) establishment and development of telecommunications service centres, except in those of the main urban areas where such centres arise spontaneously, with a view to :
 - (i) providing user services, in particular advanced data-transmission, videotex and videocommunication services, even in sparsely populated areas ;
 - (ii) providing common services for two or more SME ;
- (f) implementation of experimental distance working projects ;
- (g) the provision of regional services using computerized telecommunications facilities in the sphere of specialized information, including information compiled at Community level and of particular interest to certain users, notably SME, including those involved in the field of tourism.

Article 5

1. The Community programme shall be financed jointly by the Member State concerned and the Community. Assistance from the Fund, which may not exceed 55 % of the total public expenditure taken into account in the programme, shall be provided from the appropriations entered for this purpose in the general budget of the European Communities. The Community contribution shall be as follows :

- (1) Operations relating to the basic equipment referred to in Article 4 (1) :
 - (a) infrastructure investment projects, the cost of which is borne wholly or partly by public authorities or by any other body responsible, in the same way as a public authority, for the implementation of infrastructure projects : 55 % of the total cost borne by the public authorities or other comparable body ;
 - (b) investment projects in the industrial, craft industry and service sectors : 50 % of the public expenditure resulting from the grant of investment aid ;
 - (c) feasibility studies : either 70 % of their cost or 50 % of the public expenditure resulting from the granting of aid in respect of them.
- (2) Promotion of the supply of, and the demand for, advanced telecommunications services :
 - (a) studies relating to the presentation of local or regional programmes referred to in Article 4 (2) (a) : 50 % of public expenditure ;
 - (b) measures to promote the use of advanced telecommunications services referred to in Article 4 (2) (b) : aid covering 50 % of the cost of publicity and information campaigns ;
 - (c) demonstration measures referred to in Article 4 (2) (c) : 50 % of public expenditure ;
 - (d) aid for SME referred to in Article 4 (2) (d) :
 - (i) expert studies : either 70 % of their cost or 50 % of the public expenditure resulting from the granting of aid in respect of them ;
 - (ii) equipment : 50 % of the public expenditure resulting from the grant of investment aid ;
 - (iii) in the case of investment in industrial and telecommunications service activities : 50 % of the public expenditure arising from the granting of investment aid under the national regional aid scheme ;
 - (e) establishment and development of telecommunications services centres referred to in Article 4 (2) (e) :
 - (i) operations relating to user service centres :
 - 50 % of the public expenditure resulting from the granting of aid for equipment associated with telecommunications ;
 - (ii) operations relating to common services :
 - 50 % of the public expenditure resulting from the granting of aid ;
 - (f) implementation of experimental distance working projects referred to in Article 4 (2) (f) :
 - (i) feasibility studies : either 70 % of their cost or 50 % of the public expenditure resulting from the granting of aid ;
 - (ii) project implementation : 50 % of the public expenditure resulting from the granting of aid ;
 - (g) provision of regional services in the sphere of specialized information referred to in Article 4 (2) (g) : aid covering part of business expenditure on the development and operation of such services. The aid shall be degressive and shall be granted for three years. It shall cover 70 % of expenditure in the first year and shall not exceed 50 % of total expenditure over the three-year period.

2. As regards the Portuguese regions, the rates of the Fund's contribution provided for in paragraph 1 shall be increased until 31 December 1990 by 20 points, with a maximum rate of 70 %.

3. A Member State may request lower rates of contribution from the Fund than those provided for in paragraphs 1 and 2.

Article 6

1. All or part of the aid may be in the form of a capital grant or an interest subsidy.

2. The following shall be eligible for Fund assistance in respect of operations referred to in Article 5: public authorities, local and regional authorities, other bodies, businesses, cooperatives or individuals.

3. (a) Aid granted under the Community programme shall not be combined with aid granted elsewhere in the Fund Regulation or in Regulations (EEC) No 2615/80 or (EEC) No 215/84.

(b) In addition, the aid referred to in Article 5 (1) point 2 (d), (e), (f) and (g) may not have the effect of reducing the share of expenditure met by recipient businesses to less than 20 % of total expenditure.

Article 7

All the operations referred to in Article 4 shall also satisfy the following:

— the Fund's contribution to the promotional measures provided for in Article 4 (2) may not be less than 15 % of the total contribution to the programme; the contribution from the Fund to the feasibility studies

referred to in Article 4 (2) (a) may not exceed 5 % of the total contribution to the programme; the contribution from the Fund to the production aid referred to in Article 4 (2) (d) (iii) may not exceed 5 % of the total contribution to the programme,

— the programme shall cover projects which are consistent with the Community's objectives regarding telecommunications and information technology standards, particularly in view of the progress made towards these objectives by the European Conference of Postal and Telecommunications Administrations (CEPT) and the European Committee for Standardization (CEN)/European Committee for Electrotechnical Standardization (Cenelec).

Article 8

1. The duration of the programme shall be five years from the date of entry into force of this Regulation.

2. The intervention programme shall be submitted to the Commission within six months of the entry into force of this Regulation: in exceptional circumstances the Commission may extend that period by one month.

Article 9

The amount of Fund assistance may not exceed the amount laid down by the Commission when adopting the programme agreement referred to in Article 13 (1) of the Fund Regulation.

Article 10

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 27 October 1986.

For the Council
The President
G. HOWE

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 22 December 1986

on standardization in the field of information technology and telecommunications

(87/95/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Whereas the standards applicable in the field of information technology and the activities necessary for their preparation must, in particular, take account of:

- the complexity of the technical specifications and the precision required to ensure the exchange of information and data and the compatible operating of systems;
- the need to ensure rapid publication of standards so that undue delays do not result in the early obsolescence of texts that have been overtaken by the speed of technological change;
- the need to encourage the application of international standards for exchange of information and data on a basis which will establish their credibility from the standpoint of practical implementation;
- the economic importance of the role played by standardization in contributing to the creation of a Community market in this field;

Whereas Directive 83/189/EEC ⁽³⁾ enables the Commission, the Member States and the standards institutions to

be informed of the intentions of standards institutions to draw up or to amend a standard, and whereas, under the terms of that Directive, the Commission may establish terms of reference for work on standardization of common interest to be undertaken jointly and at an early stage;

Whereas that Directive does not contain all the provisions necessary for the implementation of a Community policy on standardization in the field of information technology and telecommunications;

Whereas the increasing amount of technical overlap between the different fields of standardization, particularly in the case of information technology and telecommunications, is such as to justify close cooperation between standards institutions, which should collaborate in order to deal with these matters of common interest;

Whereas agreements have been recently concluded by the Commission within the framework of the Memorandum of Understanding signed with the European Conference of Postal and Telecommunications Administrations (CEPT) and in the context of the general guidelines approved with the joint standardization organization European Committee for Standardization/European Committee for Electrotechnical Standardization (CEN/CENELEC);

Whereas Directive 86/361/EEC ⁽⁴⁾ sets out programmes for work on common technical specifications (corresponding to Normes Européennes de Télécommunication (NETs)) for this field by the European Conference of Postal and Telecommunications Administrations in consultation, where appropriate, with the European Committee for Standardization and the European Committee for Electrotechnical Standardization;

⁽¹⁾ OJ No C 36, 17. 2. 1986, p. 55.

⁽²⁾ OJ No C 303, 25. 11. 1985, p. 2.

⁽³⁾ OJ No L 109, 26. 4. 1983, p. 8.

⁽⁴⁾ OJ No L 217, 5. 8. 1986, p. 21.

- Whereas the field of public procurement orders is suitably placed to encourage wider acceptance of open systems interconnection information and data exchange standards through reference to them in purchasing;

Whereas it is necessary to entrust a committee with the task of assisting the Commission in its pursuance and management of the objectives and activities laid down by the Decision,

HAS DECIDED AS FOLLOWS:

Article 1

For the purposes of this Decision:

1. '*technical specifications*' means a specification contained in a document which lays down the characteristics required of a product, such as levels of quality, performance, safety or dimensions, including the requirements applicable to the product as regards terminology, symbols, testing and test methods, packaging, marking or labelling;
2. '*common technical specification*' means a technical specification drawn up with a view to uniform application in all the Member States of the Community;
3. '*standard*' means a technical specification approved by a recognized standards body for repeated or continuous application, compliance with which is not compulsory;
4. '*international standard*' means a standard adopted by a recognized international standards body;
5. '*Draft International Standard (DIS)*' means a draft standard adopted by a recognized international standards body;
6. '*international technical specification in telecommunications*' means the technical specification of all or some characteristics of a product, recommended by such organizations as the Comité international télégraphique et téléphonique (CCITT) or the CEPT;
7. '*European standard*' means a standard which has been approved pursuant to the statutes of the standards bodies with which the Community has concluded agreements;
8. '*European pre-standard*' means a standard adopted under the reference (EPS) in accordance with the statutory rules of the standards bodies with which the Community has concluded agreements;
9. '*functional standard*' means a standard worked out to yield a complex function required to ensure systems interoperability and generally obtained by the linking together of several existing reference standards and adopted in accordance with the statutory rules of standards bodies;
10. '*functional specification*': the specification which defines, in the field of telecommunications, the application of one or more open system interconnection standards in support of a specific requirement for communication between information technology systems (standards recommended by such organizations as the 'Comité international télégraphique et téléphonique' (CCITT) or the CEPT);
11. '*technical regulation*' means the technical specifications, including the relevant administrative provisions, the observance of which is compulsory, *de jure* or *de facto*, in the case of marketing or use in a Member State or a major part thereof, except those laid down by local authorities;
12. '*certification of conformity*' means the activity whereby the conformity of a product or service to given standards or other technical specifications is certified by means of a certificate or mark of conformity;
13. '*information technology*' means the systems, equipment, components and software required to ensure the retrieval, processing and storage of information in all centres of human activity (home, office, factory, etc.), the application of which generally requires the use of electronics or similar technology;
14. '*public procurement orders*' means those:
 - defined in Article 1 of Directive 77/62/EEC⁽¹⁾;
 - concluded for the supply of equipment relating to information technology and telecommunications, irrespective of the sector of activity of the contracting authority;
15. '*telecommunications authorities*' means recognized authorities or private enterprises in the Community which provide public telecommunications services.

Article 2

In order to promote standardization in Europe and the preparation and application of standards in the field of information technology and functional specifications in the field of telecommunications, the following measures, subject to Article 3 (2) and Article 4, shall be implemented at Community level:

- (a) regular, at least annual, determination on the basis of international standards, draft international standards or equivalent documents, of the priority standardization requirements with a view to the preparation of work

⁽¹⁾ OJ No L 13, 15. 1. 1977, p. 1.

programmes and the commissioning of such European standards and functional specifications as may be deemed necessary to ensure the exchange of information and data and systems interoperability;

(b) on the basis of international standardization activities:

— the European standards institutions and specialized technical bodies in the information technology and telecommunications sector shall be invited to establish European standards, European prestandards or telecommunications functional specifications having recourse, if necessary, to the drafting of functional standards, to ensure the precision required by users for exchange of information and data and systems interoperability. Such bodies shall base their work on international standards, draft international standards or international technical specifications in telecommunications. Where an international standard, draft international standard or international technical specification in telecommunications offers clear provisions allowing its uniform application, these provisions will be adopted unaltered in the European standard, European prestandard, or telecommunication functional specification. Only where such clear provisions do not exist in the international standard, draft international standard or international technical specification in telecommunications, the European standard, European prestandard, or telecommunication functional specification will be written to clarify or, where necessary, supplement the international standard, draft international standard or international technical specification in telecommunications while avoiding divergence from it;

— the same bodies shall be invited to prepare technical specifications which may form the basis of European standards or European prestandards in the absence of, or as a contribution to the production of, agreed international standards for the exchange of information and data and systems interoperability;

(c) measures to facilitate the application of the standards and functional specifications, in particular by means of coordinating Member States' activities in:

— the verification of the conformity of products and services to the standards and functional specifications on the basis of test requirements specified;

— the certification of conformity to standards and functional specifications in accordance with properly harmonized procedures.

(d) promotion of the application of standards and functional specifications relating to information technology and telecommunications in public sector orders and technical regulations.

Article 3

1. The specific objectives of the measures proposed are described in the Annex to this Decision.

2. This Decision shall cover:

— standards in the field of Information Technology as set out in Article 5

— functional specifications for the services specifically offered over public telecommunications networks for exchange of information and data between information technology systems.

3. This Decision shall not cover:

— common technical specifications for terminal equipment connected to the public telecommunications networks, which are covered by Directive 86/361/EEC

— specifications for the equipment forming any part of the telecommunications networks themselves.

Article 4

In determining requirements as regards standardization and in drawing up a work programme for standardization and the preparation of functional specifications, the Commission shall refer in particular to the information communicated to it pursuant to Directive 83/189/EEC.

The Commission, after consulting the Committee provided for in Article 7, shall entrust the technical work to the competent European standards organizations or specialised technical bodies (CEN, CENELEC and CEPT) requesting them, if necessary, to draw up corresponding European standards or functional specifications. The mandates to be given to these organizations shall be referred for agreement to the Committee provided for under Article 5 of Directive 83/189/EEC in accordance with the procedures of the said Directive. No mandate shall be issued which overlaps with any part of work programmes commenced or drawn up under Directive 86/361/EEC.

Article 5

1. Taking account of the differences between existing national procedures, Member States shall take the necessary steps to ensure that reference is made to:

— European standards and European prestandards as described in Article 2 (b);

— international standards when accepted in the country of the contracting authority;

in public procurement orders relating to information technology so that these standards are used as the basis for the exchange of information and data for systems interoperability.

2. In order to provide end-to-end compatibility, Member States shall take the necessary steps to ensure that their telecommunications administrations use functional specifications for the means of access to their public telecommunication networks for those services specifically intended for exchange of information and data between information technology systems which themselves use the standards mentioned in paragraph 1.

3. Application of this Article shall take account of special circumstances as outlined below which may justify the use of standards and specifications other than those provided for in this Decision :

- the need for operational continuity in existing systems, but only as part of clearly defined and recorded strategies for subsequent transition to international or European standards or functional specifications ;
- the genuinely innovative nature of certain projects ;
- where the standard or functional specification in question is technically inadequate for its purpose on the grounds that it does not provide the appropriate means of achieving information and data exchange or systems interoperability, or that the means (including testing) do not exist to establish satisfactorily conformity of a product to that standard or functional specification or where, in the case of European Pre-Standards, these lack the necessary stability for application. It shall be open to other Member States to demonstrate to the Committee referred to in Article 7 that equipment conforming to the standard had been used satisfactorily, and that use of this waiver was not justified ;
- where, after careful consultation of the market, it is found that important reasons related to cost-effectiveness make use of the standard or functional specification in question inappropriate. It would be open to other Member States to demonstrate to the Committee referred to in Article 7 that equipment conforming to that standard had been used satisfactorily on a normal commercial basis, and that use of this waiver was not justified.

4. In addition, Member States may require reference, on the same basis as in paragraph 1, to draft international standards.

5. Contracting authorities relying upon paragraph 3 shall record their reasons for doing so, if possible, in the initial tender documents issued in respect of the procurement, and in all cases shall record these reasons in their internal documentation and shall supply such information on request to tendering companies and to the Committee referred to in Article 7 whilst respecting

commercial confidentiality. It shall also be possible for complaints about use of derogations referred to in paragraph 3 to be made direct to the Commission.

6. The Commission shall ensure that the provisions of this Article are applied in the case of all Community projects and programmes, including public procurement orders financed from the Community budget.

7. Contracting authorities, if they consider it necessary, may apply other specifications to contracts of a value lower than 100 000 ECU, provided that these purchases will not prevent the use of the standards mentioned in paragraphs 1 and 2 in any contract of a greater value than the sum mentioned in this paragraph. The need for the derogation or the level of the threshold established in this paragraph will be reviewed within three years of the bringing into application of this Decision.

Article 6

When drafting or amending technical regulations in areas covered by this Decision, Member States shall refer to the standards referred to in Article 5 whenever these meet in an appropriate fashion the required technical specifications of the regulation.

Article 7

1. An advisory committee, called the 'Senior Officials Group on standardization in the field of Information Technology' shall assist the Commission in its pursuance of the objectives and its management of the activities laid down by the Decision. It shall consist of representatives appointed by the Member States, who may call on the assistance of experts or advisers : its chairman shall be a representative of the Commission. For telecommunication issues the competent committee is the 'Senior Officials Group for Telecommunications' provided for in Article 5 of Directive 86/361/EEC.

2. The Commission shall consult the Committee when determining Community priorities, implementing measures referred to in the Annex, when dealing with matters concerning the verification of conformity to standards, monitoring the implementation of Article 5 and other matters relating to standardization in the field of information technology and telecommunications, or other fields which these overlap. It shall also consult the Committee on the report referred to in Article 8.

3. The Commission shall coordinate the activities of these Committees with the Committee provided for in Article 5 of Directive 83/189/EEC in particular where there is a potential overlap in issuing requests to European standards institutions under this Decision and that Directive.

4. Any questions regarding the implementation of this Decision may be submitted to the Committee at the request of the Chairman or a Member State.

5. The Committee shall meet at least twice a year.

6. The Committee shall adopt its own rules of procedure.

7. The Secretariat of the Committee shall be provided by the Commission.

Article 8

Every two years the Commission shall submit a progress report to the European Parliament and the Council on standardization activities in the information technology sector. This report shall refer to the implementing arrangements adopted within the Community, the results obtained, the application of those results in public procurement contracts and national technical regulations, and, in particular, their practical significance for certification.

Article 9

This Decision shall not prejudice the application of Directive 83/189/EEC and Directive 86/361/EEC.

Article 10

This Decision shall be brought into application one year from the date of its publication in the *Official Journal of the European Communities*.

Article 11

This Decision is addressed to the Member States.

Done at Brussels, 22 December 1986.

For the Council

The President

G. SHAW

ANNEX

MEASURES FOR STANDARDIZATION IN THE FIELD OF INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS

1. Aims

- (a) to contribute to the integration of the internal Community market in the information technology and telecommunications sector;
- (b) to improve the international competitiveness of Community manufacturers by allowing for greater market uptake in the Community of equipment manufactured to recognized European and international standards;
- (c) to facilitate the exchange of information throughout the Community, by reducing the obstacles created by incompatibilities arising from the absence of standards or their lack of precision;
- (d) to ensure that user requirements are taken into account by giving users greater freedom to assemble their systems in a manner guaranteeing operating compatibility and, consequently, improved performance at a lower cost;
- (e) to promote the application of standards and functional specifications in public sector orders.

2. Description of measures and activities to be undertaken

2.1. *Preparation of work programmes and definition of priorities*

The drawing-up of work programmes and assignment of priorities taking account of Community requirements and the economic impact of these activities from the standpoint of users, producers and telecommunications administrations. The tasks to be performed at this level may include, in particular:

- 2.1.1. gathering detailed information on the basis of national and international programmes, presentation of that information in a form which facilitates comparative analysis and preparation of the summaries required for the work of the Committee;
- 2.1.2. The dissemination of that information, the examination of requirements and the consultation of interested parties;
- 2.1.3. synchronization of the work programmes with international standardization activities;
- 2.1.4. the management of work programmes;
- 2.1.5. the preparation of reports describing the execution of the activities and the practical results of their implementation.

2.2. *The execution of standardization activities in the field of information technology*

Execution of the work programmes necessitates the implementation of a series of activities, responsibility for which is generally entrusted to CEN/CENELEC and to the CEPT and which correspond to the different stages of activity that must be completed in order to ensure the credibility of standards.

These activities include:

- 2.2.1. the refinement of international standards in an effort to remove the ambiguities and options that distort the function of standards designed to guarantee the exchange of information and the compatible operation of systems;
- 2.2.2. the drafting of prestandards in cases justified by the excessive delays of international standardization procedures, or of standards required in the Community context in the absence of international standards;
- 2.2.3. the definition of the conditions to be fulfilled in order to establish complete conformity to a standard;
- 2.2.4. the preparation of test standards or test specifications included in the standards and the organization of procedures and structures to enable test laboratories to check conformity to those standards on a properly harmonized basis.

2.3. *Activities affecting the telecommunications sector*

The standardization measures which concern the telecommunications sector include two types of activity :

- the drafting of functional specifications, based on international or European standards/specifications where they exist, for the means of access to public telecommunication networks for those services specifically intended for exchange of information and data between information technology systems. This technical work comes under the harmonization activities carried out in the telecommunications section and is entrusted to CEPT following the procedures described in Directive 86/361/EEC,
- the work to be carried out in the field common to information technology and to telecommunications requires increased cooperation between the competent technical bodies (i.e. CEN/CENELEC/CEPT). It should raise the degree of convergence so that the standards and functional specifications can be applied in as many ways as possible and in a harmonized manner following the procedure described in Directive 83/189/EEC.

2.4. *Complementary measures*

This part of the programme covers the following measures :

2.4.1. specific metrological activities relating to :

- promotion of the development of test and validation instruments and formal description techniques,
- support for the case of references, particularly in the case of applications requiring the use of functional standards based on a number of standards in combination ;

2.4.2. the promotion of the preparation of manuals giving guidance on the application of standards for the final user ;

2.4.3. the promotion of demonstrations in respect of the operating compatibility achieved as a result of the application of a standard. The main aim of this action will be to make the test and metrological instruments defined in 2.4.1. available for use in different projects and to ensure that development standards are experimented with ;

2.4.4. the promotion of arrangements that go beyond the framework of industrial standardization, depend on agreements concluded in particular fields of professional activity and contribute to the efficient exchange of information (travel agency transactions, automation of money transactions, computerization of customs documents, robotics, office automation, micro-computing, etc.) ;

2.4.5. studies and projects relating specifically to standardization in the field of information technology.

3. **Measures relating to the application of standards in the public procurement sector**

Determination of the most efficient methods of ensuring the rapid application of the standards and technical specifications within the context of the present Decision while assuring appropriate linking with activities depending on Directive 77/62/EEC⁽¹⁾.

⁽¹⁾ OJ No L 13, 15. 1. 1977, p. 1.

COUNCIL RECOMMENDATION

of 22 December 1986

on the coordinated introduction of the integrated services digital network (ISDN) in the European Community

(86/659/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas recommendation 84/549/EEC ⁽⁴⁾ calls for the introduction of services on the basis of a common harmonized approach in the field of telecommunications;

Whereas the resources offered by the telecommunications networks should be utilized to the full to maintain the Community's worldwide competitiveness in the light of the rapid pace of development in the telecommunications sector;

Whereas the technical resources afforded by the integrated services digital network (ISDN) make it possible to provide a range of harmonized and compatible services for all Community users and to create new means of communication using sound, the written word and images;

Whereas current investment in digital switching and digital transmission equipment in the Member States makes it possible to envisage the development of the integrated services digital network;

Whereas a coordinated policy for the introduction of the ISDN will make possible the establishment of a European market in telephone and data-processing terminals capable of creating, by virtue of its size, the indispensable development conditions which will enable the European telecommunications industries to maintain and increase their share of world markets;

Whereas it is appropriate to implement Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations ⁽⁵⁾;

Whereas consideration should be given to Council Directive 86/361/EEC of 24 July 1986 on the initial stage of the

⁽¹⁾ OJ No C 157, 24. 6. 1986, p. 3.

⁽²⁾ Opinion delivered on 12 December 1986 (not yet published in the Official Journal).

⁽³⁾ Opinion delivered on 17 September 1986 (not yet published in the Official Journal).

⁽⁴⁾ OJ No L 298, 16. 11. 1984, p. 49.

⁽⁵⁾ OJ No L 109, 26. 4. 1983, p. 8.

mutual recognition of type approval for telecommunications terminal equipment ⁽⁶⁾ and to Council Regulation (EEC) No 3300/86 of 27 October 1986 instituting a Community programme for the development of certain less-favoured regions of the Community by improving access to advanced telecommunications (STAR programme) ⁽⁷⁾;

Whereas it is appropriate to make use of the potential of the Community's financial instruments in order to promote the development of the Member States' infrastructure;

Whereas the implementation of such policy should pay proper attention to user privacy protection;

Whereas the implementation of such a policy will lead to closer cooperation, at Community level, between the telecommunications industry and the administrations and the recognized private operating agencies offering telecommunications services, hereinafter referred to as 'telecommunications administrations';

Whereas a favourable opinion has been delivered by the senior officials group on telecommunications (SOGT) according to which the detailed recommendations drawn up by the analysis and forecasting group (GAP) provide a strategic basis for the development of an ISDN that will truly enable European users to communicate efficiently and economically;

Whereas favourable opinions on these recommendations have been delivered by the telecommunications administrations, by the European Conference of Postal and Telecommunications Administrations (CEPT) and by the telecommunications equipment manufacturers in the Member States,

HEREBY RECOMMENDS:

1. that the telecommunications administrations implement the detailed recommendations concerning the coordinated introduction of the integrated services digital network (ISDN) in the Community, as described in the Annex;
2. that implementation of these recommendations focuses particularly on:
 - (a) standardization and implementation of the S/T interface;
 - (b) the timetable set out;
 - (c) the network-penetration objectives, as compatible with commercial strategies;

⁽⁶⁾ OJ No L 217, 5. 8. 1986, p. 21.

⁽⁷⁾ OJ No L 305, 30. 10. 1986, p. 1.

3. that the telecommunications administrations continue the harmonization work within the CEPT, particularly concerning the objectives and timetable drawn up in the Annex for those specifications on ISDN which have still to be completed;
4. that the telecommunications administrations undertake all those measures which will facilitate the coordinated introduction of the ISDN, particularly those relating to implementation of CEPT specifications in equipment concerned by ISDN;
5. that the Community financial instruments take this recommendation into account within the framework of their interventions, particularly as regards the investment required for ISDN implementation;
6. the Member State Governments encourage telecommunications administrations to implement this recommendation;
7. that Member State Governments inform the Commission at the end of each year, from the end of 1987, of the measures taken and problems which may be encountered in the course of implementing this recommendation. The progress of work will be actively examined by the Commission and the SOGT set up by the Council on 4 November 1983 in order to ascertain whether the priorities and the implementation of the programme as a whole is satisfactorily achieved. The progress of work will be the subject of an annual report from the Commission to the European Parliament.

Done at Brussels, 22 December 1986.

For the Council
The President
G. SHAW

ANNEX

DETAILED RECOMMENDATIONS CONCERNING THE COORDINATED INTRODUCTION OF THE INTEGRATED SERVICES DIGITAL NETWORK (ISDN) IN THE COMMUNITY

1. RECOMMENDATIONS ESTABLISHED FOR THE RAPID CONVERGENCE OF EUROPEAN ACTIVITY ON THE INTRODUCTION OF ISDN

All the following recommendations are related and should not be dissociated.

1.1. General philosophy

All Member States are in agreement that ISDN (subscriber access at 144 Kbit/s and 2 Mbit/s) should be considered as a natural evolution of the telephone network, i.e. it should be used by both professional and residential subscribers and the existing structure of the current telephone network should not be fundamentally changed by this evolution. The first decisions must take this into account.

Nevertheless, the speed of market penetration will depend on numerous economic, social and cultural factors and of course, on the impact of the network itself, i.e. the dissemination or actual penetration of the new services at any point in time.

It is clear that in all Member States, the professional sector has significantly greater expectations and requirements for the services than the residential sector.

The professional sector will be penetrated through the supply of multiservice PABXs and of ISDN accesses. In this sector, a major submission is that the terminals connected to ISDN basic access and behind the PABXs should also be compatible, which necessitates the use of a common standard for both public and private networks.

A significant demand from the residential sector will only develop following a sustained policy of anticipated supply launched over such a period as to attain a critical mass of new service penetration and thus creating in effect a 'snowball' reaction.

This policy should be supported by marketing and tariffing activities to help stimulate demand.

1.2. Definition of the interface between the public and private network

A standard physical interface between ISDN terminals and the public network is recommended.

This should be at the CCITT S or T reference point and should be in accordance with CCITT and CEPT recommendations.

In the case of basic access (i.e. 144 Kbit/s) the physical interfaces at the S and T reference points must be identical. This terminal interface should also be offered by PABX manufacturers so that common design of terminals can be achieved.

The above statements imply that for basic access at least the NT1 function is provided by the public network operator.

Agreement is urgently needed between telecommunications administrations, within the framework of CEPT, on a standard physical interface at the T reference point for primary rate access (i.e. 2048 Kbit/s).

Clearly, during a transitional phase of several years PABX multiservices will use different standards but as soon as possible these PABXs ought to be able to offer, in addition to these standards, the S interface. The manufacturers's representatives consulted were in agreement on this point.

2. SERVICES TO BE DEFINED AND SPECIFIED IN DETAIL BY THE END OF 1986 IN ORDER TO BE PROVIDED IN ALL MEMBER STATES STARTING FROM 1988

The following items will have to be specified in detail at the latest by the end of 1986.

(a) *Bearer services*

— Circuit switched transparent at 64 Kbit/s;

(b) *Teleservices*

— Telephony 3,1 kHz at 64 Kbit/s,

— Facsimile at 64 Kbit/s (Group IV),

- Teletex at 64 Kbit/s,
- Mixed-mode teletex/facsimile at 64 Kbit/s.

(c) *Supplementary services*

In order to enhance the services, a common set of supplementary services among the Member States should be implemented. These supplementary services are intended to be added to those already available in the telephone network and to those inherent in the definition of ISDN protocols. (Procedures for subaddressing, terminal portability, user to user signalling in call control messages have to be specified, although their implementation is foreseen at a later stage.)

The telecommunications administrations are invited to establish, within the framework of CEPT, the following supplementary services:

- call-waiting,
- calling-line identification,
- closed-user-group (this service might be implemented later by some countries),
- direct-dialling-in.

(d) *Adaptors* (for connection of existing terminals to the ISDN via the S interface)

- adaptor X 21,
- adaptor X 25 on the B channel (for access to packet switched services),
- A/D adaptor specified according to national needs.

Note 1

Special attention should be given to the definition of personal computer use on the bearer service at 64 Kbit/s.

Note 2

Special attention should be given to compatibility between circuit switched and packet switched services, where compatibility may be realized in the terminal or in the network.

3. **SERVICES TO BE SPECIFIED BY THE END OF 1987 AND WHICH MIGHT BE IMPLEMENTED DURING THE PERIOD 1988 to 1993**

(The precise date of introduction of such services will be decided as soon as possible.)

(a) *Bearer service*

Packet bearer service on D channel

The telecommunications administrations are invited to study within the framework of CEPT the usefulness of teleservices, in particular videotex, teletex, message handling and teleaction on packet bearer service.

(b) *Teleservices at 64 Kbit/s*

In order to augment demand, the following list of teleservices should be considered with priority:

- Telephony (7 kHz at 64 Kbit/s),
- Audioconference at 64 Kbit/s,
- Videotex alphanumeric at 64 Kbit/s,
- Image transmission and computer communication at 64 Kbit/s. For these two teleservices, the telecommunications administrations are asked to identify, within the framework of CEPT, possible services and produce detailed specifications of first services.

(c) *Adaptors*

- X 21 bis,
- for asynchronous terminals (V 24).

(d) *Supplementary services*

The telecommunications administrations are invited to study, within the framework of CEPT, by the end of 1987, the following list of supplementary services based on CEPT's own list.

- Advice of charge,
- Completion of call meeting busy,

- Conference call,
- Diversion,
- Freephone,
- Malicious call identification,
- Three party call,
- Called user identification.

Note

The provision of these supplementary services assumes the availability of an ISDN user part (ISUP). Should the ISUP not be available, their provision via the telephone user part (TUP) + may be restricted.

4. SERVICES TO BE SPECIFIED BY THE END OF 1990

(a) *Teleservices based on packet service*

(If the telecommunications administrations agree on the need to specify such packet services, referred to in paragraph 3 (a).

- Teletex,
- Videotex,
- Message handling (see CCITT recommendation X 400,
- Teleaction, set of services providing to the users a reliable transfer of small volumens of packed-sized information. This service may be adapted to several teleservices: tele-alarm, telesupervision, tele-alert, telecommand, telemetry, teleshopping, etc.

(b) *Teleservices based on 64 Kbit/s*

- Audiography at 64 Kbit/s,
- Alphaphotographic videotex at 64 Kbit/s,
- If possible, viewphone at 64 Kbit/s.

(c) *Supplementary services*

Work to be continued.

5. NUMBERING, ADDRESSING AND SIGNALLING

The achievement of the full CEPT specifications on ISUP, signalling connection control part (SCCP) and transaction capabilities (TCAP) is recommended to the telecommunications administrations in order to reach a common standard within Europe at the earliest opportunity.

As an interim solution, it is recommended to all telecommunications administrations that, starting from 1988 and when CCITT No 7 is introduced, international digital exchanges (linked by digital circuits or possibly also by analogue circuits) should be interconnected by means of the enhanced telephone user part (TUP +) for both PSTN and ISDN services.

The telecommunication administrations should provide within the framework of CEPT detailed technical specifications on TUP + by the end of 1986.

It is required that interworking with the existing public telephone network is also achieved, including some means for identifying different teleservices and terminals.

Note

The TUP + is based on the red book TUP of CCITT enhanced to meet ISDN requirements, including the supplementary services hereabove.

6. TARIFF CONSIDERATIONS

The issue of tariff levels and structures for the ISDN is fundamental for its rapid take-up.

In the longer term, following an inevitable period of high investment costs, the level of investment per basic access should be comparable with that of the current telephone network, with an investment structure related to the type of transmission and digital switching which may be different from that of today.

Several studies on ISDN tariffs have still to be completed. The telecommunications administrations are invited to study within the framework of CEPT the following proposals:

- In accordance with current trends, tariffs for all services, including telephony, should be less dependant on distance than at present (always bearing in mind the problems of transit costs through other countries).
- In the transitional phase from the analogue network to the ISDN corresponding to the period 1988 to 1993, the telecommunications administrations are requested to study within CEPT the relationship between, on the one hand, the tariff threshold applicable to ISDN services and ISDN basic access and, on the other, tariffs applicable to telephony.
- Tariffs for teleservices which use the same bearer capabilities should be independent of the teleservice. On the contrary, all value added by the network should be charged independently of the utilization of the bearer capabilities.
- An agreement should be obtained on the ratio between the monthly rental for the primary rate access (2 048 Kbit/s) and that for the basic access (144 Kbit/s).

A ratio of the order of 10 might be discussed.

7. INTERWORKING BETWEEN NATIONAL ISDN TRIALS

Those administrations implementing national trials of ISDN before the full implementation of the present recommendations should endeavour, where provided, to interconnect these services in order to increase early experience of ISDN in Europe.

8. LEVEL OF PENETRATION

Forecasts of demand in new fields, such as the services supported by ISDN, do not provide a particularly relevant basis for market planning.

Nevertheless, it is realistic to set objectives attainable over the next eight years, i.e. up to the end of 1993, for a level of penetration of ISDN which permits the market for services and terminals to reach a mature phase.

The objective should be for an adequate geographic coverage and rate of penetration at national level for each country.

The administrations should plan to provide by 1993 ISDN accesses for a number equivalent to 5 % of 1983 subscriber main lines. This figure depends, among other things, on the capability of the industry to offer cost effective ISDN solutions for the infrastructure and the terminal equipments.

The territorial coverage should be sufficient to permit 80 % of customers to have the option of the ISDN access.

COUNCIL RECOMMENDATION

of 25 June 1987

on the coordinated introduction of public pan-European cellular digital land-based mobile communications in the Community

(87/371/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas Council Regulation 84/549/EEC ⁽³⁾ calls for the introduction of services on the basis of a common harmonized approach in the field of telecommunications;

Whereas the resources offered by modern telecommunications networks should be utilized to the full for the economic development of the Community;

Whereas mobile radio services are the only means of contacting users on the move and the most efficient means for those users to be connected to the public telecommunications networks;

Whereas the land-based mobile communications systems currently in use in the Community are largely incompatible and do not allow users on the move in vehicles, boats, trains or on foot throughout the Community, including inland or coastal waters to reap the benefits of European-wide services and European-wide markets;

Whereas the change-over to the second generation cellular digital mobile communications system will provide a unique opportunity to establish truly pan-European mobile communications;

Whereas the European Conference of Postal and Telecommunications administrations (CEPT) has set up a special Working Group, referred to as GSM (Groupe Spécial Mobile), for planning all system aspects of a second-generation cellular mobile radio infrastructure;

Whereas such a future system, offering both voice and data services, is to be based on digital technique, thereby facilitating compatibility with the general digital environment that will involve with the coordinated introduction of the Integrated Services Digital Network (ISDN) in accordance with recommendation 86/659/EEC ⁽⁴⁾;

Whereas a coordinated policy for the introduction of a pan-European cellular digital mobile radio service will

make possible the establishment of a European market in mobile and portable terminals which will be capable of creating, by virtue of its size, the necessary development conditions to enable undertakings established in Community countries to maintain and improve their presence on world markets;

Whereas it is necessary to work out rapidly all agreements necessary to allow unrestricted access to mobile communications and free circulation of mobile terminals throughout the Community for the European user;

Whereas the rapid implementation of Council Directive 86/361/EEC of 24 July 1986 on the initial stage of the mutual recognition of type approval for telecommunications terminal equipment ⁽⁵⁾ will make an important contribution towards this goal;

Whereas consideration should be given to Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations ⁽⁶⁾ and the Council Decision 87/95/EEC of 22 December 1986 on standardization in the field of information technology and telecommunications ⁽⁷⁾, and to any other proposal that the Commission may make;

Whereas it is appropriate to make use of the potential of the Community's existing financial instruments in order to promote the development of Community's infrastructure;

Whereas special attention should be paid to the urgent requirement of certain users for pan-European land-based communications;

Whereas the Commission will in the future submit other proposals in the field of mobile communications, including radio-paging systems;

Whereas the implementation of such a policy will lead to closer cooperation, at Community level, between the telecommunications industry, on the one hand, and the telecommunications administrations and the recognized private operating agencies offering public mobile telecommunications services, hereinafter referred to as 'telecommunications administrations' on the other;

⁽¹⁾ OJ No C 69, 17. 3. 1987, p. 5.

⁽²⁾ OJ No C 125, 11. 5. 1987, p. 159.

⁽³⁾ OJ No L 298, 16. 11. 1984, p. 49.

⁽⁴⁾ OJ No L 382, 31. 12. 1986, p. 36.

⁽⁵⁾ OJ No L 217, 5. 8. 1986, p. 21.

⁽⁶⁾ OJ No L 109, 26. 4. 1983, p. 8.

⁽⁷⁾ OJ No L 36, 7. 2. 1987, p. 31.

Whereas a favourable opinion has been delivered by the Senior Officials Group on Telecommunications (SOG-T), according to which the detailed recommendations drawn by the Analysis and Forecasting Group (GAP) provide a strategic basis for the development of public mobile communications in the Community enabling European users on the move to communicate efficiently and economically;

Whereas favourable opinions on these recommendations have been delivered by the telecommunications administrations, by the European Conference of Postal and Telecommunications Administrations (CEPT) and by telecommunications equipment manufacturers in the Member States;

Whereas the envisaged measures will allow the economic benefit and rapidly increasing market potential of public mobile communications to be fully realized in the Community;

Whereas the Treaty has not provided the necessary powers, other than those of Article 235,

HEREBY RECOMMENDS:

1. that the telecommunications administrations implement the detailed recommendations concerning the coordinated introduction of public pan-European cellular digital land-based mobile communications in the Community as described in the Annex;
2. that, in so doing, they give special consideration to:
 - (a) the choice of the transmission system and network interfaces;
 - (b) the time schedule set out in the Annex;
 - (c) the start of service at the latest from 1991 onwards, with geographical coverage and penetration objectives compatible with commercial strategies;
3. that the telecommunications administrations continue the cooperation within the European Conference of Postal and Telecommunications Administrations

(CEPT), particularly concerning the objectives and time schedule set out in the Annex for the completion of the specifications of the pan-European cellular digital mobile communications system;

4. that the telecommunications administrations plan for a gradual evolution from any existing public mobile radio systems to the pan-European cellular digital mobile communications system so as to ensure a transition which meets the needs of users, telecommunications administrations and undertakings established within Community countries;
5. that Member State Governments and telecommunications administrations rapidly complete the technical arrangements necessary to allow unrestricted access to cellular digital mobile communications;
6. that the Community's financial instruments take this recommendation into account within the framework of their interventions, particularly as regards investments required for the implementation of the pan-European cellular digital mobile communications system and that the Community's technological research and development programmes do likewise as regards the development of the required technological base;
7. that Member State Governments invite the telecommunications administrations to carry out this recommendation;
8. that Member State Governments inform the Commission at the end of each year, from the end of 1987 onwards, of the measures taken and problems encountered in the course of implementing this Recommendation. The progress of work will be examined by the Commission with the Senior Officials Group on Telecommunications (SOG-T) set up by the Council on 4 November 1983.

Done at Luxembourg, 25 June 1987.

For the Council
The President
 H. DE CROO

ANNEX

1. General requirements

The future pan-European cellular digital mobile communications system should fulfil the following general requirements:

- be suitable for use in the 890-915 and 935-960 MHz frequency bands to be made available for the pan-European cellular digital mobile communications system;
- permit a traffic flow (measured in E/KM²/MHz) greater than, or equal to, existing networks, bearing in mind the scarcity of the bandwidth resource allowed for these systems;
- provide the user with a voice transmission quality at least equal to that of the existing systems;
- allow for efficient use of hand-held terminals by encouraging competition amongst manufacturers;
- to be sufficiently flexible to facilitate the introduction of new services related to ISDN.

The cost of the system should be considered in terms of the cost of the fixed infrastructure to be met by the telecommunications administrations, taking into account both urban and rural areas, and the cost of the mobile equipment. All these costs should be within affordable limits and in any case must not exceed the cost of existing public mobile telephone systems working in the 900 MHz band. Since the cost of the mobile communication equipment will constitute the main portion of the total cost, it is preferable for the mobile equipment cost (for quantities in excess of 100 000) to be lower than that for mobile equipment used in existing public mobile telephone systems working in the 900 MHz band.

2. Choice of transmission system

The transmission mode for the pan-European mobile system should be digital. The basis for the final choice of the technical option common to all the Member States (radio subsystem multiple access method) within the digital mode was established by the telecommunications administrations in May 1987, on the basis of work carried out by CEPT (European Conference of Postal and Telecommunications Administrations) and particularly its special group for mobile communications, referred to as GSM (Groupe Spécial Mobile).

3. Network architecture

The principles of the network structure and the definition and allocation of functions between the various system components — Mobile Stations (MS), Base Stations (BS), and Mobile Switching Centres (MSC) — should be defined by the middle of 1987. In the course of this work, the appropriate interfaces between the various system components (MS-BS-MSC) should be completely defined for all Open Systems Interconnections Standards (OSI) layers applicable to the relevant services, and for all applications using those interfaces (call processing functions, maintenance, etc.). The system must be able to support geographically co-located cellular digital mobile radio operators.

4. Mobile interfaces to be specified in detail by the end of 1987

- (a) S reference point, with B (N Kbits/s) + D (N' Kbits/s) structure (N and N' to be defined);
- (b) Interface between MS and BS;
- (c) Interface between BS and MSC.

A minimum set of man/machine interface specifications (control procedures) should be established.

5. Mobile services to be specified in detail by the end of 1987 and available for provision in all Member States starting from 1991, with hand-over and national/international roaming

Although, initially, voice telephony capabilities will constitute the most important service required, the mobile system must nevertheless be open to an overall evolution towards ISDN services⁽¹⁾. Therefore, the following mobile services should be specified in detail by the end of 1987 and available in all Member States starting from 1991:

(a) *Bearer services*

- Non-transparent bearer service for speech;
- Transparent bearer service for data transmission at N Kbits/s switched in the network at 64 Kbits/s (N to be defined).

⁽¹⁾ OJ No C 157, 24. 6. 1986, p. 3.

(b) *Basic services*

- Hand-over;
- National/international roaming.

(c) *Teleservices*

Telephony at 3,1 kHz (corresponding to N Kbits/s on B channel. N is to be defined).

(d) *Supplementary services*

- Calling line identification;
- Advice of call duration;
- Speech encryption.

This list may be added to by CEPT.

6. **Signalling**

User access signalling (subscriber signalling) should be defined along the principles of the existing CEPT recommendations for ISDN, and should be able to permit supplementary services of ISDN/PSTN.

Network and inter-network signalling process should be defined in the framework of the SS No 7 in such a way that international roaming and hand-over facilities are safeguarded.

7. **Tariff considerations**

The telecommunications administrations are invited to consider within the CEPT framework the following tariff principles:

- given the scarcity of frequency resources, the service should be charged basically according to the duration of the radio channel use;
- the tariffs should take into account the current trend towards less distance dependence.

By the end of 1987, the basic framework of charging principles should be identified, so that the network implications can be identified and resolved in an appropriate manner.

8. **Geographical coverage**

The introduction date of the pan-European cellular digital mobile communications system should be 1991 at the latest. Major urban areas should be covered by 1993 at the latest. The main links between these areas should be covered by 1995 at the latest.

Further, the telecommunications administrations should collaborate in studying these respective priorities for coverage, in order to stimulate the maximum pan-European traffic as early as possible. This should take into account the needs of users in vehicles on major European routes, and the needs of air travellers located between city centres and international airports.

COUNCIL DIRECTIVE

of 25 June 1987

on the frequency bands to be reserved for the coordinated introduction of public pan-European cellular digital land-based mobile communications in the Community

(87/372/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas recommendation 84/549/EEC ⁽³⁾ calls for the introduction of services on the basis of a common harmonized approach in the field of telecommunications;

Whereas the resources offered by modern telecommunications networks should be utilized to the full for the economic development of the Community;

Whereas mobile radio services are the only means of contacting users on the move and the most efficient means for those users to be connected to public telecommunications networks;

Whereas mobile communications depend on the allocation and availability of frequency bands in order to transmit and receive between fixed-base stations and mobile stations;

Whereas the frequencies and land-based mobile communications systems currently in use in the Community vary widely and do not allow all users on the move in vehicles, boats, trains, or on foot throughout the Community, including on inland or coastal waters, to reap the benefits of European-wide services and European-wide markets;

Whereas the change-over to the second generation cellular digital mobile communications system will provide a unique opportunity of establishing truly pan-European mobile communications;

Whereas the European Conference of Postal and Telecommunications Administrations (CEPT) has recommended that frequencies 890-915 and 935-690 MHz be allocated to such a system, in accordance with the International Telecommunications Union (ITU) Radio Regula-

tions allocating such frequencies to mobile radio services use as well;

Whereas parts of these frequency bands are being used or are intended for use by certain Member States for interim systems and other radio services;

Whereas the progressive availability of the full range of the frequency bands set out above will be indispensable for the establishment of truly pan-European mobile communications;

Whereas the implementation of Council recommendation 87/371/EEC of 25 June 1987 on the coordinated introduction of public pan-European cellular digital land-based mobile communications in the Community ⁽⁴⁾, aiming at starting a pan-European system by 1991 at the latest, will allow the speedy specification of the radio transmission path;

Whereas on the basis of present technological and market trends it would appear to be realistic to envisage the exclusive occupation of the 890-915 and 935-960 MHz frequency bands by the pan-European system within 10 years of 1 January 1991;

Whereas Council Directive 86/361/EEC of 24 July 1986 on the initial stage of the mutual recognition of type approval for telecommunications terminal equipment ⁽⁵⁾ will allow the rapid establishment of common conformity specifications for the pan-European cellular digital mobile communications system;

Whereas the report on public mobile communications drawn up by the Analysis and Forecasting Group (GAP) for the Senior Officials Group on Telecommunications (SOG-T) has drawn attention to the necessity for the availability of adequate frequencies as a vital pre-condition for pan-European cellular digital mobile communications;

Whereas favourable opinions on this report have been delivered by the telecommunications administrations, by the European Conference of Postal and Telecommunications Administrations (CEPT) and the telecommunications equipment manufacturers in the Member States,

⁽¹⁾ OJ No C 69, 17. 3. 1987, p. 9.

⁽²⁾ OJ No C 125, 11. 5. 1987, p. 159.

⁽³⁾ OJ No L 298, 16. 11. 1984, p. 49.

⁽⁴⁾ See page 81 of this Official Journal

⁽⁵⁾ OJ No L 217, 5. 8. 1986, p. 21.

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Member States shall ensure that the 905-914 and 950-959 MHz frequency bands or equivalent parts of the bands mentioned in paragraph 2 are reserved exclusively⁽¹⁾ for a public pan-European cellular digital mobile communications service by 1 January 1991.

2. Member States shall ensure that the necessary plans are prepared for the public pan-European cellular digital mobile communications service to be able to occupy the whole of the 890-915 and 935-960 Mhz bands according to commercial demand as quickly as possible.

Article 2

The Commission shall report to the Council on the implementation of the Directive not later than the end of 1996.

Article 3

For the purposes of this Directive, a public pan-European cellular digital land-based mobile communications service shall mean a public cellular radio service provided in each

of the Member States to a common specification, which includes the feature that all voice signals are encoded into binary digits prior to radio transmission, and where users provided with a service in one Member State can also gain access to the service in any other Member State.

Article 4

1. Member States shall bring into force the provisions necessary to comply with this Directive within 18 months of its notification⁽²⁾. They shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field governed by this Directive.

Article 5

This Directive is addressed to the Member States.

Done at Luxembourg, 25 June 1987.

For the Council

The President

H. DE CROO

⁽¹⁾ With the exception of the use of these frequencies for point-to-point connections existing when the Directive enters into force provided they do not interfere with the public pan-European cellular digital mobile communications service and do not prevent its establishment or extension.

⁽²⁾ This Directive was notified to the Member States on 26 June 1987.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 5 October 1987

introducing a communications network Community programme on trade electronic data interchange systems (TEDIS)

(87/499/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Whereas the Community has, in particular, as its task, by establishing a common market and progressively approximating the economic policies of Member States, to promote throughout the Community a harmonious development of economic activities and closer relations between the States belonging to it;

Whereas, when they met in Stuttgart, Athens and Fontainebleau, the Heads of State or of Government emphasized the importance of telecommunications as a vital driving force for economic growth and social development;

Whereas the European Parliament, in evaluating the situation and development of telecommunications, emphasized the key role of the latter in the future political, social and economic development of the Community (debates of the European Parliament on telecommunications 1983, Leonardi report, Albert and Ball report of 1982);

Whereas, on 17 December 1984, the Council approved the main features of a Community policy on telecommu-

nications, including the aim of improving advanced telecommunications services and networks through Community projects;

Whereas the telecommunications sector is of great economic importance as regards both its own industrial activities and its contribution to efficient information interchange throughout the Community;

Whereas there are specific aspects to information technology standards and the work needed to produce them; whereas this is the case in particular as regards:

- the complexity of the technical specifications and the precision needed for data interchange and systems inter-operability,
- the urgent need for standards in order to prevent totally incompatible (trade) electronic data interchange systems being developed,
- the need to ensure that international standards are implemented on a basis that makes them credible for practical use;

Whereas a general programme of information technology and telecommunications standardization is being implemented;

Whereas Council Decision No 87/95/EEC of 22 December 1986 on standardization in the field of information technology and telecommunications ⁽³⁾ is intended to establish in those sectors a general framework for drawing up standards or common technical specifications so as to facilitate information exchange throughout the Community by breaking down the barriers created by the incompatibilities that stem from the absence of standards or their lack or precision;

⁽¹⁾ OJ No C 246, 14. 9. 1987, p. 92.

⁽²⁾ OJ No C 105, 21. 4. 1987, p. 1.

⁽³⁾ OJ No L 36, 7. 2. 1987, p. 31.

Whereas, under the CD project and under the CADDIA programme⁽¹⁾, action is to be taken to ensure close cooperation with commercial and industrial interest so as to provide appropriate communications and information exchange interfaces between commercial and industrial systems and those of customs administrations;

Whereas the abovementioned objective can be achieved only through the establishment of close cooperation between commercial and industrial interests in different industries so as to ensure the necessary compatibility of trade electronic data interchange systems;

Whereas the CD project requires that consideration be given to the aspects concerning the security, protection and privacy of data in respect of imports, exports and intra-Community trade supplied to, held by, or in the course of transmission between the Commission, customs administrations and commercial circles;

Whereas the above questions form part of a much wider issue, the protection of information in the context of trade electronic data interchange between information systems, and whereas it is essential to ensure consistency between the measures taken and the CD project and those implemented in the industrial context;

Whereas the Commission's White Paper on completing the internal market underlines the importance of the development of new cross-border services and the part that telecommunications networks based on common standards can play in creating a market free of obstacles at Community level;

Whereas there are guidelines contained in the Green Paper of 30 June 1987 on the development of the common market for telecommunications services and equipment;

Whereas trade electronic data interchange can increasingly help to strengthen the competitiveness of European companies in manufacturing and services;

Whereas there is at present a rapid increase in public and private efforts at both national and international level to bring into service within companies, groups and industries trade electronic data interchange systems that are not compatible with each other;

Whereas the diverse and piecemeal approaches to trade electronic data interchange adopted within a country or more generally a firm, group of firms or industry are likely to lead to the establishment of incompatible systems unable to communicate with each other and to

prevent both users and suppliers of equipment and services from benefiting to the full from the advantages offered by the development of trade electronic data interchange;

Whereas, to ensure that these trade electronic data interchange systems be able to communicate, it is necessary to adopt a programme containing an initial set of activities of common interest needed for the coordinated development of trade electronic data interchange and a further set of activities more closely linked to sectoral projects so as to attempt to solve in a coordinated fashion the common problems encountered during their development;

Whereas initially it is necessary to carry out activities and studies so as to establish and develop the conducive conditions necessary for the coordinated development of trade electronic data interchange;

Whereas, in the light of the results and experience obtained, it will be necessary to define the aims and details of a possible second phase offering support for pilot projects and continuing some of the activities that have been started;

Whereas the Treaty has not provided the necessary powers to this end, other than those of Article 235,

HAS DECIDED AS FOLLOWS:

Article 1

A communications network Community programme on trade electronic data interchange systems (TEDIS) in trade, industry and administration, hereafter referred to as the 'programme', is hereby set up.

Article 2

The programme shall be implemented in accordance with this Decision. It shall cover a period of two years.

Article 3

The aims of the programme are:

1. coordination at Community level of work going on in the various Member States on the development of trade electronic data interchange systems;
2. to alert potential users;
3. to alert European hardware and software manufacturers to the opportunities offered by electronic data interchange;
4. logistic support for European sectoral groups;

⁽¹⁾ OJ No L 33, 8. 2. 1986, p. 28.

5. consideration of the specific requirements of trade electronic data interchange within Member States and between the Member States and the Community in telecommunications and standardization policies; carrying-out of preparatory work for that purpose;
6. help in the setting-up of conformance testing centres for software and hardware used in trade electronic data interchange systems;
7. to seek solutions to legal problems that might inhibit the development of trade electronic data interchange and to see to it that restrictive telecommunications regulations cannot hamper the development of trade electronic data interchange;
8. to study security requirements for trade electronic data interchange systems so as to guarantee confidentiality of messages transmitted;
9. to study specific problems caused by the multiplicity of languages in the Community and, to this end, to examine the possibility, for the purposes of multilingualism, of using the results obtained or expected under the machine translation programmes Systran and Eurotra;
10. to study the advisability of promoting the development of the specialized software needed for trade electronic data interchange;
11. to list existing or potential sectoral projects on trade electronic data interchange and to make a comparative analysis of them;
12. identification of special requirements emerging during the implementation of trade electronic data interchange systems that could be met more easily with Community assistance;
13. to make a particular study of the assistance that could be given to small and medium-sized businesses to help them to take an active part in trade electronic data interchange;
14. to give thought to possible support for pilot projects the gradual implementation of which would be likely to encourage solutions, capable of being generalized, to problems of common interest encountered by most trade electronic data interchange systems.

Article 4

The programme shall be implemented in coordination with the existing or planned policies and activities in the

Community on telecommunications, the information market, standardization and multilingualism, and in particular with the CADDIA programme and the CD project, so as to ensure the necessary interaction with the specific requirements of trade electronic data interchange.

Article 5

Contracts for the programme shall be concluded with enterprises, including small and medium-sized enterprises, research establishments and other bodies established in the Community.

Article 6

1. The Community shall contribute to the programme within the limits of the appropriations entered each year for that purpose in the general budget of the European Communities.

2. The amount estimated necessary to cover the Community's contribution to the carrying-out of the programme is 5,3 million ECU for the duration of the programme.

Article 7

The Commission shall see to it that the programme is carried out satisfactorily and shall take the appropriate implementing measures.

Article 8

The Commission shall submit to the Council by 1 January 1990 at the latest a report on the execution of the work defined in this Decision and if necessary, a proposal for further measures.

Article 9

This Decision shall take effect on 1 January 1988.

Done at Luxembourg, 5 October 1987.

For the Council

The President

N. WILHJELM



II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 5 April 1989

amending Decision 87/499/EEC introducing a communications network
Community programme on trade electronic data interchange systems (Tedis)

(89/241/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission⁽¹⁾,

Having regard to the opinion of the European Parliament⁽²⁾,

Having regard to the opinion of the Economic and social Committee⁽³⁾,

Whereas by Decision 87/499/EEC⁽⁴⁾ the Council set up a communications network Community programme on trade electronic data interchange systems (Tedis) in trade, industry and administration; whereas this programme includes activities and studies aimed at avoiding incompatibility between different electronic trade data interchange systems by lack of common standards;

Whereas certain non-member countries, in particular the member states of the European Free Trade Association, take an active part in drawing up European and international standards in this area; whereas these countries have expressed the desire to be associated with the Tedis programme;

Whereas it is in the Community's interest to avoid fresh barriers to trade with these countries in the sector in question and to contribute to the coordinated development of trade electronic data interchange systems in Europe;

Whereas agreements to this effect should therefore be concluded with the non-member countries concerned;

Whereas the Treaty does not provide, for the action concerned, powers other than those of Article 235,

HAS DECIDED AS FOLLOWS:

Article 1

Decision 87/499/EEC is hereby amended as follows:

(1) In Article 5, the phrase 'established in the Community' is replaced by the phrase 'established in the Community or a non-member country with which the Community has concluded an agreement associating the country in question with the programme.'

(2) The following Article shall be inserted:

Article 5a

In accordance with Article 228 of the Treaty, the Community may conclude agreements with non-member countries, and in particular with the members of the European Free Trade Association, with a view to associating them fully or partially with the programme.

The Commission shall be authorized to negotiate these agreements.'

Article 2

This Decision shall take effect on the day of its publication in the *Official Journal of the European Communities*.

Done at Luxembourg, 5 April 1989.

For the Council

The President

M. CHAVES GONZALEZ

⁽¹⁾ OJ No C 273, 22. 10. 1988, p. 3.

⁽²⁾ OJ No C 69, 20. 3. 1989.

⁽³⁾ OJ No C 56, 6. 3. 1989, p. 51.

⁽⁴⁾ OJ No L 285, 8. 10. 1987, p. 35.



II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 14 December 1987

on a Community programme in the field of telecommunications technologies —
research and development (R&D) in advanced communications technologies in
Europe (RACE programme)

(88/28/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130Q (2) thereof,

Having regard to the proposal from the Commission (1),

In cooperation with the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the Community has as its task, by establishing a common market and progressively approximating the economic policies of Member States, *inter alia*, to promote throughout the Community a harmonious development of economic activities and closer relations between the States belonging to it;

Whereas the Heads of State and of Government, meeting in Stuttgart, Athens, Fontainebleau and Brussels, emphasized the importance of telecommunications as a major source for economic growth and social development;

Whereas the European Parliament, in its assessment of the situation and development of telecommunications, stressed the key role of telecommunications for the future political, social and economic development of the Community;

(1) OJ No C 304, 28. 11. 1986, p. 2.

(2) OJ No C 281, 19. 10. 1987, p. 113. Decision of 18 November 1987 (not yet published in the Official Journal).

(3) OJ No C 68, 16. 3. 1987, p. 22.

Whereas on 17 December 1984 the Council agreed on the main elements of a Community telecommunications policy in the field of advanced telecommunications services and networks involving actions at Community level;

Whereas, with the emergence of new services and the progressive convergence of telecommunications, data processing and wider public services, the trend is towards a Europe-wide integrated broadband network (Integrated Broadband Communications (IBC)) capable of supporting a wide range of customers and service providers;

Whereas developments in telecommunications will benefit the international competitiveness of the European economies in general and of the telecommunications industries in particular;

Whereas the option selected for advanced telecommunications technologies must be such that it does not increase regional disparities in the Community; whereas the development of common specifications for equipment and services is necessary but not sufficient to prevent further divergences in the regional development;

Whereas the development of IBC offers a wide range of opportunities for small and medium sized companies in the manufacture of equipment and in the provision of specialized services within the Community;

Whereas, in response to the requirement of using fully the economic and market potential of telecommunications, the Commission has submitted a programme of action which has been recognized by the Council as a base for further work;

Whereas cooperation in R&D and the development of standards can make a major contribution, notably by facilitating the evolution towards future IBC in terms of transnational connections and also at regional and local levels;

Whereas the 'Single European Act' provides a new political and legal base for the development of a scientific and technological strategy with particular importance being given to the goal of promoting industrial competitiveness;

Whereas the Research Council on 4 June 1985 recognized the importance of the rapid establishment of a definition phase for the RACE programme, in order to prepare a general European framework for the development of advanced systems of communications for the future and to promote technological and industrial cooperation;

Whereas the Council adopted by Decision 85/372/EEC (1) the RACE definition phase of 18 months on which to base the Decision for the main programme by the end of 1986;

Whereas, by Decision 87/516/Euratom/EEC (2), the Council adopted a framework programme of Community activities in the field of research and technological development (1987 to 1991) providing for research to be undertaken leading towards a large market and an information and communications society, including telecommunications;

Whereas the constitution or consolidation of a specifically European industrial potential in the technologies concerned is an urgent necessity; whereas its beneficiaries must be network operators, research establishments, undertakings, including small and medium-sized undertakings and other bodies established in the Community which are best suited to attain these objectives;

Whereas the RACE definition phase has produced the requisite conclusions;

Whereas the RACE Management Committee has carried out an assessment and called for the necessary decisions to be taken in time to ensure the follow-up of the work;

Whereas it is in the Community's interest to consolidate the scientific and financial basis of European research by means of the involvement to a greater extent of participants from European third countries in certain Community programmes and particularly in programmes involving cooperation in research and development of telecommunications technology;

Whereas consistency with ESPRIT is essential since both programmes benefit from each other;

Whereas it is essential to ensure consistency with Eureka, other European transnational cooperation and national actions;

Whereas during the RACE main phase numerous decisions may have to be taken which are extremely relevant to consumers, whether private individuals or businesses, such as those concerning the desired level of confidentiality and privacy of data transfer;

Whereas one fundamental concern which has emerged from the RACE definition phase is the need for attention to be paid to consumer-oriented aspects of future telecommunications services; whereas quality requirements and costs are associated problems in respect of which ongoing decisions will have to be made during the RACE main phase; whereas, therefore, the European Parliament should be kept informed of developments;

Whereas the implementation of concerted actions in the COST framework is an essential element to complement industrially-oriented R&D projects;

Whereas the Scientific and Technical Research Committee (CREST) has expressed its opinion;

Whereas, on the basis of results achieved, the programme may be extended for a second period of five years, following a proposal from the Commission,

HAS ADOPTED THIS DECISION:

Article 1

1. A Community programme in the field of telecommunications technologies (RACE) is adopted for an initial period of five years commencing 1 June 1987.
2. The programme is designed, in concertation with public and private actions in the field of telecommunications technologies, undertaken at national and international level, to promote the competitiveness of the Community's telecommunications industry, operators and service providers in order to make available to the final users, at minimum cost and with minimum delay, the services which will sustain the competitiveness of the European economy over the coming decades and contribute to maintaining and creating employment in the Community.

Article 2

The programme summary and objectives, as set out in more detail in Annex II, shall consist of three parts:

(1) OJ No L 210, 7. 8. 1985, p. 24.

(2) OJ No L 302, 24. 10. 1987, p. 1.

Part I: IBC development and implementation strategies

Shall comprise work required for the development of functional specifications, systems and operations research towards the definition of proposals for Open Systems-conformity⁽¹⁾ standards, concepts and conventions and analytical work serving the objective of establishing interoperability for IBC⁽²⁾ equipment and services. This work is to be carried out by appropriate organizations, groups and other bodies including, where required, contract work;

Part II: IBC technologies

Shall comprise R&D cooperation in IBC technologies at the precompetitive stage;

Part III: Prenormative functional integration

Shall comprise prenormative and precompetitive R&D relating to cooperation in the realization of an 'open verification environment' designed to assess functions, operational concepts and experimental equipment with respect to functional specifications and standardization proposals arising from the work in Part I.

Article 3

1. Projects relating to the programme shall be executed, where required, by means of shared-cost contracts. Contractors shall be expected to bear a substantial proportion of the costs, which should normally be at least 50 % of the total expenditure.

2. The proposals for projects shall, as a rule, be submitted in reply to an open invitation to tender and involve the participation of at least two independent industrial partners not all established in the same Member State. The invitation to tender shall be published in the *Official Journal of the European Communities*.

3. In exceptional cases concerning projects indispensable for implementing key requirements of the workplan:

— where a proposal would involve

- (i) unreasonable burdens on the participants, particularly small and medium-sized undertakings and research establishments,
- (ii) only one independent industrial partner,
- (iii) more than one independent industrial partner established in the same Member State, or

— where an open tendering procedure would be unjustified on grounds of cost or efficiency, or

⁽¹⁾ Open Systems-conformity stands for an international standardization effort to make equipment and services from different suppliers, operators and service providers inter-operable.

⁽²⁾ IBC — Integrated Broadband Communication, which stands for advanced telecommunications services relying on high performance infrastructure.

— where the amount of the Community's contribution to the cost does not exceed 1 million ECU,

it may be decided, in accordance with the procedures laid down in Article 8, to depart from the general provisions set out in paragraphs (1) and (2) of this Article.

4. The contracts shall be concluded with network operators, research establishments, undertakings, including small and medium-sized undertakings, and other bodies established in the Community.

Article 4

Where framework agreements for scientific and technical cooperation between non-member European countries and the European Communities have been concluded, organizations and undertakings established in these countries may, in accordance with the procedures laid down in Articles 3 and 8, become partners to a project undertaken within the programme.

Article 5

1. The funds estimated as necessary for the Community contribution to the implementation of the programme amount to 550 million ECU over five years, including expenditure on a staff whose costs shall not exceed 4,5 % of the Community's contribution.

2. The internal and indicative allocation of these funds is set out in Annex I.

Article 6

1. The Commission shall ensure that the programme is properly performed and establish the appropriate implementation measures.

2. The Commission shall ensure that procedures are set up to allow for appropriate cooperation with COST activities related to the areas of research covered by the programme, by ensuring regular exchanges of information between the Committee referred to in Article 7 and the relevant COST Management Committees.

3. The Commission shall establish for each year and update as required a draft workplan defining the detailed objectives, the type of projects and actions to be undertaken and the corresponding financial plans. The Commission shall keep the European Parliament informed on progress of the annual workplans.

4. The procedure laid down in Article 8 shall apply to:

— the establishment and updating of the annual workplan referred to in paragraph 3 of this Article,

— any departure from the general conditions laid down in Article 3 (1) and (2),

— the evaluation of work undertaken in respect of each part of the programme by appropriate organizations, groups and other bodies,

- the assessment of proposed projects for the implementation of Parts I and III and the Community financial contribution for a project when this contribution is in excess of 2,5 million ECU,
- the assessment of proposed projects for the implementation of Part II and the Community financial contribution for a project when this contribution is in excess of 5 million ECU,
- the participation in any project by European organizations and enterprises not established in the Community.

5. The Commission may consult the Committee referred to in Article 7, and shall consult it at the request of the representatives of at least four Member States on any matter falling within the scope of this decision.

Article 7

The Commission shall be assisted in the performance of its tasks by a Management Committee, hereinafter referred to as 'the Committee'. The Committee, consisting of two representatives of each Member State, shall be set up by the Commission on the basis of nominations by the Member States.

Members of the Committee may be assisted by experts or advisors depending on the nature of the issue under consideration.

The Committee shall be chaired by a Commission representative.

The proceedings of the Committee shall be confidential. The Committee shall adopt its own rules of procedure. The secretarial services shall be provided by the Commission.

Article 8

1. Where the procedure laid down in this Article is to be followed, the Chairman shall refer the matter to the Committee, either on his own initiative or at the request of one of its members.

2. Under this procedure, the representative of the Commission, who acts as Chairman, shall submit to the Committee the draft of the measures to be adopted. The Committee shall deliver an opinion within a time limit which shall normally be one month and shall in no case exceed two months. The opinion shall be delivered by the majority specified in Article 148 (2) of the Treaty for decisions which the Council is required to adopt on a proposal from the Commission, the votes of the representatives of the Member States being weighted as indicated in that Article. The Chairman shall not vote.

3. The Commission shall adopt the intended measures when they are in accordance with the Committee's opinion.

Where the proposed measures are not in accordance with the Committee's opinion, or if no opinion is delivered, the Commission shall forthwith submit to the Council a proposal. The Council shall act by qualified majority.

If the Council has not acted within a period of two months from the date on which the matter was referred to it, the proposed measures shall:

- be adopted by the Commission for matters falling under the third, fourth and fifth indents of Article 6 (4),
- be adopted by the Commission, save where the Council has decided against the said measures by simple majority for matters falling under the first, second and sixth indents of Article 6 (4).

Article 9

1. The programme shall be reviewed after 30 months on the basis of an evaluation of the results achieved in relation to the precise objectives set out in Annex II to this Decision. The Commission shall inform the Council and European Parliament of the results of this review.

2. After the completion of the first five-year period of the programme, the Commission shall, after consulting the Committee, send to the Member States and the European Parliament a report on the performance and results of the programme.

Article 10

With regard to the coordination activities provided for in Article 1 (2), the Member States and the Commission shall exchange all appropriate information to which they have access and which they are free to disclose concerning activities in the areas covered by this Decision, whether or not planned or carried out under their authority.

Information shall be exchanged according to a procedure to be defined by the Commission after consulting the Committee and shall be treated as confidential at the suppliers' request.

Article 11

This Decision shall apply from 1 June 1987.

Article 12

This Decision is addressed to the Member States.

Done at Brussels, 14 December 1987.

For the Council

The President

U. ELLEMANN-JENSEN

ANNEX I

INDICATIVE INTERNAL ALLOCATION OF FUNDS

| | <i>(Million ECU)</i> |
|--|----------------------|
| PART I: IBC DEVELOPMENT AND IMPLEMENTATION STRATEGIES | 60 |
| I.1. IBC strategies | 14 |
| I.2. IBC realization (Systems analysis and functional specification) | 28 |
| I.3. IBC usage | 10 |
| I.4. Common operational environment | 8 |
| PART II: IBC TECHNOLOGIES | 332 |
| II.1. Techniques for IBC systems functions | 94 |
| II.2. IBC programming infrastructure | 49 |
| II.3. Usability engineering | 12 |
| II.4. Technologies enabling network evolution | 177 |
| PART III: PRENORMATIVE FUNCTIONAL INTEGRATION | 113 |
| III.1. Verification tools | 63 |
| III.2. Development of IBC application pilot schemes | 50 |
| Personnel costs | 25 |
| Administrative costs | 20 |
| Total | <u>550</u> |

ANNEX II

RACE PROGRAMME SUMMARY AND OBJECTIVES (1)

The goal of RACE is to make a major contribution to the objective of the:

'Introduction of Integrated Broadband Communication (IBC) taking into account the evolving Integrated Services Digital Network (ISDN) and national introduction strategies, progressing to Community-wide services by 1995'.

The general objectives of RACE are, in this light:

- (a) to promote the Community's telecommunications industry so as to ensure that it maintains a strong position at European and world levels in a context of rapid technological change;
- (b) to enable the European network operators to confront under the best possible conditions the technological and service challenges with which they will be faced;
- (c) to enable a critical minimum number of the Member States of the Community to introduce commercially viable IBC services by 1996;
- (d) to offer opportunities to service providers to improve cost-performance and introduce new or enhanced information services which will both earn revenue in their own right and give indispensable support to other productive sectors of the Community;
- (e) to make available to the final users, at a cost and on a timescale at least as favourable as in other major western countries, the services which will sustain the competitiveness of the European economy over the next decades and contribute to maintaining and creating employment in the Community;
- (f) to accompany the formation of a Community internal market for all IBC related telecommunications equipment and services based on agreed European or international standards as an indispensable basis for sustained strength on the world markets;
- (g) to contribute to regional development within the Community with the support of the development of common functional specifications for equipment and services permitting the less-developed regions to benefit fully from the efforts of Member States piloting the telecommunications developments in the Community.

In order to achieve the objectives described, the RACE programme would be structured into three main parts with each project containing verifiable objectives to be met and reported on.

PART I: IBC DEVELOPMENT AND IMPLEMENTATION STRATEGIES

relating to the development of functional specifications, the systems and operations research towards the definition of proposals for IBC standards, concepts and conventions conforming to an open systems approach, and the analytical work serving the objective of establishing interoperability for IBC equipment and services.

PART II: IBC TECHNOLOGIES

covering the technological cooperation in precompetitive R&D addressing key requirements of new technology for the low-cost realization of IBC equipments and services.

PART III: PRENORMATIVE FUNCTIONAL INTEGRATION

relating to prenormative cooperation in the realization of an 'open verification environment' designed to assess functions, operational concepts and experimental equipment and applications with respect to functional specifications and standardization proposals arising from the work in Part I.

The corresponding work areas, tasks and approaches are specified in detail in the RACE workplan which is under preparation and will be submitted separately.

This work is to be carried out by industry, academics and telecommunication operators. The latter are expected to finance independently the work falling within their domain.

The following sections provide a description of the scope and nature of the work to be undertaken.

(1) The full RACE workplan is a detailed technical document which evolves with technological progress and Introduction of Integrated Broadband Communication (IBC) taking into account the evolving ISDN improved perception of the demand characteristics. Each year it is to be submitted for approval by the Management Committee.

PART I: IBC DEVELOPMENT AND IMPLEMENTATION STRATEGIES

Objectives

The main objectives of the work under Part I are to achieve, throughout the introduction and further enhancement of IBC:

- a common understanding of the evolution towards introduction of IBC and its implications including market research and promotion of the IBC concept and services in Europe and internationally,
- a common definition and understanding of the IBC system and subsystems, between all main actors concerned,
- guidelines for the functional specifications of the IBC system and the development of integrated services,
- a framework in which to identify the technology requirements and to assess the implications of technological advances and the evolution of service demands for the priorities in RD&E (Research, Development and Engineering),
- a tool for the evaluation of cost-effectiveness of various technological solutions, implementation schemes and evolutionary routes starting from the given situation,
- mechanisms for analysing and assessing, at an early stage, the requirements for standardization proposals and functional specifications in order to facilitate and accelerate the emergence of international standards.

Scope

To meet these objectives, Part I would comprise two major areas of activity:

- maintenance and further development of the European Reference Model for Integrated Broadband Communication, defined in its initial form during the RACE definition phase,
- systems analysis and engineering work to transform the concepts derived in the Reference Model into systems and subsystems and functional specifications.

I.1. IBC strategies

IBC is a broad field of activities which requires the dedicated work of many independent participants. They all need to be able to situate their respective work in the context of evolving objectives, conditions and rapid technological change and demand.

I.2. IBC realization

The Reference Model work of point I.1 represents a major concertation exercise to produce consensus views on the evolution towards IBC and its broad functional specifications for IBC systems, subsystems and services, and to provide a two-way link between the Reference Model and other RACE activities. The required systems analysis will be carried out under this point.

I.3. IBC usage

The economic impact of IBC will depend heavily on the nature of the applications supported by IBC networks, the modes of presentation to the users, the facilities available to users and other important parameters related to the ergonomics of telecommunications usage. This work area will concern these elements to the extent that they are related to work under I.1 and I.2.

I.4. Common operational environment

The convergence and transition to IBC represents a major problem in managing the complexity of the technical issues. This does require a specific effort which is the objective of the work under this heading.

PART II: IBC TECHNOLOGIES

Objective

The objective of this part is to carry out cooperative R&D on the key technologies required for low-cost-realizations of IBC equipment and services. In particular, success for the IBC depends critically on the cost of the local loop optical components being within affordable limits of domestic subscribers. This presents RACE with a key objective of providing the technology which in association with standardization will reduce the costs in mass production by a factor of 100 over today's typical costs of comparable components. Part II will be system-driven and specifically related to the functional specifications derived by Part I.

Scope

The scope of the work will include the research, test and experimentation needed to explore the techno-economic characteristics of the new technologies relevant to IBC.

II.1. Techniques for IBC system functions

Objective

The use of advanced technology for cost-efficient implementation of IBC. The work will focus on functions which, due to their generalized use, form a key cost factor.

II.2. IBC programming infrastructure

Objective

Based on advances in software technology in general, as they result from fundamental work done elsewhere, the objective here is to realize major advance in telecommunication software infrastructure so as to master the complexity of systems integration and the associated requirements of network reliability and efficiency.

II.3. Usability engineering

Objective

The objective is to advance the technological aspects of man-machine interface and human factors so as to facilitate IBC user acceptance linked to ergonomics and cognitive facilities of IBC equipment.

II.4. Technologies enabling network evolution

Objective

The objective of the R&D is to exploit key enabling technologies to realize advanced evolutionary subsystems, systems and networks.

PART III: PRENORMATIVE FUNCTIONAL INTEGRATION

Objective

The work is aimed at the validation of standardization concepts and prenormative work as deriving from work done in other parts of RACE. The parts of the IBC system or subsystems will be tested by means of simulation of research-experimentation with particular reference to the needs of technological work in preparation of standardization proposals.

Prenormative functional integration serves several important functions. It will:

- permit the verification of concepts, standardization options, reliability, security, as well as other key functional characteristics by simulation and testing at the research stage,
- contribute to the reduction of risks for development and implementation by permitting the evaluation of the functional features by operators, industry and, where applicable, service providers and users,
- provide a mechanism for demonstrating interoperability features and compliance to standards and specifications.

Scope⁽¹⁾

The scope of the work is to:

- test new technology, and devices from projects in Part II RACE, Esprit, relevant national programmes, international projects as an integral part of an IBC system to evaluate its functionalities and techno-economic performance characteristics,
- explore relevant performance parameters and confirm the feasibility of meeting the relevant requirements of the functional entities and applications as defined within Part I activities.

(¹) The work envisaged within this part of the RACE programme is not expected to have the nature of demonstration projects or field trials. Such trials or prototype installations will be required before operational implementation of a harmonized set of IBC services can be undertaken but are beyond the scope and scale of effort under consideration for the RACE programme.

III.1. Verification tools

Objective

Work here is intended to develop verification tools related to make up operational IBC components or subsystems in order to verify design concepts, functional groups or protocols. The goal is to contribute to refinement of functional specification and/or verify standard proposals.

III.2. Development of IBC application pilot schemes

Objective

Early introduction of IBC services will require the diminution of the uncertainties and risks associated with new services. A key element to this is the early development of experimental situations where service providers, network operators and users are placed in conditions where IBC experimental products can be tested by users and service providers. The objective of the work in this area is to contribute to the development of such experimental situations and the exploitation of the results so as to speed up Community-wide understanding of the characteristics of IBC commercial exploitation.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DIRECTIVE

of 16 May 1988

on competition in the markets in telecommunications terminal equipment

(88/301/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 90 (3) thereof,

Whereas :

1. In all the Member States, telecommunications are, either wholly or partly, a State monopoly generally granted in the form of special or exclusive rights to one or more bodies responsible for providing and operating the network infrastructure and related services. Those rights, however, often go beyond the provision of network utilization services and extend to the supply of user terminal equipment for connection to the network. The last decades have seen considerable technical developments in networks, and the pace of development has been, especially striking in the area of terminal equipment.
2. Several Member States have, in response to technical and economic developments, reviewed their grant of special or exclusive rights in the telecommunications sector. The proliferation of types of terminal equipment and the possibility of the multiple use of terminals means that users must be allowed a free choice between the various types of equipment available if they are to benefit fully from the technological advances made in the sector.
3. Article 30 of the Treaty prohibits quantitative restrictions on imports from other Member States and all measures having equivalent effect. The grant of special or exclusive rights to import and market goods to one organization can, and often does, lead to restrictions on imports from other Member States.
4. Article 37 of the Treaty states that 'Member States shall progressively adjust any State monopolies of a commercial character so as to ensure that when the transitional period has ended no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of Member States.

The provisions of this Article shall apply to any body through which a Member State, in law or in fact, either directly or indirectly supervises, determines or appreciably influences imports or exports between Member States. These provisions shall likewise apply to monopolies delegated by the State to others.' Paragraph 2 of Article 37 prohibits Member States from introducing any new measure contrary to the principles laid down in Article 37 (1).
5. The special or exclusive rights relating to terminal equipment enjoyed by national telecommunications monopolies are exercised in such a way as, in practice, to disadvantage equipment from other Member States, notably by preventing users from freely choosing the equipment that best suits their needs in terms of price and quality, regardless of its origin. The exercise of these rights is therefore not compatible with Article 37 in all the Member States except Spain and Portugal, where the national monopolies are to be adjusted progressively before the end of the transitional period provided for by the Act of Accession.
6. The provision of installation and maintenance services is a key factor in the purchasing or rental of terminal equipment. The retention of exclusive rights in this field would be tantamount to retention of exclusive marketing rights. Such rights must therefore also be abolished if the abolition of exclusive importing and marketing rights is to have any practical effect.

7. Article 59 of the Treaty provides that 'restrictions on freedom to provide services within the Community shall be progressively abolished during the transitional period in respect of nationals of Member States who are established in a State of the Community other than that of the person for whom the services are intended.' Maintenance of terminals is a service within the meaning of Article 60 of the Treaty. As the transitional period has ended, the service in question, which cannot from a commercial point of view be dissociated from the marketing of the terminals, must be provided freely and in particular when provided by qualified operators.
8. Article 90 (1) of the Treaty provides that 'in the case of public undertakings and undertakings to which Member States grant special or exclusive rights, Member States shall neither enact nor maintain in force any measure contrary to the rules contained in this Treaty, in particular to those rules provided for in Article 7 and Articles 85 to 94.'
9. The market in terminal equipment is still as a rule governed by a system which allows competition in the common market to be distorted; this situation continues to produce infringements of the competition rules laid down by the Treaty and to affect adversely the development of trade to such an extent as would be contrary to the interests of the Community. Stronger competition in the terminal equipment market requires the introduction of transparent technical specifications and type-approval procedures which meet the essential requirements mentioned in Council Directive 86/361/EEC⁽¹⁾ and allow the free movement of terminal equipment. In turn, such transparency necessarily entails the publication of technical specifications and type-approval procedures. To ensure that the latter are applied transparently, objectively and without discrimination, the drawing-up and application of such rules should be entrusted to bodies independent of competitors in the market in question. It is essential that the specifications and type-approval procedures are published simultaneously and in an orderly fashion. Simultaneous publication will also ensure that behaviour contrary to the Treaty is avoided. Such simultaneous, orderly publication can be achieved only by means of a legal instrument that is binding on all the Member States. The most appropriate instrument to this end is a directive.
10. The Treaty entrusts the Commission with very clear tasks and gives it specific powers with regard to the monitoring of relations between the Member States and their public undertakings and enterprises to which they have delegated special or exclusive rights, in particular as regards the elimination of quantitative restrictions and measures having equivalent effect, discrimination between nationals of Member States, and competition. The only instrument, therefore, by which the Commission can efficiently carry out the tasks and powers assigned to it, is a Directive based on Article 90 (3).
11. Telecommunications bodies or enterprises are undertakings within the meaning of Article 90 (1) because they carry on an organized business activity involving the production of goods or services. They are either public undertakings or private enterprises to which the Member States have granted special or exclusive rights for the importation, marketing, connection, bringing into service of telecommunications terminal equipment and/or maintenance of such equipment. The grant and maintenance of special and exclusive rights for terminal equipment constitute measures within the meaning of that Article. The conditions for applying the exception of Article 90 (2) are not fulfilled. Even if the provision of a telecommunications network for the use of the general public is a service of general economic interest entrusted by the State to the telecommunications bodies, the abolition of their special or exclusive rights to import and market terminal equipment would not obstruct, in law or in fact, the performance of that service. This is all the more true given that Member States are entitled to subject terminal equipment to type-approval procedures to ensure that they conform to the essential requirements.
12. Article 86 of the Treaty prohibits as incompatible with the common market any conduct by one or more undertakings that involves an abuse of a dominant position within the common market or a substantial part of it.
13. The telecommunications bodies hold individually or jointly a monopoly on their national telecommunications network. The national networks are markets. Therefore, the bodies each individually or jointly hold a dominant position in a substantial part of the market in question within the meaning of Article 86.
- The effect of the special or exclusive rights granted to such bodies by the State to import and market terminal equipment is to:
- restrict users to renting such equipment, when it would often be cheaper for them, at least in the long term, to purchase this equipment. This effectively makes contracts for the use of networks subject to acceptance by the user of additional services which have no connection with the subject of the contracts,
10. The Treaty entrusts the Commission with very clear tasks and gives it specific powers with regard to the monitoring of relations between the Member States and their public undertakings and enterprises to

(¹) OJ No L 217, 5. 8. 1986, p. 21.

- limit outlets and impede technical progress since the range of equipment offered by the telecommunications bodies is necessarily limited and will not be the best available to meet the requirements of a significant proportion of users.

Such conduct is expressly prohibited by Article 86 (d) and (b), and is likely significantly to affect trade between Member States.

At all events, such special or exclusive rights in regard to the terminal equipment market give rise to a situation which is contrary to the objective of Article 3 (f) of the Treaty, which provides for the institution of a system ensuring that competition in the common market is not distorted, and requires *a fortiori* that competition must not be eliminated. Member States have an obligation under Article 5 of the Treaty to abstain from any measure which could jeopardize the attainment of the objectives of the Treaty, including Article 3 (f).

The exclusive rights to import and market terminal equipment must therefore be regarded as incompatible with Article 86 in conjunction with Article 3, and the grant or maintenance of such rights by a Member State is prohibited under Article 90 (1).

14. To enable users to have access to the terminal equipment of their choice, it is necessary to know and make transparent the characteristics of the termination points of the network to which the terminal equipment is to be connected. Member States must therefore ensure that the characteristics are published and that users have access to termination points.
15. To be able to market their products, manufacturers of terminal equipment must know what technical specifications they must satisfy. Member States should therefore formalize and publish the specifications and type-approval rules, which they must notify to the Commission in draft form, in accordance with Council Directive 83/189/EEC⁽¹⁾. The specifications may be extended to products imported from other Member States only insofar as they are necessary to ensure conformity with the essential requirements specified in Article 2 (17) of Directive 86/361/EEC that can legitimately be required under Community law. Member States must, in any event, comply with Articles 30 and 36 of the Treaty, under which an importing Member State must allow terminal equipment legally manufactured and marketed in another Member State to be imported on to its territory, and may only subject it to such type-approval and possibly refuse approval for reasons concerning conformity with the abovementioned essential requirements.
16. The immediate publication of these specifications and procedures cannot be considered in view of their

complexity. On the other hand, effective competition is not possible without such publication, since potential competitors of the bodies or enterprises with special or exclusive rights are unaware of the precise specifications with which their terminal equipment must comply and of the terms of the type-approval procedures and hence their cost and duration. A deadline should therefore be set for the publication of specifications and the type-approval procedures. A period of two-and-a-half years will also enable the telecommunications bodies with special or exclusive rights to adjust to the new market conditions and will enable economic operators, especially small and medium-sized enterprises, to adapt to the new competitive environment.

17. Monitoring of type-approval specifications and rules cannot be entrusted to a competitor in the terminal equipment market in view of the obvious conflict of interest. Member States should therefore ensure that the responsibility for drawing up type-approval specifications and rules is assigned to a body independent of the operator of the network and of any other competitor in the market for terminals.
18. The holders of special or exclusive rights in the terminal equipment in question have been able to impose on their customers long-term contracts preventing the introduction of free competition from having a practical effect within a reasonable period. Users must therefore be given the right to obtain a revision of the duration of their contracts,

HAS ADOPTED THIS DIRECTIVE:

Article 1

For the purposes of this Directive:

- 'terminal equipment' means equipment directly or indirectly connected to the termination of a public telecommunications network to send, process or receive information. A connection is indirect if equipment is placed between the terminal and the termination of the network. In either case (direct or indirect), the connection may be made by wire, optical fibre or electromagnetically.

Terminal equipment also means receive-only satellite stations not reconnected to the public network of a Member State,

- 'undertaking' means a public or private body, to which a Member State grants special or exclusive rights for the importation, marketing, connection, bringing into service of telecommunications terminal equipment and/or maintenance of such equipment.

⁽¹⁾ OJ No L 109, 28. 3. 1983, p. 8.

Article 2

Member States which have granted special or exclusive rights within the meaning of Article 1 to undertakings shall ensure that those rights are withdrawn.

They shall, not later than three months following the notification of this Directive, inform the Commission of the measures taken or draft legislation introduced to that end.

Article 3

Member States shall ensure that economic operators have the right to import, mark t, connect, bring into service and maintain terminal equipment. However, Member States may:

- in the absence of technical specifications, refuse to allow terminal equipment to be connected and brought into service where such equipment does not, according to a reasoned opinion of the body referred to in Article 6, satisfy the essential requirements laid down in Article 2 (17) of Directive 86/361/EEC,
- require economic operators to possess the technical qualifications needed to connect, bring into service and maintain terminal equipment on the basis of objective, non-discriminatory and publicly available criteria.

Article 4

Member States shall ensure that users have access to new public network termination points and that the physical characteristics of these points are published not later than 31 December 1988.

Access to public network termination points existing at 31 December 1988 shall be given within a reasonable period to any user who so requests.

Article 5

1. Member States shall, not later than the date mentioned in Article 2, communicate to the Commission a list of all technical specifications and type-approval procedures which are used for terminal equipment, and shall provide the publication references.

Where they have not as yet been published in a Member State, the latter shall ensure that they are published not later than the dates referred to in Article 8.

2. Member States shall ensure that all other specifications and type-approval procedures for terminal equipment are formalized and published. Member States shall communicate the technical specifications and type-approval procedures in draft form to the Commission in accordance with Directive 83/189/EEC and according to the timetable set out in Article 8.

Article 6

Member States shall ensure that, from 1 July 1989, responsibility for drawing up the specifications referred to

in Article 5, monitoring their application and granting type-approval is entrusted to a body independent of public or private undertakings offering goods and/or services in the telecommunications sector.

Article 7

Member States shall take the necessary steps to ensure that undertakings within the meaning of Article 1 make it possible for their customers to terminate, with maximum notice of one year, leasing or maintenance contracts which concern terminal equipment subject to exclusive or special rights at the time of the conclusion of the contracts.

For terminal equipment requiring type-approval, Member States shall ensure that this possibility of termination is afforded by the undertakings in question no later than the dates provided for in Article 8. For terminal equipment not requiring type-approval, Member States shall introduce this possibility no later than the date provided for in Article 2.

Article 8

Member States shall inform the Commission of the draft technical specifications and type-approval procedures referred to in Article 5 (2):

- not later than 31 December 1988 in respect of equipment in category A of the list in Annex I,
- not later than 30 September 1989 in respect of equipment in category B of the list in Annex I,
- not later than 30 June 1990 in respect of other terminal equipment in category C of the list in Annex I.

Member States shall bring these specifications and type-approval procedures into force after expiry of the procedure provided for by Directive 83/189/EEC.

Article 9

Member States shall provide the Commission at the end of each year with a report allowing it to monitor compliance with the provisions of Articles 2, 3, 4, 6 and 7.

An outline of the report is attached as Annex II.

Article 10

The provisions of this Directive shall be without prejudice to the provisions of the instruments of accession of Spain and Portugal, and in particular Articles 48 and 208 of the Act of Accession.

Article 11

This Directive is addressed to the Member States.

Done at Brussels, 16 May 1988.

For the Commission

Peter SUTHERLAND

Member of the Commission

ANNEX I

List of terminal equipment referred to in Article 8

| | <i>Category</i> |
|---|-----------------|
| Additional telephone set ; private automatic branch exchanges (PABXs) : | A |
| Modems : | A |
| Telex terminals : | B |
| Data-transmission terminals : | B |
| Mobile telephones : | B |
| Receive-only satellite stations not reconnected to the public network of a Member State : | B |
| First telephone set : | C |
| Other terminal equipment : | C |

ANNEX II

Outline of the report provided for in Article 9

Implementation of Article 2

1. Terminal equipment for which legislation is being or has been modified.

By category of terminal equipment :

- date of adoption of the measure or,
- date of introduction of the bill or,
- date of entry into force of the measure.

2. Terminal equipment still subject to special or exclusive rights :

- type of terminal equipment and rights concerned.

Implementation of Article 3

- terminal equipment, the connection and/or commissioning of which has been restricted,
- technical qualifications required, giving reference of their publication:

Implementation of Article 4

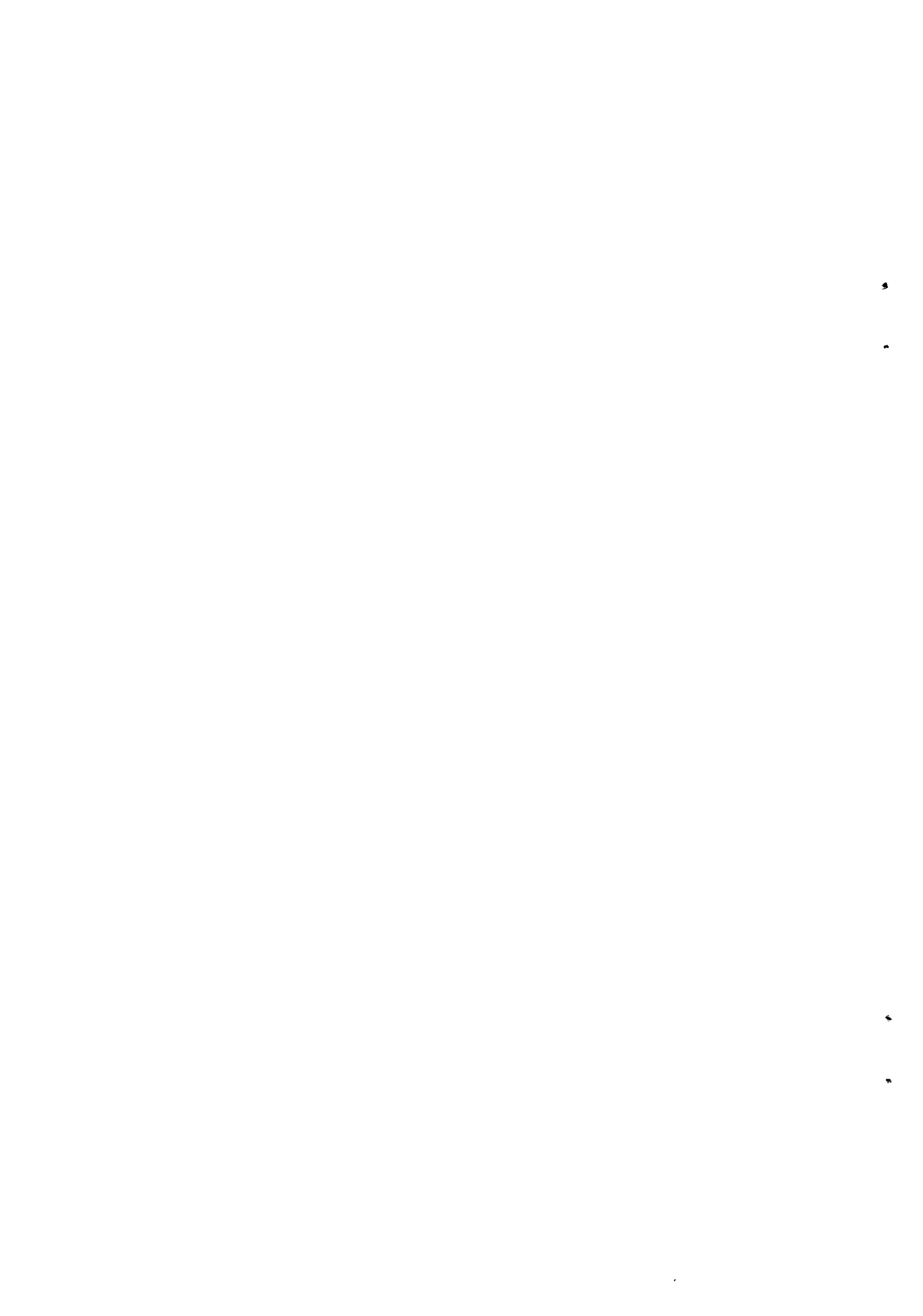
- references of publications in which the physical characteristics are specified,
- number of existing network termination points,
- number of network termination points now accessible.

Implementation of Article 6

- independent body or bodies appointed.

Implementation of Article 7

- measures put into force, and
- number of terminated contracts.



I

(Information)

COUNCIL

COUNCIL RESOLUTION

of 30 June 1988

on the development of the common market for telecommunications services and equipment up to 1992

(88/C 257/01)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Single European Act,

Having regard to the green paper on the development of the common market for telecommunications services and equipment published on 30 June 1987 and the communication on the implementation of the green paper up to 1992 dated 9 February 1988,

Having regard to the opinions delivered by the Economic and Social Committee⁽¹⁾,

Having regard to the draft from the Commission,

Whereas the strengthening of European telecommunications has become one of the major conditions for achieving the internal market for goods and services in 1992;

Whereas, as set out in the green paper, the current wave of technical innovation resulting from the convergence of telecommunications and computer technology has led to reviews in all Member States, and at world level, of the future organization of the telecommunications sector and its necessary regulatory adjustment;

Whereas the administrations or private operating agencies recognized in the Community and providing public telecommunications services are hereinafter referred to as the 'telecommunications administrations';

Whereas the creation of an open common market in telecommunications services and equipment is compatible with continued exclusive provision or special rights of telecommunications administrations as regards the supply

and the operation of the network infrastructure and the provision of a limited number of basic services where such exclusive provision is deemed essential, at this stage, for safeguarding the public service role;

Whereas the arguments in favour of continued exclusive provision or special rights, where they exist, must be weighed carefully against the obligations of the telecommunications administrations which will be retained but also against the restrictions which this may impose on those connected to the network concerning present and future application for their own use, shared use or provision to third parties; whereas this should take account of the fact that the development of trade must not be affected to such an extent as would run counter to the interests of the Community;

Whereas the substantial progress made with the Community's 1984 action programme for implementing a common telecommunications policy has laid a solid foundation for the implementation of a common approach in telecommunications;

Whereas the social, regional, industrial and trade aspects must be kept carefully in mind during the progressive implementation of such an approach;

Whereas the Community must adopt measures with the aim of progressively establishing the internal market, over a period expiring on 31 December 1992; whereas, to this end, the communication of 9 February 1988 defined an action plan for the progressive achievement of a competition-oriented Community-wide telecommunications market and the strengthening of European competitiveness;

Whereas the overriding objective must be to develop the conditions for the market to provide European users with a greater variety of telecommunications services, of better quality and at lower cost, affording Europe the

⁽¹⁾ OJ No C 356, 31. 12. 1987, p. 46 and
OJ No C 175, 4. 7. 1988, p. 36.

full internal and external benefits of a strong telecommunications sector and the development in the Community of a strong telecommunications infrastructure, industry and efficient services,

CONSIDERS THE FOLLOWING POINTS AS MAJOR POLICY GOALS IN THE TELECOMMUNICATIONS POLICY:

1. creating or ensuring Community-wide network integrity as one of the essential elements for a common market in telecommunications services and equipment, working on the principle of full interconnectivity between all public networks concerned in the Community;
2. creating progressively an open, common market for telecommunications services, particularly for value-added services. Due account must be taken of the competition rules of the Treaty. Rapid definition, by Council directives, of technical conditions, usage conditions and tariff principles for Open Network Provision, starting with harmonized conditions for the use of leased lines, is of crucial importance and closely linked with the creation of an open common market for non-reserved telecommunications services;
3. promoting the creation of Europe-wide services according to market requirements and appropriate social needs, to enable European users to benefit from a wider range of better and cheaper telecommunication services, so that Europe can reap the internal and external benefits of a strong telecommunications sector.

In addition to appropriate measures in the area of standardization, this approach should include definition of common tariff principles and the encouragement of cooperation between network operators and others, as far as compatible with Community competition rules; one of the aims in this should include definition of efficient pricing principles throughout the Community while ensuring general service for all;

4. developing further an open, Community-wide market for terminal equipment; for this purpose, reaching agreement quickly on full mutual recognition of type-approval for terminal equipment, on the basis of the rapid development of common European conformity specifications;
5. developing a common market on which telecommunications administrations and other suppliers can compete on an equal footing; to this end, the following are particularly appropriate:

- clear separation of regulatory and operational duties, with due regard for the situation in each individual Member State;
 - application of the relevant rules of the Treaty, notably competition rules, to telecommunications administrations and private providers;
 - the creation of a transparent fiscal environment;
 - achievement of full opening of the markets for telecommunications supplies and works as part of the completion of the internal market;
6. continuing Community measures regarding common standards in the telecommunications sector. The establishment of the European Telecommunications Standards Institute (ETSI) is warmly welcomed in this context. However, further efforts are needed to ensure conformity with the general principles of Community standardization policy, taking into account the achievements of European cooperation in the field of telecommunications and the special characteristics of the telecommunications sector;
 7. stimulating European co-operation at all levels, as far as compatible with Community competition rules, and particularly in the field of research and development, in order to secure a strong European presence on the telecommunications markets and to ensure the full participation of all Member States;
 8. creating a social environment for the future development of telecommunications, in line with the Community's overall aim of improving the economic and social situation by extending common policies.

Sustaining the dialogue between the social partners and undertaking in-depth analysis is particularly important in this context, to secure the conditions for developing social consensus concerning the transformation of working conditions and lifestyles resulting from the new telecommunications technologies.

In addition, given the changing requirements, steps must be taken to see that workers have the right skills, to protect personal data and to provide for the individual's access, through the communications media, to an environment significantly richer in information than before;

9. integrating the less-favoured areas of the Community fully into the emerging Community-wide market making full use of existing funds. This is one of the aims of the STAR programme, which is designed to provide these areas with high technology telecommunication networks and equipment as well as developing the endogenous potential, especially in the field of services linked to this sector, thus making the best use of the growth potential of telecommunications.

This should include examination, in particular taking into account the experience of the STAR programme, and within the context of overall Community priorities, of the case for further extension of funds available for this purpose, with a view to narrowing the gap in economic development which still separates the less-favoured areas from the more prosperous areas of the Community;

10. working out a common position on satellite communications, so that this new information medium can develop in a favourable environment, taking account of the general rules of operation and exploitation of the network environment, as well as the competition rules of the Treaty and existing international commitments of Member States;

11. fully taking into account the external aspects of Community measures on telecommunication, and working out, as appropriate, common positions on international telecommunication problems.

There should be prior Community co-ordination, according to procedures agreed, for the purpose of defining not only key negotiating positions of concern to the Community in the international organizations dealing with telecommunications, in particular the various conferences of the International Telecommunication Union, but also a common position on those aspects of the Uruguay Round which cover telecommunications,

NOTES WITH SATISFACTION:

that substantial progress has been made with the Community's 1984 action programme approved at the Council's meeting of 17 December 1984 for implementing a common telecommunications policy, and applying Community law with the aim of creating a Community-wide market, particularly in the following areas:

— establishment of standards, and steps towards the mutual recognition of type-approval for terminal equipment;

— development of advanced telecommunications technologies, with the launching of the RACE programme;

— access to modern telecommunications for the less-favoured areas of the Community, with the launching of the STAR programme;

— coordination of technical plans and strategies for the introduction of new services, in particular the Integrated Services Digital Network (ISDN), and pan-European digital public mobile communications;

GIVES ITS GENERAL SUPPORT:

to the objectives of the action programme set out in the communication of 9 February 1988, which relates to the opening of the common telecommunications market to competition up to 1992, having regard also to Articles 8A and 8C of the Treaty, introduced by the Single European Act, and to the strengthening of European competitiveness, while safeguarding the public service goals of telecommunications administrations.

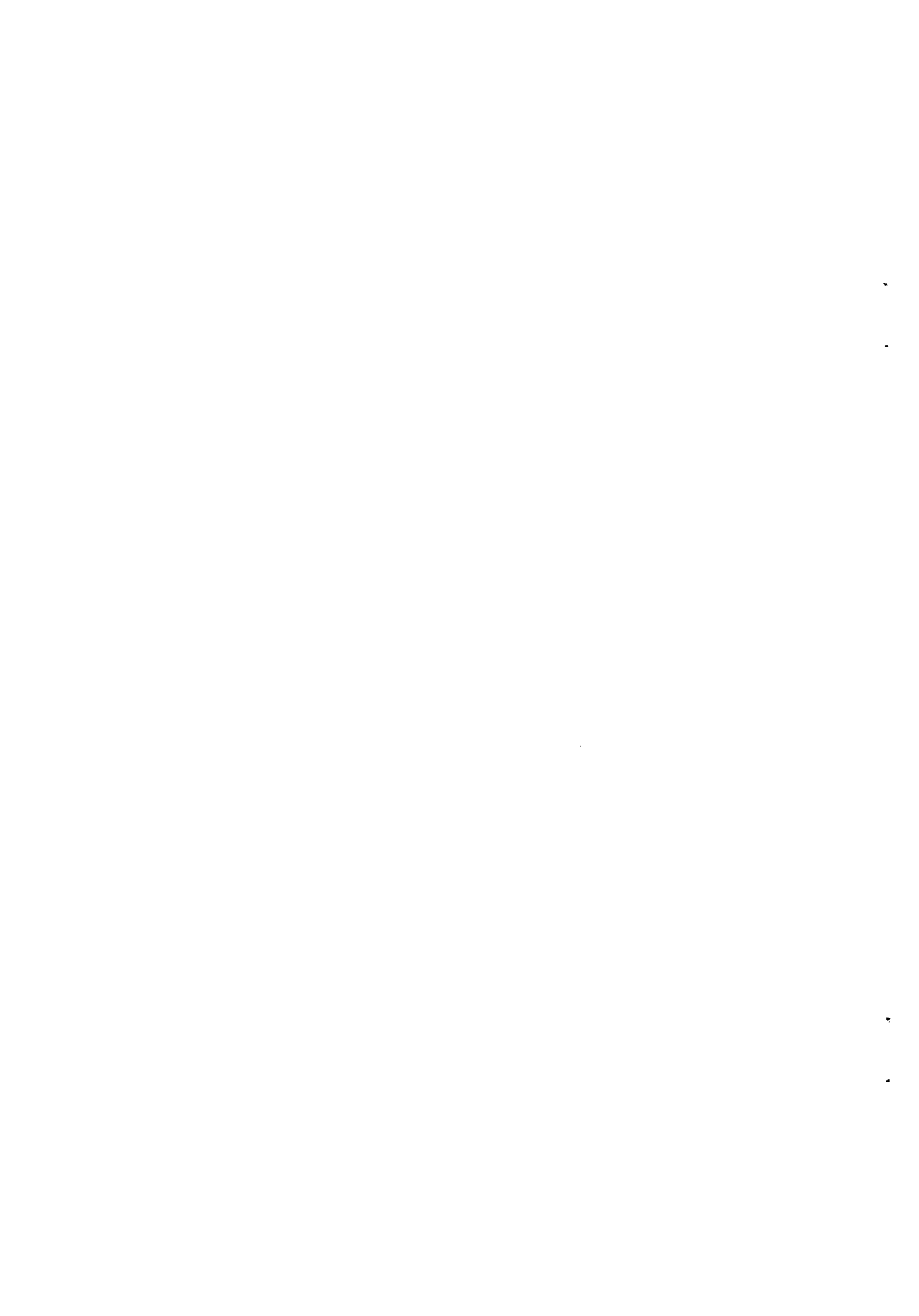
In this context and in the spirit of the conclusions of the Council of 17 December 1984, under which it was established, importance is accorded to the role played by the Senior Officials Group on Telecommunications (SOG-T);

INVITES THE COMMISSION:

to propose, where required, the measures necessary for pursuing the achievement of these goals, to be taken in priority areas on the basis of the appropriate Community procedures, in particular for the creation of the common market for telecommunications services and equipment and taking appropriate account also of the external dimension of these measures;

INTENDS:

to meet henceforth periodically on telecommunications issues, in order to pursue, together with the European Parliament, the Commission and the Economic and Social Committee, the rapid completion of the internal market for telecommunications services and equipment up to 1992, according to the goals set out and bearing in mind Article 8A of the Treaty and any adjustments and derogations which may be agreed upon on the basis of Article 8C of the Treaty.



1

(Information)

COUNCIL

COUNCIL RESOLUTION

of 27 April 1989

on standardization in the field of information technology and telecommunications

(89/C 117/01)

THE COUNCIL HEREBY INVITES:

— the Member States:

to nominate without delay the national standardization bodies which will participate in the procedures for the adoption of ETSI (European Telecommunication Standard Institute) standards in so far as they have not yet done so;

— ETSI and Cen-Cenelec: (European Committee for Standardization — European Committee for Electrotechnical Standardization):

(a) to quickly conclude a cooperation agreement within the ITSTC (Information Technology Steering Committee) framework;

(b) to consult with a view to forming a single European standardization in which each of the present standardization bodies would preserve its individual identity,

— the administrations, the public network operators, the industry, research institutes and users who are members of ETSI:

(a) to make available to ETSI the experts required to carry out its programme of work;

(b) to ensure that any pre-standardization and standardization work is carried out at a common level from the earliest possible stage in the work,

— the Commission:

(a) to contribute to the coherent development of ETSI and lend it its support, in particular in the programme of work related to the Community telecommunications policy;

(b) to report to it as and when necessary on the operation and progress made by ETSI (⁽¹⁾).

(⁽¹⁾) The proceedings of CEN-Cenelec are the subject of Commission reports in accordance with Council Decision 87/95/EEC of 22 December 1986 on standardization in the field of information technology and telecommunications (OJ No L 36, 7. 2. 1987, p. 31).



II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 3 May 1989

on the approximation of the laws of the Member States relating to electromagnetic compatibility

(89/336/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas it is necessary to adopt measures with the aim of progressively establishing the internal market over a period expiring on 31 December 1992; whereas the internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured;

Whereas Member States are responsible for providing adequate protection for radiocommunications and the devices, apparatus or systems whose performance may be degraded by electromagnetic disturbance produced by electrical and electronic apparatus against the degradation caused by such disturbances;

Whereas Member States are also responsible for ensuring that electric energy distribution networks are protected from electromagnetic disturbance which can affect them and, consequently, equipment fed by them;

Whereas Council Directive 86/361/EEC of 24 July 1986 on the initial stage of the recognition of type-approval for telecommunications terminal equipment ⁽⁴⁾ covers in particular the signals emitted by such equipment when it is operating normally and the protection of public telecommunications networks from harm; whereas it is

therefore still necessary to provide adequate protection for these networks, including the equipment connected to them, against temporary disturbances caused by signals of an accidental nature that may be emitted by this equipment;

Whereas in some Member States, mandatory provisions define in particular the permissible electromagnetic disturbance levels that this equipment is liable to cause and its degree of immunity to such signals; whereas these mandatory provisions do not necessarily lead to different protection levels from one Member State to another but do, by their disparity, hinder trade within the Community;

Whereas the national provisions ensuring such protection must be harmonized in order to guarantee the free movement of electrical and electronic apparatus without lowering existing and justified levels of protection in the Member States;

Whereas Community legislation as it stands at present provides that, notwithstanding one of the fundamental rules of the Community, namely the free movement of goods, barriers to intra-Community trade resulting from disparities in national laws on the marketing of products have to be accepted in so far as those provisions may be recognized as necessary to satisfy essential requirements; whereas the harmonization of laws in the case in point must therefore be confined to those provisions needed to comply with the protection requirements relating to electromagnetic compatibility; whereas these requirements must replace the corresponding national provisions;

Whereas this Directive therefore defines only protection requirements relating to electromagnetic compatibility; whereas, to facilitate proof of conformity with these requirements, it is important to have harmonized standards at European level concerning electromagnetic compatibility, so that products complying with them may

⁽¹⁾ OJ No C 322, 2. 12. 1987, p. 4.

⁽²⁾ OJ No C 262, 10. 10. 1988, p. 82 and OJ No C 69, 20. 3. 1989, p. 72.

⁽³⁾ OJ No C 134, 24. 5. 1988, p. 2.

⁽⁴⁾ OJ No L 217, 5. 8. 1986, p. 21.

be assumed to comply with the protection requirements; whereas these standards harmonized at European level are drawn up by private bodies and must remain non-binding texts; whereas for that purpose the European Committee for Electrotechnical Standardization (CENELEC) is recognized as the competent body in the field of this Directive for the adoption of harmonized standards in accordance with the general guidelines for cooperation between the Commission and the European Committee for Standardization (CEN) and CENELEC signed on 13 November 1984; whereas, for the purposes of this Directive, a harmonized standard is a technical specification (European standard or harmonization document) adopted by CENELEC upon a remit from the Commission in accordance with the provisions of Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations⁽¹⁾, as last amended by Directive 88/182/EEC⁽²⁾, and pursuant to the abovementioned general guidelines;

Whereas, pending the adoption of harmonized standards for the purposes of this Directive, the free movement of goods should be facilitated by accepting, as a transitional measure, on a Community level, apparatus complying with the national standards adopted, in accordance with the Community inspection procedure ensuring that such national standards meet the protection objectives of this Directive;

Whereas the EC declaration of conformity concerning the apparatus constitutes a presumption of its conformity with this Directive; whereas this declaration must take the simplest possible form;

Whereas, for apparatus covered by Directive 86/361/EEC, in order to obtain efficient protection as regards electromagnetic compatibility, compliance with the provisions of this Directive should nevertheless be certified by marks or certificates of conformity issued by bodies notified by the Member States; whereas, to facilitate the mutual recognition of marks and certificates issued by these bodies, the criteria to be taken into consideration for appointing them should be harmonized;

Whereas it is nevertheless possible that equipment might disturb radiocommunications and telecommunications networks; whereas provision should therefore be made for a procedure to reduce this hazard;

Whereas this Directive applies to the appliances and equipment covered by Directives 76/889/EEC⁽³⁾ and

76/890/EEC⁽⁴⁾ which relate to the approximation of the laws of the Member States relating to radio interference caused by electrical household appliances, portable tools and similar equipment and to the suppression of radio interference with regard to fluorescent lighting luminaires fitted with starters; whereas those Directive should therefore be repealed,

HAS ADOPTED THIS DIRECTIVE:

Article 1

For the purposes of this Directive:

1. 'apparatus' means all electrical and electronic appliances together with equipment and installations containing electrical and/or electronic components.
2. 'electromagnetic disturbance' means any electromagnetic phenomenon which may degrade the performance of a device, unit of equipment or system. An electromagnetic disturbance may be electromagnetic noise, an unwanted signal or a change in the propagation medium itself.
3. 'immunity' means the ability of a device, unit of equipment or system to perform without degradation of quality in the presence of an electromagnetic disturbance.
4. 'electromagnetic compatibility' means the ability of a device, unit of equipment or system to function satisfactorily in its electromagnetic environment without introducing intolerable electromagnetic disturbances to anything in that environment.
5. 'competent body' means any body which meets the criteria listed in Annex II and is recognized as such.
6. 'EC type-examination certificate' is a document in which a notified body referred to in Article 10 (6) certifies that the type of equipment examined complies with the provisions of this Directive which concern it.

Article 2

1. This Directive applies to apparatus liable to cause electromagnetic disturbance or the performance of which is liable to be affected by such disturbance.

It defines the protection requirements and inspection procedures relating thereto.

⁽¹⁾ OJ No L 109, 26. 4. 1983, p. 8.

⁽²⁾ OJ No L 31, 26. 3. 1988, p. 75.

⁽³⁾ OJ No L 336, 4. 12. 1976, p. 1.

⁽⁴⁾ OJ No L 336, 4. 12. 1976, p. 22.

In so far as protection requirements specified in this Directive are harmonized, in the case of certain apparatus, specific Directives, this Directive shall not apply or shall cease to apply with regard to such apparatus or protection requirements upon the entry into force of these specific Directives.

Radio equipment used by radio amateurs within the meaning of Article 1, definition 53, of the radio regulations in the International Telecommunications Convention, shall be excluded from the scope of this Directive, unless the apparatus is available commercially.

Article 3

Member States shall take all appropriate measures to ensure that apparatus as referred to in Article 2 may be placed on the market or taken into service only if it complies with the requirements laid down by this Directive when it is properly installed and maintained and when it is used for the purposes for which it is intended.

Article 4

Apparatus referred to in Article 2 shall be so constructed that:

the electromagnetic disturbance it generates does not exceed a level allowing radio and telecommunications equipment and other apparatus to operate as intended;

the apparatus has an adequate level of intrinsic immunity of electromagnetic disturbance to enable it to operate as intended.

The principal protection requirements are set out in Annex III.

Article 5

Member States shall not impede for reasons relating to electromagnetic compatibility the placing on the market or the taking into service on their territory of apparatus covered by this Directive which satisfies the requirements of:

Article 6

The requirements of this Directive shall not prevent application in any Member State of the following special measures:

measures with regard to the taking into service and use of the apparatus taken for a specific site in order to overcome an existing or predicted electromagnetic compatibility problem;

measures with regard to the installation of the apparatus taken in order to protect the public telecommunications networks or receiving or transmitting stations used for safety purposes.

2. Without prejudice to Directive 83/189/EEC, Member States shall inform the Commission and the other Member States of the special measures taken pursuant to paragraph 1.

3. Special measures that have been recognized as justified shall be contained in an appropriate notice made by the Commission in the *Official Journal of the European Communities*.

Article 7

1. Member States shall presume compliance with the protection requirements referred to in Article 4 in the case of apparatus which is in conformity;

(a) with the relevant national standards transposing the harmonized standards, the reference numbers of which have been published in the *Official Journal of the European Communities*. Member States shall publish the reference numbers of such national standards;

(b) or with the relevant national standards referred to in paragraph 2 in so far as, in the areas covered by such standards, no harmonized standards exist.

2. Member States shall communicate to the Commission the texts of their national standards, as referred to in paragraph 1 (b), which they regard as complying with the protection requirements referred to in Article 4. The Commission shall forward such texts forthwith to the other Member States. In accordance with the procedure provided for in Article 8 (2), it shall notify the Member States of those national standards in respect of which there is a presumption of conformity with the protection requirements referred to in Article 4.

Member States shall publish the reference numbers of those standards. The Commission shall also publish them in the *Official Journal of the European Communities*.

3. Member States shall accept that where the manufacturer has not applied, or has applied only in part, the standards referred to in paragraph 1, or where no such standards exist, apparatus shall be regarded as satisfying the protection requirements has been certified by the means of attestation provided for in Article 10 (2).

Article 8

1. Where a Member State or the Commission considers that the harmonized standards referred to in Article 7 (1) (a) do not entirely satisfy the requirements referred to in Article 4, the Member State concerned or the Commission shall bring the matter before the Standing Committee set up by Directive 83/189/EEC, hereinafter referred to as 'the Committee', giving the reasons therefor. The Committee shall deliver an opinion without delay.

Upon receipt of the Committee's opinion, the Commission shall inform the Member States as soon as possible whether or not it is necessary to withdraw in whole or in part those standards from the publications referred to in Article 7 (1) (a).

2. After receipt of the communication referred to in Article 7 (2), the Commission shall consult the Committee. Upon receipt of the latter's opinion, the Commission shall inform the Member States as soon as possible whether or not the national standard in question shall enjoy the presumption of conformity and, if so, that the references thereof shall be published nationally.

If the Commission or a Member State considers that a national standard no longer satisfies the necessary conditions for presumption of compliance with the protection requirements referred to in Article 4, the Commission shall consult the Committee, which shall give its opinion without delay. Upon receipt of the latter's opinion, the Commission shall inform the Member States as soon as possible whether or not the standard in question shall continue to enjoy a presumption of conformity and, if not, that it must be withdrawn in whole or in part from the publications referred to in Article 7 (2).

Article 9

1. Where a Member State ascertains that apparatus accompanied by one of the means of attestation provided for in Article 10 does not comply with the protection requirements referred to in Article 4, it shall take all appropriate measures to withdraw the apparatus from the market, prohibit its placing on the market or restrict its free movement.

The Member State concerned shall immediately inform the Commission of any such measure, indicating the reasons for its decision and, in particular, whether non-compliance is due to:

- (a) failure to satisfy the protection requirements referred to in Article 4, where the apparatus does not meet the standards referred to in Article 7 (1);
- (b) incorrect application of the standards referred to in Article 7 (1);
- (c) shortcomings in the standards referred to in Article 7 (1) themselves.

2. The Commission shall consult the parties concerned as soon as possible. If the Commission finds, after such consultations, that the action is justified, it shall forthwith so inform the Member State that took the action and the other Member States.

Where the decision referred to in paragraph 1 is attributed to shortcomings in the standards, the Commission, after consulting the parties, shall bring the matter before the Committee within two months if the Member State which has taken the measures intends to uphold them, and shall initiate the procedures referred to in Article 8.

3. Where apparatus which does not comply is accompanied by one of the means of attestation referred to in Article 10, the competent Member State shall take

appropriate action against the author of the attestation and shall inform the Commission and the other Member States thereof.

4. The Commission shall ensure that the Member States are kept informed of the progress and outcome of this procedure.

Article 10

1. In the case of apparatus for which the manufacturer has applied the standards referred to in Article 7 (1), the conformity of apparatus with this Directive shall be certified by an EC declaration of conformity issued by the manufacturer or his authorized representative established within the Community. The declaration shall be held at the disposal of the competent authority for ten years following the placing of the apparatus on the market.

The manufacturer or his authorized representative established within the Community shall also affix the EC conformity mark to the apparatus or else to the packaging, instructions for use or guarantee certificate.

Where neither the manufacturer nor his authorized representative is established within the Community, the above obligation to keep the EC declaration of conformity available shall be the responsibility of the person who places the apparatus on the Community market.

The provisions governing the EC declaration and the EC mark are set out in Annex I.

2. In the case of apparatus for which the manufacturer has not applied, or has applied only in part, the standards referred to in Article 7 (1) or failing such standards, the manufacturer or his authorized representative established within the Community shall hold at the disposal of the relevant competent authorities, as soon as the apparatus is placed on the market, a technical construction file. This file shall describe the apparatus, set out the procedures used to ensure conformity of the apparatus with the protection requirements referred to in Article 4 and include a technical report or certificate, one or other obtained from a competent body.

The file shall be held at the disposal of the competent authorities for ten years following the placing of the apparatus on the market.

Where neither the manufacturer nor his authorized representative is established within the Community, this obligation to keep a technical file available shall be the responsibility of the person who places the apparatus on the Community market.

The conformity of apparatus with that described in the technical file shall be certified in accordance with the procedure laid down in paragraph 1.

Member States shall presume, subject to the provisions of this paragraph, that such apparatus meets the protection requirements referred to in Article 4.

3. Where the standards referred to in Article 7 (1) are not yet in existence, and without prejudice to the provisions of paragraph 2 of this Article, the apparatus concerned may, on a transitional basis until 31 December 1992 at the latest, continue to be governed by the national arrangements in force on the date of adoption of this Directive, subject to the compatibility of such arrangements with the provisions of the Treaty.

4. Conformity of apparatus covered by Article 2 (2) of Directive 86/361/EEC with the provisions of this Directive shall be certified in accordance with the procedure laid down in paragraph 1 once the manufacturer or his authorized representative established within the Community has obtained an EC type-examination certificate concerning this apparatus issued by one of the notified bodies referred to in paragraph 6 of this Article.

5. The conformity of apparatus designed for the transmission of radiocommunications, as defined in the International Telecommunication Union Convention, with the provisions of this Directive shall be certified in accordance with the procedure laid down in paragraph 1 once the manufacturer or his authorized representative established within the Community has obtained an EC type-examination certificate concerning this apparatus issued by one of the notified bodies referred to in paragraph 6 below.

This provision shall not apply to the above apparatus where it is designed and intended exclusively for radio amateurs within the meaning of Article 2 (3).

6. Each Member State shall notify the Commission and the other Member States of the competent authorities referred to in this Article and of the bodies responsible for issuing the EC type-examination certificates referred to in paragraphs 4 and 5. The Commission shall publish a list of those authorities and bodies, for information purposes, in the *Official Journal of the European Communities* and shall ensure that the list is updated.

Such notification shall state whether those bodies are competent for all apparatus covered by this Directive or whether their responsibility is limited to certain specific areas.

Member States shall apply the criteria listed in Annex II for the assessment of the bodies to be notified.

Bodies which comply with the assessment criteria fixed by the relevant harmonized standards shall be presumed to comply with the aforementioned criteria.

A Member State which has notified a body must withdraw approval if it finds that the body no longer meets the criteria listed in Annex II. It shall forthwith inform the Commission and the other Member States thereof.

Article 11

Directive 76/889/EEC and Directive 76/890/EEC shall be repealed as from 1 January 1992.

Article 12

1. By 1 July 1991, Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive. They shall inform the Commission thereof.

They shall apply these provisions as from 1 January 1992.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field covered by this Directive.

Article 13

This Directive is addressed to the Member States.

Done at Brussels, 3 May 1989.

For the Council

The President

P. SOLBES

ANNEX I

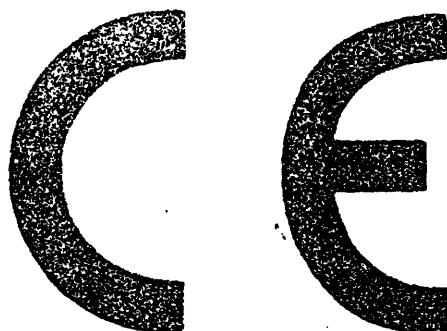
1. EC declaration of conformity

The EC declaration of conformity must contain the following:

- description of the apparatus to which it refers,
- reference to the specifications under which conformity is declared, and, where appropriate, to the national measures implemented to ensure the conformity of the apparatus with the provisions of the Directive,
- identification of the signatory empowered to bind the manufacturer or his authorized representative,
- where appropriate, reference to the EC type-examination certificate issued by a notified body.

2. EC conformity mark

- The EC conformity mark shall consist of the letters CE as set out below and the figures of the year in which the mark was affixed.



- This mark should, where appropriate, be accompanied by the distinctive letters used by the notified body issuing the EC type-examination certificate.
- Where apparatus is the subject of other Directives providing for the EC conformity mark, the affixing of the EC mark shall also indicate conformity with the relevant requirements of those other Directives.

ANNEX II

Criteria for the assessment of the bodies to be notified

The bodies designated by the Member States must fulfil the following minimum conditions:

1. availability of personnel and of the necessary means and equipment;
2. technical competence and professional integrity of personnel;
3. independence, in carrying out the tests, preparing the reports, issuing the certificates and performing the verification function provided for in this Directive, of staff and technical personnel in relation to all circles, groups or persons directly or indirectly concerned with the product in question;
4. maintenance of professional secrecy by personnel;
5. possession of civil liability insurance unless such liability is covered by the State under national law.

Fulfilment of the conditions under points 1 and 2 shall be verified at intervals by the competent authorities of the Member States.

ANNEX III

Illustrative list of the principal protection requirements

The maximum electromagnetic disturbance generated by the apparatus shall be such as not to hinder the use of in particular the following apparatus:

- (a) domestic radio and television receivers
- (b) industrial manufacturing equipment
- (c) mobile radio equipment
- (d) mobile radio and commercial radiotelephone equipment
- (e) medical and scientific apparatus
- (f) information technology equipment
- (g) domestic appliances and household electronic equipment
- (h) aeronautical and marine radio apparatus
- (i) educational electronic equipment
- (j) telecommunications networks and apparatus
- (k) radio and television broadcast transmitters
- (l) lights and fluorescent lamps.

Apparatus, and especially the apparatus referred to in (a) to (l), should be constructed in such a way that it has an adequate level of electromagnetic immunity in the usual electromagnetic compatibility environment where the apparatus is intended to work so as to allow its unhindered operation taking into account the levels of disturbance generated by apparatus complying with the standards laid down in Article 7.

The information required to enable use in accordance with the intended purpose of the apparatus must be contained in the instructions accompanying the apparatus.

COUNCIL RESOLUTION

of 18 July 1989

on the strengthening of the coordination for the introduction of the Integrated Services Digital Network (ISDN) in the European Community up to 1992

(89/C 196/04)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the proposal from the Commission,

Whereas recommendation 86/659/EEC⁽¹⁾ provided administrations and the recognized private operating agencies offering telecommunications services (hereinafter referred to as 'telecommunication administrations') with a focal point for ISDN implementation planning; whereas reported plans demonstrate a recognition of the value of compliance with the said recommendation's programme;

Whereas the telecommunications administrations have indicated their intention to strengthen the abovementioned programme by the recent signing of a Memorandum of Understanding for the realization of a Europe-wide ISDN system as from 1992;

Whereas the Green Paper of 30 June 1987⁽²⁾ and the communication of 9 February 1988 on the implementation of the Green Paper⁽³⁾ have defined policy and advanced a schedule of measures towards the completion of the common market in telecommunications;

Whereas resolution 88/C 257/01⁽⁴⁾ set the political basis for the development of the common market for telecommunications services and equipment up to 1992;

Whereas the communication from the Commission of 31 October 1988⁽⁵⁾ included the first annual progress report concerning the implementation of recommendation 86/659/EEC;

Whereas ISDN has gained substantial credibility in the Community with users, industry and telecommunications administrations;

Whereas ISDN is beginning to fulfil its promise of developing into a new basis for the Community's telematics market of the early nineties;

Whereas, despite these positive achievements, the major objectives of recommendation 86/659/EEC have been achieved only in part;

Whereas substantial problems remain concerning standardization and the further coordination of the introduction of ISDN; whereas they must be resolved;

Whereas, in particular, the Memorandum of Understanding on pan-European Mobile Communications is already in existence, and should be taken into account in the coming ISDN implementation with a view to ensuring the necessary integration;

Whereas the Commission has proposed a number of measures in order to remedy the current deficiencies;

Whereas these proposals have been discussed in the Senior Officials Group on Telecommunications (SOGT) and at the informal meeting of Telecommunications Ministers in Athens on 5 November 1988,

⁽¹⁾ Council recommendation 86/659/EEC of 22 December 1986 on the coordinated introduction of the Integrated Services Digital Network (ISDN) in the European Community (OJ No L 382, 31. 12. 1986, p. 36).

⁽²⁾ Towards a dynamic European Economy — Green Paper on the development of the common market for telecommunications services and equipment (communication from the Commission, COM(87) 290 of 30 June 1987).

⁽³⁾ Towards a competitive Community-wide telecommunications market in 1992 — implementing the Green Paper on the development of the common market for telecommunications services and equipment (communication from the Commission, COM(88) 48 of 9 February 1988).

⁽⁴⁾ Council resolution 88/C 257/01 of 30 June 1988 on the development of the common market for telecommunications services and equipment up to 1992 (OJ No C 257, 4. 10. 1988, p. 1).

⁽⁵⁾ Communication from the Commission concerning the implementation of recommendation 86/659/EEC — first annual progress report from the Commission to the European Parliament (COM(88) 589 of 31 October 1988).

RECOGNIZES THE EXISTENCE OF A UNIQUE OPPORTUNITY TO CREATE THE CONDITIONS FOR:

1. the availability of a sufficient set of truly Europe-wide compatible ISDN services by 1992, building on the initial phase of introduction of ISDN;
2. the end-to-end compatibility of those services and the availability of low cost terminals, which can be connected to, and operated with, the ISDN implementation in any Member State without any modification (terminal portability);
3. the optimization of the competitiveness of the European terminal equipment industry, including PABXs (private automatic branch exchanges) and the full integration of the less-favoured regions of the Community in the emerging ISDN, by appropriate measures, in accordance with the Star programme,

CONSIDERS THE FOLLOWING MEASURES AS NECESSARY:

4. acceleration of the establishment of common specifications, based on European standards taking due account of world-wide standardization, for equipment and interfaces at the European level, by concentration and good use of available resources within the framework of the European standardization system and, in particular, of the European Telecommunications Standards Institute (ETSI);
5. seeking of a commitment from manufacturers to contribute, within the framework of European standardization and as rapidly as possible, to the development of European standards and common specifications for terminals and PABXs; such standards and specifications should make it possible to guarantee end-to-end compatibility and terminal portability;
6. subject to the procedures of the framework directive once adopted, examination of the applicability of the relevant aspects of open network provision (ONP) to ISDN;
7. further discussion at European level regarding user privacy protection requirements and requirements concerning the security of communications in the context of features of new services, in accordance with the resolution of the European Parliament of 12 December 1986 on recommendation 86/659/EEC,

INVITES THE TELECOMMUNICATIONS ADMINISTRATIONS:

8. to implement the Memorandum of Understanding agreed between the telecommunications administrations (*) on the provision of at least a minimum set of pan-European ISDN services and features and on the introduction of a common ISDN signalling system; telecommunications administrations should take account of Community competition rules, progress on standards and the objective of the creation of an open Community-wide market for telecommunications services for all market participants, particularly for value-added services; information on the implementation of this Memorandum should be communicated to the Commission in time (‡),

INVITES THE COMMISSION AND THE TELECOMMUNICATIONS ADMINISTRATIONS:

9. to undertake all necessary efforts to strengthen the further coordination for the introduction of ISDN in the European Community;
10. to intensify the consultations between the telecommunications administrations of all Member States on the implementation of the coming period of ISDN specification work and implementation, with the objective of the opening of a set of pan-European commercial services available before 31 December 1992,

INVITES THE MEMBER STATES:

11. to promote the provision of the experts necessary for drawing up European standards as the basis for the common specifications for the ISDN, in particular in the framework of the ETSI and promote the creation of the necessary conditions, in particular with regard to training,

(*) Opened for signature at the meeting of the European Conference of Postal and Telecommunications Administrations (CEPT) telecommunications commission in London on 6 April 1989.

(‡) Without prejudice to notification as provided for by Regulation No 17 implementing Articles 85 and 86 of the Treaty (OJ No 13, 21. 2. 1962, p. 204/62), as last amended by the Act of Accession of Spain and Portugal.

INVITES THE COMMISSION:

12. to invite the Directors-General of the Telecommunications Administrations to take part in meetings with the Commission, when appropriate, in order to discuss questions and problems which may arise concerning the coordination of the introduction of ISDN, in particular aspects of pan-European services;
 13. to issue mandates to ETSI in addition to the adopted work programme as necessary and appropriate for the acceleration of the production of European standards as the basis for common ISDN specifications, in accordance with existing Community procedures;
 14. to consider, subject to the procedures of the framework directive once adopted, the applicability of the relevant aspects of the ONP to ISDN;
 15. to evaluate the feasibility of joint research and development deemed necessary for the implementation of common terminals for a single or for several ISDN services in the appropriate frameworks;
 16. to examine the possibilities for stepping up future support for the implementation of ISDN in the less-favoured regions of the Community, taking into account, in particular, the results of the evaluation of the Star programme.
-

COUNCIL RESOLUTION

of 22 January 1990

concerning trans-European networks

(90/C 27/05)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Considering the conclusions adopted in the field of trans-European networks by the European Council meeting in Strasbourg on 8 and 9 December 1989;

Considering that the process of the completion of an area without frontiers provided for in Article 8a of the Treaty has reached a stage of irreversibility;

Considering that citizens, businesses and administrations must be able to use communication infrastructures which enable them to encourage free movement within the Community;

Considering that the development of trade and the movement of persons and the requirements of economic and social cohesion may necessitate the improvement and extension of communication networks, including the creation of networks where none exist yet;

Considering that, in so far as infrastructures are currently planned and developed principally at national level, it is necessary to solve the problems of compatibility and inter-operability which may affect their efficiency, *inter alia*, by the development, where appropriate, of standards;

Considering that, in a certain number of sectors, infrastructure networks are provided by competing private sector operators, and that the Commission should take account of this in its proposals;

Considering that particular infrastructure projects need to be evaluated against firm criteria, including their economic viability, respect for the natural environment, the special attention which needs to be paid to the situation of the peripheral regions in the context of economic and social cohesion and the possible effects on free circulation;

Considering that Community projects which have already been adopted or are being implemented should not be impaired,

HEREBY ADOPTS THIS RESOLUTION:

1. The Council considers that special priority should be given, paying particular attention to situations arising at the Community's limits in the context of economic and social cohesion, to the development and inter-connection of trans-European networks, notably in the areas of air traffic control, energy distribution, transport infrastructure and in particular the most efficient surface communications links, and telecommunications, in particular the linking of the main Community conurbations by broad-band telecommunications networks, and the implementation of existing Community training programmes.

2. The Council invites the Commission to submit to it, before the end of 1990, a work programme and proposals for appropriate measures, taking into account the possibility of extending such action to the whole of the Community and without prejudice to the distribution of work among the various formations of the Council. The Commission will submit an initial progress report during the first half of 1990.

The Council notes that the Commission intends to organize its future work programme around the following points:

- verification as to whether Community intervention is justified or whether projects should rather be carried out by other public or private bodies,
- the establishment of a timetable for completion,
- the identification of any obstacles and shortcomings,
- the evaluation of financing problems,
- the provision, if needed, of a consultation procedure to precede the establishment of projects.

3. The Commission will convene, whenever necessary, a working party comprising the persons responsible designated by each Member State to coordinate the work on the realization of trans-European networks.

The Council considers that the preparation of this programme entails broad consultation with a view to drawing up the report which the Commission is to submit before the end of the first half of 1990.

COUNCIL 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

(90/C 166/02)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the proposal by the Commission,

Whereas the Council Resolution of 30 June 1988 on the development of the common market for telecommunications services and equipment up to 1992 (*) has called for the promotion of the creation of Europe-wide services according to market requirements and appropriate social needs;

Whereas certain categories of radio-communication services are increasingly becoming an essential component of these services, and are particularly vital for citizens on the move in the Community;

Whereas such services require increasingly intensive use of the radio frequency spectrum and the limitation of the spectrum reserved for these services constitutes an acute problem;

Whereas the radio frequency spectrum is a scarce resource and there are other important demands on its use, such as use for government, defence and broadcasting purposes, including television as mentioned in Section 111 of Chapter 1 of the Radio Regulations annexed to the Convention of the International Telecommunications Union (ITU);

Whereas radio frequency usage in Europe is currently in accordance with the radio regulations of the ITU and there must be flexibility in taking account of national situations; whereas, however, there is an indispensable requirement for coordination at the European level, in particular in the field of the new public mobile communications systems and that of satellite applications;

Whereas agreement on common frequency bands for radio communications systems with pan-European characteristics is an essential basis for technical standardization in the field of radio equipment and the abovementioned resolution and the Council resolution of

27 April 1989 on standardization in the field of information technology and telecommunications (**) have recognized the importance of measures regarding common standards in the telecommunications sector;

Whereas common frequency bands are required in order to permit the use of equipment in different countries, to minimize coordination problems at frontiers and to facilitate the large production runs for equipment necessary to make European industry competitive on the world market;

Whereas the systems of frequency allocation in the Member States have developed historically and due account must be taken of international arrangements and mechanisms which have been established in the field of frequency planning;

Whereas this concerns in particular the international regulations and procedures established in this field by the ITU;

Whereas at the European level a coordinated approach to frequency allocation for Europe-wide systems is being developed within the framework of the European Conference of Postal and Telecommunications Administrations (CEPT);

Whereas given the growing complexity of market, technology and standards the determination of frequency band and spectrum allocation for services of Europe-wide dimension requires the opinions of all interested parties;

Whereas such Europe-wide consultation is indispensable to allow establishment of standards, development of equipment by European industry, and timely service introduction by the telecommunications organizations and other providers, particularly in the field of mobile and satellite communications;

Whereas coordination of radio frequencies must respect the principle of the separation of regulatory and operational duties;

(*) OJ No C 257, 4. 11. 1988, p. 1.

(**) OJ No C 117, 11. 5. 1989, p. 1.

Whereas the allocation of frequencies must therefore remain with the authorities charged with the management of the frequency spectrum, according to this principle;

Whereas the planning and allocation of the frequency spectrum for service providers should be subject to objective, transparent and non-discriminatory conditions and ensure equality of treatment opportunities taking account of the requirements of existing services, of different categories of users and of the protection of the essential interests of the security of Member States;

Whereas the most efficient use of the frequency spectrum which is a scarce natural resource, requires the timely opinions from service providers, industry, users and standards bodies in researching the frequencies best suited for future applications, in order to take full account of long-term market and industrial applications and the requirements of other users of the radio spectrum;

Whereas, therefore, the current mechanisms set up by CEPT should be equipped with the necessary resources to undertake a long-term analysis of frequency requirements, taking account of market demand, standards requirements and development of products and the requirements of other users of the radio spectrum;

Whereas such a framework should be able, taking account of the opinions of frequency experts from national authorities responsible for frequency management, telecommunications organizations, and other service providers, industry and users to identify, in particular, those frequencies best suited for services with pan-European characteristics and to forward recommendations to the regulatory authorities, or to the Community where appropriate;

Whereas such a framework would need close cooperation and interaction with the European Telecommunications Standards Institute (ETSI), in order to ensure the vital link between frequency planning and standards;

Whereas the CEPT has commenced and in some instances completed work in this area; whereas ETSI, for its part, has also started work in this area;

Whereas such a framework should also support long-term frequency planning at the European level and making recommendations for global shifts in frequency use, taking account of the fact that significant time may be needed to phase out or relocate existing uses, given the substantial investment in existing radiocommunications systems;

Whereas in such a framework Member States will be obliged to comply with Community law, in particular with the competition rules;

Whereas an appropriate involvement of the Commission of the European Communities in such a framework should be sought;

Whereas such a framework should facilitate the working-out of common positions at the international level concerning frequencies, in particular with regard to the ITU and its conferences on radio frequencies, in line with the resolution of 30 June 1988;

Whereas such a framework should draw on the experience of the existing coordination mechanisms of the CEPT, must be Europe-wide and be open to the opinions of any member of the categories set out above,

CONSIDERS THE FOLLOWING POINTS AS MAJOR POLICY GOALS IN THIS AREA:

1. 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;
2. 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;
3. promoting the most efficient use of the frequency spectrum by taking timely account of service and user requirements against the background of industrial development and the development of standards;
4. 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;
5. 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, telecommunication organizations and other service providers, industry and users, developing the existing coordination mechanisms set up by the CEPT. Such a framework should:
 - be open to the opinions of any member of the categories mentioned above,

- provide a forum for common studies towards identifying the frequency spectrum most suited for services and applications, taking due account of market requirements, the development of products, and the needs of other users of the radio frequency spectrum,
 - on this basis, work out in particular suitable frequencies for services with pan-European characteristics and forward, on request, appropriate recommendations to the regulatory authorities or to the Community, as appropriate,
 - cooperate and interact closely, with ETSI and with the other standardization bodies concerned, in order to take full account of the close link between standards development and allocation of frequency spectrum,
 - undertake research into long-term requirements for the frequency spectrum, in order to promote long-term planning of frequency use according to market needs and also take into account the needs of different categories of users, and forward corresponding recommendations to the regulatory authorities and to the Community where appropriate,
 - undertake research in preparation of common positions at the ITU conferences on radio frequencies where required in order to facilitate the working-out of common positions,
- have available the resources to carry out analyses of long-term market and technology implications of frequency recommendations at the European level, and of an appropriate organizational structure,

NOTES WITH SATISFACTION:

6. the current reform of radio frequency planning and coordination mechanisms undertaken by the CEPT, and in particular the decision to create a European Radiocommunications Office, allowing for the opinions of all interested parties to be taken into account and having an appropriate organization and an appropriate Statute;

INVITES THE COMMISSION AND THE MEMBER STATES AND THE CEPT:

7. 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 the Community law in particular competition rules and the general policy goals defined in point 5.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 28 June 1990

on the establishment of the internal market for telecommunications services through the implementation of open network provision

(90/387/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Article 8 a of the Treaty stipulates that the internal market shall comprise an area without internal frontiers in which the free movement of services is ensured, in accordance with the provisions of the Treaty;

Whereas the Commission submitted a Green Paper on the development of the common market for telecommunications services and equipment, dated 30 June 1987, and a communication on the implementation of that Green Paper up to 1992, dated 9 February 1988;

Whereas the Council adopted on 30 June 1988 a resolution on the development of the common market for telecommunications services and equipment up to 1992 ⁽⁴⁾;

Whereas the full establishment of a Community-wide market in telecommunications services will be promoted by the rapid

introduction of harmonized principles and conditions for open network provision;

Whereas, since situations differ and technical and administrative constraints exist in the Member States, this objective should be realized in stages;

Whereas the conditions of open network provision must be consistent with certain principles and must not restrict access to networks and services except for reasons of general public interest, hereinafter referred to as 'essential requirements';

Whereas the definition and application of such principles and essential requirements must take full account of the fact that any restrictions of the right to provide services within and between Member States must be objectively justified, must follow the principle of proportionality and must not be excessive in relation to the aim pursued;

Whereas the conditions of open network provision must not allow for any additional restrictions on the use of the public telecommunications network and/or public telecommunications services except those restrictions which may be derived from the exercise of special or exclusive rights granted by Member States and which are compatible with Community law;

Whereas tariff principles should be clearly laid down to ensure fair and transparent conditions for all users;

Whereas this entire Directive must be read in the light of Annex III which lays down a work programme for the first three years;

Whereas the establishment of harmonized conditions of open network provision must be a progressive process and must be prepared with the assistance of a committee composed of

⁽¹⁾ OJ No C 39, 16. 2. 1989, p. 8.

⁽²⁾ OJ No C 158, 26. 6. 1989, p. 300, OJ No C 149, 18. 6. 1990.

⁽³⁾ OJ No C 159, 26. 6. 1989, p. 37.

⁽⁴⁾ OJ No C 257, 4. 10. 1988, p. 1.

representatives of the Member States, which consults the representatives of the telecommunications organizations, the users, the consumers, the manufacturers and the service providers; whereas this process must also be open to all parties concerned and therefore sufficient time must be given for public comment;

Whereas the Community-wide definition of harmonized technical interfaces and access conditions must be based on the definition of common technical specifications based on international standards and specifications;

Whereas work to be undertaken in this area must take full account, *inter alia*, of the framework resulting from the provisions of Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations ⁽¹⁾, as last amended by Directive 88/182/EEC ⁽²⁾, Council Directive 86/361/EEC of 24 July 1986 on the initial stage of the mutual recognition of type approval for telecommunications terminal equipment ⁽³⁾ and Council Decision 87/95/EEC of 22 December 1986 on standardization in the field of information technology and telecommunications ⁽⁴⁾;

Whereas the formal adoption on 12 February 1988 of the statutes of the European Telecommunications Standards Institute (ETSI) and of the associated internal rules has created a new mechanism for producing European telecommunications standards;

Whereas the Council in its resolution of 27 April 1989 on standardization in the field of information technology and telecommunications ⁽⁵⁾ supported the work of ETSI and invited the Commission to contribute to the coherent development of ETSI and lend it its support;

Whereas the Community-wide definition and implementation of harmonized network termination points establishing the physical interface between the network infrastructure and users' and other service providers' equipment will be an essential element of the overall concept of open network provision;

Whereas Commission Directive 88/301/EEC of 16 May 1988 on competition in the markets in telecommunications terminal equipment ⁽⁶⁾ requires Member States to ensure that users who so request are given access to network termination points within a reasonable time period;

Whereas one of the principal aims of the establishment of an internal market in telecommunications services must be the creation of conditions to promote the development of Europe-wide services;

Whereas, in its abovementioned resolution of 30 June 1988, the Council considered the taking fully into account of the external aspects of Community measures on telecommunications to be a major policy goal;

Whereas the Community attaches very great importance to the continued growth of cross-border telecommunications services, to the contribution that telecommunications services provided by companies, firms or natural persons established in a Member State may make to the growth of the Community market, and to the increased participation of Community service providers in third country markets; whereas it will therefore be necessary, as specific Directives are drawn up, to ensure that these objectives are taken into account with a view to reaching a situation where the progressive realization of the internal market for telecommunications services will, where appropriate, be accompanied by reciprocal market opening in other countries;

Whereas this result should be achieved preferably through multilateral negotiations in the framework of GATT, it being understood that bilateral discussions between the Community and third countries may also contribute to this process;

Whereas this Directive should not address the problems of mass media, meaning problems linked to broadcasting and distribution of television programmes via telecommunications means, in particular cable television networks, which need special consideration;

Whereas neither should this Directive address the question of communication via satellite for which, according to the abovementioned Council resolution of 30 June 1988, a common position should be worked out;

Whereas the Council, on the basis of a report which the Commission is to submit to the European Parliament and the Council, and in accordance with Article 100b of the Treaty, will review, during 1992, any remaining conditions for access to telecommunications services which have not been harmonized, the effects of these conditions on the workings of the internal market for telecommunications services, and the extent to which this market needs to be further opened up,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive concerns the harmonization of conditions for open and efficient access to and use of public telecommunications networks and, where applicable, public telecommunications services.

2. The conditions referred to in paragraph 1 are designed to facilitate the provision of services using public telecommunications networks and/or public telecommunications services, within and between Member States, and in particular the provision of services by companies, firms or natural persons established in a Member State other than that of the company, firm or natural person for whom the services are intended.

⁽¹⁾ OJ No L 109, 26. 4. 1983, p. 8.

⁽²⁾ OJ No L 81, 26. 3. 1988, p. 75.

⁽³⁾ OJ No L 217, 5. 8. 1986, p. 21.

⁽⁴⁾ OJ No L 36, 7. 2. 1987, p. 31.

⁽⁵⁾ OJ No C 117, 11. 5. 1989, p. 1.

⁽⁶⁾ OJ No L 131, 27. 5. 1988, p. 73.

Article 2

For the purposes of this Directive:

1. 'telecommunications organizations' means public or private bodies, to which a Member State grants special or exclusive rights for the provision of a public telecommunications network and, where applicable, public telecommunications services.

For the requirements of this Directive, Member States shall notify the Commission of the bodies to which they have granted special or exclusive rights;

2. 'special or exclusive rights' means the rights granted by a Member State or a public authority to one or more public or private bodies through any legal, regulatory or administrative instrument reserving them the right to provide a service or undertake an activity;
3. 'public telecommunications network' means the public telecommunications infrastructure which permits the conveyance of signals between defined network termination points by wire, by microwave, by optical means or by other electromagnetic means;
4. — 'telecommunications services' means services whose provision consists wholly or partly in the transmission and routing of signals on a telecommunications network by means of telecommunications processes, with the exception of radio broadcasting and television;
— 'public telecommunications services' means telecommunications services whose supply Member States have specifically entrusted *inter alia* to one or more telecommunications organizations;

5. 'network termination point' means all physical connections and their technical access specifications which form part of the public telecommunications network and are necessary for access to and efficient communication through that public network;
6. 'essential requirements' means the non-economic reasons in the general interest which may cause a Member State to restrict access to the public telecommunications network or public telecommunications services. These reasons are security of network operations, maintenance of network integrity and, in justified cases, interoperability of services and data protection.

Data protection may include protection of personal data, the confidentiality of information transmitted or stored as well as the protection of privacy;

7. 'voice telephony' means the commercial provision for the public or direct transport of real-time speech via the

public switches network or networks such that any user can use equipment connected to a network termination point to communicate with another user of equipment connected to another termination point;

8. 'telex service' means the commercial provision for the public of direct transport of telex messages in accordance with the relevant 'Comité consultatif international télégraphique et téléphonique' (CCITT) recommendation via the public switched network or networks, whereby any user can use equipment connected to a network termination point to communicate with another user using another termination point;
 9. 'packet- and circuit-switched data services' means the commercial provision for the public of direct transport of data via the public switched network or networks such that any equipment connected to a network termination point can communicate with equipment connected to another termination point;
 10. 'open network provision conditions' means the conditions, harmonized according to the provisions of this Directive, which concern the open and efficient access to public telecommunications networks and, where applicable, public telecommunications services and the efficient use of those networks and services.
- Without prejudice to their application on a case-by-case basis, the open network provision conditions may include harmonized conditions with regard to:
- technical interfaces, including the definition and implementation of network termination points, where required,
 - usage conditions, including access to frequencies where required,
 - tariff principles;
11. 'technical specifications', 'standards' and 'terminal equipment' are given the same meaning for those terms as in Article 2 of Directive 86/361/EEC.

Article 3

1. Open network provision conditions must comply with a number of basic principles set out hereafter, namely that:

- they must be based on objective criteria,
- they must be transparent and published in an appropriate manner,
- they must guarantee equality of access and must be non-discriminatory, in accordance with Community law.

2. Open network provision conditions must not restrict access to public telecommunications networks or public telecommunications services, except for reasons based on essential requirements, within the framework of Community law, namely:

- security of network operations,
- maintenance of network integrity,
- interoperability of services, in justified cases,
- protection of data, as appropriate.

In addition, the conditions generally applicable to the connection of terminal equipment to the network shall apply.

3. Open network provision conditions may not allow for any additional restrictions on the use of the public telecommunications networks and/or public telecommunications services except the restrictions which may be derived from the exercise of special or exclusive rights granted by Member States and which are compatible with Community law.

4. The Council, acting in accordance with Article 100a of the Treaty, may, if necessary, modify the points set out in paragraphs 1 and 2.

5. Without prejudice to the specific Directives provided for in Article 6 and in so far as the application of the essential requirements referred to in paragraph 2 of this Article may cause a Member State to limit access to one of its public telecommunications networks or services, the rules for uniform application of the essential requirements, in particular concerning the interoperability of services and the protection of data, shall be determined, where appropriate, by the Commission, in accordance with the procedure laid down in Article 10.

Article 4

1. Open network provision conditions shall be defined in stages under the procedure set out hereafter.
2. Open network provision conditions shall concern the areas selected in accordance with the list in Annex I.

The Council, acting in accordance with Article 100a of the Treaty, may, if necessary, modify this list.

3. Using the list referred to in paragraph 2, the Commission shall draw up a work programme each year, under the procedure laid down in Article 9.
4. For the work programme referred to in paragraph 3, the Commission shall:
 - (a) initiate detailed analysis, in consultation with the committee referred to in Article 9, and draw up reports on the results of this analysis;
 - (b) invite, by publication of a notice to that effect in the *Official Journal of the European Communities*, public

comment by all parties concerned on the reports on the detailed analysis provided for in subparagraph (a). The period for submitting such comment shall be not less than three months from the date of publication of the said notice;

- (c) request, where appropriate, the European Telecommunications Standards Institute (ETSI) to draw up European standards, taking account of international standardization as a basis for setting up, where required, within specified time limits, harmonized technical interfaces and/or service features. In so doing, ETSI shall coordinate, in particular, with the Joint European Standards Institution CEN/Cenelec;
- (d) draw up proposals for open network provision conditions in accordance with Article 3 and with the open network provision reference framework described in Annex II.

5. For 1990, 1991 and 1992 a work programme shall be drawn up in order to implement the guidelines in Annex III.

Article 5

1. Reference to European standards drawn up as a basis for harmonized technical interfaces and/or service features for open network provision according to Article 4 (4) (c) shall be published in the *Official Journal of the European Communities* as suitable for open network provision.

2. The standards mentioned under paragraph 1 shall carry with them the presumption:

- (a) that a service provider who complies with those standards fulfils the relevant essential requirements, and
- (b) that a telecommunications organization which complies with those standards fulfils the requirement of open and efficient access.

3. If the implementation of European standards within the meaning of Article 5 (2) appears inadequate to ensure the interoperability of transfrontier services in one or more Member States, reference to European standards may be made compulsory under the procedure laid down in Article 10, to the extent strictly necessary to ensure such interoperability and to improve freedom of choice for users. The procedure provided for in this paragraph may in no way affect the implementation of Articles 85 and 86 of the Treaty.

4. Where a Member State or the Commission considers that the harmonized standards mentioned under paragraph 1 do not correspond to the objective of open and efficient access, in particular the basic principles and the essential requirements referred to in Article 3, the Commission or the Member State concerned shall bring the matter before the committee referred to in Article 9, giving the reasons therefore. The committee shall deliver an opinion without delay.

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5. In the light of the committee's opinion and after consultation of the standing committee set up by Directive 83/189/EEC, the Commission shall inform the Member States whether or not it is necessary to withdraw references to those standards from the *Official Journal of the European Communities*.

Article 6

Following the completion of the procedures set out in Articles 4 and 5, and acting in accordance with Article 100a of the Treaty, the Council shall adopt specific Directives establishing open network provision conditions including a time schedule for implementing them.

Article 7

The Council, acting in accordance with Article 100a of the Treaty, taking Article 8c of the Treaty into consideration, shall, where required, adopt measures for harmonizing declaration and/or licensing procedures for the provision of services via public telecommunications networks, with a view to establishing conditions in which there would be mutual recognition of declaration and/or licensing procedures.

Article 8

During 1992 the Council, on the basis of a report which the Commission shall submit to the European Parliament and the Council, shall review progress on harmonization and any restrictions on access to telecommunications networks and services still remaining, the effects of those restrictions on the operation of the internal telecommunications market, and measures which could be taken to remove those restrictions, in conformity with Community law, taking account of technological development and in accordance with the procedure provided for under Article 100b of the Treaty.

Article 9

1. The Commission shall be assisted by a committee of an advisory nature composed of the representatives of the Member States and chaired by the representative of the Commission.

The committee shall, in particular, consult the representatives of the telecommunications organizations, the users, the consumers, the manufacturers and the service providers. It shall lay down its rules of procedure.

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

Article 10

1. Notwithstanding the provisions of Article 9, the following procedure shall apply in respect of the matters covered by Article 3 (5) and Article 5 (3).

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

4. If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 11

1. Member States shall bring into force the laws, regulations and administrative provisions necessary in order to comply with this Directive before 1 January 1991 at the latest. They shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive.

Article 12

This Directive is addressed to the Member States.

Done at Luxembourg, 28 June 1990.

For the Council

The President

M. GEOGHEGAN-QUINN

ANNEX I

Areas for which open network provision conditions may be drawn up in accordance with Article 4

Areas shall be selected from the following list in accordance with the procedures laid down in Article 4:

1. leased lines;
2. packet- and circuit-switched data services;
3. Integrated Services Digital Network (ISDN);
4. voice telephony service;
5. telex service;
6. mobile services, as applicable;

subject to further study,

7. new types of access to the network, such as access, under certain conditions, to the circuits connecting subscriber premises to the public network exchange ('data over voice') and access to the network's new intelligent functions, according to progress on definition and technological development;
8. access to the broadband network, according to progress on definition and technological development.

ANNEX II

Reference framework for drawing up proposals on open network provision conditions in accordance with Article 4 (4) (d)

Proposals on open network provision conditions as defined in Article 2 (10) should be drawn up in accordance with the following reference framework:

1. *Common principles*

In drawing up the conditions described in this Annex, due account will be taken of the relevant rules of the Treaty.

Open network provision conditions shall be drawn up in such a way as to facilitate the service providers' and users' freedom of action without unduly limiting the telecommunications organizations' responsibility for the functioning of the network and the best possible condition of communications channels.

Member States may, in accordance with Community law, take any measure enabling the telecommunications organizations to develop the new opportunities deriving from open network provision.

2. *Harmonized technical interfaces and/or service features*

In drawing up open network provision conditions the following scheme should be taken into account for the definition of technical interfaces at appropriate open network termination points:

- for existing services and networks, existing interfaces should be adopted;
- for entirely new services or the improvement of existing services, existing interfaces should also be adopted, as far as feasible. When existing interfaces are not suitable, enhancements and/or new interfaces will have to be specified;
- for networks that are still to be introduced, but for which the standardization programme has already commenced, open network provision requirements falling within the terms of Article 3 should be taken into account when specifying new interfaces.

Open network provision proposals must, wherever possible, be in line with the ongoing work in the European Conference of Postal and Telecommunications Administrations (CEPT), CCITT, ETSI and CENELEC.

Work undertaken in this area shall take full account of the framework resulting from the provisions of Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations⁽¹⁾, as last amended by Directive 88/182/EEC⁽²⁾, Council Directive 86/361/EEC of 24 July 1986 on the initial stage of the mutual recognition of type approval for telecommunications terminal equipment⁽³⁾ and Council Decision 87/95/EEC of 22 December 1986 on standardization in the field of information technology and telecommunications⁽⁴⁾.

Additional features will be identified where required. They may be classified as:

- inclusive if they are provided in association with a specific interface and included in the standard offering,
- optional if they can be requested as an option with regard to a specific open network provision offering.

Work shall include the drawing up of proposals for time schedules for the introduction of interfaces and service features, taking account of the state of development of telecommunications networks and services in the Community.

3. *Harmonized supply and usage conditions*

Supply and usage conditions shall identify conditions of access and of provision of services, as far as required.

They may include as applicable:

(a) supply conditions such as:

- maximum provision time (delivery period),
- quality of service, in particular the quality of transmission,
- maintenance,
- network malfunction reporting facilities;

⁽¹⁾ OJ No L 109, 26. 4. 1983, p. 8.

⁽²⁾ OJ No L 81, 26. 3. 1988, p. 75.

⁽³⁾ OJ No L 217, 5. 8. 1986, p. 21.

⁽⁴⁾ OJ No L 36, 7. 2. 1987, p. 31.

(b) usage conditions such as:

- conditions for resale of capacity,
- conditions for shared use,
- conditions for interconnection with public and private networks.

Usage conditions may include conditions regarding access to frequencies, as applicable, and measures concerning protection of personal data and confidentiality of communications, where required.

Harmonized tariff principles

Tariff principles must be consistent with the principles set out in Article 3 (1).

These principles imply, in particular, that:

- tariffs must be based on objective criteria and especially in the case of services and areas subject to special or exclusive rights must in principle be cost-oriented, on the understanding that the fixing of the actual tariff level will continue to be the province of national legislation and is not the subject of open network provision conditions. When these tariffs are determined, one of the aims should be the definition of efficient tariff principles throughout the Community while ensuring a general service for all,
- tariffs must be transparent and must be properly published,
- in order to leave users a choice between the individual service elements and where technology so permits, tariffs must be sufficiently unbundled in accordance with the competition rules of the Treaty. In particular, additional features introduced to provide certain specific extra services must, as a general rule, be charged independently of the inclusive features and transportation as such,
- tariffs must be non-discriminatory and guarantee equality of treatment.

Any charge for access to network resources or services must comply with the principles set out above and with the competition rules of the Treaty and must also take into account the principle of fair sharing in the global cost of the resources used and the need for a reasonable level of return on investment.

There may be different tariffs, in particular to take account of excess traffic during peak periods and lack of traffic during off-periods, provided that the tariff differentials are commercially justifiable and do not conflict with the above principles.

ANNEX III

Guidelines for implementation of the framework Directive up to 31 December 1992

In an initial phase, and without prejudice to the procedures laid down in Article 4 (2) and (3), work to be undertaken in 1990, 1991 and 1992 concerning Articles 4, 5 and 6 will implement the following priorities:

1. adoption of specific Directives pursuant to Article 6 covering leased lines and the voice telephony service;
2. implementation by 1 January 1991 of harmonized technical interfaces and/or service features for packet-switched data services and ISDN (Integrated Services Digital Network); reference to such interfaces and features may be made compulsory before that date in accordance with the procedure set out in Article 5 (3);
3. adoption by the Council by 1 July 1991, acting on a proposal from the Commission, of a recommendation on the supply of technical interfaces, conditions of usage and tariff principles applying to provision of packet-switched data services complying with open network principles; this recommendation would in particular call on Member States to ensure that at least one such service was provided on their territory;
4. adoption by the Council by 1 January 1992, acting on a proposal from the Commission, of a similar recommendation on ISDN;
5. examination in 1992, with a view to its adoption, on a proposal from the Commission, of a specific Directive on packet-switched data services. That proposal should take into account the initial results of the implementation of the recommendation referred to in point 3;
6. subsequent examination of a proposal for a Directive on ISDN. That proposal should also take into account the initial results of the implementation of the recommendation referred to in point 4.

COMMISSION

COMMISSION DIRECTIVE

of 28 June 1990

on competition in the markets for telecommunications services

(90/388/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 90 (3) thereof,

Whereas:

- (1) The improvement of telecommunications in the Community is an essential condition for the harmonious development of economic activities and a competitive market in the Community, from the point of view of both service providers and users. The Commission has therefore adopted a programme, set out in its Green Paper on the development of the common market for telecommunications services and equipment and in its communication on the implementation of the Green Paper by 1992, for progressively introducing competition into the telecommunications market. The programme does not concern mobile telephony and paging services, and mass communication services such as radio for television. The Council, in its resolution of 30 June 1988 ⁽¹⁾, expressed broad support for the objectives of this programme, and in particular the progressive creation of an open Community market for telecommunications services. The last decades have seen considerable technological advances in the telecommunications sector. These allow an increasingly varied range of services to be provided, notably data transmission services, and also make it technically and economically possible for competition to take place between different service providers.
- (2) In all the Member States the provision and operation of telecommunications networks and the provision of related services are generally vested in one or more telecommunications organizations holding exclusive or special rights. Such rights are characterized by the discretionary powers which the State exercises in various degrees with regard to access to the market for telecommunications services.
- (3) The organizations entrusted with the provision and operation of the telecommunications network are undertakings within the meaning of Article 90 (1) of the Treaty because they carry on an organized business activity, namely the provision of telecommunications services. They are either public undertakings or private enterprises to which the State has granted exclusive or special rights.
- (4) Several Member States, while ensuring the performance of public service tasks, have already revised the system of exclusive or special rights that used to exist in the telecommunications sector in their country. In all cases, the system of exclusive or special rights has been maintained in respect of the provision and operation of the network. In some Member States, it has been maintained for all telecommunications services, while in others such rights cover only certain services. All Member States have either themselves imposed or allowed their telecommunications administrations to impose restrictions on the free provision of telecommunications services.
- (5) The granting of special or exclusive rights to one or more undertakings to operate the network derives from the discretionary power of the State. The granting by a Member State of such rights inevitably restricts the provision of such services by other undertakings to or from other Member States.
- (6) In practice, restrictions on the provision of telecommunications services within the meaning of Article 59 to or from other Member States consist mainly in the prohibition on connecting leased lines by means of concentrators, multiplexers and other equipment to the switched telephone network, in imposing access charges for the connection that are out of proportion to the service provided, in prohibiting the routing of signals to or from third parties by means of leased lines or applying volume sensitive tariffs without economic justification or refusing to give service providers access to the

⁽¹⁾ OJ No C 257, 4. 10. 1988, p. 1.

network. The effect of the usage restrictions and the excessive charges in relation to net cost is to hinder the provision to or from other Member States of such telecommunications services as:

- services designed to improve telecommunications functions, e.g. conversion of the protocol, code, format or speed,
- information services providing access to data bases,
- remote data-processing services,
- message storing and forwarding services, e.g. electronic mail,
- transaction services, e.g. financial transactions, electronic commercial data transfer, teleshopping and telereservations,
- teleaction services, e.g. telemetry and remote monitoring.

(7) Articles 55, 56 and 66 of the Treaty allow exceptions on non-economic grounds to the freedom to provide services. The restrictions permitted are those connected, even occasionally, with the exercise of official authority, and those connected with public policy, public security or public health. Since these are exceptions, they must be interpreted restrictively. None of the telecommunications services is connected with the exercise of official authority involving the right to use undue powers compared with the ordinary law, privileges of public power or a power of coercion over the public. The supply of telecommunication services cannot in itself threaten public policy and cannot affect public health.

(8) The Court of Justice caselaw also recognizes restrictions on the freedom to provide services if they fulfil essential requirements in the general interest and are applied without discrimination and in proportion to the objective. Consumer protection does not make it necessary to restrict freedom to provide telecommunications services since this objective can also be attained through free competition. Nor can the protection of intellectual property be invoked in this connection. The only essential requirements derogating from Article 59 which could justify restrictions on the use of the public network are the maintenance of the integrity of the network, security of network operations and in justified cases, interoperability and data protection. The restrictions imposed, however, must be adapted to the objectives pursued by these legitimate requirements. Member States will have to make such restrictions known to the

public and notify them to the Commission to enable it to assess their proportionality.

(9) In this context, the security of network operations means ensuring the availability of the public network in case of emergency. The technical integrity of the public network means ensuring its normal operation and the interconnection of public networks in the Community on the basis of common technical specifications. The concept of interoperability of services means complying with such technical specifications introduced to increase the provision of services and the choice available to users. Data protection means measures taken to warrant the confidentiality of communications and the protection of personal data.

(10) Apart from the essential requirements which can be included as conditions in the licensing or declaration procedures, Member States can include conditions regarding public-service requirements which constitute objective, non-discriminatory and transparent trade regulations regarding the conditions of permanence, availability and quality of the service.

(11) When a Member State has entrusted a telecommunications organization with the task of providing packet or circuit switched data services for the public in general and when this service may be obstructed because of competition by private providers, the Commission can allow the Member State to impose additional conditions for the provision of such a service, with respect also to geographical coverage. In assessing these measures, the Commission in the context of the achievement of the fundamental objectives of the Treaty referred to in Article 2 thereof, including that of strengthening the Community's economic and social cohesion as referred to in Article 130a, will also take into account the situation of those Member States in which the network for the provision of the packet or circuit switched services is not yet sufficiently developed and which could justify the deferment for these Member States until 1 January 1996 of the date for prohibition on the simple resale of leased line capacity.

(12) Article 59 of the Treaty requires the abolition of any other restriction on the freedom of nationals of Member States who are established in a Community country to provide services to persons in other Member States. The maintenance or introduction of any exclusive or special right which does not correspond to the abovementioned criteria is therefore a breach of Article 90 in conjunction with Article 59.

(13) Article 86 of the Treaty prohibits as incompatible with the common market any conduct by one or more undertakings that involves an abuse of a dominant position within the common market or a substantial

part of it. Telecommunications organizations are also undertakings for the purposes of this Article because they carry out economic activities, in particular the service they provide by making telecommunications networks and services available to users. This provision of the network constitutes a separate services market as it is not interchangeable with other services. On each national market the competitive environment in which the network and the telecommunications services are provided is homogeneous enough for the Commission to be able to evaluate the power held by the organizations providing the services on these territories. The territories of the Member States constitute distinct geographical markets. This is essentially due to the existing difference between the rules governing conditions of access and technical operation, relating to the provision of the network and of such services. Furthermore, each Member State market forms a substantial part of the common market.

- (14) In each national market the telecommunications organizations hold individually or collectively a dominant position for the creation and the exploitation of the network because they are the only ones with networks in each Member State covering the whole territory of those States and because their governments granted them the exclusive right to provide this network either alone or in conjunction with other organizations.
- (15) Where a State grants special or exclusive rights to provide telecommunications services to organizations which already have a dominant position in creating and operating the network, the effect of such rights is to strengthen the dominant position by extending it to services.
- (16) Moreover, the special or exclusive rights granted to telecommunications organizations by the State to provide certain telecommunications services mean such organizations:
- (a) prevent or restrict access to the market for these telecommunications services by their competitors, thus limiting consumer choice, which is liable to restrict technological progress to the detriment of consumers;
 - (b) compel network users to use the services subject to exclusive rights, and thus make the conclusion of network utilization contracts dependent on acceptance of supplementary services having no connection with the subject of such contracts.

Each of these types of conduct represents a specific abuse of a dominant position which is likely to have an

appreciable effect on trade between Member States, as all the services in question could in principle be supplied by providers from other Member States. The structure of competition within the common market is substantially changed by them. At all events, the special or exclusive rights for these services give rise to a situation which is contrary to the objective in Article 3 (f) of the Treaty, which provides for the institution of a system ensuring that competition in the common market is not distorted, and requires *a fortiori* that competition must not be eliminated. Member States have an obligation under Article 5 of the Treaty to abstain from any measure which could jeopardize the attainment of the objectives of the Treaty, including that of Article 3 (f).

- (17) The exclusive rights to telecommunications services granted to public undertakings or undertakings to which Member States have granted special or exclusive rights for the provision of the network are incompatible with Article 90 (1) in conjunction with Article 86.
- (18) Article 90 (2) of the Treaty allows derogation from the application of Articles 59 and 86 of the Treaty where such application would obstruct the performance, in law or in fact, of the particular task assigned to the telecommunications organizations. This task consists in the provision and exploitation of a universal network, i.e. one having general geographical coverage, and being provided to any service provider or user upon request within a reasonable period of time. The financial resources for the development of the network still derive mainly from the operation of the telephone service. Consequently, the opening-up of voice telephony to competition could threaten the financial stability of the telecommunications organizations. The voice telephony service, whether provided from the present telephone network or forming part of the ISDN service, is currently also the most important means of notifying and calling up emergency services in charge of public safety.
- (19) The provision of leased lines forms an essential part of the telecommunications organizations' tasks. There is at present, in almost all Member States, a substantial difference between charges for use of the data transmission service on the switched network and for use of leased lines. Balancing those tariffs without delay could jeopardize this task. Equilibrium in such charges must be achieved gradually between now and 31 December 1992. In the meantime it must be possible to require private operators not to offer to the public a service consisting merely of the resale of leased line capacity, i.e. including only such processing, switching of data, storing, or protocol conversion as is necessary for transmission in real time. The Member States may therefore establish a declaration system through which private operators would undertake not to engage in simple resale.

- However, no other requirement may be imposed on such operators to ensure compliance with this measure.
- (20) These restrictions do not affect the development of trade to such an extent as would be contrary to the interests of the Community. Under these circumstances, these restrictions are compatible with Article 90 (2) of the Treaty. This may also be the case as regards the measures adopted by Member States to ensure that the activities of private service providers do not obstruct the public switched-data service.
- (21) The rules of the Treaty, including those on competition, apply to telex services; however, the use of this service is gradually declining throughout the Community owing to the emergence of competing means of telecommunication such as telefax. The abolition of current restrictions on the use of the switched telephone network and leased lines will allow telex messages to be retransmitted. In view of this particular trend, an individual approach is necessary. Consequently, this Directive should not apply to telex services.
- (22) The Commission will in any event reconsider in the course of 1992 the remaining special or exclusive rights on the provision of services taking account of technological development and the evolution towards a digital infrastructure.
- (23) Member States may draw up fair procedures for ensuring compliance with the essential requirements without prejudice to the harmonization of the latter at Community level within the framework of the Council Directives on open network provision (ONP). As regards data-switching, Member States must be able, as part of such procedures, to require compliance with trade regulations from the standpoint of conditions of permanence, availability and quality of the service, and to include measures to safeguard the task of general economic interest which they have entrusted to a telecommunications organization. The procedures must be based on specific objective criteria and be applied without discrimination. The criteria should in particular be justified and proportional to the general interest objective, and be duly motivated and published. The Commission must be able to examine them in depth in the light of the rules on free competition and freedom to provide services. In any event, Member States that have not notified the Commission of their planned licensing criteria and procedures within a given time may no longer impose any restrictions on the freedom to provide data transmission services to the public.
- (24) Member States should be given more time to draw up general rules on the conditions governing the provision of packet- or circuit-switched data services for the public.
- (25) Telecommunications services should not be subject to any restriction, either as regards free access by users to the services, or as regards the processing of data which may be carried out before messages are transmitted through the network or after messages have been received, except where this is warranted by an essential requirement in proportion to the objective pursued.
- (26) The digitization of the network and the technological improvement of the terminal equipment connected to it have brought about an increase in the number of functions previously carried out within the network and which can now be carried out by users themselves with increasingly sophisticated terminal equipment. It is necessary to ensure that suppliers of telecommunication services, and notably suppliers of telephone and packet or circuit-switched data transmission services enable operators to use these functions.
- (27) Pending the establishing of Community standards with a view to an open network provision (ONP), the technical interfaces currently in use in the Member States should be made publicly available so that firms wishing to enter the markets for the services in question can take the necessary steps to adapt their services to the technical characteristics of the networks. If the Member States have not yet established such technical interfaces, they should do so as quickly as possible. All such draft measures should be communicated to the Commission in accordance with Council Directive 83/189/EEC ⁽¹⁾, as last amended by Directive 88/182/EEC ⁽²⁾.
- (28) Under national legislation, telecommunications organizations are generally given the function of regulating telecommunications services, particularly as regards licensing, control of type-approval and mandatory interface specifications, frequency allocation and monitoring of conditions of use. In some cases, the legislation lays down only general principles governing the operation of the licensed services and leaves it to the telecommunications organizations to determine the specific operating conditions.
- (29) This dual regulatory and commercial function of the telecommunications organizations has a direct impact

⁽¹⁾ OJ No L 109, 26. 4. 1983, p. 8.

⁽²⁾ OJ No L 81, 26. 3. 1988, p. 75.

on firms offering telecommunications services in competition with the organizations in question. By this bundling of activities, the organizations determine or, at the very least, substantially influence the supply of services offered by their competitors. The delegation to an undertaking which has a dominant position for the provision and exploitation of the network, of the power to regulate access to the market for telecommunication services constitutes a strengthening of that dominant position. Because of the conflict of interests, this is likely to restrict competitors' access to the markets in telecommunications services and to limit users' freedom of choice. Such arrangements may also limit the outlets for equipment for handling telecommunications messages and, consequently, technological progress in that field. This combination of activities therefore constitutes an abuse of the dominant position of telecommunications organizations within the meaning of Article 86. If it is the result of a State measure, the measure is also incompatible with Article 90 (1) in conjunction with Article 86.

- (30) To enable the Commission to carry out effectively the monitoring task assigned to it by Article 90 (3), it must have available certain essential information. That information must in particular give the Commission a clear view of the measures of Member States, so that it can ensure that access to the network and the various related services are provided by each telecommunications organization to all its customers on non-discriminatory tariff and other terms. Such information should cover:

- measures taken to withdraw exclusive rights pursuant to this Directive,
- the conditions on which licences to provide telecommunications services are granted.

The Commission must have such information to enable it to check, in particular, that all the users of the network and services, including telecommunications organizations where they are providers of services, are treated equally and fairly.

- (31) The holders of special or exclusive rights to provide telecommunications services that will in future be open to competition have been able in the past to impose long-term contracts on their customers. Such contracts would in practice limit the ability of any new competitors to offer their services to such customers

and of such customers to benefit from such services. Users must therefore be given the right to terminate their contracts within a reasonable length of time.

- (32) Each Member State at present regulates the supply of telecommunications services according to its own concepts. Even the definition of certain services differs from one Member State to another. Such differences cause distortions of competition likely to make the provision of cross-frontier telecommunications services more difficult for economic operators. This is why the Council, in its resolution of 30 June 1988, considered that one of the objectives of a telecommunications policy was the creation of an open Community market for telecommunications services, in particular through the rapid definition, in the form of Council Directives, of technical conditions, conditions of use and principles governing charges for an open network provision (ONP). The Commission has presented a proposal to this end to the Council. Harmonization of the conditions of access is not however the most appropriate means of removing the barriers to trade resulting from infringements of the Treaty. The Commission has a duty to ensure that the provisions of the Treaty are applied effectively and comprehensively.
- (33) Article 90 (3) assigns clearly-defined duties and powers to the Commission to monitor relations between Member States and their public undertakings and undertakings to which they have granted special or exclusive rights, particularly as regards the removal of obstacles to freedom to provide services, discrimination between nationals of the Member States and competition. A comprehensive approach is necessary in order to end the infringements that persist in certain Member States and to give clear guidelines to those Member States that are reviewing their legislation so as to avoid further infringements. A Directive within the meaning of Article 90 (3) of the Treaty is therefore the most appropriate means of achieving that end,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. For the purposes of this Directive:
- 'telecommunication organizations' means public or private bodies, and the subsidiaries they control, to which a Member State grants special or exclusive rights for the provision of a public telecommunications network and, when applicable, telecommunications services,
 - 'special or exclusive rights' means the rights granted by a Member State or a public authority to one or more public

or private bodies through any legal, regulatory or administrative instrument reserving them the right to provide a service or undertake an activity,

— 'public telecommunications network' means the public telecommunications infrastructure which permits the conveyance of signals between defined network termination points by wire, by microwave, by optical means or by other electromagnetic means,

— 'telecommunications services' means services whose provision consists wholly or partly in the transmission and routing of signals on the public telecommunications network by means of telecommunications processes, with the exception of radio-broadcasting and television,

— 'network termination point' means all physical connections and their technical access specifications which form part of the public telecommunications network and are necessary for access to and efficient communication through that public network,

— 'essential requirements' means the non-economic reasons in the general interest which may cause a Member State to restrict access to the public telecommunications network or public telecommunications services. These reasons are security of network operations, maintenance of network integrity, and, in justified cases, interoperability of services and data protection.

Data protection may include protection of personal data, the confidentiality of information transmitted or stored as well as the protection of privacy,

— 'voice telephony' means the commercial provision for the public of the direct transport and switching of speech in real-time between public switched network termination points, enabling any user to use equipment connected to such a network termination point in order to communicate with another termination point,

— 'telex service' means the commercial provision for the public of direct transmission of telex messages in accordance with the relevant Comité consultatif international télégraphique et téléphonique (CCITT) recommendation between public switched network termination points, enabling any user to use equipment connected to such a network termination point in order to communicate with another termination point,

— 'packet- and circuit-switched data services' means the commercial provision for the public of direct transport of data between public switched network termination points, enabling any user to use equipment connected to such a network termination point in order to communicate with another termination point,

— 'simple resale of capacity' means the commercial provision on leased lines for the public of data

transmission as a separate service, including only such switching, processing, data storage or protocol conversion as is necessary for transmission in real time to and from the public switched network.

2. This Directive shall not apply to telex, mobile radiotelephony, paging and satellite services.

Article 2

Without prejudice to Article 1 (2), Member States shall withdraw all special or exclusive rights for the supply of telecommunications services other than voice telephony and shall take the measures necessary to ensure that any operator is entitled to supply such telecommunications services.

Member States which make the supply of such services subject to a licensing or declaration procedure aimed at compliance with the essential requirements shall ensure that the conditions for the grant of licences are objective, non-discriminatory and transparent, that reasons are given for any refusal, and that there is a procedure for appealing against any such refusal.

Without prejudice to Article 3, Member States shall inform the Commission no later than 31 December 1990 of the measures taken to comply with this Article and shall inform it of any existing regulations or of plans to introduce new licensing procedures or to change existing procedures.

Article 3

As regards packet- or circuit-switched data services, Member States may, until 31 December 1992, under the authorization procedures referred to in Article 2, prohibit economic operators from offering leased line capacity for simple resale to the public.

Member States shall, no later than 30 June 1992, notify to the Commission at the planning stage any licensing or declaration procedure for the provision of packet- or circuit-switched data services for the public which are aimed at compliance with:

- essential requirements, or
- trade regulations relating to conditions of permanence, availability and quality of the service, or
- measures to safeguard the task of general economic interest which they have entrusted to a telecommunications organization for the provision of switched data services, if the performance of that task is likely to be obstructed by the activities of private service providers.

The whole of these conditions shall form a set of public-service specifications and shall be objective, non-discriminatory and transparent.

Member States shall ensure, no later than 31 December 1992, that such licensing or declaration procedures for the provision of such services are published.

Before they are implemented, the Commission shall verify the compatibility of these projects with the Treaty.

Article 4

Member States which maintain special or exclusive rights for the provision and operation of public telecommunications networks shall take the necessary measures to make the conditions governing access to the networks objective and non-discriminatory and publish them.

In particular, they shall ensure that operators who so request can obtain leased lines within a reasonable period, that there are no restrictions on their use other than those justified in accordance with Article 2.

Member States shall inform the Commission no later than 31 December 1990 of the steps they have taken to comply with this Article.

Each time the charges for leased lines are increased, Member States shall provide information to the Commission on the factors justifying such increases.

Article 5

Without prejudice to the relevant international agreements, Member States shall ensure that the characteristics of the technical interfaces necessary for the use of public networks are published by 31 December 1990 at the latest.

Member States shall communicate to the Commission, in accordance with Directive 83/189/EEC, any draft measure drawn up for this purpose.

Article 6

Member States shall, as regards the provision of telecommunications services, and existing restrictions on the processing of signals before their transmission via the public network or after their reception, unless the necessity of these restrictions for compliance with public policy or essential requirements is demonstrated.

Without prejudice to harmonized Community rules adopted by the Council on the provision of an open network, Member States shall ensure as regards services providers including the telecommunications organizations that there is no discrimination either in the conditions of use or in the charges payable.

Member States shall inform the Commission of the measures taken or draft measures introduced in order to comply with this Article by 31 December 1990 at the latest.

Article 7

Member States shall ensure that from 1 July 1991 the grant of operating licences, the control of type approval and mandatory specifications, the allocation of frequencies and surveillance of usage conditions are carried out by a body independent of the telecommunications organizations.

They shall inform the Commission of the measures taken or draft measures introduced to that end no later than 31 December 1990.

Article 8

Member States shall ensure that as soon as the relevant special or exclusive rights have been withdrawn, telecommunications organizations make it possible for customers bound to them by a contract with more than one year to run for the supply of telecommunications services which was subject to such a right at the time it was concluded to terminate the contract at six months' notice.

Article 9

Member States shall communicate to the Commission the necessary information to allow it to draw up, for a period of three years, at the end of each year, an overall report on the application of this Directive. The Commission shall transmit this report to the Member States, the Council, the European Parliament and the Economic and Social Committee.

Article 10

In 1992, the Commission will carry out an overall assessment of the situation in the telecommunications sector in relation to the aims of this Directive.

In 1994, the Commission shall assess the effects of the measures referred to in Article 3 in order to see whether any amendments need to be made to the provisions of that Article, particularly in the light of technological evolution and the development of trade within the Community.

Article 11

This Directive is addressed to the Member States.

Done at Brussels, 28 June 1990.

For the Commission
Leon BRITTAN
Vice-President

COMMISSION DECISION

of 30 July 1990

setting up a Joint Committee on Telecommunications Services

(90/450/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Whereas the Heads of State or of Government stated in their declaration of 21 October 1972 that the first aim of economic expansion should be to enable disparities in living conditions to be reduced and that this aim should express itself in better quality of life and higher standard of living;

Whereas, in this connection, they considered it indispensable that both employers and employees should be increasingly involved in the economic and social decisions of the Community;

Whereas, amongst the priority actions contained in the Community's 'social action programme', the Commission has recommended that dialogue and cooperation between employers and employees be promoted at Community level;

Whereas the Council in its resolution of 21 January 1974 concerning a social action programme⁽¹⁾ named increased involvement of social partners in the economic and social decisions of the Community as one of the priority measures to be taken;

Whereas the European Parliament in its resolution of 13 June 1972⁽²⁾ stated that the participation of employers and employees in the formulation of a Community social policy should be achieved during the first stage of economic and monetary union;

Whereas the Economic and Social Committee in its opinion of 24 November 1971 expressed a similar view;

Whereas the Council stressed in its conclusions of 22 June 1984 concerning a Community medium-term social action programme⁽³⁾, that the European social dialogue must be strengthened and its procedures adapted in order to involve the social partners more effectively in the economic and social decisions of the Community;

Whereas the situation in the various Member States clearly demonstrates the need for the two sides of the telecommunications services to participate actively in the

improvement of living and working conditions; whereas a joint committee attached to the Commission is the most appropriate means of ensuring such participation by creating at Community level a representative forum for the socio-economic interests involved;

Whereas the 1987 green paper on the 'Development of the common market for telecommunications services and equipment' and the subsequent Council resolution and Economic and Social Committee comments on that green paper all acknowledge the importance of sustaining dialogue between the social partners to facilitate a smooth and successful introduction of new technologies,

HAS DECIDED AS FOLLOWS:

Article 1

A Joint Committee on Telecommunications Services hereinafter referred to as 'the Committee' is hereby established.

Article 2

The Committee shall assist the Commission in the formulation and implementation of Community policy aimed at:

- improving the economic and competitive positions of the Community's telecommunications sector,
- improving and harmonizing living and working conditions in the telecommunications sector within the context of the relevant articles of the Treaty.

Article 3

1. In order to attain the objectives laid down in Article 2, the Committee shall:

- (a) issue opinions and submit reports to the Commission, either at the latter's request or on its own initiative; and
- (b) in respect of matters falling within the competence of the employers' and employees' associations listed in Article 4 (3):
 - promote dialogue and cooperation between these associations,
 - arrange for studies to be carried out,
 - participate in discussions and seminars.

⁽¹⁾ OJ No C 13, 12. 2. 1974, p. 1.

⁽²⁾ OJ No C 70, 1. 7. 1972, p. 11.

⁽³⁾ OJ No C 175, 4. 7. 1984, p. 1.

2. The Committee shall ensure that all interested parties are informed of its activities.

3. Upon requesting an opinion or report from the Committee under the terms of paragraph 1 (a), the Commission may fix a time limit within which the opinion or report shall be given.

Article 4

1. The Committee shall consist of 50 members.
2. Seats shall be allocated as follows :
 - (a) 25 to the representatives of the employers' organizations ;
 - (b) 25 to the representatives of the employees' organizations.
3. The members of the Committee shall be appointed by the Commission as follows :
 - (a) 44 on proposals from the following associations of employers and employees :
 - Postal, Telegraph and Telephone International (IPTT) and Fédération Européenne du Personnel des Services Publics : 22 members,
 - competent authorities of Member States for the Telecommunications sector : 22 members.
 - (b) Six, directly by the Commission, after consulting the bodies mentioned in (a) from the representative associations of employers and employees. If appropriate these might be from bodies other than those mentioned in (a).

Article 5

1. An alternate shall be appointed for each member of the Committee under the same conditions as laid down in Article 4 (3).
2. Without prejudice to the provisions of Article 9, an alternate shall not attend meetings of the Committee or a working group provided for in Article 9, or participate in its work, unless the member for whom he is the alternate is prevented from doing so.

Article 6

1. Committee members and their alternates shall hold office for a term of four years ; appointments shall be renewable.
2. Members and their alternates whose term of office has expired shall remain in office until they have been replaced or their term of office has been renewed.
3. A member's or an alternate's term of office shall cease before the expiry of the period of four years upon his resignation or death or if the association which nominated him requests his replacement. His successor shall be appointed for the remainder of the term of office in the manner prescribed in Article 4 (3).

4. There shall be no payment for duties performed.

Article 7

1. The Committee shall, by a two-thirds majority of members present, elect from among its members a chairman and vice-chairman who shall hold office, for a term of two years. The chairman and vice-chairman shall be chosen alternately from amongst the two groups of associations listed in Article 4 (3).
2. (a) A chairman or vice-chairman whose term of office has expired shall remain in office until he has been replaced.
 - (b) Should the chairman or vice-chairman cease to hold office before expiry of his term, he shall be replaced for the remainder of the term by a person appointed in the manner prescribed in paragraph 1 upon a proposal from the group to which his association belongs.

Article 8

The Committee shall create a Bureau consisting of the chairman and vice-chairman and two representatives of the employers' and the employees' group to plan and coordinate its work. The Bureau may invite the rapporteurs of any working parties provided for in Article 9 to participate in these meetings.

Article 9

The Committee may :

- (a) set up *ad hoc* or permanent working parties to facilitate its work. It may authorize a member to delegate another representative of his association, who shall be named, to take his place in a working party ; such delegate shall enjoy the same rights at meetings of the working party as the member he replaces ;
- (b) ask the Commission to appoint experts to assist it in specific tasks.

The employers' or the employees' group may ask for the attendance at Committee meetings, as an expert, of any person who is specially qualified in any particular subject on the agenda. The expert shall be present only for the discussion of the particular subject for which his attendance is required.

Article 10

The Committee shall be convened by its Secretariat at the request of the Commission, the Bureau or a third of its members. In the latter case it shall meet within a period of 30 days.

Article 11

1. No opinion of the Committee shall be valid unless two-thirds of the members or their alternates are present.
2. The Committee shall submit its opinions or reports to the Commission. If an opinion or report is not unanimous, the Committee shall submit to the Commission the dissenting views delivered.

Article 12

1. The Commission shall provide a secretariat for the Committee, the Bureau and the working parties.
2. The Commission shall ensure the attendance at all meetings of the Committee, the Bureau and working parties of representatives of appropriate seniority from the relevant departments.
3. If appropriate a representative of the Secretariats of each of the associations listed in Article 4 (3) (a) may attend the meetings of the Committee as observer.
4. After hearing the Committee's views the Commission may ask other organizations than those mentioned in Article 4 (3) to participate as observers in the Committee's work.

Article 13

If the Commission has informed the Committee that an opinion requested relates to a matter of a confidential nature, members of the Committee shall be bound,

without prejudice to the provisions of Article 214 of the EEC Treaty, not to disclose any information acquired at the meetings of the Committee, the working parties or the Bureau.

Article 14

After hearing the Committee's views, the Commission may review this Decision in the light of experience.

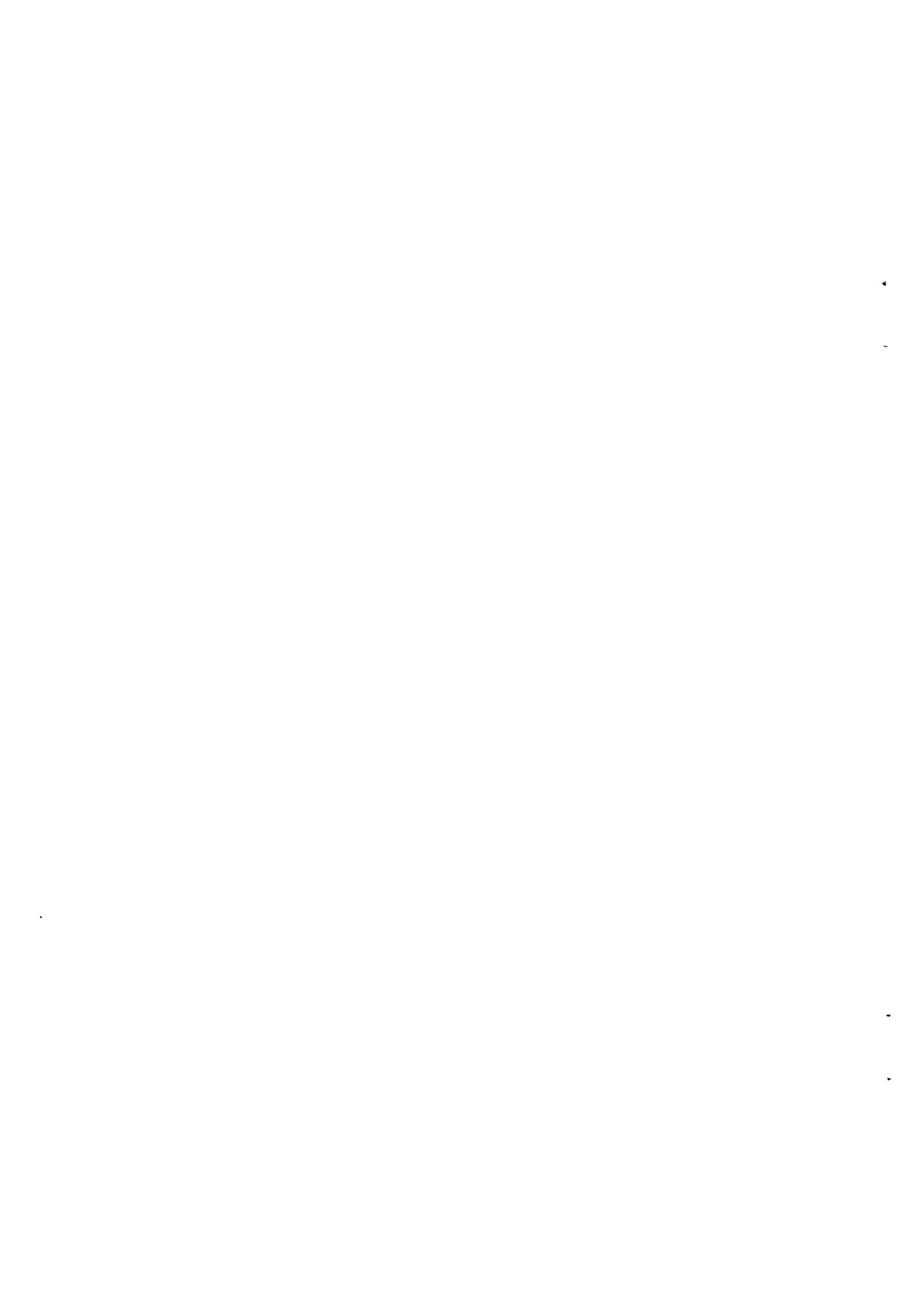
This Decision shall take effect on 1 August 1990.

Done at Brussels, 30 July 1990.

For the Commission

VASSO PAPANDEOU

Member of the Commission



II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 17 September 1990

on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors

(90/531/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing in the European Economic Community and in particular the last sentence of Article 57 (2), Article 66, Article 100a and Article 113 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the measures aimed at progressively establishing the internal market, during the period up to 31 December 1992, need to be taken; whereas the internal market consists of an area without internal frontiers in which free movement of goods, persons, services and capital is guaranteed;

Whereas the European Council has drawn conclusions concerning the need to bring about a single internal market;

Whereas restrictions on the free movement of goods and on the freedom to provide services in respect of supply

contracts awarded in the water, energy, transport and telecommunications sectors are prohibited by the terms of Articles 30 and 59 of the Treaty;

Whereas Article 97 of the Euratom Treaty prohibits any restrictions based on nationality as regards companies under the jurisdiction of a Member State where they desire to participate in the construction of nuclear installations of a scientific or industrial nature in the Community;

Whereas these objectives also require the coordination of the procurement procedures applied by the entities operating in these sectors;

Whereas the White Paper on the completion of the internal market contains an action programme and a timetable for opening up public procurement markets in sectors which are currently excluded from Council Directive 71/305/EEC of 26 July 1971 concerning the coordination of procedures for the award of public works contracts ⁽⁴⁾, as last amended by Council Directive 89/440/EEC ⁽⁵⁾, and Council Directive 77/62/EEC of 21 December 1976 coordinating procedures for the award of public supply contracts ⁽⁶⁾, as last amended by Directive 88/295/EEC ⁽⁷⁾;

⁽¹⁾ OJ No C 264, 16. 10. 1989, p. 22.

⁽²⁾ OJ No C 158, 26. 6. 1989, p. 258 and
OJ No C 175, 16. 7. 1990, p. 78.

⁽³⁾ OJ No C 139, 5. 6. 1989, pp. 23 and 31.

⁽⁴⁾ OJ No L 185, 16. 8. 1971, p. 5.

⁽⁵⁾ OJ No L 210, 21. 7. 1989, p. 1.

⁽⁶⁾ OJ No L 13, 15. 1. 1977, p. 1.

⁽⁷⁾ OJ No L 127, 20. 5. 1988, p. 1.

Whereas among such excluded sectors are those concerning the provision of water, energy and transport services and, as far as Directive 77/62/EEC is concerned, the telecommunications sector;

Whereas the main reason for their exclusion was that entities providing such services are in some cases governed by public law, in others by private law;

Whereas the need to ensure a real opening-up of the market and a fair balance in the application of procurement rules in these sectors requires that the entities to be covered must be identified on a different basis than by reference to their legal status;

Whereas, in the four sectors concerned, the procurement problems to be solved are of a similar nature, so permitting them to be addressed in one instrument;

Whereas, among the main reasons why entities operating in these sectors do not purchase on the basis of Community-wide competition is the closed nature of the markets in which they operate, due to the existence of special or exclusive rights granted by the national authorities, concerning the supply to, provision or operation of, networks for providing the service concerned, the exploitation of a given geographical area for a particular purpose, the provision or operation of public telecommunications networks or the provision of public telecommunications services;

Whereas the other main reason for the absence of Community-wide competition in these areas results from various ways in which national authorities can influence the behaviour of these entities, including participations in their capital and representation in the entities' administrative, managerial or supervisory bodies;

Whereas this Directive should not extend to activities of those entities which either fall outside the sectors of water, energy and transport services or outside the telecommunications sector, or which fall within those sectors but nevertheless are directly exposed to competitive forces in markets to which entry is unrestricted;

Whereas it is appropriate that these entities apply common procurement procedures in respect of their activities relating to water; whereas certain entities have been covered up to now by the Directives 71/305/EEC and 77/62/EEC in respect of their activities in the field of hydraulic engineering projects, irrigation, land drainage or the disposal and treatment of sewage;

Whereas, however, procurement rules of the type proposed for supplies of goods are inappropriate for purchases of water, given the need to procure water from sources near the area it will be used;

Whereas, when specific conditions are fulfilled, exploitation of a geographical area with the aim of exploring for or extracting oil, gas, coal or other solid fuels may be made subject to alternative arrangements which will enable the same objective of opening up contracts to be achieved; whereas the Commission must ensure that these conditions are complied with by the Member States who implement these alternative arrangements;

Whereas the Commission has announced that it will propose measures to remove obstacles to cross-frontier exchanges of electricity by 1992; whereas procurement rules of the type proposed for supplies of goods would not make it possible to overcome existing obstacles to the purchases of energy and fuels in the energy sector; whereas, as a result, it is not appropriate to include such purchases in the scope of this Directive, although it should be borne in mind that this exemption will be re-examined by the Council on the basis of a Commission report and Commission proposals;

Whereas Regulations (EEC) No 3975/87⁽¹⁾ and (EEC) No 3976/87⁽²⁾, Directive 87/601/EEC⁽³⁾ and Decision 87/602/EEC⁽⁴⁾ are designed to introduce more competition between the entities offering air transport services to the public and it is therefore not appropriate for the time being to include such entities in the scope of this Directive although the situation ought to be reviewed at a later stage in the light of progress made as regards competition;

Whereas, in view of the competitive position of Community shipping, it would be inappropriate for the greater part of the contracts in this sector to be subject to detailed procedures; whereas the situation of shippers operating sea-going ferries should be kept under review; whereas certain inshore and river ferry services operated by public authorities should no longer be excluded from the scope of Directives 71/305/EEC and 77/62/EEC;

Whereas it is appropriate to facilitate compliance with provisions relating to activities not covered by this Directive;

Whereas this Directive should not apply to procurement contracts which are declared secret or may affect basic State security interests or are concluded according to other rules set up by existing international agreements or international organizations;

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(1) OJ No L 374, 31. 12. 1987, p. 1.

(2) OJ No L 374, 31. 12. 1987, p. 9.

(3) OJ No L 374, 31. 12. 1987, p. 12.

(4) OJ No L 374, 31. 12. 1987, p. 19.

Whereas the Community's or the Member States' existing international obligations must not be affected by the rules of this Directive;

Whereas products, works or services must be described by reference to European specifications; whereas, in order to ensure that a product, work or service fulfils the use for which it is intended by the contracting entity, such reference may be complemented by specifications which do not change the nature of the technical solution or solutions set out in the European specification;

Whereas the principles of equivalence and of mutual recognition of national standards, technical specifications and manufacturing methods are applicable in the field of application of this Directive;

Whereas, when the contracting entities define by common accord with tenderers the deadlines for receiving tenders, they shall comply with the principle of non-discrimination, and whereas, if there is no such agreement, it is necessary to lay down suitable provisions;

Whereas it could prove useful to provide for greater transparency as to the requirements regarding the protection and conditions of employment applicable in the Member State in which the works are to be carried out;

Whereas it is appropriate that national provisions for regional development requirements to be taken into consideration in the award of public works contracts should be made to conform to the objectives of the Community and be in keeping with the principles of the Treaty;

Whereas contracting entities must not be able to reject abnormally low tenders before having requested in writing explanations as to the constituent elements of the tender;

Whereas, within certain limits, preference should be given to an offer of Community origin where there are equivalent offers of third country origin;

Whereas this Directive should not prejudice the position of the Community in any current or future international negotiations;

Whereas, based on the results of such international negotiations, this Directive should be extendable to offers of third country origin, pursuant to a Council Decision;

Whereas the rules to be applied by the entities concerned should establish a framework for sound commercial practice and should leave a maximum of flexibility;

Whereas, as a counterpart for such flexibility and in the interest of mutual confidence, a minimum level of transparency must be ensured and appropriate methods adopted for monitoring the application of this Directive;

Whereas it is necessary to adapt Directives 71/305/EEC and 77/62/EEC to establish well-defined fields of application; whereas the scope of Directive 71/305/EEC should not be reduced, except as regards contracts in the water and telecommunications sectors; whereas the scope of Directive 77/62/EEC should not be reduced, except as regards certain contracts in the water sector; whereas the scope of Directives 71/305/EEC and 77/62/EEC should not, however, be extended to contracts awarded by carriers by land, air, sea, inshore or inland waterway which, although carrying out economic activities of an industrial or commercial nature, belong to the State administration; whereas, nevertheless, certain contracts awarded by carriers by land, air, sea, inshore or inland waterway which belong to the State administration and are carried out only for reasons of public service should be covered by those Directives;

Whereas this Directive should be re-examined in the light of experience;

Whereas the opening up of contracts, on 1 January 1993, in the sectors covered by this Directive might have an adverse effect upon the economy of the Kingdom of Spain; whereas the economies of the Hellenic Republic and the Portuguese Republic will have to sustain even greater efforts; whereas it is appropriate that these Member States be granted adequate additional periods to implement this Directive,

HAS ADOPTED THIS DIRECTIVE:

TITLE I

General provisions

Article 1

For the purposes of this Directive:

1. 'public authorities' shall mean the State, regional or local authorities, bodies governed by public law, or associations formed by one or more of such authorities or bodies governed by public law.

A body is considered to be governed by public law where it:

- is established for the specific purpose of meeting needs in the general interest, not being of a commercial or industrial nature, and
 - has legal personality, and
 - is financed for the most part by the State, or regional or local authorities, or other bodies governed by public law, or is subject to management supervision by those bodies, or has an administrative, managerial or supervisory board more than half of whose members are appointed by the State, regional or local authorities, or other bodies governed by public law;
2. 'public undertaking' shall mean any undertaking over which the public authorities may exercise directly or indirectly a dominant influence by virtue of their ownership of it; their financial participation therein, or the rules which govern it. A dominant influence on the part of the public authorities shall be presumed when these authorities, directly or indirectly, in relation to an undertaking:
- hold the major of the undertaking's subscribed capital, or
 - control the majority of the votes attaching to shares issued by the undertaking, or
 - can appoint more than half of the members of the undertaking's administrative, managerial or supervisory body;
3. 'supply and works contracts' shall mean contracts for pecuniary interest concluded in writing between one of the contracting entities referred to in Article 2 and a supplier or contractor and which have as their object:
- (a) in the case of supply contracts, the purchase, lease, rental or hire-purchase, with or without options to buy, of products or of software services. These contracts may in addition cover siting and installation operations.
- Software services shall be covered by this definition where they are procured by a contracting entity exercising an activity defined in Article 2 (2) (d) and are for use in the operation of a public telecommunications network or are intended to be used in a public telecommunications service as such;
- (b) in the case of works contracts, either the execution, or both the execution and design or the realization, by whatever means, of building or civil engineering activities referred to in Annex XI. These contracts may, in addition, cover supplies and services necessary for their execution.
- Contracts which include the provision of services other than those referred to in (a) and (b) shall be regarded as supply contracts if the total value of supplies, including siting and installation operations necessary for the execution of the contract and of software services within the meaning of subparagraph (a), is greater than the value of the other services covered by the contract;
4. 'framework agreement' shall mean an agreement between one of the contracting entities defined in Article 2 and one or more suppliers or contractors, the purpose of which is to establish the terms, in particular with regard to the prices and, where appropriate, the quantity envisaged, governing the contracts to be awarded during a given period;
5. 'tenderer' shall mean a supplier or contractor who submits a tender and 'candidate' shall mean a person who has sought an invitation to take part in a restricted or negotiated procedure;
6. 'open, restricted and negotiated procedures' shall mean the award procedures applied by contracting entities whereby:
- (a) in the case of open procedures, all interested suppliers or contractors may submit tenders;
 - (b) in the case of the restricted procedures, only candidates invited by the contracting entity may submit tenders;
 - (c) in the case of negotiated procedures, the contracting entity consults suppliers or contractors of its choice and negotiates the terms of the contract with one or more of them;
7. 'technical specifications' shall mean the technical requirements contained in particular in the tender documents, defining the characteristics of a set of works, material, product or supply, and enabling a piece of work, a material, a product or a supply to be objectively described in a manner such that it fulfils the use for which it is intended by the contracting entity. These technical prescriptions may include quality, performance, safety or dimensions, as well as requirements applicable to the material, product, or supply as regards quality assurance, terminology, symbols, testing and test methods, packaging, marking or labelling. In the case of works contracts, they may also include rules for the design and costing, the test, inspection and acceptance conditions for works and methods or techniques of construction and

all other technical conditions which the contracting entity is in a position to prescribe under general or specific regulations, in relation to the finished works and to the materials or parts which they involve;

8. 'standard' shall mean a technical specification approved by a recognized standardizing body for repeated and continuous application, compliance with which is in principle not compulsory;
9. 'European standard' shall mean a standard approved by the European Committee for Standardization (CEN) or by the European Committee for Electrotechnical Standardization (CENELEC) as a 'European Standard (EN)' or 'Harmonization Document (HD)', according to the common rules of those organizations, or by the European Telecommunications Standards Institute (ETSI) according to its own rules as a 'European Telecommunications Standard (ETS)';
10. 'common technical specification' shall mean a technical specification drawn up in accordance with a procedure recognized by the Member States which a view to uniform application in all Member States and published in the *Official Journal of the European Communities*;
11. 'European technical approval' shall mean a favourable technical assessment of the fitness for use of a product for a particular purpose, based on fulfilment of the essential requirements for building works, by means of the inherent characteristics of the product and the defined conditions of application and use, as provided for in Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products⁽¹⁾. European technical approval shall be issued by an approval body designated for this purpose by the Member State;
12. 'European specification' shall mean a common technical specification, a European technical approval or a national standard implementing a European standard;
13. 'public telecommunications network' shall mean the public telecommunications infrastructure which enables to be conveyed between defined network termination points by wire, by microwave, by optical means or by other electromagnetic means.

'Network termination point' shall mean all physical connections and their technical access specifications which form part of the public telecommunications network and are necessary for access to, and efficient communication through, that public network;

14. 'public telecommunications services' shall mean telecommunications services the provision of which the Member States have specifically assigned notably to one or more telecommunications entities.

'Telecommunications services' shall mean services the provision of which consists wholly or partly in the transmission and routing of signals on the public telecommunications network by means of telecommunications processes, with the exception of radio-broadcasting and television.

Article 2

1. This Directive shall apply to contracting entities which:

- (a) are public authorities or public undertakings and exercise one of the activities referred to in paragraph 2;
- (b) or, when they are not public authorities or public undertakings, have as one of their activities any of those referred to in paragraph 2 or any combination thereof and operate on the basis of special or exclusive rights granted by a competent authority of a Member State.

2. Relevant activities for the purposes of this Directive shall be:

- (a) the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of:
 - (i) drinking water, or
 - (ii) electricity, or
 - (iii) gas or heat,
 or the supply of drinking water, electricity, gas or heat to such networks;
- (b) the exploitation of a geographical area for the purpose of:
 - (i) exploring for or extracting oil, gas, coal or other solid fuels, or
 - (ii) the provision of airport, maritime or inland port or other terminal facilities to carriers by air, sea or inland waterway;
- (c) the operation of networks providing a service to the public in the field of transport by railway, automated systems, tramway, trolley bus, bus or cable.

As regards transport services, a network shall be considered to exist where the service is provided under operating conditions laid down by a competent authority of a Member State, such as conditions on the routes to be served, the capacity to be made available or the frequency of the service;

- (d) the provision or operation of public telecommunications networks or the provision of one or more public telecommunications services.

⁽¹⁾ OJ No L 40, 11. 2. 1989, p. 12.

3. For the purpose of applying paragraph 1 (b), special or exclusive rights shall mean rights deriving from authorizations granted by a competent authority of the Member State concerned, by law, regulation or administrative action, having as their result the reservation for one or more entities of the exploitation of an activity defined in paragraph 2.

A contracting entity shall be considered to enjoy special or exclusive rights in particular where:

- (a) for the purpose of constructing the networks or facilities referred to in paragraph 2, it may take advantage of a procedure for the expropriation or use of property or may place network equipment on, under or over the public highway;
- (b) in the case of paragraph 2 (a), the entity supplies with drinking water, electricity, gas or heat a network which is itself operated by an entity enjoying special or exclusive rights granted by a competent authority of the Member State concerned.

4. The provision of bus transport services to the public shall not be considered to be a relevant activity within the meaning of paragraph 2 (c) where other entities are free to provide those services, either in general or in a particular geographical area, under the same conditions as the contracting entities.

5. The supply of drinking water, electricity, gas or heat to networks which provide a service to the public by a contracting entity other than public authority shall not be considered as a relevant activity within the meaning of paragraph 2 (a) where:

- (a) in the case of drinking water or electricity:
 - the production of drinking water or electricity by the entity concerned takes place because its consumption is necessary for carrying out an activity other than that referred to in paragraph 2, and
 - supply to the public network depends only on the entity's own consumption and has not exceeded 30 % of the entity's total production of drinking water or energy, having regard to the average for the preceding three years, including the current year;
- (b) in the case of gas or heat:
 - the production of gas or heat by the entity concerned is the unavoidable consequence of carrying on an activity other than that referred to in paragraph 2, and
 - supply to the public network is aimed only at the economic exploitation of such production and amounts to not more than 20 % of the entity's turnover having regard to the average for the preceding three years, including the current year.

6. The contracting entities listed in Annexes I to X shall fulfil the criteria set out above. In order to ensure that the

lists are as exhaustive as possible, Member States shall notify the Commission of amendments to their lists. The Commission shall revise Annexes I to X in accordance with the procedure in Article 32.

Article 3

1. Member States may request the Commission to provide that exploitation of geographical areas for the purpose of exploring for, or extracting, oil, gas, coal or other solid fuels shall not be considered to be an activity defined in Article 2 (2) (b) (i) and that entities shall not be considered as operating under special or exclusive rights within the meaning of Article 2 (3) (b) by virtue of carrying on one or more of these activities, provided that all the following conditions are satisfied with respect to the relevant national provisions concerning such activities:

- (a) at the time when authorization to exploit such a geographical area is requested, other entities shall be free to seek authorization for that purpose under the same conditions as the contracting entities;
- (b) the technical and financial capacity of entities to engage in particular activities shall be established prior to any evaluation of the merits of competing applications for authorization;
- (c) authorization to engage in those activities shall be granted on the basis of objective criteria concerning the way in which it is intended to carry out the exploitation for extraction, which shall be established and published prior to the requests and applied in a non-discriminatory manner;
- (d) all conditions and requirements concerning the carrying out or termination of the activity, including provisions on operating obligations, royalties, and participation in the capital or revenue of the entities, shall be established and made available prior to the requests for authorization being made and then applied in a non-discriminatory manner; every change concerning these conditions and requirements shall be applied to all the entities concerned, or else amendments must be made in a non-discriminatory manner; however, operating obligations need not be established until immediately before the authorization is granted; and
- (e) contracting entities shall not be required by any law, regulation, administrative requirement, agreement or understanding to provide information on a contracting entity's intended or actual sources of procurement, except at the request of national authorities and exclusively with a view to the objectives mentioned in Article 36 of the Treaty.

2. Member States which apply the provisions of paragraph 1 shall ensure, through the conditions of the authorization or other appropriate measures, that any entity:

- (a) observes the principles of non-discrimination and competitive procurement in respect of the award of supplies and works contracts, in particular as regards the information that the entity makes available to undertakings concerning its procurement intentions;
- (b) communicates to the Commission, under conditions to be defined by the latter in accordance with Article 32, information relating to the award of contracts.

3. As regards individual concessions or authorizations granted before the date on which Member States apply this Directive in accordance with Article 37, paragraphs 1 (a), (b) and (c) shall not apply, provided that at that date other entities are free to seek authorization for the exploitation of geographical areas for the purpose of exploring for or extracting oil, gas, coal or other solid fuels, on a non-discriminatory basis and in the light of objective criteria. Paragraph 1 (d) shall not apply as regards conditions or requirements established, applied or amended before the date referred to above.

4. A Member State which wishes to apply paragraph 1 shall inform the Commission accordingly. In doing so, it shall inform the Commission of any law, regulation or administrative provision, agreement or understanding relating to compliance with the conditions referred to in paragraphs 1 and 2.

The Commission shall take a decision in accordance with the procedure laid down in Article 32 (4) to (7). It shall publish its decision, giving its reasons, in the *Official Journal of the European Communities*.

It shall forward to the Council each year a report on the implementation of this Article and review its application in the framework of the report provided for in Article 36.

Article 4

1. When awarding supply or works contracts, the contracting entities shall apply procedures which are adapted to the provisions of this Directive.

2. Contracting entities shall ensure that there is no discrimination between different suppliers or contractors.

3. In the context of provision of technical specifications to interested suppliers and contractors, of qualification and selection of suppliers or contractors and of award of contracts, contracting entities may impose requirements with a view to protecting the confidential nature of information which they make available.

4. The provisions of this Directive shall not limit the right of suppliers or contractors to require a contracting entity, in conformity with national law, to respect the confidential nature of information which they make available.

Article 5

1. Contracting entities may regard a framework agreement as a contract within the meaning of Article 1 (3) and award it in accordance with this Directive.

2. Where contracting entities have awarded a framework agreement in accordance with this Directive, they may avail themselves of Article 15 (2) (i) when awarding contracts based on that agreement.

3. Where a framework agreement has not been awarded in accordance with this Directive, contracting entities may not avail themselves of Article 15 (2) (i).

4. Contracting entities may not misuse framework agreements in order to hinder, limit or distort competition.

Article 6

1. This Directive shall not apply to contracts which the contracting entities award for purposes other than the pursuit of their activities as described in Article 2 (2) or for the pursuit of such activities in a non-member country, in conditions not involving the physical use of a network or geographical area within the Community.

2. However, this Directive shall apply to contracts awarded on behalf of the entities which exercise an activity referred to in Article 2 (2) (a) (i) and which:

- (a) are connected with hydraulic engineering projects, irrigation or land drainage, provided that the volume of water intended for the supply of drinking water represents more than 20 % of the total volume of water made available by these projects or irrigation or drainage installations; or

- (b) are connected with the disposal or treatment of sewage.

3. The contracting entities shall notify the Commission at its request of any activities they regard as excluded under paragraph 1. The Commission may periodically publish lists of the categories of activities which it considers to be covered by this exclusion, for information in the *Official Journal of the European Communities*. In so doing, the

Commission shall respect any sensitive commercial aspects the contracting entities may point out when forwarding this information.

Article 7

1. The provisions of this Directive shall not apply to contracts awarded for purposes of re-sale or hire to third parties, provided that the contracting entity enjoys no special or exclusive right to sell or hire the subject of such contracts and other entities are free to sell or hire it under the same conditions as the contracting entity.

2. The contracting entities shall notify the Commission at its request of all the categories of products they regard as excluded under paragraph 1. The Commission may periodically publish lists of the categories of activities which it considers to be covered by this exclusion, for information in the *Official Journal of the European Communities*. In so doing, the Commission shall respect any sensitive commercial aspects the contracting entities may point out when forwarding this information.

Article 8

1. This Directive shall not apply to contracts which contracting entities exercising an activity described in Article 2 (2) (d) award for purchases intended exclusively to enable them to provide one or more telecommunications services where other entities are free to offer the same services in the same geographical area and under substantially the same conditions.

2. The contracting entities shall notify the Commission at its request of any services they regard as covered by the exclusion referred to in paragraph 1. The Commission may periodically publish the list of services which it considers to be covered by this exclusion, for information in the *Official Journal of the European Communities*. In so doing, the Commission shall respect any sensitive commercial aspects the contracting entities may point out when forwarding this information.

Article 9

1. This Directive shall not apply to:

- (a) contracts which the contracting entities listed in Annex I award for the purchase of water;
- (b) contracts which the contracting entities specified in Annexes II, III, IV and V award for the supply of energy or of fuels for the production of energy.

2. The Council shall re-examine the provisions of paragraph 1 when it has before it a report from the Commission together with appropriate proposals.

Article 10

This Directive shall not apply to contracts when they are declared to be secret by the Member State, when their execution must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force in the Member State concerned or when the protection of the basic security interests of that State so requires.

Article 11

This Directive shall not apply to contracts governed by different procedural rules and awarded:

1. pursuant to an international agreement concluded in conformity with the Treaty between a Member State and one or more third countries and covering supplies or works intended for the joint implementation or exploitation of a project by the signatory States; every agreement shall be communicated to the Commission, which may consult the Advisory Committee for Public Contracts set up by Council Decision 71/306/EEC (1), as last amended by Decision 77/63/EEC (2), or, in the case of agreements governing contracts awarded by entities exercising an activity defined in Article 2 (2) (d), the Advisory Committee on Telecommunications Procurement referred to in Article 31;
2. to undertakings in a Member State or a third country in pursuance of an international agreement relating to the stationing of troops;
3. pursuant to the particular procedure of an international organization.

Article 12

1. This Directive shall apply to contracts whose estimated value, net of VAT, is not less than:

- (a) ECU 400 000 in the case of supply contracts awarded by entities exercising an activity defined in Article 2 (2) (a), (b) and (c);
- (b) ECU 600 000 in the case of supply contracts awarded by entities exercising an activity defined in Article 2 (2) (d);
- (c) ECU 5 million in the case of works contracts.

2. In the case of supply contracts for lease, rental or hire-purchase, the basis for calculating the contract value shall be:

(1) OJ No L 185, 16. 8. 1971, p. 15.

(2) OJ No L 13, 15. 1. 1977, p. 15.

(a) in the case of fixed-term-contracts, where their term is 12 months or less, the estimated total value for the contract's duration, or, where their term exceeds 12 months, the contract's total value including the estimated residual value;

(b) in the case of contracts for an indefinite period or in cases where there is doubt as to the duration of the contracts, the anticipated total instalments to be paid in the first four years.

3. Where a proposed supply contract expressly specifies option clauses, the basis for calculating the contract value shall be the highest possible total purchase, lease, rental or hire-purchase permissible, inclusive of the option clauses.

4. In the case of a procurement of supplies over a given period by means of a series of contracts to be awarded to one or more suppliers or of contracts which are to be renewed, the contract value shall be calculated on the basis of:

(a) the total value of contracts which had similar characteristics awarded over the previous fiscal year or 12 months, adjusted where possible for anticipated changes in quantity or value over the subsequent 12 months;

(b) or the aggregate value of contracts to be awarded during the 12 months following the first award or during the whole term of the contract, where this is longer than 12 months.

5. The basis for calculating the value of a framework agreement shall be the estimated maximum value of all the contracts envisaged for the period in question.

6. The basis for calculating the value of a works contract for the purposes of paragraph 1 shall be the total value of the work. 'Work' shall mean the building and engineering activities taken as a whole that are intended to fulfil an economic function by themselves.

In particular, where a supply or work is the subject of several lots, the value of each lot shall be taken into account when assessing the value referred to in paragraph 1. Where the aggregate value of the lots equals or exceeds the value laid down in paragraph 1, that paragraph shall apply to all the lots. However, in the case of works contracts, contracting entities may derogate from paragraph 1 in respect of lots whose estimated value net of VAT is less than ECU 1 million, provided that the aggregate value of those lots does not exceed 20 % of the overall value of the lots.

7. For the purposes of paragraph 1, contracting entities shall include in the estimated value of a works contract the value of any supplies or services necessary for the execution of the contract which they make available to the contractor.

8. The value of supplies which are not necessary for the execution of a particular works contract may not be added to that of the contract with the result of avoiding application of this Directive to the procurement of those supplies.

9. Contracting entities may not circumvent this Directive by splitting contracts or using special methods of calculating the value of contracts.

TITLE II

Technical specifications and standards

Article 13

1. Contracting entities shall include the technical specifications in the general documents or the contract documents relating to each contract.

2. The technical specifications shall be defined by reference to European specifications where these exist.

3. In the absence of European specifications, the technical specifications should as far as possible be defined by reference to other standards having currency within the Community.

4. Contracting entities shall define such further requirements as are necessary to complement European specifications or other standards. In doing so, they shall prefer specifications that indicate performance requirements rather than design or description characteristics unless the contracting entity has objective reasons for considering that such specifications are inadequate for the purposes of the contract.

5. Technical specifications which mention goods of a specific make or source or of a particular process, and which have the effect of favouring or eliminating certain undertakings, shall not be used unless such specifications are indispensable for the subject of the contract. In particular, the indication of trade marks, patents, types, or specific origin or production shall be prohibited; however, such an indication accompanied by the words 'or equivalent' shall be authorized where the subject of the contract cannot otherwise be described by specifications

which are sufficiently precise and fully intelligible to all concerned.

6. Contracting entities may derogate from paragraph 2 if:

- (a) it is technically impossible to establish satisfactorily that a product conforms to the European specifications;
- (b) the application of paragraph 2 would prejudice the application of Council Directive 86/361/EEC of 24 July 1986 on the initial stage of the mutual recognition of type approval for telecommunications terminal equipment⁽¹⁾, or of Council Decision 87/95/EEC of 22 December 1986 on standardization in the field of information technology and telecommunications⁽²⁾;
- (c) in the context of adapting existing practice to take account of European specifications, use of these specifications would oblige the contracting entity to acquire supplies incompatible with equipment already in use or would entail disproportionate cost or disproportionate technical difficulty. Contracting entities which have recourse to this derogation shall do so only as part of a clearly defined and recorded strategy with a view to a change-over to European specifications;
- (d) the relevant European specification is inappropriate for the particular application or does not take account of technical developments which have come about since its adoption. Contracting entities which have recourse to this derogation shall inform the appropriate standardizing organization, or any other body empowered to review the European specification, of the reasons why they consider the European specification to be inappropriate and shall request its revision;
- (e) the project is of a genuinely innovative nature for which use of European specifications would not be appropriate.

7. Notices published pursuant to Article 16 (1) (a) shall indicate any recourse to the derogations referred to in paragraph 6.

8. This Article shall be without prejudice to compulsory technical rules insofar as these are compatible with Community law.

Article 14

1. Contracting entities shall make available on demand to suppliers or contractors interested in obtaining a contract

the technical specifications regularly referred to in their supply or works contracts or the technical specifications which they intend to apply to contracts covered by periodic information notices within the meaning of Article 17.

2. Where such technical specifications are based on documents available to interested suppliers or contractors, a reference to those documents shall be sufficient.

TITLE III

Procedures for the award of contracts

Article 15

1. Contracting entities may choose any of the procedures described in Article 1 (6), provided, subject to paragraph 2, a call for competition has been made in accordance with Article 16.

2. Contracting entities may use a procedure without prior call for competition in the following cases:

- (a) in the absence of tenders or suitable tenders in response to a procedure with a prior call for competition, provided that the original contract conditions have not been substantially changed;
- (b) where a contract is purely for the purpose of research, experiment, study or development and not for the purpose of ensuring profit or of recovering research and development costs;
- (c) when, for technical or artistic reasons, or for reasons connected with protection of exclusive rights, the contract may be executed only by a particular supplier or contractor;
- (d) insofar as is strictly necessary when, for reasons of extreme urgency brought about by events unforeseeable by the contracting entities, the time limits laid down for open and restricted procedures cannot be adhered to;
- (e) in the case of supply contracts for additional deliveries by the original supplier which are intended either as a partial replacement of normal supplies or installations or as the extension of existing supplies or installations, where a change of supplier would oblige the contracting entity to acquire material having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance;

⁽¹⁾ OJ No L 217, 5. 8. 1986, p. 21.

⁽²⁾ OJ No L 36, 7. 2. 1987, p. 31.

- (f) for additional works not included in the project initially awarded or in the contract first concluded but which have, through unforeseen circumstances, become necessary for the execution of the contract, on condition that the award is made to the contractor executing the original contract:
- when such additional works cannot be technically or economically separated from the main contract without great inconvenience to the contracting entities,
 - or when such additional works, although separable from the execution of the original contract, are strictly necessary to its later stages;
- (g) in the case of works contracts, for new works consisting of the repetition of similar works entrusted to the contractor to which the same contracting entities awarded an earlier contract, provided that such works conform to a basic project for which a first contract was awarded after a call for competition. As soon as the first project is put up for tender, notice must be given that this procedure might be adopted and the total estimated cost of subsequent works shall be taken into consideration by the contracting entities when they apply the provisions of Article 12;
- (h) for supplies quoted and purchased on a commodity market;
- (i) for contracts to be awarded on the basis of a framework agreement, provided that the condition referred to in Article 5 (2) is fulfilled;
- (j) for bargain purchases, where it is possible to procure supplies taking advantage of a particularly advantageous opportunity available for a very short space of time at a price considerably lower than normal market prices;
- (k) for purchases of goods under particularly advantageous conditions either from a supplier definitively winding up his business activities or from the receivers or liquidators of a bankruptcy, an arrangement with creditors or a similar procedure under national laws or regulations.

Article 16

1. A call for competition may be made:
 - (a) by means of a notice drawn up in accordance with Annex XII A, B or C; or
 - (b) by means of a periodic indicative notice drawn up in accordance with Annex XIV; or
 - (c) by means of a notice on the existence of a qualification system drawn up in accordance with Annex XIII.

2. When a call for competition is made by means of a periodic indicative notice:

- (a) the notice must refer specifically to the supplies or works which will be the subject of the contract to be awarded;
- (b) the notice must indicate that the contract will be awarded by restricted or negotiated procedure without further publication of a notice of a call for competition and invite interested undertakings to express their interest in writing;
- (c) contracting entities shall subsequently invite all candidates to confirm their interest on the basis of detailed information on the contract concerned before beginning the selection of tenderers or participants in negotiations.

3. When a call for competition is made by means of a notice on the existence of a qualification system, tenderers in a restricted procedure or participants in a negotiated procedure shall be selected from the qualified candidates in accordance with such a system.

4. The notices referred to in this Article shall be published in the *Official Journal of the European Communities*.

Article 17

1. Contracting entities shall make known, at least once a year, by means of a periodic indicative notice:

- (a) in the case of supply contracts, the total of the contracts for each product area of which the estimated value, taking into account the provisions of Article 12, is equal to or greater than ECU 750 000, and which they intend to award over the following 12 months;
- (b) in the case of works contracts, the essential characteristics of the works contracts which the contracting entities intend to award, the estimated value of which is not less than the threshold laid down in Article 12 (1).

2. The notice shall be drawn up in accordance with Annex XIV and published in the *Official Journal of the European Communities*.

3. Where the notice is used as a means of calling for competition in accordance with Article 16 (1) (b), it must have been published not more than 12 months prior to the date on which the invitation referred to in Article 16 (2) (c) is sent. Moreover, the contracting entity shall meet the deadlines laid down in Article 20 (2).

4. Contracting entities may, in particular, publish periodic indicative notices relating to major projects without repeating information previously included in a periodic indicative notice, provided it is clearly stated that such notices are additional notices.

Article 18

1. Contracting entities which have awarded a contract shall communicate to the Commission, within two months of the award of the contract and under conditions to be laid down by the Commission in accordance with the procedure laid down in Article 32, the results of the awarding procedure by means of a notice drawn up in accordance with Annex XV.

2. Information provided under Section I of Annex XV shall be published in the *Official Journal of the European Communities*. In this connection the Commission shall respect any sensitive commercial aspects the contracting entities may point out when forwarding this information in connection with points 6 and 9 of Annex XV.

3. Information provided under Section II of Annex XV must not be published except, in aggregated form, for statistical purposes.

Article 19

1. The contracting entities must be able to supply proof of the date of dispatch of the notices referred to in Articles 15 to 18.

2. The notices shall be published in full in their original language in the *Official Journal of the European Communities* and in the TED data bank. A summary of the important elements of each notice shall be published in the other official languages of the Community, the original text alone being authentic.

3. The Office for Official Publications of the European Communities shall publish the notices not later than 12 days after their dispatch. In exceptional cases it shall endeavour to publish the notice referred to in Article 16 (1) (a) within five days in response to a request by the contracting entity and provided the notice has been sent to the Office by electronic mail, telex or telefax. Each edition of the *Official Journal of the European Communities* which contains one or more notices shall reproduce the model notice or notices on which the published notice or notices are based.

4. The cost of publication of the notices in the *Official Journal of the European Communities* shall be borne by the Communities.

5. Contracts in respect of which a notice is published in the *Official Journal of the European Communities* pursuant to Article 16 (1) shall not be published in any other way before that notice has been dispatched to the

Office for Official Publications of the European Communities. Such publication shall not contain information other than that published in the *Official Journal of the European Communities*.

Article 20

1. In open procedures the time limit for the receipt of tenders shall be fixed by contracting entities at not less than 52 days from the date of dispatch of the notice. This time limit may be shortened to 36 days where contracting entities have published a notice in accordance with Article 17 (1).

2. In restricted procedures and in negotiated procedures with a prior call for competition, the following arrangements shall apply:

- (a) the time limit for receipt of requests to participate, in response to a notice published in accordance with Article 16 (1) (a) or in response to an invitation from a contracting entity in accordance with Article 16 (2) (c), shall, as a general rule, be at least five weeks from the date of dispatch of the notice and shall in any case not be less than the time limit for publication laid down in Article 19 (3) plus 10 days;
- (b) the time limit for receipt of tenders may be fixed by mutual agreement between the contracting entity and the selected candidates, provided that all tenderers are given equal time to prepare and submit tenders;
- (c) where it is not possible to reach agreement on the time limit for the receipt of tenders, the contracting entity shall fix a time limit which shall, as a general rule, be at least three weeks and shall in any case not be less than 10 days from the date of the invitation to tender; the time allowed shall be sufficiently long to take account in particular of the factors mentioned in Article 22 (3).

Article 21

In the contract documents, the contracting entity may ask the tenderer to indicate in his tender any share of the contract he may intend to subcontract to third parties.

This indication shall be without prejudice to the question of the principal contractor's responsibility.

Article 22

1. Provided they have been requested in good time, the contract documents and supporting documents must be sent to the suppliers or contractors by the contracting entities as a general rule within six days of receipt of the application.

2. Provided it has been requested in good time, additional information relating to the contract documents shall be supplied by the contracting entities not later than six days before the final date fixed for receipt of tenders.

3. Where tenders require the examination of voluminous documentation such as lengthy technical specifications, a visit to the site or an on-the-spot inspection of the documents supporting the contract documents, this shall be taken into account in fixing the appropriate time limits.

4. Contracting entities shall invite the selected candidates simultaneously and in writing. The letter of invitation shall be accompanied by the contract documents and supporting documents. It shall include at least the following information:

- (a) the address from which any additional documents can be requested, the final date for such requests and the amount and methods of payment of any sum to be paid for such documents;
- (b) the final date for receipt of tenders, the address to which they must be sent and the language or languages in which they must be drawn up;
- (c) a reference to any tender notice published;
- (d) an indication of any document to be annexed;
- (e) the criteria for the award of the contract if these are not given in the notice;
- (f) any other special condition for participation in the contract.

5. Requests for participation in contracts and invitations to tender must be made by the most rapid means of communication possible. When requests to participate are made by telegram, telex, telefax, telephone or any electronic means, they must be confirmed by letter dispatched before the expiry of the time limit referred to in Article 20 (1) or of the time limit set by contracting entities pursuant to Article 20 (2).

Article 23

1. The contracting entity may state in the contract documents, or be obliged by a Member State so to do, the authority or authorities from which a tenderer may obtain the appropriate information on the obligations relating to the employment protection provisions and the working conditions which are in force in the Member State, region or locality in which the works are to be executed and which shall be applicable to the works carried out on site during the performance of the contract.

2. A contracting entity which supplies the information referred to in paragraph 1 shall request the tenderers or those participating in the contract procedure to indicate that they have taken account, when drawing up their tender, of the obligations relating to employment protection provisions and the working conditions which are in force in the place where the work is to be carried out. This shall be without prejudice to the application of the provisions of Article 27 (5) concerning the examination of abnormally low tenders.

TITLE IV

Qualification, selection and award

Article 24

1. Contracting entities which so wish may establish and operate a system of qualification of suppliers or contractors.

2. The system, which may involve different qualification stages, shall operate on the basis of objective rules and criteria to be established by the contracting entity. The contracting entity shall use European standards as a reference where they are appropriate. The rules and criteria may be updated as required.

3. The rules and criteria for qualification shall be made available on request to interested suppliers or contractors. The updating of these criteria and rules shall be communicated to the interested suppliers and contractors. Where a contracting entity considers that the qualification or certification system of certain third entities or bodies meet its requirements, it shall communicate to interested suppliers and contractors the names of such third entities or bodies.

4. Contracting entities shall inform applicants of their decision as to qualification within a reasonable period. If the decision will take longer than six months from the presentation of an application, the contracting entity shall inform the applicant, within two months of the application, of the reasons justifying a longer period and of the date by which its application will be accepted or refused.

5. In reaching their decision as to qualification or when the criteria and rules are being updated, contracting entities may not:

- impose conditions of an administrative, technical or financial nature on some suppliers or contractors that are not imposed on others,
- require tests or proof that duplicate objective evidence already available.

6. Applicants whose qualification is refused shall be informed of this decision and the reasons for refusal. The reasons must be based on the criteria for qualification referred to in paragraph 2.

7. A written record of qualified suppliers or contractors shall be kept, and it may be divided into categories according to the type of contract for which the qualification is valid.

8. Contracting entities may bring the qualification of a supplier or contractor to an end only for reasons based on the criteria referred to in paragraph 2. The intention to bring qualification to an end must be notified in writing to the supplier or contractor beforehand, together with the reason or reasons justifying the proposed action.

9. The qualification system shall be the subject of a notice drawn up in accordance with Annex XIII and published in the *Official Journal of the European Communities*, indicating the purpose of the qualification system and the availability of the rules concerning its operation. Where the system is of a duration greater than three years, the notice shall be published annually. Where the system is of a shorter duration, an initial notice shall suffice.

Article 25

1. Contracting entities which select candidates to tender in restricted procedures or to participate in negotiated procedures shall do so according to objective criteria and rules which they lay down and which they shall make available to interested suppliers or contractors.

2. The criteria used may include the criteria for exclusion specified in Article 23 of Directive 71/305/EEC and in Article 20 of Directive 77/62/EEC.

3. The criteria may be based on the objective need of the contracting entity to reduce the number of candidates to a level which is justified by the need to balance the particular characteristics of the contract award procedure and the resources required to complete it. The number of candidates selected must, however, take account of the need to ensure adequate competition.

Article 26

Groupings of suppliers or contractors shall be permitted to tender or negotiate. The conversion of such groupings into a specific legal form shall not be required in order to submit a tender or to negotiate, but the grouping selected may be required so to convert itself once it has been awarded the contract where such conversion is necessary for the proper performance of the contract.

Article 27

1. The criteria on which the contracting entities shall base the award of contracts shall be:

(a) the most economically advantageous tender, involving various criteria depending on the contract in question, such as: delivery or completion date, running costs, cost-effectiveness, quality, aesthetic and functional characteristics, technical merit, after-sales service and technical assistance, commitments with regard to spare parts, security of supplies and price; or

(b) the lowest price only.

2. In the case referred to in paragraph 1 (a), contracting entities shall state in the contract documents or in the tender notice all the criteria they intend to apply to the award, where possible in descending order of importance.

3. Where the criterion for the award of the contract is that of the most economically advantageous tender, contracting entities may take account of variants which are submitted by a tenderer and meet the minimum specifications required by the contracting entities. Contracting entities shall state in the contract documents the minimum specifications to be respected by the variants and any specific requirements for their presentation. Where variants are not permitted, they shall so indicate in the contract documents.

4. Contracting entities may not reject the presentation of a variant on the sole ground that it was drawn up on the basis of technical specifications defined with reference to European specifications or to national technical specifications recognized as complying with the essential requirements within the meaning of Directive 89/106/EEC.

5. If, for a given contract, tenders appear abnormally low in relation to the services, the contracting entity shall, before it may reject those tenders, request in writing details of the constituent elements of the tender which it considers relevant and shall verify those constituent elements taking account of the explanations received. It may set a reasonable period within which to reply.

The contracting entity may take into consideration explanations which are justified on objective grounds relating to the economy of the construction or production method, or the technical solutions chosen, or the exceptionally favourable conditions available to the tenderer for the execution of the contract, or the originality of the product or the work proposed by the tenderer.

Contracting entities may reject tenders which are abnormally low owing to the receipt of State aid only if they have consulted the tenderer and if the tenderer has not been able to show that the aid in question has been notified

to the Commission pursuant to Article 93 (3) of the Treaty or has received the Commission's approval. Contracting entities which reject a tender under these circumstances shall inform the Commission thereof.

Article 28

1. Article 27 (1) shall not apply where a Member State bases the award of contracts on other criteria within the framework of rules in force at the time of adoption of this Directive whose aim is to give preference to certain tenderers provided the rules invoked are compatible with the Treaty.

2. Without prejudice to paragraph 1, this Directive shall not prevent, until 31 December 1992, the application of national provisions in force on the award of supply or works contracts which have as their objective the reduction of regional disparities and the promotion of job creation in disadvantaged regions or those suffering from industrial decline, provided that the provisions concerned are compatible with the Treaty and with the Community's international obligations.

Article 29

1. This Article shall apply to tenders comprising products originating in third countries with which the Community has not concluded, multilaterally or bilaterally, an agreement ensuring comparable and effective access for Community undertakings to the markets of those third countries. It shall be without prejudice to the obligations of the Community or its Member States in respect of third countries.

2. Any tender made for the award of a supply contract may be rejected where the proportion of the products originating in third countries, as determined in accordance with Council Regulation (EEC) No 802/68 of 27 June 1968 on the common definition of the concept of the origin of goods⁽¹⁾, as last amended by Regulation (EEC) No 3860/87⁽²⁾, exceeds 50 % of the total value of the products constituting the tender. For the purposes of this Article, software used in the equipment of telecommunication networks shall be considered as products.

3. Subject to paragraph 4, where two or more tenders are equivalent in the light of the award criteria defined in Article 27, preference shall be given to the tenders which may not be rejected pursuant to paragraph 2. The prices of tenders shall be considered equivalent for the purposes of this Article, if the price difference does not exceed 3 %.

4. However, a tender shall not be preferred to another pursuant to paragraph 3 where its acceptance would oblige the contracting entity to acquire material having technical characteristics different from those of existing material, resulting in incompatibility or technical difficulties in operation and maintenance or disproportionate costs.

5. For the purposes, in this Article, of determining the proportion referred to in paragraph 2 of products originating in third countries, those third countries to which the benefit of the provisions of this Directive has been extended by a Council Decision in accordance with paragraph 1 shall not be taken into account.

6. The Commission shall submit an annual report to the Council (for the first time in the second half of 1991) on progress made in multilateral or bilateral negotiations regarding access for Community undertakings to the markets of third countries in the fields covered by this Directive, on any result which such negotiations may have achieved, and on the implementation in practice of all the agreements which have been concluded.

The Council, acting by a qualified majority on a proposal from the Commission, may amend the provisions of this Article in the light of such developments.

TITLE V

Final provisions

Article 30

1. The value in national currencies of the thresholds specified in Article 12 shall in principle be revised every two years with effect from the date provided for in Directive 77/62/EEC as far as the thresholds for supply and software service contracts are concerned and from the date provided for in Directive 71/305/EEC as far as the threshold for works contracts are concerned. The calculation of such value shall be based on the average daily values of those currencies expressed in ecus over the 24 months terminating on the last day of October preceding the revision with effect from 1 January. The values shall be published in the *Official Journal of the European Communities* at the beginning of November.

2. The method of calculation laid down in paragraph 1 shall be examined pursuant to the provisions of Directive 77/62/EEC.

Article 31

1. The Commission shall be assisted, as regards procurement by the contracting entities exercising an activity defined in Article 2(2)(d), by a Committee of

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 1.

⁽²⁾ OJ No L 363, 23. 12. 1987, p. 30.

an advisory nature which shall be the Advisory Committee on Telecommunications Procurement. The Committee shall be composed of representatives of the Member States and chaired by a representative of the Commission.

2. The Commission shall consult this Committee on:

- (a) amendments to Annex X;
- (b) revision of the currency values of the thresholds;
- (c) the rules concerning contracts awarded under international agreements;
- (d) the review of the application of this Directive;
- (e) the procedures described in Article 32 (2) relating to notices and statistical accounts.

Article 32

1. Annexes I to X shall be revised in accordance with the procedure laid down in paragraphs 3 to 7 with a view to ensuring that they fulfil the criteria of Article 2.

2. The conditions for the presentation, dispatch, reception, translation, keeping and distribution of the notices referred to in Articles 16, 17 and 18 and of the statistical reports provided for in Article 34 shall be established, for the purposes of simplification, in accordance with the procedure laid down in paragraphs 3 to 7.

3. The revised Annexes and the conditions referred to in paragraphs 1 and 2 shall be published in the *Official Journal of the European Communities*.

4. The Commission shall be assisted by the Advisory Committee for Public Contracts and, in the case of the revision of Annex X, by the Advisory Committee on Telecommunications Procurement provided for in Article 31 of this Directive.

5. The Commission representative shall submit to the Committee a draft of the decisions to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

6. The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask for its position to be recorded in the minutes.

7. The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

Article 33

1. Contracting entities shall keep appropriate information on each contract which shall be sufficient to permit them at a later date to justify decisions taken in connection with:

- (a) the qualification and selection of contractors or suppliers and award of contracts;
- (b) recourse to derogations from the use of European specifications in accordance with Article 13 (6);
- (c) use of procedures without prior call for competition in accordance with Article 15 (2);
- (d) non-application of Titles II, III and IV in accordance with the derogations provided for in Title I.

2. The information shall be kept for at least four years from the date of award of the contract so that the contracting entity will be able, during that period, to provide the necessary information to the Commission if it so requests.

Article 34

1. The Member States shall ensure that each year, in accordance with the arrangements to be laid down under the procedure provided for in Article 32 (3) to (7), the Commission receives a statistical report concerning the total value, broken down by Member State and each category of activity to which Annexes I to X refer, of the contracts awarded below the thresholds defined in Article 12 which would, if they were not below those thresholds, be covered by this Directive.

2. Arrangements shall be fixed in accordance with the procedure referred to in Article 32 to ensure that:

- (a) in the interests of administrative simplification, contracts of lesser value may be excluded, provided that the usefulness of the statistics is not jeopardized;
- (b) the confidential nature of the information provided is respected.

Article 35

1. Article 2 (2) of Directive 77/62/EEC is hereby replaced by the following:

2. This Directive shall not apply to:

- (a) contracts awarded in the fields referred to in Articles 2, 7, 8 and 9 of Council Directive 90/531/EEC of 17 September 1990 on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (*) or fulfilling the conditions in Article 6 (2) of the said Directive;

- (b) supplies which are declared secret or when their delivery must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force in the Member State concerned or when the protection of the basic interests of that State's security so requires.

(*) OJ No L 297, 29. 10. 1990, p. 1.

2. Article 3 (4) and (5) of Directive 71/305/EEC is hereby replaced by the following:

'4. This Directive shall not apply to contracts awarded in the fields referred to in Articles 2, 7, 8 and 9 of Council Directive 90/531/EEC of 17 September 1990 on the procurement procedures of entities operating in water, energy, transport and telecommunications sectors (*) or fulfilling the conditions in Article 6 (2) of the said Directive.

(*) OJ No L 297, 29. 10. 1990, p. 1.

Article 36

Not later than four years after the application of this Directive, the Commission, acting in close cooperation with the Advisory Committee for Public Contracts, shall review the manner in which this Directive has operated and its field of application and, if necessary, make further proposals to adapt it, in the light of developments concerning in particular progress in market opening and the level of competition. In the case of entities exercising an activity defined in Article 2 (2) (d), the Commission shall act in close cooperation with the Advisory Committee on Telecommunications Procurement.

Article 37

1. Member States shall adopt the measures necessary to comply with this Directive by 1 July 1992. They shall forthwith inform the Commission thereof.
2. Member States may stipulate that the measures referred to in paragraph 1 shall apply only from 1 January 1993.

Nevertheless, in the case of the Kingdom of Spain, 1 January 1993 shall be replaced by 1 January 1996. As regards the Hellenic Republic and the Portuguese Republic, 1 January 1993 shall be replaced by 1 January 1998.

3. Council recommendation 84/550/EEC of 12 November 1984 concerning the first phase of opening up access to public telecommunications contracts ⁽¹⁾ shall cease to have effect as from the date on which this Directive is applied by the Member States.

Article 38

Member States shall communicate to the Commission the text of the main provisions of national law, whether laws, regulations or administrative provisions, which they adopt in the field governed by this Directive.

Article 39

This Directive is addressed to the Member States.

Done at Brussels, 17 September 1990.

For the Council

The President

P. ROMITA

(1) OJ No L 298, 16. 11. 1984, p. 51.

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NOTE

Annex I - IX and XI not included.

ANNEX X

OPERATION OF TELECOMMUNICATIONS NETWORKS OR PROVISION OF TELECOMMUNICATIONS SERVICES

BELGIUM

Régie des télégraphes et des téléphones/Regie van Telegrafie en Telefonie.

DENMARK

Kjøbenhavns Telefon Aktieselskab.

Jydsk Telefon.

Fyns Telefon.

Statens Teletjeneste.

Tele Sønderjylland.

GERMANY

Deutsche Bundespost — Telekom.

Mannesmann — Mobilfunk GmbH.

GREECE

OTE/Hellenic Telecommunications Organization.

SPAIN

Compañía Telefónica Nacional de España.

FRANCE

Direction générale des télécommunications.

Transpac.

Telecom service mobile.

Société française de radiotéléphone.

IRELAND

Telecom Éireann.

ITALY

Amministrazione delle poste e delle telecomunicazioni.

Azienda di stato per i servizi telefonici.

Società italiana per l'esercizio telefonico SpA.

Italcable.

Telespazio SpA.

LUXEMBOURG

Administration des postes et télécommunications.

NETHERLANDS

Koninklijke PTT Nederland NV and subsidiaries (1).

(1) Except PTT Post BV.

PORTUGAL

Telefones de Lisboa e Porto, SA.

Companhia Portuguesa Rádio Marconi.

Correios e Telecomunicações de Portugal.

UNITED KINGDOM

British Telecommunications plc.

Mercury Communications Ltd.

City of Kingston upon Hull.

Racal Vodafone.

Telecoms Securicor Cellular Radio Ltd (Cellnet).

ANNEX XII

A. OPEN PROCEDURES

1. The name, address, telephone number, telegraphic address, telex and telecopier number of the contracting entity.
2. Nature of the contract (supply or works; where appropriate, state if it is a framework agreement).
3. (a) Place of delivery, or site.
(b) Nature and quantity of the goods to be supplied;
or
the nature and extent of the services to be provided and general nature of the work.
(c) Indication of whether the suppliers can tender for some and/or all of the goods required.
If, for works contracts, the work or the contract is subdivided into several lots, the order of size of the different lots and the possibility of tendering for one, for several or for all of the lots.
(d) Authorization to submit variants.
(e) For works contracts:
information concerning the purpose of the work or the contract where the latter also involves the drawing up of projects.
4. Derogation from the use of European specifications, in accordance with Article 13 (6).
5. Time limits for delivery or completion.
6. (a) Name and address of the service from which the contract documents and additional documents may be requested.
(b) Where appropriate, the amount and terms of payment of the sum to be paid to obtain such documents.
7. (a) The final date for receipt of tenders.
(b) The address to which they must be sent.
(c) The language or languages in which they must be drawn up.
8. (a) Where appropriate, the persons authorized to be present at the opening of tenders.
(b) The date, hour and place of such opening.
9. Where appropriate, any deposits and guarantees required.
10. Main terms concerning financing and payment and/or references to the provisions in which are contained.
11. Where appropriate, the legal form to be taken by the grouping of suppliers or contractors to whom the contract is awarded.
12. Minimum economic and technical conditions required of the supplier or contractor to whom the contract is awarded.
13. Period during which the tenderer is bound to keep open his tender.
14. The criteria for the award of the contract. Criteria other than that of the lowest price shall be mentioned where they do not appear in the contract documents.

-
15. Other information.
 16. Where appropriate, the reference to publication of the periodic information notice in the Official Journal to which the contract refers.
 17. Date of dispatch of the notice by the contacting entities.
 18. Date of receipt of the notice by the Office for Official Publications of the European Communities (to be supplied by the said Office).

B. RESTRICTED PROCEDURES

1. The name, address, telephone number, telegraphic address, telex and telecopier number of the contracting entity.
2. Nature of the contract (supply or works; where appropriate, state if it is a framework agreement).
3. (a) Place of delivery, or site.
(b) Nature and quantity of the goods to be supplied;
or
the nature and extent of the services to be provided and general nature of the work.
(c) Indication of whether the suppliers can tender for some and/or all of the goods required.
If, for works contracts, the work or the contract is subdivided into several lots, the order of size of the different lots and the possibility of tendering for one, for several or for all of the lots.
(d) Authorization to submit variants.
(e) For works contracts:
information concerning the purpose of the work or the contract where the latter also involves the drawing up of projects.
4. Derogation from the use of European specifications, in accordance with Article 13 (6).
5. Time limits for delivery or completion.
6. Where appropriate, the legal form to be taken by the grouping of suppliers or contractors to whom the contract is awarded.
7. (a) The final date for receipt of requests to participate.
(b) The address to which they must be sent.
(c) The language or languages in which they must be drawn up.
8. The final date for dispatch of invitations to tender.
9. Where appropriate, any deposits and guarantees required.
10. Main terms concerning financing and payment and/or references to the texts in which these are contained.
11. Information concerning the supplier's or contractor's position and minimum economic and technical conditions required of him.
12. The criteria for the award of the contract where they are not mentioned in the invitation to tender.
13. Other information.
14. Where appropriate, the reference to publication of the periodic information notice in the Official Journal to which the contract refers.
15. Date of dispatch of the notice by the contracting entities.
16. Date of receipt of the notice by the Office for Official Publications of the European Communities (to be supplied by the said Office).

C. NEGOTIATED PROCEDURES

1. The name, address, telephone number, telegraphic address, telex and telecopier number of the contracting entity.
2. Nature of the contract (supply or works; where appropriate, state if it is a framework agreement).
3. (a) Place of delivery, or site.
(b) Nature and quantity of the goods to be supplied;
or
the nature and extent of the services to be provided and general nature of the work.
(c) Indication of whether the suppliers can tender for some and/or all of the goods required.
If, for works contracts, the work or the contract is subdivided into several lots, the order of size of the different lots and the possibility of tendering for one, for several or for all of the lots.
(d) For works contracts:
information concerning the purpose of the work or the contract where the latter also involves the drawing up of projects.
4. Derogation from the use of European specifications, in accordance with Article 13 (6).
5. Time limit for delivery or completion.
6. Where appropriate, the legal form to be taken by the grouping of suppliers or contractors to whom the contract is awarded.
7. (a) The final date for receipt of tenders.
(b) The address to which they must be sent.
(c) The language or languages in which they must be drawn up.
8. Where appropriate, any deposits and guarantees required.
9. Main terms concerning financing and payment and/or references to the texts in which these are contained.
10. Information concerning the supplier's or contractor's position and minimum economic and technical conditions required of him.
11. Where appropriate, the names and addresses of suppliers or contractors already selected by the contracting entity.
12. Where applicable, date(s) of previous publications in the *Official Journal of the European Communities*.
13. Other information.
14. Where appropriate, the reference to publication of the periodic information notice in the Official Journal to which the contract refers.
15. Date of dispatch of the notice by the contracting entities.
16. Date of receipt of the notice by the Office for Official Publications of the European Communities (to be supplied by the said Office).

ANNEX XIII

NOTICE ON THE EXISTENCE OF A QUALIFICATION SYSTEM

1. Name, address, telephone number, telegraphic address, telex and telecopier number of the contracting entity.
2. Purpose of the qualification system.
3. Address where the rules concerning the qualification system can be obtained (if different from the address mentioned under 1.).
4. Where applicable, duration of the qualification system.

ANNEX XIV

PERIODIC INFORMATION NOTICE

A. *For supply contracts:*

1. Name, address, telephone number, telegraphic address, telex and telecopier number of the contracting entity or the service from which additional information may be obtained.
2. Nature and quantity or value of the services or products to be supplied.
3. (a) Estimated date of the commencement of the procedures of the award of the contract(s) (if known).
(b) Type of award procedure to be used.
4. Other information (for example, indicate if a call for competition will be published later).
5. Date of dispatch of the notice by the contracting entities.
6. Date of receipt of the notice by the Office for Official Publications of the European Communities (to be supplied by the said Office).

B. *For works contracts*

1. The name, address, telegraphic address, telephone, telex and telecopier number of the contracting entity.
2. (a) The site.
(b) The nature and extent of the services to be provided, the main characteristics of the work or of the lots by reference to the work.
(c) An estimate of the cost of the service to be provided.
3. (a) Type of award procedure to be used.
(b) The date scheduled for initiating the award procedures in respect of the contract or contracts.
(c) The date scheduled for the start of the work.
(d) Planned time table for completion of the work.
4. Terms of financing of the work and of price revision.
5. Other information (for example, indicate if a call for competition will be published later).
6. Date of dispatch of the notice by the contracting entities.
7. Date of receipt of the notice by the Office for Official Publications of the European Communities (to be supplied by the said Office).

ANNEX XV

NOTICE ON CONTRACTS AWARDED

I. INFORMATION FOR PUBLICATION IN THE *OFFICIAL JOURNAL OF THE EUROPEAN COMMUNITIES*

1. Name and address of the contracting entity.
2. Nature of the contract (supply or works; where appropriate, state if it is a framework agreement).
3. At least a summary indication of the nature of the products, works or services provided.
4. (a) Form of the call for competition (notice on the existence of a qualification procedure; periodic information notice; call for tenders).
(b) Reference of publication of the notice in the *Official Journal of the European Communities*.
(c) In the case of contracts awarded without a prior call for competition, indication of the relevant provision of Article 15 (2).
5. Award procedure (open, restricted or negotiated).
6. Number of tenders received.
7. Date of award of the contract.
8. Price paid for bargain purchases under Article 15 (2) (j).
9. Name and address of successful supplier(s) or contractor(s).
10. State, where appropriate, whether the contract has been, or may be, sub-contracted.
11. Optional information:
 - value and share of the contract which may be sub-contracted to third parties,
 - award criteria,
 - price paid (or range of prices).

II. INFORMATION NOT INTENDED FOR PUBLICATION

12. Number of contracts awarded (where an award has been split between more than one supplier).
13. Value of each contract awarded.
14. Country of origin of the product or service (EEC origin or non-Community origin; if the latter, broken down by third country).
15. Was recourse made to the exceptions to the use of European specifications provided for under Article 13 (6). If so, which?
16. Which award criteria was used (most economically advantageous; lowest price; criteria permitted under Article 28)?
17. Was the contract awarded to a bidder who submitted a variant, in accordance with Article 27 (3)?
18. Were any tenders excluded on the grounds that they were abnormally low, in accordance with Article 27 (5)?
19. Date of transmission of the notice by the contracting entities.

STATEMENT

concerning Article 15 of Directive 90/531/EEC

The Council and the Commission state that in open and restricted procedures all negotiation with candidates or tenderers on fundamental aspects of contracts, variations in which are likely to distort competition, and in particular on prices, shall be ruled out; however, discussions with candidates or tenderers may be held but only for the purpose of clarifying or supplementing the content of their tenders or the requirements of the contracting entities and provided this does not involve discrimination.



II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL RECOMMENDATION

of 9 October 1990

on the coordinated introduction of Pan-European land-based public radio paging in the Community

(90/543/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas, by Recommendation 84/549/EEC ⁽⁴⁾, the Council calls for the introduction of services on the basis of a common harmonized approach in the field of telecommunications;

Whereas the resources offered by modern telecommunications networks should be utilized to the full for the economic development of the Community;

Whereas paging services are a particularly efficient communications method for alerting and/or sending messages to people on the move;

Whereas the land-based public paging systems currently in use in the Community do not in general allow people on the move throughout the Community to reap the

benefits of European-wide paging services and European-wide markets;

Whereas the European Telecommunication Standards Institute (ETSI) has instructed the technical Committee (PS) to specify all system aspects of a more advanced public radio paging system code named European Radio Messaging System (ERMES);

Whereas the introduction of ERMES being specified by ETSI will provide a unique opportunity of establishing a truly pan-European paging service;

Whereas a coordinated policy for the introduction of a pan-European land-based public radio paging service will make it possible to establish a European market in mobile terminals (paging receivers) which will be capable of creating, by virtue of its size, service features and costs, the necessary development conditions to enable undertakings to maintain and improve their presence in world markets;

Whereas it is essential to ensure extensive use of frequency agile type receivers;

Whereas it is necessary to allow unrestricted access to radio paging services and free circulation of paging receivers throughout the Community;

Whereas in this context Community law and in particular the competition rules should be respected;

Whereas the implementation of Council Directive 86/361/EEC of 24 July 1986 on the initial stage of the mutual recognition of type approval for telecommunications terminal equipment ⁽⁵⁾ will make an important contribution towards this goal;

⁽¹⁾ OJ No C 43, 23. 2. 1990, p. 6.

⁽²⁾ OJ No C 15, 22. 1. 1990, p. 87.

⁽³⁾ OJ No C 298, 27. 11. 1989, p. 27.

⁽⁴⁾ OJ No L 298, 16. 11. 1984, p. 49.

⁽⁵⁾ OJ No L 217, 5. 8. 1986, p. 21.

Whereas consideration should be given to Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations⁽¹⁾ and to Council Decision 87/95/EEC of 22 December 1986 on standardization in the field of information technology and telecommunications⁽²⁾;

Whereas it is appropriate to make use of the potential of the Community's financial instruments in order to promote the development of the telecommunications infrastructure in the Community;

Whereas consideration should be given to Council Recommendation 87/371/EEC of 25 June 1987 on the coordinated introduction of public pan-European cellular digital land-based mobile communications in the Community⁽³⁾ which points out that special attention should be paid to the urgent requirement of certain users for pan-European land-based communications and that the Commission will in the future submit other proposals in the field of mobile communications, including radio paging systems;

Whereas the public telecommunications administrations, the recognized private operating agencies and other authorized agencies offering public mobile telecommunications services are hereinafter referred to as 'telecommunications administrations';

Whereas a favourable opinion has been delivered by the Senior Officials Group on Telecommunications (SOG-T), on the basis of the detailed report drawn up by the Analysis and Forecasting Group (GAP) which provides a strategic basis for the development of public mobile communications in the Community with a view to enabling European users on the move to communicate efficiently and economically;

Whereas favourable opinions on this report have been delivered by the telecommunications administrations, by the European Conference of Postal and Telecommunications Administrations (CEPT) and by telecommunications equipment manufacturers in the Member States;

Whereas the envisaged measures will allow the economic benefit and rapidly increasing market potential of public radio paging to be fully realized in the Community;

Whereas the Treaty does not provide, for the action concerned, powers other than those of Article 235,

⁽¹⁾ OJ No L 109, 26. 4. 1983, p. 8.

⁽²⁾ OJ No L 36, 7. 2. 1987, p. 31.

⁽³⁾ OJ No L 196, 17. 7. 1987, p. 81.

HEREBY RECOMMENDS:

1. that the telecommunications administrations implement with due respect for Community law the detailed recommendations as described in the Annex concerning the coordinated introduction of pan-European land-based public radio paging in the Community. For the purposes of this Recommendation, 'pan-European land-based public radio paging service' shall mean a public radio paging service based on a terrestrial infrastructure in the Member States in accordance with a common specification which allows persons wishing to do so to send and/or to receive alert and/or numeric or alphanumeric messages anywhere within the coverage of the service in the Community;
2. that the telecommunications administrations continue the cooperation within the CEPT and, with the collaboration of manufacturers and users, within ETSI, particularly concerning the objectives and time schedule set out in the Annex for the completion of the specifications and service implementation of the pan-European land-based public radio paging system;
3. that the telecommunications administrations plan for a gradual evolution from existing radio paging systems to the pan-European land-based public radio paging system so as to ensure a transition which meets the needs of users, telecommunications administrations and manufacturers;
4. that Member State Governments and telecommunications administrations complete the technical arrangements for the implementation of the means of call routing and processing, so that tone and/or numeric or alphanumeric messages can be sent from anywhere in the Community to a radio paging receiver anywhere in the geographical coverage of the Ermes service by 31 December 1992 at the latest;
5. that the Commission take appropriate initiatives, within the framework of application of existing Directives, to encourage the completion of the specifications and the implementation of the pan-European land-based public radio paging system, within the time schedule set out in the Annex;
6. that the Community's financial instruments take this Recommendation into account within the framework of their interventions, particularly as regards capital investments required for the implementation of the infrastructure for the pan-European land-based public radio paging system;
7. that the telecommunications administrations prepare and sign by July 1990 at the latest a memorandum of understanding on the implementation of pan-European land-based public radio paging;

8. that Member State Governments inform the Commission at the end of each year, from the end of 1990 onwards, of the measures taken and problems encountered in the course of implementing this Recommendation. The progress of work will be examined by the Commission and the Senior Officials Group on Telecommunications (SOG-T); that the European Parliament be regularly informed.

Done at Luxembourg, 9 October 1990.

For the Council

The President

P. ROMITA

ANNEX

ANALYSIS OF THE REQUIREMENTS FOR THE COORDINATED INTRODUCTION OF PAN-EUROPEAN LAND-BASED PUBLIC PAGING IN THE COMMUNITY

1. GENERAL REQUIREMENTS

The future pan-European public radio paging system should fulfil the following general requirements :

- be suitable for operation over the whole frequency band range 169,4 MHz to 169,8 MHz with 25 KHz radio channels;
- permit an increase in the number of paging users which can be supported per paging area per unit of spectrum and for the same grade of service compared to systems based on CCIR Radio Paging Code No 1 (Pocsag), assuming the same mix of tone, numeric and alphanumeric pagers;
- permit easy access via PSTN, PSS, Videotex terminals, telex and other forms of direct access such as via ISDN;
- permit simultaneous operation of two or more independent systems in the same geographic area and permit several independent systems in areas where several national boundaries meet.

Access facilities should be provided for a calling party to initiate a paging request from service areas anywhere in the Community in the most cost effective and easy manner.

2. CHOICE OF RADIO SUBSYSTEM

Considerable experience in designing, manufacturing and operating public radio paging systems already exists in Europe. Much of this experience derives from the successful development and exploitation of the European Pocsag paging code (now CCIR Radio Paging Code No 1) by manufacturers and telecommunications administrations. This accumulated experience and knowledge should speed the task of selecting a suitable radio subsystem for the pan-European paging system. On the basis of the work underway within ETSI, the system specification should be decided by June 1990. The radio subsystem specification covers the modulation method, channel coding, the radio system structure and the pager's radio identity code structure (RIC).

3. THE PAGING RECEIVER SPECIFICATION

The specification of the paging receiver will cover the radio-performance, services and facilities and physical characteristics. The receiver specification should be finalized by June 1990. However, the optimization and commencement of production of prototype paging receivers should begin if possible as soon as the decision is taken on the radio subsystem in September 1989. This will provide a lead time for the testing and production of equipment before the start of service in December 1992 at the latest. This early start to development should be ensured by the close cooperation of manufacturing industry in the system specification in particular with ETSI.

4. SYSTEM IMPLEMENTATION

Telecommunication administrations should be responsible for the implementation of the radio paging system in their countries. The largest proportion of traffic on each national system will be national traffic, but implementation should support full roaming. Furthermore, the system specification should allow flexibility to enable economic implementation both in areas of low traffic density and areas of very high traffic density. To enable the service to commence by 31 December 1992 at the latest, the system specification should be completed by June 1990.

The system specification should include system access, call routing and processing, numbering scheme, and specification of paging network controller.

5. SERVICES AND FACILITIES SPECIFIED AND SUPPORTED BY THE PAN-EUROPEAN RADIO PAGING SYSTEM

The services and facilities specification should be completely specified by December 1989, and should fall into two categories: minimum and additional.

Minimum services and facilities

Minimum services and facilities are those which should be available on each national system and hence the pan-European system as a whole.

Additional services and facilities

The additional services are those which should be provided in open competition allowing for the national conditions for implementing such services. The non-provision of an additional service or facility should not affect in any way the functioning of the pan-European service at a basic level. The provision of an additional service or facility on one national system should not increase the cost of the minimum service on that system, or require an increase in functionality or an increase in cost on any other national system.

6. TARIFF CONSIDERATIONS

The principles of charging for the European service should be established taking full account of the competition rules of the Treaty for the European service, of cross charging between national operators for the handling of roaming traffic and of network technicalities. Administrations should endeavour to ensure that the user cost of the future radio paging service is not higher than that of current services of the same type.

7. GEOGRAPHICAL SERVICE COVERAGE

Administrations should study priorities for service coverage in order to stimulate the maximum pan-European traffic demand at the earliest possible stage compatible with commercial strategies.

The pan-European public radio paging system should be introduced by 31 December 1992 at the latest. The objective is geographical coverage by the service offered in each Member State, which should progressively extend as follows :

- 31 December 1992 : start of service,
- January 1994 : at least 25 % of population,
- January 1995 : at least 50 % of population,
- January 1997 : at least 80 % of population.

8. SPECIAL REQUIREMENT

Consideration should be given to providing within the Ermes system the ability to have displayed, on the radio paging receiver, characters in all official Community languages, wherever possible.

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

(90/544/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas, by Recommendation 84/549/EEC ⁽⁴⁾, the Council calls for the introduction of services on the basis of a common harmonized approach in the field of telecommunications;

Whereas the resources offered by modern telecommunications networks should be utilized to the full for the economic development of the Community;

Whereas radio paging services depend on the allocation and availability of appropriate frequencies in order to transmit and receive between fixed-base stations and radio paging receivers respectively;

Whereas the frequencies and land-based public radio paging systems currently in use in the Community vary widely and do not allow all users on the move to reap the benefits of European-wide services and European-wide-markets;

Whereas the introduction of the more advanced radio paging system codenamed European Radio Messaging System (Ermes) being specified by the European Telecommunications Standards Institute (ETSI) will provide a unique opportunity of establishing a truly pan-European radio paging service;

Whereas the European Conference of Postal and Telecommunications Administrations (CEPT) has identified the unpaired frequency band 169,4-169,8 MHz as the most suitable band for public radio paging; whereas that choice is in accordance with the provisions of the International Telecommunications Union (ITU) Radio Regulations;

Whereas CEPT Recommendation T/R 25-07 on the coordination of frequencies for the European Radio Messaging

System has designated the European channels for the ERMES system;

Whereas parts of the frequency band are being used or are intended for use by certain Member States for other radio services;

Whereas the progressive availability of the requisite part of the frequency band set out above will be indispensable for the establishment of a truly pan-European radio paging service;

Whereas some flexibility will be needed in order to take account of different frequency requirements in different Member States; whereas it will be necessary to ensure that such flexibility does not slow down the expansion of a pan-European system;

Whereas coordination procedures will have to be established between neighbouring countries as required;

Whereas the implementation of Council Recommendation 90/543/EEC of 9 October 1990 on the coordinated introduction of pan-European land-based public radio paging in the Community ⁽⁵⁾ will ensure the start of a pan-European system by 31 December 1992 at the latest;

Whereas on the basis of present technological and market trends, it appears realistic to envisage the designation of the 169,4 — 169,8 MHz frequency band as the band from which frequencies are selected in accordance with commercial requirements for the implementation and expansion of a pan-European radio paging system;

Whereas Council Directive 86/361/EEC of 24 July 1986 on the initial stage of the mutual recognition of type approval for telecommunications terminal equipment ⁽⁶⁾ will allow the rapid establishment of common conformity specifications for the pan-European land-based public radio paging system;

Whereas the report on public mobile communication drawn up by the Analysis and Forecasting Group (GAP) for the Senior Officials Group for Telecommunications (SOG-T) strongly recommends that telecommunications administrations reach an agreement to use the same radio frequencies for radio paging;

Whereas favourable opinions on this report have been delivered by the telecommunications administrations, by CEPT and by telecommunications equipment manufacturers in the Member States;

⁽¹⁾ OJ No C 43, 23. 2. 1990, p. 6.

⁽²⁾ OJ No C 15, 22. 1. 1990, p. 84 and OJ NO C 231, 17. 9. 1990, p. 86.

⁽³⁾ OJ No C 298, 27. 11. 1989, p. 27.

⁽⁴⁾ OJ No L 298, 16. 11. 1984, p. 49.

⁽⁵⁾ See page 23 of this Official Journal.

⁽⁶⁾ OJ No L 217, 5. 8. 1986, p. 21.

Whereas radio paging is a particularly spectrum-efficient communications method for alerting and/or sending messages to users on the move,

HAS ADOPTED THIS DIRECTIVE :

Article 1

For the purposes of this Directive, 'pan-European land-based public radio paging service shall mean a public radio paging service based on a terrestrial infrastructure in the Member States in accordance with a common specification which allows persons wishing to do so to send and/or to receive alert and/or numeric or alphanumeric messages anywhere within the coverage of the service in the Community.

Article 2

1. Member States shall, in accordance with CEPT Recommendation T/R 25-07 designate in the 169,4 to 169,8 MHz waveband four channels which shall have priority and be protected, and preferably be :

- 169,6 MHz,
- 169,65 MHz,
- 169,7 MHz,
- 169,75 MHz,

for the pan-European land-based public radio paging service by 31 December 1992 at the latest.

2. Member States shall ensure that plans are prepared as quickly as possible to enable the pan-European public radio paging service to occupy the whole of the band 169,4 to 169,8 MHz according to commercial demand.

Article 3

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than 18 October 1991. They shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive.

Article 4

The Commission shall report to the Council on the implementation of this Directive not later than the end of 1996.

Article 5

This Directive is addressed to the Member States.

Done at Luxembourg, 9 October 1990.

For the Council

The President

P. ROMITA

COUNCIL RESOLUTION

of 14 December 1990

on the final stage of the coordinated introduction of pan-European land-based public digital mobile cellular communications in the Community (GSM)

(90/C 329/09)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Notes with satisfaction that substantial progress has been made on the basis of recommendation 87/371/EEC (*) and Directive 87/372/EEC (**) with the implementation of the pan-European digital mobile cellular GSM system;

It notes, however, that a number of issues will have to be tackled in order to make truly trans-European mobile services a reality and to develop the potential of the GSM system fully. Many of these issues are currently being addressed in the context of the work of the European Conference for Postal Administration and Telecommunications (CEPT), the European Telecommunications Standards Institute (ETSI) and in the context of the implementation of the GSM Memorandum of Understanding;

It also notes that Community action is required in a number of critical areas.

These areas are in particular:

- establishment of an interim scheme for the mutual recognition of approval of GSM terminals.

An examination should in particular be made of the possibilities and criteria for implementing the principles set out in the future Council Directive concerning the approximation of the laws of the Member States on telecommunications terminals equipment including the mutual recognition of conformity on a provisional basis for GSM terminals only as a special case, before the formal procedures provided for in this Directive concerning terminals in general are fully operational.

Given the central role of the European Telecommunications Standard on mobile stations of the pan-European digital cellular telecommunications system (NET 10) in this context, the Council urges the ETSI to commit itself to completing its discussions by a specific date,

- implementation of mutual recognition of licences for the operation of GSM terminals in all Member States.

The Council notes the work in the CEPT on this issue and urges the CEPT to complete it rapidly. The Council also calls upon the Member States to guarantee the free circulation and use of mobile stations throughout the Community, referring to the procedures being worked out within the CEPT,

- examination of the possibilities of rapid extension of the technological potential and progressive development of the use of higher frequency bands for new personal communications network systems, e.g. DCS 1800, in order to create new mass markets for mobile telecommunication, taking the World Administrative Radiocommunications Conference (WARC 92) into account,

- in the context of general relations between the Community and the countries of Central and Eastern Europe and their development, promotion of the use of the GSM system in those countries which aim — within the reconstruction of their economies — at rapidly building up their mobile systems,

- encouraging the setting up of appropriate tariff and accounting arrangements, concerning in particular the inter-operator agreements which are needed to support international operation and use of mobile terminals, in accordance with Community law,

- ensuring required measures concerning data protection in particular in the context of digital mobile telecommunications. It notes in this connection that it has received proposals from the Commission, which are currently being studied.

The Council supports the development in Europe of conditions which will encourage a vigorous mobile communications market throughout the Community, by

(*) OJ No L 196, 17. 7. 1987, p. 81.

(**) OJ No L 196, 17. 7. 1987, p. 85.

extending the benefits of mobile communications to peripheral areas of the Community using fully as necessary any relevant instrument for promoting such a development, such as the STAR programme.

The Council is pleased to note that the Commission intends to address the overall future development of mobile communications in a Green Paper to be published before the end of 1991.

List of standards reference

(90/C 327/12)

Pursuant to Article 5 (1) of Directive 90/387/EEC ⁽¹⁾ the Commission publishes a list of standards which constitutes a basis for harmonized access and/or service features in the context of open network provision.

Given the fact that many of these standards are not yet finally adopted ⁽²⁾, changes may occur. As a consequence these standards are now being published as an indicative list. Therefore this list may be amended by further publication in the *Official Journal of the European Communities* pursuant to Article 5 (4) of Directive 90/387/EEC.

1. Packet switched public data networks

| | | |
|-----------------|--------------|--|
| Direct access | X.25 service | T/TE 08-01 (*) T/TE 08-02 (*) T/TE 08-03 (*) ETS T/TE 04-06 (**) ENV 41104 (FS T/31) (***) |
| Indirect access | X.28 service | T/TE 08-02 (*) T/TE 08-03 (*) ENV 41901 (***) |
| Indirect access | X.32 service | T/TE 08-02 (*) T/TE 08-03 (*) ETS T/TD 08-06 (**) ENV 41105 (FS T/32) (***) |

2. Integrated services digital network

| | | |
|------------------------|--|---|
| User network interface | Basic rate access | ETS 300 012 (**) ETS [CA] (300 102-1) (**) ETS [CB] (300 102-2) (**) ETS [CC] (300 125) (**) ETR T/S 46-39 (****) |
| User network interface | Primary rate access | ETS 300 011 (**) ETS [CA] (300 102-1) (**) ETS [CB] (300 102-2) (**) ETS [CC] (300 125) (**) ETR T/S 46-39 (****) |
| User network interface | Attachment requirement for basic rate access | ETS T/E 04-08 (**) ETS T/E 04-22 (**) |
| User network interface | Attachment requirement for primary rate access | ETS T/SE 04-24 (**) |
| User network interface | Attachment requirement for terminal adaptor | ETS 300 077 (**) |

⁽¹⁾ Council Directive of 28 June 1990 of the establishment of the internal market for telecommunications services through the implementation of open network provision (OJ No L 192, 24. 7. 1990, pp. 1-40).

⁽²⁾ In order to refer to the precise status of each standard, the relevant standards body should be contacted. Where the three stage description process for ISDN services is used (ETSI ISM report ETR, 10. 8. 1990), stages 1, 2 and 3a are included.

| | | |
|---------------|--|--|
| ISDN services | Circuit mode 64 kbps unrestricted bearer service | ETS 300 108 (**) ETS T/S 23-01 (**) ETS T/S 46-39 (**) ETS [CA] (300 102-1) (**) ETS [CB] (300 102-2) (**) |
| ISDN services | Circuit mode speech bearer service | ETS 300 109 (**) ETS T/S 23-01 (**) ETS T/S 46-39 (**) ETS [CA] (300 102-1) (**) ETS [CB] (300 102-2) (**) ETS 300 083 (**) |
| ISDN services | Circuit mode 3.1 khz audio bearer service | ETS 300 110 (**) ETS T/S 23-01 (**) ETS [CA] (300 102-1) (**) ETS [CB] (300 102-2) (**) ETS T/S 46-39 (**) ETS 300 084 (**) |
| ISDN services | Calling line identification presentation | ETS 300 089 (**) ETS 300 091 (**) ETS 300 092 (**) |
| ISDN services | Calling line identification restriction | ETS 300 090 (**) ETS 300 091 (**) ETS 300 093 (**) |
| ISDN services | Direct dialling in | ETS 300 062 (**) ETS 300 063 (**) ETS 300 064 (**) |
| ISDN services | Multiple subscriber number | ETS 300 050 (**) ETS 300 051 (**) ETS 300 052 (**) |
| ISDN services | Terminal portability | ETS 300 053 (**) ETS 300 054 (**) ETS 300 055 (**) |
| ISDN services | Freephone | T/NA1(89)12 (**) T/S 22-13 (**) T/S 46-33P (**) |
| ISDN services | Association of supplementary services to bearer services | ETR T/NA1(89)33 (****) |
| ISDN services | Interaction between supplementary services | ETS T/S 46-33Z (**) |
| ISDN services | End-to-end protocol for 3,1 khz telephony | ETS 300 082 (**) |
| ISDN services | Terminal and network interworking | DTR/NA-2007 (****) DTR/NA-2006 (****) |
| ISDN services | Packet mode bearer service D channel | ETS 300 049 (**) ETS T/S 23-03 (**) ETS 300 007 (**) |

| | | |
|--|--|---|
| ISDN services | Packet mode bearer service B channel | ETS 300 048 (**) ETS T/S 23-03 (**) ETS 300 007 (**) |
| ISDN services | End-to-end-protocol for packet mode bearer service | ETS 300 007 (**) |
| ISDN services | Closed user group | ETS T/NA1(89)21 (**) ETS T/S 22-03 (**) ETS T/S 46-33H (**) |
| ISDN services | User to user signalling | ETS T/NA1(89)06 (**) ETS T/S 22-17 (**) ETS [CA] (section 7.1) (**) |
| Recommendations on 'Safety and protection' | | ETS 300 047-1 bis 5 (**) ETS 300 046-1 bis 5 (**) |
| Mechanical interface | | ENV 41001 (***) EN 28877 (****) |

(*) CEPT technical specification.

(**) Draft ETSI standard.

(***) CEN/CENELEC prestandard. In the case of ENV 41104 and ENV 41105 only the network aspects are relevant.

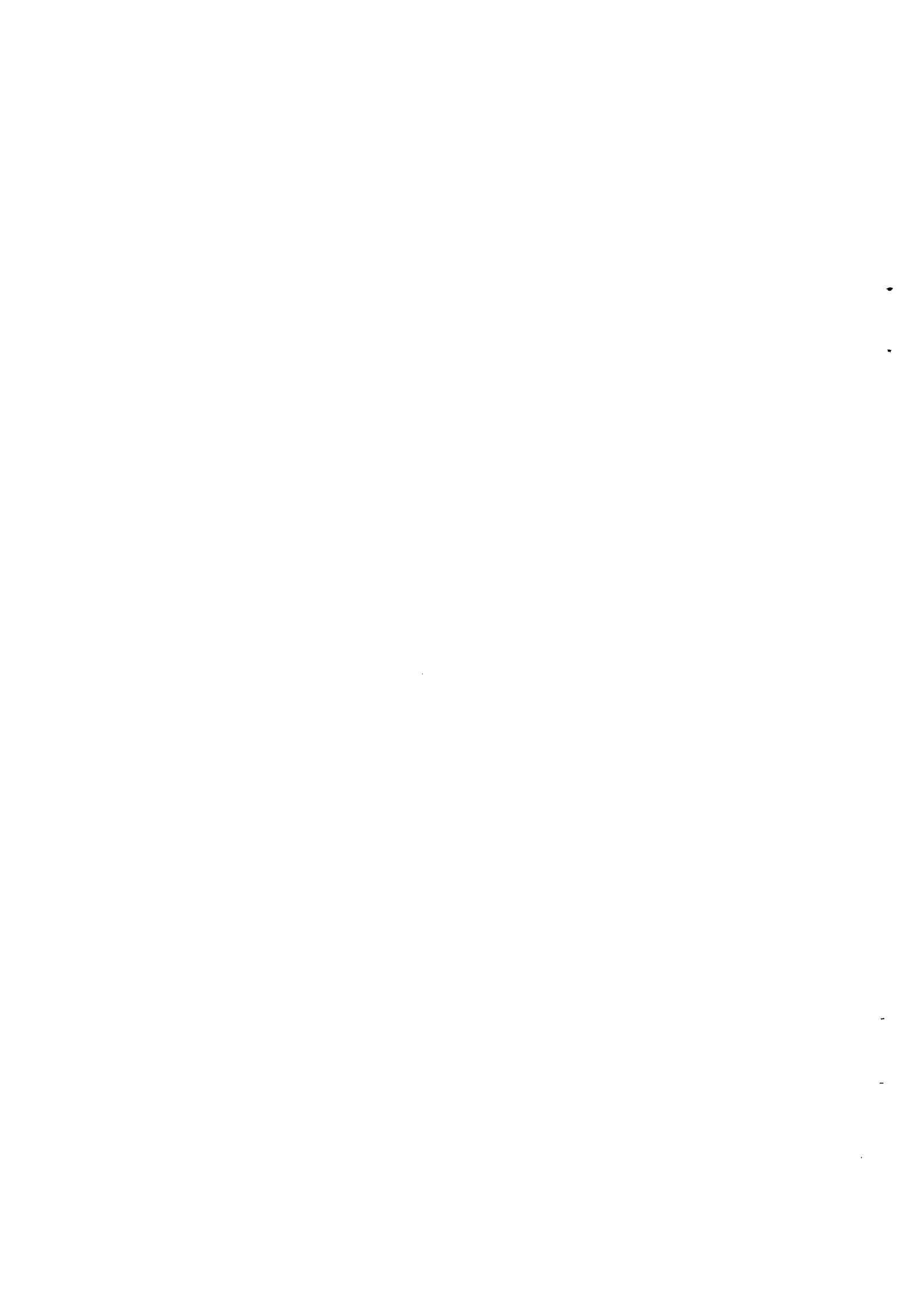
(****) ETSI report. These reports do not form part of a standard, however they contain relevant information.

(*****) CEN/CENELEC European Standard.

3. Note

Pursuant to Article 5 (2) of Directive 90/387/EEC compliance with these standards will carry the presumption of conformance with the requirements of open network provision as far as covered by these standards and notwithstanding other requirements resulting from Directives 90/387/EEC and 90/388/EEC.

In accordance with Directive 90/387/EEC this list may be supplemented by further standards in order to comply with new access requirements resulting from user demand and technological development.



II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 29 April 1991

on the approximation of the laws of the Member States concerning telecommunications terminal equipment, including the mutual recognition of their conformity

(91/263/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Directive 86/361/EEC ⁽⁴⁾ introduced the initial stage of the mutual recognition of type approval for telecommunications terminal equipment and in particular in its Article 9 envisaged a further stage for full mutual recognition of type approval for terminal equipment;

Whereas Decision 87/95/EEC ⁽⁵⁾ sets out the measures to be implemented for the promotion of standardization in

Europe and the preparation and implementation of standards in the field of information technology and telecommunications;

Whereas the Commission has issued a Green Paper on the development of the common market for telecommunications services and equipment proposing to accelerate the introduction of the full mutual recognition of type approval as the measure vital for the development of a competitive Community-wide terminal market;

Whereas the Council, in its resolution of 30 June 1988 on the development of the common market for telecommunications services and equipment up to 1992 ⁽⁶⁾, considers as a major goal in the telecommunications policy the full mutual recognition of type approval for terminal equipment on the basis of the rapid development of common European conformity specifications;

Whereas the terminal equipment sector is a vital part of the telecommunications industry, which is one of the industrial mainstays of the economy in the Community;

Whereas harmonizing conditions for the placing on the market of telecommunications terminal equipment will create the conditions for an open and unified market;

⁽¹⁾ OJ No C 211, 17. 8. 1989, p. 12.

⁽²⁾ OJ No C 113, 7. 5. 1990; and OJ No C 19, 28. 1. 1991, p. 88.

⁽³⁾ OJ No C 329, 30. 12. 1989, p. 1

⁽⁴⁾ OJ No L 217, 5. 8. 1986, p. 21.

⁽⁵⁾ OJ No L 36, 7. 2. 1987, p. 31.

⁽⁶⁾ OJ No C 257, 4. 10. 1988, p. 1.

Whereas real, comparable access to third country markets for European manufacturers should preferably be achieved through multilateral negotiations within GATT, although bilateral talks between the Community and third countries may also contribute to this process;

Whereas the Council resolution of 7 May 1985 provides for a new approach to technical harmonization and standards ⁽¹⁾;

Whereas the scope of the Directive must be based on a general definition of the term 'terminal equipment' so as to allow the technical development of products;

Whereas Community law in its present form provides — notwithstanding one of the fundamental rules of the Community, namely the free movement of goods — that obstacles to movement within the Community, resulting from disparities in national legislation relating to the marketing of products, must be accepted in so far as such requirements can be recognized as being necessary to satisfy imperative requirements; whereas, therefore, the harmonization of laws in this case must be limited only to those requirements necessary to satisfy the essential requirements relating to terminal equipment; whereas these requirements must replace the relevant national requirements because they are essential;

Whereas the essential requirements must be satisfied in order to safeguard the general interest; whereas these requirements must be applied with discernment to take account of the state of the art at the time of manufacture and economic requirements;

Whereas Council Directive 73/23/EEC of 19 February 1973 on the harmonization of the laws of the Member States relating to electrical equipment designed for use within certain voltage limits ⁽²⁾ and Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations ⁽³⁾, as amended by Directive 88/182/EEC ⁽⁴⁾, are applicable, *inter alia*, to the fields of telecommunications and information technology;

Whereas Council Directive 89/336/EEC of 3 May 1989 on the approximation of the laws of Member States

relating to electromagnetic compatibility ⁽⁵⁾ is applicable, *inter alia*, to the fields of telecommunications and information technology; whereas it is, however, appropriate to delete the provisions of Directive 89/336/EEC in so far as they refer to the definition of telecommunications terminal equipment and to the conformity assessment procedures to be applied for such equipment;

Whereas in respect of the essential requirements and in order to help manufacturers to prove conformity to those requirements, it is desirable to have standards harmonized at European level to safeguard the general interest in the design and manufacture of terminal equipment and in order to allow checks of conformity to those requirements; whereas these standards harmonized at European level are drawn up by private-law bodies and must retain their non-binding status; whereas for this purpose the European Committee for Standardization (CEN), the European Committee for Electrotechnical Standardization (Cenelec) and the European Telecommunications Standards Institute (ETSI), are the bodies recognized as competent to adopt harmonized standards; whereas, within the meaning of this Directive, a harmonized standard is a technical specification (European standard or harmonization document) adopted by one of these bodies, on the basis of a remit from the Commission in accordance with the provision of Directive 83/189/EEC, and in accordance with the general guidelines referred to above;

Whereas in respect of the essential requirements related to interworking with public telecommunications networks, and in cases where it is justified, through such networks, it is in general not possible to comply with such requirements other than by the application of unique technical solutions; whereas such solutions shall therefore be mandatory;

Whereas the proposals for common technical regulations are, as a general rule, drawn up on the basis of harmonized standards, and, in order to ensure an appropriate technical coordination on a broad European basis, of additional consultations, in particular with the Telecommunications Regulations Application Committee (TRAC) set up by members of the European Conference of Postal and Telecommunications Administrations (CEPT) in a memorandum of understanding signed in 1991;

Whereas it is essential to ensure that notified bodies are of a high standard throughout the Community and meet minimum criteria of competence, impartiality and financial and other independence from clients;

Whereas it is appropriate to set up a committee bringing together parties directly concerned with the implementation

⁽¹⁾ OJ No C 136, 4. 6. 1985, p. 1.

⁽²⁾ OJ No L 77, 26. 3. 1973, p. 29.

⁽³⁾ OJ No L 109, 26. 4. 1983, p. 8.

⁽⁴⁾ OJ No L 81, 26. 3. 1988, p. 75.

⁽⁵⁾ OJ No L 139, 23. 5. 1989, p. 19.

of this Directive, in particular the national bodies designated for certifying conformity, to assist the Commission in executing the tasks entrusted to it by this Directive; whereas representatives from the telecommunication organizations, users, consumers, manufacturers, service providers and the trade unions should have the right to be consulted;

Whereas the Member States' responsibility for safety, health and the other aspects covered by the essential requirements on their territory must be recognized in a safeguard clause providing for adequate Community protection procedures;

Whereas the addressees of any decision taken under this Directive must be informed of the reasons for such a decision and the means of appeal open to them;

Whereas measures must be adopted with the aim of progressively establishing the internal market over a period expiring on 31 December 1992; whereas the internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER 1

Scope, placing on the market and free circulation

Article 1

1. This Directive shall apply to terminal equipment.
2. For the purpose of this Directive:
 - 'public telecommunications network' means the public telecommunications infrastructure which permits the conveyance of signals between defined network termination points by wire, by microwave, by optical means or by other electromagnetic means,
 - 'terminal equipment' means equipment intended to be connected to the public telecommunications network, i.e.:
 - (a) to be connected directly to the termination of a public telecommunications network;
 - or
 - (b) to interwork with a public telecommunications network being connected directly or indirectly to the termination of a public telecommunications network

in order to send, process or receive information.

The system of connection may be wire, radio, optical or other electromagnetic system,

- 'technical specification' means a specification contained in a document which lays down the characteristics required of a product such as levels of quality, performance, safety or dimensions, including the requirements applicable to the product as regards terminology, symbols, testing and test methods, packaging, marking and labelling,
- 'standard' means a technical specification adopted by a recognized standards body for repeated or continuous application, compliance with which is not compulsory.

3. The intended purpose of the equipment, shall be declared by the manufacturer or supplier of the equipment. However, terminal equipment within the meaning of paragraph 2 which makes use of a system of communication employing the radio frequency spectrum is presumed to be intended for connection to the public telecommunications network.

Article 2

1. Notwithstanding Article 1, equipment which is capable of being connected to the public telecommunications network, but is not intended for such a purpose, shall be accompanied by a manufacturer's or supplier's declaration, the model of which is to be found in Annex VIII and by the operating manual. At the time of placing the equipment on the market for the first time, a copy of such documentation shall be transmitted to the notified body referred to in Article 10 (1) in the Member State where this first placing on the market takes place. In addition, such equipment shall be subject to the provisions of Article 11 (4).
2. The manufacturer or supplier shall be prepared to justify once, at the request of any notified body referred to in Article 10 (1), the intended purpose of such equipment on the basis of its relevant technical characteristics, its functions and indications of the market segment it is intended for.

Article 3

1. Member States shall take all appropriate measures to ensure that terminal equipment may be placed on the market and put into service only if it complies with the requirements laid down in this Directive when it is properly installed and maintained and used for its intended purpose.

2. Member States shall also take all appropriate measures to ensure that equipment referred to in Article 2 may be placed and allowed to remain on the market only if it complies with the requirements laid down by this Directive for this equipment and may not be connected to the public telecommunications network within the meaning of Article 1 (2).

3. Member States shall also take all appropriate measures to ensure that terminal equipment or equipment referred to in Article 2 is disconnected from the public telecommunications network if it is not used for its intended purpose. Member States may moreover take all appropriate measures, according to their national laws, to prevent connection to the public telecommunications network of terminal equipment that is not used in conformity with its intended purpose.

Article 4

Terminal equipment shall satisfy the following essential requirements:

- (a) user safety, in so far as this requirement is not covered by Directive 73/23/EEC;
- (b) safety of employees of public telecommunications networks operators, in so far as this requirement is not covered by Directive 73/23/EEC;
- (c) electromagnetic compatibility requirements in so far as they are specific to terminal equipment;
- (d) protection of the public telecommunications network from harm;
- (e) effective use of the radio frequency spectrum, where appropriate;
- (f) interworking of terminal equipment with public telecommunications network equipment for the purpose of establishing, modifying, charging for, holding and clearing real or virtual connection;
- (g) interworking of terminal equipment via the public telecommunications network, in justified cases.

The cases where terminal equipment supports:

- (i) reserved service according to Community law;

or

- (ii) a service which the Council has decided that there should be Community-wide availability,

are considered as justified cases and the requirements concerning this interworking are determined in accordance with the procedure provided for in Article 14.

In addition, after consultation of representatives of the bodies referred to in Article 13 (3) and taking due account of the result of these consultations, the Commission may propose that this essential requirement is recognized as being justified for other terminal equipment in accordance with the procedure provided for in Article 14.

Article 5

Member States shall not impede the placing on the market and the free circulation and use on their territory of terminal equipment which complies with the provisions of this Directive.

Article 6

1. Member States shall presume compliance with the essential requirements referred to in Article 4 (a) and (b) in respect of terminal equipment which is in conformity with the national standards implementing the relevant harmonized standards, the references of which have been published in the *Official Journal of the European Communities*. Member States shall publish the references of such national standards.

2. The Commission shall, in accordance with the procedure laid down in Article 14, adopt:

- as a first step, the measure identifying the type of terminal equipment for which a common technical regulation is required, as well as the associated scope statement for that regulation, with a view to its transmission to the relevant standardization bodies,
- as a second step, once they have been prepared by the relevant standardization bodies, the corresponding harmonized standards, or parts thereof, implementing the essential requirements referred to in Article 4 (c) to (g) which shall be transformed into common technical regulations, compliance with which shall be mandatory and the reference of which shall be published in the *Official Journal of the European Communities*.

Article 7

Where a Member State or the Commission considers that the harmonized standards referred to in Article 6 exceed or

do not entirely meet the essential requirements referred to in Article 4, the Commission or the Member State concerned shall bring the matter before the Committee referred to in Article 13, hereinafter referred to as 'the Committee', giving the reasons therefor. The Committee shall deliver an opinion as soon as possible.

In the light of the Committee's opinion and after consultation of the standing Committee set up by Directive 83/189/EEC, the Commission shall inform the Member States whether or not it is necessary to withdraw reference to those standards and any related technical regulations from the *Official Journal of the European Communities* and shall take the necessary steps to correct the shortcomings noted in the standards.

Article 8

1. Where a Member State finds that terminal equipment bearing the markings under the provision laid down in Chapter III does not comply with the relevant essential requirements when properly used in accordance with the purpose intended by the manufacturer, it shall take all appropriate measures to withdraw such products from the market or to prohibit or restrict their being placed on the market.

The Member State concerned shall immediately inform the Commission of any such measure indicating the reasons for its decision, and in particular whether non-compliance is due to:

- (a) incorrect application of the harmonized standards or common technical regulations referred to in Article 6;
- (b) shortcomings in the harmonized standards or common technical regulations referred to in Article 6 themselves.

2. The Commission shall enter into consultation with the parties concerned as soon as possible. Where, after such consultation, the Commission finds that any measure as referred to in paragraph 1 is justified it shall immediately so inform the Member State that took the action and the other Member States. Where the decision referred to in paragraph 1 is attributed to shortcomings in the harmonized standards or common technical regulations, the Commission, after consulting the parties concerned, shall bring the matter before the Committee within two months if the Member State which has taken the measure intends to maintain them, and shall initiate the procedure referred to in Article 7.

3. Where terminal equipment which does not comply with the relevant essential requirements bears the CE mark the competent Member State shall take appropriate action

against whomsoever has affixed the mark and shall inform the Commission and the other Member States thereof.

4. The Commission shall keep the Member State informed of the progress and outcome of this procedure

CHAPTER II

Conformity assessment

Article 9

1. According to the choice of the manufacturer or his authorized representative established within the Community, terminal equipment shall be subject to either the EC type-examination, as described in Annex I, or to the EC declaration of conformity, as described in Annex IV.

2. An EC type-examination as described in Annex I shall be accompanied by a declaration issued according to the EC declaration of conformity to type procedure as described in Annex II or Annex III.

3. The records and correspondence relating to the procedure referred to in this Article shall be in an official language of the Member State where the said procedure will be carried out, or in a language acceptable to the notified body involved

4. Article 10 (4) of Directive 89/336/EEC is hereby deleted.

Article 10

1. Member States shall notify to the Commission the bodies established in the Community and their identifying symbols, which they have designated for carrying out the certification, product checks, and associated surveillance tasks pertaining to the procedures referred to in Article 9. Member States shall apply the minimum criteria, set out in Annex V, for the designation of such bodies. Bodies that satisfy the criteria fixed by the relevant harmonized standards shall be presumed to satisfy the criteria set out in Annex V.

2. Member States shall inform the Commission of test laboratories established in the Community which they have designated for carrying out tests pertaining to the procedures referred to in Article 9. Notified bodies shall apply the criteria fixed by the appropriate parts of the

relevant harmonized standards for the designation of such laboratories.

3. The Commission shall publish the list of notified bodies and the list of test laboratories together with the tasks for which they have been designated in the *Official Journal of the European Communities* and shall ensure that this list is kept up to date.

4. A Member State has designated a notified body or a test laboratory under paragraph 1 or 2 shall annul the designation if the notified body or the test laboratory no longer meets the relevant criteria for designation. It shall immediately inform the other Member States and the Commission accordingly and withdraw the notification. Where a Member State or the Commission considers that a notified body or a test laboratory designated by a Member State does not meet the relevant criteria the matter shall be brought before the Committee referred to in Article 13, which shall give its opinion within three months; in the light of the Committee's opinion the Commission shall inform the Member State concerned of any changes needed if that notified body or test laboratory is to retain its recognized status.

5. In order to facilitate the determination of conformity of terminal equipment with technical regulations and standards, the notified bodies shall recognize documentation issued by third country relevant bodies, when agreements between the Community and the third country concerned have been concluded on the basis of a mutually satisfactory understanding.

6. The notified bodies referred to in Article 10 (1), when issuing an EC type-examination certificate as referred to in Annex I, followed by the appropriate document referred to in Annex II or III, or a decision on quality assurance assessment as referred to in Annex IV, issue at the same time an administrative approval for the connection of the concerned terminal equipment to the public telecommunications network.

CHAPTER III

CE mark of conformity and inscriptions

Article 11

1. The marking of terminal equipment complying with this Directive shall consist of the CE mark consisting of the symbol 'CE', followed by the identifying symbol of the notified body responsible and a symbol indicating that the

equipment is intended and is suitable to be connected to the public telecommunications network. The CE mark and these two symbols are shown in Annex VI.

2. The affixing of marks which are likely to be confused with the marks of conformity specified in Annex VI shall be prohibited.

3. Terminal equipment shall be identified by the manufacturer by means of type, batch and/or serial numbers and by the name of the manufacturer and/or supplier responsible for placing it on the market.

4. Equipment manufacturers or suppliers who place on the market equipment as referred to in Article 2 shall affix the symbol specified in Annex VII in such a way that it follows the CE mark and visually forms an integral part of the total marking.

Article 12

Where it is established that the marking referred to in Article 11 (1) has been affixed to terminal equipment which:

- does not conform to an approved type,
- conforms to an approved type which does not meet the essential requirements applicable to it,

or, where the manufacturer has failed to fulfil his obligations under the relevant EC declaration of conformity,

the notified body shall withdraw the EC type-examination certificate referred to in Annex I, the EC quality system approval decision referred to in Annex III or the EC quality system approval decision as referred to in Annex IV, notwithstanding any decisions taken under Article 8.

CHAPTER IV

Committee

Article 13

1. The Commission shall be assisted by a Committee of an advisory nature composed of the representatives of the Member States and chaired by the representative of the Commission. The Committee shall be called the Approvals Committee for Terminal Equipment (ACTE).

2. The representative of the Commission shall submit to the Committee a draft of the measure to be taken. The Committee shall deliver its opinion on the draft, within a

time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

3. The Commission will periodically consult the representative of the telecommunications organizations, the consumers, the manufacturers, the service providers and trade unions and will inform the Committee on the outcome of such consultations, with a view to taking due account of the outcome.

Article 14

1. Notwithstanding Article 13 (1) and (2), the following procedure shall apply for matters covered by Articles 4 (g) and 6 (2).

2. The representative of the Commission shall submit to the Committee established in Article 13 a draft of the measures to be taken as referred to in Articles 4 (g) and 6 (2). The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

4. If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measure to be taken. The Council shall act by qualified majority. If, within three months from the date of referral to it, the Council has not acted, the proposed measure shall be adopted by the Commission.

CHAPTER V

Final and transitional provisions

Article 15

The Commission shall draw up every second year a report on the implementation of this Directive, including progress on drawing up the relevant harmonized standards and on transforming them into technical regulations, as well as any problems that have arisen in the course of implementation. The report will also outline the activities of the Committee, and assess progress in achieving an open competitive market for terminal equipment at Community level consistent with the essential requirements referred to in Article 4.

Article 16

1. Directive 86/361/EEC is hereby repealed, with effect from 6 November 1992. References made to the repealed Directive shall be construed as being made to this Directive.

2. Notwithstanding paragraph 1 and Article 10 (2), Member States may designate as test laboratories such bodies which have been notified under Directive 86/361/EEC, without applying the criteria of Article 10 (2) for a period of 18 months after the effective date of repeal of Directive 86/361/EEC, it being understood that these laboratories will continue to observe the criteria for which they were notified.

3. Notwithstanding paragraph 1, any type approval granted by Member States in accordance with Directive 86/361/EEC may remain valid under the legislation of the Member States within the criteria of validity appropriate to the original approval.

4. Notwithstanding paragraph 1, measures adopted under Directive 86/361/EEC shall be submitted to the Committee under the procedure of Article 14 for possible transposition into common technical regulations.

Article 17

1. Member States shall take the measure necessary to comply with this Directive not later than 6 November 1992. They shall forthwith inform the Commission thereof.

When Member States adopt these measure, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

2. Member States shall inform the Commission of the main provisions of domestic law which they adopt in the field governed by this Directive.

Article 18

This Directive is addressed to the Member States.

Done at Luxembourg, 29 April 1991.

For the Council

The President

R. GOEBBELS

ANNEX I

EC TYPE-EXAMINATION

1. EC type-examination is that part of the procedure whereby a notified body ascertains and attests that a specimen, representative of the production envisaged, meets the provisions of the Directive that apply to it.
2. The application for the EC type-examination shall be lodged by the manufacturer or his authorized representative established within the Community with a notified body of his choice.

The application shall include:

- the name and address of the manufacturer and, if the application is lodged by the authorized representative, his name and address in addition,
- a written declaration that the same application has not been lodged with any other notified body,
- the technical documentation, as described in point 3.

The applicant shall place at the disposal of the notified body a specimen, representative of the production envisaged and hereinafter called 'type' ⁽¹⁾. The notified body may request further specimens if needed for carrying out the test programme.

3. The technical documentation shall enable the conformity of the product with the essential requirements of the Directive to be assessed. It shall, as far as relevant for such assessment, cover the design, manufacture and operation of the product.

For example, the documentation shall contain as far as is relevant for assessment:

- a general type-description sufficient to identify the product preferably by provision of photographs,
- design and manufacturing drawings and lists of components, sub-assemblies, circuits, etc.,
- descriptions and explanations necessary for the understanding of said drawings and lists and the operation of the product,
- a list of the standards referred to in Article 6, applied in full or in part, and descriptions of the solutions adopted to meet the essential requirements of the Directive when the standards referred to in Article 6 have not been applied,
- results of examinations carried out, etc.,
- test reports,
- proposed user information or handbook.

4. The notified body shall:
 - 4.1. examine the technical documentation, verify that the type has been manufactured in conformity with it and identify the elements which have been designed in accordance with the relevant provisions of the standards referred to in Article 6 (1), as well as the components of those standards;
 - 4.2. perform, or have performed, the appropriate examinations and necessary tests to check whether the solutions adopted by the manufacturer meet the essential requirements of the Directive which are specified in Article 4 (a) and (b);

⁽¹⁾ A type may cover several versions of the product provided that the differences between the versions do not affect the level of safety and the other requirements concerning the performance of the product.

- 4.3. perform, or have performed, the appropriate examinations and necessary tests to check that the type meets the relevant common technical regulations specified in Article 6 (2);
- 4.4. agree with the applicant on the location where the examinations and necessary tests are to be carried out.
5. Where the type meets the provisions of the Directive, the notified body shall issue an EC type-examination certificate to the applicant. The certificate shall contain the name and address of the manufacturer, conclusions of the examination, conditions for its validity and the necessary data for identification of the approved type.

A list of the relevant parts of the technical documentation shall be annexed to the certificate and a copy kept by the notified body.
6. The applicant shall inform the notified body that holds the technical documentation concerning the EC type-examination certificate of all modifications to the approved product which must receive additional approval where such changes may affect the conformity with the essential requirements or the prescribed conditions for use of the product. This additional approval is given in the form of an addition to the original EC type-examination certificate.
7. Each notified body shall communicate to the other notified bodies the relevant information concerning the EC type-examination certificates and additions issued and withdrawn.
8. The other notified bodies may request copies of the EC type-examination certificates and/or their additions. The Annexes to the certificate shall be kept at the disposal of the other notified bodies.
9. The manufacturer or his authorized representative shall keep with the technical documentation copies of EC type-examination certificates and their additions for a period ending at least 10 years after the last product has been manufactured.

Where neither the manufacturer nor his authorized representative is established within the Community, the obligation to keep the technical documentation available shall be the responsibility of the person who places the product on the Community market.

ANNEX II

CONFORMITY TO TYPE

1. Conformity to type is that part of the procedure whereby the manufacturer or his authorized representative established within the Community ensures and declares that the products concerned are in conformity with the type as described in the EC type-examination certificate and satisfy the requirements of the Directive that applies to them. The manufacturer shall affix the marks referred to in Article 11 (1) to each product and draw up a written declaration of conformity to type.
2. The manufacturer shall take all measures necessary to ensure that the manufacturing process assures compliance of the manufactured products with the type as described in the EC type-examination certificate and with the requirements of the Directive that apply to them.
3. The manufacturer or his authorized representative shall keep a copy of the declaration of conformity for a period ending at least 10 years after the last product has been manufactured.

Where neither the manufacturer nor his authorized representative is established within the Community, the obligation to keep the declaration of conforming to type available shall be the responsibility of the person who places the product on the Community market.

4. A notified body chosen by the manufacturer shall carry out, or have carried out, product checks at random intervals. An adequate sample of the final products, which may be taken on site by the notified body or on its behalf, shall be examined and appropriate tests shall be carried out to check the conformity of products with the relevant requirements of the Directive. In those cases where one or more of the products checked do not conform, the notified body shall take appropriate measures.

ANNEX III

PRODUCTION QUALITY ASSURANCE

1. Production quality assurance is the procedure whereby the manufacturer who satisfies the obligations of point 2 ensures and declares that the products concerned are in conformity with the type as described in the EC type-examination certificate and satisfy the requirements of the Directive that apply to them. The manufacturer shall affix the marks referred to in Article 11 (1) to each product and draw up a written declaration of conformity to type.
2. The manufacturer shall operate an approved quality system for production, final product inspection and testing as specified in point 3 and shall be subject to monitoring as specified in point 4.
3. Quality system
 - 3.1. The manufacturer shall lodge an application for assessment of his quality system with a notified body of his choice, for the products concerned.

The application shall include:

- all relevant information for the product category envisaged,
- the documentation concerning the quality system,
- if applicable, the technical documentation of the approved type and a copy of the EC type-examination certificate.

- 3.2. The quality system shall ensure compliance of the products with the type as described in the EC type-examination certificate and with the requirements of the Directive that apply to them.

All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. The quality system documentation must permit a consistent interpretation of the quality programmes, plans, manuals and records.

It shall contain in particular an adequate description of:

- the quality objectives and the organizational structure, responsibilities and powers of the management with regard to product quality,
- the manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used,
- the examinations and tests will be carried out before, during and after manufacture, and the frequency with which they will be carried out,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.,
- the means to monitor the achievement of the required product quality and the effective operation of the quality system.

- 3.3. The notified body shall assess the quality system to determine whether it satisfies the requirements referred to in point 3.2. It shall presume conformity with these requirements in respect of quality systems that implement the relevant harmonized standard ⁽¹⁾.

The auditing team shall have at least one member with experience of evaluation in the product technology concerned. The evaluation procedure shall include an inspection visit to the manufacturer's premises.

The decision shall be notified to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

⁽¹⁾ This harmonized standard will be EN 29002, supplemented, if necessary, to take into account the specific nature of the procedure for which it is implemented.

- 3.3 The manufacturer shall undertake to fulfil the obligations arising out of the quality system as approved and to uphold it so that it remains adequate and efficient.

The manufacturer or his authorized representative shall keep the notified body that has approved the quality system informed of any intended updating of the quality system.

The notified body shall evaluate the modifications proposed and decide whether the amended quality system will still satisfy the requirements referred to in point 3.2. or whether a re-assessment is required.

It shall notify its decision to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

4. Surveillance under the responsibility of the notified body

- 4.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

- 4.2. The manufacturer shall allow the notified body access for inspection purpose to the locations of manufacture, inspection and testing, and storage and shall provide it with all necessary information, in particular:

- the quality system documentation,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

- 4.3. The notified body shall carry out audits at reasonable intervals to make sure that the manufacturer maintains and applies the quality system and shall provide an audit report to the manufacturer.

- 4.4. Additionally, the notified body may pay unexpected visits to the manufacturer. During such visits the notified body may carry out, or cause to be carried out, tests to verify that the quality system is functioning correctly, if necessary. The notified body shall provide the manufacturer with a visit report and, if a test has taken place, with a report.

5. The manufacturer shall, for a period ending at least 10 years after the last product has been manufactured, keep at the disposal of the national authorities:

- the documentation referred to in the second indent of point 3.1.,
- the updating referred to in the second paragraph of point 3.4.,
- the decisions and reports from the notified body which are referred to in the final paragraph of points 3.4., 4.3. and 4.4.

6. Each notified body referred to in Article 10 (1) shall make available to the other notified bodies referred to in that Article the relevant information concerning the quality system approvals issued and withdrawn.

ANNEX IV

FULL QUALITY ASSURANCE

1. Full quality assurance is the procedure whereby the manufacturer who satisfies the obligations of point 2 ensures and declares that the products concerned satisfy the requirements of the Directive that apply to them. The manufacturer shall affix the marks referred to in Article 11 (1) to each product and draw up a written declaration of conformity.
2. The manufacturer shall operate an approved quality system for design, manufacture and final product inspection and testing as specified in point 3 and shall be subject to surveillance as specified in point 4.

3. Quality system

- 3.1. The manufacturer shall lodge an application for assessment of his quality system with a notified body.

The application shall include:

- all relevant information for the products envisaged,
- the quality system's documentation.

- 3.2. The quality system shall ensure compliance of the products with the requirements of the Directive that apply to them.

All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. This quality system documentation shall ensure a common understanding of the quality policies and procedures such as a quality programmes, plans, manuals and records.

It shall contain in particular an adequate description of:

- the quality objectives and the organizational structure, responsibilities and powers of the management with regard to design and product quality,
 - the technical specifications, including the harmonized standards and technical regulations as well as relevant test specifications that will be applied and, where the standards referred to in Article 6 (1) will not be applied in full, the means will be used to ensure that the essential requirements of the Directive that apply to the products will be met,
 - the design control and design verification techniques, processes and systematic actions that will be used when designing the products pertaining to the product category covered,
 - the corresponding manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used,
 - the examinations and tests will be carried out before, during and after manufacture, and the frequency with which they will be carried out; as well as the results of the tests carried out before manufacture where appropriate,
 - the means by which it is ensured that the test and examination facilities respect the appropriate requirements for the performance of the necessary test,
 - the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.,
 - the means to monitor the achievement of the required design and product quality and the effective operation of the quality system.
- 3.3. The notified body shall assess the quality system to determine whether it satisfies the requirements referred to in point 3.2. It shall presume compliance with these requirements in respect of quality systems that implement the relevant harmonized standard ⁽¹⁾.

⁽¹⁾ This harmonized standard shall be EN 29001, supplemented, if necessary, to take into account the specific nature of the products for which it is implemented.

The notified body shall assess in particular whether the quality control system ensures conformity of the products with the requirements of the Directive in the light of the relevant documentation supplied in respect of points 3.1. and 3.2. including, where relevant, test results supplied by the manufacturer.

The auditing team shall have at least one member experienced as an assessor in the product technology concerned. The evaluation procedure shall include an assessment visit to the manufacturer's premises.

The decision shall be notified to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

- 3.4. The manufacturer shall undertake to fulfil the obligations arising out of the quality system as approved and to uphold it so that it remains adequate and efficient.

The manufacturer or his authorized representative shall keep the notified body that has approved the quality system informed of any intended updating of the quality system.

The notified body shall evaluate the modifications proposed and decide whether the amended quality system will still satisfy the requirements referred to in point 3.2. or whether a re-assessment is required.

It shall notify its decision to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

4. EC surveillance under the responsibility of the notified body

- 4.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

- 4.2. The manufacturer shall allow the notified body access for inspection purposes to the locations of design, manufacture, inspection and testing, and storage and shall provide it with all necessary information, in particular:

- the quality system documentation,
- the quality records as foreseen by the design part of the quality system, such as results of analyses, calculations, tests, etc.
- the quality records as foreseen by the manufacturing part of the quality system, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

- 4.3. The notified body shall carry out audits at reasonable intervals to make sure that the manufacturer maintains and applies the quality system and shall provide an audit report to the manufacturer.

- 4.4. Additionally, the notified body may pay unexpected visits to the manufacturer. At the time of such visits, the notified body may carry out tests or have them carried out in order to check the proper functioning of the quality system where necessary; it shall provide the manufacturer with a visit report and, if a test has been carried out, with a test report.

5. The manufacturer shall, for a period ending at least 10 years after the last product has been manufactured, keep at the disposal of the national authorities:

- the documentation referred to in the second indent of point 3.1.,
- the updating referred to in the second paragraph of point 3.4.,
- the decisions and reports from the notified body which are referred to in the final paragraph of points 3.4., 4.3. and 4.4.

6. Each notified body referred to in Article 10 (1) shall make available to the other notified bodies referred to in that Article the relevant information concerning quality system approvals including references to the product(s) concerned, issued and withdrawn.

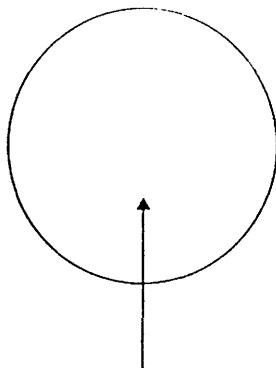
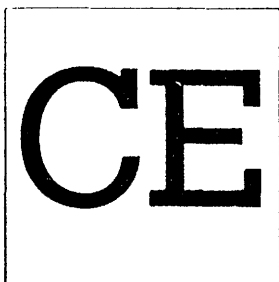
ANNEX V

MINIMUM CRITERIA TO BE TAKEN INTO ACCOUNT BY MEMBER STATES WHEN DESIGNATING NOTIFIED BODIES IN ACCORDANCE WITH ARTICLE 10 (1)

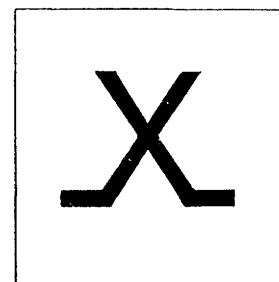
1. The notified body, its director and the staff responsible for carrying out the tasks for which the notified body has been designated shall not be a designer, manufacturer, supplier or installer of terminal equipment, or a network operator or a service provider, nor the authorized representative of any of such parties. They shall not become directly involved in the design, construction, marketing or maintenance of terminal equipment, nor represent the parties engaged in these activities. This does not preclude the possibility of exchanges of technical information between the manufacturer and the notified body.
2. The notified body and its staff must carry out the tasks for which the notified body has been designated with the highest degree of professional integrity and technical competence and must be free from all pressures and inducements, particularly financial, which might influence their judgment or the results of any inspection, especially from persons or groups of persons with an interest in such results.
3. The notified body must have at its disposal the necessary staff and facilities to enable it to perform properly the administrative and technical work associated with the tasks for which it has been designated.
4. The staff responsible for inspections must have:
 - sound technical and professional training,
 - satisfactory knowledge of the requirements of the tests or inspections that are carried out and adequate experience of such tests or inspections,
 - the ability to draw up the certificates, records and reports required to authenticate the performance of the inspections.
5. The impartiality of inspection staff must be guaranteed. Their remuneration must not depend on the number of tests or inspections carried out nor on the results of such inspections.
6. The notified body must take out liability insurance unless its liability is assumed by the State in accordance with national law, or the Member State itself is directly responsible.
7. The staff of the notified body is bound to observe professional secrecy with regard to all information gained in carrying out its tasks (except *vis-à-vis* the competent administrative authorities of the State in which its activities are carried out) under this Directive or any provision of national law giving effect thereto.

ANNEX VI

MARKING FOR TERMINAL EQUIPMENT REFERRED TO IN ARTICLE 11 (3)

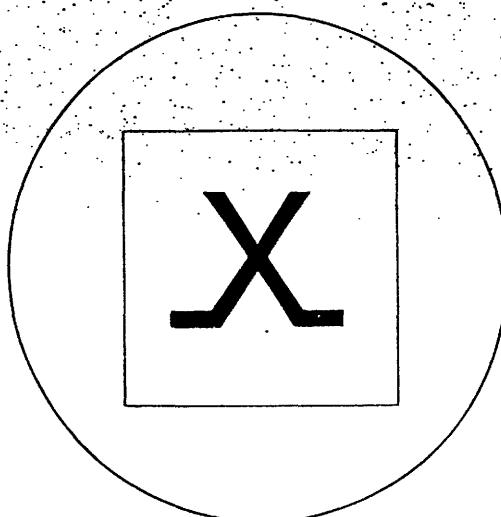


Symbol of the notified body



ANNEX VII

MARKING FOR EQUIPMENT REFERRED TO IN ARTICLE 11 (4)



ANNEX VIII

MODEL OF A DECLARATION REFERRED TO IN ARTICLE 2 (1)

The manufacturer/supplier ⁽¹⁾

.....

.....

Declares that ⁽²⁾

.....

is not intended to be connected to a public telecommunications network.

The connection of such equipment to a public telecommunications network in the Community Member State will be in violation of the national law implementing Directive 91/263/EEC on the approximation of the laws of the Member States concerning telecommunication terminal equipment, including the mutual recognition of their conformity.

DATE, PLACE AND SIGNATURE

⁽¹⁾ Name and address.
⁽²⁾ Equipment identification.

II

(Acts whose publication is not obligatory)

COUNCIL

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

(91/287/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission⁽¹⁾,

In cooperation with the European Parliament⁽²⁾,

Having regard to the opinion of the Economic and Social Committee⁽³⁾,

Whereas recommendation 84/549/EEC⁽⁴⁾ calls for the introduction of services on the basis of a common harmonized approach in the field of telecommunications;

Whereas the Council in its resolution of 30 June 1988⁽⁵⁾ on the development of the common market for telecommunications services and equipment calls for the promotion of Europe-wide services according to market requirements;

Whereas the resources offered by modern telecommunications networks should be utilized to the full for the economic development of the Community;

Whereas Council Directive 89/336/EEC of 3 May 1989 on the approximation of the laws of Member States relating to electromagnetic compatibility⁽⁶⁾ is applicable, and particular attention should be taken to avoid harmful electromagnetic interference;

Whereas current cordless telephone systems in use in the Community, and the frequency bands they operate in, vary widely and may not allow the benefits of Europe-wide services or benefit from the economies of scale associated with a truly European market;

Whereas the European Telecommunications Standard Institute (ETSI) is currently developing the European Telecommunications Standard (ETS) or digital European cordless telecommunications (DECT);

Whereas the development of the European Telecommunications Standard (ETS) must take account of the safety of users, and the need for Europe-wide interoperability and enable users provided with a service based on DECT technology in one Member State to gain access to the service in any other Member State, where appropriate;

Whereas the European implementation of DECT will provide an important opportunity to establish truly European digital cordless telephone facilities;

Whereas ETSI has estimated that DECT will require 20 MHz in high density areas;

⁽¹⁾ OJ No C 187, 27. 7. 1990, p. 5.

⁽²⁾ OJ No C 19, 28. 1. 1991, p. 97 and

OJ No C 106, 22. 4. 1991, p. 78.

⁽³⁾ OJ No C 332, 31. 12. 1990, p. 172.

⁽⁴⁾ OJ No L 298, 16. 11. 1984, p. 49.

⁽⁵⁾ OJ No C 257, 4. 10. 1988, p. 1.

⁽⁶⁾ OJ No L 139, 23. 5. 1989, p. 19.

Whereas the European Conference of Postal and Telecommunications Administrations (CEPT) has recommended the common European frequency band 1880-1900 MHz for DECT, recognizing that, subject to the system, development of DECT additional frequency spectrum may be required;

Whereas this should be taken into account in the preparation for the 1992 World Administrative Radio Conference (WARC);

Whereas after the date of designation of the frequency band for DECT, existing services may continue in the band, providing that they do not interfere with DECT systems that may be established according to commercial demand;

Whereas the implementation of Council recommendation 91/288/EEC of 3 June 1991 on the coordinated introduction of DECT into the Community⁽¹⁾, will ensure the implementation of DECT by 31 December 1992 at the latest;

Whereas Council Directive 91/263/EEC of 29 April 1991 on the approximation of the laws of the Member States concerning telecommunications terminal equipment, including the mutual recognition of their conformity⁽²⁾ will allow the rapid establishment of common conformity specifications for DECT;

Whereas the establishment of DECT depends on the allocation and availability of a frequency band in order to transmit and receive between fixed-base stations and mobile stations;

Whereas some flexibility will be needed in order to take account of different frequency requirements in different Member States; it will be necessary to ensure that such flexibility does not slow down the implementation of DECT technology according to commercial demand across the Community;

Whereas the progressive availability of the full range of the frequency band set out above will be indispensable for the establishment of DECT on a Europe-wide basis,

HAS ADOPTED THIS DIRECTIVE:

Article 1

For the purposes of this Directive, the digital European cordless telecommunications (DECT) system shall mean

technology conforming to the European Telecommunications Standard (ETS) for digital cordless telecommunications referred to in recommendation 91/288/EEC, and the telecommunications systems, both public and private, which directly utilize such technology.

Article 2

Member States shall, in accordance with CEPT Recommendation T/R 22-02 of the European Conference of Postal and Telecommunications Administration designate the frequency band 1880-1900 MHz for digital European cordless telecommunications (DECT) by 1 January 1992.

In accordance with the CEPT Recommendation, DECT shall have priority over other services in the same band, and be protected in the designated band.

Article 3

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 1991. They shall forthwith inform the Commission thereof.

2. When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

Article 4

The Commission shall report to the Council on the implementation of this Directive not later than the end of 1995.

Article 5

This Directive is addressed to the Member States.

Done at Luxembourg, 3 June 1991.

For the Council

The President

A. BODRY

⁽¹⁾ See page 47 of this Official Journal.

⁽²⁾ OJ No L 128, 23. 5. 1991, p. 1.

COUNCIL RECOMMENDATION

of 3 June 1991

on the coordinated introduction of digital European cordless telecommunications (DECT) into the Community

(91/288/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, in particular Article 235 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas recommendation 84/549/EEC (4) calls for the introduction of services on the basis of a common harmonized approach in the field of telecommunications;

Whereas the Council in its resolution of 30 June 1988 (5) on the development of the common market for telecommunication services and equipment up to 1992 calls for the promotion of Europe-wide services according to market requirements;

Whereas the resources offered by modern telecommunications networks should be utilized to the full for the economic development of the Community;

Whereas the potential for cordless telecommunications in the Community has been demonstrated by recent developments such as recent agreements on public telepoint services; whereas the European Telecommunications Standard (ETS) for digital European cordless telecommunications (DECT) currently being developed by the European Telecommunications Standards Institute (ETSI) will greatly enhance the possibilities of cordless telecommunications;

Whereas the development of the ETS must take account of the safety of users, and the need for Europe-wide interoperability, enable users provided with a service based on DECT technology in one Member State to gain access to the service in any other Member State, where appropriate;

Whereas the European implementation of DECT technology will provide an important opportunity to establish truly European digital cordless telephone facilities;

Whereas a coordinated policy for the introduction of common standards for cordless telephones will make possible the establishment of a European market in mobile handsets which will be capable of creating, by virtue of their size, service features, and costs, the necessary development conditions to establish a lead in worldwide markets;

Whereas such a future system, offering both voice and data services, is to be based on digital techniques, thereby facilitating compatibility with the general digital environment and the Integrated Services Digital Network (ISDN) in the Community in accordance with recommendation 86/659/EEC (6);

Whereas the future Council Directive on the approximation of the laws of the Member States concerning telecommunications terminal equipment, including the mutual recognition of their conformity will allow the rapid establishment of common conformity specifications for DECT;

Whereas consideration shall be given to Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations (7), as last amended by Directive 90/230/EEC (8);

Whereas consideration should be given to Council Decision 87/95/EEC of 22 December 1986 on standardization in the field of information technology and telecommunications (9);

Whereas Council Directive 89/336/EEC of 3 May 1989 on the approximation of the laws of Member States relating to electromagnetic compatibility (10) is applicable, and particular attention should be taken to avoid harmful electromagnetic interference;

Whereas it is advantageous to facilitate access to cordless communications and necessary to allow free circulation of DECT equipment throughout the Community;

(1) OJ No C 24, 1. 2. 1990, p. 20 and OJ No C 9, 15. 1. 1991, p. 3.

(2) OJ No C 19, 28. 1. 1991, p. 96.

(3) OJ No C 332, 31. 12. 1990, p. 172.

(4) OJ No L 298, 16. 11. 1984, p. 49.

(5) OJ No C 257, 4. 10. 1988, p. 1.

(6) OJ No L 382, 31. 12. 1986, p. 36.

(7) OJ No L 109, 26. 4. 1983, p. 8.

(8) OJ No L 128, 18. 5. 1990, p. 15.

(9) OJ No L 36, 7. 2. 1987, p. 31.

(10) OJ No L 139, 23. 5. 1989, p. 19.

Whereas it is appropriate to make full use of the potential of the Community's allocated financial instruments in order to promote the development of the Community's telecommunications infrastructure in the Community;

Whereas consideration should be given to recommendation 87/371/EEC⁽¹⁾ which points out that special attention should be paid to the urgent requirement of certain users for pan-European land-based communications; whereas the Commission could in future submit other proposals in the field of mobile communications;

Whereas the implementation of such a policy will lead to closer cooperation within Europe between the public telecommunications administrations, the recognized public and private operating agencies and other authorized agencies offering public mobile telecommunications service, herein referred to as 'telecommunications organizations';

Whereas favourable opinions on this recommendation has been delivered by the telecommunications organizations by the European Conference of Postal and Telecommunications Administrations (CEPT) and by the telecommunications equipment manufacturers in the Member States;

Whereas these measures will allow the economic benefit and rapidly increasing market potential of cordless telephones to be fully realized in the Community;

Whereas the Treaty does not provide, for this recommendation, powers other than those of Article 235,

HEREBY RECOMMENDS:

1. that Member States and/or the telecommunications organizations, as appropriate, create the conditions for the coordinated introduction into the Community of digital European cordless telecommunications according to the technical requirements described in the Annex. For the purposes of this recommendation, digital European cordless telecommunications shall mean technology conforming to the European Telecommunications Standard for digital cordless telecommunications known as DECT.

2. that the telecommunications organizations continue the cooperation within the CEPT and/or ETSI, for the

completion of the specifications and the introduction and exploitation of DECT technology;

3. that the Commission takes appropriate initiatives, within the application of existing Directives, to encourage the completion of the specifications and the introduction and exploitation of DECT technology;
4. that the Commission prepares a long-term strategy in collaboration and consultation with interested parties, for the evolution of the soon to be introduced pan-European digital cellular and paging systems, and digital cordless systems, taking account of the general development towards a future universal personal communications system, and recent studies and the ETSI work programme;
5. that the Community's allocated financial instruments take this recommendation into account within the framework of their interventions, particularly regarding capital investments required for the implementation of the infrastructure for the DECT system;
6. that efforts are encouraged to develop the appropriate infrastructure to allow the use of DECT equipment also in a public environment and to work towards the coordinated introduction of DECT technology in such an environment, maintaining in particular those features necessary to allow Europe-wide interoperability;
7. that Member States inform the Commission at the end of each year, from the end of 1992 onwards, of the measures taken and the problems encountered in the course of implementing this recommendation; that measures be taken to consult telecommunications organizations, users, consumers, manufacturers, persons providing services, employer organizations and trade unions; that the progress of work be examined by the Commission and Senior Officials Group on Telecommunications (SOG-T) which was set up by the Council on 4 November 1983; and that the European Parliament be regularly informed, at least once a year.

Done at Luxembourg, 3 June 1991.

For the Council

The President

A. BODRY

⁽¹⁾ OJ No L 196, 17. 7. 1987, p. 81.

ANNEX

DETAILED REQUIREMENTS ON THE COORDINATED INTRODUCTION OF DIGITAL EUROPEAN CORDLESS TELECOMMUNICATIONS (DECT) INTO THE COMMUNITY

Table of contents

1. General requirements
2. Choice of transmission system
3. Network architecture
4. System specification and implementation
5. System features
6. Tariff considerations
7. Time scale

1. General requirements

The future DECT systems should be developed in accordance with the ETS being developed by ETSI and should comply with the following general requirements:

- be suitable for operation over the frequency band 1880-1900 MHz to be made available for DECT in the Community in conformity with Directive 91/287/EEC,
- provide a means, using cordless technology, for meeting user requirements in respect of the following applications:
 - a residential application that will interconnect to ISDN/PSTN,
 - a business cordless telecommunications application that combines the features of a PABX with the mobility of cordless telecommunications for both voice and non-voice application,
 - an application that offers public network access to a handset through a public, or privately owned, base station,
 - an application that provides a radio means of extending public and private networks into customer user premises,
- permit simultaneous operation of two or more independent systems in the same geographical area.

2. Choice of transmission system

The detailed specification of the DECT transmission characteristics should be completed by October 1991 and should take account of the relevant international guidelines on limiting exposure to electromagnetic fields, and the Directive 89/336/EEC. The technology must be able to support geographically co-located DECT systems.

3. Network architecture

The standard for the network structure and the definition and allocation of functions between the various system components should be completely specified for all the applicable OSI layers, by October 1991.

4. DECT specification and implementation

The implementation of the system should be able to support full intersystem roaming where required. Roaming in the context of this recommendation is the ability to use handsets based on DECT technology to access the public network in any Member State.

5. System features

The system specification should provide a minimum number of generic capabilities and facilities as follows:

- satisfy the general requirements of section 1 above,
- provision of emergency services,
- provision for dialling and calling security,
- compatibility between residential, business and public access applications.

The provision of an additional service or facility beyond generic capability on any system should not impact the provision of the minimum service on other systems.

6. Tariff considerations

Agreement on such matters as the charging for the Community service and accounting between operators should be identified in a timely manner where required.

7. Time scale

Facilities for applications based on DECT technology should progressively be available from the end of 1992.

COUNCIL DECISION

of 7 June 1991

adopting a specific research and technological development programme in the field of communication technologies (1990 to 1994)

(91/352/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130q (2) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas, by Decision 90/221/Euratom, EEC ⁽⁴⁾, the Council adopted a third framework programme for Community activities in the field of research and technological development (1990 to 1994), specifying *inter alia* the activities to be pursued in the field of communication technologies; whereas this Decision should be taken in the light of the grounds set out in the preamble to that Decision;

Whereas Article 130k of the Treaty stipulates that the framework programme shall be implemented through specific programmes developed within each activity;

Whereas in addition to the specific programme concerning human resources and mobility, it might be necessary to encourage the training of research workers in the context of this programme;

Whereas, pursuant to Article 4 of and Annex I to Decision 90/221/Euratom, EEC, the amount deemed necessary for the whole framework programme includes an amount of ECU 57 million for the centralized dissemination of knowledge and exploitation of results of the programmes, to be divided up in proportion to the amount envisaged for each specific programme;

Whereas, in the context of this programme, an assessment should be made of economic and social impact as well as of any technological risks;

Whereas Decision 90/221/Euratom, EEC provides that a particular aim of Community research must be to strengthen

the scientific and technological basis of European industry particularly in strategic sectors of advanced technology and to encourage it to become more competitive at the international level; whereas it also provides that Community action is justified where research contributes, *inter alia*, to the strengthening of the economic and social cohesion of the Community and to the promotion of its harmonious development, while being consistent with the pursuit of scientific and technical excellence; whereas this should contribute to the achievement of these objectives;

Whereas small and medium-sized enterprises should be involved to the maximum extent possible in this programme; whereas account should be taken of their special requirements without prejudice to the scientific and technical quality of this programme;

Whereas the constitution or consolidation of a specifically European industrial potential in the technologies concerned is an urgent necessity; whereas its beneficiaries must be network operators, research establishments, undertakings including small and medium-sized undertakings and other bodies established in the Community which are best suited to attain these objectives;

Whereas priorities include integrated broadband communication system functions, intelligence in networks, mobile and personal communication, image and data communications, integrated services technologies, advanced communications experiments, information security technologies and test infrastructures; whereas the work includes R&D on systems engineering, advanced communications technology and validation of standards and common functional specifications;

Whereas basic research must be encouraged as far as is necessary throughout the Community;

Whereas the Scientific and Technical Research Committee (Crest) has been consulted,

HAS ADOPTED THIS DECISION:

Article 1

A specific research and technological development programme for the European Economic Community in the field of communication technologies, as defined in Annex I is hereby adopted for a period beginning on 7 June 1991 and ending on 31 December 1994.

(1) OJ No C 174, 16. 7. 1990, p. 9.

(2) OJ No C 19, 28. 1. 1991, p. 139; and OJ No C 158, 17. 6. 1991.

(3) OJ No C 41, 18. 2. 1991, p. 12.

(4) OJ No L 117, 8. 5. 1990, p. 28.

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Article 2

1. The funds estimated as necessary for the execution of the programme amount to ECU 484,1 million, including expenditure on staff and administration amounting to ECU 41 million.
2. An indicative breakdown of funds is set out in Annex II.
3. Should the Council take a decision pursuant to Article 1 (4) of Decision 90/221/Euratom, EEC, this Decision shall be adapted accordingly.

Article 3

Detailed rules for the implementation of the programme and the amount of the Community's financial contribution are set out in Annex III.

Article 4

1. In the second year of implementation of the programme, the Commission shall review it and send a report on the results of its review to the European Parliament and the Council; the report shall be accompanied, where necessary, by proposals for amendment of the programme.
2. At the end of the programme, an evaluation of the results achieved shall be conducted for the Commission by a group of independent experts. This group's report, together with its comments, shall be submitted to the European Parliament and the Council.
3. The reports referred to in paragraphs 1 and 2 shall be established having regard to the objectives set out in Annex I to this Decision and in accordance with Article 2 (4) of Decision 90/221/Euratom, EEC.

Article 5

1. The Commission shall be responsible for the implementation of the programme.
2. Contracts concluded by the Commission shall govern the rights and obligations of each party, in particular the arrangements for the dissemination, protection and exploitation of research results, in accordance with the provisions adopted pursuant to the second paragraph of Article 130k of the Treaty.
3. A work programme shall be drawn up in accordance with the objectives defined in Annex I and updated where necessary. It shall set out the detailed objectives and types of projects to be undertaken, and the financial arrangements to be made for them. The Commission shall draw up calls for proposals for projects on the basis of the work programme.

Article 6

1. The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission.

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

4. If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

5. If, on the expiry of a period of three months from referral of the matter to the Council, the latter has not acted, the proposed measures shall be:

- adopted by the Commission, in the case of matters covered by the second, third, fourth, fifth, sixth, seventh and eighth indents of Article 7,
- adopted by the Commission, save where the Council has decided against the said measures by a simple majority, in the case of matters covered by the first indent of Article 7.

Article 7

1. The procedure laid down in Article 6 shall apply to:
 - the preparation and updating of the work programme referred to in Article 5 (3),
 - the assessment of the projects provided for in Annex III and the estimated amount of the Community's contribution to them where that amount exceeds ECU 2 million,
 - the contents of the calls for proposals,
 - any adaptation of the indicative breakdown of the amount set out in Annex II,
 - the measures to be undertaken to evaluate the programme,
 - arrangements for the dissemination, protection and exploitation of the results of research carried out under the programme,
 - departures from the general rules set out in Annex III.
- the participation in any project by non-Community organizations and enterprises referred to in Article 8 (1) and (2).

2. Where, pursuant to the second indent of paragraph 1, the amount of the Community contribution is less than or equal to ECU 2 million, the Commission shall inform the Committee of the projects and of the outcome of their assessment.

The Commission shall also inform the Committee of the implementation of the accompanying measures and the concerted action projects referred to in Annex III.

Article 8

1. The Commission is authorized to negotiate, in accordance with Article 130n of the Treaty, international agreements with third countries which are members of COST, particularly the member countries of EFTA and the countries of Central and Eastern Europe, with a view to associating them with the whole programme or a part of it.

2. Where framework agreements for scientific and technical cooperation have been concluded between the Community and European non-member States, bodies and enterprises established in those countries may, in accordance

with the procedure laid down in Article 6 and on the basis of the criterion of mutual benefit, be allowed to become partners in a project undertaken within the programme.

No contracting body based outside the Community and participating as a partner in a project undertaken under the programme may benefit from Community financing for this programme. The body concerned shall contribute to the general administrative costs.

Article 9

This Decision is addressed to the Member States.

Done at Luxembourg, 7 June 1991.

For the Council
The President
R. STEICHEN

ANNEX I

SCIENTIFIC AND TECHNICAL OBJECTIVES AND CONTENT OF THE PROGRAMME

The guidelines, scientific and technical objectives and underlying purposes of the third framework programme form an integral part of this specific programme.

Paragraph I.1.B of Annex II to the said framework programme forms an integral part of this specific programme.

On this basis and in the light of the above, there follows an analytical description of the contents of this specific programme.

This specific programme focuses on eight priority areas (including the provision of verification techniques and facilities) in which European collaboration between two or more telecommunications sector organizations is in the common interest. The priority areas are:

AREA 1: IBC (integrated broadband communications) R&D

AREA 2: Intelligence in networks/Flexible communications resource management

AREA 3: Mobile and personal communications

AREA 4: Image and data communications

AREA 5: Integrated services technologies

AREA 6: Information security technologies

AREA 7: Advanced communications experiments

AREA 8: Test infrastructures and interworking (horizontal R&D area supporting the other priority areas).

Work carried out on each of these areas will be of three types; the work will cover: development of implementation strategies for IBC systems, services and applications; advanced communication technologies, and validation of standards and common functional specifications for IBC. It will involve the use of experimental equipment and services to address generic applications.

AREA 1: IBC (integrated broadband communications) R&D

Integrated broadband communications technology forms the backbone for advanced services and largely determines their costs. Key technologies, systems, services and applications are being addressed under this IBC R&D heading using a systems approach. This area builds on and extends the work of the RACE I programme and in so doing focuses on the following subjects:

IBC systems design, architecture and operation

This work, based on a set of 'open' standards allowing universal access to integrated services, will enable integrated broadband communications to accommodate emerging new services. In order for the various organizations concerned to define their requirements clearly, reference models and common functional specifications will be systematically developed. Special emphasis will be given to examining the combination and interaction of different technical options, evaluating the demand for basic and enhanced services and addressing the impact of regulations.

IBC transition strategies

The transition leading to IBC services from current services requires the improvement of interoperability between public and private networks with regard to new services. This work is essential for user acceptance of these new services and the optimum use of communications resources.

Research under this heading will include further development of common functional specifications and reference configurations, with close attention to recent developments. Particular attention will be given to the increased role of optical communications (taking into account the growing interest in 'fibre-to-the-home'), the emergence of synchronous/asynchronous transport switching techniques, the integration of mobile communication sub-systems (especially in rural areas) and the development of intelligence in the networks. Work will also be carried out on the definition of new value-added services adapted to evolving needs and their consequences on the management of local area networks. Specific tasks to be addressed will cover image communication and its integration in services; and the interworking between private networks, local and metropolitan area networks.

Common operational environment

This work aims at supporting standardization efforts, particularly those of the European Telecommunications Standards Institute (ETSI). It will include the dissemination of results, the seeking of outside information, and liaison with similar activities conducted in other fora. Common analytical tools will be developed and used for the transition and implementation scenarios for the IBC network.

Techniques for basic IBC system functions

This work will cover switching systems, integrated optical systems and networks, IBC customer systems and IBC software infrastructures.

Switching systems: The technology base of asynchronous transfer mode (ATM) will be broadened and interworking techniques between ATM networks and pre-existing networks will be developed. The work will enable ATM switching technology to support connectionless services and the interconnection of local area networks (LANs) and metropolitan area networks (MANs). This development of ATM does not exclude basic research on new switching technologies or designs.

Integrated optical systems and networks: The work will provide the basis for low-cost broadband access networks and contribute to the introduction and evolution of integrated optical networks and photonic switching.

IBC terminals: In the study on access of business IBC subscribers, data processing requirements will be examined; for domestic access, communication protocols will be of most interest.

IBC software infrastructure: The research will support the cost-effective development of reliable telecommunications software and its full life-cycle support. Parameters such as software quality assurance and artificial intelligence will be taken into account. The research will also cover investigations of knowledge-based systems for life-cycle support.

Integration of IBC demonstrators

Interoperability characteristics and integration possibilities of 'technology demonstrators' will be verified for residential or business use and, where applicable, in both urban and rural areas. The research will validate the application feasibility of new technology, support standardization and provide the basis for the evaluation of the performance level of systems and services. It will cover the integration of access, transport and switching functions as well as control, management and signalling functions. Demonstrators of IBC terminals, as well as terminals developed elsewhere, will be connected in order to illustrate the large variety of terminals and services that can be supported.

Verification tools

Work in this area will involve the development of the necessary tools to verify functional specifications and compatibility of equipment. The tools will consist, in addition to the necessary facilities for physical verification, of the procedures and descriptions used to carry out such verification.

AREA 2: INTELLIGENCE IN NETWORKS/FLEXIBLE COMMUNICATIONS RESOURCE MANAGEMENT

This research will be related to the use of new techniques of information transfer, optical communications, and possibly artificial intelligence, for enhancing flexibility, both in the provision of new network services and network management.

The objective of this work will be to enable second generation systems to be developed and to contribute to standardization and definition of interconnection protocols.

This research will be related to the development and demonstration of techniques needed for the introduction of programmable networks and will cover the aspects of provision of new services, operations support systems (OSS) and telecommunications management networks (TMN).

AREA 3: MOBILE AND PERSONAL COMMUNICATIONS

Research in this area will contribute to the development of third generation integrated mobile communication systems. The aim will be to provide universal personal communications using audio, data and image. For cost-efficient implementation third generation systems will require a common radio-interface. They will exploit the microwave frequency ranges of 2 GHz, but certain mobile broadband services will require exploitation of the 60 GHz range. This work will focus on defining the functional specifications for IBC and radio networks (e.g. interconnection standards and mobility management). Interest will also be shown in the miniaturization of

terminals. The terminals should be cost-effective for business and domestic use, with particular emphasis on low power consumption and efficient use of frequencies. Close attention will be given to the needs of different kinds of users and especially the requirements of pan-European access, necessitating truly compatible services and protocols.

AREA 4: IMAGE AND DATA COMMUNICATIONS

The research will involve the development of the technologies needed for the introduction and exploitation of advanced, low-cost and flexible image and data communication services, for both business and domestic needs. It will build on the foundations established by RACE, addressing in particular the impact of new transfer modes (such as ATM) on high-resolution visual services and fast packet data transmission at megabit rates. The work will concentrate on digital HDTV and will include coding and presentation techniques for still, moving and three-dimensional images. It will cover the interworking between an IBC system and the other networks with which it will co-exist.

AREA 5: INTEGRATED SERVICES TECHNOLOGIES

The development of demand in the field of services requires that the communications systems must be able to develop dynamically responding to end-user wishes. This field of study is defined below.

The objective of this research is to contribute to the definition of common functional specifications for new communication services and multimedia-systems. Notably, work will have to be done on specifications for use and more generally on services design and on their links with networks.

IBC/Modular standardization

This work will contribute to the harmonization of architectures and specifications for the flexible integration of telematic services under user control. Due account will be taken of the trans-national scale of communication needs and the heterogeneous technical environment.

Service engineering will focus on modular standardization in the areas of architectures, service-user components, service-provider components and service-creator components. It will also cover service harmonization and usage modelling.

It will address the functional architecture of an integrated-services environment and the specification of the components and primitives for end-user applications. Research into usability will focus on the human-service interface and include the design of generic metaphors for integrated services access. The work on service-provider components will cover specifications for service management: the work on service-creator components will develop definitions of specifications of common tools for service creation. The harmonization efforts will be directed in particular towards a definition of specifications for usability and the definition of quality of service parameters. Specifications for mobile communication and for security requirements will also be studied. Usage modelling will enable problems linked to such use to be studied and in particular the factors concerning the acceptance of a service by users.

Integrated service technologies

This research will build on system engineering activities, and the results will contribute to the specification and harmonization work. It will address techniques for architecture realization, user components technologies, metaphors and user interface technologies, and service management systems.

Service technology verification

The research will involve the development of prototype facilities for flexible integration of services responding to the requirements of operators, service providers and users.

AREA 6: INFORMATION SECURITY TECHNOLOGIES

The accuracy, security and overall 'trustworthiness' of electronically-communicated information are evidently of great importance to private individual, commercial undertakings and industry and public administrations. Work in this area will ensure that considerations of quality, security and reliability of service are included in their development and implementation strategies for advanced communications. It will provide validated specifications, guidelines and technology for practical and effective information security at a pan-European level consistent with actions which are carried out in the other specific programmes. The priority in this area is to develop technologies for information security, consistent with actions related to information systems security undertaken by the Commission under various programmes for which it is responsible.

Service quality, security and reliability

The research will cover risk management, coherent security solutions and the creation of a favourable environment for secure information management.

Risk management: A common strategy will be developed to allow the rational management of risks. It will provide the scientific basis for legal measures to reduce risks.

Coherent security solutions: Coordinated strategies will be developed to guarantee the interworking of separate security mechanisms/procedures. They will allow shared scenarios for transition to be developed, especially in public security infrastructures. The work will provide the basis for collaboration between organizations on the security of information exchanged between them.

Creation of a favourable environment: Options for the diffusion of information security techniques and related measures will be identified. The actual diffusion of solutions amongst end users is outside the scope of this programme.

Information security technologies

Technologies for security mechanisms and technologies for the integration of secure systems will be investigated, especially for distributed systems. They will be addressed under the following major headings:

Systems technologies for information security: addressing usability, auditability, applications software, hardware and operating systems.

Network technologies for information security: covering both transmission and switching.

Tools for the administration of information security: involving the development of software tools incorporating methods for the administration of information security. The research will address the analysis of risks, the formulation and implementation of information security policies, and the on-going administration of routines and quality-assurance of security systems.

Information security verification

The architectures, specifications and the technologies developed under this specific programme will be verified by building a series of demonstrators. This is essential in order to obtain genuine information security since the security of any system can only be as good as its weakest link and the systems studied in this context are complex. The work will fall under the following major headings:

Integration of information security technologies: addressing the use of a mix of several technologies for achieving optimal information security (ranging from electronics to suppress unwanted radiation of signals to protocol designs). These technologies cover many functions and form the constituent elements of the overall systems.

Verification of common tools for information security: covering three classes of tools; risk analysis tools, assurance criteria tools and tools for assessment of security.

Establishment of common infrastructure for information security: covering four areas: certification services for security products; accreditation services for secure systems; gateways for secure international traffic; and third-party security services. In all areas, the work will involve pilot schemes. These will be adapted to the needs of different branches of the economy, including public administrations, and directly supported by those who have developed the technologies within the R&D projects, in this programme or outside.

AREA 7: ADVANCED COMMUNICATION EXPERIMENTS

This pre-competitive and pre-standardization work is designed to prepare the ground for, and minimize the risks of investments in, advanced communications. It will identify generic service functions which are reusable and will permit the matching of different user needs while maintaining universal access and interoperability. The research will make it easier for user organizations to take up new technologies more rapidly and exploit the opportunities they present. By contributing to the creation of demand for advanced communications, work in this area is also in the interest of telecommunications operators and equipment manufacturers. The work focuses on the following subjects:

Study of generic functions

The research will focus on the identification of 'trigger' applications of advanced communications and of the generic applications which will be the basis for a spectrum of future universal services. It will cover the development of a usage reference model, development of consensus-based operational and functional specifications for services, consolidation of network and technology aspects and the identification of criteria and guidelines for the successful introduction and use of advanced communications. The work on the usage reference model will build on the

pre-existing concepts, but with a new focus on entry strategies, generic applications and the relation between applications (the user/demand viewpoint) and services (the provider/supplier viewpoint). Consensus-based operational specifications, with user participation and common functional specifications for services will be developed where they are 'market enabling'. The identification of criteria and guidelines for the successful introduction and use of advanced communications will build on application experiments, relating to applications with a strong socio-economic impact. Some generic applications have already been identified: examples are distributed case handling, inter-personal communications and remote delivery of expertise.

Technology and techniques for advanced communications experiments

The technology and techniques necessary for experimentation with advanced applications will be addressed under this heading. Three themes have been identified: development and identification of technologies to support the development of the service infrastructures; development of techniques to support the elicitation of user requirements and responses to be made to satisfy these requirements. The work will include the identification of server modules required for applications such as translation/interpretation, integrity, multimedia conferences, multimedia databases and distribution. The modelling of user requirements will cover service and product elements, network capabilities (transport, switching and management) and terminal facilities, implemented in hardware or software. The development of techniques enabling the exploitation of responses to such requirements will concern in particular support for the demand reference process. Large-scale field experiments will be complemented by simulation techniques. Presentation techniques, including animation and graphics, will be used to complement detailed technical reporting.

Application experiments

The technical and economic future of subsequent feasibility applications of broadband communications will be verified by experiments. The experiences will enable one to identify, describe, model and define generic applications of advanced communications that cross business sectors and functions for all regions of the Community. Network operators and users will be able to draw on the results of these experiments to put together marketing and exploitation plans. A certain amount of equipment (including service and product elements) will be developed for generic applications, allowing sector-specific application experiments to be undertaken.

The work will take account of the future needs of users, confirm the existence of these generic applications and clarify their characteristics in field experimentation. The resulting knowledge will form a basis for the relevant telecommunications sector organizations in planning the standardization, implementation and operation of future communications networks.

AREA 8: TEST INFRASTRUCTURE AND INTERWORKING

The successful introduction of IBC services in Europe needs to be preceded by experimentation and trials. A test infrastructure is therefore necessary, connecting those involved. It is needed to validate standards and functional specifications. Under conditions to be agreed on by the partners the provision and operation of the test infrastructure is expected to be ensured by the operators and national test-beds, in collaboration and cooperation between them when necessary for interconnection and interworking. These national test-beds working in cooperation would provide the basis for the communications experiments. Correspondingly this area supports work required to establish interworking.

ANNEX II

INDICATIVE BREAKDOWN OF THE AMOUNT DEEMED NECESSARY

(in million ecus)

| Area | Breakdown |
|--|--|
| 1. IBC (integrated broadband communications) R&D | 111 |
| 2. Intelligence in networks Flexible communications resource management | 43 |
| 3. Mobile and personal communications | 53 |
| 4. Image and data communications | 68,11 |
| 5. Integrated services technologies | 39 |
| 6. Information security technologies | 29 |
| 7. Advanced communications experiments | 121 |
| 8. Test infrastructures and interworking (horizontal R&D area supporting the other priority areas) | 20 |
| | Total 484,11 ⁽¹⁾ ⁽²⁾ |

⁽¹⁾ Including expenditure on staff which amounts to ECU 19,36 million and administrative expenditure amounting to ECU 21,64 million.

⁽²⁾ An amount of ECU 4,89 million, not included in the ECU 484,11 million, will be earmarked as the contribution from this specific programme to the centralized scheme for the dissemination and exploitation of results.

The breakdown between different headings does not exclude the possibility that projects could come under several headings.

ANNEX III

RULES FOR IMPLEMENTING THE PROGRAMME

1. The Commission will implement the programme on the basis of the objectives and the scientific and technical content described in Annex I.
2. The rules for implementing this programme, referred to in Article 3, comprise research and technological development projects, accompanying measures and concerted action projects. Selection of projects must take account of the criteria listed in Annex III to Decision 90/221/Euratom, EEC and of the objectives defined in Annex I to this Decision.

— Research projects

The projects will be the subject of shared-cost research and technological development contracts, with Community financial participation not normally exceeding 50%. Universities and other research centres participating in shared-cost projects will have the option of requesting, for each project, either 50% funding of total expenditure or 100% funding of the additional marginal costs.

Shared-cost research projects must, as a general rule, be carried out by participants established within the Community. Projects in which, for example, universities, research organizations and industrial firms, including small and medium-sized enterprises, may take part must provide, as a general rule, for the participation of at least two partners, independent of each other and established in different Member States. Contracts relating to shared-cost research projects must as a general rule be concluded following a selection procedure based on calls for proposals published in the *Official Journal of the European Communities*.

— Accompanying measures

The accompanying measures referred to in Article 7 of this Decision will consist of:

- the organization of seminars, workshops and scientific conferences,
- internal coordination through the creation of integrating groups,
- advanced technology training programmes, with emphasis being placed on multidisciplinary,
- promotion of the exploitation of results,
- independent scientific and strategic evaluation of the operation of the projects and the programme.

— Concerted action projects

Concerted action projects consist of action by the Community to coordinate the individual research activities carried out in the Member States. They may benefit from funding of up to 100% of coordination expenditure.

3. The knowledge acquired in the course of the projects will be disseminated both within the specific programme and by means of a centralized activity, pursuant to the Decision referred to in the third subparagraph of Article 4 of Decision 90/221/Euratom, EEC.

COUNCIL DECISION

of 7 June 1991

adopting a specific programme of research and technological development in the field of telematic systems in areas of general interest (1990 to 1994)

(91/353/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130a (2) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas, by Decision 90/221/Euratom, EEC ⁽⁴⁾, the Council adopted a third framework programme for Community activities in the field of research and technological development (1990 to 1994), specifying *inter alia* the activities to be pursued for developing the scientific knowledge and technical know-how needed by the Community, in particular to carry out its role in the field of telematic systems in areas of general interest; whereas this Decision should be taken in the light of the grounds set out in the preamble to that Decision;

Whereas Article 130k of the Treaty stipulates that the framework programme shall be implemented through specific programmes developed within each activity;

Whereas basic research must be encouraged as far as is necessary throughout the Community in each strategic sector of research in the framework programme;

Whereas in addition to the specific programme concerning human resources and mobility, it might be necessary to encourage the training of research workers in the context of this programme;

Whereas, in the context of this programme, an assessment should be made of economic and social impact as well as of any technological risks;

Whereas, pursuant to Article 4 of and Annex I to Directive 90/221/Euratom, EEC, the amount deemed necessary for the whole framework programme includes an

amount of ECU 57 million for the centralized dissemination and exploitation of results, to be divided up in proportion to the amount envisaged for each specific programme;

Whereas Decision 90/221/Euratom, EEC provides that a particular aim of Community research must be to strengthen the scientific and technological basis of European industry, particularly in strategic sectors of advanced technology, and to encourage it to become more competitive at the international level; whereas it also provides that Community action is justified where research contributes, *inter alia*, to the strengthening of the economic and social cohesion of the Community and to the promotion of its overall harmonious development, while being consistent with the pursuit of scientific and technical excellence; whereas the programme of research in the field of telematic systems should contribute to the achievement of these objectives;

Whereas small and medium-sized enterprises should be involved to the maximum extent possible in this programme; whereas account should be taken of their special requirements without prejudice to the scientific and technical quality of the programme;

Whereas research/development in the field of telematic systems in areas of general interest will contribute to the successful completion of the internal market and at the same time improve the performance of large public services facing, throughout the Community, the new technological, social and economic challenges which are implied by European integration;

Whereas it is important, when projects are selected, to ensure that data are protected and confidentiality maintained;

Whereas the Scientific and Technical Research Committee (Crest) has been consulted,

HAS ADOPTED THIS DECISION:

Article 1

A specific research and technological development programme for the European Economic Community in the field of telematic systems in areas of general interest, as defined in Annex I, is hereby adopted for a period beginning on 7 June 1991 and ending on 31 December 1994.

⁽¹⁾ OJ No C 174, 16. 7. 1990, p. 19.

⁽²⁾ OJ No C 324, 24. 12. 1990, p. 271; and OJ No C 158, 17. 6. 1991.

⁽³⁾ OJ No C 41, 18. 2. 1991, p. 6.

⁽⁴⁾ OJ No L 117, 8. 5. 1990, p. 28.

Article 2

1. The funds estimated as necessary for the execution of the programme amount to ECU 376,2 million, including expenditure on staff and administration amounting to ECU 41 million.
2. An indicative allocation of funds is set out in Annex II.
3. Should the Council take a decision in implementation of Article 1 (4) of Decision 90/221/Euratom, EEC, this Decision shall be adapted accordingly.

Article 3

Detailed rules for the implementation of the programme and the amount of the Community's financial contribution are set out in Annex III.

Article 4

1. In the second year of implementation of the programme, the Commission shall review it and send a report on the results of its review to the European Parliament and the Council; the report shall be accompanied, where necessary, by proposals for amendment of the programme.
2. At the end of the programme, an evaluation of the results achieved shall be conducted for the Commission by a group of independent experts. This group's report, together with any comments by the Commission, shall be submitted to the European Parliament and the Council.
3. The reports referred to in paragraphs 1 and 2 shall be established having regard to the objectives set out in Annex I to this Decision and in accordance with Article 2 (4) of Decision 90/221/Euratom, EEC.

Article 5

1. The Commission shall be responsible for the implementation of the programme.
2. Contracts concluded by the Commission shall govern the rights and obligations of each party, in particular the arrangements for the dissemination, protection and exploitation of research results, in accordance with the provisions adopted pursuant to the second paragraph of Article 130k of the Treaty.
3. A work programme shall be drawn up in accordance with the aims set out in Annex I and updated where necessary. It shall set out the detailed objectives and types of projects to be undertaken, and the financial arrangements to be made for them. The Commission shall make calls for proposals for projects on the basis of the work programme.

Article 6

1. The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission.

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority provided for in Article 148 (2) of the EEC Treaty as regards adoption of decisions which the Council is required to adopt on a proposal from the Commission. When the committee votes, the votes of the representatives of the Member States shall be weighted as laid down in the abovementioned Article. The chairman shall not vote.

3. The Commission shall adopt the proposed measures when they are in accordance with the committee's opinion.

4. When the proposed measures are not in accordance with the committee's opinion, or where no opinion is delivered, the Commission shall submit to the Council without delay a proposal concerning the measures to be taken. The Council shall act by a qualified majority.

5. If, on the expiry of a period of three months from referral of the matter to the Council, the latter has not acted, the proposed measures shall be adopted by the Commission.

Article 7

1. The procedure laid down in Article 6 shall apply to:
 - the preparation and updating of the work programme referred to in Article 5 (3),
 - the contents of the calls for proposals,
 - the assessment of the projects provided for in Annex III and the estimated amount of the Community's contribution to them where this amount exceeds 1 % of the amount deemed necessary for each field referred to in Annex II,
 - departures from the general rules set out in Annex III,
 - the participation in any project by non-Community organizations and enterprises referred to in Article 8 (1) and (2),
 - any adaptation of the indicative allocation of the amount set out in Annex II,
 - the measures to be undertaken to evaluate the programme,
 - arrangements for the dissemination, protection and exploitation of the results of research carried out under the programme.

2. Where, pursuant to the third indent of paragraph one, the amount of the Community contribution is less than or equal to 1 % of the amount deemed necessary for the projects, the Commission shall inform the committee of the projects and of the outcome of their assessment.

The Commission shall also inform the committee of the implementation of the accompanying measures and the concerted actions referred to in Annex III.

Article 8

1. The Commission is authorized to negotiate, in accordance with Article 130n of the Treaty, international agreements with third countries which are members of COST, particularly the member countries of EFTA and the countries of Central and Eastern Europe, with a view to associating them with the whole programme or a part of it.

2. Where framework agreements for scientific and technical cooperation have been concluded between the Community and European non-member States, bodies and enterprises established in those countries may, in accordance with the procedure laid down in Article 6 and on the basis of the criterion of mutual benefit, be allowed to become partners in a project undertaken within the programme.

No contracting body based outside the Community and participating as a partner in a project undertaken under the programme may benefit from Community financing for this programme. The body concerned shall contribute to the general administrative costs.

Article 9

This Decision is addressed to the Member States.

Done at Luxembourg, 7 June 1991.

For the Council

The President

R. STEICHEN

ANNEX I

OBJECTIVES AND SCIENTIFIC AND TECHNICAL CONTENT

The guidelines, scientific and technical objectives and underlying purposes of the third framework programme form an integral part of this specific programme.

Paragraph I.1.C of Annex II to the framework programme forms an integral part of this specific programme.

On this basis and in the light of the above, there follows an analytical description of the contents of this specific programme.

Introduction

In pursuit of the objectives outlined in the technical Annex to the framework programme, special account will be taken of the needs for management and transmission of electronic information as a consequence of completion of the single European market. These needs will be identified in collaboration with users: public authorities, businesses in manufacturing or service industries, academic institutions and individuals.

The activities will be pre-competitive and pre-normative and will concentrate on providing opportunities for interoperability between national systems, for defining standards, architectures and functional specifications. The activities will address such issues as user acceptance, security and privacy.

Pilot projects and demonstrators will be included when it can be shown there is a need to verify technology, to demonstrate interoperation standards and where there is broad interest to all Member States.

Close coordination will take place between these activities and those within lines 1.A and 1.B of the third framework programme as well as those outside the framework programme such as Eureka projects.

AREA 1: SUPPORT FOR THE ESTABLISHMENT OF TRANSEUROPEAN NETWORKS BETWEEN ADMINISTRATIONS

The objective of this area is to define common requirements for electronic information exchange and to examine the need for interoperability between electronic information networks within Member States; to carry out studies and pre-normative research for the definition and subsequent establishment of the trans-European telematic services networks essential to national administrations for the completion of the single market, for the provision of the services necessary to the free movement of persons, goods, services and capital and for increasing economic and social cohesion in the Community.

The priority subareas are those most closely linked to the completion of the internal market. In the first instance, work may concern such areas as customs, social services, emergency services and statistics. Several examples are given below.

With the elimination of frontiers within the Community as a result of the completion of the internal market, it will no longer be possible to monitor goods in transit at national frontier posts. Monitoring of goods in transit will require information to be exchanged between the customs of the country in which the goods enter or leave Community territory and the country of destination or origin of the goods. Consideration should therefore be given to whether, and how far, this will create a new need which new IT and telecommunication tools can help to satisfy.

Free movement of goods within the Community requires means of controlling their movements. Furthermore, the problems due to the incompatibility of existing national systems and to relations with non-Community countries, legal constraints and differing procedures and methods must be surmounted. Freedom of movement for persons cannot be achieved without a sustained, two-way flow of information between the various administrative establishments with responsibility for social services. Telecommunications interconnection between these administrations should help to provide social services for people. The setting-up of trans-European telematic services could help to do this, by ensuring rapid and secure information exchange, guaranteeing the compatibility of operational procedures while respecting citizens' rights, and promoting international coordination.

The interconnection and interoperability of existing statistical tools will allow the implementation of a European system of statistical information.

Identification of needs and implementation strategies

Selected areas closely linked to the completion of the single market will be examined in an exploratory action. This will comprise an assessment of the exchange of electronic information brought about by the completion of the single European market, an assessment of the needs of the users of this information to accommodate these changes and an assessment of the role of research and development in meeting these needs. The results of this work will enable the relevant administrations of the Member States and the Commission, with the help of hardware and software producers, telecommunications operators, and possibly service providers, to seek a consensus on the functional and technical specifications of the services required and strategies for setting up the transeuropean networks to provide these services.

The comparison of these descriptions with needs should enable the work remaining to be done to be identified by mutual agreement; this may involve some or all of the following tasks: description of the information desired, precise description of the types of messages required (free text, statistical tables or highly structured administrative messages), their format, the functional specifications and standards to be used, adapted or developed, as appropriate, and the protocols to be developed or converted.

Preference will be given to systems which are designed to intercommunicate using key elements, particularly those which have been standardized at European or world level. The standards relating to database access, storage and access protocols, languages, etc., will be identified and adapted where necessary. Arrangements must be made to ensure secure services.

Development of the technologies relating to telematic services and validation of common functional specifications

In order to take account of the complexity of these networks of services, the number of parties involved, the variety of information, real-time or batch processing, and capacity requirements, the architectures and the management of these trans-European networks will have to be thoroughly studied and researched in order to achieve the performance and reliability required to satisfy the specific needs of each administration. These studies and research will have to be carried out jointly by users of specialized networks, manufacturers of information and communications equipment, telecommunications operators and possibly service providers.

The work will concentrate initially on interoperability, common standards, architectures and functional specifications, user acceptability, data integrity and confidentiality. As a result of this work, a common reference model should be developed for the implementation or the adaptation of the telematic systems which are proposed. The results of the exploratory activities in a few subareas will be taken into account as work in this area is subsequently broadened.

This work will complement that conducted in the specific programmes on IT and communications.

To obtain the interoperability of computerized service networks, used by the administrations and end-users, it is important to verify common functional specifications. Special attention will be paid to the quality, reliability, security and ease of use of these services. To this end, a limited number of pilot projects will be carried out where there is a need to verify functional specifications and technology, where there is a general interest to all Member States and where this is in keeping with rules on personal data protection.

Where appropriate these experimental development activities will be carried out in cooperation with the work carried out under the Insis, Caddia and Tedis programmes and certain parts of the Esprit and RACE programmes.

AREA 2: TRANSPORT SERVICES

The activities aim to contribute to the development, in the field of transport, of integrated trans-European services using advanced IT and communications to improve the performance (safety and efficiency) of passenger and goods transport services, and at the same time reduce the impact of transport on the environment. (See under 'road transport'.)

Account will have to be taken of the peculiarities and specific needs of the various parties involved, notably private and business users and administrations. Safety and ease of access for all users will be given special attention.

Road transport (Drive)

The objective is to contribute to development of a framework in which advanced IT and communications can be harnessed to improve the efficiency and safety of passenger and goods transport and reduce their impact on the environment. The work will build on the exploratory research in Drive under the second framework programme. There will be close liaison with relevant Eureka projects.

Work in this area should cover the interface between road and rail transport as well as that between road and sea transport.

The work will concentrate on the needs of users, those concerned with safety, provision and maintenance of infrastructure and provision of transport services.

The activities will be divided into three interactive parts: the definition of functional specifications in the context of a strategy for the use of technology and telematic systems for communication and traffic control, the development of new technologies and experimental systems, and validation work.

Strategies for the use of technologies, telematic services and systems and contribution to the definition of common functional specifications

The results of the work carried out so far under the Drive and relevant Eureka projects have enabled the needs specific to road transport and the technologies and systems available for communications and traffic control to be identified and evaluated. On the basis of these results, a strategy for using these technologies and systems will be sought in cooperation with transport users, business, providers of transport-related services and the administrations concerned.

Systems engineering work will continue on an integrated transport environment, addressing development and implementation strategies. It will help to draw up the functional specifications in terms of equipment, services and operating procedures, and to make recommendations to standard setting authorities such as CEN/Cenelec and ETSI for traffic control, transport management, driver support, road safety.

Technologies and experimental development of systems

The work will take account of the technologies emerging within information and communications, the results of research carried out under Drive and in other activities both in the Community and Member States.

Technologies and experimental systems for managing transport and controlling road traffic will be developed and evaluated for both passenger and goods transport.

Safety and communications systems will concentrate on helping drivers on long journeys. The research will focus on on-board safety systems and equipment able to detect warnings and incidents and communicate with the new fixed infrastructure equipment.

Research and technological development work specific to goods transport, including dangerous goods transport, will also be undertaken. It will cover the software, hardware and telematic systems needed to improve goods traffic management. This work will concern real-time monitoring of the various forms related to transactions, the goods themselves and vehicles; management systems for all kinds of vehicle fleets will also be developed.

In the field of public transport, work on monitoring and control will continue, to evaluate the cost-effectiveness of opportunities for on-line monitoring, scheduling and control for users and providers of services and to establish the necessary functional specifications.

The technological solutions will have to ensure that the telecommunications equipment to be introduced is suited, in terms of size, cost and performance, to the intended specific uses and the needs identified.

Special attention will be given to existing and emerging systems namely those related with satellites and digital cellular communication networks. Of particular importance is the potential of new systems to provide incident detection and provide usable information to network managers and road users through effective road-vehicle communications.

Validation and pilot projects

In order for the new systems and devices to be accepted by both the general public and the relevant authorities, they must be of proven performance and reliability and their potential impact on the environment must be assessed. This will require full-scale pilot experimentation to establish whether technologies serve market needs, contribute significant gains in efficiency (with existing and new infrastructure) safety and environmental benefits are cost effective and provide satisfactory system security and interoperability. These will be oriented towards the integration of multiple subsystems, functions and services which requires strong pre-standardization efforts. The sector actors should be closely associated with the work.

These experiments will cover areas including integrated urban traffic control; monitoring of air pollution; integrated motorway traffic control; vehicle roadside communications; driver information; transport demand management; public transport; freight transport and trip planning.

The need for rigorous evaluation should be a prime requirement in selection and design of pilot projects which may mean that pilot projects are established on an incremental basis. Projects should also evaluate technologies and systems of wide applicability.

AREA 3: HEALTH CARE (AIM)

The objective of this area is that of stimulating the development of harmonized applications of information and communication technologies in health care and the development of an European health-care information infrastructure taking into account the needs of users and technological opportunities.

The activities will depend on the needs of users and on the requirements of transnational exchange of electronic information. They will concentrate on interoperability of national systems, the establishment of standards, user acceptability, data integrity and confidentiality. The selection of activities will depend on strategic options within both the European health-care sector and European telematics sector.

Work in this area will be carried out along three main lines, making use of the exploratory work of the AIM programme (advanced informatics in medicine) and in close cooperation with other Community programmes.

Strategies for the use of technologies, telematic systems and services and contribution to the definition of common functional specifications

The nature of research and technological development activities will depend to a large extent on user needs and the general constraints associated with the transnational nature of the information infrastructure required. This transnational aspect requires compliance with three principles: integration (notably the emergence of standards); modularity, to facilitate adaptation to different types of needs, and data security. The research and technological development activities will depend on the assessment of technological needs in the light of the main factors affecting the development of health care. They will also depend on the strategic options for European telematic services in the sector. Essential problems such as confidentiality and data protection will be given high priority.

Development of telematic technology applied to medicine

Activities are expected to fall into one or more of the following domains:

- alphanumeric data and text coding standards,
- images and biosignals with coding standards,
- integrated medical instrumentation and devices,
- knowledge based and decision support systems,
- medical use of multi-media workstations,
- health-care communication systems,
- telemedical systems and archiving systems,
- modularity and integration of medical and health information systems,
- regulatory tools and incentives (medical, legal, ethical, economic and social),
- technologies and services for the handicapped and elderly,
- inter-hospital telematics for increased security in distance care and improved management of staff and specialized equipment.

Validation and integration

Pilot applications will be set up to demonstrate and evaluate the innovative nature of using IT and communications in this area. Tests of the applicability of the research and development results and the interoperability of telemedicine services will be conducted.

AREA 4: FLEXIBLE AND DISTANCE LEARNING (Delta)

On the basis of the exploratory work of the Delta programme and in close cooperation with other Community activities such as Comett and Eurotectnet, the work in this area will be carried out in three interdependent parts: drawing-up of implementation strategies, development of technologies and systems, and validation and integration of services.

Strategies for the use of technologies, telematic systems and services and contribution to the definition of common functional specifications

In the light of the interests of the various categories of users and taking account of the technological potentials, the various possible options to satisfy these needs will be identified. The measures needed to overcome the difficulties of implementing educational technologies will be determined.

Systems engineering work will be carried out: it will consist of identifying user needs and then reaching a consensus on specifications and functional standards which satisfy the needs of the various categories of users, producers of educational materials and providers of flexible and distance learning services.

The work will centre on the development of production methods for multimedia educational materials which are portable and transferable between various systems with the prospect of transnational use, including remote assistance and help procedures for the various categories of users.

Development of systems and technologies

The work will relate to the technologies required to obtain a telematic service for local and distance learning which is flexible, effective, modular and interoperable.

It will be necessary to integrate and adapt the information and communications technologies, hardware configurations and protocols for educational and training applications and ensure compatibility and portability of the various systems developed for the potential users, whether they be students, authors, tutors, producers or simply people requesting information on education services.

Experiments on the validation and integration of services

The performance of the various possible services and technical configurations must be evaluated. Experiments in the real environment will allow testing of the value added by interconnecting the various systems using new technologies for education, information and user assistance. The experiments will establish the comparative advantages and the performance, in relation to their cost, of these various configurations of flexible distance learning systems for different categories of users.

AREA 5: LIBRARIES

The objective is to facilitate user access, by optimum use and development of equipment and telematic systems, to the wealth of knowledge held in libraries while reducing the handicaps caused by the present disparate infrastructures in the Community.

To this end, the work will have to help develop modern library services all over the Community by promoting faster, but orderly and cost-effective penetration of new technologies into libraries.

Initial Community activity in this area must be selective, concentrating on urgent problems which can catalyse change in a concrete and practical way. Applied research and development will therefore be used to support the development of appropriate tools, methods and resources which will be able to stimulate modernization of the operational infrastructure and services provided, and facilitate cooperation and resource sharing at national and European levels.

This activity will consist of setting up computerized bibliographies where these are lacking, and helping to improve computerized bibliographies or collective catalogues. Support will also be given to retrospective conversion of catalogues of important collections at international level, by developing the necessary tools and methods.

Projects will be set up to facilitate the international interconnection of the systems managing these basic data for particular functions (shared cataloguing, inter-library loans, etc.) and thus help to prepare and apply a range of international or European standards.

The provision of new library services using IT and communications in small units will be stimulated. Initial support will be given to the creation of a range of innovative experimental services for library users, taking account of the different levels of development of library services in the Member States.

Finally, projects will be set up to encourage the development of a European market in telematic products and services specific to libraries. Interaction between libraries and IT industries will be stimulated by improving the definition of libraries' needs which new IT and communications can satisfy. Limited initial support will be given to experimental demonstrations of products (such as software) and services.

AREA 6: LINGUISTIC RESEARCH AND ENGINEERING

The aim of this area is to develop a basic linguistic technology which can be incorporated into a large number of computer applications where natural language is an essential ingredient, with a view to accommodating or overcoming limitations and inefficiencies within the Community brought about by different natural languages. This requires the creation of linguistic resources (grammars, dictionaries, terminology collections and corpora of text) for the nine official Community languages, and the definition of standards for these data. A number of pilot applications and demonstration projects will be undertaken to show how the technology will be used and demonstrate the technical and economic feasibility of the solutions adopted.

The area is divided into three parts: research, development of resources and pilot applications. It is based on the results and experience drawn from Eurotra and certain specific projects conducted under Esprit and national research programmes.

The research work will concentrate on the development of a common computer-based linguistic model for text representation in different languages and on the pursuit of automated techniques for reducing the number of possible interpretations of a given text. The development of advanced computational technologies will encourage the application, for linguistics, of progress made in the field of advanced expert systems, database technologies, speech processing and computer architectures. It is also intended to create methods, tools and linguistic resources, especially portable software tools, grammars, dictionaries, domain specific terminological collections, as well as large, high/quality corpora and the stimulation of standards work. Pilot applications and demonstration projects will help to test the progress of research work and to demonstrate the technical and economic feasibility of tools, methods and resources in an operational environment.

AREA 7: TELEMATICS SYSTEMS FOR RURAL AREAS

Half the European population still lives outside major cities and towns, and rural areas need comparable telematic service infrastructures to those in urban centres if they are to develop more balanced economic activities with a greater diversity of employment. The introduction of such services in rural areas will be a gradual process, the investments required will be large, and the infrastructures installed will have a lifetime of some decades. It is therefore essential that the right choices are made on technologies and system configurations. There is a need for pre-normative actions to harmonize the Community markets for equipment and services adapted to the needs of rural areas; for development and stimulation of specialised services and for the impacts of telematics in rural areas to be consistently assessed.

Community action in this area will contribute to completion of the single market, to strengthening the socio-economic cohesion of Europe, to improvements in the quality of life in rural areas, to industrial innovation (in particular for small and medium-sized enterprises) and to rural development. The actions will be part of a wider programme of actions strengthening rural development in the Community.

The goal is to create the conditions for geographically dispersed small businesses to provide more diverse employment opportunities and a more balanced economic activity in rural areas; to establish a basis for provision of improved services to dispersed and isolated populations, to raise the level of awareness of the potential of information and communication technologies in rural areas; to encourage manufacturers and service providers to make equipment and services easier to use by rural communities, and to ensure that applications of information and communication technologies in rural areas do not contribute to a further centralization of business and administrative activities and a loss of the cultural and economic diversity of rural areas in Europe.

The specific objectives are to develop a better understanding of the common needs and opportunities for telematic services and of the impacts of such services on rural life; to establish a common understanding of network configuration requirements and options and a common understanding of service requirements for telematic services, and to prepare the way for the harmonized planning and introduction of telematic service infrastructures in rural areas.

In order to achieve these objectives, the actions will involve consensus development with industry and rural development agencies; identification of needs and opportunities for telematics services and assessment of their impacts; specification of service and technology requirements; development of telematic systems, some pilot applications and research on infrastructure planning and implementation strategies.

ANNEX II

INDICATIVE BREAKDOWN OF THE AMOUNT DEEMED NECESSARY

(in million ecus)

| Area | Breakdown |
|--|---|
| 1. Administrations | 41,3 |
| 2. Transport | 124,4 |
| 3. Health care (including the handicapped and elderly) | 97 |
| 4. Flexible and distance learning | 54,5 |
| 5. Libraries | 22,5 |
| 6. Linguistics | 22,5 |
| 7. Rural areas | 14 |
| | Total 376,2 ⁽¹⁾ ⁽²⁾ |

⁽¹⁾ Including expenditure on staff which comes to ECU 30 million and administrative expenditure totalling ECU 11 million.
⁽²⁾ An amount of ECU 3,8 million, not included in the ECU 376,2 million will be earmarked as the contribution from the specific programme in the field of telematic systems in areas of general interest to the centralized scheme for the dissemination and exploitation of results.

The breakdown between different headings does not exclude the possibility that projects could come under several headings.

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ANNEX III

RULES FOR IMPLEMENTING THE PROGRAMME

1. The Commission will implement the programme on the basis of the scientific and technical content described in Annex I.
2. The rules for implementing the programme, referred to in Article 3, comprise research and technological development projects, accompanying measures and concerted actions:

— Research projects

The projects will be the subject of shared-cost research and technological development contracts. Selection of projects must take account of the criteria listed in Annex III to Decision 90/221/Euratom, EEC and of the objectives set out in Annex I to this programme.

For shared-cost projects Community financial participation will not normally be more than 50%. Universities and other research centres participating in shared-cost projects will have the option of requesting, for each project, either 50% funding of total expenditure or 100% funding of the additional marginal costs.

Shared-cost research projects must, as a general rule, be carried out by participants established within the Community. Projects in which, for example, universities, research organizations and industrial firms, including small and medium-sized enterprises, may take part must provide, as a general rule, for the participation of at least two partners, independent of each other and established in different Member States. Contracts relating to shared-cost research projects must as a general rule be concluded following a selection procedure based on calls for proposals published in the *Official Journal of the European Communities*.

The Commission will publish a vade-mecum setting out all the rules applying to the selection of projects, in order to guarantee full transparency.

— Accompanying measures

the accompanying measures referred to in Article 7 will consist of:

- the organization of seminars, workshops and scientific conferences,
- internal coordination through the creation of integrating groups,
- advanced technology training programmes, with emphasis being placed on multidisciplinary,
- promotion of the exploitation of results.
- independent scientific and strategic evaluation of the operation of the projects and the programme.

— Concerted actions

Concerted actions consist of action by the Community to coordinate the individual research activities carried out in the Member States. They may benefit from funding of up to 100% of coordinating expenditure.

3. The knowledge acquired in the course of the projects will be disseminated both within the specific programme and by means of a centralized activity, pursuant to the Decision referred to in the third subparagraph of Article 4 of Decision 90/221/Euratom, EEC.

COUNCIL DECISION

of 22 July 1991

establishing the second phase of the Tedis programme (Trade electronic data interchange systems)

(91/385/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas one of the Community's tasks is, by establishing a common market and gradually reducing the gap between the economic policies of the Member States, to promote the harmonious development of economic activities throughout the Community and closer relations between its constituent States ;

Whereas the Commission White Paper on the completion of the internal market stresses the importance of the future development of new transfrontier services and the contribution made by telecommunications networks based on common standards towards the creation of a market free of barriers at Community level ;

Whereas the exchange of computerized data (EDI) can contribute increasingly towards the competitiveness of European undertakings in the production and services sectors ;

Whereas there is rapid growth at present in public and private initiatives for putting into service within a company or group of companies or sector of activity, at national and international level, electronic data interchange systems which are not compatible ;

Whereas, as regards electronic data interchange, the diversity and fragmentation of initiatives taken at national level or more generally by a company, group of companies or sector of activity may lead to the creation of incompatible and non-communicating systems and to preventing suppliers of equipment and services, and users, from deri-

ving maximum benefit from the advantages created by the growth in electronic data interchange ;

Whereas, in line with the Council Resolution of 22 January 1990 on trans-European networks ⁽⁴⁾ and the conclusions of the Strasbourg and Dublin European Councils, the smooth running of the internal market depends on undertakings and authorities involved in it being able to exchange data as part of their activities by making use of compatible systems which enable genuine pan-European data interchange networks to be developed ;

Whereas Tedis needs in particular to be dovetailed with the specific programme of research and technological development in communications technology (1990 to 1994), the specific programme of research and technological development in the field of telematics systems of general interest (1990 to 1994) and the specific programme for information technology (1990 to 1994) which are part of the Community's third framework research programme ;

Whereas the work already initiated in the field of electronic data interchange (EDI) during the first phase of the Tedis programme (1988 to 1989) established by Decision 87/499/EEC ⁽⁵⁾ makes it possible to envisage the establishment of such pan-European networks, provided that this work is continued and expanded by instituting a second phase to the programme ;

Whereas a programme lasting three years is called for ;

Whereas an amount of ECU 25 million is estimated as necessary to implement this multi-annual programme ; whereas, for the period 1991 to 1992, in the framework of the current financial perspective, the funds estimated as necessary are ECU 10 million ;

Whereas the amounts to be committed for the financing of the programme for the period after the budget year 1992 will have to fall within the Community financial framework in force ;

⁽¹⁾ OJ No C 311, 12. 12. 1990, p. 6.

⁽²⁾ OJ No C 106, 22. 4. 1991, p. 167.

⁽³⁾ OJ No C 102, 18. 4. 1991, p. 13.

⁽⁴⁾ OJ No C 27, 6. 2. 1990, p. 8.

⁽⁵⁾ OJ No L 285, 8. 10. 1987, p. 35.

Whereas, by Decision 89/241/EEC⁽¹⁾, the Council amended the initial Decision on the Tedis programme to allow non-member countries, in particular Member States of the European Free Trade Association (EFTA), to be associated with the Tedis programme and, in accordance with Article 228 of the Treaty, authorized the Commission to negotiate agreements with the EFTA Member States;

Whereas, by Decision 89/689/EEC⁽²⁾, 89/690/EEC⁽³⁾, 89/691/EEC⁽⁴⁾, 89/692/EEC⁽⁵⁾, 89/693/EEC⁽⁶⁾ and 89/694/EEC⁽⁷⁾, the Council approved the agreements on systems for the electronic transfer of data for commercial use concluded between the European Economic Community and, respectively, Austria, Finland, Iceland, Norway, Sweden and Switzerland;

Whereas the Treaty does not provide, for the adoption of this Decision, powers of action other than those of Article 235,

HAS DECIDED AS FOLLOWS:

Article 1

1. A second phase of the Tedis (Trade electronic data interchange systems) Community programme concerning the exchange of electronic data (EDI) in trade, industry and administration, hereinafter called the 'programme', is hereby set up.

The programme shall last three years.

2. The Community financial resources estimated as necessary for its implementation amount to ECU 25 million, of which ECU 10 million is for the period 1991 to 1992 in the framework of the 1988 to 1992 financial perspective.

For the subsequent period of implementation of the programme, the amount shall fall within the Community financial framework in force.

3. The budget authority shall determine the appropriations available for each financial year, taking into account the principles of sound management referred to in Article 2 of the Financial Regulation applicable to the general budget of the European Communities.

Article 2

The objectives of the programme are to ensure that electronic data interchange systems are established to the best

effect, in view of the socio-economic importance of such systems, and to mobilize the necessary resources to achieve this end at Community level.

Article 3

In order to achieve the objectives defined in Article 2, measures will be taken and continued in the following areas:

- standardization of EDI messages,
- specific EDI needs as regards telecommunications,
- legal aspects of EDI,
- security of EDI messages,
- multi-sector and Europe-wide projects,
- analysis of the impact of EDI on company management,
- information campaigns.

A list of the proposed measures is given in Annex I. These measures shall be implemented under the procedures provided for in Articles 6 and 7.

Article 4

The implementation of the programme shall be coordinated with existing or planned Community policies and activities concerning telecommunications particularly in respect, where necessary, of initiatives under the Open Network Provision Framework Directive (90/387/EEC)⁽¹⁾, the information market (Impact programme), security of information systems and standardization, and in particular with the Caddia programme and the CD project, so as to ensure the necessary interaction with the specific requirements of the exchange of electronic data.

Article 5

Contracts arising from the programme shall be concluded with undertakings, including small and medium-sized enterprises, research establishments, national administrations and other bodies established in the Community, in the member countries of the European Free Trade Association or in a third country with which the Community has concluded an agreement associating that country with the programme.

Article 6

1. The Commission shall be responsible for implementing the programme. The Commission shall be assisted by a Committee of an advisory nature composed of the representatives of the Member States and chaired by the representative of the Commission.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time limit which the Chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

⁽¹⁾ OJ No L 97, 11. 4. 1989, p. 46.

⁽²⁾ OJ No L 400, 30. 12. 1989, p. 1.

⁽³⁾ OJ No L 400, 30. 12. 1989, p. 6.

⁽⁴⁾ OJ No L 400, 30. 12. 1989, p. 11.

⁽⁵⁾ OJ No L 400, 30. 12. 1989, p. 16.

⁽⁶⁾ OJ No L 400, 30. 12. 1989, p. 21.

⁽⁷⁾ OJ No L 400, 30. 12. 1989, p. 26.

⁽¹⁾ OJ No L 192, 24. 7. 1990, p. 1.

3. The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

4. The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

Article 7

1. Notwithstanding the provisions of Article 6, the following procedure shall apply in drawing up the work programme as set out in Annex I, the breakdown of the relevant budgetary expenditure and the assessment of projects and actions provided for in that Annex of a total value of above ECU 200 000, and the estimated amount of the Community's contribution to them.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in

accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith.

4. In that event, the Commission shall defer application of the measures which it has decided for a period of three months from the date of communication.

The Council, acting by a qualified majority, may take a different decision within the time limit referred to in the foregoing subparagraph.

Article 8

At the end of the Tedis programme, the Commission shall present to the European Parliament, the Council and the Economic and Social Committee a final report containing an assessment by independent experts of the progress made towards each of the objectives set under the programme on the basis of the criteria and indicators as set out in Annex II to this Decision.

Article 9

This Decision shall take effect on 1 July 1991.

Done at Brussels, 22 July 1991.

For the Council

The President

P. DANKERT

*ANNEX I***1. Standardization of EDI messages :**

- support the development work of the international Edifact standard and in particular the work of the Edifact Board for Western Europe ; coordinate work regarding elaboration of Edifact messages and provide the necessary technical assistance,
- supply the appropriate means to ensure conformity to Edifact of, on the one hand, EDI messages and, on the other hand, of conversion software,
- adapt, if necessary, the Edifact standard to take account of the new developments in EDI, such as graphical EDI, technical EDI and interactive EDI,
- support 'migration' towards the use of international standards and particularly towards the use of Edifact,
- seek compatibility between the American standard ANSI X12 and the international Edifact standard.

2. Specific EDI needs as regards telecommunications :

- to make proposals for improving technical interconnectivity between EDI users in Europe, ensuring close liaison with existing Community activities in this area and in particular ONP, namely :
 - (a) encouraging the use of standardized communication protocols suitable for EDI in underlying services, especially P-edi, X.400 (1988) or X.500, coordinating where necessary with the ONP plans to harmonize for instance standards for packet switched data services and leased lines ;
 - (b) encouraging the existence of gateways between existing EDI services ;
 - (c) helping to establish a system of registration authorities, to ensure the solution of the problem of identifying the names and addresses of EDI users in a multisectorial and trans-European context,
- to encourage the increased use of integrated services digital networks for EDI,
- to favour the gathering of the EDI interest groups dealing with telecommunications aspects,
- to encourage the practice of 'one-stop shopping/billing' concepts in EDI.

3. Legal aspects of EDI :

- finalize the draft European EDI agreement,
- set up and investigate thoroughly the constraints and needs of a legal nature in specific areas,
- undertake the thorough legal analysis of media and means of storage and of the electronic signatures for EDI messages,
- prepare a discussion document on the adaptation and harmonization of European legislations in order to integrate into the legal regimes the necessary provisions for the use of EDI ; define the proposal of adaptation and harmonization required,
- ensure, from a legal aspect, that functions accomplished by EDI messages are also valid in order to carry out functions of a legal and reglementary nature,
- analyse the impact of EDI messages on the traditional functions of negotiability,
- follow the issues of data protection and confidential data in order to take account of the specific needs which could arise with the development of EDI,
- ensure the coordination between Member States on legal matters in connection with EDI and participate in the international coordination.

4. Security of EDI messages :

- create an informal expert group in this specific area,
- organize each year workshops which will treat different themes related to the security of EDI messages,
- increase the awareness of EDI users and of other appropriate groups to EDI message security,
- facilitate the development of procedures, methods, services and standards related to EDI security,

- examine the user environment ; identify the constraints, quantify the risks and investigate, if possible, an appropriate model to ensure EDI security,
- examine the security requirements related to new forms of EDI and the impact of new technologies,
- evaluate the services and products available to ensure the security of EDI messages, and if necessary examine the question of certification,
- examine from the EDI security viewpoint open multi-service environments.

5. Multi-sector and Europe-wide projects :

- establish and keep up-to-date a permanent inventory of existing or potential EDI projects in Europe,
- ensure the coordination of sectoral projects to meet industry and user needs,
- support of development of an intersectoral forum for EDI measures,
- encourage the launch of intersectoral projects to meet industry and user needs,
- encourage the participation of national administrations and Community institutions in the intersectoral projects,
- support the promotion of EDI systems to ensure wider use of EDI in Europe,
- identify long-term actions liable to progressively stimulate and interface EDI systems in countries of the Mediterranean, in Central and Eastern Europe.

6. Analysis of the impact of EDI on company management :

- identify and analyse changes in the methods of management and organization brought about by the introduction of EDI ; small and medium-sized enterprises (SMEs) should particularly be taken into account,
- examine the economic and social effects of EDI,
- measure up the cost benefit of introducing EDI in private or public sectors,
- elaboration of a general implantation model of EDI in administrations, private and public enterprises,
- study the opportuneness of setting up a mechanism of coordination on a European level with regard to intercompany relations based on EDI.

7. Information campaigns :

- conduct regular surveys on the development of EDI in Europe and of available EDI products and services,
- undertake detailed studies more particularly of certain countries, regions or industrial sectors,
- publish the studies, analyses and other results of actions undertaken within the framework of the programme,
- support the setting up of national and/or regional awareness centres. Ensure the coordination, the provision of material support and contribution to their awareness activities,
- encourage in particular actions designed to make SMEs more aware of EDI.

*ANNEX II***Guidelines for assessing progress made towards the objectives of the Tedis programme**

In order to achieve the objectives defined in Article 2, several measures, referred to in Article 3, will be taken and continued. The progress thereby achieved will then be assessed.

1. For *standardization*, this will mean assessing the influence of the Tedis programme on :
 - (a) the development and use of the Edifact standard in Western Europe ;
 - (b) the availability and use of conversion software and its conformity to the international Edifact standard.
 2. *Interconnection of EDI services*: assessment of the Tedis programme's impact on the capacity of data networks to operate together and the availability of Europe-wide EDI services.
 3. *Legal aspects*: examination of how the measures taken under the Tedis programme have helped ensure the legal validity of EDI data interchange in each Member State and how they have encouraged the introduction of 'paperless trading'.
 4. *Security of messages*: examination of how the Tedis programme has helped protect the EDI message itself and the security of EDI messages in an interlinked business environment.
 5. *Multi-sector and Europe-wide projects*: measuring how far support for the launching of multi-sectoral pilot projects has contributed towards the sectoral and geographical integration of EDI projects.
 6. *Management*: assessment of the value of studies and analyses — in particular concerning SMEs — carried out under the Tedis programme to assess the impact of EDI on company management and its economic and social impact.
 7. *Information campaigns*: assessment of the impact of measures — in particular concerning SMEs — taken under the Tedis programme on the use of EDI in Western Europe.
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COUNCIL DECISION

of 29 July 1991

on the introduction of a single European emergency call number

(91/396/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the telephone is the best means of access to emergency services of all kinds; whereas at present various telephone numbers are used for this purpose in the Member States;

Whereas the effect of such differences is to create problems in contacting the responsible services for citizens facing emergency situations in other Member States;

Whereas the substantial increase in both private and business travel within the Community has created a demand for the introduction of a single European emergency call number;

Whereas the introduction of new technologies in public telephone networks and the coordinated introduction of advanced telecommunications infrastructures present a unique opportunity for the implementation of a single European emergency call number, in parallel to the existing national emergency call numbers, where appropriate;

Whereas the Council, in its resolution of 13 February 1989 on the new developments in Community cooperation on civil protection ⁽⁴⁾, stressed the desirability of a Community-wide single additional emergency telephone number which will in particular enable citizens in an emergency or disaster to call the relevant national emergency services;

Whereas the European Parliament has repeatedly emphasized the importance of the introduction of such a number, in particular in its resolutions of 12 December 1988 on telecommunications ⁽⁵⁾;

Whereas the European Conference of Post and Telecommunications (CEPT) recommended in its recommendation T/SF1 of 1976 the use of the number 112 as the single European emergency call number;

Whereas this recommendation has only been followed by a very small number of Member States;

Whereas it will be possible in all Member States to devise a plan to make the number 112 available;

Whereas several Member States could introduce the number 112 by 1992; whereas however, for some Member States this would cause problems since they would need to make unplanned changes or to change plans already made;

Whereas, therefore, flexibility is needed in the time schedule for introducing the emergency call number in these Member States;

Whereas the introduction of the number 112 will be possible by 1996, even in the Member States where difficulties exist;

Whereas, in addition to the technical, financial, operational and commercial implications of introducing the chosen number within public telecommunications networks, Member States will have to make the necessary organizational arrangements best suited to the national organization of the emergency systems, in order to ensure that calls to this number are adequately answered and handled; whereas it would be desirable to devote efforts to easing difficulties of comprehension which may arise from different language capabilities, taking account of the possibilities of the various national systems; whereas the single European emergency call number could therefore be used in parallel with any other existing national arrangements, where appropriate;

Whereas the provision of emergency call numbers is prescribed in all Member States by law, regulation, or administrative action, and divergent developments in this area must be avoided;

Whereas the Treaty does not provide, for the adoption of this Decision, powers other than those of Article 235,

⁽¹⁾ OJ No C 275, 1. 11. 1990, p. 4.

⁽²⁾ OJ No C 231, 17. 9. 1990, p. 83 and

OJ No C 183, 15. 7. 1991.

⁽³⁾ OJ No C 62, 12. 3. 1990, p. 1.

⁽⁴⁾ OJ No C 44, 23. 2. 1989, p. 1.

⁽⁵⁾ OJ No C 12, 16. 1. 1989, p. 66.

HAS ADOPTED THIS DECISION :

Article 1

1. Member States shall ensure that the number 112 is introduced in public telephone networks as well as in future integrated services digital networks and public mobile services, as the single European emergency call number.

2. The single European emergency call number shall be introduced in parallel with any other existing national emergency call numbers, where this seems appropriate.

Article 2

The single European emergency call number shall be introduced by 31 December 1992 at the latest, except where Article 3 applies.

Article 3

1. Where particular technical, financial, geographical or organizational difficulties in a Member State make the full introduction of the single European emergency call number by the date provided for in Article 2 impossible

or too costly, the Member State concerned shall inform the Commission of these difficulties.

2. In the case referred to in paragraph 1, the Member State concerned shall communicate to the Commission, with adequate explanations and justification, a new date for the full introduction of the single European emergency call number which, however, must be no later than 31 December 1996.

Article 4

Member States shall take the necessary measures to ensure that calls to the single European emergency call number are appropriately answered and handled, in a manner best suited to the national organization of emergency systems and within the technological possibilities of the networks.

Article 5

This Decision is addressed to the Member States.

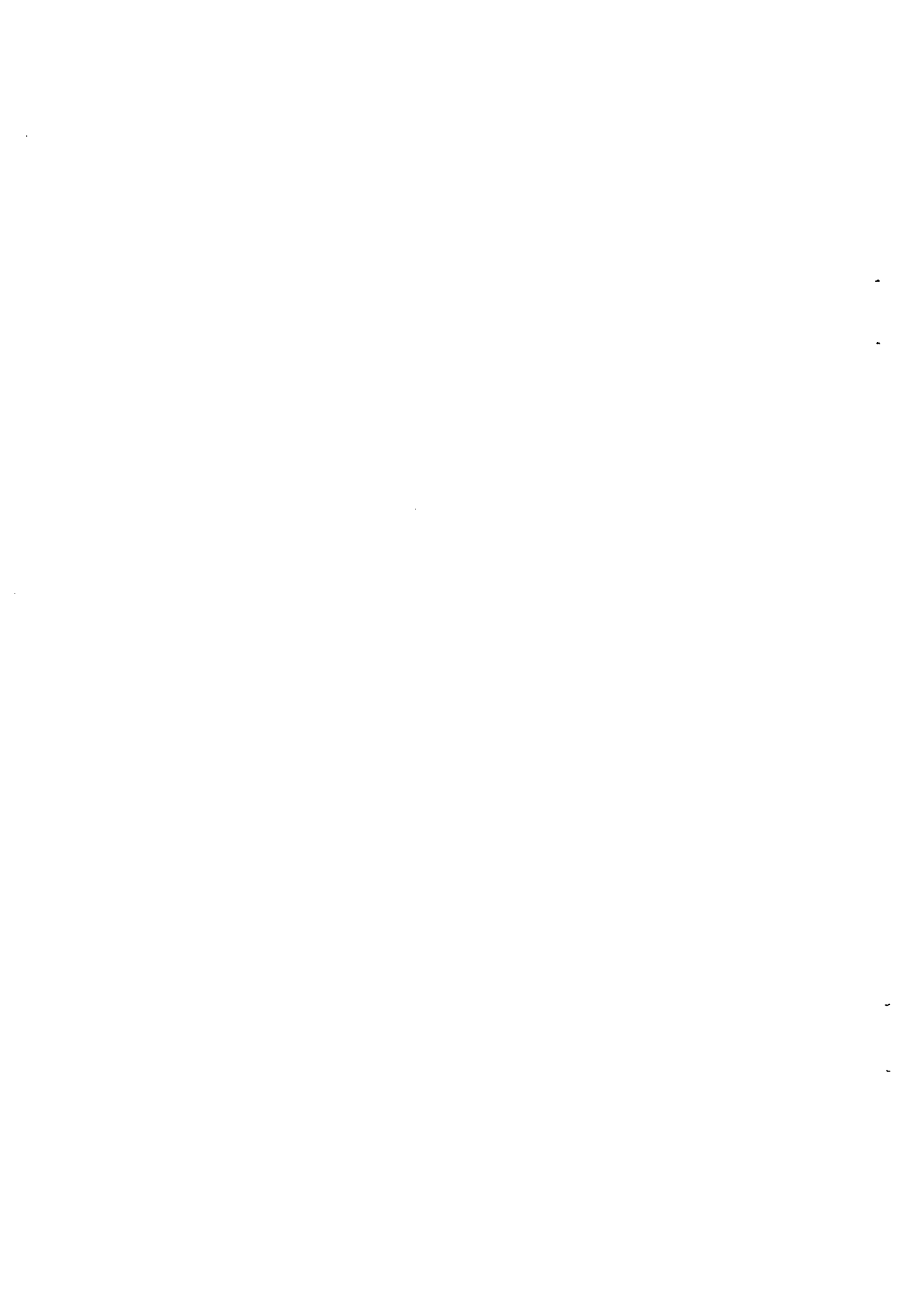
Done at Brussels, 29 July 1991.

For the Council

The President

H. VAN DEN BROEK

PART II: REPRINTS OF PROPOSALS UNDER DISCUSSION IN 1991 (SELECTED LIST)



COMMISSION OF THE EUROPEAN COMMUNITIES

COM(90) 314 final - SYN 287 and 288
Brussels, 13 September 1990

Proposal for a
COUNCIL DIRECTIVE

SYN 288

concerning the protection of personal data and privacy in the context
of public digital telecommunications networks, in particular the integrated
services digital network (ISDN) and public digital mobile networks

SYN 288

PROPOSAL FOR A

COUNCIL DIRECTIVE

**CONCERNING THE PROTECTION OF PERSONAL DATA AND PRIVACY IN THE
CONTEXT OF PUBLIC DIGITAL TELECOMMUNICATIONS NETWORKS,**

**IN PARTICULAR THE INTEGRATED SERVICES DIGITAL NETWORK (ISDN) AND
PUBLIC DIGITAL MOBILE NETWORKS**

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PROPOSAL FOR A COUNCIL DIRECTIVE CONCERNING THE PROTECTION OF
PERSONAL DATA AND PRIVACY IN THE CONTEXT OF PUBLIC DIGITAL
TELECOMMUNICATIONS NETWORKS, IN PARTICULAR THE INTEGRATED
SERVICES DIGITAL NETWORK(ISDN) AND PUBLIC DIGITAL MOBILE
NETWORKS

A. SUMMARY

The introduction of public digital telecommunications networks is now fully under-way in the Community. During the early years of this decade more than 70 % of long distance transmission, more than 50 % of long distance switching and more than 30 % of local switching will be digitalised.

The wide-spread introduction of public digital telecommunications networks in the Community will allow, in particular with the implementation of the Integrated Services Digital Network (ISDN) and the new digital mobile services, vastly enhanced telecommunications functions for the general public, but at the same time, will require a Community-wide common approach for the protection of privacy, personal data and data security with regard to the specific requirements of the new digital telecommunications environment.

The Council and the European Parliament have recognised repeatedly the central role of adequate measures concerning data protection and protection of privacy for the future development of telecommunications in the European Community. In particular, in its resolutions of 14 December 1988 on telecommunications, the European Parliament called for specific measures "to ensure data privacy protection and confidentiality" and reminded the Commission "of its political responsibility for ensuring that legislative proposals on opening up telecommunications markets, in the appropriate legal form, are accompanied by action at Community level relating to the protection of personal data".

In the Community, there is growing attention paid to the impact of digital networks on the protection of personal data and privacy. In a resolution adopted at Berlin in August 1989, the data protection commissioners of the Member States called for special attention with regard to protection of personal data and privacy in the context of ISDN.

The enclosed proposal is intended to meet these specific requirements with regard to the protection of personal data and privacy in the field of the new public digital telecommunications networks. It is presented in the context of - and complementary to - the proposals by the Commission for the establishment of a general framework for data protection in the Community.

condition for social acceptance of the new digital networks and services. It must be an essential component of the Community's telecommunications policy which aims at securing for the European citizen the full benefits of advanced telecommunications services, as the Community moves towards an environment which will be substantially richer in information than before.

The enclosed proposal for a Council Directive has been drafted with this global objective in mind.

B. EXPLANATORY MEMORANDUM

I. INTRODUCTION

The current wide-spread introduction of public digital telecommunications in the Community, in particular the implementation of the Integrated Services Digital Network (ISDN)¹ and new digital mobile services² will allow vastly enhanced telecommunications functions for the general public, but at the same time, will require a Europe-wide common approach for the protection of privacy, personal data and data security with regard to the specific requirements of the new digital telecommunications environment.

In its Resolution on the coordinated introduction of the Integrated Services Digital Network in the European Community of 12 December 1986³, the European Parliament stated that the "prospective Integrated Services Digital Network (ISDN), evolving from the telephone network, will offer many - additional services to corporate and private subscribers ..." but called on the Commission "to submit proposals on a practical approach towards ensuring within the ISDN now emerging throughout Europe, a consistent level of data-privacy protection commensurate with the enhanced technical capabilities of this new network". The European Parliament emphasised this concern further in a more general context in its resolutions of 14 December 1988⁴, where it called for specific measures with regard to the use of telecommunications networks "to ensure data-privacy protection and confidentiality" and reminded the Commission "of its political responsibility for ensuring that legislative proposals on opening up telecommunications markets, in the appropriate legal form, are accompanied by action at Community level relating to the protection of personal data ...".

¹ Council Recommendation of 22 December 1986 on the coordinated introduction of the Integrated Service Digital Network (ISDN) in the European Community (86/659/EEC).

The ISDN can be considered as a natural evolution of the telephone network. It will allow via a single access using the existing subscriber line, the transmission of voice (telephony), text, data, and images in the form of a multitude of more efficient or new services (for details see Council Recommendation 86/659/EEC and chapter II.).

In accordance with the Council Recommendation, two progress reports on the implementation of ISDN were submitted up to now by the Commission (COM(88) 589; COM(90) 123).

² Council Recommendation of 25 June 1987 on the coordinated introduction of public pan-European cellular digital land-based mobile communications in the Community (87/371/EEC, OJ No L 196, 17 July 1987, p. 85) and Council Directive of 25 June 1987 on the frequency bands to be reserved for the coordinated introduction of public pan-European cellular digital land-based mobile communications in the Community (87/372/EEC, OJ No L 196, 17 July 1987, p. 85), and subsequent proposals by the Commission in the field of public digital mobile communications.

³ Resolution on Council Recommendation 86/659/EEC, OJ No C 7, 12 January 1987, p. 334.

⁴ Resolution on Posts and Telecommunications, OJ No C 12, 16 January 1989, p. 69; resolution on the need to overcome the fragmentation in telecommunications, OJ No C 12, 16 January 1989, p. 6f

The Council in its resolution of 30 June 1988⁵, by which it adopted the principles of the Green Paper on the development of the common market for telecommunications services and equipment⁶ and gave its general support to the objectives of the action programme set out in the communication of 9 February 1988⁷ defined as one of the major policy goals "to protect personal data and to provide for the individual's access, through the communication media, to an environment significantly richer in information than before".

In its resolution on the strengthening of the coordination for the introduction of the Integrated Services Digital Network (ISDN) in the European Community up to 1992⁸, the Council specified its concern further with regard to the ISDN by emphasising as necessary "further discussion at European level regarding user privacy protection requirements and requirements concerning the security of communications in the context of features of new services, in accordance with the resolution of the European Parliament of 12 December 1986 on recommendation 86/659/EEC".

The representatives of the authorities responsible for data protection in the Member States adopted at their 11th international conference on 28-31 August 1989 in Berlin a resolution calling for special attention with regard to the protection of data and privacy in the context of the ISDN.

With the enclosed proposal the Commission is responding to this requirement for specific Community-wide measures concerning the protection of personal data and privacy in the context of the implementation of the new public digital telecommunications networks, in particular the Integrated Services Digital Network and the public digital mobile networks. It takes account of the fact that there is deep - and justified - concern concerning the immediate impact of digital networks on the protection of personal data and privacy. The Commission has also recognised data protection and protection of privacy as an essential requirement in the context of the future development of an open network environment in the Community⁹.

⁵ Council Resolution of 30 June 1988 on the development of the common market for telecommunications services and equipment up to 1992 (OJ No C 257, p. 1).

⁶ COM(87) 290.

⁷ Towards a competitive Community-wide telecommunications market in 1992: Implementing the Green Paper on the development of the common market for telecommunications services and equipment. State of discussions and proposals by the Commission (COM(88) 48).

⁸ OJ No C196, 1 August 1989, p. 4.

⁹ Common position adopted by the Council on 5th February 1990 with a view to adopting a Directive on the establishment of the internal market for telecommunications services through the implementation of Open Network Provision (OJ.....).

The proposal must be seen against the background of discussions and the general principles established in Europe with regard to the protection of personal data through the Convention of the Council of Europe of 1981 for the Protection of Individuals with regard to Automated Processing of Personal Data, which has been ratified up to now by seven Member States of the Community. The proposal is presented in the context of - and complementary to - the proposals by the Commission for the establishment of a general framework for data protection in the Community submitted in parallel, in particular the draft Council Directive for the approximation of certain laws, regulations and administrative provisions of the Member States concerning the protection of individuals in relation to the processing of personal data, the draft Council Decision concerning the opening of negotiations in view of the accession of the European Economic Community, in the fields of its competence, to the Convention of the Council of Europe for the Protection of Individuals with regard to Automated Processing of Personal Data, and the draft Council Decision concerning the security of information systems ; in addition, the Commission will develop internal rules with the objective to guarantee for the individuals concerned a level of protection equivalent to the principles of the Council Directive mentioned above.

Within this general context, the enclosed Directive is to provide for the specific provisions required for the approximation of laws, regulations and administrative provisions in the Community in the field of protection of personal data and privacy with regard to public fixed and mobile digital telecommunications networks and the new "intelligent" functions which they provide.

II. THE NEW SPECIFIC REQUIREMENTS WITH REGARD TO THE PROTECTION OF PERSONAL DATA AND PRIVACY IN THE TELECOMMUNICATIONS SECTOR

The "digitalisation" of the public telecommunications networks is now fully under way in the Community. During the early years of this decade more than 70 % of long distance transmission, more than 50 % of long distance switching and more than 30 % of local switching will be digitalised.

Digitalisation means the introduction of fully computer-based exchanges and the processing and transmission of all information transmitted via telecommunications networks - voice, data and image - in the form of binary digits¹⁰. The "bit-streams" thus generated can be acted upon directly by the intelligence of computers, both inside the network as well as in the subscriber terminal. This leads to a new level of quality of service which cannot be achieved with traditional "analogue" techniques, as well as a large number of new "intelligent" functions which opens a broad range of new activities via telecommunications networks. Full "end-to-end" (subscriber-to-subscriber) digital communication is offered by the evolving Integrated Services Digital Network and the new public digital mobile communications systems¹¹.

With regard to data protection, the introduction of public digital networks has two major consequences.

On the one hand, the fully computer-based techniques now possible can offer a substantially higher degree of data security for specific individual requirements, such as sophisticated encryption techniques.

On the other hand, due to the digital processing of both operational and call data and the treatment by computer-based exchanges, it could become possible - without adequate data protection measures - to store and monitor systematically specific call-related data, such as origin of call. Such a possibility was only feasible in traditional analogue-based "non-intelligent" networks by making a substantial technical effort and therefore was only implemented under very exceptional circumstances.

At the same time, the new intelligent telecommunications functions, such as defined by the ISDN "supplementary services"¹², offer substantial additional service features to the subscriber which will enhance service quality as well as consumer protection, such as detailed billing. The new functions, however, will require new specific measures and regulations, if the protection of privacy is to be guaranteed in the new environment.

¹⁰ Computers process all information in the form of "binary digits", i.e. by splitting all information into its fundamental information elements (bits) with values 0 or 1.

¹¹ See Council Recommendations 86/659/EEC and 87/371/EEC, footnotes 1 and 2 above.

¹² See for details Council Recommendation 86/659/EEC, footnote 1.

Therefore, the introduction of digital telecommunications networks in the Community gives rise, with regard to the protection of personal data, to substantial specific issues which must be addressed, such as the handling of:

- subscriber-related information, increasingly stored in computer-held subscriber files;
- traffic and other operational data;
- detailed billing data;
- calling-line identification (identification of origin of call);
- automatic call forwarding to third parties;
- unsolicited messages;
- specific technical features for terminal and other equipment which may be required, in order to provide for adequate protection.

The general provisions for protection of personal data, such as initiated by the Council of Europe convention and to be established for the Community by the Commission's initiatives mentioned above, does provide a broad framework, but does not make provisions to the specific details required for addressing these issues.

The general provisions concerning the protection of personal data cannot prevent the current emergence of divergent legislation, regulations and administrative action in the Member States concerning the operation of the future digital networks which could very soon endanger the common market for both telecommunications services and terminal equipment.

For example, in the field of calling line identification, certain Member States plan to provide for a case-by-case elimination of the feature by the calling subscriber. If such an elimination will be realised via a button on the telephone set, while other operators might decide to provide for the elimination via a code to be used before dialling a number, it would create problems for the free circulation of terminal equipment in the Community.

A comparison of the existing national provisions shows considerable discrepancies concerning both the contents and the nature of the legal instruments used. Under these circumstances, a situation of legal uncertainty is developing in the Community concerning telecommunications networks and services, which threatens to hinder substantially the transborder offering of services.

Without a Directive concerning the specific provisions necessary to implement the general principles of protection of data and privacy with regard to public digital fixed and mobile networks, it would be impossible to prevent divergent developments in the Community.

At the same time, Community-wide provision for effective protection of personal data and privacy is developing into an essential pre-condition for social acceptance of the new digital networks and services, as confirmed by the Council at its meeting of 7 November 1989 where it concluded with regard to the social aspects of telecommunications on the need to preserve the protection of privacy and personal data within a European perspective.

The enclosed proposal for a Council Directive aims at fulfilling these specific requirements.

III. THE APPROACH PROPOSED: THE PROVISIONS OF THE DRAFT DIRECTIVE

The global objective of the proposed Directive is to provide throughout the Community for a basic level of protection of personal data and privacy for the European citizen, which should be included in the general new digital telecommunications offering, while referring requirements for enhanced levels of data security for specific individual cases and applications to the specific measures to be developed within the framework of the work plan set out in the Commission's proposal for a Council Decision concerning security in information systems mentioned above.

The proposed Directive aims at achieving a basic level of protection of the general subscriber in the new digital environment by emphasising two fundamental principles:

- minimising the risk of abuse by limiting the data processed and stored in the context of public telecommunications operations to the bare minimum required for ensuring adequate operation, service quality and subscriber facilities;
- ensuring fully the right of the subscriber to information self-determination, both with regard to the telecommunications organisation providing the services as well as with regard to the second party in a call connection and any third party which may want to gain access to the data transmitted or provided in the context of a transaction via a public telecommunications network.

Given that the most profound impact on the general subscriber by the new telecommunications environment will be in the field of voice telephony, the proposed Directive concentrates on this area. However, it provides for a procedure for the application of the provisions relating to the voice telephone service to other public digital telecommunications services as applicable, such as for public data transmission services in the context of ISDN as well as public packet- and circuit-switched data networks, and other related public telecommunications services.

Further, given the current state of transition of the public telecommunications networks in the Community and in particular the fact that certain "Stored Programme-Controlled" (SPC) Exchanges, while not yet fully digital, do provide a number of the intelligent functions in question, the proposed Directive provides for those cases where a Member State has not yet implemented the Integrated Services Digital Network or public digital mobile networks, that the provisions of the Directive will be implemented to the extent that they also apply to services based on analogue networks.

With these general principles in mind, the content of the proposed Directive addresses in particular: the collection, storage and processing of personal data in the subscriber's file; the storage and processing of traffic and billing data, in particular for the purpose of itemised call statements; the problem of the calling line identification; access by third parties; unsolicited calls; and the procedures to be chosen for establishing specific technical standards which may be required.

The articles of the Directive are briefly explained hereunder:

Articles 1 and 2 describe the overall objectives of the Directive and its

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application to protection of data and privacy in connection with public telecommunications services in public digital telecommunications networks in the Community.

Article 3 contains definitions of important terms in line with the proposal of a Council Directive on the implementation of Open Network Provision (ONP) mentioned above¹³.

The general principle in Article 4 that the collection, storage and processing of personal data by a telecommunications organisation is justified for the purposes of the provision of the intended service only and may not be used without specific permission by law or without the subscriber's prior recorded consent for any other purpose is applied in Article 5 to the establishment of subscriber files. As set out in the introductory statements to the Directive, such collection, storage and processing of personal data may in particular not be used to give telecommunications organisations any undue competitive advantage over other service providers in competitive fields.

Article 6 enumerates the rights of the subscriber concerning his personal data held by a telecommunications organisation and Article 7 states the principle of non-disclosure of such data to third parties without his consent or permission by law.

Article 8 should guarantee an adequate level of protection of data against unauthorised access.

Articles 9 and 10 apply the principle of collection, storage and processing of personal data as far as required for telecommunications purposes only to billing and traffic data. Article 11 intends to protect the privacy of the subscribers in connection with itemised call statements via the requirement of anonymity of the called subscriber.

Articles 12 and 13 contain detailed provisions concerning the calling line identification. The possibility to eliminate the identification feature should be made available, because, among other reasons, callers making calls to and from drug and alcohol rehabilitation centres, family abuse shelters or mental health services have a legitimate concern that this service feature may compromise their anonymity; the same applies to suicide and AIDS hot lines.

However, the called subscriber can have a legitimate interest in receiving only identified calls. In order to guarantee the right of information self-determination to both the calling and the called parties, the called subscriber must therefore have the possibility to limit the acceptance of incoming calls to those which identify the calling subscriber's number.

Moreover, the telecommunications organisation should provide an override (blocking) function against the elimination of the identification feature in case of malicious calls; the function must also be made available for purposes of pursuit of criminal offences and for emergency services, in particular the fire brigade, in order to prevent abuse of such services.

Article 14 ensures that the privacy of both the calling and the called subscriber is also protected in case of the use of the call forwarding features.

¹³ See footnote 9.

Article 15 should prevent by technical means the contents of telephone calls being stored and/or disclosed to third parties without advance informing of the calling subscriber.

Articles 16 and 17 aim at preventing the unauthorized use of the subscribers' personal data by providers of teleshopping and videotex services in order to avoid the establishment of consumer profiles as well as at the protection of the subscriber's privacy against unsolicited messages, such as unwanted advertising via telecommunications means.

Article 18 is intended to prevent the fact that the introduction of technical features based on data protection requirements might create undue restrictions to the free circulation of telecommunications equipment and services in the Community, by ensuring, where required, the working out of common European standards for the implementation of specific technical features. In accordance with the Council Directive on the approximation of the laws of the Member States concerning telecommunications terminal equipment, including the mutual recognition of their conformity¹⁴, and Council Decision 87/95/EEC of 22 December 1986 on standardisation in the field of information technology and telecommunications¹⁵, the technical work is to be entrusted to the appropriate European standardisation bodies, in particular the European Telecommunications Standards Institute (ETSI) and the CEN/CENELEC.

The final provisions in articles 19 to 25 concern the field of application, the procedures for modifications necessary to adapt this Directive to new technical developments and consultation procedures. It is foreseen that a committee composed of representatives of the authorities responsible for data protection in the Member States and a committee composed of the representatives of the Member States shall assist the Commission in the implementation of the Directive. These committees are proposed to be the committees defined for these purposes in the draft Council Directive for the approximation of certain laws, regulations and administrative provisions of the Member States concerning the protection of individuals in relation to the processing of personal data submitted in parallel as mentioned above, but would be specifically constituted for the purposes of this Directive.

¹⁴ COM(89)289 - SYN 204, 27.7.1989.

¹⁵ OJ NoL 36, 7 February 1987, p. 31.

IV. CONCLUSION

Effective Community-wide protection of personal data and privacy is developing into an essential pre-condition for social acceptance of the new digital networks and services.

Without a directive concerning the specific provisions necessary to implement the general principles of protection of personal data and privacy with regard to the specific requirements of public digital fixed and mobile networks, it will be impossible to prevent divergent developments in the Community which would very soon endanger the common market for both telecommunications services and terminal equipment.

The attached draft Directive is to provide for these specific provisions.

The Council is therefore requested to adopt the attached proposal for a Directive.

SYN 288

PROPOSAL FOR A COUNCIL DIRECTIVE CONCERNING THE PROTECTION OF
PERSONAL DATA AND PRIVACY IN THE CONTEXT OF PUBLIC DIGITAL
TELECOMMUNICATIONS NETWORKS, IN PARTICULAR THE INTEGRATED
SERVICES DIGITAL NETWORK (ISDN) AND PUBLIC DIGITAL MOBILE
NETWORKS

0 0232

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof;

Having regard to the proposal from the Commission¹

In co-operation with the European Parliament²;

Having regard to the opinion of the Economic and Social Committee³;

1. Whereas Council Directive concerning the protection of individuals in relation to the processing of personal data exhorts Member States to ensure the protection of privacy ;
2. Whereas currently in the European Community new advanced digital public telephone networks are emerging which give rise to specific requirements concerning the protection of personal data and privacy of the user ;
3. Whereas this is the case, in particular, with the introduction of the Integrated Services Digital Network (ISDN) and public digital mobile networks;

1 ...

2 ...

3

4. Whereas the Council in its Resolution of 30th June 1988 on the development of the common market for telecommunications services and equipment up to 1992⁴ has called for steps to be taken to protect personal data, in order to create an appropriate environment for the future development of telecommunications in the Community; whereas the Council has re-emphasized the importance of the protection of personal data and privacy in its Resolution of 18th July 1989 on the strengthening of the co-ordination for the introduction of the Integrated Services Digital Network (ISDN) in the European Community;⁵
5. Whereas the European Parliament has underlined the importance of the protection of personal data and privacy in telecommunications networks, in particular with regard to the introduction of the Integrated Services Digital Network (ISDN)^{6,7,8};
6. Whereas Commission Recommendation 81/679/EEC calls for the adoption and ratification by Member States of the Council of Europe Convention for the protection of individuals with regard to automatic processing of personal data which spells out general principles for the protection of personal data;
7. Whereas a number of Member States have adopted and ratified this Convention;
8. Whereas Council Decision ...⁹ opens negotiations with a view to the accession of the European Economic Community, in the fields in which it is competent, to the Convention of the Council of Europe for the Protection of Individuals with regard to Automatic Processing of Personal Data.

⁴ OJ No C 257, 4.10.1988, p. 1.

⁵ OJ No C 196, 1.8.1989, p.4.

⁶ OJ No C 7, 12.1.1987, p. 334.

⁷ OJ No C 12, 16.1.1989, p. 69.

⁸ OJ No C 12, 16.1.1989, p. 66.

⁹ OJ ...

9. Whereas Council Directive ... / concerning the protection of individuals in relation to the processing of personal data implements the adoption of these general principles in the Community ,
10. Whereas in the case of public digital networks, specific legal, regulatory, and technical provisions must be made in order to protect personal data and the privacy of users with regard to the increasing risks connected with the computerized storage and processing of personal data in such networks;
11. Whereas Member States are currently developing divergent provisions in this area;
12. Whereas given the obstacles resulting from these divergent legal, regulatory, and technical provisions concerning the protection of personal data and privacy in the context of the implementation of public digital telecommunications networks in the Community, in particular the Integrated Services Digital Network (ISDN) and public digital mobile networks, the full establishment of a Community-wide market in telecommunications services and equipment requires the rapid introduction of harmonised provisions;
13. Whereas this Directive should determine the extent to which personal data may be collected, stored and processed in connection with the provision of telecommunications services;
14. Whereas the collection, storage, and processing of personal data by a telecommunications organisation is justified for the purposes of the provision of the intended service only and may not be used without specific authorization by law or the subscriber's prior consent for any other purpose; whereas such collection, storage, and processing of personal data may, in particular, not be used to give such telecommunications organisation any undue competitive advantage over other service providers;

15. Whereas this Directive should implement in the telecommunications sector the general principles concerning the subscriber's right to inspect the personal data stored about him/her, his right to request the rectification or erasure of such data, if necessary, as well as his right to prevent non-authorized disclosure of his personal data ;
16. Whereas this Directive must provide for harmonization of the Member States' rules concerning the protection of privacy in the field of itemized call statements;
17. Whereas, it is necessary, as regards the calling line identification, to protect both the right of the calling party to remain anonymous and the privacy of the called party with regard to unidentified calls;
18. Whereas safeguards must be provided for the users of teleshopping and videotex services against unauthorized use of their personal data as well as for the subscribers in general against intrusion into their privacy by means of unsolicited calls;
19. Whereas it is necessary to ensure that the introduction of technical features of telecommunications equipment for data protection purposes is harmonised in order to be compatible with the implementation of the internal market of 1992;
20. Whereas the implementation of this Directive with regard to third countries must take into account the level of protection of personal data and privacy in those countries as provided for in Council Directive 7 concerning the protection of individuals in relation to the processing of personal data 7;
21. Whereas all matters concerning protection of personal data and privacy in the context of public digital telecommunications networks, which are not covered by the provisions of this specific Directive, the Council Directive mentioned above shall apply ;
22. Whereas this Directive does not address issues of protection of personal data and privacy related to national security;

23. Whereas it is useful for the preparation of measures intended to implement or modify this Directive to draw on the experience of the Working Party on the Protection of Personal Data composed of representatives of the supervisory authorities of the Member States, set up by Article 27 of Council Directive / concerning the protection of individuals in relation to the processing of personal data_7;
24. Whereas such measures must be prepared with the assistance of the committee composed of representatives of the Member States set up by Article 30 of Council Directive / concerning the protection of individuals in relation to the processing of personal data_7.

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive provides for the harmonisation of the provisions required to ensure an equal level of protection of privacy in the Community and to provide for the free movement of telecommunications equipment and services within and between Member States.
2. The Member States shall adopt the necessary specific provisions in order to guarantee the protection of personal data and privacy in the telecommunications sector in accordance with this Directive.

Article 2

1. Without prejudice to the general provisions of Council Directive ... concerning the protection of individuals in relation to the processing of personal data, this Directive applies specifically to the collection, storage, and processing of personal data by telecommunications organizations in connection with the provision of public telecommunications services in public digital telecommunications networks in the Community, in particular via the Integrated Services Digital Network (ISDN) and public digital mobile networks.
2. In case a Member State has not yet implemented the Integrated Services Digital Network (ISDN) or public digital mobile networks, the provisions of this Directive will be implemented to the extent that they also apply to services based on analogue networks.

Article 3

For the purposes of this Directive,

1. "personal Data" means any information relating to an identified or identifiable individual ;
2. "telecommunications organization" means a public or private body, to which a Member State grants special or exclusive rights for the provision of a public telecommunications network and, where applicable, public telecommunications services;
3. "public telecommunications network" means the public telecommunications infrastructure which permits the conveyance of signals between defined network termination points by wire, by microwave, by optical means or by other electromagnetic means;
4. "public telecommunications service" means a telecommunications service whose supply Member States have specifically entrusted inter alia to one or more telecommunications organizations.

Article 4

1. Collection, storage and processing of personal data by a telecommunications organization is justified for telecommunications purposes only, in particular in order to establish connections for the transmission of voice, data or image, to produce bills, to compile directories, and for other legitimate operational purposes, for example fault clearance, prevention of misuse of the telecommunications organization's equipment, or registration of incoming calls in accordance with Article 13(1).
2. The telecommunications organization shall not use such data to set up electronic profiles of the subscribers or classifications of individual subscribers by category.

Article 5

1. Personal data of the subscriber may be collected and stored to the extent necessary to conclude, perform, amend or terminate the contract with the telecommunications organization. After termination of the contract the data are to be erased unless and for so long as they are required to deal with complaints, to recover charges or to comply with other obligations imposed by the law of the Member State, in conformity with Community law.
2. The contents of the information transmitted must not be stored by the telecommunications organization after the end of the transmission, except where required by obligations imposed by the law of the Member State, in conformity with Community law.

Article 6

The subscriber is entitled

- to obtain at reasonable intervals and without excessive delay or expense confirmation of whether personal data relating to him/her are stored as well as communication to him/her of such data in an intelligible form,
- to obtain, as the case may be, rectification or erasure of such data if they have been processed in breach of the provisions which are imposed by the law of the Member State in conformity with Community law.

Article 7

1. In principle, all personal data processed in connection with telecommunication networks and services are to be kept confidential.
2. The personal data may not be disclosed outside the services or the network of the telecommunications organization without specific authorization by law or the subscriber's prior consent. A subscriber shall be held to have given such consent only where it is given by way of a specific response to a request by the telecommunications organization. Without the subscriber's prior consent, these personal data must not be disclosed to persons within the telecommunications organization who are not dealing with the relevant services provided.
3. The telecommunications organization must not make the provision of its service dependent upon such consent.

Article 8

1. The telecommunications organization must provide adequate, state-of-the-art protection of personal data against unauthorized access and use.
2. In case of particular risk of a breach of the security of the network, for example in the field of mobile radio telephony, the telecommunications organization must inform the subscribers concerning such risk and offer them an end-to-end encryption service.

Article 9

1. Billing data containing the telephone number or identification of the subscriber station, the address of the subscriber and the type of station, the total number of units to be charged for the accounting period, the called telephone number, the type and duration of the calls made and/or the data volume transmitted as well as other information needed for billing such as advance payment, payment by instalments, disconnection and reminders, may be stored and processed.
2. Such a general storage of billing data is permissible up to the end of the statutory period during which the bill may be challenged.

Article 10

1. Traffic data containing the personal data necessary to establish calls, or required for billing or other operational purposes, such as the telephone number of the calling and of the called subscriber, the time each call started and finished and the telecommunications service used by the subscriber, may be collected, stored and processed as far as this is necessary to provide the telecommunications service required.
2. The traffic data stored in the switching centres of the telecommunications organization must be erased after termination of the call unless the data are anonymised or are required for billing or other legitimate purposes in the meaning of Article 4.

Article 11

Upon application of the subscriber an itemized call statement may be produced, containing, among other items, the telephone numbers of the called subscribers without the last four digits.

Article 12

1. With regard to communications between subscribers linked to digital exchanges, the calling subscriber must have the possibility to eliminate via a simple technical facility the identification of his/her telephone number on the display of the called subscribers' terminal equipment, or its recording in a storage facility of this terminal, on a case-by-case basis.

The transmission of the telephone number may also be permanently eliminated by the telecommunications organization upon application of the calling subscriber.

2. The called subscriber may apply for permanent elimination of the identification of all incoming calls; he/she must also be able to turn off the display of his/her terminal equipment, or to eliminate the recording in the terminal's storage facility, in order to prevent the identification of the incoming calls, on a case-by-case basis.

The called subscriber must be able to limit the acceptance of incoming calls to those which identify the calling subscriber's number.

3. With regard to communications between a subscriber linked to an analogue exchange and subscribers linked to digital exchanges, the former subscriber is to be informed of the identification of his/her telephone number and to be offered the permanent elimination of the feature upon application. This subscriber must also have the possibility to eliminate the identification on a case-by-case basis.

Article 13

1. For a limited period of time, the telecommunications organization may override the elimination of the calling line identification
 - a) upon application of a subscriber requesting the tracing of malicious calls. In this case, the data containing the identification of the calling subscriber will be stored by the telecommunications organization and be made available upon request to the public authority charged with the prevention or pursuit of criminal offences of the Member State concerned;
 - b) upon specific court order, in order to prevent or pursue serious criminal offences.
2. A permanent override function must be made available upon request,
 - a) to organizations recognized by a Member State which answer and deal with emergency calls, and
 - b) to fire brigades operated or recognized by a Member State.
3. The telecommunications organisations shall take the necessary steps to ensure that the override function is operational on a national and Community-wide basis.

Article 14

1. Calls may be forwarded from the called subscriber to a third party only if this party has agreed; the third party may limit automatic forwarding to those calls which identify the calling subscriber's number ; the third party must be informed via a specific signal of the message that the call has been forwarded.
2. The calling subscriber must be informed automatically during the establishment of the

connection that the call is being forwarded to a third party.

Article 15

1. If the content of telephone calls is made accessible to third parties via technical devices, such as loudspeakers or other on-hook equipment, or stored on tape for own use or use by third parties, provision must be made in order that the parties concerned are informed via an appropriate procedure of such diffusion or storage before the diffusion or storage is initiated and for so long as the it continues.
2. Paragraph 1 does not apply in the cases covered by Article 13(1).

Article 16

1. The telecommunications organization must ensure that the telephone number as well as other personal data of the subscriber, in particular concerning the quantity and nature of his/her orders when using a teleshopping service or concerning the information requested via a videotex service, is stored only to the extent strictly necessary to supply the service and is only used by the service provider for purposes authorized by this subscriber.
2. Subject to the provisions of Article 20, the service provider may not set up electronic profiles of the subscribers or classifications of individual subscribers by category, without their prior consent.

Article 17

1. Subscribers who receive unsolicited calls for advertising purposes or for the purpose of offering the supply or provision of goods and services may notify the telecommunications organization conveying such messages that they do not wish to receive these calls.
2. The telecommunications organization must take the steps necessary to terminate the transmission of such messages to the subscribers concerned. Furthermore, the telecommunications organization must keep a list of the notifications in a form specified and available for inspection by the regulatory authority, in order to prevent such calls in future.

Article 18

1. In implementing the provisions of this Directive, Member States shall ensure, subject to paragraphs (2) and (3) of this Article, that no mandatory requirements for specific technical features are imposed on terminal or other telecommunications equipment which could impede the placing of equipment on the market and the free circulation of such equipment in and between Member States.
2. Where provisions can only be implemented by requiring specific technical features, Member States shall inform the Commission according to the procedures provided for by Council Directive 83/189/EEC¹⁰ which lays down a procedure for the provision of information in the field of technical standards and regulations.

¹⁰ OJ No L 109, 26.4.1983, p.8.

3. Where required, the Commission will ensure the drawing up of common European standards for the implementation of specific technical features, in accordance with Council DirectiveEEC ... ~~on~~ the approximation of the laws of the Member States concerning telecommunications terminal equipment, including the mutual recognition of their conformity¹¹, and Council Decision 87/95/EEC of 22nd December 1986 on standardisation in the field of information technology and telecommunications¹².

Article 19

1. The provisions of this Directive relating to the telephone service shall be applied to other public digital telecommunications services to the extent that these services present similar risks for the privacy of the user.
2. The measures necessary for the implementation of paragraph 1 shall be adopted by the Commission after consultation of the working party referred to in Article 22 and in accordance with the procedure laid down in Article 23.

Article 20

To the extent that the full achievement of the objectives of this Directive requires the application of its provisions to service providers other than telecommunications organizations, the Commission may adopt the measures necessary for the application of this Directive to those service providers after consultation of the working party referred to in Article 22 and in accordance with the procedure laid down in Article 23.

¹¹ O J No C

¹² O J No L 36, 7.2.1987, p. 31.

Article 21

The details of the application of this Directive and the modifications necessary to adapt this Directive to new technical developments shall be determined by the Commission in accordance with the procedure laid down in Article 23.

Article 22

1. The working Party on the Protection of Personal Data established according to Article 27 of Council Directive approximating certain laws, regulations and administrative provisions of the Member States concerning the protection of individuals in relation to the processing of personal data shall carry out the tasks laid down in Article 28 of the above mentioned Directive also with regard to the data protection measures which are the subject of this Directive.
2. The working party will be specifically constituted for the purposes of this Directive.

Article 23

1. The procedure laid down in Article 30 of Council Directive ... approximating certain laws, regulations and administrative provisions of the Member States concerning the protection of individuals in relation to the processing of personal data shall apply.
2. The committee established in the framework of that procedure will be constituted specifically for the purposes of this Directive.

Article 24

1. The Member States shall bring into force the laws, regulations, and administrative provisions necessary for them to comply with this Directive by 1 January 1993 at the latest.

The provisions adopted pursuant to the first subparagraph shall make express reference to this Directive.

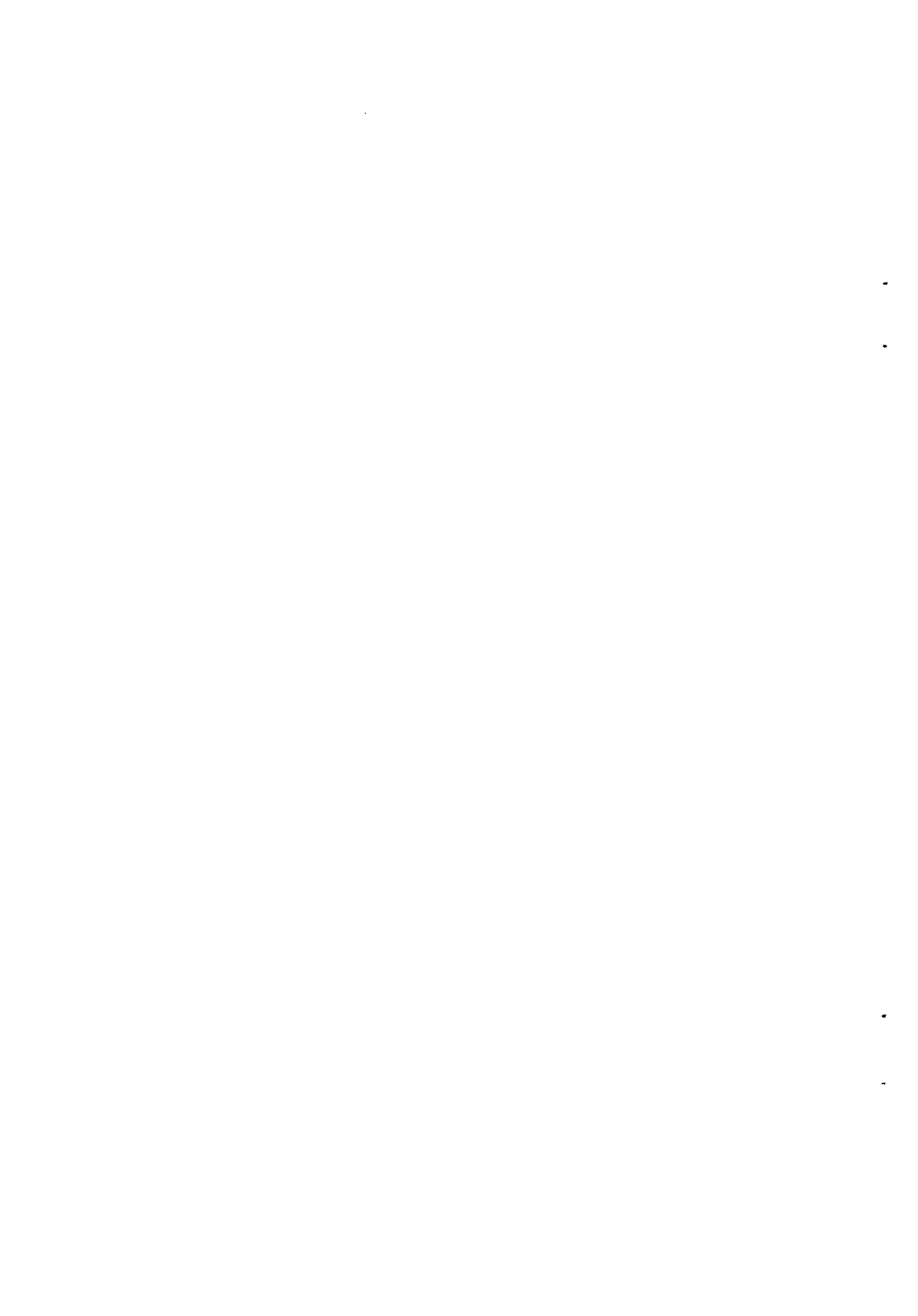
2. The Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field covered by this Directive.

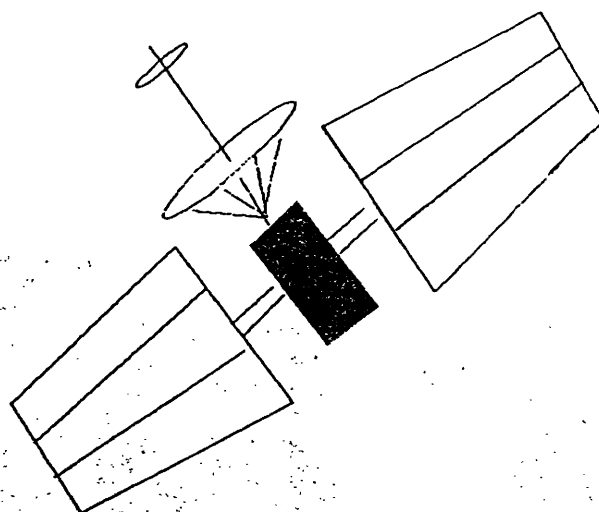
Article 25

This Directive is addressed to the Member States.

Done at Brussels,

For the Council





Towards Europe-wide systems and services -

S U M M A R Y

O F

**Green Paper on a common approach in the field of
satellite communications in the European Community**

(COM(90)490)

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SHORT PRESENTATION

Satellite communications have developed dramatically during recent years. As the European Community approaches the Europe-wide market of 1992, satellite communications are becoming a vital element for the trans-European services and networks needed for the single European market, and the broader continental dimension which is developing from the revolutionary changes in Eastern Europe.

Since satellite communications represent by far the largest commercial application for satellite technology, they will determine, to a large extent, the commercial success of Europe's effort to gain a strategic and future-proof position in space. They have developed into an essential element of the common European audio-visual space, which is a central precondition for Europe's future political and cultural identity and coherence.

This Communication is being written at a time when the European Community is about to achieve its aim of completing the internal market by 1992. Satellite communications can make an important contribution to this process, given the appropriate regulatory and market developments.

In the field of satellite communications the challenge is particularly great. The Community's internal market is still highly compartmentalized. This may, if no changes are brought about, hamper the development of its satellite industry, which is still in its infancy in service terms - despite its advanced position in technological terms. This compartmentalisation has not allowed the appropriate use of the potential of the new satellite communications technologies for the provision of Europe-wide systems and services.

The need for change is therefore undeniable. The compartmentalisation of the Community's satellite communications market cannot be maintained in view of 1992.

Abolishing these restrictions is not only in the interest of users, service providers and equipment manufacturers, but also in the interest of the Member States themselves. The Commission's move for liberalisation in the field of terrestrial telecommunications, based on the Green Paper for the development of a common market for telecommunications services and equipment, was supported by all Member States, since they were convinced that they would otherwise forego the potential growth of this market, the business opportunities for their industry and the supply of their users with advanced telecommunications services.

In the field of satellite communications, the same considerations apply.

Furthermore, the recent changes in Eastern Europe define a range of applications which may prove particularly suited to satellite technology. Only with a lifting of restrictive national regulations within the Community, thereby allowing the implementation of Europe-wide satellite terminal networks, can the European Community play a full role in meeting the emerging satellite communications needs of its Eastern neighbours. Otherwise Central and Eastern Europe's satellite technology and equipment needs are likely to be met by suppliers from third countries, who can build on the existence of major satellite terminal networks already implemented in their home countries due to their more liberal regulatory regime.

Several Member States have already liberalised parts of their satellite communications sector on their own initiative. In particular, some Member States have authorised a number of operators to provide satellite services across borders towards other Member States. This raises a number of questions with regard to fundamental principles of the Treaty of Rome such as the free circulation of goods and services. It is important that these questions be resolved at Community level so that divergent national solutions are avoided.

The objective of this communication is to prevent such a divergent situation by proposing a future-oriented structure for the development of satellite communications for the Single Market of 1992.

The paper intends to extend the application of the general agreed principles of Community telecommunications policy to satellite communications, taking into account the specificities of this means of communication. Four major changes are proposed:

- *Full liberalisation of the earth segment, including both receive-only and transmit/receive terminals*, subject to appropriate type approval and licensing procedures where justified to implement necessary regulatory safeguards;
- *Free (unrestricted) access to space segment capacity*, subject to licensing procedures in order to safeguard those exclusive or special rights and regulatory provisions set up by Member States in conformity with Community law and based on the consensus achieved in Community telecommunications policy.

Access should be on an equitable, non-discriminatory and cost-oriented basis.

- *Full commercial freedom for space segment providers, including direct marketing of satellite capacity to service providers and users*, subject to compliance with the licensing procedures mentioned above and in conformity with Community law, in particular competition rules.
- *Harmonisation measures as far as required to facilitate the provision of Europe-wide services*. This concerns in particular the mutual recognition of licensing and type approval procedures, frequency coordination and coordination with regard to Third Country providers.

With the combination of these changes, a broad range of specialised services will become possible.

It is intended to proceed in the following manner:

- This Communication should lead to a debate in the Council, the European Parliament and the Economic and Social Committee and among all those concerned within the Community - the telecommunications and broadcasting sector, telecommunications and space industry, the trade unions, and in particular the many new users and service providers, such as education and training institutions - on the use that should be made of satellite communications, on the need for further development of satellite services and on the necessary regulatory framework to fulfil these requirements;
- After an appropriate consultation period, the Commission will present its conclusions to the Council on the implementation of a Community policy for satellite communications including the necessary regulatory instruments.

A. INTRODUCTION

The working out of a coherent European position regarding the future regulation and development of satellite communications in the European Community was singled out as a priority in the 1987 Green Paper on the development of the common market for telecommunications services and equipment and the subsequent implementation action plan.^{1,2}

In its Resolution of 30 June 1988³ adopting the general principles of the Green Paper, the Council considered as a policy goal in telecommunications the "working out of a common position on satellite communications, so that this new information medium can develop in a favourable environment, taking account of the general rules of operation and exploitation of the network environment, as well as the competition rules of the Treaty and existing international commitments of the Member States".

It is the intention of this paper to follow up this objective.

¹ Towards a Dynamic Economy - Green Paper on the development of the Common Market for telecommunications services and equipment, COM(87) 290, 30/06/1987.

² Towards a competitive Community-wide telecommunications market in 1992 - Implementing the Green Paper on the development of the Common Market for telecommunications services and equipment, COM(88) 48, 09/02/1988.

³ Council Resolution of 30 June 1988 on the development of the Common Market for telecommunications services and equipment up to 1992, O.J. C 257, 04/10/1988, p. 1.

B. THE REQUIREMENT FOR THE ADJUSTMENT OF THE REGULATORY CONDITIONS

The major part of the current regulatory and organisational structure of satellite communications in Europe was created more than a decade ago. In the meantime, dramatic technological advances have opened completely new avenues of use which go far beyond the role of satellites in public voice telephone transmission between Telecommunications Organisations for which this structure was originally principally designed. Television via satellites to cable TV head-ends and, more recently, directly to businesses and homes has developed into a major application of satellites in Europe. The development of small dishes of only 0.5 - 2.5 meters diameter for a variety of user applications - compared to up to about 30 meters for the traditional earth stations for trunk telephony and TV programme interchange use - have opened completely new opportunities for rapid development of Europe-wide systems by service providers - both public and private - tailored to very specific needs of individual customer groups.

As a consequence, besides the traditional "point-to-point" applications of satellite communications developed by the Telecommunications Organisations to provide international and long-distance links in the context of the international organisations originally set up for this purpose - INTELSAT, INMARSAT, EUTELSAT - completely new applications have led to the development of new distinct markets, such as "point-to-multipoint" one-way and interactive two-way Very Small Aperture Terminal (VSAT) systems. These range from a few dozen up to several thousand terminals, and have the potential to become a vital component of Europe-wide business communications. Other applications include satellite news gathering (SNG) systems - the collection of news and data from multiple points - these are becoming important in the context of Europe-wide information and broadcasting activities, and direct-to-home satellite television.

In parallel, the number of satellite systems in place - on an international, national and to some extent private basis - is multiplying in Europe, corresponding to the new diversity of use which goes far beyond the past vision of satellite communications as an additional transmission system between national telephone systems.

However, the new services and markets can only become a reality in Europe, if the current regulatory restrictions - originally designed for another context and for other purposes - are carefully reviewed.

A number of Member States have recognised the basic change in market conditions brought about by the multiplication of possible uses and have started to review the regulatory conditions of the sector on their own initiative, abolishing restrictions of use liable to prevent the full development of the new services and systems.

Satellite communications were set aside for later consideration in the Green Paper on the development of the common market for telecommunications services and equipment. The consensus achieved, on the basis of this Green Paper and the subsequent political decisions, in particular at the Telecommunications Council on 7 December 1989 on the general future regulatory conditions of the telecommunications sector in the European Community, can now be the basis on which to build a common regulatory position in the field of satellite communications. Such a common regulatory position on satellite communications, while safeguarding the exclusive or special rights of Telecommunications Organisations allocated by Member States in conformity with Community law and the directives on competition in the markets for telecommunications terminal equipment and services,^{4,5} must take proper account of the requirement to use the *full* potential of satellite communications for the

⁴ Commission Directive of 16 May 1988 on competition in the markets in telecommunications terminal equipment (88/301/EEC), O.J. L 131, 27/05/1988, p. 73.

⁵ Commission Directive of 28 June 1990 on competition in the markets for telecommunications services 90/388/EEC, O.J. L 192, 24.07.1990, p. 10.

development of Europe-wide services with a view to the 1992 single market and the continental dimension introduced by the developments in Central and Eastern Europe. It must recognise the need to abolish those restrictions which prevent such new activities and create a framework which promotes them, as well as the need to support Europe's position in space and the objectives of Community audio-visual policy.⁶

A first step towards allowing full use of the potential of satellite communications was taken with the abolition of exclusive and special rights on the importation, marketing, connection, bringing into service and/or maintenance of receive-only satellite earth stations not connected to the public network, in the context of the liberalisation of the Community's terminal equipment sector⁷. It now seems timely to extend the application of the agreed general principles of Community telecommunications policy to satellite communications:

- liberalisation of use, while allowing for the implementation of regulatory safeguards through appropriate type approval and licensing schemes, as compatible with Community law and, in particular, competition rules ;
- separation of regulatory and operational functions, in order to avoid conflicts of interest ;
- implementation of harmonisation measures, as far as required for ensuring effective working of Europe-wide services and equipment markets.

Based on these considerations, a phased approach is proposed, in order to achieve a consistent Community policy on satellite communications:

1. Agreeing on basic proposed positions, which apply the general principles set out above to the satellite communications sector ;
2. Initiating a number of measures at Community level which, based on the proposed positions, aim at allowing effective Europe-wide provision and use of services ;
3. Launching a number of lines of action, in order to create a favourable environment for such operations, in particular with regard to the international commitments of Member States in this area, and concerning standardisation and the promotion of the full use of satellite technologies to the best advantage of Europe's communication system.

⁶ Communication by the Commission to the Council and to the European Parliament on audio-visual policy, COM(90) 78, 21/02/1990.

⁷ Commission Directive of 16 May 1988 on competition in the markets in telecommunications terminal equipment (88/301/EEC), O.J. L 131, 27/05/1988.

C. PROPOSED COMMON POSITIONS

A number of points characterising the new situation of satellite communications should be borne in mind when analysing the consequences of the application of the general principles of Community telecommunications policy to this sector :

1. Developments in satellite technology in recent years have opened up new economic and social opportunities for a large range of new actors reaching far beyond the traditional telecommunications sector.

Dialogue with a broad range of parties is therefore required if a balanced way forward is to be found: private and business users of satellite communications services, telecommunications and broadcasting organisations, new public and private service providers, telecommunications and space industry, government and public interests.

2. Current regulation of earth segment and space segment in the Member States still reflects, in most cases, the situation in the sixties and seventies where the only technically and economically feasible application of satellite communications was their use as an additional transmission path to carry international or national long-distance traffic for Telecommunications Organisations.

The first generation of satellite earth stations were large installations with only one or a very limited number of stations per country, connected to and seen as part of the public telecommunications infrastructure, and giving access to the satellites of the International Telecommunications Satellite Organisation (INTELSAT), and later, also to the satellites of the International Maritime Satellite Organisation (INMARSAT) and the European Telecommunications Satellite Organisation (EUTELSAT).

The management and operation of these large earth stations required considerable resources and technical know-how which was generally considered only to be available in the Telecommunications Organisations.

3. This situation has now changed substantially. In addition to the traditional large earth stations for trunk telephony and TV programme interchange, new earth stations are now available for specific user applications which operate with antenna diameters of 0.5 - 2.5 meters depending on the application, and which can be installed under user control directly on user premises. Technological progress now allows substantially more diversified configurations for purposes other than simple alternative transmission paths to the fixed network. These configurations can be safely operated by service providers other than the Telecommunications Organisations, once appropriate regulatory safeguards have been established.
4. The traditional applications - long-distance trunk telephony and short-term high band-width requirements such as studio-to-studio television transmission - still account for a major, though declining, proportion of international satellite services. Satellite links still account for nearly 60% of transatlantic telephony, though this is expected to fall to 30 - 40% by 1995. Within Europe, satellite-carried voice telephony accounts for only 2 - 3% of intra-European international and national long-distance calls. Nearly 75% of EUTELSAT's revenues are accounted for by television distribution.

5. With the exception of television distribution, the role of satellites over the coming decade will increasingly be characterised by two fundamental usage traits: short term deployment, and distinct specialist niche markets. Forecasts show that while the provision of traditional "Fixed-Satellite Services" in Europe will continue to be dominated by the telecommunications and broadcasting organisations, additional new Europe-wide markets will develop in such fields as direct satellite television broadcasting, private business services, specialised mobile services and satellite news gathering, if current regulatory constraints on the use of the earth segment and the space segment are relaxed and replaced by appropriate regulatory safeguards.
6. It should be noted that while essential for Europe-wide services and Europe-wide coverage of businesses and consumers, forecasts project that the total of satellite services revenue will reach no more than 1.5 - 2.5% of total telecommunications services revenues in Europe by the year 2000. Currently, the total revenue of all satellite carriers in Europe accounts for no more than 0.4% of total telecommunications revenues in the European Community.

These ratios are further borne out by the experience in the United States or more recently in Japan which have substantially liberalised their satellite communications markets. In the United States, after over a decade of domestic "open sky policy", total satellite communications revenues account for no more than 2 - 3% of total telecommunications revenues while liberalisation has in practice led to a substantially higher and more diversified development of the US space sector in this area.

7. The consensus achieved at the Telecommunications Council of 7 December 1989 has identified the regulatory safeguards which Member States may implement in licensing schemes in the telecommunications sector, in conformity with Community law and in particular competition rules. Proposed regulatory positions on satellite communications should build, by extension, on the rationale underlying this consensus, while taking full account of the specifics of the satellite communications sector.

In particular, exclusive or special rights may be entrusted to telecommunications organisations only for the provision and operation of the terrestrial public network infrastructure and the public voice telephony service, and special regulatory safeguards may be established, within licensing schemes, for public data communications services, in accordance with Community competition rules and the procedures established in Commission Directive 90/388/EEC⁸.

Licensing schemes implementing regulatory safeguards must be based on objective criteria, be transparent and non-discriminatory and must introduce no constraints except those set out above or based on "essential requirements", i.e. network security and integrity and, in justified cases, interoperability and data protection.

8. Future regulatory conditions for satellite communications must respect those regulatory safeguards which Member States may apply in the telecommunications sector in accordance with the procedures mentioned, but should not introduce any restrictions beyond those related to specific conditions in the field of satellite communications, where these can be justified in accordance with Community law - in particular competition rules - and international commitments.

Licensing schemes set up by Member States to implement regulatory safeguards in the satellite communications sector must in particular be based on objective facts, be proportionate to the objective sought, be transparent, and be non-

⁸ Commission Directive of 28 June 1990 on competition in the markets for telecommunications services, 90/388/EEC, O.J. L 192, 24.07.1990, p. 10.

discriminatory.

9. An essential regulatory safeguard applicable to satellite communications and of equivalent importance to the requirement of network security and network integrity in the terrestrial network, is the need to avoid unacceptable interference with other satellite or radio communications systems, in accordance with Council Directive 89/336/EEC⁹ concerning electromagnetic interference, and in accordance with the frequency coordination procedures agreed on a global basis by all members of the International Telecommunications Union, established in the Radio Regulations and administered by the International Frequency Registration Board of the International Telecommunications Union.
10. Any restrictions resulting from exclusive or special rights for the provision and operation of the terrestrial public network infrastructure and for the public telephone service, as well as the special regulatory safeguards for the provision of public data services established by Member States in accordance with the procedures mentioned under 7., may relate to satellite communications systems only in as far as they can be considered as being equivalent to these two-way public service categories.

Notwithstanding the special provisions applying to broadcasting services to the general public mentioned under 15., one-way services by definition do not fall into this category.

11. Public voice telephone service is defined in Community legislation^{10,11} as the commercial provision for the public of direct transport of real-time speech via the public switched network or networks such that any user can use equipment connected to a network termination point to communicate with another user of equipment connected to another termination point. Packet- and circuit-switched data services is defined as the commercial provision for the public of direct transport of data via the public switched network or networks such that any equipment connected to a network termination point can communicate with equipment connected to another termination point.

Even large-scale two-way satellite communications systems - such as extensive VSAT systems - presently only comprise up to a few thousand terminals. In this light, two-way satellite communications systems should only be considered as public, if connected to the public switched terrestrial network infrastructure and interlinked with the public services mentioned in position 10.

⁹ Council Directive on the approximation of the laws of Member States relating to electromagnetic compatibility, 89/336/EEC, 03/05/1989, O.J. L 139, 23/05/1989, p. 19.

¹⁰ Commission Directive of 28 June 1990 on competition in the markets for telecommunications services, 90/388/EEC, O.J. L 192, 24.07.1990, p. 10.

¹¹ Council Directive of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of Open Network Provision, 90/387/EEC, O.J. L 192, 24.07.1990, p. 1.

12. If a Member State would consider that very large satellite communications systems not connected with the terrestrial public switched network may obstruct, because of their competition with the telecommunications organisation, the latter's task of providing public telecommunications services, it would have to be demonstrated that such systems would meet definitions and criteria equivalent to those set out in Directive 90/388/EEC¹², subject to Commission scrutiny under Treaty competition rules and always dependent on the Community interest.
13. By analogy with the safeguards mentioned under 7., the only regulatory safeguards which could be included by Member States in licensing arrangements for satellite communications systems not connected to the public switched network are requirements for the avoidance of harmful interference as laid down in the Radio Regulations, requirements concerning data protection and the protection of privacy where applicable, and standards to the extent required by Community law.
14. Given the rapid development of technology and in particular of transmission, access and coding techniques, any technical limitations, such as limitation on bit rates transmitted, are intrinsically liable to obsolescence and should not be used as criteria in licensing procedures.
15. Satellite broadcasting to the general public - including both applications in terms of the definition used in the Radio Regulations for Broadcasting-Satellite Services, as well as broadcasting applications operating in the framework of Fixed-Satellite Services - will continue to be subject to the specific regulations set up by Member States in conformity with Community law, in particular Directive 89/552/EEC¹³ on Television without Frontiers.

As set forth in COM(90)78¹⁴, transmission standards requirements in this area are vital in order to ensure basic interoperability. As regards Direct Broadcasting by Satellite applications, Directive 86/529/EEC¹⁵ has identified the MAC family of transmission techniques as the standard to be used.

16. Preparation of future action concerning transmission techniques in this area should take account of the consideration that a major challenge for the future will be the harmonised introduction of a Europe-wide High Definition Television (HDTV) standard, in which the use of satellites will play a vital role as the initial transmission medium. It will also need to reflect the fact that technological development makes it increasingly difficult to distinguish between those services defined as Broadcasting-Satellite Services according to the definitions used internationally under ITU regulations and broadcasting applications operating in the framework of Fixed-Satellite Services.

¹² Commission Directive of 28 June 1990 on competition in the markets for telecommunications services, 90/388/EEC, O.J. L 192, 24.07.1990, p. 10.

¹³ Council Directive on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, 89/552/EEC, 03/10/1989, O.J. L 298, 17/10/1989, p. 23.

¹⁴ Communication by the Commission to the Council and to the European Parliament on audio-visual policy, COM(90) 78, 21/02/1990.

¹⁵ Council Directive on the adoption of common technical specifications of the MAC/packet family of standards for direct satellite television broadcasting, 86/529/EEC, 03/11/1986, O.J. L 311, p. 28.

There should be a co-ordinated approach towards a review of the criteria established by the World Administrative Radio Conference of 1977 on the provision of Broadcast Satellite Services. The result of this review should also be taken fully into account when identifying common European positions for the World Administrative Radio Conference of 1992.

17. Mobile satellite services which for reasons of technology and cost will focus on specific user segments limited in size, do not differ substantially from other one- or two-way point-to-multipoint satellite communications applications and should therefore not be subject to any additional regulatory constraints or safeguards beyond those applied to Fixed-Satellite Services. In particular, any regulatory constraints should not prevent or hinder transborder operation.
18. With the implementation of the regulatory safeguards regarding satellite communications services set out above, it will be possible to initiate the two major steps which are needed before the potential of the provision of satellite communications services by both public and private providers can be fully exploited in Europe:
 - unrestricted provision and use of satellite earth station transmit/receive equipment ; and
 - full, equitable and non-discriminatory access by users to all providers of satellite space segment capacity.
19. As regards satellite earth stations, the Green Paper on the development of the common market for telecommunications services and equipment stated that "given the trend in satellite communications towards point-to-multipoint broadcasting applications for closed user groups, the regulatory regime for receive-only earth stations (ROES) for satellite communications should be assimilated to the regime for telecommunications terminals and TV receive-only satellite antennas and fully opened to competition".

Subsequently, Directive 88/301/EEC¹⁶ implemented this position for "receive-only satellite stations not connected to the public network of a Member State".

Receive-only equipment not connected to the public switched network should be subject only to a requirement for an indication of compliance with suitable standards in the field of electromagnetic interference, no more onerous than the procedures applying to other radio receivers. It should not be subject to a licensing procedure.
20. Transmit/receive stations should be subject to type approval and licensing procedures in order to ascertain conformity with the conditions as stipulated in the proposed draft Council Directive in this area¹⁷, and in accordance with the basic regulatory safeguards set out above.

¹⁶ Commission Directive of 16 May 1988 on competition in the markets in telecommunications terminal equipment (88/301/EEC), O.J. L 131, 27/05/1988, p. 73.

¹⁷ (Proposal for a Council Directive on the approximation on the laws of the Member States concerning telecommunications terminal equipment, including the mutual recognition of their conformity, COM(89)289.)

21. As regards access to space segment capacity, given the multiplication of public and private actors in the satellite communications field, and the need to create a level playing field, the principle of separation of operational and regulatory responsibilities should be fully implemented. In particular, all matters with regard to the international frequency coordination procedures including equitable access to frequencies and the geostationary orbit, should be regarded as a regulatory responsibility.

This separation should also apply to all intergovernmental and related operating agreements in the field. With regard to the coordination procedures concerning "economic harm" potentially caused by other providers of satellite capacity, as cited in the intergovernmental conventions underlying the international satellite organisations, INTELSAT and INMARSAT, and the European telecommunications satellite organisation, EUTELSAT, they are unlikely, in the framework of a review of these procedures by the Commission, to withstand the test of Community competition rules on the basis of the principles set out in the Commission guide-lines on the application of these rules to the telecommunications sector.¹⁸

22. The best solution - and the only one which would seem suitable to avoid distortion of competition and to allow full use and best allocation of the existing international, national and private space segment - would be for Member States to take the necessary steps to ensure that users obtain direct access to space segment capacity, and for providers of this space segment to obtain the right to market space segment capacity directly to users.

Member States should eliminate existing restrictions in order to ensure that the principle of direct access by all users on equitable and non-discriminatory terms to all providers of space segment capacity be fully implemented.

23. The European Telecommunications Satellite Organisation, EUTELSAT, should obtain full commercial freedom to market its services in Europe, in order to give it equal opportunity with other space segment providers and to avoid undue market sharing agreements which may result from exclusive resale of space segment capacity via its signatories.
24. Tariffs charged to users for making space segment capacity available should follow the overall principle of cost orientation and be in compliance with competition rules according to the principles set out in the Commission guide-lines mentioned above.

Four major changes of the regulatory environment seem necessary, in order to exploit fully the potential of satellite communications for Europe:

- FULL LIBERALISATION OF THE EARTH SEGMENT, INCLUDING THE ABOLITION OF ALL EXCLUSIVE OR SPECIAL RIGHTS IN THIS AREA, including both
 - receive-only terminals, subject to appropriate type approval procedures when connected to the public switched network; and

¹⁸ To be published

- transmit/receive terminals, subject to appropriate type approval and licensing procedures where justified to implement necessary regulatory safeguards;
- **FREE (UNRESTRICTED) ACCESS TO SPACE SEGMENT CAPACITY,**
subject to licensing procedures, in order to safeguard exclusive or special rights or regulatory provisions set up by Member States in conformity with Community law and based on the consensus achieved in Community telecommunications policy.

Access should be on an equitable, non-discriminatory and cost-oriented basis.
- **FULL COMMERCIAL FREEDOM FOR SPACE SEGMENT PROVIDERS,**
including direct marketing of satellite capacity to service providers and users, subject to compliance with the licensing procedures mentioned above and in conformity with Community law, in particular competition rules.
- **HARMONISATION MEASURES AS FAR AS REQUIRED TO FACILITATE THE PROVISION AND USE OF EUROPE-WIDE SERVICES**

This concerns in particular the mutual recognition of licensing and type approval procedures, frequency coordination and matters related to coordination of services provided to and from countries outside the Community.

The proposed positions resulting from these considerations, are summarised in **Box 1**. The Commission also proposes the measures set out under sections D. and E. in order to create a harmonised environment for the implementation of the proposals.

BOX 1

SUMMARY OF PROPOSED POSITIONS

The positions set out below aim at creating an optimal environment for the full use of satellite communications for Europe-wide systems and services, to the benefit of the European user, European industry and the European economy in general, while recognising necessary regulatory safeguards established in accordance with the consensus achieved in the framework of Community telecommunications policy at the Council meeting of 7 December 1989 - especially with regard to keeping the balance between harmonisation and liberalisation - in conformity with Community law, and in the light of the international commitments of the Member States.

Earth Segment

1. **Entertainment broadcast (TV) satellite reception terminals should not be subject to licensing or restrictions on their supply, installation, ownership, operation and maintenance.**

Receive-only satellite telecommunications terminals should not be subject to licensing or restrictions on their supply, installation, ownership, operation and maintenance.

All transmit/receive terminals may be subject only to type approval and their operation subject to licensing.

2. **Network control earth stations (hub stations) of satellite terminal networks may be operated under a licence. Interconnection with the public network should be allowed by this licence, subject to the conditions set out under 4. Connection to the public network must be equitable, non-discriminatory and cost-oriented.**

A hub station operator or service provider licenced by a Member State should not have to negotiate landing rights in other Member States since the reception of his or her services would automatically be authorised throughout the Community under Article 59 of the Treaty, subject only to non-discriminatory requirements that are justified by the general interest, as defined in point 4, in conformity with Community law.

3. **A European Telecommunications Standard, geared to ensuring the limitation of potential interference to an acceptable level should be prepared to facilitate mutual recognition of type approval of transmit/receive terminals. Equipment constructed in accordance with such a standard should automatically be considered to fulfil the requirements concerning the avoidance of harmful interference, subject to the completion of the appropriate frequency coordination procedures.**

BOX 1

A Directive for the mutual recognition of type approval procedures should be proposed for transmit/receive terminals, including the conditions for their installation, maintenance and operation.

This Directive would also apply to receive-only terminals connected to the public switched network.

Receive-only terminals not connected to the public switched network should not be subject to type approval, but may be subject to a requirement for an indication of compliance with suitable standards in the field of electromagnetic interference; possible measures aimed at avoiding the risk of fraud or of traffic interception shall not be more onerous than the procedures applying to other radio-receivers.

- 4. Licensing conditions must be justified, be proportionate to the objective sought, be transparent and non-discriminatory, and must fully respect the principle of the separation of regulatory and operational functions.**

Licensing conditions for the operation of transmit/receive terminals not connected to the public switched network may include no other regulatory safeguards than those needed in order to guarantee the avoidance of harmful interference; requirements concerning data protection and the protection of privacy in justified cases; and standards to the extent required by Community law.

Licensing conditions for the operation of hub stations and other terminals connected to the public switched network may include, in addition, regulatory safeguards to ensure compliance with restrictions resulting from exclusive or special rights for the provision of the public telephony service, as well as the special conditions and licensing schemes for the provision of public data services established by Member States in accordance with the principles set out in Directive 90/388/EEC on competition in the markets for telecommunications services.

Where very large satellite communication systems not connected with the terrestrial public switched network may obstruct the operation of services of general economic interest with which telecommunications organisations are entrusted, the regulatory safeguards described in the former paragraph may be applied to these systems subject to Commission scrutiny under Treaty competition rules.

No other restrictions than those provided for by the licensing conditions should apply.

A Directive for a Community scheme for the mutual recognition of licences should be proposed, laying down, *inter alia*, the conditions for the issuing of operating licences for terminal networks, installation and maintenance organisations, and hub-stations operators, including the Community-wide operation of such systems under a single class licence in the case of operation in exclusive frequency bands.

BOX 1

For hub-stations, operation should be subject to the signature of an operating agreement with the relevant space segment operator. This agreement should only include provisions aimed at ensuring the proper functioning of the satellite system and should be based on objective, transparent and non-discriminatory criteria.

Space Segment

5. The principle of the separation of regulatory and operational functions should be fully implemented with regard to access to and control of the space segment.

All matters concerning equitable access to frequencies and the orbital resource should be treated in a similar fashion.

In addressing these aspects, and in the framework of this Green Paper, Member States should ensure objective, transparent and non-discriminatory procedures, in particular with regard to the procedures concerning required co-ordination established within the radio regulations and administered by the International Frequency Registration Board of the International Telecommunications Union.

6. Coordination procedures concerning "economic harm" by other providers of space segment capacity currently foreseen in the intergovernmental conventions underlying the international satellite organisations, INTELSAT and INMARSAT, and the European Telecommunications Satellite Organisation, EUTELSAT, should be reviewed in order to avoid discrimination between economic operators offering space segment, taking full account of the obligations of Member States and operators under Community competition rules.

Such a review should take account of the international obligations of the Community and the Member States in the light of Community law and the requirement to safeguard a balanced development of satellite communications world-wide, in particular with regard to the developing countries.

Member States should support actions to render the "technical coordination" procedures foreseen by the intergovernmental conventions less cumbersome;

7. Users should be able to obtain better access to space segment capacity. For this purpose, it will be necessary to determine how to attain rapidly an open access, taking into account the international commitments of the Member States and Community law.

At this stage of the analyses, the Commission considers that the solution which seems most suitable to avoid distortions of competition and to allow full use and best allocation of the existing space segment could be to give users direct access to space segment capacity, including signal transmission towards the satellite, subject to compliance with the licensing conditions defined under 4. above ;

BOX 1

and then to give space segment providers the right to market space segment capacity directly to users.

This should concern, *inter alia*, the following services:

- private networks not connected to the public switched telephone network for services including interactive voice;
- private networks for data transmission services and specialised business communications;
- the provision of direct-to-home satellite television services.

In respect of the European Telecommunications Satellite organisation EUTELSAT, the objective to be attained is to allow it to obtain full commercial freedom to market its services across the Community.

In the pursuit of this objective Member States - for both the space segment providers registered under their own national responsibility and for those systems established in accordance with the relevant international intergovernmental conventions - should ensure that the principle of direct access by users to all providers of space segment on equitable and non-discriminatory terms be fully implemented.

A first solution, already experienced in the Community, has been that signatories of this organisation have opened, under control of the competent regulatory authorities, an office for access to its capacity by operators of the earth segment in the Community.

8. Tariffs charged to users for making space segment capacity available should follow the overall principle of cost-orientation.
9. The procedures concerning the implementation of the objectives set out in 5., 6., 7. and 8. must be carried out by Member States in compliance with their obligations under Community law, in particular competition rules.

Mobile and position-fixing satellite services

10. Mobile and position-fixing satellite services do not differ substantially from other two-way point-to-multipoint satellite communications applications and should therefore not be subject to regulatory constraints or safeguards other than those set out under 4.
11. Mobile terminal systems should be governed by the equivalent rules for fixed service receive-only, or transmit and receive, terminal systems in terms of type-approval of terminals and licensing.

BOX 1

12. **The Directive for a Community scheme for the mutual recognition of licensing mentioned under 4. should make special provision for the unrestricted movement of mobile terminals throughout the Community and of the mutual recognition of licences for this purpose.**

Broadcasting-Satellite services

13. **Satellite broadcasting to the general public - including both applications in terms of the definition used in the Radio Regulations for Broadcasting-Satellite Services, as well as broadcasting applications operating in the framework of the Fixed-Satellite Services - will continue to be subject to the specific regulations set up by Member States in conformity with Community law, as defined in particular in Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities.**

14. **Transmission standards requirements in this area are vital to ensure basic interoperability. As regards direct broadcasting applications, Directive 86/529/EEC has identified the MAC family of transmission techniques as the standard to be used.**

The development of concepts for the next generation direct Broadcasting-Satellites should ensure compatibility with ongoing activities in the field of High Definition Television (HDTV) and its Europe-wide harmonised introduction. This should be taken into account in future actions regarding transmission techniques in this area, particularly in the actions succeeding the current MAC-packet Directive mentioned above, which expires on 31 December 1991.

In pursuing the implementation of these proposals, and the lifting of existing restrictions, the Commission will apply the competition rules of the Treaty to their full extent.

D. MEASURES FOR FACILITATING TRANS-EUROPEAN SERVICES

In order to implement the above proposed positions in a harmonised way, the Commission foresees that a number of Community measures will be required:

- **MUTUAL RECOGNITION OF TYPE APPROVAL FOR SATELLITE COMMUNICATIONS TERMINAL EQUIPMENT,**

extending the coverage of the Directive on the approximation on the laws of the Member States concerning telecommunications terminal equipment, including the mutual recognition of their conformity, currently under discussion, to include all transmit/receive satellite earth stations, and to include receive-only satellite earth stations connected to the public switched network as far as required.

- **A COMMUNITY SCHEME CONCERNING THE MUTUAL RECOGNITION OF LICENCES FOR SATELLITE TERMINAL NETWORKS,**

laying down, *inter alia*, the conditions for the Community-wide operation of terminal networks and possible conditions regulating hub station operations.

A Directive in this area would be based on the positions set out and should facilitate the establishment of two-way networks across the Community by, *inter alia*, providing for class licences for networks operating within frequency bands designated with priority to Community-wide satellite applications. These class licences should give the possibility of operating, e.g., VSAT networks throughout the Community under a single licence, without any need of further licensing or frequency coordination for the individual participating satellite terminals in the Member States. Networks operating within non-exclusive frequency bands should be licenced with a minimum of obligatory procedures for frequency coordination.

- **STRENGTHENED FREQUENCY COORDINATION RELATED TO SATELLITE COMMUNICATIONS,**

in order to support Community-wide licensing, building on the current reform of the European Radiocommunications Committee and the establishment of the European Radiocommunications Office, set up by the European Conference of Postal and Telecommunications Administrations, and taking full account of the coordination procedures for frequencies and procedures for equitable access to the geostationary orbit globally agreed and established within the Radio Regulations and administered by the International Frequency Registration Board of the International Telecommunications Union.

A Decision in this area should

facilitate frequency coordination in this field between Member States in all cases where this becomes necessary, taking account of international coordination procedures, and development of the Community satellite services environment;

coordinate Community positions with regard to the World Administrative Radio Conferences on frequencies and orbital allocation matters;

create the mechanism for designating, based on the international Radio Regulations and the recommendations of the European Radiocommunications Committee, certain bands with priority to Community-wide satellite applications, such as needed for the easy operation of class licences as set out above, subject to the completion of the international frequency coordination procedures;

- **STRENGTHENED COORDINATION OF MEMBER STATES WITH REGARD TO SERVICES TO/FROM NON-COMMUNITY COUNTRIES,**

in order to develop common procedures with regard to these services, building on the general principles which are in the course of being defined within the framework of the overall GATT services agreement currently under negotiation.

- **SPECIFIC DEFINITION OF OPEN NETWORK PROVISION (ONP) CONCERNING THE CONNECTION OF SATELLITE TERMINAL NETWORKS**

to the terrestrial public network infrastructure, subject to the constraints and regulatory safeguards set out in the proposed positions, in order to provide Europe-wide harmonised interfaces between satellite systems and the public network infrastructure, based on the principles of equitable, non-discriminatory and cost-oriented access.

This would extend the coverage of Open Network Provision to satellite communications networks and would therefore substantially facilitate the effective operation of the Community-wide licensing scheme set out above.

- **HARMONISATION OF IDENTIFIED FUTURE TRANSMISSION TECHNIQUES FOR SATELLITE BROADCASTING TO THE GENERAL PUBLIC,**

to succeed Directive 86/529/EEC, as referred to in the Commission's communication on audio-visual policy of 21 February 1990.

Preparation of future action concerning transmission techniques in this area should take into account that a major immediate challenge is the harmonised introduction of a Europe-wide High Definition Television (HDTV) standard, in which the use of satellites will play a vital role as the initial transmission medium. It will also need to reflect the fact that technological development makes it increasingly difficult to distinguish between those services defined as Broadcasting-Satellite Services according to the definitions used internationally under ITU regulations, and broadcasting applications operating in the framework of the Fixed-Satellite Service.

There should be a co-ordinated approach towards a review of the plan criteria established by the World Administrative Radio Conference of 1977 on the provision of the Broadcasting-Satellite Service. The result of this review should also be taken fully into account when identifying common European positions for the World Administrative Radio Conference of 1992.

E. LINES OF ACTION FOR CREATING A FAVOURABLE ENVIRONMENT

A number of longer term action lines will have to be initiated, in order to create the environment for the full implementation of the proposed positions set out.

This concerns in particular changes which may be needed in the international environment of satellite communications; the production of standards; and the promotion of the full use of satellite technology by providers and Telecommunications Organisations, in order to create a strong European position in this area.

It is proposed to initiate the following lines of action:

1. WORKING TOWARDS A REVIEW OF THE EUTELSAT CONVENTION AND ITS OPERATING AGREEMENT,

as far as required to implement the proposed positions set out above.

Major issues in this context are:

- necessary modifications to ensure direct access for users to EUTELSAT satellite capacity ;
- future handling of the coordination procedure concerning the "economic harm" provision of the EUTELSAT convention ;
- future handling of the technical coordination procedures as foreseen in the EUTELSAT convention ;
- necessary measures for implementing future commercial independence of EUTELSAT ;
- mechanisms for ensuring cost-orientation of tariffs charged to users ;
- implementation of the separation of regulatory and operational interests and opening of membership of the EUTELSAT consortium to new parties.

Their total investment share of 88% in the EUTELSAT organisation means that Member States must share the responsibility for redirection and adjustment of the EUTELSAT Convention and operating agreement in order to ensure development of the potential of EUTELSAT to the fullest possible extent, in line with the goals of the Single Market.

2. DEFINING A COMMON POSITION IN THE INTERNATIONAL FORA RELATED TO SATELLITE COMMUNICATIONS, IN PARTICULAR WITH REGARD TO INTELSAT AND INMARSAT

The INTELSAT and INMARSAT conventions imply substantial international commitments for the Member States. With 28% and 34% investment shares in INTELSAT and INMARSAT respectively, Member States play an influential role in these global satellite organisations.

While changes as far as required by the proposed positions set out may therefore take time and have to depend on the evolving global environment, a number of steps could be taken:

- Member States must, as regards their own representation, apply strictly the principle of separation of regulatory and operational functions ;
- Member States should support INTELSAT proposals underway and aimed at rationalising the economic harm coordination procedures ;
- Member States should also support actions to render technical coordination procedures less cumbersome ;
- Member States should facilitate access to both organisations via the signatories and pay special attention to the implementation of the principle of the cost-orientation of tariffs ;
- Member States should work jointly within the two organisations with regard to any further changes required by the proposed positions, taking account of the need for a balanced world-wide development of satellite communications and the special requirements of the developing countries.

3. ACCELERATING STANDARDISATION WORK IN THE EUROPEAN TELECOMMUNICATIONS STANDARDS INSTITUTE WITH REGARD TO SATELLITE COMMUNICATIONS EQUIPMENT

ETSI has allocated with the creation of a special technical committee (TC-SES - Satellite Earth Stations) and the definition of a multi-annual work programme high priority to this area.

In particular for the earth station equipment sector, standards are indispensable for the effective implementation of the mutual recognition of type approval and licensing of one-way and two-way satellite systems. The Commission intends to give high priority to this area in its working relations with ETSI.

4. PROMOTING THE FULL USE OF SATELLITE TECHNOLOGY IN APPLICATIONS, BY SERVICE PROVIDERS AND BY TELECOMMUNICATIONS ORGANISATIONS,

in particular with regard to services for the less-favoured regions and the countries of Central and Eastern Europe which are now integrating themselves into the European telecommunications area.

Satellites will retain their basic advantages with regard to terrestrial telecommunications: thin-route service and rapid deployment, as well as immediate large-area coverage for one-way applications.

The Commission proposes as major objectives:

- Full use of the technological potential of the European Space Agency, in order to develop satellite technologies further for both private and public applications ;
- Full application of satellite communication systems in the implementation of Community policies.

This concerns in particular the use of advanced telecommunications for regional development. Through its STAR programme, the Commission has given financial support for the setting up of major satellite ground stations and business services terminals for transmission links.

It also concerns the Community policies for education and training, transport and fishing and for the developing countries.

- Full attention to the role of satellites in the context of the future development of telecommunications in the Community, in particular as regards Europe-wide services, as well as for the development of Integrated Broadband Communications (IBC).

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(91) 30 final - SYN 328

Brussels, 14 February 1991

Proposal for a
COUNCIL DIRECTIVE

on the application of open network provision
to leased lines

(presented by the Commission)

0 0275

EXPLANATORY MEMORANDUM

I. INTRODUCTION

The creation of an open, common market for telecommunications services, particularly for value-added services was established as a major policy goal by the Council of Ministers for Telecommunications in its Resolution of 30 June 1988⁽¹⁾.

The Council requested the preparation of proposals for Council Directives for the rapid definition of technical conditions, usage conditions and tariff principles for Open Network Provision, starting with harmonized conditions for the use of leased lines.

The Telecommunications Council of December 1989 decided that the Community's telecommunications policy should combine in a balanced way harmonization and liberalization.

Consequently, on 28 June 1990 the Commission adopted the Directive on competition in the markets for telecommunications services and the Council of Ministers for Telecommunications adopted a Council Directive on the establishment of the internal market for telecommunications services through the implementation of open network provision.

The latter Directive, generally referred to as the ONP framework Directive, foresees as a first priority the adoption of a Council Directive which specifies open network provision conditions for leased lines. The Directive received broad support both in the European Parliament and in the Economic and Social Committee.

It is in this context that the Commission presents this proposal for a Directive to the Council of Ministers.

II. THE ROLE OF LEASED LINES IN THE PROVISION OF TELECOMMUNICATIONS SERVICES

Leased lines have become an essential part of the public telecommunications infrastructure. They are now a major building block in the communications networks which companies operate for their own use and for the provision of services to others, in particular value added or competitive services.

The Commission Directive of 28 June 1990 on competition in the markets of telecommunications services states that exclusive or special rights for telecommunications services are in general incompatible with the Treaty and stresses the importance of competition in this market. Harmonization resulting in open and efficient access to and use of a fundamental part of telecommunications, namely leased lines, is essential for viable competition in this market.

In order to fully exploit the forces of competition, the economies of scope which are inherent in the telecommunications organizations' provision of transmission channels must be passed on to all users of these transmission channels in a non-discriminatory, harmonized manner. These users include service providers and telecommunications organizations providing competitive services, as well as end users.

(1) OJ No C 257, 4.10.1988, p. 1

Currently, the users of leased lines in the Community are faced with varying conditions with respect to technical specifications, usage conditions - governing for example the interconnection between leased lines and between leased lines and public networks - and tariff principles.

The Community-wide harmonisation of usage conditions, tariff principles, standards, and ordering procedures for leased lines will facilitate the provision of telecommunications network based services, will improve access to all potential European users by service providers and will offer the possibility of significant cost savings in the provision of competitive services.

Since telecommunications services serve ever more as the nervous system of modern economies, the conditions for access to and use of leased lines have implications not only on the market of telecommunications services but on the economy as a whole. Thus, they must be seen as a key factor for the success of the single market of 1992.

For these reasons the definition of open network conditions for leased lines must be pursued with highest priority.

III. THE CONSULTATIVE PROCESS

The concept of ONP conditions for open provision of leased lines was introduced by⁽²⁾ the Commission in the Communication on the Implementation of the Green Paper. In its Council resolution of 30 June 1988 the Council urged for the "rapid definition" of ONP conditions for leased lines.

Since the Commission deemed it necessary that the analytical work on leased lines was taken up as soon as possible, given the importance of leased lines for European telecommunications, the Commission started to analyse the subject in parallel with its work on the ONP framework Directive. Preparatory work on the application of ONP principles to leased lines was therefore undertaken by the SOG-T (Senior Officials Group - Telecommunications) and its sub-group GAP (Groupe d'Analyse et de Prévision) as early as 1988.

In the spirit of the pending framework Directive, the SOG-T arranged for the participation of representatives of European industrial organizations, trade associations, services providers, large telecommunications users⁽³⁾ and telecommunications in general. To that end, public comments on the proposals⁽⁴⁾ of GAP were invited by notice in the Official Journal dated 7 March 1989 and two fora were organized in June and November 1988 for public discussion of the proposals.

The comments received supported the need for harmonization of open and efficient access and usage conditions for leased lines in general. There were substantial concerns with respect to unjustified constraints on the use of leased lines e.g. for interoperability reasons, the potential for discriminatory treatment between the TOs and

(2) COM (88) 48 : Implementing the Green Paper on the Development of the Common Market for Telecommunications Services and Equipment

(3) Proposal by the "Analysis and Forecasting Group" (GAP) on Open Network Provision (ONP) for Leased Lines in the Community of 11 January 1989

(4) OJ No C 58, 7.3.1989, p.5, Notice No 89/C58/04

their competitors, insufficient emphasis on cost orientation in tariff principles and the future availability of state of the art leased lines.

Subsequently, a draft of the proposal for a directive was discussed with the ONP Committee.

The present proposal for a Council Directive takes into account the results of a) the GAP analysis report, b) the comments received from interested parties in the course of the public comment process, and c) the comments received from the ONP Committee. At the same time it takes account of the general principles which have been laid down in the Directives on competition in the market of telecommunications services and implements the ONP framework Directive.

IV. THE APPROACH ADOPTED

The proposal implements a concept of harmonization in the areas of standards, usage conditions, provision conditions and tariff principles. In order to achieve a maximum harmonization for the user without at the same time introducing too many constraints on TOs and users, the proposal follows a dual approach:

- The leased lines which are provided in the context of the establishment, development, and operation of the public telecommunications network shall be offered under Community-wide harmonized usage conditions and tariff principles. This will greatly facilitate the use of the present and future telecommunications infrastructure.
- Certain types of leased lines shall be provided by the TOs in accordance with harmonized technical standards. The TOs shall be obliged to provide these leased lines, since these are needed and requested by the wide majority of European users of leased lines. The proposed Directive identifies four types of leased lines which have to be offered in all Member States by certain dates.

Progress of technology will enable the telecommunications organizations to develop, install and offer new types of transmission channels with greatly improved capacity, quality and other features. The proposal foresees a mechanism to modify the list of leased lines for which universal availability is deemed necessary. The Commission will closely cooperate with the Member States in this respect in accordance with the provisions laid down in the framework Directive. The term "leased line" has been defined flexibly enough to include possible future technical development.

In the public comments received on the GAP report the representatives of users, in particular service providers, were concerned about the potential for TOs, as users of their own leased lines, to discriminate in situations where they are competing with others.

The proposed Directive refers in its recitals to some of the general principles resulting from Community law. The operative part then specifies in detail how the Open Network Provision conditions are to be harmonized for the provision of leased lines in accordance with these principles.

The proposed Directive does not request the Member States to establish structural separation between entities which carry out tasks under special or exclusive rights and entities which are engaged in competitive activities. The joint production and marketing of competitive and reserved services within one organization may however have serious negative implications on the viability of competition in telecommunications.

In order to avoid such problems, the Commission proposal foresees the application of sufficiently transparent cost accounting systems which allow the enforcement of the basic principles of transparency and cost orientation. The application of appropriate cost accounting systems is aimed at by the introduction of the principle of fully distributed costing which is qualified as a prominent example of a suitable cost accounting principle. In conformity with the principle of subsidiarity, the provisions leave sufficient room for application along the lines of national perspectives.

The articles of the Directive are briefly explained hereunder :

Article 1 sets out that this specific ONP Directive applies to leased lines provided on public telecommunications networks to end users and service providers, including telecommunications organizations, where applicable. It also points out that a minimum set of leased lines with harmonized technical characteristics must be available throughout the Community..

Article 2 refers to the definitions given in the ONP framework Directive, and provides additional definitions where necessary. The concept of a leased line is defined in a sense, which ensures that beside the mandatory provision of a limited set of leased lines with harmonized conditions, the basic principles of ONP with respect to usage and supply conditions and tariff principles apply to all leased line offerings, including those resulting from the application of new technologies.

Article 3 establishes the format in which the information is to be published in order to comply with the requirement that ONP conditions must be transparent and published in an appropriate manner.

The supply conditions for leased lines are addressed in Article 4. It requires that telecommunications organizations use a set of general supply conditions which contains at least a number of parameters which are of vital importance to users, e.g. the delivery period for a type of leased line, the duration of the contractual period, and the repair time.

In order to enable the user to plan ahead, the TOs are obliged to inform users about changes in the general supply conditions well in advance. When leased line offerings can no longer be continued, users which are affected need to be consulted before the service is terminated.

In accordance with the general supply conditions, specific supply conditions must be laid down in an individual contract between the TO and the user, where requested by the user. They may only be altered if agreed so by both the user and the TO.

In combination with recitals (6, 7, and 8), Article 5 limits the scope of restrictions which could be imposed through the usage conditions. It provides in particular guidance on the Community-wide interpretation of the essential requirements when applied to leased line provision and usage and thus harmonizes the respective national regulations in this respect.

Another aim of Article 5 is to point out that legitimate restrictions derived from essential requirements may only be implemented through regulatory means. It does not refer to restrictions which may be derived from the exclusive or special rights or from the prohibition of simple resale of capacity as Directive 90/388/EEC has already excluded the possibility of technical restrictions for the enforcement of the exclusive or special rights or the prohibition of simple resale.

Article 6 defines the minimum set of leased lines which must be made available throughout the Community. The four types of leased lines identified represent the large majority of leased lines which are currently in use and in demand. The provision of three of the four types of leased lines is tied to the date when the Directive enters into force. The fourth type, the 2 Mbit leased line must be offered throughout the Community by July 1, 1992.

This article also provides for the mechanism to update the list of leased lines in Annex 2 on the basis of changes in market demand and in technology. Changes in Annex 2 can be made by the Commission, in cooperation with the ONP-Committee. Such changes may incorporate the updating of references to standards, the removal of leased lines from or the addition of leased lines to the list.

This article points out that the provision of other leased lines beyond the minimum set listed in Annex 2 must not impede the provision of this minimum set. Such other leased lines are also subject to the general principles for the provision of leased lines as set out in this Directive.

Article 7 requests the Member State to fully implement the important role of the national regulatory authority for the implementation of the directive. The national regulatory authorities will have to lay down its procedures for the rapid, transparent and duly motivated decision on measures foreseen by the telecommunications organization for reasons of alleged infringements of the usage conditions. Unless specified measures in order to remedy defined infringements are authorized a priori, no measure can be enforced before it has been approved by the national regulatory authority, duly motivated and notified to the user and the telecommunications organization.

The Article also provides that the national regulatory authority takes the responsibility for the surveillance of the proper application of the usage conditions in cases when telecommunications organizations use equivalent transmission capacity for the provision of competitive services.

Article 8 expresses the requirement of users to be able to order leased lines in a common fashion, and where requested, to be able to communicate with a single TO for ordering leased lines and for billing purposes.

Article 9 refers to the basic principles of cost orientation and transparency which are to be applied for tariffs of leased lines and identifies separate tariff elements which will normally be contained in the tariffs.

The article obliges the telecommunications organizations to use transparent cost accounting systems which are suitable for the enforcement of the basic principles mentioned above. The application of the fully distributed costing principle is indicated as fulfilling this requirement.

Article 10 deals with the information which the national regulatory authority has to provide to enable the Commission to monitor the implementation of this Directive.

Article 11 sets out a procedure for cases when users issue complaints on grounds of non-compliance with this Directive. The national regulatory authority or the Commission can refer such cases to the ONP Committee. The article outlines the involvement of a working group of the ONP Committee to facilitate the achievement of an agreement between the parties.

Article 12 deals with the situation where a Member State argues that it cannot fully implement the requirements of Art. 6, 9(2), or 9(3) in time. In such case the Commission will examine the circumstances which lead or might lead to non-compliance. The article points out that the activities of TO's in the competitive areas must not impede the compliance with Articles 6, 9(2), or 9(3).

V. CONCLUSIONS

The present Commission proposal for a Council Directive on the application of Open Network Provision Conditions to leased lines implements harmonized general principles for the provision of leased lines as laid down in the ONP framework Directive and specifies which leased lines which shall be provided in all Member States in a harmonized way. It is flexible and open for future adaptation in line with market demand and technology progress. Thus, the proposal harmonizes the conditions for the provision of the most essential elements of telecommunications infrastructure which are needed for the provision of telecommunications services and in effect significantly improves the competitive conditions in the European telecommunications market.

The Council is therefore requested to adopt the attached proposal for a Directive.

Proposal for a
COUNCIL DIRECTIVE

on the application of open network provision to leased lines

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission⁽¹⁾,

In co-operation with the European Parliament⁽²⁾,

Having regard to the opinion of the Economic and Social Committee⁽³⁾,

Whereas Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of open network provision⁽⁴⁾ provides that the Council shall adopt specific open network provision conditions for leased lines.

Whereas in accordance with Commission Directive 90/388/EEC of 28 June 1990 on competition in the markets for telecommunications services⁽⁵⁾, Member States which maintain special or exclusive rights for the provision and operation of public telecommunications networks shall take the necessary measures to make the conditions governing access to and use of the network objective and non-discriminatory and to publish them. It is necessary to harmonise which specifications should be published and under which form, in order to facilitate the provision of competitive services using leased lines, within Member States and between Member States, and in particular the provision of services by companies, firms or natural persons established in a Member State other than that of the company, firm or natural person for whom the services are intended.

Whereas in application of the principle of non-discrimination, leased lines shall be offered and provided on request without discrimination to all users. Therefore, the terms and conditions which apply to telecommunications organizations when using leased lines or equivalent transmission capacity for the provision of competitive services must be equivalent to the terms and conditions which apply to other users.

(1)

(2)

(3)

(4) OJ No L 192, 24.7.1990, p.1.

(5) OJ No L 192, 24.7.1990, p. 10.

Whereas the principle of non-discrimination as laid down in the Treaty applies to, inter alia, availability of technical access, tariffs, quality of service, provision time (delivery period), fair distribution of capacity in case of scarcity, repair time, availability of network information and customer proprietary information, subject to the Council Directive 91/.../EEC of concerning the protection of personal data and privacy in the context of public digital telecommunications networks, in particular the Integrated Services Digital network (ISDN) and public digital mobile networks⁽⁶⁾.

Whereas a number of technical restrictions have been applied, in particular for the interconnection of leased lines among each other or for the interconnection of leased lines and public telecommunications networks. Such restrictions, which hinder the use of leased lines for the provision of competitive services, are not justified as they can be replaced by less restrictive regulatory measures.

Whereas in accordance with Directive 90/387/EEC, the conditions of Open Network Provision may not restrict access to and use of leased lines except in application of essential requirements as defined in the said Directive. Those restrictions must be objectively justified, must follow the principle of proportionality and must not be excessive in relation to the aim pursued. It is necessary to specify these essential requirements in respect of leased lines.

Whereas in accordance with Directive 90/388/EEC, Member States shall withdraw all special or exclusive rights for the supply of telecommunications services other than the commercial provision for the public of the direct transport and switching of speech in real-time between public switched network termination points, enabling any user to use equipment connected to such a network termination point in order to communicate with another termination point.

Whereas in accordance with Directive 90/388/EEC, Member States may, until 31 December 1992, prohibit, as regards packet- or circuit-switched data services, economic operators from offering leased lines capacity for simple resale to the public, which means the commercial provision on leased lines for the public of data transmission as a separate service, including only such switching, processing, data storage or protocol conversion as is necessary for transmission in real time to and from the public switched network. There should be no other restriction on the use of leased lines, in particular in respect of the transmission of signals which are not originated by the user who subscribed to the leased line offering, the transmission of signals which are not finally destined for the user who subscribed to the

(6) OJ L ..., 1991, p. ...

leased line offering, or the transmission of signals which are neither originated by nor finally destined for the user who subscribed to the leased line offering.

Whereas in accordance with Directive 90/387/EEC, the Community-wide definition of harmonised technical interfaces and access conditions must be based on the definition of common technical specifications based on international standards and specifications.

Whereas in accordance with Directive 90/388/EEC, Member States which maintain special or exclusive rights for the provision and operation of public telecommunications networks shall ensure that users who so request can obtain leased lines within a reasonable period. It is necessary to determine which type of leased lines should be implemented and within which time limit if they are not yet available. It results from the application of Community law that the provision of a service may not be tied-in with the provision of another service; the provision of leased lines may therefore not include additional service features unless they can be contracted separately and carry a separate tariff.

Whereas in order to make leased lines available to a sufficient extent to users for their own use, for shared use or for the provision of services to third parties, it is necessary that Member States ensure that a harmonised set of leased lines services with defined network termination points is made available in all Member States both for communications within a Member State and between Member States. Given the dynamic technological development in this sector, it is necessary to establish a procedure for adjusting or enlarging such a set.

Whereas other leased lines, in addition to the harmonised minimum set will also be provided subject to market demand, and the other provisions of this directive apply to these leased lines. However it should be ensured that the provision of these other leased lines shall not impede the provision of the minimum set of leased lines.

Whereas in conformity with the principle of separation of regulatory and operational functions and in application of the principle of subsidiarity, the national regulatory authority of each Member State shall play an important role for the implementation of this directive. In particular, it is necessary to provide for adequate safeguards to be implemented by national regulatory authorities in order to ensure that telecommunications organizations cannot discriminate against service providers with whom they are in competition.

Whereas common ordering procedures, as well as one-stop ordering and one-stop billing are essential in order to promote the use of leased lines throughout the Community; any cooperation of the telecommunications organizations in that respect is subject to compliance with Community competition law. In particular, such procedures should respect the principle of cost orientation and should not result in any price fixing or market sharing.

Whereas in accordance with Directive 90/387/EEC tariffs for leased lines must be based on the following principles: they must be based on objective criteria and must be in principle cost-oriented, they must be transparent and properly published, they must be sufficiently unbundled in accordance with the competition rules of the Treaty and they must be non-discriminatory and guarantee equality of treatment. Tariffs for leased lines provided by either one or by more than one telecommunications organizations shall be based on the same principles. A favourable prejudice is given to a tariff based on a flat rate periodic rental, except where other types of tariffs are justified by cost.

Whereas any charge for access to and use of network resources or services must comply with the principles set out above and with the competition rules of the Treaty and must also take into account the principle of fair sharing in the global cost of the resources used and the need for a reasonable level of return on investment which is required for the further development of the telecommunications infrastructure.

Whereas in order to enable the Commission to examine the application of the tariff principles set out in the two preceding recitals, telecommunications organizations shall use an appropriate transparent cost accounting system ensuring the production of recorded figures which could be verified by accounting experts. Such requirement can be fulfilled in particular by the implementation of the principle of fully distributed costing.

Whereas to enable the Commission to monitor effectively the application of this Directive it is necessary that Member States notify to the Commission which national regulatory authority will be responsible for its implementation and provide the relevant information requested by the Commission.

Whereas Directive 90/387/EEC provides that the Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission. It is appropriate that in case of non-compliance by Member States with this Directive the Commission consult this committee before taking adequate measures. This does not prejudice the normal application of the proceedings of Articles 169 and 170 and the competition rules of the Treaty.

whereas a specific procedure must be established in order to examine whether, in justified cases, the time limit set out in this Directive for the provision of a minimum set of leased lines and for the implementation of an appropriate cost accounting system may be extended.

whereas this Directive does not apply to leased lines of which one network termination point is located outside the Community. These will be dealt with at a later stage.

HAS ADOPTED THIS DIRECTIVE:

Article 1
Scope

This Directive concerns the harmonisation of conditions for open and efficient access to and use of the leased lines provided to users on public telecommunications networks, and the availability throughout the Community of a set of leased lines with harmonized technical characteristics.

Article 2
Definitions

1. The definitions given in Directive 90/387/EEC shall apply, where relevant, to this Directive.
2. In addition, for the purposes of this Directive,
 - 'leased lines' means the telecommunications facilities provided in the context of the establishment, development, and operation of the public telecommunications network, which provide for transmission capacity between network termination points and which do not include on-demand switching (switching functions which the user can control as part of the leased line provision);
 - 'equivalent transmission capacity' means transmission capacity equivalent to leased lines which a telecommunications organization uses for the provision of competitive services, and which is not provided to other users ;
 - 'competitive services' means services for which no special or exclusive rights have been or may be granted in accordance with Community law;
 - 'ONP Committee' means the committee referred to in Articles 9 and 10 of Directive 90/387/EEC ;
 - 'users' means end users and service providers, including telecommunications organizations where these organizations are engaged in providing competitive services;

- 'national regulatory authority' means the body or bodies in each Member State, statutorily distinct and functionally independent of the telecommunications organizations, entrusted by that Member State *inter alia* with the regulatory functions addressed in this Directive ;
- 'simple resale of capacity' means the commercial provision on leased lines for the public of data transmission as a separate service, including only such switching, processing, data storage or protocol conversion as is necessary for transmission in real time to and from the public switched network ;
- "common ordering procedure" means an ordering procedure for the procurement of intra-community leased lines which ensures that there is commonality across the telecommunications organizations in the information that has to be supplied by the user and the telecommunications organizations, and in the format in which the information is presented ;
- "one-stop-ordering" is a system whereby all transactions involving a user, required for the procurement of intra-community leased lines, can be completed between the user and a single telecommunications organization ;
- "one-stop-billing" is a system whereby the billing and payment transaction for intra-community leased lines supplied by more than one telecommunications organization to a single user can be completed at one location between the user and a single telecommunications organization.

Article 3
Disclosure of Information

1. Member States shall ensure that information in respect of leased lines on technical characteristics, tariffs, general supply conditions, licensing requirements, and the conditions for the attachment of terminal equipment is published in accordance with the format given in Annex 1.
2. The information referred to in paragraph 1 shall be published in an appropriate manner so as to provide easy access for users to that information. Reference to the publication shall be made in the national Official Journal of the Member State.

Member States shall notify to the Commission by 1 January 1992 - and thereafter in case of any change - in which manner the information is made available; the Commission will publish a corresponding reference.

3. Member States shall ensure that information concerning new types of leased line offerings will be published as soon as possible, and no later than 2 months before the implementation of the offering.
4. Member States shall ensure that they have access to the information referred to in paragraph 1 and Annex 1, concerning equivalent transmission capacity which the telecommunications organizations use for the provision of their competitive services. Member States shall make such information available to the Commission on request.

Article 4
Supply conditions

1. The general supply conditions to be published under Article 3 shall include at least:

- the typical delivery period, which is the period, counted from the date of concluding a contract, in which 80 percent of all leased lines of the same type have been put through to the customers.

This period will be established on the basis of the actual delivery periods of leased lines during a recent time interval of reasonable duration. The calculation must not include cases where late delivery periods were requested by users. For new types of leased lines a target delivery period shall be published instead of the typical delivery period;

- the contractual period, which includes the period which is in general foreseen for the contract and the minimum contractual period which the user is obliged to accept;
- the typical repair time, which is the period, counted from the time when a failure message has been given to the responsible unit within the telecommunications organization up to the moment, in which 80 percent of all leased lines of the same type have been repaired and notified back in operation to the user. For new types of leased lines a target repair time period shall be published instead of the typical repair time. Where different classes of quality of repair are offered for the same type of leased lines, the different typical repair times shall be published ;
- the refund policy.

2. When there is a change in the general supply conditions, the national regulatory authority and users will be informed at least 2 months in advance.

Member States shall ensure that existing offerings continue for a reasonable period of time, and termination of an offering can be done only after consultation with users which are affected. Without prejudice to other rights of appeal provided for by national laws, Member States shall ensure that users can bring the case before the national regulatory authority in cases where the users do not agree with the termination date as envisaged by the telecommunications organization.

3. In the framework of the general supply conditions, specific supply conditions shall be laid down as part of the contract for a leased line, if required.
4. The specific supply conditions shall remain unchanged until the end of the specific contract period unless otherwise agreed by the subscriber of the service and the telecommunications organization.

Article 5

Usage conditions and essential requirements

1. Member States shall ensure that the usage conditions for leased lines derived from essential requirements, compatible with Community law, are imposed through regulatory means, and not through technical restrictions.

No technical restrictions shall be introduced or maintained for the interconnection of leased lines among each other nor for the interconnection of leased lines and public telecommunications networks.

2. Where access to and use of leased lines is restricted on the basis of essential requirements, Member States shall ensure that reference is made to the provisions of this Article.
3. For the purposes of this Directive, the notion of essential requirements shall be limited to the following elements:

a) **Security of network operations**

In an emergency situation the telecommunications organization shall make every endeavour to ensure that service is maintained to all users. However, it may take the following measures in order to safeguard the security of network operations during the period when the emergency situation prevails:

- the interruption of the service,
- the limitation of service features, or
- the denial of access to the service.

An emergency situation in this context means the exceptional case of force majeure, such as extreme weather, flood, lightning or fire, industrial action or lockouts, war, military operations, or civil disorder.

The Member States shall ensure that the telecommunications organizations immediately notifies to the users and to the national regulatory authority the beginning and the end of the emergency as well as the nature and extent of temporary service restrictions.

For terminal equipment which complies with the approval conditions set out for its use with the leased line it is assumed that the security of the network operator's staff is guaranteed.

b) **Maintenance of network integrity**

In the case where a user's terminal equipment, which does not or no longer comply with the approval conditions set out for its use with the leased line, adversely affects operation of the public telecommunications network, the service may be interrupted until the terminal is disconnected from the Network Termination Point.

Member States shall ensure that the telecommunications organization immediately informs the user about the interruption, giving the reasons for the interruption. As soon as the user has informed the telecommunications organization that the terminal equipment is disconnected from the Network Termination Point, the provision of the service will be continued.

The maintenance of network integrity shall not be invoked to restrict access to or use of leased lines when the user's terminal equipment complies with the approval conditions set out for its use with leased lines. In particular, there shall be no restrictions on the use of the capacity or the bandwidth of the service on these grounds and the user should be provided with a fully transparent service which he can use in an unstructured manner as he wants, e.g. where no channel allocations are forbidden or prescribed.

c) Interoperability of services

Without prejudice to the application of Article 5(3) of Directive 90/387/EEC, the access to and the use of a leased line shall not be restricted on the grounds of the interoperability of services, if the terminal equipment used complies with the approval conditions set out for the leased line concerned.

d) Protection of data

In respect of data protection, Member States may restrict the access to and the use of leased lines only to the extent necessary to ensure compliance with regulations on the protection of data including protection of personal data, the confidentiality of information transmitted or stored, as well as the protection of privacy compatible with Community law and in particular with Directive 91/.../EEC concerning the protection of personal data and privacy in the context of public digital telecommunications networks, in particular the Integrated Services Digital Network (ISDN) and public digital mobile networks.

Article 6

Provision of a minimum set of leased lines in accordance with harmonised technical characteristics

1. Member States shall ensure that the respective telecommunications organizations separately or jointly provide a minimum set of leased lines in accordance with Annex 2, in order to guarantee a minimum offering throughout the Community.
2. Where leased lines which implement the standards listed in Annex 2 are not yet available, Member States shall ensure that these leased lines will be implemented by the dates which are given in the time table in Annex 2.

3. The modifications necessary to adapt Annex 2 to new technical developments and to changes in market demand shall be determined by the Commission in accordance with Article 9 of Directive 90/387/EEC.
4. The provision of other leased lines beyond the minimum set of leased lines referred to in paragraph 1 shall not impede the provision of this minimum set of leased lines.

Article 7

Control by national regulatory authority

1. Member States shall ensure that the national regulatory authority lays down its procedures in order to decide, on a case by case basis and in the shortest time period, to allow or not telecommunications organizations to take measures such as the interruption of the provision of leased lines or the reduction of the availability of leased line features for reasons of alleged infringements of the usage conditions by users of leased lines. These procedures may also foresee the possibility for the national regulatory authority to authorize a priori specified measures in the case of defined infringements of usage conditions such as the non payment of subscription fees despite a warning.

Member States shall ensure that these procedures provide for a transparent decision making process in which due respect is given to the rights of the defendants. The decision shall be taken after having given the opportunity to both parties to state their case. The decision shall be duly motivated and notified to the parties within one week after its adoption; it shall not be enforced before its notification.

2. Member States shall ensure that in cases where telecommunications organizations use equivalent transmission capacity for providing competitive services and such equivalent transmission capacity is not made available to other users on request in the form of a leased line offering, their national regulatory authority:
 - a) is fully informed on those cases,
 - b) examines the justification of those cases and,
 - c) ensures that relevant leased lines are made available to users under equivalent conditions within a reasonable period of time, if it finds that such cases are not compatible with Community law.

Article 8
Common ordering and billing procedures

1. Member States shall promote the establishment, before 31 December 1992, in conformity with the procedural and substantive rules of competition of the Treaty and in consultation with users, of:
 - a common ordering procedure for leased lines throughout the Community,
 - a one-stop-ordering procedure for leased lines, to be applied where requested by the user,
 - a one-stop-billing procedure for leased lines, to be applied where requested by the user. The procedure shall foresee that all price elements resulting from the national leased lines and the respective parts of international leased lines provided by the telecommunications organizations involved are identified separately in the bill for the user.
2. Member States shall report to the Commission by 1 April 1993 the measures taken and the results achieved with respect to paragraph 1.

Article 9
Tariffing principles and cost accounting

1. Member States shall ensure that tariffs for leased lines follow the basic principles of cost orientation and transparency and comply with the provisions of this paragraph:
 - a) Tariffs for leased lines shall be independent of the type of service applications which the users of the leased lines implement.
 - b) Tariffs for leased lines shall normally contain the following elements :
 - an initial connection charge, based on the average cost in making the leased line connection;
 - a periodic rental charge, i.e. a flat rate element;

When other tariff elements are applied, these must be transparent and based on objective criteria.

- c) Tariffs for leased lines apply to the facilities provided between network termination points at which the user has access to the leased lines.

For leased lines provided by more than one telecommunications organization, half-circuit tariffs, i.e. from one network termination point to a hypothetical mid-circuit point, can be applied.

- 2. Member States shall ensure that their telecommunications organizations formulate and put in practice, by 31 December 1992, a cost accounting system suitable for the enforcement of paragraph 1.

Such a system shall normally include the following elements:

- a) The tariffs for leased lines shall in particular include the direct costs incurred by the telecommunications organizations for setting up, operating, maintaining leased lines and for marketing and billing of leased lines.
- b) Common costs which cannot be directly assigned to leased lines are allocated in accordance with the following hierarchy which represents the principle of fully distributed costs:
 - i) Whenever possible, common cost categories shall be allocated based upon direct analysis of the origin of the costs themselves.
 - ii) When direct analysis is not possible, common cost categories shall be allocated based upon an indirect linkage to another cost category or group of cost categories for which a direct assignment or allocation is possible. The indirect linkage shall be based on comparable underlying cost structures.
 - iii) When neither direct nor indirect measures of cost allocation can be found, the cost category shall be allocated based upon a general allocator computed by using the ratio of all expenses directly assigned or allocated to competitive services and to services which are provided under special or exclusive rights.
- 3. After 31 December 1992, other cost accounting systems may be applied only if they are suitable for the enforcement of paragraph 1 and have as such been approved by the national regulatory authority for application by the telecommunications organization, subject to approval by the Commission prior to their application.

Once such systems have been approved, other systems may be used only after the Commission has given a further approval.

Article 10
Notification

1. Member States shall notify before 1 January 1992 to the Commission their national regulatory authority as defined in Article 2.
2. The national regulatory authority shall make available statistical reports showing the performance in relation to the general supply conditions published under Article 3 at least for each calendar year. The reports shall be sent to the Commission no later than 3 months after the end of the annual reporting period.
3. The national regulatory authority shall make available at least for each calendar year a summary report on the cases and the measures undertaken, including their motivation, where the access to or use of leased lines has been restricted, in particular because of alleged infringements of special or exclusive rights or the prohibition of simple resale of capacity. The summary reports shall be sent to the Commission within 3 months after the end of the annual reporting period. Full reports shall be made available for the Commission on request.

Article 11
Recourse

1. Any user complaining that he has been or may be injured by the infringement of the provisions of this Directive, may invoke the procedure provided for in this Article, by way of a written notification to its national regulatory authority or to the Commission.
2. Where the national regulatory authority or the Commission finds that there has been an infringement of the provisions of this Directive, following a notification based on paragraph 1, it can refer it to the ONP Committee.
3. The chairman of the ONP Committee convenes as soon as possible a working group including at least two members of the Committee and himself or another official of the Commission appointed by him. The working group normally meets within ten days. The chairman may decide, upon proposal of any of the members of the working group, to invite a maximum of two other persons as experts to advise it.
4. The working group gives the user invoking this procedure, the Member States, the regulatory authorities of the Member States, and the telecommunications organizations involved the opportunity to present their opinions in oral or written form.

5. The working group shall endeavour to reach agreement between the user, the telecommunications organizations and the Member States involved.
6. The persons invoking the procedure referred to in this Article shall bear their own costs of participating therein.
7. Action taken pursuant to this Article shall be without prejudice to
 - (a) any action that the Commission or any Member State might take pursuant to the Treaty, and in particular Articles 169 or 170 thereof ;
 - (b) the rights of the person invoking the procedure, of the telecommunications organizations concerned or any other person under applicable national law except in so far as they enter into an agreement for the resolution of issues between them.

Article 12
Deferment of certain obligations

1. When a Member State is not able to or can already foresee that it will not be able to fulfil the requirements Articles 6, 9(2) or 9(3), it shall notify the Commission of the reasons.
2. Deferment of the obligations under Article 6 can only be accepted in cases where the Member State concerned can prove that the actual state of development of its public telecommunications network and the conditions of demand are such that the obligations under Article 6 would impose an excessive burden on that Member State.
3. Deferment of the obligations under Article 9(2) or 9(3) can only be accepted in cases where the Member State concerned can prove that the fulfilment of the requirement before the date given in Article 9(2) or 9(3) would impose an excessive burden.
4. The Member State shall inform the Commission of the date by which the requirements can be met and of the measures envisaged in order to meet this deadline.
5. When the Commission receives a notification in accordance with paragraph 1, it decides whether the particular situation of the Member State concerned justifies on the basis of criteria in paragraph 2 or 3 a deferment for this Member State of the application of Articles 6, 9(2) or 9(3) and until which date.

6. No deferment can be granted in application of paragraph 2 where the non-compliance with Article 6 results from activities of telecommunications organizations of the Member State concerned in the field of terminal equipment and competitive services.

Article 13

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 January 1992. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive.

Article 14

This Directive is addressed to the Member States.

Done at Brussels,

For the Council

The President

ANNEX 1

**PUBLICATION FORMAT FOR THE INFORMATION TO BE PROVIDED IN RESPECT
OF LEASED LINES IN ACCORDANCE WITH ARTICLE 3**

The information referred to in Article 3 shall follow the format given below.

A. TECHNICAL CHARACTERISTICS

The technical characteristics include the physical and electrical characteristics as well as the detailed technical and performance specifications which apply at the network termination point, without prejudice to the Council Directive of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations (83/189/EEC)⁽¹⁾. Clear reference shall be made to the standards implemented.

B. TARIFFS

The tariffs include the initial connection charges, the periodic rental charges, other charges, e.g. charges related to quality of service, or bulk provision.

C. GENERAL SUPPLY CONDITIONS

The general supply conditions include at least the elements defined in Article 4.1.

D. LICENSING REQUIREMENTS

The information on licensing requirements, licensing procedures and/or licensing conditions provides a complete overview of all factors, which have an impact on the usage conditions set out for leased lines. It shall include the following information, where applicable:

1. a clear description of the service categories for which the licensing procedures have to be followed and for which the licensing conditions have to be met by the user of the leased line or by his customers;

(1) OJ No L 109, 26.4.1983, p. 8

2. information on the character of the licensing conditions, in particular whether such license is of a general nature which does not require individual registration and/or authorization, or whether the licensing conditions require registration and/or authorization on an individual basis;
3. a clear indication of the validity in time of the license, including a review date, where applicable;
4. the conditions resulting from the application of the essential requirements in conformity with Article 5;
5. other obligations which the Member States may impose on the users of leased lines in accordance with Directive 90/388 as regards packet or circuit switched data services, requiring the adherence to conditions of permanence, availability, or quality of service;
6. a clear reference to conditions aiming at the enforcement of the prohibition to provide services for which exclusive and/or special rights have been maintained by the Member State concerned in conformity with Community law;
7. a list referring to all documents containing licensing conditions which the Member State imposes on the users of leased lines when these are using leased lines for the provision of services to others.

E. CONDITIONS FOR THE ATTACHMENT OF TERMINAL EQUIPMENT

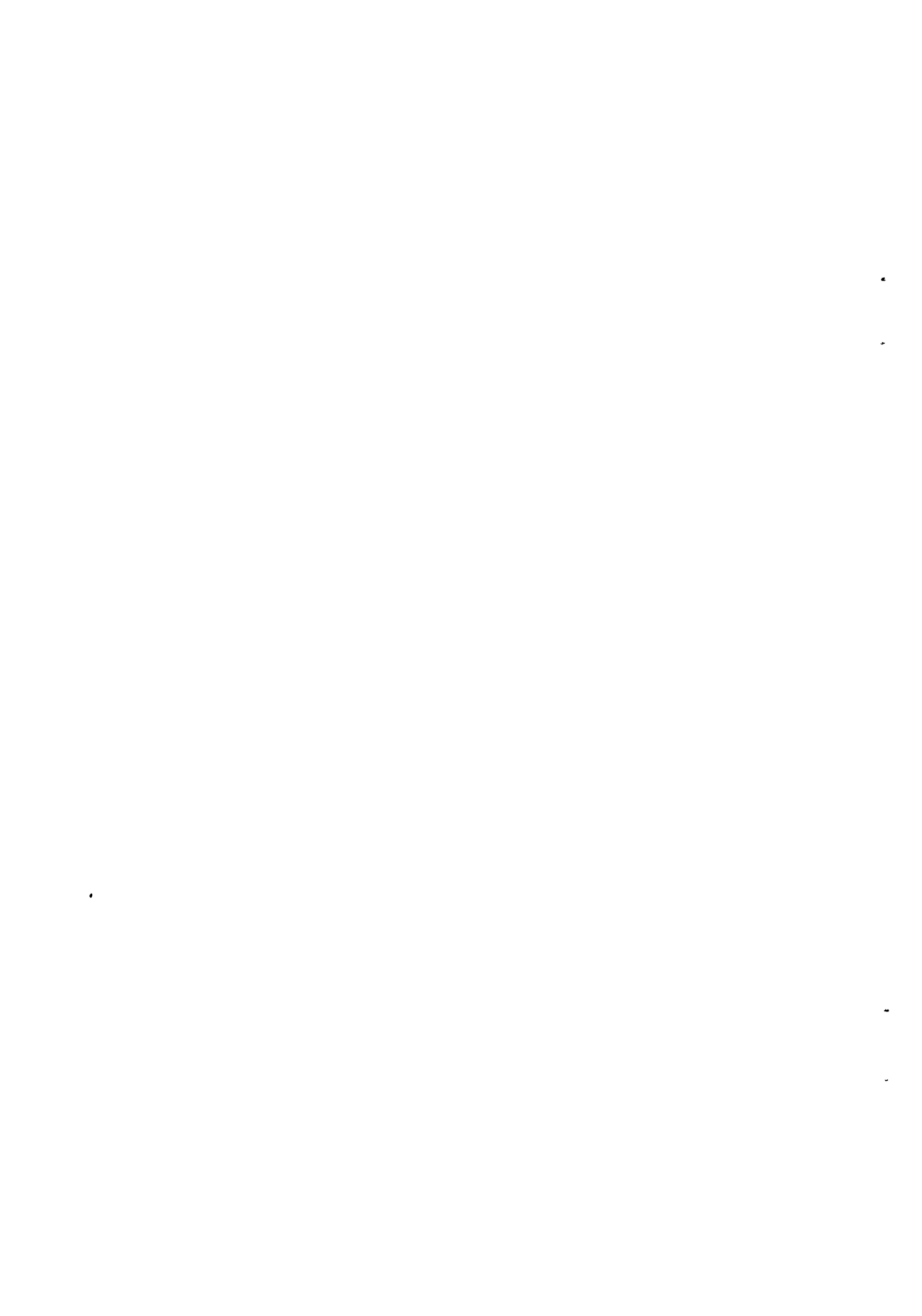
ANNEX 2

DEFINITION OF A MINIMUM SET OF LEASED LINES WITH COMMON
TECHNICAL CHARACTERISTICS IN ACCORDANCE WITH ART. 6
AND TIMETABLE FOR THEIR AVAILABILITY

| ONP LEASED LINE TYPE | TECHNICAL CHARACTERISTICS | | TIMETABLE |
|----------------------------------|---------------------------|---|----------------|
| | INTERFACE SPECIFICATIONS | PERFORMANCE SPECIFICATIONS | |
| Ordinary quality voice bandwidth | 2 or 4 wire analogue | M.1040(analogue) G.712 or G.713 (digital) modified by local line characteristics | 1 January 1992 |
| Special quality voice | 2 or 4 wire analogue | M.1020/M.1025 | 1 January 1992 |
| 64 kbit/s digital | (1) G.703 | Relevant G.800 series recommendations | 1 January 1992 |
| 2 Mbit/s digital | (1) G.703 | Relevant G.800 series recommendations | 1 July 1992 |

For the four types of leased lines listed above, the specifications referred to also define the Network Termination Points (NTPs), in accordance with the definition given in Article 2 of the Directive 90/387/EEC

(1) The majority of applications are converging towards the G.703 specifications. For an interim period, leased lines may be provided using other interfaces, based on X.21 or X.21 (bis), instead of G.703.



COMMISSION OF THE EUROPEAN COMMUNITIES

COM(91) 165 final - SYN 339

Brussels, 23 May 1991

Proposal for a
COUNCIL DECISION
on the harmonisation of the international telephone
access code in the Community

(presented by the Commission)

0 0303

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SUMMARY

The telephony service is the most important telecommunications service for both the European citizen and the European business user. With the growing economic integration as a result of the advent of the Single Market, easy access to international telephone services becomes a fundamental requirement for daily life in the Community.

As early as 1976, the European Conference of Postal and Telecommunications Administrations (CEPT)¹ made a recommendation for the long term standardisation of national numbering plans for telecommunications services. Recognising that as the number of people travelling abroad was increasing and that the use of the telephone service for international calls was becoming more frequent, it was proposed in this recommendation that certain prefixes and codes were to be standardised. The prefixes and codes to be standardised included, as one of their primary objectives, the standardisation of the international telephony access code.

Unfortunately, it must be stated that 15 years after the adoption of the recommendation by the CEPT progress in the Community in the harmonisation of the international access code is insufficient.

At the moment, a Community citizen wanting to call another Member State from Belgium, Germany, Greece, Italy, Luxembourg, or Portugal can dial the prefix 00 ; from Denmark he/she must dial prefix 009 ; from Spain prefix 07 ; from France prefix 19 ; from the United Kingdom prefix 010 ; from Ireland prefix 16 ; and from The Netherlands prefix 09.

Access to telephony services is provided for in all Member States by law, regulation, or administrative action. Continuing divergent developments in access to international telephony services due to different international telephony access codes must be avoided.

¹ Recommendation T/SF1 relating to the long-term standardisation of national numbering plans, Stockholm 1976.

With many millions of people working in Community Member States other than their own and tourists and business men travelling throughout the Community, the current situation has become unacceptable. Members of the European Parliament have already called for Community action in this area.

The proposed Council Decision is intended to respond to these requests.

I. INTRODUCTION

In its Resolution of 30th June 1988 on the development of the common market for telecommunications services and equipment up to 1992², the Council has defined as a major policy goal the promotion of "the creation of Europe-wide services according to market requirements and appropriate social needs, to enable European users to benefit from a wider range of better and cheaper telecommunications services, so that Europe can reap the internal and external benefits of a strong telecommunications sector".

The telephony service is the most important telecommunications service for both the European citizen and the European business user. With the growing economic integration as a result of the advent of the Single Market, easy access to international telephone services becomes a fundamental requirement for daily life in the Community.

At the moment, a Community citizen wanting to call another Member State from Belgium, Germany, Greece, Italy, Luxembourg, or Portugal must dial the prefix 00 ; from Denmark prefix 009 ; from Spain prefix 07 ; from France prefix 19 ; from the United Kingdom prefix 010 ; from Ireland prefix 16 ; and from The Netherlands prefix 09.

With many millions of people working in Community Member States other than their own and tourists and business men travelling throughout the Community, this situation has become unacceptable. Members of the European Parliament have consistently called for Community action in this area.

The proposed Council Decision is intended to respond to these requests.

II. BACKGROUND

As early as 1976, the European Conference of Postal and Telecommunications Administrations (CEPT)³ made a recommendation for the long term standardisation of national numbering plans for telecommunications services. Recognising that as the number of people travelling abroad was increasing and that the use of the telephone service for international calls was becoming more frequent, it was proposed in this recommendation that certain prefixes and codes were to be standardised.

The prefixes and codes to be standardised included, as one of their primary objectives, the standardisation of the international telephony access code⁴.

² OJ C 257/01.

³ Recommendation T/SF1 relating to the long-term standardisation of national numbering plans, CEPT, Stockholm 1976.

⁴ Another part of the recommendation concerned, in the field of civil protection, the introduction of a standard European emergency call number (number 112). The introduction of this number has been the subject of a proposed Council Decision (COM 89/452 and COM 90/426), on the provisions of which Council agreed at its

The recommendation proposed that the international access code should be standardised as the digit sequence 00.

The subscriber making international calls would dial :

00 + country code + national significant number.

III. EXISTING SITUATION IN THE MEMBER STATES

An overview of international telephony access codes currently (beginning 1991) in use in the Member States is given in Table 1. Unfortunately, it must be stated that 15 years after the adoption of the recommendation by the CEPT progress in the Community in the harmonisation of the international access code is insufficient.

The Commission has analysed the situation and the current planning in the Member States as follows :

Belgium

Belgium uses 00 as the international access code.

Denmark

Denmark currently uses the international access code 009. A major revision of the Danish numbering plan has been underway since 1986, with phases lasting over a 10 year period. The primary purpose of this revision was to change from a mixed 6/8 digit numbering plan implemented in the 1950s to a fixed length 8 digit plan, offering a considerable increase in overall potential capacity. Four phases of this process have now been completed, and further phases will last until the middle of 1994. The phase lasting from 1990 to 1992 will include clearing the 00 numbering range of a number of services (including alarm, mobile services etc.). In the final phase the international access code 00 is to be introduced.

Germany

Germany uses 00 as the international access code.

Greece

Greece uses 00 as the international access code.

Spain

Spain currently uses the international access code 07. Plans are underway to remove existing services from the 00 range and this is expected to be completed by the mid-90s. In addition, before 00 could be introduced as the international access code, it seems necessary to complete an exchange control unit modernisation program for exchanges serving 10 million subscribers. This is expected to be around 1998. There is a firm intention to introduce 00 as the international access code after that, although the date has not yet been set.

France

France currently uses the international access code 19. France is also undertaking a change to its numbering plan. This has already involved number changes within the Paris area, and further steps are expected in due course. However at this stage firm plans are not in place. It is nevertheless the intention to clear existing services (these include Citycall mobile service and ship radio service) from the 00 range by 1994 to facilitate the last phase of the renumbering plan. This is likely to take place sometime between 1995 and 1999. At that stage the international access code is to be changed to 00.

Ireland

Ireland currently uses the international access code 16. However since no services within the public domain currently use numbers within the 00 range, and with the completion of an exchange modernisation program (in which stored program control exchanges have been introduced), it is planned to introduce the international access code 00 as from 1991.

Italy

Italy uses 00 as the international access code.

Luxembourg

Luxembourg uses 00 as the international access code.

The Netherlands

The Netherlands currently uses the international access code 09. At present 00 is used by a variety of services (information services, directory enquiries, etc.). However these services are being relocated within the 06 numbering range. It is therefore anticipated that the 00 numbering range will be free by the end of 1993. It is planned to introduce 00 as the international access code sometime after that date.

Portugal

Portugal uses 00 as the international access code.

United Kingdom

The United Kingdom currently uses the international access code 010. The 00 numbering range is currently used for access to a mobile radio system, some premium rate services and for subscriber dialling to Dublin in the Irish Republic. These services are being removed from the 00 range, partly in anticipation of a more significant code and numbering change plan for the UK which is currently under discussion. At this stage it would be technically possible to introduce the international access code 00.

Table 1
Overview of current international access codes
in use in the Member States

| Member State | Present international access code |
|----------------------|--|
| Belgium | .00 |
| Denmark..... | .009 |
| Germany..... | .00 |
| Greece..... | .00 |
| Spain..... | .07 |
| France..... | .19 |
| Ireland..... | .16 |
| Italy..... | .00 |
| Luxembourg..... | .00 |
| The Netherlands..... | .09 |
| Portugal..... | .00 |
| United Kingdom..... | .010 |

IV. FACTORS TO BE TAKEN INTO ACCOUNT

From the analysis set out above it follows that 7 Member States already apply 00 or have planned to do so before 1992.

However, the following factors will have to be taken into account.

Lead time for implementation

The analysis has shown the need for a considerable period of time between making a decision to undertake a change to the international access code and actually implementing the change. This is, inter alia, to allow for a sufficiently long publicity campaign to subscribers, equipment maintainers etc. prior to making a change.

Furthermore, in a number of cases, existing services must be cleared off the 00 numbering range. The timescale to undertake this task is variable across the Member States.

A number of Member States are also undertaking longer term and wider ranging reviews of their numbering and dialling plans. In these cases, the move to a new international access code (and in particular the date of change) is linked, to a large extent, to these plans.

A further issue of the timing of a change relates to the actual method of implementing the change. The new access code might either be run in parallel with the old code for a period of time, or Member States may decide to implement a single overnight change with a minimum overlap period.

Minimizing the cost of making the change

The cost of change can be minimized by carefully integrating the change into the overall time planning for the network, as set out above. This imposes the need for a sufficiently long transition period, in order to avoid some Member States being exposed to major costs due to their particular national numbering situation.

The time factor must therefore be fully taken into account in any co-ordinated Community wide introduction and the necessary flexibility must be safeguarded to take account of the specific national situations.

Range of services

In all Community Member States, there are a range of services sharing a single numbering plan (e.g. fixed telephony, mobile, etc. share the "telephony" plan). Furthermore in a number of Member States, there are now more than one operator, each providing one or more of these services. At present, in all cases, a common international access code is used by all the services and operators sharing the telephony numbering plan.

In implementing a change, it will be important to ensure that all those services and operators undertake the change simultaneously. This task falls naturally to

the national regulatory authority concerned.

Other factors

In some Member States, a primary need in order to implement a change to a new international access code is for exchange modernisation before a change can be implemented. The amount of change varies from one Member State to another. In some cases, there is a supplementary need, namely to ensure that the billing and other support systems can accommodate the necessary changes.

Depending upon where in the network the route and charging determination is made for international calls (e.g. either at the trunk exchange level or local exchange level), this may involve modifications to a lesser or greater number of the exchanges.

Other aspects which may have to be taken into account concern the problem of payphone operation, in particular where the payphone internally determines the costs of the call rather than rely on charging signals being sent from the network. These payphones may require to be modified both to allow the new access codes to be accommodated and to collect charges at the correct rate. In some Member States this may, at least in part, be outside the direct control of the telecommunications organisations concerned and, therefore, must be ensured by the national regulatory authority.

Similarly there is a range of terminal equipment which may require some modifications. Such modifications may be required where there is charge (i.e. tariff) determination taking place internally within the terminal equipment concerned or where there is call barring being effected based on the number dialled (e.g. class of service restrictions for international calls is in common use on PABXs) or where equipment uses auto-dialling arrangements for international numbers (as is common on many modern telephony instruments, PABX, facsimile machines, etc.).

The growing number of intelligent features of terminal equipment and the resulting flexibility of such equipment will largely facilitate such changes and avoid additional costs. However, again, a sufficiently long transition period and flexibility in timing will be decisive in minimising costs.

Adjacent border operation

In some cases, there are special dialling arrangements for making calls between adjacent locations across borders between Member States. Typically in these cases, the full international number is not required to be dialled and the tariff is not at the full international rate. These cases should not be affected by the adoption of a new international access code.

In general it should be possible to be arranged that where the full international number is dialled the call is nevertheless correctly routed to its destination. However, in some cases, the billing system initially may not be able to charge for such a call at other than the international tariff rate.

V. THE APPROACH PROPOSED : THE PROVISIONS OF THE DRAFT DECISION

The approach to be taken is being proposed on the basis of the considerations previously set out.

From the analysis undertaken, it appears that all those Member States not currently using 00 as the international access code have, or are currently, taking steps towards the implementation of this code.

In all Member States where the numbering range 00 is not currently free plans are underway to free it in anticipation of this objective.

However, it must be recognised that at the current stage in many Member States, the major impetus for adopting 00 as the international access code is coming from the technical staff of the telecommunications organisations. This does not carry the weight which would be implied by full commitment of the national regulatory authorities and the telecommunications organisations as a whole.

As a consequence, the level of commitment varies between Member States. This could result in a slow down in the programmes, or in some cases may halt the programmes altogether. If positive action is not taken by the Community, it may take many years, possibly well into the 21st century, before all Member States fall into line. It is possible that, in some instances, this may even never happen.

The proposed Council Decision aims therefore to provide a firm base for the full implementation of a common international telephony access code across the Community within a reasonable time span, while taking account of specific national situations.

It emphasises three objectives :

- . it provides for the firm political commitment by Member States indispensable to provide for timely implementation ;
- . it allows for transition periods, in order to provide for the necessary integration of the change into the overall planning for numbering development, and therefore fully takes account of the specific national situations ;
- . it aims at achieving a rapid benefit for the European citizen.

With these general objectives in mind, the articles of the Decision are briefly explained hereunder :

Article 1 of the Decision establishes the number 00 as the standard international telephony access code in the Community.

As set out above, this is in line with the original recommendation T/SF1 of CEPT and the general technical development in the Member States.

Article 2 establishes the general date at which the standard international telephony access code must be implemented, except where particular technical, financial, or organisational difficulties are encountered.

Article 3 takes account of the fact that a number of Member States could encounter particular technical, financial, or organisational difficulties.

It therefore foresees for these cases the possibility of a substantial extension of the transition period, in order to minimise costs and to take account of the specific national situation of network development.

Article 4 aims at achieving as rapidly as possible immediate benefit for the European user, even in those cases where longer transition periods are needed.

It therefore foresees that in those cases where the standard international telephony access code is still not implemented but the number has been freed from other applications, the user is advised by a free of charge recorded announcement of the non-standard national number still in force in the Member States concerned.

Article 5 provides for the continuation or the establishment of special dialling arrangements for making calls between adjacent locations across borders between Member States.

This is in line with the general objective to promote integration of those areas across borders.

However, in those cases it must also be ensured that when the standard international telephony access code is dialled the call is nevertheless correctly routed to its destination and the same tariff benefits apply. Subscribers in the locations concerned must be fully informed of the arrangements.

The telephony service is the most important telecommunications means in the Community and easy access to international telephony service is therefore vital for the European citizens and European businesses. The harmonisation of the international telephony access code in the Community promote the establishment and functioning of the internal market. The proposed Council Decision is therefore based on Article 100A of the Treaty.

VI. CONCLUSIONS

The harmonisation of the international telephony access code is a major step forward for the implementation of the Single Market in this area and promises a substantial immediate benefit for European citizens, and for European businesses in their Community-wide operations.

As the analysis demonstrates, according to current numbering planning in the Member States, it is technically feasible to introduce the prefix 00 as the common international access code in the whole of the Community within a reasonable time span. A firm political commitment by the Member States is however needed, in order to provide a firm base for implementation.

This is the objective of the attached draft Decision.

The Council is therefore requested to adopt the attached proposal for a Decision.

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Proposal for a
COUNCIL DECISION
on the harmonisation of the international telephone
access code in the Community

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the telephone service is the most important telecommunications means in the Community and easy access to international telephone services is vital for European citizens and European businesses;

Whereas at present different international telephone access codes are required in the Member States for access to public telephone services;

Whereas this imposes an undue burden with regard to the use of these services on citizens travelling or working in Member States;

Whereas access to telephone services is provided for in all Member States by law, regulation, or administrative action; whereas continuing divergent developments in access to international telephone services due to different international telephone access codes must be avoided;

Whereas, therefore, the harmonisation of the international telephone access code in the Community would promote the establishment and functioning of the internal market;

Whereas the European Conference of Post and Telecommunications (CEPT) has recommended in its recommendation T/SF 1 of 1976 the use of the prefix 00 as the standard international telephone access code;

Whereas this recommendation has only been followed by a limited number of Member States;

Whereas for all Member States it will be possible to devise a plan to make the number 00 available;

Whereas several Member States have already introduced the number 00 as the international telephone access code or could do it by 1992;

Whereas, however, for a limited number of Member States this could cause a substantial burden since they would need to make unplanned changes or to advance plans already made; whereas, therefore, flexibility is needed in the time schedule for introduction in these Member States;

Whereas the introduction of the number 00 will be possible by 1998, even in Member States where difficulties exist;

Whereas in those cases interim measures should be taken, in order to facilitate access to international telephone services in the meantime;

Whereas specific arrangements for making calls between adjacent locations across borders between Member States may be established or continued,

HAS ADOPTED THIS DECISION:

Article 1

Member States shall ensure that the number 00 is introduced in public telephone networks as the standard international telephone access code.

Article 2

The standard international telephone access code shall be introduced by 31 December 1992 at the latest, except as provided for in Article 3.

Article 3

Where particular technical, financial, or organisational difficulties in a Member State make the introduction of the standard international telephone access code by the date laid down in Article 2 impossible, that Member State shall submit to the Commission the relevant information.

The Member State concerned shall communicate to the Commission, with adequate explanations and justification, a new date for the introduction of the standard international telephone access code which, however, shall not be later than 31 December 1998.

Article 4

Where Member States invoke Article 3, Member States shall nevertheless ensure that the 00 number range is freed from other uses by 31 December 1995, in anticipation of the full implementation of this number as the international telephone access code.

Member States shall ensure that from this date onwards, subscribers attempting to dial 00 are provided with a free-of-charge recorded announcement in an appropriate number of Community languages, advising of the specific international telephone access code still in use.

Article 5

1. Special dialling arrangements for making calls between adjacent locations across borders between Member States may be established or continued.

In these cases Member States shall ensure that where the standard international telephone access code is dialled, the call is nevertheless correctly routed to its destination and that the same tariffs as under these arrangements are applied.

2. Where particular technical, financial, or organisational difficulties make it initially impossible to comply with paragraph 1, Member States shall inform the Commission and ensure that the necessary changes are made as quickly as possible.
3. The telephone subscribers in the locations concerned shall be fully informed of the arrangements.

Article 6

This Decision is addressed to the Member States.

Done at Brussels,

For the Council
The President



COMMISSION OF THE EUROPEAN COMMUNITIES

COM(91) 208 final

Brussels, 7 June 1991

Proposal for a
COUNCIL RECOMMENDATION
on the harmonised provision of a minimum set of Packet-Switched
Data Services in accordance with Open Network Provision
(ONP) principles

(presented by the Commission)

0 0323

EXPLANATORY MEMORANDUM

I. INTRODUCTION

The Telecommunications Council of December 1989 decided that the Community's telecommunications policy should combine in a balanced way harmonization and liberalisation.

Consequently, on June 28, 1990 the Council of Ministers for Telecommunications adopted a Directive on the establishment of the internal market for telecommunications services through the implementation of open network provision (ONP) and the Commission adopted a Directive on competition in the markets for telecommunication services.

The first Directive (known as the ONP framework Directive), considers the area of packet switched data services (PSDSs) as a priority. The Directive received broad support in the European Parliament and in the Economic and Social Committee. The Directive asks for the implementation of harmonized technical interfaces and/or service features for PSDSs and in this respect the Commission published in the Official Journal¹ on the 29.12.90 the list of packet switched public data networks standards suitable for ONP. The Directive also foresees as a priority the adoption of a Council Recommendation on the harmonised provision of a minimum set of Packet Switched Data Services in accordance with Open Network Provision (ONP) principles.

It is in this context that the Commission presents this proposal for a Recommendation to the Council of Ministers.

II. THE ROLE OF PACKET SWITCHED PUBLIC DATA NETWORKS IN THE DEVELOPMENT OF EUROPEAN VALUE ADDED SERVICES

The late 70s saw the introduction of packet switched public data networks in several European countries.

¹ OJ No C 327, 29.12.1990, p.19. List of standards reference: packet switched public data networks.

The introduction of these national networks followed different timetables and different commercial priorities however, and hence the availability of a fully harmonised and up to date international service was held up.

From an industrial and manufacturing point of view it was only after 1976 that the set of packet switched associated standards reached a mature enough stage to allow the development and marketing of commercially exploitable packet switching public systems, although the first packet switched public data networks were not commercially available before 1978/1979².

Administrations began to plan for, and implement national packet switched services against a range of target dates, and some administrations were therefore working with more mature CCITT recommendations than those that had launched public services earlier.

By 1984, when the new and revised CCITT recommendations (Red Book) became available, most European countries already had their packet switched public data networks up and running on the basis of different implementations of the 1980 versions of CCITT recommendations, and the first international gateway interconnections between networks had been established, based on bilateral arrangements without any administrative or management functions, for the provision of transborder services at European level.

All these factors led to national variations of the basic service, which has made full international interworking difficult to achieve.

The market for networks and services has clearly become application driven on an European scale, and incompatible products and services, as well as internal skills shortages are seen by the users as major constraints on data communications networks development over the next years.

The development and availability of international value added services to support the applications required by the users is largely dependent on PSDSs because without such an adequate transeuropean transport service, higher layer value added services

² In the context of its information market policy the Community initiated the establishment of a pan-European packet switched public data network (Eurocom), which was in service from 1980 to 1984, when it was replaced by the nationally based packet switched public data networks.

will be difficult to offer to users on a Community wide scale.

Such services will flourish if, and only if, a high quality, reasonable priced, ubiquitous transport service is available.

Existing packet switched public data networks have developed into a major transport media for the operation of value-added-services throughout the Community. Suitably expanded and enhanced to adhere to European standards, they offer the most suitable mechanism to meet the tight deadlines imposed by the 1992 Single Market goal on the availability of value added services necessary to support European wide industry, trade and administration.

III. THE CONSULTATIVE PROCESS

The concept of ONP conditions for open provision of packet switched public data networks was introduced by the Commission in the Communication on the Implementation of the Green Paper³. In its Council Resolution of 30 June 1988 the Council urged for the "rapid definition" of ONP conditions for public data networks.

Since the Commission deemed it necessary that the analytical work on public data networks was taken up as soon as possible the Commission started to analyse the subject in parallel with its work on the ONP framework Directive. Preparatory work on the application of ONP principles to public data networks was therefore undertaken by the SOG-T (Senior Officials Group - Telecommunications) and its sub-group GAP (Groupe d'Analyse et de Prévision) as early as 1989.

In the spirit of the then pending framework Directive, the SOG-T arranged for the participation of representatives of European industrial organizations, trade associations, service providers, telecommunications users, and telecommunications in general. To that end, public comments on the proposals⁴ of GAP were invited by notice in the Official Journal dated 6 April 1990⁵ and two fora were organized in

3 COM (88) 48 : Implementing the Green Paper on the Development of the Common Market for Telecommunications Services and Equipment.

4 Proposal by the "Analysis and Forecasting Group" (GAP) on Open Network Provision (ONP) for Public Data Networks Lines in the Community of 28 February 1990.

5 OJ No C 88, 6.4.1990, p 3, Notice No 90/C88/03.

March and October 1989 for public discussion of the proposals.

Subsequently, a draft of the proposal for a recommendation was discussed with the ONP Committee.

The present proposal for a Council Recommendation takes into account the results of a) the GAP analysis report, b) the comments received from interested parties in the course of the public comment process, and c) the comments received from the ONP Committee. At the same time it takes account of the general principles which have been laid down in the Directives on competition in the market of telecommunications services and in the ONP framework Directive.

IV. THE APPROACH ADOPTED

The proposal implements a concept of harmonization in the areas of standards, usage conditions, supply conditions and tariff principles.

The proposed Recommendation refers in its recitals to some of the general principles resulting from Community law. The operative part then specifies in detail how a minimum set of PSDSs should be provided in a harmonised way in accordance with Open Network Provision principles.

The points of the Recommendation are briefly explained hereunder :

Provision of a minimum set of PSDSs

Point 1 defines a minimum harmonised set of PSDSs with harmonised technical characteristics which must be made available throughout the Community. The point also sets a timetable for the provision of these services, where not available. For this minimum set, reference is made to the list of packet switched public data networks standards suitable for ONP published in the Official Journal⁶ (see table 1).

Point 2 provides for the mechanism to update this set which is described in Annex II on the basis of changes in market demand and in technology. Changes in Annex II can be made by the Commission, in cooperation with the ONP-Committee. Such changes

6 OJ no. C 37, 28.12.1990, p.19 - List of standards reference: packet switched public data networks.

may incorporate the removal of or the addition of PSDSs to the list.

List of standards reference

(90/C 327/12)

Pursuant to Article 5 (1) of Directive 90/387/EEC (*) the Commission publishes a list of standards which constitutes a basis for harmonized access and/or service features in the context of open network provision.

Given the fact that many of these standards are not yet finally adopted (*), changes may occur. As a consequence these standards are now being published as an indicative list. Therefore this list may be amended by further publication in the *Official Journal of the European Communities* pursuant to Article 5 (4) of Directive 90/387/EEC.

1. Packet switched public data networks

| | | |
|-----------------|--------------|--|
| Direct access | X.25 service | T/TE 08-01 (*) T/TE 08-02 (*) T/TE 08-03 (*) ETS T/TE 04-06 (**) ENV 41104 (FS T/31) (***) |
| Indirect access | X.28 service | T/TE 08-02 (*) T/TE 08-03 (*) ENV 41901 (***) |
| Indirect access | X.32 service | T/TE 08-02 (*) T/TE 08-03 (*) ETS T/TD 08-06 (**) ENV 41105 (FS T/32) (***) |

(*) CEPT technical specification.

(**) Draft ETSI standard.

(***) CEN/CENELEC prestandard. In the case of ENV 41104 and ENV 41105 only the network aspects are relevant.

(*) Council Directive of 28 June 1990 of the establishment of the internal market for telecommunications services through the implementation of open network provision (OJ No L 192, 24.7.1990, pp. 1-49).

(*) In order to refer to the precise status of each standard, the relevant standards body should be contacted. Where the three stage description process for ISDN services is used (ETSI ISM report ETR, 19.8.1990), stages 1, 2 and 3a are included.

3. Note

Pursuant to Article 5 (2) of Directive 90/387/EEC compliance with the new standards will carry the presumption of conformance with the requirements of open network provision as far as covered by these standards and notwithstanding other requirements resulting from Directives 90/387/EEC and 90/388/EEC.

In accordance with Directive 90/387/EEC this list may be supplemented by further standards in order to comply with new access requirements resulting from user demand and technological development.

Disclosure of information

Point 3 establishes the format in which the information is to be published in order to comply with the requirement that ONP conditions must be transparent and published in an appropriate manner.

Supply Conditions

The supply conditions for PSDSs are addressed in Point 4. It requires organizations to use a set of general supply conditions which contains at least a number of parameters which are of vital importance to users, e.g. the delivery period for a type of PSDS, the duration of the contractual period and the repair time. It also refers to the refund policy and the network performance targets.

Common ordering, billing and maintenance procedures

Point 5 expresses the requirement of users to be able to order PSDSs in a common fashion, and where requested, to be able to communicate with a single organization for ordering, billing and maintenance purposes.

Through the implementation of a "green number" arrangement at a Community level it allows, on the one hand, for the establishment of permanent arrangements for reverse charging capabilities allowing Community wide service providers to bill their customers in a global bill. The "kiosk type arrangement" allows, on the other hand, for the possibility of a combined collection, in a global bill, of the cost of the value-added service and of the cost of the call, by the organisation supplying PSDSs, thus facilitating the provision of value-added services across the Community, specially by small and medium size service providers.

Quality of Service

Points 6 and 7 refer to quality of service and ask for the adoption of common indicators for the network performance aspects of quality of service, and corresponding measurements methods. Both are indicated in Annex III.

Tariffing Principles

Points 8 and 9 refer to the basic principle of application independence which is to be applied for tariffs of PSDSs and identifies separate tariff elements which will normally be contained in the tariffs.

Notification

Points 10 and 11 deal with the information which the national regulatory authority has to provide to enable the Commission to monitor the implementation of this Recommendation, notably which organizations will conform with the provisions of the Recommendation.

User Support

Point 12 refers to a procedure for user support if difficulties are encountered in relation to the objectives of this Recommendation, in particular in connection with the provisions on the general supply conditions and quality of service.

Progress of work

Point 13 recommends that the Commission examines the progress of work in implementing the Recommendations in consultation with the ONP Committee.

V. CONCLUSIONS

Directive 387/90/EEC calls in its Annex III.3 for the adoption by the Council by 1 July 1991, acting on a proposal from the Commission, of a recommendation on the supply of technical interfaces, conditions of usage and tariff principles applying to provision of packet switched data services complying with open network principles; at the same time this recommendation would in particular call on Member States to ensure at least one such service was provided on their territory.

The present Commission proposal for a Council Recommendation on the harmonised provision of a minimum set of Packet Switched Data Services in accordance with Open Network Provision (ONP) principles takes account of the harmonized general principles laid down in the ONP framework Directive and specifies which services

should be provided in all Member States in a harmonized way. It is flexible and open for future adaptation in line with market demand and technology progress. Thus, the proposal significantly improves the competitive conditions in the European telecommunications market.

The Council is therefore requested to adopt the attached proposal for a Recommendation.

Proposal for a
COUNCIL RECOMMENDATION

on the harmonised provision of a minimum set of Packet-Switched Data Services in
accordance with Open Network Provision (ONP) principles

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 90/387/EEC of 28 June 1990 on the establishment
of the internal market for telecommunications services through the implementation of
Open Network Provision (ONP),¹

Having regard to the proposal from the Commission,²

Whereas Directive 90/387/EEC considers, inter alia, the principles for the
application of Open Network Provision to the areas of packet- and circuit-
switched data services;

Whereas Directive 90/387/EEC provides, in its Annex III, paragraph 3, for
adoption of a Recommendation on the supply of technical interfaces, conditions
of usage and tariff principles applying to provision of packet-switched data
services complying with open network principles;

Whereas Packet-Switched Public Data Networks are the most common networks through
which packet-switched data services are made available in all Member States;

Whereas Packet-Switched Public Data Networks have developed on a national basis and
the availability in each Member State of Packet-Switched Public Data Networks with
equivalent capabilities and providing full interconnectivity is important to meet the

¹ OJ No L 192, 24.7.1990, p.1.

² OJ No C ...

requirements of pan-European data networking for value-added services provision;

Whereas Packet-Switched Data Services are used in every Member State to support value added services at a European-wide level;

Whereas Directive 90/387/EEC calls for the availability in each Member State of a harmonized packet-switched data service (PSDS);

Whereas in application of the principle of non-discrimination, PSDSs shall be available and provided on request without discrimination to all users; therefore the terms and conditions which apply to telecommunication organizations when using PSDSs for the provision of competitive services must be equivalent to the terms and conditions which apply to other users;

Whereas in accordance with Directive 90/387/EEC, the conditions of Open Network Provision may not restrict access to and use of PSDSs except in application of essential requirements as defined in the said Directive; those restrictions must be objectively justified, must follow the principle of proportionality and must not be excessive in relation to the aim pursued;

Whereas in accordance with Article 3(5) of Directive 90/387/EEC the Commission will determine the rules for uniform application of the essential requirements;

Whereas usage conditions for PSDSs must be derived from essential requirements compatible with Community law, and are imposed through regulatory means, and not through technical restrictions;

Whereas in accordance with Commission Directive 90/388/EEC³ Member States may make the supply of packet- or circuit switched data services subject to licensing or declaration procedures which are aimed at compliance with essential requirements, or trade regulations relating to conditions of permanence, availability and quality of service, or measures to safeguard the task of general economic interest which they have entrusted to a telecommunications organization for the provision of switched data services, if the performance of that task is likely to be obstructed by the activities of private service providers;

³ OJ No L 192, 24.7.1990, p.10.

Whereas in accordance with Directive 90/387/EEC, the Commission has published in the Official Journal⁴ the list of packet-switched public data networks standards suitable for ONP; this list may be amended by further publication;

Whereas common ordering procedures, one-stop-ordering and one-stop billing and maintenance are essential to promote the use of PSDSs throughout the Community; any cooperation of the organizations in that respect is subject to compliance with Community Competition law; in particular, such procedures should not result in any price fixing or market sharing; these procedures are to be promoted through market mechanisms, e.g. through Memoranda of Understanding between the organisations supplying PSDSs, in accordance with this Recommendation;

Whereas in order to promote Europe-wide operation by service providers using PSDSs it is desirable to allow for a system where the called party pays for the calls on the basis of the number called, allowing the offering of free-of-charge calls to the subscriber accessing the service offered by the provider (green number);

Whereas in order to promote the use of PSDSs by small-and medium-size providers of value-added services it is desirable to establish billing arrangements which facilitate such operations across the Community; such billing arrangements should allow for a system where the cost of the value-added service and the cost of the call are combined in a single bill collected by the organisation supplying PSDSs ("Kiosk type arrangement");

Whereas it is important in this context that appropriate allocation of harmonised numbering capacity is made to allow the establishment of such service arrangements across the Community; such allocation should be made in accordance with the principles of transparency and equality of treatment;

Whereas quality of service as perceived by the users is an essential aspect of packet-switching;

Whereas in accordance with Directive 90/387/EEC, tariffs should be based on objective criteria, taking into account that in a competitive environment tariffs will align with cost; they must be transparent and properly published, they must be sufficiently unbundled in accordance with the competition rules of the Treaty and they must be non-discriminatory

⁴ OJ No C 327, 22.12.1990, p.19: List of standard reference packet-switched public data networks.

and guarantee equality of treatment;

Whereas a high level of data protection should be applied to PSDSs equivalent to the level of protection for other public digital telecommunications services; such requirements should be taken into account in the implementation of PSDSs;

Whereas other offerings, provided by organisations supplying PSDSs, in addition to those provided in accordance with the provisions of this Recommendation, should not impede the provision of the minimum set;

Whereas in conformity with the principle of separation of regulatory and operational functions and in application of the principle of subsidiarity, the national regulatory authority of each Member State should play an important role in the implementation of this Recommendation;

Whereas to enable the Commission to monitor the implementation of this Recommendation, Member States should provide the relevant information,

HEREBY RECOMMENDS:

1. That Member States ensure the provision of a minimum set of PSDSs with harmonised technical characteristics in accordance with Annex I, taking account of market demand.
2. That the Commission determine the modifications necessary to adapt Annex I to new technical developments and to changes in market demand in accordance with Article 9 of Directive 90/387/EEC.
3. That Member States ensure that information in respect of the PSDSs provided in accordance with point 1 on technical characteristics, general supply conditions, usage conditions, tariffs and the conditions for the attachment of terminal equipment is published in accordance with the presentation given in Annex II.
4. That the general supply conditions referred to in point 3 include at least:
 - the typical delivery periods, which are the periods, counted from the date from which the user makes a firm request for the service in question, in which 80 percent of the demands for the PSDSs has been put through to the users.

Each period shall be established on the basis of the actual delivery periods of the PSDSs in question during a recent time interval of reasonable duration. The calculation must not include cases where late delivery periods were requested by users. For new types of PSDSs a target delivery period shall be published instead of the typical delivery period.
 - the contractual periods, which include the period, which are in general laid down for the contracts and the minimum contractual periods which the user is obliged to accept for the PSDSs;

- the typical repair times , which are the periods, counted from the time when a failure message has been given to the responsible unit within the organizations supplying PSDSs up to the moment, in which 80 percent of the reported PSDSs have been repaired and notified back in operation to the user. For new types of PSDSs a target repair time period shall be published instead of the typical repair time. Where different classes of quality of repair are offered for the same PSDS, the different typical repair times shall be published.
 - the refund policy,
 - indicators for quality of service established in accordance with point 6.
5. That Member States, taking into account the work of CEPT⁵ , note the value and promote the establishment, in conformity with the procedural and substantive rules of the Treaty and in consultation with users, of harmonised procedures for user access the PSDSs, in particular via the establishment of the following procedures:
- a common ordering procedure, i.e. an ordering procedure for the procurement of intra-community PSDSs which ensures that there is commonality across the organizations supplying PSDSs in the information that has to be supplied by the user and the organization supplying PSDSs, and in the format in which the information is presented;
 - a one stop ordering procedure, i.e. a system whereby all transactions involving a user, required for the procurement of intra-community PSDSs supplied by more than one organization, can be completed between the user and a single organization supplying PSDSs;
 - a one-stop-billing procedure, i.e. a system whereby the payment transaction for intracommunity PSDSs supplied by more than one organization to a single user can be completed at one location between the user and a single organization supplying PSDSs, and

⁵ One-stop shopping Service Specific Schedule for PSPDR, CAC Oct. '90.

- a one-stop-maintenance procedure, i.e. a system whereby the reporting of faults for intracommunity PSDSs supplied by more than one organization to a single user can be done at one location between the user and a single organization supplying PSDSs, which will take full responsibility for restoration of service.

These procedures should include the establishment of Community - wide service arrangements allowing for:

- a capability where the called party pays for the calls (Green Number);
- a capability where the cost of the value-added service and the cost of the call are combined in a single bill collected by the organisation supplying PSDSs (Kiosk type arrangements).

These procedures are to be promoted through market mechanisms, e.g. through a Memorandum of Understanding open to all organisations supplying PSDSs in accordance with this Recommendation.

6. That common indicators for the network performance aspects of the quality of service and common measurement methods be adopted, notably for those indicators in Annex III.
7. That the national regulatory authorities ensure the availability of periodic, statistical reports showing the performance in relation to the quality of service indicators, in accordance with point 6, at least for each calendar year, from 1 January 1993.
8. That tariffs be based on objective criteria and independent of the type of application implemented by the users of the PSDSs, where the same type of facilities are used.

9. That the tariffs for PSDSs normally contain the following elements :

-an initial Charge,

-a periodic Rental Charge,

-a usage charge, including normally a fixed per call charge based either on a minimum time and/or volume charge or a call set-up charge, a volume related charge based on the use of an integral number of segments⁶, and a duration related charge based on an interval of time sufficiently short to avoid discrimination against short type transactions.

Where other tariff elements are applied, these must be transparent and based on objective criteria.

10. That the national regulatory authorities notify the Commission before 31 December 1991 of the organizations which provide PSDSs in accordance with this Recommendation, and thereafter of any changes to this information.

11. That the national regulatory authorities ensure the availability of summary reports in particular with regard to the availability of PSDSs provided in accordance with point 1, the implementation of the general supply conditions under points 3 and 4 and the reports under point 7 at least for each calendar year and that the summary reports be sent to the Commission no later than 3 months after the end of the annual reporting period.

12. That the national regulatory authority ensure the establishment of an easy procedure for users of packet-switched data services to invoke with regard to any difficulties encountered in relation to the objectives of this Recommendation, in particular in connection with points 1, 3, 4, 6 and 8;

⁶ A segment is up to 64 octets (or bytes) of user data where the octet is 8 bits.

13. That the Commission examine the progress of the work in implementing this Recommendation, in consultation with the ONP Committee, (in view of the fulfilment of the objectives of Directive 90/387/EEC and) on the basis of the summary reports provided under point 11.

Done at Brussels,

For the Council

The President

ANNEX I

DEFINITION OF A COMMUNITY WIDE MINIMUM SET OF PACKET SWITCHED DATA SERVICES WITH HARMONISED TECHNICAL CHARACTERISTICS IN ACCORDANCE WITH POINT I AND TIMETABLE FOR THEIR AVAILABILITY

A GENERAL CONSIDERATIONS

The Recommendation aims at the harmonised provision of a minimum set of PSDSs in accordance with Open Network Provision principles to users in order to facilitate the development of European wide services.

These services should:

- i) be made available on an adequately unbundled basis in order to give users maximum flexibility.
- ii) be structured in the following way (on a service basis):

ONP Core Offering

- access/ feature set(s) which must be offered by all networks;
- user selects (one) set in order to have the basic service
- set to be tarified as a bundle.

ONP User Options

- feature offered by all networks on an individual basis;
- feature which may be selected by user;
- may in specific cases substitute Core offerings features.

- iii) take into account technological development and the growth in availability of features not considered in the proposed service.

B STANDARDS TO BE APPLICABLE

The standards applicable for this minimum set of PSDSs with harmonised technical characteristics are in particular those in the indicative list of packet switched public data networks standards suitable for ONP published in the Official Journal¹, accordingly to the procedure in Article 5 (1) of Directive 90/387/EEC.

C TECHNICAL CHARACTERISATION OF EACH SERVICE AND TIMETABLE FOR IMPLEMENTATION

C.1. OFFERINGS TO BE PROVIDED AT THE LATEST BY 31 DECEMBER 1991

| SERVICE | OFFERING |
|---------|---|
| X.25 | <p data-bbox="724 1053 927 1076">CORE OFFERING</p> <p data-bbox="597 1120 1060 1177">access link data rates : 2400, 4800, 9600 bit/s</p> <p data-bbox="516 1219 1146 1304">support of DTEs conforming with CEPT T/TE 08-01¹, CEPT T/TE 08-03² and in conformance with ETS T/TE 04-06³</p> <p data-bbox="558 1345 1101 1368">layer 3 for VC, (1 logical channel)</p> <p data-bbox="735 1412 927 1435">USER OPTIONS</p> <p data-bbox="553 1478 1117 1536">additional logical channels at least to a total of 32 for 9600 bit/s</p> <p data-bbox="542 1577 1127 1625">options indicated¹ in CEPT T/TE 08-02⁵ as E or EA</p> |

¹ OJ No C 327, 29.12.1990, p.19- List of standards reference- Packet switched public data networks

C.1. (CONT.)

| | |
|---|--|
| <p>X.28⁶ dial-in only</p> | <p>CORE OFFERING</p> <p>access link data rate 300 bit/s (V.21 modem) 1200 bit/s (V.22 modem)</p> <p>X.28 standard terminal profiles</p> <p>Support of DTEs conforming with CEPT T/TE 08-02⁵, CEPT T/TE 08-03² and ENV 41901⁷</p> <p>USER OPTIONS</p> <p>NUI</p> <p>additional standardised profiles selection⁸</p> <p>reverse charging⁸</p> |
| <p>X.32 UNIDENTIFIED SERVICE</p> | <p>CORE OFFERING</p> <p>for national use at least one of the two sets :</p> <p>1) 2400 bit/s (V.22 bis or V.32 modem) 2) 4800, 9600 bit/s (V.32 modem)</p> <p>1 or more logical channels</p> <p>reverse charging</p> <p>VC operation</p> <p>Support of DTEs conforming with CEPT T/TE 08-02⁵, CEPT T/TE 08-03² and ETS T/TD 08-06⁹</p> |
| <p>X.32 IDENTIFIED SERVICE dial-in only</p> | <p>CORE OFFERING</p> <p>data rates and modems as per unidentified case</p> <p>identification by EBI or XID</p> <p>support of DTEs as per unidentified case</p> <p>1 or more logical channel, VC operation</p> |

C.2. OFFERINGS TO BE PROVIDED AT THE LATEST BY 31 JUNE 1992

| SERVICE | OFFERING |
|---------|--|
| X.25 | <p data-bbox="676 445 874 468">CORE OFFERING</p> <p data-bbox="403 509 1150 532">access link data rate 48000 bit/s or 64000 bit/s</p> <p data-bbox="683 574 868 596">USER OPTIONS</p> <p data-bbox="571 638 986 730">additional logical channels at least to a total of 128 for 48000 or 64000 bit/s</p> <p data-bbox="699 771 852 794">Hunt Group</p> <p data-bbox="523 835 1034 895">Call redirection within a network with the same DNIC</p> <p data-bbox="641 936 916 959">Extended interrupt</p> <p data-bbox="549 1001 1011 1024">CCITT specified DTE facilities</p> <p data-bbox="612 1065 948 1125">Intra-community use of CUG facilities</p> <p data-bbox="453 1166 1107 1189">Called Line Address modified notifications</p> |

C.3. OFFERINGS TO BE PROVIDED AT THE LATEST BY 31 DECEMBER 1992

| SERVICE | OFFERING |
|---------------------------------|---|
| X.25 | <p data-bbox="689 1519 880 1542">USER OPTIONS</p> <p data-bbox="555 1584 1018 1648">Intra-community use of reverse charging facilities</p> |
| X.28 dial-in only | <p data-bbox="683 1749 890 1772">CORE OFFERING</p> <p data-bbox="523 1813 1050 1873">access link data rate : 2400 bit/s (9.62 bit modem)</p> <p data-bbox="692 1914 884 1937">USER OPTIONS</p> <p data-bbox="561 1979 1015 2038">Intra-community use of reverse charging facilities</p> |
| X.32 UNIDENTIFIED SERVICE | <p data-bbox="689 2135 896 2158">CORE OFFERING</p> <p data-bbox="529 2199 1056 2227">Intra-community use of the service</p> |

0 0344

1. Harmonization of the dedicated packet-mode access to a packet switched public data network (PSPDNs) for OSI
2. General Interworking and service aspects of packet switched data networks
3. Approval requirements for data terminal equipment to connect to packet switched public data networks using CCITT Recommendation X.25 (1984)
4. Except :
 - Call redirection within a network with the same DNIC
 - International use of CUG facilities
 - International use of reverse charging facilities
 - Hunt Group
 - Called line address modified notification
 - Extended interrupt
 - CCITT specified DTE facilities
5. Interworking aspects of packet switched public data networks
6. The X.28 messages are not intended for automatic DTE operation and as a consequence may be nationally dependent. The progressive implementation of X.3 (1988) and X.28 (1988) will allow to set a X.3 parameter to determine whether CCITT standardized or national messages shall be used at the interface.
7. Information System Interconnection.
X.29-mode procedures between a packet mode DTE or a PAD and a PAD via a public or private X.25 packet switched data network or ISO 8208 packet level entity and ISO 7776 link level entity. X.3 character-mode access via a public or private PAD attached to an X.25 packet switched network or ISO 8208 packet level entity and ISO 7776 link level entity. X.28 character-mode access via a telephonic circuit or data circuit to a PAD.
8. for national use
9. Harmonization of switched access to PSPDN for OSI end systems

ANNEX II

**PUBLICATION PRESENTATION FOR THE INFORMATION TO BE PROVIDED
IN RESPECT OF PACKET SWITCHED DATA SERVICES IN ACCORDANCE
WITH POINT 3**

The information referred to in Point 3 of the Recommendation shall follow the presentation given below.

A TECHNICAL CHARACTERISTICS

The technical characteristics include the physical and electrical characteristics as well as the detailed technical and performance specifications which apply at the network termination point, without prejudice to the Council Directive 83/189/EEC² laying down a procedure for the provision of information in the field of technical standards and regulations. Clear reference shall be made to the standards implemented.

B GENERAL SUPPLY CONDITIONS

The general supply conditions shall include at least the elements identified in Point 4.

C USAGE CONDITIONS

The conditions resulting from the application of essential requirements.

D TARIFFS

The tariffs will normally include the Initial Charge, the Periodic Rental Charge and the Usage Charge (including, normally, a per call charge, a volume related charge and a duration related charge). Clear indication of other charges, or charges related to quality of service, or bulk provision, should be available.

² OJ No L 107, 24.4.1983, p.3

E LICENSING AND/ OR DECLARATION CONDITIONS FOR USE OF PSDSs,
WHERE APPLICABLE

F CONDITIONS FOR THE ATTACHMENT OF TERMINAL EQUIPMENT

ANNEX III

INDICATORS FOR THE NETWORK PERFORMANCE ASPECTS OF THE QUALITY OF SERVICE OF PSDSs

Common indicators for the network performance aspects of the quality of service of PSDSs and common measurement methods should be adopted in order to allow for the determination of a representative sample of the performance of user's direct access to the PSDSs as well as the end-to-end statistical performance achieved by the network as a whole.

Such indicators for the network performance aspects of the quality of service of PSDSs and measurement methods should be based on the ongoing work in CEPT, and notably on Recommendations T/CAC 2³, T/CAC 3⁴, T/CAC 4⁵.

For each of the above performance criteria, indicators should be chosen which are representative of the service:

| | |
|------------------|---|
| Availability | Unsuccessful Network Congestion (NC) calls ratio (UNCR), Service availability, |
| Dependability | Mean time between NC disconnections (MTNC), |
| Speed of service | Transmitted throughput (TTP). Received throughput (RTP). |

-
- 3 Indicators for the network performance aspects of the quality of service of international packet switched services.
- 4 Monitoring of network performance aspects of quality of international packet switched service using internally derived indicators.
- 5 Monitoring of network performance aspects of quality of international packet switched service using externally derived indicators.

Round trip delay (RTD),

Call set-up delay (CSD).

Results of network performance measurements should be made publicly available, so that users of PSDSs can be informed about the achieved levels of performance for national and European services. These statistics should permit comparison with the established target values for network performance, to be published under Point 3 of the Recommendation.

Round trip delay (RTD),

Call set-up delay (CSD).

Results of network performance measurements should be made publicly available, so that users of PSDSs can be informed about the achieved levels of performance for national and European services. These statistics should permit comparison with the established target values for network performance, to be published under Point 3 of the Recommendation.

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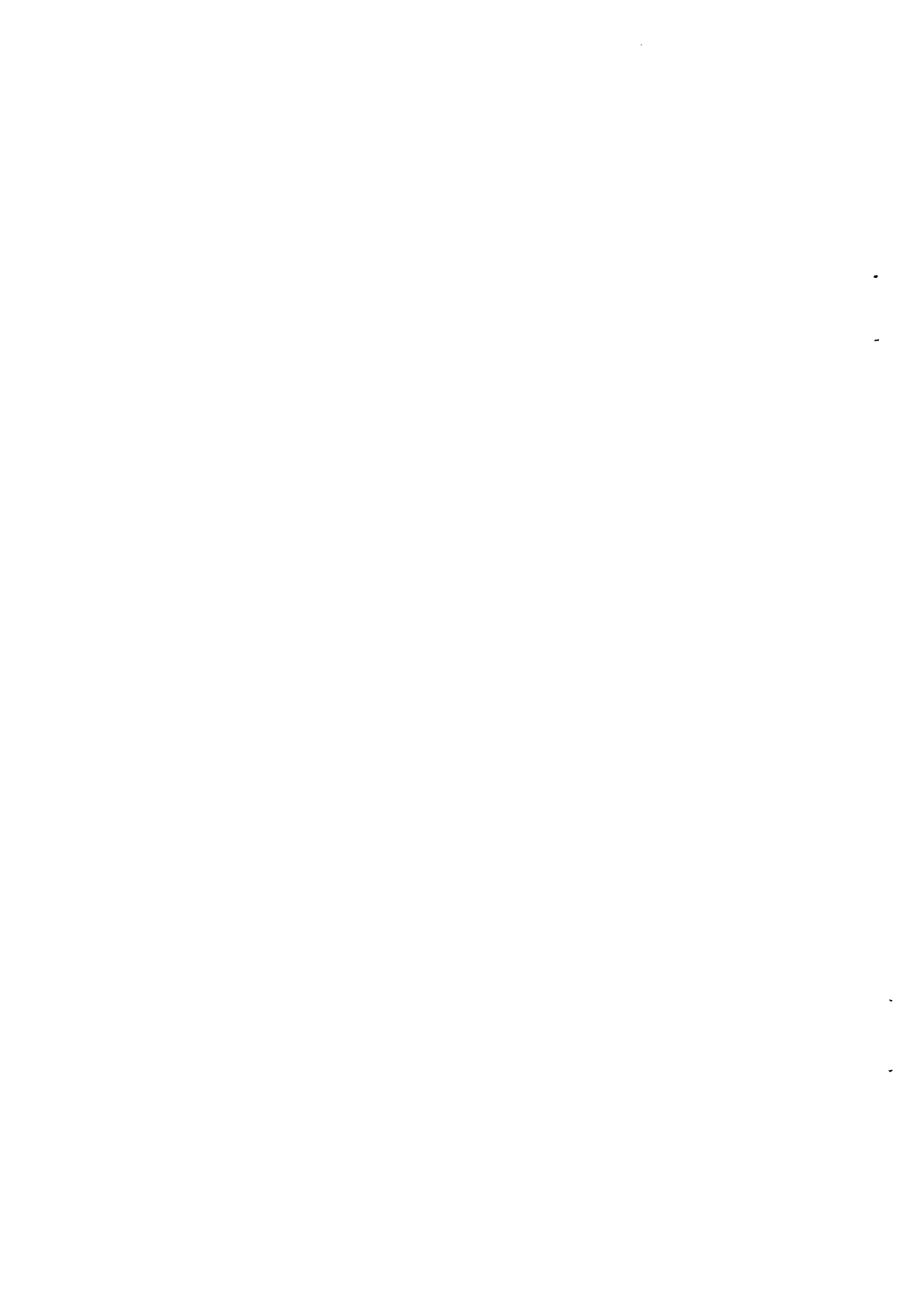
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COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 12 June 1991

Proposal for a
COUNCIL DIRECTIVE
on the frequency bands to be designated for the
coordinated introduction of digital short-range radio
(DSRR) in the Community

(presented by the Commission)

0 0353

EXPLANATORY MEMORANDUM

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 - 4.2 Time scale for manufacturers to produce equipment
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1. Introduction

1.1 Background

As foreseen in the Commission's 1987 Green Paper on the development of the common market for telecommunications services and equipment, future intra-Community communications will depend on achieving Europe-wide compatibility and interoperability of current and future services, including mobile communications, which should be provided universally at a European level. These requirements must be based in particular on Decision 87/95/EEC of 22 December 1986 on standardization in the field of information technology and telecommunications,¹ Council Directive 83/189/EEC of 28 March 1983 establishing a procedure for the provision of information in the field of technical standards and regulations,² as amended by Directive 88/182/EEC, and Council Recommendation 84/549/EEC of 12 November 1984 on the implementation of harmonization in the field of telecommunications.³

For its part, the European Parliament has requested that the current general incompatibility of mobile communications systems be resolved, and that work towards Community-wide mobile communications be undertaken.⁴

The Commission's June 1987 Green Paper on telecommunications included a proposal to set up a European Telecommunications Standards Institute (ETSI). This has resulted in a major reform of the European standards-setting process with the establishment of ETSI in March 1988 in Sophia-Antipolis, near Nice in France. ETSI has instructed its Technical Subcommittee RES 7 to produce a standard for digital short-range radio by the end of 1990.

1 OJ No L 36, 7.2.1987, p. 31.

2 OJ No L 109, 26.4.1983, p. 8.

3 OJ No L 298, 16.11.1984, p. 49.

4 European Parliament report on telecommunications in the Community (Leonardi report), doc. 1.1477/3 of 3 March 1984.

1.2 The current state of short-range mobile communications in the Community

In the early 1980s the United Kingdom allocated the 933-935 MHz frequency band to CB (Citizen's Band Radio) in order to limit the spread of 27 MHz equipment. However, the United Kingdom did not get the support of the other European administrations and CEPT adopted a recommendation on a 27 MHz CB service. Japan, however, had prepared analogue equipment equivalent to CB equipment for the 933-935 MHz frequency band. The Europeans subsequently reached agreement within CEPT to use the 933-935 MHz band for digital equipment. The basic idea was to have low-power (1 Watt) portable equipment. When ETSI was set up, the working party responsible for drafting specifications for the equipment was transferred from CEPT to ETSI (RES). At the same time, CEPT adopted Recommendation T/R 24-04 allocating the frequency bands 933-935 MHz and 888-890 MHz for short-range digital communications. It also recommended that this system should be capable of using both the simplex and duplex mode. The 933-935 MHz frequency band is used in the simplex mode and, in the semi-duplex mode, communications can take place in the associated 888-890 MHz band.

1.3 Market opportunities and requirements

It is difficult to make accurate projections of the demand for DSRR in view of the variety of services offered and the novelty of this concept: the original concept was intended to cover only voice communication, but this application has been extended to include data. A recent study funded by the Commission indicates that by 1995 there are likely to be 330 000 mobile or portable stations in the United Kingdom and the Netherlands.

This figure is based on an extrapolation of the traditional market for private mobile equipment but, given the cheapness of DSRR, it is difficult to estimate at present the inroads it will make into the small business markets (services, agriculture, transport, etc.), and some market studies consider that the rate of penetration will be higher.

Another market study has yielded comparable results: 1.2 million users in the Community in 1995. However, the study specifies that a very large proportion of them do not at present use public or private radio communications systems. They will buy DSRR, however, because of the low cost of the equipment, the absence of charges for use without a relay, and the service rendered.

1.4 Limitations of existing short-range radio communications

Professionals will be able to use public services such as GSM or DECT throughout the Community. These systems are connected up to the public switched network but they are much more expensive than DSRR. Professionals can also use private network equipment, but that presupposes obtaining a frequency. In several Member States public demand can no longer be satisfied because the private networks are saturated. DSRR will offer a new opportunity for obtaining a frequency without having to get authorization from the national administration to use it in a given service area. Allocating frequencies by sharing the frequency spectrum resource will make it possible to use the equipment without interference and with a large measure of mobility.

2. Potential benefits of digital short-range radio (DSRR)

There is unanimous agreement among European manufacturers and users that the DSRR approach is the most appropriate for Europe in the medium and long term for this category of mobile services. Users will be able to benefit to the full from the advantages of the single market of 1992, using their equipment throughout the Community without the need for specific authorization from the national administration if they use two sets of mobile equipment or with the authorization of the national administration if a relay is used. The DSRR approach offers the following benefits:

- DSRR will offer major benefits to private and business users and will stimulate the development and exploitation of major new market opportunities for European industry;

- European industry will be developing a system and products, and will thus acquire greater experience in consumer electronics;
- DSRR will provide European industry with an advanced technology with considerable potential for world-wide sales and distribution opportunities;
- the successful development and implementation of DSRR will provide the necessary technical and operational framework to facilitate the introduction of a universal mobile telecommunications system as the successor to DSRR.

Another advantage of DSRR is that it uses the voice coders developed for the GSM system. In the case of DSRR the rate is 16 k/bit per second. As a result of DSRR using the GSM coder, European industry will benefit from longer series for this comparatively expensive equipment.

Lastly, DSRR has the advantage of being technologically far more efficient in the use of the frequency spectrum than conventional private systems.

3. ETSI standard for DSRR

The ETSI Technical Subcommittee RES 3 was given the task of specifying the technical standard for DSRR. Following a reorganization within ETSI the work was transferred from RES 3 to RES 7. The work is being supported by the European industry via ECTEL (European Telecommunications and Professional Electronics Association).

DSRR sets are low-power transmitters-receivers operating either in simplex mode in the 933-935 MHz band or in semi-duplex or full-duplex mode in the 933-935 MHz band in association with 888-890 MHz.

Direct digital modulation of the carrier is used to send the selective signalling code and the voice or data.

DSRR sets are equipped with:

- automatic multi-channel access with no need for a central monitor;
- a selective signalling code;
- DSSRs may use the simplex, the semi-duplex and the full-duplex mode. Base, mobile and portable relay stations may be used.

3.1 Simplex, one-frequency operating mode

When the simplex operating mode is used, two-way communications can be established between portable stations and/or mobile stations.

In stand-by mode all the stations receive one or other of the monitoring channels.

3.2 Semi-duplex, two-frequency operating mode

When the two-frequency mode is used, two-way communications are possible between the base station and the portable set or between mobile sets on vehicles.

When the two-frequency mode is used, two-way communications are possible between the base stations and the portable set and/or the mobile set.

In order to enable base stations to monitor the use of the traffic channel, all the base stations operating in two-frequency mode, whether they are regarded as relay stations or as base stations, operate in full-duplex mode with continuous transmission and reception on the traffic channel.

In order to select the channel without traffic, all the base stations are capable of receiving the frequencies transmitted by the base station and those transmitted by the mobile station.

4. Time scale for the introduction of DSRR

4.1 Time scale for the completion of a single standard

Harmonization implies the use of a single European standard. The DSRR specifications will cover all aspects of the system and a timetable for completing the specifications has been agreed by ETSI. The date for completion of the 1 ETS is the end of 1990 and the date of completion of the standard following a public enquiry is October 1991. Member States should ensure that progress towards the introduction of DSRR can be maintained and that DSRR can be introduced by the end of 1993.

4.2 Time scale for manufacturers to produce equipment

Manufacturers should continue to support the work of ETSI as at present. They must also be prepared to manufacture their equipment to the ETSI standard as soon as possible.

5. Frequency requirements

A prerequisite for the successful introduction of a fully harmonized DSRR service is the availability of common frequencies throughout the European Community. CEPT has adopted recommendation T/R 75-02 designating the 888-890 MHz frequency band in association with 933-935 MHz for DSRRs using the one or two frequency transmission mode. It is absolutely essential that the frequencies should be common throughout the Community to enable European citizens to use their equipment in all twelve Member States. This equipment does not require frequencies to be allocated by the telecommunications regulatory authorities. The coordinated and timely availability of the necessary common frequencies is imperative if a fully harmonized system is to be introduced.

6. Objective of the proposed Directive

To maintain progress in the areas described above, it is necessary to guarantee:

- the completion of the DSRR specifications (1 ETS) by October 1991;
- the development of the ETS in 1992 and its completion in early 1993;
- the coordinated introduction of DSRR according to a strict timetable;
- the availability of common, Europe-wide frequencies for the introduction of the DSRR system;
- ease of market access for manufacturers through the single market.

In order to guarantee the availability of frequencies for DSRR the Commission has prepared a draft Directive calling for common frequency bands for DSRR throughout the Community. The Directive is based on the work of the CEPT which has recommended the 888-890 MHz band in association with 933-935 MHz for DSRR.

The provision of frequencies in the Member States is laid down by law, regulation or administrative action. Given this situation and the fact that the provision of radio frequencies is the most critical factor in the implementation of DSRR, a Council Directive based on Article 100a of the Treaty is necessary.

The proposed Council Directive on the frequency bands to be designated for the coordinated introduction of digital short-range radio in the Community has the primary objective of ensuring the availability of sufficient frequency resources in order to implement the system at the earliest possible date.

The following additional Community measures are proposed in order to accelerate the development and introduction of the digital short-range radio communication service on the basis of the frequencies set out in the Directive:

- the Commission will give high priority to the mutual recognition of telecommunications equipment type approval and the specification of the appropriate European telecommunications standard. This will facilitate international "roaming" and promote the market for DSRR;
- the Commission will apply strictly Council Directive 83/189/EEC on the provision of information in the field of technical standards and regulations, and Council Decision 87/95/EEC on standardization in the field of information technology and telecommunications.

Finally, the Commission in collaboration and in consultation with interested parties will help develop a strategy for the development of GSM,ERMES, DECT, DSRR and other private mobile systems into a universal personal communications system.

The proposals will make it possible to take an important step forward for the introduction of DSRR throughout the Community and substantially improve the development of advanced telecommunications services and networks as requested by the Council on 17 December 1984.

The Council is therefore requested:

- to adopt the attached proposal for a Directive;
- to take note of the additional preparatory measures which the Commission will undertake in close cooperation and collaboration with ETSI and CEPT.

Proposal for a
COUNCIL DIRECTIVE
on the frequency bands to be designated for the
coordinated introduction of digital short-range radio
(DSRR) in the Community

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,
and in particular Article 100a thereof,

Having regard to the proposal from the Commission,¹

In cooperation with the European Parliament,²

Having regard to the opinion of the Economic and Social Committee,³

1. Whereas Council Recommendation 84/549/EEC⁴ calls for the introduction of services on the basis of a common harmonized approach in the field of telecommunications;
2. Whereas in its Resolution of 30 June 1988 on the development of the common market for telecommunications services and equipment,⁵ the Council calls for the promotion of Europe-wide services according to market requirements;
3. Whereas the resources offered by modern telecommunications networks should be utilized to the full for the economic development of the Community;

1

2

3

4 OJ No L 298, 16.11.1984, p. 49.

5 OJ No C 257, 4.10.1988, p. 1.

4. Whereas Council Directive 89/336/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to electromagnetic compatibility⁶ is applicable, and particular care should be taken to avoid harmful electromagnetic interference;
5. Whereas current short-range systems in use in the Community, and the frequency bands in which they operate, vary widely and do not allow the benefits of Europe-wide services or the economies of scale associated with a truly European market to be enjoyed;
6. Whereas the work to be carried out in this area should take full account, inter alia, of the framework constituted by the provisions of Council Directive 83/189/EEC of 28 March 1983 establishing a procedure for the provision of information in the field of technical standards and regulations,⁷ as last amended by Decision 90/230/EEC,⁸ Council Directive 86/361/EEC of 24 July 1986 on the initial stage of the mutual recognition of type approval for telecommunications terminal equipment⁹ and Council Decision 87/95/EEC on standardization in the field of information technology and telecommunications;¹⁰
7. Whereas the European Telecommunications Standards Institute (ETSI) is currently drafting the European telecommunications standard (ETS) for digital short-range radio (DSRR);

6 OJ No L 139, 23.5.1989, p. 19.

7 OJ No L 109, 26.4.1983, p. 8.

8 OJ No L 128, 18.5.1990, p. 15.

9 OJ No L 217, 5.8.1986, p. 21.

10 OJ No L 36, 7.2.1987, p. 31.

17. Whereas the establishment of DSRR in the Community depends on the allocation and availability of a frequency band in order to transmit and receive between base stations and mobile stations;
18. Whereas the availability of the full range of the abovementioned frequency band will be indispensable for the establishment of DSRR on a Europe-wide basis.

HAS ADOPTED THIS DIRECTIVE:

Article 1

For the purposes of this Directive, "Digital Short-Range Radio - DSRR" means any equipment conforming to the European telecommunications standard (ETS) for this type of equipment.

Article 2

1. Member States shall designate the frequency bands indicated in CEPT Recommendation T/R 75/02 (888-890 and 933-935 MHz) for DSRR systems by 1 January 1992.
2. DSRR systems shall have priority and shall be protected in the designated frequency bands.

Article 3

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 1991, and shall forthwith inform the Commission thereof.

The provisions adopted by Member States shall contain a reference to this Directive or be accompanied by such a reference on official publication. Details of this reference shall be decided by the Member States.

8. Whereas that standard must take account of the safety of users and the need for Europe-wide interoperability;
9. Whereas the implementation of DSRR in Europe will provide a unique opportunity to establish a truly European and very inexpensive short-range digital radio system and DSRR will not normally be connected to the public network;
10. Whereas it must be possible for users of DSRR terminals in a Member State to use their equipment in all the other Community Member States;
11. Whereas ETSI has estimated that DSRR will require 2 x 2 MHz in all the Member States;
12. Whereas the European Conference of Postal and Telecommunications Administrations (CEPT) has adopted Recommendation T/R 20-10 on DSRR;
13. Whereas the CEPT has chosen the common European frequency bands 888-890 MHz and 933-935 MHz for DSRR in accordance with CEPT Recommendation T/R 24-04;
14. Whereas DSRR should be given priority and protected in the 888-890 MHz and 933-935 MHz bands; whereas, in view of the particular features of the system, protection of the monitoring channels (channels 1 and 79) is essential;
15. Whereas low-power applications exist at these frequencies;
16. Whereas Council Directive .../.../... of ... on the approximation of the laws of the Member States concerning telecommunications terminal equipment, including the mutual recognition of their conformity,¹¹ will allow the rapid establishment of common conformity specifications for DSRR;

11 OJ No L

2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field governed by this Directive.

Article 4

The Commission shall report to the Council on the implementation of this Directive by the end of 1995.

Article 5

This Directive is addressed to the Member States.

Done at Brussels,

For the Council
The President