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Proposal for a

EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

**relating to telecommunications terminal equipment and satellite earth station
equipment, including the mutual recognition of their conformity**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him new opportunities and the chance to make use of the specific rights it gives him.

This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a consolidation of rules that have frequently been amended is also essential if Community law is to be clear and transparent.

2. On 1 April 1987 the Commission therefore decided to instruct its staff that all legislative measures should be consolidated after no more than ten amendments, stressing that this was a minimum requirement and that departments should endeavour to consolidate at even shorter intervals the texts for which they were responsible, to ensure that the Community rules were clear and readily understandable.

3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this, stressing the importance of official codification as it offers certainty as to the law applicable to a given matter at a given time. It must be undertaken in full compliance with the normal Community legislative procedure. Given that no changes of substance may be made to the instruments affected by official codification, Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

4. The purpose of this proposal⁽¹⁾ of the Commission for consolidation of European Parliament and Council Directive relating to the telecommunications terminal equipment and satellite earth station equipment, including the mutual recognition of their conformity, combining the following directives into a single text:

- Council Directive 91/263/EEC of 29 April 1991 concerning telecommunications terminal equipment, including the mutual recognition of their conformity,

and,

- Council Directive 93/97/EEC of 29 October 1993 supplementing Directive 91/263/EEC in respect of satellite earth equipment,

is to undertake official codification of this type. The new directive will supersede the various directives incorporated in it;⁽²⁾ their content is fully preserved, and they are brought together with only such formal amendments as are required by the codification exercise itself.

5. This consolidation proposal was drawn up on the basis of a preliminary consolidation, in all the official languages, of Directives 91/267/EEC and 93/97/EEC and the instruments amending it,

⁽¹⁾ Entered in the legislative programme for 1995.

⁽²⁾ See part A of Annex X.

2 (a)

carried out by the Office for Official Publications of the European Communities, by means of data-processing system referred to in the conclusions of the European Council meeting at Edinburgh. Although the articles have been given new numbers, the former number is printed alongside in each case for the reader's convenience; the correlation between the old and new numbers is shown in a table contained in Annex XI to the consolidated Directive.

Proposal for a
EUROPEAN PARLIAMENT AND
COUNCIL DIRECTIVE

..../.../EC
of ...

relating to telecommunications terminal equipment and
satellite earth station equipment, including the mutual
recognition of their conformity,

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social
Committee,⁽¹⁾

Acting in accordance with the procedure laid down in Article 189b of
the Treaty,⁽²⁾

- (1) Whereas Council Directive 91/263/EEC of 29 April 1991 on the approximation of the laws of the Member States concerning telecommunications terminal equipment, including the mutual recognition of their conformity,⁽³⁾ and Council Directive 93/97/EEC of 29 October 1993 supplementing Directive 91/263/EEC in respect of satellite earth station equipment⁽⁴⁾ should, for the sake of clarity and rationality be codified in a single text;

(1)

(2)

(3) OJ No L 128, 23. 5. 1991, p.1. Directive as amended by Directive 93/68/EEC (OJ No L 220, 30. 8. 1993, p.1).

(4) OJ No L 290, 24. 11. 1993, p. 1.

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| (2) Whereas the sector covering telecommunications terminal equipment and satellite earth station equipment is a vital part of the telecommunications industry, which is one of the industrial mainstays of the economy in the Community; | 5. 91/263/EEC
(adapted) |
| (3) Whereas the Commission, in its Green Paper on the development of the common market for telecommunications services and equipment, has proposed to accelerate the introduction of the full mutual recognition of type approval as the measure vital for the development of a competitive Community-wide terminal market; | 3. |
| (4) Whereas the Commission, in its Green Paper on a common approach in the field of satellite communications in the Community, has proposed the introduction of mutual recognition of type approval for satellite earth station equipment as one of the major preconditions for, <i>inter alia</i> , a Community-wide market for satellite earth station equipment; | 1. 93/97/EEC |
| (5) Whereas the Council, in its resolution of 30 June 1988 ⁽¹⁾ on the development of the common market for telecommunications services and equipment up to 1992, has confirmed as a major goal in the telecommunications policy the full mutual recognition of type approval for terminal equipment on the basis of the rapid development of common European conformity specifications; | 4. 91/263/EEC |
| (6) Whereas the Council, in its resolution of 19 December 1991 ⁽²⁾ on the development of a common market for satellite communications services and equipment, has recognized as one of the major goals in satellite telecommunications policy the harmonization and liberalization of appropriate satellite earth station equipment, subject, in particular, to conditions necessary for compliance with essential requirements; | 2. 93/97/EEC |
| (7) Whereas the Council, in its Decision 87/95/EEC, ⁽³⁾ has set out the measures to be implemented for the promotion of standardization in Europe and the preparation and implementation of standards in the field of information technology and telecommunications; | 2. 91/263/EEC |

(1) OJ No C 257, 4. 10. 1988, p. 1.
(2) OJ No C 8, 14. 1. 1992, p. 1.
(3) OJ No L 36, 7. 2. 1987, p. 31.

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|------|--|---------------|-----------------------------|
| (8) | Whereas the Council, in its resolution of 7 May 1985 ⁽¹⁾ has provided for a new approach to technical harmonization and standards; | 8. | |
| (9) | Whereas the scope of this Directive must be based on a general definition of the terms 'telecommunications terminal equipment' and 'satellite earth station equipment' so as to allow the technical development of products; whereas the scope excludes purpose-built satellite earth station equipment intended for use as part of the public terrestrial telecommunications network; whereas this is intended to exclude, inter alia, gateway satellite earth stations for major trunking applications within the context of the infrastructure provision (such as large-diameter stations) and earth stations for satellite tracking and control; | 15. | 93/97/EEC
(adapted) |
| (10) | Whereas this Directive does not affect current special or exclusive rights concerning satellite communications which may, in accordance with Community law, be retained by the Member States; | 16. | |
| (11) | Whereas harmonizing conditions for the placing on the market of telecommunications terminal equipment will create the conditions for an open and unified market; whereas the same applies to the goal of an advanced, open Community-wide market for satellite earth station equipment, which requires effective and efficient harmonized procedures for certification, testing, marking, quality assurance and product surveillance; whereas the alternative to Community legislation is an analogous system of provisions negotiated between Member States, which would involve obvious difficulties because of the number of organisms which would be involved in multiple bilateral negotiations; whereas this is not practicable, rapid or efficient; whereas therefore the objectives of the proposed action cannot be sufficiently achieved by the Member States; whereas on the contrary the form of a Community directive has repeatedly shown itself, in the sector of telecommunications among others, to be a practicable, rapid and efficient means; whereas the objective of the action under consideration can therefore be better achieved at Community level; | 6.
+
4. | 91/263/EEC

93/97/EEC |
| (12) | Whereas Community law in its present form provides - notwithstanding one of the fundamental rules of the Community, namely the free movement of goods - that obstacles to movement within the Community, resulting from disparities in national legislation on the marketing of products, must be accepted in so far as such requirements can be recognized as being necessary to satisfy imperative requirements; whereas, therefore, the harmonization of laws in this case must be limited only to those requirements necessary to satisfy the essential requirements relating to telecommunications terminal equipment and satellite earth station equipment; whereas these requirements must replace the relevant national requirements because they are essential; | 10. | 91/263/EEC
(adapted). |

(1) OJ No C 136, 4. 6. 1985, p. 1.

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| (13) Whereas the essential requirements must be satisfied in order to safeguard the general interest; whereas those requirements must be applied with discernment to take account of the state of the art at the time of manufacture, and economic requirements; | 11. | |
| (14) Whereas Council Directive 73/23/EEC of 19 February 1973 on the harmonization of the laws of the Member States relating to electrical equipment designed for use within certain voltage limits ⁽¹⁾ and Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations, ⁽²⁾ are applicable <i>inter alia</i> , to the fields of telecommunications and information technology; | 6. | 93/97/EEC |
| (15) Whereas Directive 73/23/EEC in general also covers safety of persons; | 7. | |
| (16) Whereas Council Directive 89/336/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to electromagnetic compatibility ⁽³⁾ sets out harmonized procedures for the protection of apparatus from electromagnetic disturbances and defines the protection requirements and inspection procedures relating thereto; whereas the general requirements of Directive 89/336/EEC apply <i>inter alia</i> to the fields of telecommunications and information technology and also to satellite earth station equipment; whereas electromagnetic compatibility requirements are covered by this Directive in so far as they are specific to satellite earth station equipment; | 8.
+
13. | 93/97/EEC

91/263/EEC
(adapted) |

(1) OJ No L 77, 26. 3. 1973, p. 29. Directive as amended by Directive 93/68/EEC.
(2) OJ No L 109, 26. 4. 1983, p. 8. Directive as last amended by Directive 94/10/EC (OJ No L 100, 19. 4. 1994, p. 30).
(3) OJ No L 139, 23. 5. 1989, p. 19. Directive as last amended by Directive 93/68/EEC.

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| <p>(17) Whereas in respect of the essential requirements and in order to help manufacturers to prove conformity to those requirements, it is desirable to have standards harmonized at European level to safeguard the general interest in the design and manufacture of terminal equipment and in order to allow checks as to conformity to those requirements; whereas these standards, harmonized at European level are drawn up by private-law bodies and must retain their non-binding status; whereas for this purpose the European Committee for Standardization (CEN), the European Committee for Electrotechnical Standardization (Cenelec) and the European Telecommunications Standards Institute (ETSI), are the bodies recognized as competent to adopt harmonized standards; whereas, for the purposes of this Directive, a harmonized standard is a technical specification (European standard or harmonization document) adopted by one of those bodies, on the basis of a remit from the Commission in accordance with the provisions of Directive 83/189/EEC, and in accordance with the general guidelines referred to above;</p> | <p>14. 91/263/EEC</p> |
| <p>(18) Whereas in respect of the essential requirements relating to interworking with public telecommunications networks and, in cases where it is justified, through such networks, it is in general not possible to comply with such requirements other than by the application of <i>ad hoc</i> technical solutions; whereas such solutions should therefore be mandatory;</p> | <p>15.</p> |
| <p>(19) Whereas the proposals for common technical regulations are, as a general rule, drawn up on the basis of harmonized standards, and in order to ensure appropriate technical coordination on a broad European basis, through additional consultations, in particular with the Telecommunications Regulations Application Committee (TRAC);</p> | <p>11. 93/97/EEC</p> |
| <p>(20) Whereas satellite earth station equipment is configured, as far as its interface to the space-based system is concerned, either for the emission of radio-communications signals or for both the emission and reception of radio-communications signals, or for the reception-only of radio-communications signals;</p> | <p>17. (adapted)</p> |
| <p>(21) Whereas satellite earth station equipment is, as far as the terrestrial interface is concerned, either intended or not intended for terrestrial connection to the public telecommunications network;</p> | <p>18.</p> |
| <p>(22) Whereas orbits (such as the geo-stationary orbit, low earth orbits and elliptical orbits) are paths in space described by satellites or other space-based systems, and are limited resources determined by nature;</p> | <p>19.</p> |

(23) Whereas orbital resources are used in conjunction with the radio frequency spectrum which is also a limited resource determined by nature; whereas transmitting satellite earth station equipment makes use of both those resources;	20.	93/97/EEC (adapted)
(24) Whereas the effective use of orbital resources in conjunction with the radio frequency spectrum and avoidance of harmful interference between space-based and terrestrial communications systems and other technical systems is of importance for the development of European satellite communications; whereas the International Telecommunications Union (ITU) establishes criteria for effective use of orbital resources as well as for radio-coordination to enable space and terrestrial systems to co-exist without undue interference;	21.	
(25) Whereas harmonizing conditions for the placing on the market of satellite earth station equipment will create the conditions _____ permitting an effective use of orbital resources and the radio frequency spectrum and will facilitate avoidance of harmful interference between space-based and terrestrial communications systems and other technical systems;	22.	(adapted)
(26) Whereas in respect of the essential requirements related to effective use of orbital resources and the radio frequency spectrum, and avoiding harmful interference with space-based and terrestrial communications systems and other technical systems, it is in general not possible to comply with such requirements other than by the application of special technical solutions; whereas common technical regulations are therefore necessary;	23.	
(27) Whereas satellite earth station equipment capable of being used for emission or for emission and reception of radio-communication signals may be subject to licensing, in addition to the provisions of this Directive;	25.	(adapted)
(28) Whereas satellite earth station equipment, capable only of being used for the reception of radio-communications signals, may not be subject to licensing but only _____ to the provisions of this Directive unless they are intended for terrestrial connection to the public telecommunications network, as proposed in the Green Paper on satellite communications in the Community _____; whereas the use of such satellite earth station equipment must be in conformity with national regulations compatible with Community law;	26.	

(29) Whereas it is essential to ensure that notified bodies are of a high standard throughout the Community and meet minimum criteria of competence, impartiality and financial and other independence from clients;	17.	91/263/EEC
(30) Whereas the Approvals Committee for Terminal Equipment (ACTE) composed of representatives of the Member States and chaired by the representative of the Commission, should assist the Commission in executing the tasks entrusted to it;	12.	93/97/EEC (adapted)
(31) Whereas representatives of the telecommunication organizations, users, consumers, manufacturers, service providers and the trade unions should have the right to be consulted;	28.	
(32) Whereas ACTE ————— should work in close cooperation with relevant committees dealing with licence procedures for satellite networks and services;	31.	(adapted)
(33) Whereas the Member States' responsibility for safety, health and the other aspects covered by the essential requirements on their territory must be recognized in a safeguard clause providing for proper Community protection procedures;	19.	91/263/EEC
(34) Whereas the addressees of any decision taken under this Directive must be informed of the reasons for such a decision and the remedies available to them;	20.	
(35) Whereas transitional arrangements are required in order that the manufacturers have the necessary time to adapt the design and production of satellite earth station equipment to meet the common technical regulations; whereas in order to have the necessary flexibility the transition arrangements must be worked out on a case-by-case basis; whereas the common technical regulations shall lay down the necessary transition arrangements;	30.	93/97/EEC
(36) Whereas real, comparable access to third country markets, in particular the United States of America and Japan, for European manufacturers should preferably be achieved through multilateral negotiations within the World Trade Organization (WTO), although bilateral talks between the Community and third countries may also contribute to this process;	27.	

(37) Whereas, this Directive should not affect the obligations on the part of the Member States concerning the deadlines for the transposition of the Directives set out in Annex X, Part B,

HAVE ADOPTED THIS DIRECTIVE:

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Article 1

91/263/EEC
93/97/EEC
Art. 1 (1)
(adapted)

1. This Directive shall apply to terminal equipment and to satellite earth station equipment.

2. For the purpose of this Directive:

91/263/EEC
Art. 1 (2)
(adapted)

- *public telecommunications network* shall mean the public telecommunications infrastructure which permits the conveyance of signals between defined network termination points by wire, by microwave, by optical means or by other electromagnetic means,

- *terminal equipment* shall mean equipment intended to be connected to the public telecommunications network, namely:

(a) to be connected directly to the termination of a public telecommunications network; or

(b) to interwork with a public telecommunications network being connected directly or indirectly to the termination of a public telecommunications network

in order to emit, process or receive information.

The system of connection may be wire, radio, optical or other electromagnetic system,

- *technical specification* shall mean a specification contained in a document which lays down the characteristics required of a product such as levels of quality, performance, safety or dimensions, including the requirements applicable to the product as regards terminology, symbols, testing and test methods, packaging, marking and labelling,

- *standard* shall mean means a technical specification adopted by a recognized standards body for repeated or continuous application, compliance with which is not compulsory.

- *satellite earth station equipment* shall mean equipment which is capable of being used either for emission only, or for emission and reception (emission-receive), or for reception only (receive-only), of radio-communication signals by means of satellites or other space-based systems, but excluding satellite earth station equipment intended for use as part of the public telecommunications network of a Member State,

93/97/EEC
Article 1 (2)
(adapted)

- *terrestrial connection to the public telecommunications network* shall mean any connection to the public telecommunications network which does not include a space segment.

TITLE 1
Telecommunications terminal equipment

Chapter I
Placing on the market and free circulation

Article 2

The intended purpose of the equipment shall be declared by the manufacturer or supplier of the equipment. However, terminal equipment within the meaning of Article 1 (2), second indent which makes use of a system of communication employing the radio frequency spectrum is presumed to be intended for connection to the public telecommunications network.

Article 3

1. Notwithstanding Article 2, equipment which is capable of being connected to the public telecommunications network, but is not intended for such a purpose, shall be accompanied by a manufacturer's or supplier's declaration, the model of which is to be found in Annex VIII and by the operating manual. At the time of placing the equipment on the market for the first time, a copy of such documentation shall be transmitted to the notified body referred to in Article 11 (1) in the Member State where this first placing on the market takes place. In addition, such equipment shall be subject to the provisions of Article 12 (4).

2. The manufacturer or supplier shall be prepared to justify once, at the request of any notified body referred to in Article 11 (1), the intended purpose of such equipment on the basis of its relevant technical characteristics, its functions and indications of the market segment it is intended for.

Article 4

1. Member States shall take all appropriate measures to ensure that terminal equipment may be placed on the market and put into service only if it bears the CE marking provided for in Article 12 attesting to its conformity to the requirements of this Directive, including the conformity assessment procedures laid down in Chapter II and where it is properly installed and maintained and used for its intended purpose.

2. Member States shall also take all appropriate measures to ensure that equipment referred to in Article 3 may be placed and allowed to remain on the market only if it complies with the requirements laid down by this Directive for this equipment and may not be connected to the public telecommunications network within the meaning of Article 1 (2), first indent.

3. Member States shall also take all appropriate measures to ensure that terminal equipment or equipment referred to in Article 3 is disconnected from the public telecommunications network if it is not used for its intended purpose. Member States may moreover take all appropriate measures, according to their national laws, to prevent connection to the public telecommunications network of terminal equipment that is not used in conformity with its intended purpose.

91/263/EEC

Article 1 (3)

Article 2

Article 3

93/68/EEC
Article 11 (3)

91/263/EEC

4. (a) Where the terminal equipment is subject to other Directives concerning other aspects and which also provide for the affixing of the CE marking, the latter shall indicate that the equipment is also presumed to conform to the provisions of those other Directives.
- (b) However, where one or more of those Directives allow the manufacturer, during a transitional period, to choose which arrangements to apply, the CE marking shall indicate conformity to the provisions only of those Directives applied by the manufacturer. In such a case, particulars of the Directives applied, as published in the *Official Journal of the European Communities*, must be given in the documents, notices or instructions required by the Directives and accompanying the terminal equipment.

93/68/EEC
Article 11 (4)

Article 5

Terminal equipment shall satisfy the following essential requirements:

- (a) user safety, in so far as this requirement is not covered by Directive 73/23/EEC;
- (b) safety of employees of public telecommunications networks operators, in so far as this requirement is not covered by Directive 73/23/EEC;
- (c) electromagnetic compatibility requirements in so far as they are specific to terminal equipment;
- (d) protection of the public telecommunications network from harm;
- (e) effective use of the radio frequency spectrum, where appropriate;
- (f) interworking of terminal equipment with public telecommunications network equipment for the purpose of establishing, modifying, charging for, holding and clearing real or virtual connection;
- (g) interworking of terminal equipment via the public telecommunications network, in justified cases.

91/263/EEC

Article 4

The cases where terminal equipment supports:

- (i) reserved service according to Community law; or
- (ii) a service which the Council has decided that there should be Community-wide availability,

are considered as justified cases and the requirements concerning this interworking are determined in accordance with the procedure provided for in Article 29.

In addition, after consultation of representatives of the bodies referred to in Article 28 (3) and taking due account of the result of these consultations, the Commission may propose that this essential requirement be recognized as being justified for other terminal equipment in accordance with the procedure provided for in Article 29.

Article 6

Member States shall not impede the placing on the market and the free circulation and use on their territory of terminal equipment which complies with the provisions of this Directive.

Article 7

1. Member States shall presume compliance with the essential requirements referred to in Article 5 (a) and (b) in respect of terminal equipment which is in conformity with the national standards implementing the relevant harmonized standards, the references of which have been published in the *Official Journal of the European Communities*. Member States shall publish the references of such national standards.

2. The Commission shall, in accordance with the procedure laid down in Article 29, adopt:

- as a first step, the measure identifying the type of terminal equipment for which a common technical regulation is required, as well as the associated scope statement for that regulation, with a view to its transmission to the relevant standardization bodies,
- as a second step, once they have been prepared by the relevant standardization bodies, the corresponding harmonized standards, or parts thereof, implementing the essential requirements referred to in Article 5 (c) to (g) which shall be transformed into common technical regulations, compliance with which shall be mandatory and the reference of which shall be published in the *Official Journal of the European Communities*.

Article 8

Where a Member State or the Commission considers that the harmonized standards referred to in Article 7 exceed or do not entirely meet the essential requirements referred to in Article 5, the Commission or the Member State concerned shall bring the matter before the Committee referred to in Article 28, hereinafter referred to as 'the Committee', giving the reasons therefor. The Committee shall deliver an opinion as soon as possible.

In the light of the Committee's opinion and after consultation of the standing Committee set up by Directive 83/189/EEC, the Commission shall inform the Member States whether or not it is necessary to withdraw reference to those standards and any related technical regulations from the *Official Journal of the European Communities* and shall take the necessary steps to correct the shortcomings noted in the standards.

Article 5

Article 6

Article 7

Article 9

1. Where a Member State finds that terminal equipment bearing the markings under the provision laid down in Chapter III does not comply with the relevant essential requirements when properly used in accordance with the purpose intended by the manufacturer, it shall take all appropriate measures to withdraw such products from the market or to prohibit or restrict their being placed on the market.

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

- (a) incorrect application of the harmonized standards or common technical regulations referred to in Article 7;
- (b) shortcomings in the harmonized standards or common technical regulations referred to in Article 7 themselves.

2. The Commission shall enter into consultation with the parties concerned as soon as possible. Where, after such consultation, the Commission finds that any measure as referred to in paragraph 1 is justified it shall immediately so inform the Member State that took the action and the other Member States. Where the decision referred to in paragraph 1 is attributed to shortcomings in the harmonized standards or common technical regulations, the Commission, after consulting the parties concerned, shall bring the matter before the Committee within two months if the Member State which has taken the measure intends to maintain them, and shall initiate the procedure referred to in Article 8.

3. Where terminal equipment which does not comply with the relevant essential requirements bears the CE marking the competent Member State shall take appropriate action against whomsoever has affixed the marking and shall inform the Commission and the other Member States thereof.

4. The Commission shall keep the Member State informed of the progress and outcome of the procedure.

Chapter II

Conformity assessment

Article 10

1. According to the choice of the manufacturer or his authorized representative established within the Community, terminal equipment shall be subject to either the EC type-examination, as described in Annex I, or to the EC declaration of conformity, as described in Annex IV.

2. An EC type-examination as described in Annex I shall be accompanied by a declaration issued according to the EC declaration of conformity to type procedure as described in Annex II or Annex III.

91/263/EEC

Article 8

93/68/EEC
Article 11 (1)
(adapted)

Article 9

3. The records and correspondence relating to the procedure referred to in this Article shall be in an official language of the Member State where the said procedure will be carried out, or in a language acceptable to the notified body involved.

91/263/EEC

Article 11

Article 10

1. Member States shall notify the Commission and the other Member States of the bodies established within the Community which they have designated for carrying out the certification, product checks and associated surveillance tasks pertaining to the procedures referred to in Article 10, together with the identification numbers assigned to them beforehand by the Commission.

93/68/EEC
Article 11 (5)

Member States shall apply the minimum criteria set out in Annex V for the designation of such bodies. Bodies that satisfy the criteria fixed by the relevant harmonized standards shall be presumed to satisfy the criteria set out in Annex V.

2. Member States shall inform the Commission of test laboratories established in the Community which they have designated for carrying out tests pertaining to the procedures referred to in Article 10. Notified bodies shall apply the criteria fixed by the appropriate parts of the relevant harmonized standards for the designation of such laboratories.

91/263/EEC

3. The Commission shall publish in the *Official Journal of the European Communities* a list of notified bodies together with their identification numbers and a list of test laboratories, together with the tasks for which they have been designated, and shall ensure that those lists are kept up to date.

93/68/EEC
Article 11 (6)

4. A Member State having designated a notified body or a test laboratory under paragraph 1 or 2 shall annul the designation if the notified body or the test laboratory no longer meets the relevant criteria for designation. It shall immediately inform the other Member States and the Commission accordingly and withdraw the notification. Where a Member State or the Commission considers that a notified body or a test laboratory designated by a Member State does not meet the relevant criteria the matter shall be brought before the Committee referred to in Article 28, which shall give its opinion within three months; in the light of the Committee's opinion the Commission shall inform the Member State concerned of any changes needed if that notified body or test laboratory is to retain its recognized status.

91/263/EEC

5. In order to facilitate the determination of conformity of terminal equipment with technical regulations and standards, the notified bodies shall recognize documentation issued by third country relevant bodies, when agreements between the Community and the third country concerned have been concluded on the basis of a mutually satisfactory understanding.

91/263/EEC

6. The notified bodies shall, when issuing an EC type-examination certificate as referred to in Annex I, followed by the appropriate document referred to in Annex II or III, or a decision on quality assurance assessment as referred to in Annex IV, issue at the same time an administrative approval for the connection of the concerned terminal equipment to the public telecommunications network.

Chapter III
CE marking of conformity and inscriptions

93/68/EEC

Article 12

Article 11

1. The marking of terminal equipment complying with this Directive shall consist of the CE marking consisting of the initials CE, followed by the identification number of the notified body involved in the production control stage and a symbol indicating that the equipment is intended and is suitable to be connected to the public telecommunications network. The form of CE marking to be used, together with the other information, is shown in Annex VI.

93/68/EEC
Article 11 (7) and (8)

2. The affixing of markings on the equipment which are likely to deceive third parties as to the meaning and form of the CE marking specified in Annexes VI and VII shall be prohibited. Any other marking may be affixed to the equipment provided that the visibility and legibility of the CE marking is not thereby reduced.

3. Terminal equipment shall be identified by the manufacturer by means of type, batch and/or serial numbers and by the name of the manufacturer and/or supplier responsible for placing it on the market.

91/263/EEC

4. Equipment manufacturers or suppliers who place on the market equipment as referred to in Article 3 shall affix the symbol specified in Annex VII in such a way that it follows the initials CE as shown in Annex VI and visually forms an integral part of the total marking.

93/68/EEC
Article 11 (2)

Article 13

Article 12

Without prejudice to Article 9:

93/68/EEC
Article 11 (9)

- (a) where a Member State establishes that the CE marking has been affixed improperly, the manufacturer or his authorized representative established within the Community shall be obliged to make the equipment conform as regards the provisions concerning the CE marking and to end the infringement under the conditions imposed by the Member State.
- (b) where non-conformity continues, the Member State must take all appropriate measures to restrict or prohibit the placing on the market of the equipment in question or to ensure that it is withdrawn from the market in accordance with the procedures laid down in Article 9.

TITLE II

Satellite earth station equipment

Chapter I

Placing on the market and free circulation

Article 14

The manufacturer or supplier of satellite earth station equipment shall declare whether the equipment is intended or not intended for terrestrial connection to the public telecommunications network.

Article 15

1. Member States shall take all appropriate measures to ensure that receive-only satellite earth station equipment not intended for terrestrial connection to the public telecommunications network may be placed on the market and put into service and used on their territory, in conformity with national law compatible with Community law, provided that it complies with the requirements of this Directive when it is properly installed and maintained and used for its intended purposes.

Such use must be in conformity with any national law, compatible with Community law, which restricts the use to the reception of services intended for that user.

2. Member States shall take all appropriate measures to ensure that other satellite earth station equipment may be placed on the market only if it complies with the requirements of this Directive when it is properly installed and maintained and used for its intended purposes. The use of such equipment may be subject to licensing in conformity with Community law.

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Article 1 (3)

Article 2

3. Member States shall also take all appropriate measures to ensure that satellite earth station equipment which is not intended for terrestrial connection to the public telecommunications network is not permitted to be connected to the public telecommunications network.

4. Member States shall also take all appropriate measures to ensure that satellite earth station equipment which is not intended for terrestrial connection to the public telecommunications network is disconnected from the public telecommunications network.

Member States shall moreover take all appropriate measures, according to their national laws, to prevent terrestrial connection to the public telecommunications network of such equipment.

Article 16

Member States shall not impede the free circulation and the placing on the market of satellite earth station equipment conforming to the provisions of this Directive.

Article 17

1. Satellite earth station equipment shall satisfy the same essential requirements as those set out in Article 5.

2. For the purpose of this Directive, the essential requirements of Article 5 (a) shall imply the safety of persons in the same way as in Directive 73/23/EEC.

3. In the context of emission or emission-receive satellite earth station equipment, the essential requirement set out in Article 5 (e) concerning effective use of the radio frequency spectrum shall include the effective use of orbital resources and the avoidance of harmful interference between space-based and terrestrial communications systems and other technical systems.

4. In the context of satellite earth station equipment, electromagnetic compatibility requirements in so far as they are specific to satellite earth station equipment shall be subject to the essential requirement set out in Article 5 (c).

5. Satellite earth station equipment shall satisfy the essential requirement set out in Article 5 (f), regarding the interworking of satellite earth station equipment with the public telecommunications network.

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Article 3

Article 4

(adapted)

6. Satellite earth station equipment shall satisfy the essential requirement set out in Article 5 (g) regarding the interworking of satellite earth station equipment via the public telecommunications network in justified cases.

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Cases where satellite earth station equipment is capable of supporting and intended to support a service for which the Council has decided that there should be Community-wide availability are considered as justified cases and the requirements concerning this interworking shall be determined in accordance with the procedure laid down in Article 29.

7. Notwithstanding paragraphs 1, 5 and 6, satellite earth station equipment which is not intended for connection to the public telecommunications network shall not be required to satisfy the essential requirements set out in Article 5 (b), (d), (f) and (g).

Article 18

Article 5

1. Member States shall presume compliance with the essential requirements referred to in Article 5 (a) and (b) in respect of satellite earth station equipment which is in conformity with the national standards implementing the relevant harmonized standards, the references of which have been published in the *Official Journal of the European Communities*. Member States shall publish the references of such national standards.

2. The Commission shall, in accordance with the procedure laid down in Article 29, adopt:

- as a first step, the measures identifying the type of satellite earth station equipment for which a common technical regulation is required, as well as the associated scope statement for that regulation, with a view to its transmission to the relevant standardization bodies,
- as a second step, once they have been prepared by the relevant standardization bodies, the corresponding harmonized standards, or parts thereof, implementing the essential requirements referred to in Article 17 (3) to (6), which shall be transformed into common technical regulations, compliance with which shall be mandatory and the reference of which shall be published in the *Official Journal of the European Communities*.

Article 19

Article 6

Where a Member State or the Commission considers that the harmonized standards referred to in Article 18 exceed or do not entirely meet the relevant essential requirements referred to in Article 17, the same enquiry and notification procedures shall apply as those set out in Article 8.

Article 20

1. Where a Member State finds that satellite earth station equipment bearing the marking under the provisions laid down in Chapter III does not comply with the relevant essential requirements when properly used in accordance with the purpose intended by the manufacturer, the same measures, information and consultation procedures shall apply as those set out in Article 9 (1), (2) and (4).

2. Where satellite earth station equipment which does not comply with the relevant essential requirements bears the CE marking, the competent Member State shall take appropriate action against whomsoever has affixed the marking. The same notification procedures shall apply as those set out in Article 9 (3) and (4).

Chapter II
Conformity assessment

Article 21

1. All emission or emission-receive satellite earth station equipment shall, according to the choice of the manufacturer or his authorized representative established within the Community, be subject to all the provisions of Article 10 (1) and (2) concerning conformity assessment.

2. The same procedures regarding language requirements shall apply as those set out in Article 10 (3).

Article 22

Receive-only satellite earth station equipment which is intended for terrestrial connection to the public telecommunications network shall, as far as its terrestrial interface is concerned, be subject to the provisions of Article 21 (1) concerning conformity assessment while, as far as other elements are concerned, they shall be subject either to the provisions of Article 21 (1) or to the Community internal production control procedure set out in Annex IX.

Article 23

Receive-only satellite earth station equipment which is not intended for terrestrial connection to the public telecommunications network shall be subject either to the provisions of Article 21 (1) or to the Community internal production control procedure set out in Annex IX.

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Article 7

Article 8

(adapted)

Article 9

Article 10

Article 24

In addition to the provisions of Articles 21, 22 and 23, satellite earth station equipment which is not intended for connection to the public telecommunications network shall be accompanied by a manufacturer's or supplier's declaration made and transmitted in accordance with the same procedures as those set out in Article 3 and Annex VIII.

Article 25

In relation to satellite earth station equipment, the same procedures for notified bodies and test laboratories shall apply as those set out in Article 11 and Annex V.

Chapter III
CE marking of conformity and inscriptions

Article 26

1. The marking of satellite earth station equipment by satellite complying with this Directive shall consist of the CE marking consisting of the symbol 'CE', followed by the identification number of the notified body responsible and, where relevant, by a symbol indicating that the equipment is intended and is suitable to be connected through a terrestrial connection to the public telecommunications network. The 'CE' symbol, and the identification number symbol, shall be the same as those shown in Annex VI.

2. The affixing of marks which are likely to be confused with the CE marking referred to in paragraph 1 above shall be prohibited.

3. Satellite earth station equipment shall be identified by the manufacturer by means of type, batch and/or serial numbers and by the name of the manufacturer and/or supplier responsible for placing it on the market.

4. Notwithstanding paragraph 1, the marking of receive-only satellite earth station equipment which is not intended for terrestrial connection to the public telecommunications network and which has been subject to the Community internal production control procedure set out in Annex IX

shall consist of the CE marking, consisting of the symbol 'CE'.

Article 27

Where it is established that the marking referred to in Article 26 (1) of this Directive has been affixed to satellite earth station equipment which:

- does not conform to an approved type, or
- conforms to an approved type which does not meet the essential requirements applicable to it, or

where the manufacturer has failed to fulfil his obligations under the relevant Community declaration of conformity, the same procedures shall apply as those set out in Article 13.

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Article 11

Article 12

Article 13

Article 14

**TITLE III
COMMON PROVISIONS**

**Chapter I
Committee**

Article 28

1. The Commission shall be assisted by a Committee of an advisory nature composed of the representatives of the Member States and chaired by the representative of the Commission. The Committee shall be called the Approvals Committee for Terminal Equipment (ACTE).

2. The representative of the Commission shall submit to the Committee a draft of the measure to be taken. The Committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

3. The Commission shall periodically consult the representative of the telecommunications organizations, the users, the consumers, the manufacturers, the service providers and trade unions and shall inform the Committee on the outcome of such consultations, with a view to taking due account of the outcome.

Article 29

1. Notwithstanding Article 28 (1) and (2), the following procedure shall apply for matters covered by Articles 5 (g), 7 (2), 17 (6) and 18 (2).

2. The representative of the Commission shall submit to the Committee referred to in Article 28 a draft of the measures to be taken as referred to in Articles 5 (g), 7 (2), 17 (6) and 18 (2). The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measure to be taken. The Council shall act by qualified majority.

If, within three months from the date of referral to it, the Council has not acted, the proposed measure shall be adopted by the Commission.

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Article 13

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Article 14

Chapter II
Final and transitional provisions

Article 30

1. The Commission shall draw up every second year a report on the implementation of this Directive, including progress on drawing up the relevant harmonized standards and on transforming them into technical regulations, as well as any problems that have arisen in the course of implementation. The report will also outline the activities of the Committee, and assess progress in achieving an open competitive market for terminal equipment at Community level consistent with the essential requirements referred to in Article 5.

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Article 15
Article 17 (1)

2. The Commission shall, when submitting those draft measures referred to in Article 18 (2) dealing with common technical regulations, ensure that transition arrangements, where appropriate, form part of the draft measures.

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Article 17 (2)

Article 31

Article 10 (5) of Directive 89/336/EEC shall not apply to equipment falling within the scope of this Directive.

Article 8 (3)

Article 32

1. Any type approval granted by Member States in accordance with Council Directive 86/361/EEC⁽¹⁾ may remain valid under the legislation of the Member States within the criteria of validity appropriate to the original approval.

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Article 16

2. Measures adopted under Directive 86/361/EEC shall be submitted to the Committee under the procedure of Article 29 for possible transposition into common technical regulations.

Article 33

Member States shall inform the Commission of the main provisions of domestic law which they adopt in the field governed by this Directive.

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Article 17 (2)
Article 18 (2)

(1) OJ No L 217, 5. 8. 1986, p. 21; Directive repealed by Directive 91/263/EEC.

Article 34

1. The Directives listed in Annex X, Part A, are hereby repealed without prejudice to the obligations of the Member States concerning the deadlines for transposition of the said Directives set out in Annex X, Part B.

2. References to the repealed Directives shall be construed as references to this Directive and should be read in accordance with the correlation table in Annex XI.

Article 35

This Directive shall enter into force the twentieth day following that of its publication in the *Official Journal of the European Communities*.

Article 36

This Directive is addressed to the Member States.

Done at

For the Parliament
The President

For the Council
The President

EC TYPE-EXAMINATION

1. EC type-examination is that part of the procedure whereby a notified body ascertains and attests that a specimen, representative of the production envisaged, meets the provisions of the Directive that apply to it.
2. The application for the EC type-examination shall be lodged by the manufacturer or his authorized representative established within the Community with a notified body of his choice.

The application shall include:

- the name and address of the manufacturer and, if the application is lodged by the authorized representative, his name and address in addition,
- a written declaration that the same application has not been lodged with any other notified body,
- the technical documentation, as described in point 3.

The applicant shall place at the disposal of the notified body a specimen, representative of the production envisaged and hereinafter called 'type'.⁽¹⁾ The notified body may request further specimens if needed for carrying out the test programme.

3. The technical documentation shall enable the conformity of the product with the essential requirements of the Directive to be assessed. It shall, as far as relevant for such assessment, cover the design, manufacture and operation of the product.

For example, the documentation shall contain as far as is relevant for assessment:

- a general type-description sufficient to identify the product preferably by provision of photographs,
- design and manufacturing drawings and lists of components, sub-assemblies, circuits, etc.,
- descriptions and explanations necessary for the understanding of said drawings and lists and the operation of the product,
- a list of the standards referred to in Article 7, applied in full or in part, and descriptions of the solutions adopted to meet the essential requirements of the Directive when the standards referred to in Article 7 have not been applied,

⁽¹⁾ A type may cover several versions of the product provided that the differences between the versions do not affect the level of safety and the other requirements concerning the performance of the product.

- results of examinations carried out, etc.,
- test reports,
- proposed user information or handbook.

4. The notified body shall:

- 4.1. examine the technical documentation, verify that the type has been manufactured in conformity with it and identify the elements which have been designed in accordance with the relevant provisions of the standards referred to in Article 7 (1), as well as the components of those standards;
 - 4.2. perform, or have performed, the appropriate examinations and necessary tests to check whether the solutions adopted by the manufacturer meet the essential requirements of the Directive which are specified in Article 5 (a) and (b);
 - 4.3. perform, or have performed, the appropriate examinations and necessary tests to check that the type meets the relevant common technical regulations specified in Article 7 (2);
 - 4.4. agree with the applicant on the location where the examinations and necessary tests are to be carried out.
5. Where the type meets the provisions of the Directive, the notified body shall issue an EC type-examination certificate to the applicant. The certificate shall contain the name and address of the manufacturer, conclusions of the examination, conditions for its validity and the necessary data for identification of the approved type.

A list of the relevant parts of the technical documentation shall be annexed to the certificate and a copy kept by the notified body.

6. The applicant shall inform the notified body that holds the technical documentation concerning the EC type-examination certificate of all modifications to the approved product which must receive additional approval where such changes may affect the conformity with the essential requirements or the prescribed conditions for use of the product. This additional approval is given in the form of an addition to the original EC type-examination certificate.
7. Each notified body shall communicate to the other notified bodies the relevant information concerning the EC type-examination certificates and additions issued and withdrawn.
8. The other notified bodies may request copies of the EC type-examination certificates and/or their additions. The Annexes to the certificate shall be kept at the disposal of the other notified bodies.

9. The manufacturer or his authorized representative shall keep with the technical documentation copies of EC type-examination certificates and their additions for a period ending at least 10 years after the last product has been manufactured.

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

ANNEX II

CONFORMITY TO TYPE

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Article 11 (10)

1. Conformity to type is that part of the procedure whereby the manufacturer or his authorized representative established within the Community ensures and declares that the products concerned are in conformity with the type as described in the EC type-examination certificate and satisfy the requirements of the Directive that applies to them. The manufacturer or his authorized representative established within the Community shall affix the markings provided for in Article 12 (1) to each product and draw up a written declaration of conformity to type.
2. The manufacturer shall take all measures necessary to ensure that the manufacturing process assures compliance of the manufactured products with the type as described in the EC type-examination certificate and with the requirements of the Directive that apply to them.
3. The manufacturer or his authorized representative shall keep a copy of the declaration of conformity for a period ending at least 10 years after the last product has been manufactured.

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

4. A notified body chosen by the manufacturer shall carry out, or have carried out, product checks at random intervals. An adequate sample of the final products, which may be taken on site by the notified body or on its behalf, shall be examined and appropriate tests shall be carried out to check the conformity of products with the relevant requirements of the Directive. In those cases where one or more of the products checked do not conform, the notified body shall take appropriate measures.

PRODUCTION QUALITY ASSURANCE

1. Production quality assurance is the procedure whereby the manufacturer who satisfies the obligations of point 2 ensures and declares that the products concerned are in conformity with the type as described in the EC type-examination certificate and satisfy the requirements of the Directive that apply to them. The manufacturer or his authorized representative established within the Community shall affix the markings provided for in Article 12 (1) to each product and draw up a written declaration of conformity to type.
2. The manufacturer shall operate an approved quality system for production, final product inspection and testing as specified in point 3 and shall be subject to monitoring as specified in point 4.

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Article 11 (10)

3. Quality system

- 3.1. The manufacturer shall lodge an application for assessment of his quality system with a notified body of his choice, for the products concerned.

The application shall include:

- all relevant information for the product category envisaged,
- the documentation concerning the quality system,
- if applicable, the technical documentation of the approved type and a copy of the EC type-examination certificate.

- 3.2. The quality system shall ensure compliance of the products with the type as described in the EC type-examination certificate and with the requirements of the Directive that apply to them.

All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. The quality system documentation must permit a consistent interpretation of the quality programmes, plan, manuals and records.

It shall contain in particular an adequate description of:

- the quality objectives and the organizational structure, responsibilities and powers of the management with regard to product quality,
- the manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used,

- the examinations and tests will be carried out before, during and after manufacture, and the frequency with which they will be carried out,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.,
- the means to monitor the achievement of the required product quality and the effective operation of the quality system.

- 3.3. The notified body shall assess the quality system to determine whether it satisfies the requirements referred to in point 3.2. It shall presume conformity with these requirements in respect of quality systems that implement the relevant harmonized standard.⁽¹⁾

The auditing team shall have at least one member with experience of evaluation in the product technology concerned. The evaluation procedure shall include an inspection visit to the manufacturer's premises.

The decision shall be notified to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

- 3.4. The manufacturer shall undertake to fulfil the obligations arising out of the quality system as approved and to uphold it so that it remains adequate and efficient.

The manufacturer or his authorized representative shall keep the notified body that has approved the quality system informed of any intended updating of the quality system.

The notified body shall evaluate the modifications proposed and decide whether the amended quality system will still satisfy the requirements referred to in point 3.2. or whether a re-assessment is required.

It shall notify its decision to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

4. Surveillance under the responsibility of the notified body

- 4.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

⁽¹⁾ This harmonized standards shall be EN ISO 9002, supplemented, if necessary, to take into account the specific nature of the procedure for which it is implemented.

- 4.2. The manufacturer shall allow the notified body access for inspection purpose to the locations of manufacture, inspection and testing, and storage and shall provide it with all necessary information, in particular:
- the quality system documentation,
 - the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.
- 4.3. The notified body shall carry out audits at reasonable intervals to make sure that the manufacturer maintains and applies the quality system and shall provide an audit report to the manufacturer.
- 4.4. Additionally, the notified body may pay unexpected visits to the manufacturer. During such visits the notified body may carry out, or cause to be carried out, tests to verify that the quality system is functioning correctly, if necessary. The notified body shall provide the manufacturer with a visit report and, if a test has taken place, with a report.
5. The manufacturer shall, for a period ending at least 10 years after the last product has been manufactured, keep at the disposal of the national authorities:
- the documentation referred to in the second indent of point 3.1.,
 - the updating referred to in the second paragraph of point 3.4.,
 - the decisions and reports from the notified body which are referred to in the final paragraph of points 3.4., 4.3. and 4.4..
6. Each notified body referred to in Article 11 (1) shall make available to the other notified bodies referred to in that Article the relevant information concerning the quality system approvals issued and withdrawn.
-

ANNEX IV

FULL QUALITY ASSURANCE

1. Full quality assurance is the procedure whereby the manufacturer who satisfies the obligations of point 2 ensures and declares that the products concerned satisfy the requirements of the Directive that apply to them. The manufacturer or his authorized representative shall affix the markings provided for in Article 12 (1) to each product and draw up a written declaration of conformity.

2. The manufacturer shall operate an approved quality system for design, manufacture and final product inspection and testing as specified in point 3 and shall be subject to surveillance as specified in point 4.

3. Quality system

3.1. The manufacturer shall lodge an application for assessment of his quality system with a notified body.

The application shall include:

- all relevant information for the products envisaged,
- the quality system's documentation.

3.2. The quality system shall ensure compliance of the products with the requirements of the Directive that apply to them.

All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. This quality system documentation shall ensure a common understanding of the quality policies and procedures such as a quality programmes, plans, manuals and records.

It shall contain in particular an adequate description of:

- the quality objectives and the organizational structure, responsibilities and powers of the management with regard to design and product quality,
- the technical specifications, including the harmonized standards and technical regulations as well as relevant test specifications that will be applied and, where the standards referred to in Article 7 (1) will not be applied in full, the means will be used to ensure that the essential requirements of the Directive that apply to the products will be met,

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Article 11 (11)

- the design control and design verification techniques, processes and systematic actions that will be used when designing the products pertaining to the product category covered,
- the corresponding manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used,
- the examinations and tests will be carried out before, during and after manufacture, and the frequency with which they will be carried out; as well as the results of the tests carried out before manufacture where appropriate,
- the means by which it is ensured that the test and examination facilities respect the appropriate requirements for the performance of the necessary test,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.,
- the means to monitor the achievement of the required design and product quality and the effective operation of the quality system.

- 3.3. The notified body shall assess the quality system to determine whether it satisfies the requirements referred to in point 3.2. It shall presume compliance with these requirements in respect of quality systems that implement the relevant harmonized standard.⁽¹⁾

The notified body shall assess in particular whether the quality control system ensures conformity of the products with the requirements of the Directive in the light of the relevant documentation supplied in respect of points 3.1. and 3.2. including, where relevant, test results supplied by the manufacturer.

The auditing team shall have at least one member experienced as an assessor in the product technology concerned. The evaluation procedure shall include an assessment visit to the manufacturer's premises.

The decision shall be notified to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

(1) This harmonized standard shall be EN ISO 9001, supplemented, if necessary, to take into account the specific nature of the products for which it is implemented.

- 3.4. The manufacturer shall undertake to fulfil the obligations arising out of the quality system as approved and to uphold it so that it remains adequate and efficient.

The manufacturer or his authorized representative shall keep the notified body that has approved the quality system informed of any intended updating of the quality system.

The notified body shall evaluate the modifications proposed and decide whether the amended quality system will still satisfy the requirements referred to in point 3.2. or whether a re-assessment is required.

It shall notify its decision to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

4. EC surveillance under the responsibility of the notified body

- 4.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

- 4.2. The manufacturer shall allow the notified body access for inspection purposes to the locations of design, manufacture, inspection and testing, and storage and shall provide it with all necessary information, in particular:

- the quality system documentation,
- the quality records as foreseen by the design part of the quality system, such as results of analyses, calculations, tests, etc.
- the quality records as foreseen by the manufacturing part of the quality system, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

- 4.3. The notified body shall carry out audits at reasonable intervals to make sure that the manufacturer maintains and applies the quality system and shall provide an audit report to the manufacturer.

- 4.4. Additionally, the notified body may pay unexpected visits to the manufacturer. At the time of such visits, the notified body may carry out tests or have them carried out in order to check the proper functioning of the quality system where necessary, it shall provide the manufacturer with a visit report and, if a test has been carried out, with a test report.
 5. The manufacturer shall, for a period ending at least 10 years after the last product has been manufactured, keep at the disposal of the national authorities:
 - the documentation referred to in the second indent of point 3.1.,
 - the updating referred to in the second paragraph of point 3.4.,
 - the decisions and reports from the notified body which are referred to in the final paragraph of points 3.4., 4.3. and 4.4..
 6. Each notified body referred to in Article 11 (1) shall make available to the other notified bodies referred to in that Article the relevant information concerning quality system approvals including references to the product(s) concerned, issued and withdrawn.
-

MINIMUM CRITERIA TO BE TAKEN INTO ACCOUNT BY MEMBER STATES WHEN DESIGNATING NOTIFIED BODIES IN ACCORDANCE WITH ARTICLE 11 (1)

1. The notified body, its director and the staff responsible for carrying out the tasks for which the notified body has been designated shall not be a designer, manufacturer, supplier or installer of terminal equipment, or a network operator or a service provider, nor the authorized representative of any of such parties. They shall not become directly involved in the design, construction, marketing or maintenance of terminal equipment, nor represent the parties engaged in these activities. This does not preclude the possibility of exchanges of technical information between the manufacturer and the notified body.
2. The notified body and its staff must carry out the tasks for which the notified body has been designated with the highest degree of professional integrity and technical competence and must be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of any inspection, especially from persons or groups of persons with an interest in such results.
3. The notified body must have at its disposal the necessary staff and facilities to enable it to perform properly the administrative and technical work associated with the tasks for which it has been designated.
4. The staff responsible for inspections must have:
 - sound technical and professional training,
 - satisfactory knowledge of the requirements of the tests or inspections that are carried out and adequate experience of such tests or inspections,
 - the ability to draw up the certificates, records and reports required to authenticate the performance of the inspections.
5. The impartiality of inspection staff must be guaranteed. Their remuneration must not depend on the number of tests or inspections carried out nor on the results of such inspections.

6. The notified body must take out liability insurance unless its liability is assumed by the State in accordance with national law, or the Member State itself is directly responsible.
 7. The staff of the notified body is bound to observe professional secrecy with regard to all information gained in carrying out its tasks (except vis-à-vis the competent administrative authorities of the State in which its activities are carried out) under this Directive or any provision of national law giving effect thereto.
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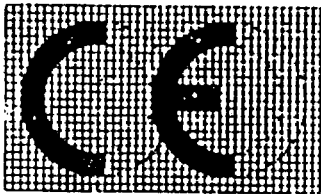
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ANNEX VI

93/68/EEC
Article 11 (12)

**MARKING FOR THE TERMINAL EQUIPMENT REFERRED TO IN
ARTICLE 12 (1)**

- The CE conformity marking shall consist of the initials 'CE' taking the following form, followed by the additional information referred to in Article 12 (1);



CE initials

Identification number of the notified body



Symbol of suitability for connection to the public telecommunications network

(See Official Journal of the European Communities for character font)

- If the CE marking is reduced or enlarged the proportions given in the above graduated drawing must be respected.
- The various components of the CE marking must have substantially the same vertical dimension, which may not be less than 5 mm.

ANNEX VII

**MARKING FOR THE EQUIPMENT REFERRED TO IN
ARTICLE 12 (4)**

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Article 11 (13)



- If the CE marking is reduced or enlarged the proportions given in the above graduated drawing must be respected.
 - The various components of the CE marking must have substantially the same vertical dimension, which may not be less than 5 mm.
-

ANNEX VIII

91/263/EEC

**MODEL OF A DECLARATION REFERRED TO IN ARTICLE 3 (1) OF
DIRECTIVE/EC RELATING TO TELECOMMUNICATIONS
TERMINAL EQUIPMENT AND SATELLITE EARTH STATION
EQUIPMENT, INCLUDING THE MUTUAL RECOGNITION OF THEIR
CONFORMITY**

The manufacturer/supplier⁽¹⁾.....
.....
.....

Declares that⁽²⁾.....
.....
.....

is not intended to be connected to a public telecommunications network.

The connection of such equipment to a public telecommunications network in the Community Member State will be in violation of the national law implementing this Directive on the approximation of the laws of the Member States concerning telecommunication terminal equipment, including the mutual recognition of their conformity.

DATE, PLACE AND SIGNATURE

(1) Name and address.
(2) Equipment identification.

**COMMUNITY INTERNAL PRODUCTION
CONTROL PROCEDURE**

1. This Annex describes the procedure whereby the manufacturer or his authorized representative established within the Community, who carries out the obligations laid down in 2, ensures and declares that the products concerned satisfy the requirements of this Directive that apply to them.

The manufacturer must affix the CE marking to each product and draw up a written declaration of conformity.

2. The manufacturer must establish the technical documentation described in 3 and he or his authorized representative established within the Community must keep it, for a period ending at least 10 years after the last product has been manufactured, at the disposal of the relevant national authorities for inspection purposes.

Where neither the manufacturer nor his authorized representative is established within the Community, the obligation to keep the technical documentation available is the responsibility of the person who places the product on the Community market.

3. Technical documentation must enable the conformity of the products to be assessed against the requirements of this Directive that apply to them. It must contain, so far as relevant for assessment:

- a general description of the product,
- conceptual design and manufacturing drawings and lists of components, sub-assemblies, circuits, etc.,
- descriptions and explanations necessary for the understanding of the said drawings and lists and the operation of the product,
- a list of the standards mentioned in Article 18 of this Directive applied in full or as far as is relevant or, in the absence of such standards, the technical construction file, and descriptions of the solutions adopted to meet those requirements of this Directive that apply to the products,
- results of design calculations made, examinations carried out, etc.,
- test reports.

4. The manufacturer or his authorized representative must keep a copy of the declaration of conformity with the technical documentation.

5. The manufacturer must take all measures necessary to ensure that the manufacturing process ensures compliance by the manufactured products with the technical documentation referred to in 2 and with those requirements of this Directive that apply to them.

ANNEX X

PART A

Repealed Directives
(referred to in Article 34)

Directive 91/263/EEC

Directive 93/68/EEC

Directive 93/97/EEC

Only Article 11

PART B

Deadlines for transposition into national law (referred to in Article 34)

<u>Directive</u>	<u>Deadline for transposition</u>
Directive 91/263/EEC	6 November 1992
Directive 93/68/EEC	1 July 1994 ⁽¹⁾
Directive 93/97/EEC	1 May 1995

⁽¹⁾ Until 1 January 1997, Member States shall allow the placing on the market and the bringing into service of telecommunications terminal equipment which comply with the marking arrangements in force before 1 January 1995.

ANNEX XI

CORRELATION TABLE

This Directive	Directive 91/263/EEC	Directive 93/97/EEC
Article 1 (1)	Article 1 (1)	Article 1 (1)
Article 1 (2)	Article 1 (2)	Article 1 (2)
Article 2	Article 1 (3)	
Article 3	Article 2	
Article 4	Article 3	
Article 5	Article 4	
Article 6	Article 5	
Article 7	Article 6	
Article 8	Article 7	
Article 9	Article 8	
Article 10	Article 9	
Article 11	Article 10	
Article 12	Article 11	
Article 13	Article 12	
Article 14		Article 1 (3)
Article 15		Article 2
Article 16		Article 3
Article 17		Article 4
Article 18		Article 5
Article 19		Article 6
Article 20		Article 7
Article 21		Article 8
Article 22		Article 9
Article 23		Article 10
Article 24		Article 11
Article 25		Article 12
Article 26		Article 13
Article 27		Article 14
Article 28	Article 13	
Article 29	Article 14	
Article 30 (1)	Article 15	Article 17 (1)
Article 30 (2)		Article 17 (2)
Article 31		Article 8 (3)
Article 32 (1)	Article 16 (3)	
Article 32 (2)	Article 16 (4)	
Article 33	Article 17 (2)	Article 18 (2)
Article 34		
Article 35		
Article 36		
Annex I	Annex I	
Annex II	Annex II	
Annex III	Annex III	
Annex IV	Annex IV	
Annex V	Annex V	
Annex VI	Annex VI	
Annex VII	Annex VII	
Annex VIII	Annex VIII	
Annex IX		Annex
Annex X		
Annex XI		

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