COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 04.04.1995
COM(95) 113 final

COMMUNICATION BY THE COMMISSION

TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

ON THE STATUS AND IMPLEMENTATION OF

DIRECTIVE 90/388/EEC

ON COMPETITION IN THE MARKETS FOR

TELECOMMUNICATIONS SERVICES

CONTENTS

Preface

The European Union is going through a process of rapid adaptation to the realities of the coming information society. Digital technology is transforming the telecommunications, computer, information and audio-visual industries. The information society is beginning to have a profound effect on the economy and the way we work, live, and play. It influences the way we do business, the way we organise ourselves and the way we interact.

The report "Europe and the Global Information Society", as established according to the request by the European Council has given full consideration to this basic change and proposed a comprehensive framework. In response, the European Heads of States at Corfu confirmed this analysis and called for the definition of a clear and stable regulatory environment for further development.

The changes are global. They effect not only Europe and its principal economic competitors, but the very nature of that economic competition itself. Competing effectively today demands the means to access, process, manipulate, stock and produce information, both quickly and efficiently.

In an increasingly global economy it is vital that European firms are able to maintain and reinforce their competitiveness, not only in existing markets, but to take advantage of new opportunities and win new markets. To do so they must be allowed to benefit from the widespread diffusion and integration into production processes of new information technology. Naturally, by stimulating economic growth, competitiveness contributes to job creation.

Technological progress and innovation brings with it the opportunity to offer users an increasing choice of services and applications, of superior performance and better suited to their particular demands. This is not only an advantage for business. For domestic users this means the possibility of direct access on demand of new services and entertainment, which are not only received by the customer, but also interacted with.

At the same time special regard must be given to employment aspects in the sector. As set out in the Green Paper on the liberalisation of telecommunications infrastructure and cable television networks (COM(94)440final and 682final) increased competitiveness will impact employment, both safeguarding jobs which would otherwise have been lost and allowing new jobs to be created as European companies benefit from the competitive advantage derived from new telecommunications technologies and services. Particularly important in employment terms will be the effects of the new technologies in small and medium sized enterprises - traditionally the principle source of employment generation in Europe.

Experience shows that potential job reductions are offset by new job creation, and that overall telecommunication employment has not been impaired by liberalisation. It will be important for the further development that the social dialogue in the sector is intensified. The Commission has launched a major study which should give a firmer quantitative basis for assessing the extent to which competition is creating new job opportunities.

These issues will also be studied and discussed in depth within the framework of the new advisory group on information society recently launched by the Commission, i.e. the Information Society Forum and the High Level Group of Experts on the Social and Societal aspects of the Information Society.

The Action Plan published by the Commission in response to the conclusions of the Corfu summit and the report on Europe and the Global Information Society ("Europe's Way to the Information Society", Communication of the Commission of 19 July 1994) emphasized the need for continued and accelerated liberalisation of telecommunications. Within this context, the Council Resolution 93/C 213/01 of 22 July 1993 on the further development of the telecommunications market sets the basic framework for the evolution of the regulatory environment in the European Union and has established 1 January 1998 as the date for full liberalisation (with additional transition periods for certain Member States). The Resolution has emphasized the importance of ensuring full implementation of existing legislation, as well as further evolution of this framework in preparation for 1 January 1998. On 22 December 1994, the Council adopted Resolution 94/C 379/03 extending the principle of liberalisation and the agreed timetable for services to the liberalisation of the underlying network infrastructures, over which such services are carried.

Commission Directive 90/388/EEC on competition in the markets for telecommunications services has been at the core of EU telecommunications liberalisation to date. It is, and will continue to be, at the centre of the reform process which is now centred on the deadline set by the Council of 1998 for liberalisation of all telecommunications services and the infrastructure over which it is carried and for which, according to the Council Resolutions mentioned, proposals and measures for the corresponding regulatory framework must be made before 1 January 1996. It also represents the framework within which the Commission is responding to requests for earlier action to lift the restrictions which are causing bottle-necks in the provision of infrastructure for the services currently already liberalised according to the Directive. In this framework, the Commission adopted on 13th October 1994 an amendment Directive drawing satellite networks and services into the framework of the Directive. Furthermore, on 21st December 1994 a draft amendment Directive was adopted by the Commission for consultation regarding the use of Cable-Television networks for the provision of such services.

The Council Resolution of 22nd July 1993 emphasized that "there is a need for rapid and effective implementation of the current regulatory environment, in particular Directive 90/388/EEC". At the same time, the Directive required that the effects of certain measures must be assessed by the Commission during 1994. The Commission therefore considers it appropriate to submit at this stage this Communication on the general progress made with regard to the implementation of the objectives of the Directive to the European Parliament and the Council.

Summary

Section I outlines the purpose of the Communication and sets it in the context of the past, current and future regulatory environment.

Section II represents a general comment on the progress achieved by the Member States in implementing Directive 90/388. It includes a list of the main elements which have been monitored and reviewed by the Commission and against which progress is measured.

Section III explains and clarifies some particular implementation issues which have arisen over the past four years. These fall into three main areas: voice services for closed user groups and corporate networks, data services for the public and the separation of operation and regulation.

Section IV describes the recent inclusion of satellite networks and services into the framework of the Directive, by way of the amending Directive 94/46/EC.

Section V explores the future outlook for the Directive and its implementation. It sets it in the broader context of full services and infrastructure liberalisation and, in particular, the preparation for the 1998 deadline.

Section VI draws together the Commission's conclusions on the implementation of the Directive and the implications for EU telecommunications policy in general.

I INTRODUCTION

The Purpose

Commission Directive 90/388 was published on 28 June, 1990 (hereafter referred to as either "the Services Directive" or "the Directive"). It has come to be identified as a cornerstone of the EU framework for liberalising the European telecommunications market. The Council, in its Resolution of 22 July 1993[1] emphasised the importance of rapid implementation. The Resolution noted that "there is a need for rapid and effective implementation of the current regulatory environment, in particular Directive 90/388/EEC".

It is within this context that the Commission submits this Communication on the status and implementation of the Directive[2].

The Communication has three related purposes[3]:

i Description and explanation of the current state of implementation

ii Identification and clarification of central issues

iii Placing the Directive in the context of the package of reforms focused on the 1998 deadline, according to the 1993 Council Resolution which "supports the Commission's intention to prepare, before 1 January 1996 the necessary amendments to the Community regulatory framework on order to achieve liberalisation of all public voice telephony services by 1 January 1998".

The Context

The Services Directive set down four dates by which specific provisions had to be implemented :

- 31 December 1990, for the opening up to competition of telecommunications services other than voice telephony and the simple resale of capacity;

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1 Council Resolution 93/C231/01.

2 This Communication does not cover related subjects of EU-telecommunication policy such as the application of Open Network Provision to leased lines. These subjects are covered extensively in other recent Communications. See Green Paper on the liberalisation of telecommunications infrastructure and cable television networks, Part I / II, COM(94)440 ; COM(94)682 and Communication on present status and future approach for open access to telecommunications networks and services (Open Network Provision), COM(94)513.

3 It should be noted that this Communication does not replace in any way the formal procedures foreseen under the Treaty to ensure the full implementation of Community Law.

- 1 July 1991, for putting in place an independent body responsible for the granting of licences and the surveillance of usage conditions;

- 30th June 1992, for the notification of any licensing or declaration procedures for the provision of packet- or circuit-switched data services for the public ;

- 31 December 1992, for the opening up to competition of the simple resale of capacity[4].

Parliament Resolution A3-0113/93 of 20 April 1993 called on the Commission to prepare the liberalisation of both intra-Community as well as domestic voice telephony and to adopt as soon as possible the necessary measures to take full advantage of the potential of the existing infrastructure of cable networks for telecommunications services and to abolish without delay the existing restrictions on the use of cable networks for non-reserved services as well as to adopt measures to obtain optimum utilization of the cross-border telecommunications networks of railway operators and electricity producers[5].

Council Resolution 93/C213/01 set out a timetable for the development of telecommunications and confirmed the date of

- 1 January 1998 for the liberalisation of voice telephony services for the general public[6].

On November 17 1994 the Council adopted a further Resolution confirming the date of

- 1 January 1998 also for the liberalisation of telecommunications infrastructure.[7]

Following the Commission's action plan of 19th July 1994, published under the title "Europe's way to the information society, an action plan"[8], the Union is now profoundly engaged in the policy of implementing the information society. These Resolutions, the Conclusions of the European Council at Corfu[9] as well as the communication by the Commission on the consultation on the Green Paper on Mobile and Personal communications[10] and the results of the ongoing consultation on the Green Papers on Infrastructure (part I / II)[11] will set a framework for carrying forward the further amendments to the services Directive towards the

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4 The Directive also foresaw the possibility of granting deferment, until 1 January 1996, of the date for prohibition on the simple resale of capacity in those Member States in which the network for the provision of the packet or circuit switched services was not yet sufficiently developed.

5 OJ No C 150/42 of 31 May 93.

6 Although some Member States with less developed networks (i.e. Spain, Ireland, Greece and Portugal) are granted an additional transition period of up to 5 years. Very small networks (Luxembourg) can also, where justified, be granted a period of up to two years.

7 With derogations as above, see Council Resolution of 22nd December 1994 on the principles and timetable for the liberalisation of telecommunications infrastructures, (94/C 379/03) ; OJ C379/4, 31.12.1994.

8 COM(94) 347.

9 Conclusions of the European Council, Corfu, 24-25 June 1994.

10 Towards the personal Communications Environment : Green Paper on a common approach in the field of mobile and personal communications in the European Union (COM(94) 145 final).

11 Op cit.

full liberalisation of the telecommunications sector. In this context, ongoing review of the actual situation in the Member States will be increasingly important in the years leading up to the deadline.

II CURRENT STATUS OF IMPLEMENTATION

a) General Comment

Member States were required to implement the provisions of the Directive and to communicate to the Commission the relevant measures adopted, by 31st December 1990, 1 July 1991 and 31st December 1992[12]. All Member States, but two, complied with the notification requirements[13]. In order to assess effective implementation of Directive 90/388/EEC in the various Member States however, a checklist identifying the essential constituent elements was established. Although this does not represent an exhaustive list, progress in effective implementation can best be measured against the following issues:[14]

- Definition of "voice telephony" for which currently exclusive and special rights can still be maintained according to the provisions of the Directive[15].

- Continuation of any other exclusive rights;
  Access by service providers to transmission/routing on PSTN and leased lines;
  Conditions imposed via any licensing or declaration scheme in existence;
  Transparency and openness of procedure for granting authorization.

- Conditions for simple resale of leased capacity for data communications;
  Notification (within deadline) of any special licensing regime regarding such resale;
  Justification of any special regime[16].

- Conditions of open access to public networks (formal and effective);
  Availability of leased lines within a reasonable time;
  Justification for usage restrictions (if any) on leased lines.

- Justification for any restrictions on the processing of data
  (before or after public network transmission)[17];
  Ensurance by the Member States of non-discrimination in usage conditions and charges between service providers (including the TO).

- Separateness and independence of effective and operational regulatory body
  Inclusion within its tasks of: granting licences, surveying usage conditions; control of type approval and mandatory specifications, and allocation of frequencies.

On the basis of these points the Commission has found that the extent to which the Directive

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12 As mentioned, the exceptions to the 31/12/90 deadline relate to (a) specifications regarding simple resale of data services, 31/12/92; and (b) the setting up of an independent regulator, 1/7/91.

13 Italy (provisions only included in the Legge Comunitaria 1994 are incomplete), and Greece (measures necessary to render the independent regulatory authority operational have still not been notified).

14 For the issues listed see in particular Articles 1, 2, 3, 4, 5, 6, 7 of the Directive.

15 Subject to the time deadlines set by the Council Resolution of 22 July 1993

16 i.e. by the provisions set down in Article 2 and Article 3

17 They must be demonstrated as necessary for essential requirements or public policy.

has been effectively implemented[18] throughout the Union still varies significantly between the Member States. Various Member States will need to undertake further measures before the Commission may consider the directive correctly implemented[19].

b) Formal Procedures

As far as is possible the Commission has sought to deal with remaining implementation issues via bilateral communication and negotiation with the Member States concerned. This has proved particularly efficient (for both parties) where information requested is prompt and transparent, and where the will to find rapidly a workable solution is evident.

Where implementation problems cannot be solved by informal negotiation within a reasonable timeframe, the Commission is obliged to commence with the formal procedure for non-implementation of a Directive, as provided for by Article 169 of the Treaty[20].

Currently, a number of formal procedures are underway. Two concern Member States' failure to notify all required national implementing legislation[21]. A further two concern incorrect application of the Directive in Member States[22].

c) Extension to the European Economic Area and Central and Eastern European States

In accordance with the EEA Agreement, the Services Directive (including amendments) also applies to the EEA Member States as of 1 July 1994[23].

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18 Official notification does not necessarily mean effective implementation

19 Section III of this Communication goes into this in more detail. Comments on the individual Member States' progress is provided in Annex.

20 Article 169 of the EC Treaty deals with failure to fulfil an obligation under the rules of the Treaty, including the implementation of Directives.
Under Article 169 of the Treaty, the procedure is a follows :
i) The Commission sets out the points at issue by letter of 'formal notice' and invites the relevant Member State to submit its observations.
ii) If the Member State does not put an end to the infringement, the Commission gives a (non-binding) reasoned opinion explaining its views and inviting the Member State to take the appropriate measures within a fixed period.
iii) If the Member State does not comply with the reasoned opinion within the given period, the Commission may bring the matter before the European Court of Justice.

21 Italy and Greece.

22 Germany and Spain.

23 Under the Competition Annex (XIV) of the Agreement, Article 90(3) Directives in the telecommunications field i.e. the Services Directive and the Terminals Directive (88/301/EEC) became applicable to the EEA Member States on 1 July 1994, as well as subsequent amending Directives, e.g. amending Directive 94/46/EEC with regard to satellite communications.

Since the Services Directive only specifies the application of Article 90 in conjunction with Articles 59 and 86 of the Treaty and the Europe Agreements and Interim Agreements which the Union has signed with six Central and Eastern European countries contain similar provision, the general principles of this Directive (and any amendments) are also of relevance to these countries.

III SPECIFIC IMPLEMENTATION ISSUES

Five main areas have emerged during the implementation of the Directive as requiring specific attention :

a) General issues related to voice services
b) Enforcement of the voice telephony monopoly
c) Corporate networks and Closed User Groups (CUGs)
d) Data services for the public
e) The separation of operation and regulation

a) General issues related to voice services

Although the Directive defines in detail the concept of 'voice telephony'[24], various issues have arisen[25] over just what is considered to be 'voice telephony' in the individual Member States and, hence, the degree to which special or exclusive rights[26] on voice services had to be abolished[27].

According to the Services Directive, the Member States ensure the abolition of special and exclusive rights for the provision of telecommunication services other than the voice telephony service. In each case it has to be examined on the basis of the criteria set out below whether a given service is a voice telephony service. In order to allow the relevant national regulatory authorities to assess the envisaged service, the service providers may

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24 According to Article 1 of the Directive "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."

25 See also European Court decision ECR-I 5833 which has guided the Commission in the elaboration of the definition of exclusive and special rights (see below).

26 According to Article 2 of amending Directive 94/46/EC (see section IV):

"exclusive rights" means the rights that are granted by a Member States to one undertaking through any legislative, regulatory or administrative instrument, reserving it the right to provide a telecommunications service or undertake an activity within a given geographical area
"special rights" means the rights that are granted by a Member State to a limited number of undertakings through any legislative, regulatory or administrative instrument which, within a given geographical area,

- limits to two or more the number of undertakings authorised to provide a service or undertake an activity, otherwise than according to objective, proportional and non-discriminatory criteria, or
- designates, otherwise than according to such criteria, several competing undertakings as being authorised to provide a service or undertake an activity, or
- confers on any undertaking(s), otherwise than according to such criteria, legal or regulatory advantages which substantially affect the ability of any other undertaking to provide the same telecommunications service or to undertake the same activity in the same geographical area under substantially equivalent conditions.

27 According to Article 2 of the Directive, "Member States shall withdraw all special or exclusive rights for the supply of telecommunications services other than voice telephony..."

be required to provide all the necessary information[28].

A regulatory approach that identifies only a limited set of permissible, non-reserved services does not conform to the requirements of the Directive.

A voice service may be reserved under national legislation *only* if it includes *all* of the elements of the Community voice telephony definition, i.e. it must be provided on a *commercial* basis to the *public* for the purpose of *direct transport and switching* of speech *in real time* between public switched network termination points.

It is useful to consider the significance of each of these elements:

"Commercial"

This requires that the simple technical non-commercial provision of a telephone connection between two users should be authorized. "Commercial" should be understood in the common sense of the word, i.e. provided against payment and with the intention of making a profit (or at least of covering all variable costs and making a contribution to existing fixed costs). A leased line, for example, made available on a cost-sharing basis between one or more users would only be considered a commercial activity if additional capacity were leased specifically to allow resale.

It also means that companies should be free to pool resources, i.e. to rent leased lines and benefit from the flat rate rental. This permits a more efficient use of the telephone network and, in particular, benefits small and medium-sized enterprises (SMEs)[29].

"for the public"

The term "for the public" is not defined in the Directive and must be understood in its common sense: a service for the public is a service available to all members of the public on the same basis.

Particular examples of services which should not be considered "for the public", and thus should not be made subject to special or exclusive rights, are those provided over corporate networks and/or to closed user groups. Corporate networks and closed user groups (CUGs) cover a number of telecommunications services, both voice and data. They are fundamental to the Services Directive particularly because they fall outside the scope of the voice service which Member States may reserve to their telecommunications organizations.

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[28] This will in particular be the case concerning the provision of voice services to closed user groups on leased lines networks connected at different ends to the public switched network. In this case some national regulatory authorities request detailed information, such as clients targeted, draft advertisements, envisaged tariffs ..., to assess the nature of the envisaged service.

[29] A disadvantage for SMEs existed previously because they do not generally use the switched telephone service sufficiently intensively to make it worthwhile for them to pay the (high) flat rate rentals for leased lines. As a consequence, leased lines were, in practice, reserved to larger companies.

The particular issues associated with liberalisation of these services are discussed in more detail below (IIIc).

"from and to public switched network termination points"

"From and to public switched network termination points" means that, to be reserved, the voice service has not only to be offered commercially and to the public, but also to connect *two* network termination points of the *switched* network[30] at the same time. As long as each customer of the service provider is connected via a dedicated leased line, it is possible to offer a commercial service which terminates on the public network.[31] The aim is, again, to ease technical restrictions on the use of leased lines. In this way lines may be used for voice telephony offered to non-CUGs, as long as there is no commercial offer of "simple resale" of the switched telephone service.[32] On the other hand, "simple resale" may be legitimate when the service is not offered to the public, but, for instance, is provided to a closed user group[33].

"direct transport and switching of speech in real time"

This part of the definition excludes any store and forward or voice mail applications from being reserved. Least cost routing of telephone calls by a service provider on the public switched network or credit card telephony, whereby access is given to the voice telephony service of a TO in the framework of a financial transaction service, are further examples of liberalised voice services as these do not constitute "direct transport".

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30 The public switched network is not formally defined in the Directive. It must be given its common meaning, i.e., the public switched telephone network (PSTN) which is the collection of switching and transmission facilities used by the telecommunications organisation to provide the normal telephony service.

31 i.e. as long as they are connected via a dedicated leased line, customers of a liberalised voice service do not necessarily need to demonstrate a pre-existing legal or economic relationship with the recipients of their calls. This is often referred to as "dial-out" service or "one-ended" service. .

32 "Simple resale" refers to the situation where the call is both originated and terminated on the public switched network. It is, in this sense, offered to the general public since the local call may originate from any user of the public switched network and the customer itself is not connected by the service provider via a dedicated leased line

33 Such a service may, indeed, include features requiring bypass such as teleworking, out of office hours calls diversion, paging, Centrex services or when small business units, whose call volume does not justify use of leased lines, need to communicate with each other.

Since the reservation of voice services is an exception to the general rule of competition, it must be interpreted narrowly. When new voice services and features are introduced and meet demand which is not satisfied by the current telephone service, they should normally be considered non-reserved. If they are defined as reserved, the burden of proof, as always should fall to the Member State to justify such a restriction[34].

Calling card services offer a specific example of services, which can, from the point of view of the users, be considered to be different from the reserved voice telephony service. They fall outside the definition in as much as the calling card service matches important needs which the (normal) voice telephony does not meet, for example as a result of additional features such as payment via credit or debit card, least cost routing, destination speed dialling etc. Where additional features such as these, rather than possible lower tariffs, are decisive in prompting users to use the calling card service instead of voice telephony, the service should be considered liberalised. The fact that a calling card market is emerging, although tariffs are in most of cases higher than those of voice telephony[35] , is evidence that there is a calling card market which is distinct from the voice telephony one. Calling card providers have developed this new market tailoring the services to the customers and billing them accordingly. This evolution creates new opportunities for the users in the Union and should not be delayed by restrictions aimed at preserving the traditional voice telephony market.

The prohibition of leased line routing for the provision of calling card services would put providers of calling card services at a competitive disadvantage in this market relative to calling card providers with own facilities. In the absence of the routing facility they are merely resellers of voice telephony and would have no control over their main costs. They could therefore hardly compete with the Telecommunications Operators (TOs). TOs have a further advantage in that they can offer their customers both voice telephony and calling card services and develop their card service by building on their database of high volume users.

Such a state of affairs would promote possible scenarios whereby national TO's offering calling card services would limit their offer to residents of their national territory without entering neighbouring geographic markets.

An individual assessment of the envisaged calling card service may, however, be necessary, in particular of the additional features offered, in order to determine the nature of the service and upon which market it will be offered. The criteria used should be the

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[34] To allow the relevant national regulatory authorities to assess the envisaged service, the applicants may be required to provide them with all the necessary information, including draft advertisements and envisaged tariffs lists, if any.

[35] "*contrary to widespread belief, cost saving is not the main driver* (for the development of calling card services). *Indeed, calling card and international direct dial (IDD) tariff comparisons for calls originating from the EC reveal that convenience is the main driving factor for a service essentially targeted at business users*" . See : New forms of competition in voice telephony services in the European Community, BIS Strategic Decisions, October 1993, study carried out for the European Commission.
Additional features, such as billing and usage convenience (no local currency required, operator speaking the same language) seem to be the main driving factor for this service.

degree of functional interchangeability between the services and the possible barriers to substitution. Such assessment must take into account the specific circumstances of the markets concerned.

b) Enforcement of the Voice Telephony Monopoly in a liberalised environment

Since certain categories of voice services have been opened up to competition, and since such categories may not be defined in a rigidly technical sense, certain Member States feared that service providers would offer what is in effect "voice telephony" and thereby by-pass the monopoly. In fact, experience has shown that such fears were not founded. The main reason is that such "un-official" by-pass will not occur to any significant extent without being noticed by the relevant Member State. A service which is offered to the public must be, "ipso facto", public knowledge.

In particular, given that any commercial offer would normally involve advertising (of the services available) or, at the very least, issuing price lists, contracts and invoices, such by-pass should be evident from an early stage. Furthermore, any breach leading to a substantial diversion of traffic on to a competitor's network is rapidly detected by the public operator providing the competitor's leased line capacity. The TO would clearly have an interest in bringing the situation to the attention of the appropriate national regulatory authority.

In the framework of the licensing or declaration procedures, various Member States, however, still request the applicant to provide a description of the intended service. Where networks are connected to the public switched telephony network (PSTN), for example in the case of voice services provided on leased lines, Member States often require evidence of how the applicant will prevent dial-in and dial-out facilities being available at the same time. It should be noted that, under Article 4 of the Directive, *technical* restrictions may not be imposed on the service provider. It suffices that the service provider clearly sets out in the contracts, signed with its clients, the extent of services authorised.

New operators generally have shown that they will respect the voice telephony monopoly. Service providers do not want to take the risk of having their authorization revoked or having the national regulatory authority requesting the disconnection of the relevant leased lines and not being able to fulfil their obligations towards their clients. Many service providers did therefore, before starting their services, investigate first the matter with the national regulatory authorities or with the Commission services.

c) Corporate networks and Closed User Groups

As mentioned, the special issue of corporate networks and / or closed user groups (CUGs) has been of particular importance amongst the issues encountered in the course of implementation of the Directive.

Effective liberalisation of corporate networks and CUG services is, without doubt, critical for the development of advanced business communications and therefore the competitiveness of EU industry vis a vis its counterparts in Japan and the US. It is, thus, a central goal of the Directive. The economics of competition, and markets themselves are becoming increasing global. Where business is denied the clear benefits of lower cost, and increased quality and choice which competition ensures, it will ultimately either suffer from the competitive disadvantage this implies, or, where possible, will seek to relocate to a less restrictive environment.

In this context, the goals of the Directive have still not been achieved in a number of Member States. Two reasons for this are :

i disputes as to the extent of allowed 'membership' of CUGs, which are broader than strict corporate networks. This has led to lack of full or effective implementation of the Directive

ii bottlenecks in the *supply* of capacity to the new service providers caused by restrictions on use of alternative infrastructure (this will be addressed more fully in Section V)

The Commission has considered the cases where Member States have issued provisions under the Directive for authorizing the provision of voice to CUGs. Various definitions have emerged[36]. On the basis of experience gained, the Commission will use the following definitions[37] :

"corporate networks"

those networks generally established by a single organisation encompassing distinct legal entities, such as a company and its subsidiaries or its branches in other Member States incorporated under the relevant domestic company law.

"closed user groups":

those entities, not necessarily bound by economic links, but which can be identified as being part of a group on the basis of a lasting professional relationship among themselves, or with another entity of the group, and whose internal communications needs result from the common interest underlying this relationship. In general, the link between the members of the group is a common business activity.

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36 For country by country information, see Annex

37 The Commission has acknowledged these definitions in its "Green Paper on the liberalisation of telecommunications infrastructure and cable television networks, Part I, Principles and Timetable", COM(94)440 final, Brussels 25.10.1994, p.27.

Examples of activities likely to fall into this category are fund transfers for the banking industry, reservation systems for airlines, information transfers between universities involved in a common research project, re-insurance for the insurance industry, inter-library activities, common design projects, and different institutions or services of intergovernmental or international organisations.

Services provided concerning such categories of networks or entities are fully liberalised according to the definition of "voice telephony" in Article 1 of the Directive. Some Member States did, however, only authorise such services after further discussions with the Commission.

d) Data services for the public[38]

Article 10 of the Services Directive provides that the Commission shall assess the effects of the measures adopted by the Member States regarding simple packet- or circuit-switched data services under Article 3 of the Directive in 1994, 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.

During the consultation on the 1987 Green Paper, various Member States stressed the need for a special regime for basic switched data network services such as X.25[39]. No justification could be found for the maintenance of exclusive rights as regards the provision of such services per se. The Commission, however, acknowledged that developed data switching networks might have a structural effect on investments and regional planning, and could therefore qualify for a specific regime, set out in Article 3 of the Directive, in particular the application of public service specifications in the form of trade regulations relating to conditions of permanence, availability, and permanence of service.

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38 Article 1 defines 'packet and circuit-switched data services' as "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"

39 X.25 is a standard protocol for packet switched networks. Another advanced protocol for high speed data transfer is frame-relay.

Moreover, given the substantial difference between charges for use of the data transmission service on the switched network and charges for use of leased lines at the time of adoption of the Directive, Article 3 allowed that exclusive rights for data services which represented "simple resale of capacity"[40] could be maintained until 31 December 1992, with possible additional deferments until 1 January 1996 for those countries where the relevant network for the provision of the packet or circuit switched services were not yet sufficiently developed[41]. The aim was to allow that equilibrium in such charges would be achieved gradually. Two Member States[42] initially requested such an extension of deadline, although in neither case the request was maintained.

As regards the special regime, only three Member States[43] notified draft specifications to the Commission before the deadline provided in the Directive, i.e. 30 June 1992. The Commission has assessed with the Member States concerned, whether the planned specifications were objective, non-discriminatory, transparent and proportionate to the aim pursued. These bilateral discussions were very useful and provided a basic experience of how a liberalised service can be regulated to guarantee certain public service objectives, without restricting competition. It appeared in particular that, given the different starting positions of incumbent operators and potential new entrants, special attention should be given to avoid burdening the latter in a way which could constitute a barrier to entry and which would comfirm the market power of the dominant operator. In such cases Member States should not necessarily impose the same conditions on new entrants as imposed on the dominant public operator.

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40 The Directive defines the latter as "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 the transmission in real time to and from the public switched network".

41 Recital 11 of the Directive.

42 Greece and Spain

43 Three Member States (Belgium, France, and Spain) have adopted additional licensing conditions for the provision of simple resale for packet or circuit-switched services. In Spain, for example, there is a scheme regulating the granting of concessions for the provision of packet or circuit switched data services which does not tie in completely with the Commission's comments concerning this area. The scope of the Spanish scheme is too broad, since it applies to data services between "network termination points" instead of "termination points of the public switched network".

Italy was also considering the adoption of additional conditions, but failed to implement the Directive within an appropriate timescale. Given that under the direct effect of Articles 2 and 3 of the Directive simple resale of capacity was liberalised in Italy without any further restrictions, the Italian government shall have to provide appropriate justifications for the reintroduction of any additional restrictions in that respect.

Over the last years, rapid technological evolution and, in particular, the development alongside the traditional X.25 of ATM[44], has undermined the traditional justifications for the current specific regime for basic data services. One can assume that in the near future X.25 public backbone networks will continue to co-exist with frame-relay-networks and the new emerging ATM-backbones. Applying the same service-specific regulation to such different technologies will prove difficult. It could delay new offers of virtual private networks and value added services and thus limit technical progress in the area. Moreover the rationale behind quality or coverage obligations decreases with the increasing differentiation of the offer. The emergence of new services requires a degree of flexibility which cannot be steered by regulation.

The current specific schemes in force in three Member States also have an impact on trade between Member States. The limited number of applicants for authorisations under the current schemes in the three Member State can, in part, be explained by the fact that many providers of the relevant service prefer to limit their offer to CUG's instead of having to apply for a license under these circumstances.

On the basis of its assessment, given that most of the Member States have not deemed it necessary to adopt specific schemes for data services, without noticeable negative effect as regards the public interest objectives pursued by these schemes, the Commission considers, that the requirement for applying specific public service specifications with regard to data services should be reviewed in the framework of the general adjustment of the telecommunications regulatory framework to be presented before 1 January 1996 according to Council Resolution 93/C 213/01, and that the termination of the current specific schemes for data services should be considered[45].

e) The Separation of Operation and Regulation

The separation of the regulation of the telecommunications sector from the operation of the national Telecommunications Organisation was, without doubt, the most fundamental condition for achieving reform and liberalisation of the EU telecommunications markets. Whatever institutional, legal or structural means may be used to achieve it, Article 7[46] of the Directive requires that the Member States must separate telecommunications regulatory and operational functions.

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44 ATM : "Asynchronous Tranfer Mode", advanced high speed communications. See also Green Paper on the Liberalisation of Telecommunications Infrastructure and Cable Television Networks, op. cit.

45 However, such schemes may be required as regards the provision of voice telephony for the public, once liberalised. See licensing criteria proposed for licensing mobile and personal communications networks, as well as for fixed networks (Green Paper for mobile and personal communications, Green Paper on the liberalisation of telecommunications infrastructure and cable television networks, op. cit. .

46 Article 7 requires Member States to 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 y a body independent of the telecommunications organisations"

Whilst National Regulatory Authorities (NRAs) now formally exist in most Member States, the Commission considers that the degree of separation between these and those of the operator functions is still not sufficiently clear in at least five Member States.[47].

This issue of the independence of the National Regulatory Authorities was raised in a number of preliminary referrals to the Court of Justice relating to Article 6 of Directive 88/301/EEC (the 'Terminals Directive') , which required Member States, as of 1 July 1989, to ensure that the fixing of technical standards as well as supervision of type approval, were carried out by bodies independent from public or private undertakings involved in the marketing of telecommunications equipment. In its judgements of 27 October 1993[48], the Court found that this requirement had been infringed in France where, at that time, departments in the same Ministry were responsible for the commercial exploitation of the public network, and the fixing of technical standards, the supervision of conformity and the approval of terminal equipment.

Article 7 of the Services Directive to a large extent mirrors the wording of Article 6 of the Terminals Directive. The implementation by the Member States of the former must be considered in view of this past judgement. A mere legal or administrative separation between the functions - such as that between two services of a Ministry - would only be sufficient to comply with Article 7 under the following conditions:

- it must be shown that there is a *'real' separation*
- in particular, there must be *financial independence* of one from the other
- any *movement of personnel* from the regulatory body to the operational body should be subject to special supervision.

Forms of structural separation offering a reasonable guarantee that such conditions would be upheld, include :

i the granting of the regulatory functions to a department of the relevant Ministry

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47 For example, in the Netherlands, the regulation is carried out by the Ministry for Transport and Public Works through the Directorate General for Post and Telecommunications. The Ministry is, however, also the majority shareholder of KPN which has still the exclusive right to install, maintain and operate the telecommunications infrastructure, and provides the mandatory services to each applicant.

Some questions have also been raised about how distinct a separation of powers exists between regulator and operator in Belgium, Spain, and Greece. The Belgian Government has, however, stated its intention to respect the complete autonomy of the public operator BELGACOM in the area of non-reserved services in response to Commission concerns. In Spain, the Director General for Telecommunications (responsible for regulation) is also the Government Delegate on the Board of directors of Telefónica, although such a delegate could legally come from another Ministry. In Greece, while functions have been formally separated, the continuous movement of personnel from the operational body to the regulatory body makes the practical separation of these bodies unclear.

48 The cases Decoster et al (C-69/91) and Taillandier (C-46/90)

when the telecommunications undertaking is itself controlled by private shareholders, or

ii the granting of the relevant regulatory functions to a body, which is independent from the relevant Ministry (except for the control of its accounts and the legality of its decisions) when the latter is also acting as sole or dominant shareholder of the operator or where a considerable state shareholding in the operator remains.

Alongside the legal guarantees and general rules implied by the Directive, actual practice and spirit are an important test of compatibility with Article 7. How "independence" is actually achieved institutionally will therefore vary, to a certain degree, according to the legal tradition and experience in each Member State.

IV Inclusion of Satellite Networks and Services Directive 94/46/EC

On 13 October 1994, the Commission adopted Directive 94/46/EC. This Directive extends the Terminal Directive[49] to include satellite earth station equipment and extends the Services Directive to include satellite communications services[50].

a) The significance of the amending Directive

The aim of the Union's policy in the area of satellite communications, shared by the Council and the Commission, is to stimulate without delay greater use of satellite communications in the EU. This is particularly important given the widening gap between the delay in development of EU business satellite communications compared to that which its major competitors enjoy.

The Directive requires the abolition of all exclusive rights granted for the provision of satellite services, and the abolition of all special rights[51] to provide any telecommunications service covered by the Directive.

b) Voice telephony

The amended Directive does not affect restrictions on offering voice telephony for the public via satellite network. However, this must not lead to technical restrictions. While recital 16 states that "in the case of direct transport and switching of speech via satellite earth station networks, commercial provision for the public in general can take place only when the satellite earth station network is connected to the public switched network", this is merely a guide as to what is normally the case. It should not be understood as allowing technical restrictions to protect the voice telephony monopoly. The burden of proof that the new service actually constitutes "voice telephony" rests with the regulator.

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49 Commission Directive of 16 May 1988 on competition on the markets in telecommunications terminal equipment (88 / 301 / EEC, OJ L131 / 73, 27.5.88)

50 Directive 94/46/EC constitutes the central measure for implementing the liberalisation objectives for the satellite sector, set forth by Council Resolution 92/C 8/01 (based on the Green Paper on satellite communications, COM(90)490).
Other measures in this field are Council Directive 93/97/EEC of 29th October 1993, relating to mutual recognition of type approval for satellite terminals and the proposal for a European Parliament and Council Directive on a policy for the mutual recognition of licences and other national authorisations for the provsiion of satellite network services and/or satellite communications services, COM(93)652, 4.1.94.

51 Special rights is defined in the Directive as "limiting the number of undertakings authorised to provide telecommunications services otherwise than according to objective, proportional and non-discriminatory criteria or designating otherwise than to such criteria several competing undertakings to provide such services".

In fact, the provision of voice for closed user groups will often involve such connections with the public switched network, since some members of such groups will not be connected to the network via satellite stations[52].

c) Broadcasting services

The status of broadcasting services are also unaffected by Directive 94/46/EC. One has, however, to distinguish between the content and the technical provision of broadcasting services. As mentioned in recital 17, the provision of satellite network services for the conveyance of radio and television programmes is, by its very nature, also a telecommunications service and there is therefore no justification for treating it differently from any other telecommunications service. The Directive, thus, makes a distinction between:

* the services provided by the carrier (transmission, switching and other activities) necessary for the *conveyance* of the signals, which are telecommunications services liberalised under the Directive, and

* the activities of those bodies which control the *contents* of the messages to be broadcasted, which are broadcasting activities falling outside the scope of this Directive.

Satellite broadcasting services which should now be liberalised under this Directive therefore include services provided over telecommunications operator's feeder links from studios/events to uplink sites, as well as uplink services for point to point, point to multipoint, direct-to-home (DTH) satellite broadcast services and services to cable-head ends.

d) Access to space segment

Member States are required by the Directive to abolish all restrictions on the offer of space-segment capacity on their territory.

This means that the Member States now must ensure that:

* any regulatory prohibition or restrictions on the offer of space segment capacity to any authorised satellite earth station network operator are abolished,

* any space segment supplier is authorized to verify within its territory that the satellite earth station network for use in connection with the space segment of the supplier in question, is in conformity with the published conditions for access to his space segment capacity.

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52 According to the definition given, closed user groups are indeed not to be defined technically, by the network to which their members are connected and which should not be accessible by third parties but sociologically by the economic or professional relationship among their members.

In its Communication of 10 June 1994 on satellite communications relating to the provision of - and access to - space segment capacity[53], the Commission announced its intention to use the competition rules to remove all national restrictions within the European Union on access to space segment. The discovery procedures set out in Article 3 of the Directive will, in particular, be implemented to gather the necessary information to achieve this purpose.

e) International Satellite Organisations

The new obligations related to space segment do not directly affect the position of the telecommunications organizations as signatory of international organisations. However, Member States are obliged to ensure that there are no restrictive provisions in their national regulations which would have the effect of preventing the offer of space segment capacity in their territory by either another signatory of the relevant organisations or by independent systems. Similarly Member States are obliged to ensure that there are no regulatory or non-regulatory restrictions preventing space segment capacity already leased by a licensed operator in one Member State from being freely accessed from any other Member State. Such restrictions include those preventing parties other than the signatory in the Member State(s) concerned from verifying the technical and operations specifications of satellite earth stations.

Article 3 of Directive 94/46/EC requires Member States to communicate to the Commission, at its request, the information relating to international satellite organisations they possess on any measure that could prejudice in particular compliance with the competition rules of the EC Treaty. Recital 21 explains that this provision aims amongst others to monitor the review which is underway within these international organisations to improve access.

Article 3 of Directive 94/46/EC does therefore also not directly affect the position of the signatories. However, if it appeared that signatories continue to maintain mechanisms dissuading multiple access and thus favouring market sharing for the provision of space segment, the Commission would have to assess whether action should be taken under the competition rules of the Treaty against the relevant signatories.

The coupling of investment obligations and utilisation could constitute such a dissuasive mechanism, where it dissuades signatories to market space segment by the threat of having to bear an increased investment share. With international organisations, and in particular EUTELSAT, operating in increasingly competitive markets, the current investment requirements will therefore, if they are not amended, have to be thoroughly assessed under the Competition rules.

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[53] COM(94)210 final.

f) Time table for implementation

The Directive gives Member States nine months to inform the Commission of the measures taken to transpose the Directive into national law. The Member States should thus communicate to the Commission before 8 August 1995, a copy of the measures taken to abolish the current restrictions on the provision of satellite services, and of any licensing or declaration procedure which is currently in force or is being drafted for the operation of satellite networks. The aim is to allow the Commission to assess whether these conditions are necessary with a view to satisfying essential requirements. The information provided to the Commission should include possible fees imposed as part of these authorization procedures as well as the criteria upon which these fees are based.

Recital 22 which mentions that the Commission will also take into account the situation of those Member States in which the terrestrial network is not yet sufficiently developed must be seen in the framework of this notification requirement. Member States which would deem necessary a deferment of the date of full application of the above mentioned provisions[54] should request it formally and with the necessary justification within the time period provided for the communication of the implementation measures of the Directive, i.e. before 8 August 1995. The Commission will then assess whether it should refrain from insisting on the immediate liberalisation of the relevant satellite services. This would, however, not prevent possible actions in national courts brought by third parties in these Member States.

Given the wide variety of satellite services, the motivation given should, in the first place, include the list of satellite network services for which the deferment is requested, accompanied by estimates of the markets concerned.

It should further explain which services of the national Telecommunications Organisations would be affected, and on the basis of the turnover of these services and their contribution to the financing of the public network, a potential negative impact on the future development of the public network should be demonstrated.

The Commission will apply to the proportionality principle. The Commission will in any case insist on, for example, the liberalisation of services which are economically insignificant.

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[54] This derogation can apply up to 1st January 1996 at the latest.

V FUTURE EVOLUTION IN THE CONTEXT OF SERVICES AND INFRASTRUCTURE LIBERALISATION

While major attention will have to continue to be paid to the full effective implementation of the Services Directive, the future development of the Directive must be considered within the overall context, which was determined by the review carried out according to the provisions of the Directive during 1992, leading to Council Resolution 93/ 213/01 of 22 July 1993 on full service liberalisation by 1 January 1998, now supplemented by Council Resolution 94/C379/03 of 22 December 1994, integrating infrastructure liberalisation into this time schedule.

According to Council Resolution 93/ 213 / 01 the Commission should

"... prepare, before 1st January 1996, the necessary amendments to the Community regulatory framework in order to achieve liberalisation of all public voice telephony services by 1 January 1998.."

Given its central role in lifting the restrictions to competition and ensuring fair market conditions, amendments to the Services Directive will represent a focal point of these measures.

As set forth in the Green Paper (Part I) on telecommunications infrastructure liberalisation[55]:

Under the Directive 90/388 on competition in the markets for telecommunications services, the provision of all telecommunications services was opened to competition, subject to four significant exceptions

- satellite services
- mobile telephony and paging services
- radio and TV broadcasting services to the public, and
- voice telephony services to the general public.

Directive 90/388 in its original form did not address the use of alternative infrastructures and cable TV networks for the provision of liberalised services. Directive 90/388 only required the removal of restrictions on the use of a single source of infrastructure, namely leased lines provided by the TOs, for the provision of liberalised services.

As regards the exceptions set out above, the following applies :

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[55] Op cit

- Commission Directive 94/46/EC[56], amending Directives 88/301/EEC (telecommunications terminal equipment) and 90/388/EEC (telecommunications services) in particular with regard to *satellite communications*, adopted on 13 October 1994 has lifted the exception with regard to satellite services. As set out under IV., Member States are given 9 months to communicate implementation measures taken.

- On 21 December 1994, the Commission adopted, for consultation, a draft amending Directive concerning the liberalisation of the use of cable TV networks for the services already liberalised according to the Services Directive, providing for substantial opening of the further development of these networks, particularly with regard to multi-media.

- The Commission Communication on the consultations following the Green Paper on *Mobile and Personal Communications* was published on 23 November 1994[57]. It proposed the lifting of all special and exclusive rights with regard to mobile services by 1 January 1996. The corresponding amendments to the Services Directive will have to be considered.

Finally, a major issue will be the adjustment of the telecommunications regulatory framework to the objectives of the Council resolutions of 22 July 1993 and 22 December 1994, integrating the date of 1 January 1998 for full liberalisation (with additional transition periods for certain Member States), to be proposed before 1 January 1996. As set forth in the Infrastructure Green Paper (Part II)[58], such an approach must aim at creating the optimal environment for the future development of the European Union's telecommunications sector by combination of both competition policy and sector specific regulation.

Besides the adjustment of the existing harmonization Directives in the telecommunications sector (such as ONP Directives) and the working out of proposals for maintaining universal service and ensuring interconnection, as well as the review of the institutional arrangements for regulating the sector, this will in particular require further adjustment of the Services Directive.

At the Council of 17 November, the Commission has welcomed the agreement on the date of 1998 as the deadline for the liberalisation of infrastructure for all telecommunication services. It has also taken note of the concerns of a number of Member States expressed at this Council, to undertake early measures for the liberalisation of alternative infrastructures for services already liberalised according to the Services Directive. This aspect will need further consideration.

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56 see section IV

57 COM(94) 492 final: Communication to the European Parliament and the Council on the Consultation on the Green Paper on Mobile and Personal Communications

58 Op. cit.

V. CONCLUSION

Commission Directive 90/388/EEC represents the most significant legislative measure for liberalising EU telecommunications to date. The Commission will ensure that maximum effort and resources are directed towards solving identified problems and filling gaps in implementation.

The 1992 Review revealed that the effectiveness of the measures liberalising the telecommunications sector (concerning at that stage, in particular the liberalisation of data communications, value added services and the provision of data and voice services to corporate users and closed user groups) was questioned by many service providers and users of such services. It has also been understood that implementation of the Services Directive is hampered by the non-availability of infrastructure under reasonable conditions.

In particular, high tariffs for and lack of availability of the basic infrastructure over which liberalised services are operated or provided to third parties have delayed the widespread development of high speed corporate networks in Europe, remote accessing of databases by both business and residential users and the deployment of innovative services such as telebanking and distance learning. Additionally, the regulatory restrictions in many Member States still prevent the use of alternative infrastructure operated by third parties, such as cable TV-networks and networks owned by energy companies, railways, or motorways to meet their internal communications needs. Many user associations and companies have stressed that European business is less competitive, that innovative services are more slowly deployed and that the creation and development of pan-European networks and services is being delayed as a result.

The importance of effective and affordable infrastructure is increasingly recognised in political debate within the Member States themselves. The European Parliament has called on the Commission to adopt, as soon as possible, the necessary measures.

The continued bottleneck situation has been emphasized as a key obstacle to the development of the European Information Infrastructure in the report on *Europe and the global information society*. The Action Plan towards the European Information Society adopted by the Commission in response has set a general framework.

Further emphasis on effective implementation of the telecommunications Services Directive and its future evolution will take account of these general objectives. It is with this intention in mind, that the Commission transmits this Communication to the European Parliament and to the Council.

ANNEX I

MEMBER STATE IMPLEMENTATION OF DIRECTIVE 90/388/EEC

The following represents a short overview of the state of implementation of the Directive in individual Member States. Given the rapid development in this field, reference should be made to National Regulatory Authorities for more detailed information.

The overview does not include information with regard to implementation in the European Economic Area.

BELGIUM

The Directive is implemented in Belgium by the law of 21 March 1991[59]. With regard to telecommunications it transforms the Régie des Télégraphes et des Téléphones/Regie van Telegraaf en Telefoon (RTT) into the public autonomous company BELGACOM.

As regards the definition of the reserved service in the Belgian law, Article 68 defines the 'Telephone Service' as the telecommunications service intended for the direct carrying and real time switching of vocal signals at the start and at the destination of the connection points, including the services necessary for its operation. In letters of July 1991 and June 1993 the Belgian Government confirmed that it interprets the law in the way intended by the Directive.

Where a provider wishes to supply liberalised services, a list of non-reserved services can be established by Royal Decree which, by derogation, would automatically be authorised providing that the applicant informs the IBPT of the service. Thus far, however, the Commission is not aware of such a list. In its absence, the applicant must give the IBPT two months prior notice of its intention during which time the IBPT can oppose the provision of the service if it deems it contrary to the 1991 law. Article 89(5) states that the IBPT must provide a reasoned decision if it refuses to authorise the provision of a service.

Belgium is one of three Member States to have adopted additional licensing conditions for the provision of packet- or circuit-switched data services for the public. This is allowed under Article 3 of the Directive as long as the Commission approves the conditions, which it did in July 1993.

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[59] Moniteur Belge, 27 March 1991, p.6155 and corrigendum in Moniteur Belge 20 July 1991. The same law also implements the Directive on competition in the markets for telecommunications terminal equipment, Commission Directive 88/301/EEC.

Under Article 85 of the 1991 Belgian Law, BELGACOM can only refuse a user access to a leased line on the basis of the essential requirements recognised by Community Law. Further, as defined in the management contract (Art 21(3)), BELGACOM must satisfy at least 90% of the registered applications for ONP-leased lines within three months unless otherwise agreed with the customer.

With respect to the issue of the independence of BELGACOM from the regulatory authority as required by Article 7 of the Directive, under the 1991 law regulatory powers are assigned to the Minister responsible (assisted by the national regulatory authority, Institut Belge des Services Postaux et des Télécommunications, IBPT). The Belgian Government has stated that it will respect the complete autonomy of BELGACOM in the area of non-reserved services.

DENMARK

The Directive has been implemented in Denmark by Law No. 743 of 14 November 1990 and the Consolidating Order No.398 of 13 May 1992.

Under the Act, the Minister of Communications can grant a concession to TeleDanmark on the establishment and operation in relation to public radio and fixed services as well as of voice telephony, text and data communication, provision of leased lines, mobile communications and satellite services, and transmission of radio and TV programmes.

An area of concern, and indeed the issue which led to the commencement of infringement proceedings against Denmark, was the definition of "voice telephony" which is reserved to TeleDanmark. The initial law reserved all of the non-public transmission of traffic to TeleDanmark with the sole exception of voice telephony over leased lines between different legal entities (i.e. shared use). This clearly left too many restrictions on the usage conditions of leased lines in place, in contravention of the Directive.

The Commission closed its proceedings after the adoption by the Danish Government of Order No. 905 of 2 November 1994 which allows anyone to provide domestic public voice telephony without requiring any form of authorization or declaration. As regards international calls, a license is required where calls originating from the PSTN are carried via leased lines and then returned back to the PSTN. Such licence is only granted for traffic to countries which have liberalised voice telephony.

The Order was adopted under Article 3 of the 1990 Danish Act, which entitles the Minister to issue regulations for the establishment and operation of services which are not covered by TeleDanmark's concession or special rights.

The rules to be applied to packet- and circuit-switched data services after 31 December 1992 were stated in the Danish Order of December 1992. There is a slight discrepancy between the scope of these rules, and that intended by Article 3 of the Directive since the Order covers *all data communications services*.

FRANCE

The French government has implemented the Directive mainly through the adoption of Law No. 90-1170 of 29 December 1990 on the regulation of telecommunications. This Law is a modification of the "Code des Postes et Télécommunications" (the Code) which gives France Telecom an exclusive right to establish telecommunications network infrastructures open to the general public.

Article L 34 specifies that only services provided to the public are covered by the Law. Article L.32-7 of the Code defines reserved voice telephony as the commercial provision of a system of direct, real-time voice transmissions between users connected to termination points of a telecommunications network. All other services provided to the public are liberalised subject to a declaration procedure or, for services of 5 Mbits/sec or more, to a licensing procedure[60].

According to Article L.34-2, France Telecom is authorised to supply any bearer service (this is how the French regulation qualifies the provision of simple resale of packet or circuit-switched services). Other providers need a licence. France has adopted additional licensing conditions for the provision of such bearer-service. A final draft Decree for the application of Article L.34.2 relating to bearer services was transmitted to the Commission which decided, on 26 November 1992, not to object to its entry into force. The Decree was formally adopted on 30 December 1993 and published in the French Official Journal of 31 December 1993 (p.18276). This decree sets out a number of conditions relating to:

- the essential requirements,
- the measurement and the publication of the characteristics and the area of coverage of the service (Article 2)
- the respect of technical constraints concerning access to the service (Article 3)
- the interconnection with other bearer services (Article 4)
- national defence and public security as regards the encryption of data (Article 5),
- fair competition.

The authorization of France Telecom to provide this service, cannot be transferred to its subsidiaries. TRANSPAC, which is a subsidiary of the Compagnie Générale des Communications (COGECOM), itself a 100 % daughter of France Telecom, had therefore to request a licence which was granted by order of 15 July 1993 (French Official Journal of 8 August 1993, p. 11224).

As regards the separation of regulation and operation (Article 7), the Minister for Industry, Posts and Telecommunications and Foreign Trade ensures that the regulations are respected by the public operators and, furthermore, that the regulation of the telecommunications sector on the one hand, and the operation of networks and the provision of telecommunications services on the other hand, are performed independently. He exercises his rights through the "Direction Générale des Postes et Télécommunications" (DGPT).

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[60] The following companies were granted a licence: SITA, BT, SPRINT, SLIGOS, GSI, EDT and ESPRIT TELECOM.

GERMANY

Two German laws adopted on 8 June 1989 define the legal framework for the provision of telecommunications services: the Postverfassungsgesetz (PVG), which delimits the organisation and tasks of the Ministry for Post and Telecommunications and of Deutsche Bundespost Telekom; and an amendment of the Fernmeldeanlagegesetz (FAG), defining among other things, the monopoly retained by the State. The legal framework was substantially amended by Law of 14 September 1994 (Postneuordnungsgesetz -PTNeuOG), which came into force on 1 January 1995.

The new Act did not however alter the definition of the "voice telephony" reserved to the DBP Telekom, although the Commission had in April 1994 drawn the attention of the German Government to the fact that it is broader than that in the Directive. Essentially three issues arise. Firstly, the definition uses the wording "for third parties" as opposed to "for the public". As a consequence, the switching of voice for closed user groups is part of the monopoly. Secondly, the terms "switching of voice" in the Law are interpreted in practice as including also mixed telecommunications (voice combined with data or images) in the monopoly, when the exchange of speech can technically be dissociated from data communication as is the case as regards videophony on ISDN. Finally, the definition covers all switching of voice, without distinguishing whether the voice both originates in and is switched to the public switched network. According to the Directive the switching of voice originating in a leased line network or switched to such a leased line network should not be reserved.

Following bilateral contacts, the first issue was provisionally settled to a large extent. The German Law (FAG) reserves voice telephony for third parties, which is more than voice telephony "for the public" as allowed according to the Directive. To restore conformity between German and Community Law, the German Ministry for Post and Telecommunications, instead of changing the Law, used its licensing powers to allow by order (Verfügung) No. 1/1993, of 6 January 1993 and 8/1993 of 13 January 1993, private companies to provide telephony to closed user groups. The order established a class license (Allgemeingenehmigung) for the provision of the service to entities which are economically integrated.

As regards Article 6 of the Directive, Section 29 TKV provides that a connection licence (Anschalteerlaubnis) is required for terminal equipment for connection to the network termination of transmission lines. The Commission views such a restriction as contrary to Article 6 of the Directive since it delays the use of equipment, already type approved, used in the switching and processing of signals (such as concentrators) to connect leased lines networks with the public switched telecommunications network. The issue has been raised with the German authorities which will abolish the relevant provision. In the meantime, the ministry has granted a class connection licence (Vfg 269/1994).

The powers referred to in Article 7 of the Directive were until 31 December 1994 exercised by The Minister for Posts and Telecommunications. Under the new regime, the Ministry will be assisted by a Regulation Council (Regulierungsrat), including representatives of the Länder and the Federal Parliament (Bundestag). On the other hand, the government share in DBP Telekom, which was transformed into a joint stock company, will now be managed by a distinct office: the Bundesanstalt für Post und Telekommunikation (BAnst PT).

GREECE

Greece implemented the Directive by means of Law No. 2075/92 of 21 July 1992, which has never been brought fully into effect as the Greek government failed to adopt the order setting out the internal working rules of the independent regulatory body set up by the Act. On 20 October 1994, this law was replaced by Law No. 2246/94. The legislation does also not provide a complete regulatory framework and will necessitate further secondary legislation which has not yet been adopted.

Given the failure of the Greek government to adopt timely implementation measures of the Services Directive the Commission has started proceedings before the Court of Justice under Article 169 of the Treaty.

Article 2 (15) of Law No. 2246/94 defines "voice telephony" using the same wording as the Directive. However, Article 3 (2) of the Law states as principle that voice telephony is reserved and acknowledges only in a second stage that all other services are liberalised. Consequently, there is a threat of a broader definition of the reserved voice telephony in Greece. Moreover, this Article makes the liberalisation of these services subject to the condition that their provision is compatible with the proper fulfilment of the mission assigned to the public operator OTE.

Liberalised services are, according to this Article 3 (2), subject to either an individual licence or to a declaration, depending on the limit of the capacity of leased lines used. The threshold has not yet been established.

As regards simple resale of packet - and circuit - switched data transmission, Greece applied by letter of 7 February 1992 for the derogation until 1 January 1996 under Recital 11 of the Directive. After the adoption of Law No. 2075/92, which did not distinguish packet- and circuit-switched data transmission from other liberalised telecommunications services, Greece confirmed by letter of 27 May 1993, that it did no longer seek such a derogation and that packet- and circuit-switched data transmission was liberalised.

According to Law No. 2246/94, the independent regulatory authority referred to in Article 7 of the Directive, is the National Telecommunications Commission (EET), under the supervision of the Minister of Transport and Communications. The EET is the relevant authority for frequency allocation, numbering, licensing and type approval, as well as for ensuring compliance with national and EEC Treaty competition rules. It is not yet operational. In the mean-time, the Ministry exercises its competence.

IRELAND

Ireland has adopted specific regulations to give effect to the Directive. These are contained in "Statutory Instrument S.I. No.45 of 1992, European Communities (Telecommunications Services) Regulations 1992." which have amended the Postal and Telecommunications Services Act, 1983.

In the area of voice telephony, the definition of "public voice telephony" expressed in S.I. No.45 mirrors that in the Directive. The exclusive right granted to Telecom Eireann under Section 87 of the 1983 Act is restricted to offering, providing and maintaining the public telecommunications network and offering, providing and maintaining voice telephony services under Regulation 3(1) of S.I. No.45. Value added licences can be obtained under Article 111 of the Act of 1983 for provision of any other service, including voice for closed user groups or voice services making use of only one connection point between leased lines and the public switched network. By end 1994, 20 such licences were granted.

Statutory Instrument No.45 of 1992 sets out the rights of these licensees as regards access to and use of the public telecommunications network. The conditions applied must be objective, non-discriminatory and published. Similarly, under Regulation 4(3) of the S.I., requests for leased lines have to be met within a reasonable period , and there should be no restrictions on their use other than to ensure non-provision of telephone services, the security of network operations, the maintenance of network integrity and, in justified cases, the interoperability of services and data protection.

With respect to Article 7 of the Services Directive, The Minister for Transport, Energy and Communications is responsible for surveillance of Telecom Eireann according to Regulation 5 of S.I. No.45.

ITALY

The Directive has been included in the Law No. 142 of 19 February 1992, "Legge Comunitaria for 1991" (LC 1991), which delegated to the Government the power to issue, within one year after its coming into force (i.e. by March 6, 1993), a number of legislative decrees for the implementation of the EEC Directives listed in Annexes A and B, including the Services Directive. The legislative decree implementing the Services Directive was, however, not adopted within this deadline. Subsequently, the Italian Government included the Services Directive in Article 54 of Law No. 146 of 22 February 1994 (legge comunitaria 1993).

This Article repeats the specific principles and criteria to be followed in the preparation of the legislative decree implementing the Directive, which were mentioned in LC 1991. Consequently it still provides for a specific licensing procedure for the supply of packet- or circuit-switched data services although the deadline set out in Article 3 of the Service Directive for the introduction of such scheme had already elapsed. Given that under the direct effect of Articles 2 and 3 of the Directive simple resale of capacity was liberalised in Italy without any further restrictions, the Italian government shall have to provide appropriate justifications for the reintroduction of any additional restrictions in that respect.

The legislative decrees have not been adopted yet, and the Commission is considering taking Italy to the Court of Justice for failure to notify the implementation measures of the Services Directive.

In the meantime, Article 1 of the Italian Postal Code of 1973, stating that "telecommunication services ... exclusively pertain to the State" remains applicable although Article 2 of the Directive implies that this Article, as well as all other provisions setting out the state monopoly for telecommunications services, should be changed to allow private operators the right to provide all telecommunications services excluding well defined areas reserved to the State. According to the Italian legal framework, only value added services listed in Article 3(para.2) of the National Regulatory Plan for Telecommunications, enacted by a Ministerial Decree of 6 April 1990, may be provided.

However, in a decision of 10 January 1995, the Italian Antitrust Authority (Autorità Garante) stated, disregarding the mentioned Italian regulation, that a refusal of Telecom Italia to provide leased lines to a private company wanting to offer voice services liberalised under the Directive is an abuse of dominant position and requested Telecom Italia[61] to present, within 90 days, the actions taken in order to remove the restrictions to competition in the market for voice services for corporate networks/closed user groups, including virtual private networks. The Antitrust Authority bases this decision on the direct effect of Articles 1 and 2 of the Services Directive in Italy. Telecom Italia has appealed against the decision.

With the implementation of Act 58/92 on the reorganisation of the telecommunications sector, regulatory and operational functions were, in principle, separated by transferring the operating bodies of the Ministry, namely ASST, to Iritel, a company of the IRI Group. A bill on "Public Utility Services Regulatory Authorities" (No. 359) is currently pending at the Italian Parliament., which will, if adopted, create, inter alia, a regulatory body for post and telecommunications. However, no date is yet anticipated for its adoption.

LUXEMBOURG

Two legislative acts were adopted in 1990 in order to implement the Directive, the Regulation (Règlement grand-ducal) of 3 August 1990 establishing the general rules applicable to public telecommunications services and the Regulations of 8 October 1990 concerning public telephone service, telecommunications leased lines, public luxpac service, public alarm transmission service and public automatic telephone service - Serviphone.

The Luxembourg authorities have, by letter of 22 October 1991, declared their intention to amend the definition of "basic telephonic service" in the Regulation and add the term "to the public".

The Law of 20 February 1992 transformed the former Administration des P&T into a public undertaking with a separate legal identity, to comply with the requirement of Article 7 of the Directive to separate regulatory and operational functions. The Minister for Posts and Telecommunications exercises all regulatory responsibility in respect of the establishment and operation of the telecommunications networks.

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[61] Telecom Italia was created on 18 August 1994 out of a merger between SIP, Italcable, IRITel, Telespazio and SIRM.

NETHERLANDS

The basic telecommunications legislation in the Netherlands (Act No. 520 on the telecommunications facilities (Wet op de Telecommunicatievoorzieningen) ("WTV") of 26 October 1988, which came into force on 1 January 1989, was drafted before the publication of the Commission Green Paper of 1987. It therefore uses a terminology which is substantially different from the terminology used in the Directive.

Reserved voice telephony is defined in Article 2 of Decree No 551 of 1 December 1988 which lists the mandatory services of KPN (Koninklijke PTT Netherlands). According to the definition, the reserved service is not limited to a service which is provided on a commercial basis. Secondly, it does not limit the monopoly to voice telephony "for the public". Thirdly, it does not take into account whether the provision of the service implies the use of two connection points of the relevant leased lines. These issues have been discussed in bilateral contacts between the Dutch authorities and the Commission services. The Dutch authorities have subsequently published a notice on 30 May 1994 allowing voice services to closed user groups. However, the issue of voice services provided on leased lines and using only one connection with the public switched network is still under discussion.

The Ministry for Transport and Public Works (Verkeer en Waterstaat) is the body entrusted with regulatory responsibilities for telecommunications and it may give detailed instructions to KPN concerning the execution of the general Directives (BART) and the obligations relating to mandatory services. This ministerial responsibility includes general tariff policy for public telecommunications services (which, in application, is similar to 'price capping' in the UK).

PORTUGAL

As in the case of the Netherlands, the regulatory framework for telecommunications in Portugal predates the adoption of the Directive. The "Basic Law on the Establishment, the Management and the Exploitation of Telecommunications Infrastructures and Services", Law 88/89, ("Basic Law") was adopted on 11 September 1989 before the adoption of the Directive. This explains in part why the terminology used often differs markedly from that of the Directive. The Basic Law, and in particular the distinction between complementary and value added services, is technology-based rather than services-based.

On the issue of reserved services, the Portuguese legislation does not define services whose provision is reserved to public carriers as narrowly as the Commission Directive. Firstly, Article 2(2) of the Basic Law defines "telecommunications for public use" as all services which are designed to meet the generic collective requirements for transmitting and receiving messages and information. This is a broader definition than the concept of public in the Directive. It is true that the Basic Law lists telecommunications for private use in Article 2(3) and that this list encompasses at point h) "other communications reserved for the use of specific public or private entities by means of an authorization granted by the government under the terms of treaties or international agreements or special legislation". However, since the entry into force of the law, the Portuguese government has not adopted the necessary legislation to liberalise voice telephony or telex services provided for closed user groups. In September 1991, the Portuguese government announced the adoption of a ministerial order (diploma) on private networks to resolve this issue. By letter of 18 November 1993, the Portuguese authorities confirmed that they were still studying the issue and, in a subsequent bilateral meeting on 31 January 1994, no more precise undertaking on timing could be given.

Secondly, under Portuguese legislation voice telephony is defined more broadly than in the Directive. The Basic Law does not define voice telephony. The definition is included in Article 1 of the former Regulation of the Public Telephone Service annexed to the Decree (Decreto-Lei) 199/87 of 30 April 1987. The Basic Law refers to the technical operation of a fixed subscriber access system (which it defines as the set of transmission means located between a termination point and the first concentration, switching or processing node) without distinguishing between the situation, where this "access system" is a leased line or the PSTN ; nor does it take into consideration the number of connections to the leased line which may be used.

A third issue is the licensing conditions. According to the Directive, Member States may make the supply of telecommunications services subject to a licensing scheme, but only to warrant compliance with the essential requirements listed in the Directive. However, the Portuguese licensing scheme encompasses other obligations.

The liberalised services are divided in two categories: "complementary telecommunications services" and "value added services" according to a technical criterion : the use of own infrastructure, and in particular, concentration, processing and switching nodes. Therefore, most liberalised services come within the fixed complementary services category. The two types of services each have their own licensing conditions.

Article 4 paragraph 2 of the Directive requires Member States to ensure that there are no restrictions on the use of leased lines except those justified by essential requirements or the existence of the voice telephony monopoly. Article 14 of the Basic Law appears more restrictive as it allows only the use of leased lines voice traffic to the suscriber's own use or to the provision of complementary and value added services, and even requires a licence for the shared use of leased circuits.
Portugal claims that its complementary services scheme (Portaria 930/92) is in accordance with Article 3 of the Directive. This issue is however not settled.

Portugal separated regulatory and operational functions in 1989. According to the Basic Law, the Ministry is responsible for supervising and monitoring telecommunications. This includes the planning and co-ordination of the national public infrastructure and services which are

considered essential.

In practice the regulatory functions are delegated to the Institute for Communications of Portugal (ICP), leaving the Ministry to supervise the ICP and approve directives proposed by the ICP.

SPAIN

The *Ley de Ordenación de las Telecomunicaciones*, Law No. 31/1987 of 18 December 1987, ("LOT") is the legislation in force relating to telecommunications activities in Spain. In light of the Directive, the LOT has been amended by Law No. 32/1992 of 3 December 1992, which limited the reserved services to the basic telephone service, telex and telegrams, and a Royal Decree 804/1993 of 28 May 1993 implementing Article 3 of the Directive as regards basic data switching services.

As has been the case in some other Member States, the major issue in the Directive's implementation has concerned the definition of voice telephony and, hence, the reserved area. The LOT defines "basic voice telephony", in paragraph 15 of its annex, in terms identical to the definition of "voice telephony" in the Directive. However, following a complaint to the Commission, it seems that the Spanish authorities' understanding of this definition was not so clear and that, although defined in the Law, an administrative order would be required to define further Telefónica's basic voice telephony monopoly. This definition is not yet adopted.

Spain originally requested an extension period for exclusive rights for simple resale, as allowed under Recital 11 of the Directive, although such a request was not maintained. As regards the grant of concessions for the provision of packet or circuit switched data services, a scheme for its regulation was created by the Royal Decree of 28 May 1993. The draft had been notified to the Commission, but the text adopted did not take account of all the Commission's remarks. Issues relevant to this, particularly regarding the scope of the scheme, are being further discussed with the Spanish authorities

The regulatory powers referred to in Article 7 of the Directive are the responsibility of the Directorate General for Telecommunications (DGT). The DGT was created by Royal Decree of 19 June 1985. It grants concessions, authorizations and administrative licenses for equipment and services. The Director General for telecommunications is, however, also the Government Delegate on the Board of Directors of Telefónica. He has the right to veto decisions of the Board on grounds of public policy. Moreover, Article 15 of the LOT allows for the appointment by the Government of five other members of the Board.

UNITED KINGDOM

The legislation in force applying to telecommunications services is the 1984 Telecommunications Act which predates the Commission's Green Paper and Directive. The Act has been extended by a new policy building on the 1991 White Paper comprising amendments to existing licences, extensions of cable licences to include the provision of voice telephony services and the issuing of new licences.

UK legislation has generally preceded the Commission's Directive. For example, the exclusive rights of BT to provide the telecommunications services covered by Article 2 of the Directive were abolished in the UK by section 2 of the Telecommunications Act of 1984. Section 5 requires all persons who run telecommunications systems to have a licence (which may be an individual or class licence) .

As regards the provisions of Article 4 of the Directive, no precise definition of infrastructure, such as exists in Germany or the Netherlands has been set down. Section 4 of the TA instead defines a "telecommunications system" as : A system for the conveyance, through the agency of electric, magnetic, electro-magnetic, electro-chemical or electromechanical energy, of

- speech, music and other sounds
- visual images
- signals serving for the impartation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sounds or visual images; or
- signals serving for the actuation or control of machinery or apparatus

The Secretary of State designates certain of these systems as "public telecommunications systems". Operators of public telecommunications systems are authorised by individual licences and are generally granted PTO status. Around twenty public fixed link operators have been granted such licences, as well as 126 cable TV franchisees.

The 1984 Telecommunications Act, in conjunction with the Wireless Telegraphy Act 1949 also ensures that the regulatory functions specified in Article 7 are carried out independently of the Telecommunications Operators. This is largely through the work of OFTEL, a non-ministerial government department under the Director General of Telecommunications who, for the duration of his appointment, is independent of ministerial control.

SWEDEN

There has never been a legal telecommunications monopoly in Sweden. The de facto monopoly of Telia ("Televerket" at the time) was the result of a commercial process.

The current Regulatory framework of telecommunications is set out in the Telecommunications Act (Telelagen) of 1993. Under this Act there are no exclusive rights to provide telecommunication services (Art. 2.1. and 4). Any operator has the right to obtain a licence and to supply telecommunications services. Reasons are given in case of refusals and Article 37 of the Act states that appeals against such refusals may be lodged with the administrative court of Appeal.

Licences are required only for the operation of public networks and the provision of leased lines. Other services are subject only to a registration procedure.

There are no restrictions on the processing of signals before or after transmission via the public network (Art. 6.1), nor is there any discrimination in the conditions of use or in the charges payable (Art. 6.2).

As regards the separation of regulation and operation (Article 7 of the Directive), the

Telestyrelsen (Telecom Agency) is responsible for ensuring that regulations are respected by all operators. The Agency was set up on 1 July 1992. Its functionning is laid down in Förording 1992:895. The Agency may adopt sanctions, including the revocation of licences, against operators which do not comply with their obligation.

The Agency is headed by a Director General, under the supervision of a board, which is appointed by the Government. Telestyrelsen has also responsibilities in the defence area. The Agency is financed through fees levied on the basis of gross turnover of licencees and parties which registered.

The main telecommunication operator in Sweden is Telia, which was incorporated as a private limited liability company on 1 January 1993 according to Law 1992:100. It is a 100 % publicly owned company, supervised by the Ministry of Transport and Communications.

AUSTRIA

Austria implemented the Directive mainly through its Telecommunications Act (Fernmeldegesetz) Nr. 908/1993, which entered into force on 1 April 1994. Austria has however not yet notified the implementing decrees of this law, nor the general usage conditions of the public network.

The reserved telephone service is defined in Articles 44(2) and 2(6) of the Act. This definition does not fully correspond to the definition in the Directive. However, no licenses are required for the provision of liberalised services. Conditions for access to the public network and use of leased lines will, under Article 44(6) of the Act be laid down in the general usage conditions (Geschäftsbedingungen).

The public telecommunications operator is the Post und Telegraphenverwaltung (PTV). The law entrusts the regulatory tasks to the Ministry of Public Economy and Communications.

FINLAND

The basic regulatory framework of telecommunications is the telecommunications act 87/183 (Teletoimintalaki), which was amended in 1988, 1990 and 1992.

Under this framework, there are no more special or exclusive rights for the provision of telecommunications services, including voice telephony, in Finland. The whole tlecommunications sector has been opened to competition. Public telecommunications networks are operated by organizations with an operating licence granted by the Government.

Article 10 of the Act sets out the rights and duties of subscribers and in particular the right to lease lines as well as to use them to provide telecommunications services or to sub-lease them to others.

Public switched data communications are subject to notification only (Article 5(2) of the Act). In 1994, there were 63 organizations with operating licences and 13 notified organizations operating public switched data communications.

Articles 18 - 23 of the Act entrust the Ministry of Transport and Communications with the

general supervision and promotion of telecommunications. The day to day enforcement of the Telecommunications Act is, however, entrusted to the Telecommunications Administration Centre, which is an agency under the Ministry of Transport and Communications. In principle the costs of the centre are covered by licence and inspection fees.

Telecom Finland is 100 % state-owned but operates at arms length from the Ministry of Transport and Communications, although the members of its board as well as the top executives are appointed by the Government.

ANNEX II

LIST OF NATIONAL REGULATORY AUTHORITIES IN THE FIELD OF TELECOMMUNICATIONS

The survey of the national regulatory framework of the Member States in annex I has been drafted on the basis of the information officially notified to the Commission.

For more detailed information, interested persons should contact directly the National Regulatory Authorities of the Member States. The full address of these authorities were published in the Official Journal C 277/9 of 15 October 1993.

Belgium	Institut belge des services postaux et des télécommunications (IBPT) Avenue de l'Astronomie, 14 1000 Brussels
Denmark	Telestyrelsen Holsteingade 63 DK - 2100 København Ø
Germany	Bundesministerium für Post und Telekommunikation Postfach 80 01 D-53005 Bonn
Greece	Ministry of Transport Sygrou 49 Athens
Spain	Dirección General de Telecomunicaciones 5a. planta Plaza de Cibeles S/N E-28701 Madrid
France	Direction générale des Postes et Télécommunications 20, avenue de Ségur 75700 Paris
Ireland	Department of Transport, Energy and Communications Scotch Hause, Hawkins Street Dublin 2

Italy	Ispettorato generale delle telecomunicazioni Viale Europa 190 00 144 Roma
Luxembourg	Ministère des Communications 18, montée de la Pétrusse L - 2945 Luxembourg
The Netherlands	Ministerie van Verkeer en Waterstaat Hoofddirectie telecommunicatie en Post Postbus 20901 NL - 2500 EX 's Gravenhage
Portugal	ICP Av. José Malhoa Lote 1683 1000 Lisboa
United Kingdom	DTI 151 Buckhingham Palace Road London SW1W 9SS
Sweden	Telestyrelsen (Telecom Agency) Box 5398 S-10249 Stockholm
Austria	Bundesministerium für öffentliche Wirtschaft und Verkehr Kelsenstraße 7 A-1030 Wien
Finland	Teleförvaltningscentralen Hallonnäsgatan 8 BP 53 00211 Helsingfors

ISSN 0254-1475

COM(95) 113 final

DOCUMENTS

EN 08 15

Catalogue number : CB-CO-95-144-EN-C

ISBN 92-77-87692-1

Office for Official Publications of the European Communities

L-2985 Luxembourg