

COMMISSION OF THE EUROPEAN COMMUNITIES

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Amended proposal for a

EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

ON THE
MUTUAL RECOGNITION OF LICENCES
AND OTHER NATIONAL AUTHORISATIONS
FOR TELECOMMUNICATIONS SERVICES

(presented by the Commission pursuant to Article 189 A (2)
of the EC-Treaty)

SUMMARY

This proposal amends the Commission's initial proposal of 15 July 1992. The amendments aim to bring the proposal into line with the Council Resolution of 22 July 1993 on the Review of the situation of the telecommunications sector.

This amended proposal aims at establishing a balanced and efficient procedure for the mutual recognition of national authorisations for the provision of telecommunications services in the Member States.

The proposed Directive will substantially facilitate the provision of telecommunications services in the Community. It is an essential step towards allowing service providers to reap the benefits of a Community-wide market for telecommunications.

EXPLANATORY MEMORANDUM

1. Introduction

On 15 July 1992 the Commission submitted a "Proposal for a Council Directive on the mutual recognition of licences and other national authorisations to operate telecommunications services, including the establishment of a Single Community Telecommunications Licence and the setting up of a Community Telecommunications Committee (CTC)".¹ The proposal aimed at implementing Article 7 of Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of open network provision² which explicitly calls for the adoption of measures for harmonizing declaration and/or licensing procedures for the provision of services via public telecommunications networks, with a view to establish conditions in which there would be mutual recognition of declarations and/or licensing procedures.

The Economic and Social Committee delivered its opinion on the proposal on 25 February 1993.³

The Parliament was consulted on the proposal under the cooperation procedure. It decided, however, not to give its Opinion on the original proposal, but to await this amended proposal which adjusts the approach to the Council Resolution of 22 July 1993 on the review of the situation of the telecommunications sector and the further development in that market⁴ and takes account of discussions already held in different Committees of the European Parliament.

1. OJ No C 248, 25.9.92, p. 4.
2. OJ No L 192, 24.7.1990, p. 1.
3. OJ No C 108, 19.4.1993, p. 45.
4. OJ No C 213, 06.08.93, p. 1.

2. The new Approach chosen

The original proposal set out two different procedures, a procedure for mutual recognition on the basis of harmonised service categories and a procedure for mutual recognition on the basis of individual applications, which should allow for the extension of national authorisations and their transformation into Single European telecommunications licences.

The main thrust of the discussions of the original proposal in the Committee on Economic and Monetary Affairs and Industrial Policy of the European Parliament was to give more prominence to the principle of full mutual recognition on the basis of progressive harmonisation according to service categories and to make the proposed procedures less complex, though still subjecting them to fast and specific time-limits.

In consequence the amended draft now makes full mutual recognition its principal objective with an interim procedure based on "one-stop-shopping" licensing arrangements for those service categories for which full mutual recognition has not yet been achieved.

In order to avoid additional complex procedures and to ensure a pragmatic approach, the draft also foresees that arrangements achieved in other frameworks such as the European Committee of Telecommunications Regulatory Affairs (ECTRA) recently set up in the CEPT framework are fully integrated in the proposed approach.

With these amendments, the directive is also brought in line with the Council Resolution of 22 July 1993 in which the Council "recognizes as key factors in the development of future regulatory policy for telecommunications in the Community: ... the implementation of the principle of mutual recognition of national licences and authorisations based on harmonised conditions and with an interim solution based on one-stop-shopping procedure".

Therefore, the amended directive builds on the principle that mutual recognition is granted in a simplified procedure on the basis of harmonisation of the national conditions for the authorisation of telecommunications services by service categories. It also provides for the possibility of mutual recognition for categories of services without harmonisation where full harmonisation does not seem required. The directive establishes an efficient procedure for the harmonisation of conditions for authorisation which allows to take advantage of the expertise of the national regulatory authorities within the framework of ECTRA.

As the mutual recognition of national authorisations for the provision of telecommunications services under this simplified procedure will now normally require the

prior harmonisation of licensing conditions, a transitional one stop shopping procedure is introduced for those categories for which such harmonisation is still not achieved in order not to delay the creation of a pan-European market for telecommunications services. This procedure establishes a mechanism for the coordination of national authorisation procedures aiming at facilitating the application for and granting of existing national authorisations in cases where authorisations are not mutually recognized prior to harmonisation. The proposal recognizes the possibility for the Commission to entrust the technical administration of the one-stop-shopping procedure to ECTRA or to recognize other arrangements, such as Memoranda of Understanding between regulatory authorities, for the technical administration of this procedure.

3. Subsidiarity

According to Community law as specified by the Directive 90/388/EEC of 28 June 1990 on competition in the markets for telecommunications services⁵, Member States may subject any telecommunication service to licensing or declaration procedures necessary to warrant compliance with the essential requirements or special and exclusive rights. As a consequence, services providers wanting to operate telecommunications services in more than one Member State generally must apply for licences or declare their intent to operate the relevant service in each Member State in which they wish to operate before they can start operation.

Such time-consuming parallel applications are restricting the provision of Community-wide telecommunications services and keep the Community telecommunications services divided in twelve national markets. This repetitive and cumbersome procedure is clearly contradicting the aim of the establishment of an internal market in telecommunications services in conformity with the objective set out in Article 8A of the Treaty.

The creation of an internal market in telecommunications services therefore requires the harmonisation of the licensing conditions for these services at Community level. The proposed directive provides that the granting of harmonised authorisations remains with the national regulatory authorities. In addition, it foresees that the technical expertise of the European Committee for Telecommunications Regulatory Affairs (ECTRA), recently set up in the CEPT framework, can be fully taken advantage of for the harmonisation procedure. The directive is, in conformity with the principle of subsidiarity, strictly limited

⁵ OJ No L 192, 24.7.1990, p. 10

to what is necessary to overcome obstacles to the establishment of an internal market for telecommunications services and thus leaves major tasks with the national regulatory authorities.

The one-stop shopping procedure applicable during a transition period is, pursuant to the principle of subsidiarity, strictly limited to simplifying and improving application procedures for national authorisation without in principle modifying the national authorisation regimes applicable.

4. Main amendments

a. Scope

In order to take account of the phased approach for future regulatory policy in the Community proposed by the Commission in its Communication of 28 April 1993⁶ endorsed by the Council in its Resolution on the review of the situation of the telecommunications sector of 22 July 1993 the amended proposal now excludes voice telephony and telex, as well as satellite and mobile communications from its scope. The scope of the proposed directive now corresponds exactly to the current scope of the ONP framework directive 90/387/EEC⁷ and the telecommunications services directive 90/388/EEC⁸. For the fields currently excluded the Commission, in line with the Council Resolution of 22 July 1993 intends to propose separate measures during the first phase of the proposed schedule (1993 - 1995), taking account of the specificities of the sector.

b. Recognition of national authorisations

The amended proposal sets out procedures allowing for the provision of telecommunications services throughout the Community on the basis of national authorisations which are mutually recognized or, for a transitional period, on the basis of national authorisations obtained via a one-stop-shopping procedure. Under these facilitated procedures the introduction of the concept of a Single European telecommunications licence is no longer required.

⁶ Communication to the Council and the Parliament on the consultation on the review of the situation in the telecommunications services sector, COM(93) 159final

⁷ OJ No L 192, 24.7.1990, p. 1

⁸ OJ No L 192, 24.7.1990, p. 10

c. Mutual recognition and harmonisation procedure

The amended proposal now provides for a procedure for the mutual recognition of national authorisations for the provision of telecommunications services on the basis of harmonised national licensing regimes and therefore provides for a substantial simplification of procedures. It establishes a procedure allowing to build on the technical expertise available in the national regulatory authorities by giving work mandates to ECTRA for the elaboration of these harmonised licensing conditions. The procedure also provides for the possibility of granting mutual recognition of national authorisations for certain categories of services without prior harmonisation.

d. Transition procedure

The original procedure allowing for the recognition of authorisations on individual application provided for in the initial proposal is replaced by a transitional one-stop-shopping procedure, i.e. a coordinated procedure facilitating the obtention of national authorisations in cases where a telecommunications service can still not be offered on the basis of a mutually recognized authorisation. This procedure builds on recent efforts to establish coordination mechanisms made between the national regulatory authorities of the Member States, in particular in the framework of the CEPT, and could become effective in the very short term.

An essential feature of the transitional procedure is the establishment of an appeal mechanism for cases in which a national authorisation is not granted within the time-limit set out by the Directive. This mechanism includes a conciliation procedure and provision has been made to ensure its objectivity.

e. Review

The amended proposal provides for a review of the procedural arrangements and in particular of its institutional framework on the basis of experience.

f. Information requirements

The amended directive establishes clear information requirements including the

transmission of an annual report by the CTC and the Member States in order to increase the transparency of the application of the procedures set out in this directive.

5. Outline of the contents of the amended proposal

Article 1 establishes the overall objective of the Amended Directive i.e. to provide a procedure allowing for the Community-wide provision of services authorized in one Member State.

Article 2 defines the terms used.

Article 3 specifies the scope of the Directive i.e. which national authorisations will be concerned by the procedures established.

Article 4 ensures the right to provide a telecommunications service on the basis of national authorisations granted on the basis of the procedures established by the Directive.

Article 5 sets out the legal effects of national authorisations recognized under the Directive.

Article 6 establishes a procedure for the development of common licensing conditions for telecommunications services.

Article 7 sets out a procedure for mutual recognition of national authorisations where prior harmonisation of licensing conditions is not required.

Article 8 sets out the effects of a decision taken under Articles 6 or 7.

Article 9 provides for the publication of the categories of services for which national authorisations are mutually recognized and the relevant licensing conditions in the Official Journal of the European Communities.

Article 10 defines the scope of the transitional one-stop-shopping procedure.

Articles 11 and 12 set out the transitional procedure and allow for the recognition of suitable arrangements for the technical administration of the procedure.

Articles 13 sets out a monitoring procedure applicable to the implementation, modification and withdrawal of national authorisations.

Article 14 provides for an appeal mechanism in cases where an authorisation is not granted

within the time-limit set out in Article 12.

Article 15 sets out an objective conciliation procedure as part of the appeal mechanism.

Article 16 sets up a committee referred to as the Community Telecommunications Committee (CTC).

Article 17 sets out the procedures for the CTC.

Articles 18 to 23 are standard clauses regarding the possibility to impose administrative fees, the confidentiality of information covered by the obligation of professional secrecy, information requirements concerning the application of the directive, the revision of the Directive and the implementation of the Directive by the Member States.

6. Conclusion

The draft amended directive modifies the Commission's original proposal in order to take account of discussions in the European Parliament, of Council Resolution of 22 July 1993 as well as of the Opinion of the Economic and Social Committee and thus rendering the procedures established simpler and more effective.

The European Parliament and the Council are requested to adopt the attached proposal for a directive.

CONTENTS

CHAPTER I. Scope and definitions

- Article 1 Objective
- Article 2 Definitions
- Article 3 Scope

CHAPTER II. Recognition of national authorisations to operate

- Article 4 Right to provide services on the basis of recognized authorisations
- Article 5 Effects of recognition

CHAPTER III. Mutual recognition according to common licensing regimes and procedure for harmonisation

- Article 6 Harmonization of conditions for authorisation
- Article 7 Recognition of national authorisations without need for prior harmonisation
- Article 8 Mutual recognition
- Article 9 Publication of recognized service categories

CHAPTER IV. Transitional One-stop-shopping Procedure

- Article 10 Scope of transitional procedure
- Article 11 Administration
- Article 12 One-stop-shopping Procedure

CHAPTER V. Monitoring Procedure

- Article 13 Implementation, modification and withdrawal of authorisations by Member States

CHAPTER VI. Appeal Procedure

- Article 14 Appeal to the Commission
- Article 15 Conciliation Procedure

CHAPTER VII. Community Telecommunications Committee

- Article 16 Composition of the CTC
- Article 17 Procedures for the CTC

CHAPTER VIII. Final Provisions

- Article 18 Fees
- Article 19 Confidentiality
- Article 20 Notification
- Article 21 Review Procedures
- Article 22 Implementation of the Directive
- Article 23 Addressees

Amended Proposal for a
DIRECTIVE
OF THE EUROPEAN PARLIAMENT AND THE COUNCIL
ON THE MUTUAL RECOGNITION OF LICENCES AND OTHER NATIONAL
AUTHORIZATIONS FOR TELECOMMUNICATIONS SERVICES

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN
UNION

Having regard to the Treaty establishing the European Community, and in particular
Articles 57(2), 66 and 100a thereof,

Having regard to the proposal from the Commission⁹,

Having regard to the opinion of the Economic and Social Committee¹⁰,

1. Whereas Council Directive 90/387/EEC of 28 June 1990 on the establishment of the
internal market for telecommunications services through the implementation of open
network provision¹¹, and in particular Article 7 thereof, provides that the Council
shall, where required adopt measures for harmonising declaration and/or licensing
procedures for the provision of services via public telecommunications networks, with
a view to establishing conditions in which there would be mutual recognition of
declaration and/or licensing procedures;

⁹ OJ No C 248, 25.9.92, p. 4

¹⁰ OJ No C 108, 19.4.93, p. 45

¹¹ OJ No L 192, 24.7.1990, p.1

2. Whereas under the Directives adopted further to Council Directive 90/387/EEC of 28 June 1990 and in particular Council Directive 92/44/EEC of 5 June 1992 on the application of open network provision to leased lines¹², essential requirements are being harmonized in a way which facilitates the mutual recognition of national licences, declarations and other authorisations to operate certain services without licences,
3. Whereas Council in its Resolution of 22 July 1993 on the Review of the situation of the telecommunications sector and the need for further development in that market¹³ recognized as key factors in the development of future regulatory policy for telecommunications in the Community the implementation of the principle of mutual recognition of national licences and authorisations based on harmonised conditions and with an interim solution based on one-stop-shopping procedure;
4. Whereas Article 7 of Council Directive 90/387/EEC provides for the harmonisation of the declaration and/or licensing procedures as regards services operated via the public telecommunications network; whereas there is moreover a necessary link between the licences granted for the operation of mobile and satellite services and the exclusive use of certain frequencies; whereas the mutual recognition of licences granted for the operation of such services can for this reason only be envisaged in conjunction with the allocation of the required frequencies in the other Member States; whereas the use of frequencies in the Member States has yet been harmonized only to a limited extent and diverging band widths, frequencies and standards are still applied as regards many mobile services; whereas the mutual recognition of licences for the operation of mobile and satellite services therefore requires additional measures as regard the allocation and the coordinating of frequencies; whereas this will be dealt with in specific directives; whereas for these reasons telecommunications services such as mobile radio services and satellite services are at this stage not covered by this Directive;
5. Whereas in accordance with the phased approach proposed by the Commission in its Communication of 28 April 1993 to the Council and the European Parliament on the Consultation on the Review of the situation in the telecommunications services sector¹⁴ and approved in the Council Resolution of 22 July 1993 voice telephony and telex services as defined in Article 2 of Directive 90/387/EEC are also excluded from

¹² OJ No L 165, 19.06.1992, p. 27

¹³ OJ No C 213, 06.08.93, p. 1

¹⁴ COM(93) 159final

the scope of this directive; whereas specific provisions would have to be adopted to extend mutual recognition of licences to these services, taking account of their specificities;

6. Whereas the existing divergent authorisation regimes for telecommunications services in the Community create obstacles to the establishment of an internal market for telecommunications services in conformity with the objective set out in Article 8A of the Treaty; whereas the importance of these differences and the necessity to ensure the possibility of providing telecommunications services throughout the Community require harmonisation at Community level; whereas, pursuant to the principle of subsidiarity, the provisions of this directive are strictly limited to what is necessary to overcome obstacles to the establishment of an internal market for telecommunications services, and thus leave major tasks with the national regulatory authorities of the Member States;
7. Whereas this Directive does not concern the mutual recognition of authorisations granted by third countries; whereas the coordination of Member States shall be strengthened with regard to services to/from non-Community countries in order to develop common procedures with regard to these services, building on the general principles which are in the course of being defined within the framework of the General Agreement on Tariffs and Trade (GATT) services agreement;
8. Whereas the approach which has been adopted to achieve mutual recognition of national licences and other authorisations, is to establish procedures whereby the undertakings involved may obtain a mutual recognition of their national authorisations; whereas the main objective is to achieve this by way of mutual recognition on the basis of the establishment of harmonised licensing conditions; whereas for those telecommunications services for which harmonisation of licensing conditions has not yet been achieved, a transitional one-stop-shopping regime shall facilitate the obtention of authorisations;
9. Whereas, on the basis of mutually recognised national authorisations, the telecommunications services providers will be allowed to operate, throughout the Community, any or all of the activities for which they are holder of an authorisation from one Member State, in all other Member States by establishing branches or by providing services; whereas the mutually recognised national authorisations will not free its holders from the obligation to comply with national legislation which is not

specifically related to telecommunications;

10. Whereas for some categories of telecommunications services it might appear unnecessary to proceed to a prior harmonisation of the conditions for authorisation; whereas it should therefore be possible to grant mutual recognition of national authorisations for certain categories of telecommunications services without prior harmonisation;
11. Whereas in order to take advantage of the existing expertise national regulatory authorities in a wider European context, it should be possible to give mandates for the harmonisation of licensing conditions to the European Committee for Telecommunications Regulatory Affairs (ECTRA) which has been established in the framework of the European Conference of Postal and Telecommunications Administrations (CEPT);
12. Whereas, as a transitional measure, a coordinated one-stop-shopping procedure should be established facilitating the application for national authorisations in cases where mutual recognition is not yet achieved; whereas the introduction of mandatory time-limits is necessary to render the procedure more efficient; whereas it is expected that with the establishment of the appropriate harmonised conditions, the licensing mechanism for individual applications under a transitional one-stop-shopping regime will be progressively replaced by the mechanism for national licensing of service categories on the basis of mutual recognition;
13. Whereas, in respect of the one-stop-shopping procedure, bodies such as ECTRA, recognised as competent in this area, could be relied upon for the administration of such a procedure, subject to the establishment of suitable arrangements for cooperation;
14. Whereas in cases of new service categories for which harmonised Community licensing conditions have not yet been agreed and in cases where certain telecommunications services might not be covered by any of the established service categories applications for mutual recognition can be dealt with under the transitional one-stop-shopping regime until the harmonised conditions for the service category in question have been elaborated;
15. Whereas the new procedure of mutual recognition may increase the current workload of the national regulatory authorities and bring about new costs; whereas these authorities should have the right to assign the supplementary costs incurred to the

applicants for mutual recognition; whereas the principle of transparency requires an appropriate publication of the fees assigned for the processing and the monitoring of the authorisations;

16. Whereas compliance by the holders of mutually recognised national authorisations with the terms of these licences must be guaranteed; whereas appropriate measures to ensure such compliance should be taken by the national regulatory authorities; whereas however these measures should be subject to review in an appeal mechanism;
17. Whereas in this framework an efficient procedure must be provided for the modification and the withdrawal of a mutually recognised national authorisation which guarantees at the same time that the rights of the defence are upheld in the assessment of such non compliance;
18. Whereas a means of appeal should be established to ensure the full application of the procedures set out in this Directive; whereas a conciliation procedure allowing for an amicable settlement of disputes relating to the application of the procedures should be an essential element of this means of appeal;
19. Whereas the Community Telecommunications Committee set up by this Directive shall be composed of representatives of the national regulatory authorities of the Member States, and should assist the Commission in the implementation of this Directive; whereas major tasks in the implementation of this Directive have been conferred to the Member States;
20. Whereas the confidentiality of the data collected according to the procedures set out in the present Directive and covered by the obligation of professional secrecy must in any case be guaranteed;
21. Whereas, however, the transparency of the authorisation procedures set out in this Directive must be achieved to improve their efficiency; whereas the relevant national regulatory authorities must be clearly identified;
22. Whereas the Commission will, within the review of the provisions of this Directive and its implementation up until 1 January 1996, evaluate for which telecommunications services there have not yet been adopted decisions concerning mutual recognition of authorisations; whereas the review will pay special attention as to whether these services can be covered by mutual recognition of authorisation without prior harmonisation;

HAVE ADOPTED THIS DIRECTIVE :

CHAPTER I

Scope and definitions

Article 1

Objective

This Directive aims at implementing a single market in telecommunications services through the establishment of procedures allowing a service provider authorized to operate telecommunications services in one Member State to provide part or all of these services on a Community-wide basis without having to obtain individual licences or authorisations from other Member States.

Article 2

Definitions

The definitions given in Directive 90/387/CEE shall apply, where relevant to this Directive. In addition, for the purposes of this Directive :

1. 'National regulatory authority' means the body or bodies in each Member State, legally distinct and functionally independent of the telecommunications organisations, entrusted by the Member States inter alia with the regulatory functions addressed in this Directive;
2. 'National authorisations', means individual authorisations such as licences or declarations or general regulatory authorisations in the form of e.g. legislation or class licences, which allow the provision of telecommunications services in a Member State, in conformity with Community Law.
3. 'Satellite services' means the establishment and operation of satellite earth station networks (satellite network services) and provision of services whose provision makes use, wholly or partly, of satellite network services (satellite communications services).
4. 'Mobile radio services' means telecommunications services which are provided via a radio link to the mobile terminal of the user;
5. 'Licence', means an individual authorisation issued by a national regulatory authority

and required as a condition for the provision of a telecommunications service, in conformity with Community Law.

6. 'Declaration', means the communication to a national regulatory authority by a service provider of his intention to provide a telecommunications service.
7. 'One-stop shopping procedure', means an arrangement facilitating the obtention of national authorisations for telecommunications services from more than one national regulatory authority in a coordinated procedure and at a single location.
8. 'Community Telecommunications Committee (CTC)', means the Committee established by Article 16 of this Directive.

Article 3

Scope

1. This Directive shall apply to all national authorisations relating to the provision of telecommunications services on public telecommunications networks.
2. It shall not apply to national authorisations for the provision of voice telephony and telex as defined in Article 2 of Directive 90/387/EEC, mobile radio services and satellite services.

CHAPTER II

Recognition of national authorisations to operate

Article 4

Right to provide services on the basis of recognized authorisations

Member States shall ensure that undertakings which have been granted a national authorisation recognized under the procedures set out in this directive are allowed to start providing without delay the telecommunications services specified in this authorisation on their territory.

Article 5

Effects of recognition

1. Member States shall ensure that the only restrictions imposed on the provision of the

services by the holders of recognized national authorisations are those imposed in accordance with the procedures set out in this directive.

2. Paragraph 1 shall not prevent Member States from subjecting the provision of services to national legislation in conformity with Community law and not specifically related to telecommunications services.

CHAPTER III

Mutual Recognition according to common licensing regimes and procedure for harmonisation

Article 6

Harmonization of conditions for authorisation

1. Where appropriate, harmonised conditions for authorisation shall be determined for certain telecommunications services. For this purpose, the Commission may, in accordance with the procedure laid down in Article 17:
 - a) as a first step, adopt the measure identifying the category of telecommunications service for which harmonised licensing conditions are required, as well as a mandate to ECTRA to elaborate these conditions; the mandate shall, in particular, define the tasks to be performed and lay down a time schedule for the elaboration of the conditions;
 - b) as a second step, once harmonised licensing conditions have been elaborated by ECTRA, adopt a decision setting out the corresponding common licensing conditions or parts thereof implementing essential requirements in conformity with Community law.
2. Where appropriate and in particular in cases where the time schedule laid down in accordance with paragraph 1 (a) is not respected, common licensing conditions may

be adopted by the Commission in accordance with the procedure laid down in Article 17, without following the procedures laid down in paragraph 1 (a) and (b).

Article 7

Mutual recognition of national authorisations without need for prior harmonisation

1. It may further be decided by the Commission, in accordance with the procedure laid down in Article 17, that mutual recognition of national authorisations may be granted for certain categories of telecommunications services which have not been the subject of a harmonisation under Article 6.
2. A decision taken in application of paragraph 1 may include conditions ensuring compliance with essential requirements laid down in Community law as well as conditions necessary to safeguard special or exclusive rights for the provision of telecommunications services compatible with Community Law, which shall be complied with by the providers of the services covered.

Article 8

Mutual recognition

The telecommunications services which fall under a harmonised service category covered by a decision adopted under Article 6(1) b or (2), or which fall under a service category covered by a decision adopted under Article 7, may be provided throughout the European Community under the conditions set out in that decision.

Article 9

Publication of recognised service categories

The Commission shall publish a list of the categories of services covered by decisions adopted under Articles 6 (1) (b), Article 6 (2) or Article 7, including where applicable the relevant conditions, in the Official Journal of the European Communities and update it whenever necessary.

CHAPTER IV

Transitional One Stop Shopping Procedure

Article 10

Scope of transitional procedure

The provisions laid down in Articles 11 and 12 set out a one-stop-shopping procedure applicable to the telecommunications services which have not been subject of a decision in accordance with Article 6 (1) (b), Article 6 (2) or Article 7.

Article 11

Administration

1. The Commission shall undertake, where appropriate, the necessary steps to establish arrangements for one-stop shopping procedures set out in Article 12, including the recognition of suitable arrangements for its technical administration.
2. References to such arrangements will be published in the Official Journal of the European Communities.

Article 12

One-stop-shopping procedure

A one-stop shopping procedure established in conformity with Article 11 shall conform to the following conditions:

1. The one-stop-shopping procedure is open to all service providers wishing to operate telecommunications services in the European Community.
2. The submission of applications and/or declarations at a single location is possible and one or more entities are defined with which the application and/or declaration can be filed.

3. Within 7 days of filing, the application(s) and/or declaration(s) shall be provided to the national regulatory authorities concerned by the entity with which the application was filed.
4. When a national regulatory authority submits the provision of a service to a licence, it shall take a decision on the grant of such licence and inform the applicant as well as the entity with which the application was filed of that decision within six weeks of the receipt of the application.

When a national regulatory authority submits the provision of a service to a declaration requirement, it may raise objections against the provision of the service declared and inform the applicant as well as the entity with which the application was filed of these objections within six weeks of the receipt of the declaration.

5. Where appropriate, national regulatory authorities shall endeavour to shorten the time period of six weeks indicated in paragraph (4) for certain categories of telecommunications services, in response to commercial needs.
6. If no licence is issued or if no objections are made within the time-limits set out in paragraph 4, the national regulatory authority shall inform the applicant as well as the entity with which the application was filed of the reasons for its decision.
7. The entity with which the applications and/or declarations may be filed shall report annually to the Commission on the operation of the one-stop shopping procedure, including in particular, information on refusals of applications and objections raised to declarations.

Chapter V

Monitoring procedure

Article 13

Implementation, modification and withdrawal of authorisations by Member States

1. Where a national regulatory authority considers that a licensee no longer complies with the conditions set out in conformity with this directive it may take appropriate measures to ensure compliance with these conditions.
2. The Commission may, upon request of a party concerned, initiate the procedure set out in Article 15.

3. If no conciliation procedure is initiated within two weeks of the request of the party concerned to the Commission or no agreement is reached according to the procedure set out in Article 15, the Commission shall, after having given the parties involved the opportunity of being heard, decide in conformity with the procedure set out in Article 17 whether the measures taken shall be maintained or modified.
4. The Commission notifies the decisions taken in accordance with paragraphs 2 and 3 to the undertaking involved and informs the national regulatory authorities thereof.

CHAPTER VI

Appeal Procedure

Article 14

Appeal to the Commission

1. When an authorisation is not granted as set out in this Directive, the applicant may submit a copy of his application(s) and/or declaration(s) to the Commission and ask the Commission to initiate the conciliation procedure set out in Article 15.
2. If no conciliation procedure is initiated within three weeks of the receipt of the appeal by the Commission, or no agreement is reached according to the procedure set out in Article 15 at the latest three months after the first meeting of the working group, a decision shall be taken by the Commission in accordance with Article 17 on the basis, where applicable, of the relevant national licensing regime notified in accordance with Article 20.

Article 15

Conciliation procedure

Without prejudice to:

- (a) any action that the Commission or any Member State might take pursuant to the Treaty, and in particular Article 169 and 170 thereof;
- (b) the rights of the applicant or any other person under applicable national law;

the following conciliation procedure may be applied:

1. the chairman of the CTC shall convene as soon as possible a working group including at least two members of the CTC and the chairman of the CTC or another official of the Commission appointed by him. The working group shall not include members of the CTC representing a national regulatory authority involved.
2. the working group shall meet within ten days. The chairman of the CTC may decide, upon proposal of any of the members of the working group, to invite a maximum of two other independent experts to advise it.
3. the working group shall give the applicant, the national regulatory authorities of the Member States concerned and the telecommunications organizations or other parties involved the opportunity to present their opinion in oral or written form.
4. the working group shall endeavour to reach agreement between the service provider and the national regulatory authorities of the Member States involved.
5. the applicant and the members of the CTC involved shall bear their own costs of participating in the procedure.
6. Whenever an agreement is reached, the authorisation shall be granted by the national regulatory authority(ies) concerned within two weeks of the agreement.

CHAPTER VII

Community Telecommunications Committee

Article 16

Composition of the CTC

The Commission shall be assisted by a committee composed of representatives of the national regulatory authorities of the Member States and chaired by a representative of the Commission. The Committee shall be called the Community Telecommunications Committee (CTC).

Article 17

Procedures for the CTC

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

The opinion shall be recorded in the minutes; in addition each Member State shall have the right to ask to have its position recorded in the minutes. The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

2. The Commission shall where necessary inform the Committee on the outcome of regular consultations with representatives of telecommunications organizations, users, consumers, manufacturers, service providers and trade unions.

In addition, the CTC shall, taking account of the Community's telecommunications policy, foster the exchange of information between the Member States and between the Member States and the Commission, pertaining to the situation and the development of regulatory activities as regards the authorisation of telecommunications services.

CHAPTER VIII

Final Provisions

Article 18

Fees

Member States may allow their national regulatory authority to impose a reasonable cost-based fee for the processing of the application for the recognition of national authorisations and of the monitoring of authorisations recognized in accordance with the procedures set out in this directive in view of covering the administrative costs incurred.

Article 19

Confidentiality

1. Without prejudice to the provisions of Article 20 the Commission and the national regulatory authorities, their officials and other servants, as well as experts called in pursuant to Article 15 (2), shall not disclose any information acquired by them as a result of the implementation of this Directive and of the kind covered by the obligation of professional or commercial secrecy.

2. The provisions of paragraph 1 shall not prevent publication of information on licensing conditions which do not include information of a confidential nature.

Article 20

Notification

1. The national regulatory authorities shall supply the Commission with the following information:

- the names and addresses of the national authorities and bodies competent to issue national authorisations,
- information on its national authorisation regimes, including conditions and procedures, in particular whether and for which services individual authorisations are required,
- criteria on the basis of which applications will be assessed,
- general national regulation specifically relevant in the area of telecommunications services.

This information should be at a level of detail sufficient to see the terms and conditions against which national authorisations are granted, or the criteria against which the applications will be considered.

2. Member States shall notify any changes in respect of the information supplied under paragraph 1 within two weeks of their entry into force.

Article 21

Review Procedures

1. The national regulatory authorities shall establish an annual report on the application of the procedures set out in Chapters III and IV and transmit it to the Commission before 1 March of the following year.
2. On the basis of the results of the implementation of this Directive up to 1 January 1996 the Commission will review whether a modification of its provisions is necessary, on the basis of a report to be provided to the Parliament and the Council. This report will include an assessment, on the basis of the experience gained, of the need for further evolution of the structures as regards authorisations.

Article 22

Implementation of the Directive

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive on 1 October 1995 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, they shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publications. The procedure for such reference shall be adopted by the Member States.

2. Member States shall notify the Commission a list of their representatives to the CTC not later than two months after the adoption of this Directive. The CTC shall assume its functions three months after the adoption of this Directive.

Article 23

Addressees

This Directive is addressed to the Member States.

For the European Parliament
The President

For the Council
The President

FINANCIAL OUTLINE

I. FINANCIAL IMPLICATIONS

1. Title of Action

Amended Proposal for a European Parliament and Council Directive on the mutual recognition of licences and other national authorizations for telecommunications services.

2. Budget line

B-5 4020: standardization in the fields of information technology and telecommunications

3. Legal Basis

- Articles 57(2), 66, 100A of the EC Treaty
- Article 7 of Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of open network provision. OJ No L 192, 24.07.90, p. 1

4. Description

4.1 Specific Objectives of the Action

This action aims at the mutual recognition of national authorizations for the provision of telecommunications services.

The method consists in the establishment of a procedure for harmonization of existing divergent national regimes for the authorization of telecommunications services. As a transitory measure a regulatory one-stop-shopping procedure is established to facilitate application procedures in cases of services for which mutual recognition is not yet achieved. Both procedures provide for the possibility to confer tasks to the European Committee for Telecommunications Regulatory Affairs (ECTRA) set up in the framework of the European Conference of Postal and Telecommunications Administrations (CEPT) or to recognize or establish other arrangements in the field of licensing.

The action has a very strong industrial impact and its justification lies in the necessity of giving the telecommunications services providers a broad base for their markets and of establishing coherent networks and services in the Community.

4.2 **Duration**

The duration of the action is not limited.

4.3 **Population aimed at by the action**

The Directive directly concerns the service providers in the field of telecommunications services and indirectly all users of telecommunications services in the Community.

5. **Classifications**

non-obligatory expenditure

dissociated credits

6. **Nature of spending**

The Community's financial contribution shall, depending on the nature of the work, not amount to more than 50 % to 100 % of the resources invested. It will be needed for the elaboration of harmonized licensing conditions and for related tasks as well as for the financial support of the administration of a one-stop-shopping procedure.

7. **Financial implication for intervention credits**

The Community contribution will be covered by appropriations entered on budget item B-5 4020. They will be required to cover contributions to the establishment of harmonised conditions for the provision of Europe-wide services and related tasks, to the technical administration of a transitional one-stop-shopping procedure, professional assistance as well as for mandates to ECTRA. Mandates for ECTRA will require an amount of about 300.000 ECU annually which will be covered by budget line B-5 4020.

Indicative timetable:

1994	300.000 ECU
1995	300.000 ECU
1996	300.000 ECU
1997	300.000 ECU
1998+	300.000 ECU

8. **Anti-fraud provisions**

The Control of payments or of any services, preparatory, feasibility or evaluatory studies requested is carried out by the Commission prior to payment taking into account any contractual obligations, economic principles and good financial or other management practice. Anti-fraud provisions (supervision, reporting requirements etc.) will be included in all agreements and contracts made between

the Commission and the recipients of any payments.

II. ADMINISTRATIVE EXPENSES

The Community contribution will be covered by appropriations entered on budget items A-1 and A-2. The specific requirements for committee meetings can be estimated to be about 6 meetings per year of a Committee with 24 members specifically constituted for the purposes of this directive.

The estimated costs of the whole action in 1994 will be of about 232.000 ECU. They are not expected to increase in the following years. The additional staff required is estimated to cost 160.000 ECU (1A and 1C) which will be covered by Titles A 1 and A 2 of the budget. Taking into account the budgetary situation in 1994 the additional staff will have to be found for this period by a redeployment of existing staff. The meetings will cost about 72.000 ECU (= 6 x 12.000) per year. This amount (72.000 ECU) will be covered by budget line "Expenditure on meetings of Committees whose consultation is compulsory in the procedure for drafting Community legislation" A-2510.

III. ELEMENTS OF COST-EFFICIENCY ANALYSIS

1. Objectives and coherence with the financial programming

- 1.1 The proposed Directive aims at the mutual recognition of national authorizations for the provision of telecommunications services.
- 1.2 The action is provided for in the financial programming of the DG.
- 1.3 The objective of the proposed Directive corresponds to the more general objective of the "establishment of an internal market of telecommunications equipment and services" defined in the financial programming of the DG.

2. Justification of the action

The proposed Directive contains a legislative measure necessary for the establishment of an internal market in the sector. An alternative could consist in waiting for the full harmonization of the conditions for the provision of telecommunications services in all Member States. This would lead to a considerable slow-down of the creation of an internal market for telecommunications services.

3. Follow up and evaluation of the action

The proposed Directive sets out in its Articles 20 and 21 obligations of information which allow for a follow up of the implementation of this Directive. In addition, Article 22 provides for a review of the Directive by 1 January 1995.

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