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Proposal for a

EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

ON A POLICY FOR THE MUTUAL RECOGNITION
OF LICENCES AND OTHER NATIONAL AUTHORISATIONS FOR THE PROVISION OF
SATELLITE NETWORK SERVICES AND/OR SATELLITE COMMUNICATIONS SERVICES

(presented by the Commission)

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A. SUMMARY

This proposal aims at establishing a balanced and efficient procedure for the mutual recognition of national authorisations issued by Member States for the establishment and operation of satellite earth station networks (satellite network services) and/or the provision of satellite communications services.

The proposed Directive implements a measure for *"harmonisation ... as far as required to facilitate the provision and use of Europe-wide satellite telecommunications services subject, where applicable, to conditions necessary for compliance with essential requirements and special or exclusive rights"*¹ stated as a major goal by the Commission in the Satellite Green Paper, while responding the Council request for *"... measures on the basis of the appropriate Community procedures ... for the establishment of a harmonised regulatory framework for the licensing of satellite networks and satellite services..."* as expressed in the Council Resolution of December 1991.

In its Resolution of 22 July 1993 regarding the Resolution on the Telecommunications Review, Council *"...recognises 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 procedures"*.

Until now, if possible at all, satellite communications service providers and satellite earth station network operators wanting to provide their services in more than one Member State generally had to apply for licenses in each Member State in which they wished to operate, not only for the service or network in general, but often for each individual satellite earth station concerned.

Such time-consuming, parallel applications are not only restricting the provision of Community-wide satellite services, but it has made the establishment of these services virtually impossible. The proposed Council Directive is expected to free the provision of satellite services from some of those time-consuming procedures.

The proposal provides for an operational scheme with efficient licensing procedures to facilitate the establishment of European satellite services. For that purpose, two mechanisms will be established: one to cater for licensing under harmonised conditions fully recognised throughout

¹ Council Resolution of 19th December 1991, OJ No C 8, 14.01.92, p.2

the Community for those categories of satellite services where it proves possible; and another to cater, through the use of a transitional one-stop shopping regime, for those satellite services for which full mutual recognition has not been achieved.

It is expected that with the establishment of the appropriate harmonisation conditions for certain categories of satellite services, the mechanism for applications under the transition regime will be progressively replaced by the mechanism of harmonisation for a broad line of satellite services.

The effectiveness of this approach will be reviewed in due time, taking account of the degree of harmonisation achieved.

The proposed Directive is fully in line with the spirit of the proposal for a procedure in the licensing of telecommunications services in the Community in general². The proposed Directive will make use of the same committee - the Community Telecommunications Committee (CTC) - to assist the Commission in the implementation of the recognition procedure.

The handling of the required frequency coordination and network numbering actions is mainly via the established national regulatory bodies set up for these purposes, taking due account of work of the European Committee for Telecommunications Regulatory Affairs (ECTRA) and the European Radiocommunications Committee (ERC) set up in the context of the recent reform of CEPT.

With regard to access to space segment capacity, the proposal further builds on the discussions and decisions taking place within the International Satellite Organisations and in particular those within the EUTELSAT framework.

Although this proposal is an essential step towards the establishment of a Community-wide satellite communications market whereby users may enjoy satellite services tailored to their needs and whereby the establishment of satellite services will be greatly facilitated, the full benefits will be reaped when other Community actions enter into force which aim to liberalise the satellite communications sector. This refers in particular to " *the extension of the principles concerning competition in the markets for telecommunications terminal equipment and telecommunications services to aspects of trade and use of the appropriate satellite earth stations ...*" as called for by Council in its Resolution of 19 December 1991. The Commission intends to respond to this request by Council in the near term.

² "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)", COM(92)254, 15.07.92

B. EXPLANATORY MEMORANDUM

1. Introduction.

The Commission's *"Green Paper on a common approach in the field of satellite communications in the European Community"*, issued in November 1990³, laid the foundation for a coherent policy at Community level in the field of satellite communications. Following an extensive consultation period, which started immediately after the release of the Satellite Green paper, the Commission hereby submits a draft legal text which implements one of the said goals under support of Member States via the Council Resolution on Satellite Communications⁴ of December 1991.

The first measure the Commission proposed in the satellite communications field was a proposal⁵ for a Council Directive concerning mutual recognition of type-approval of satellite earth station equipment. On the basis of the Commission proposal, Council adopted a Common Position⁶ in July 1993. The Council Directive foresees the mutual recognition of type-approval procedures for satellite earth station equipment by the introduction of Common Technical Regulations, based on harmonised standards, as the basis for unified type-approval procedures in the Community. These procedures are an important precursor to the Community licensing regime, proposed in this Directive.

Satellite services - be it the establishment and operation of a satellite earth station network or the provision of a satellite communications service - in line with general principles of Community law, as expressed in Directive 90/388/EEC on Competition in the Markets for Telecommunications Services⁷, may be subject to licensing to licensing or declaration procedures by Member States necessary to warrant compliance with essential requirements or special and exclusive rights

³ "Towards Europe-wide systems and services: Green Paper on a Common Approach in the field of Satellite Communications in the European Community", COM(90)490 final, 22.11.90

⁴ "Council Resolution on a the development of the Common Market for satellite communications services and equipment", OJ No C 8, 14.1.92, p.1

⁵ "Proposal for a Council Resolution on the approximation of the laws of the Member States concerning satellite earth station equipment, extending the scope of Directive 91/263/EEC", COM(92)451 final SYN 444, 10.12.92

⁶ "Council Directive supplementing Directive 91/263/EEC in respect of satellite earth station equipment", Common Position of 22 July 1993.

⁷ OJ No L 192, 24.07.90, p.10

compatible with Community law. These procedures must be based on objective criteria and in proportion to their objective.

Generally, at the moment, if satellite earth station network operators or satellite communications service providers want to provide their services in more than one Member State, they must apply for licenses in each Member State in which they wish to operate, not only for the service and/or network in general, but often for each individual satellite earth station concerned.

Such time-consuming, parallel applications are not only restricting the provision of Community-wide satellite services, but it has made the establishment of these services virtually impossible. The resulting division in twelve restricted national markets, currently mostly under monopoly control of the national Telecommunications Operators, is clearly contradicting one of the principal aims of the establishment of an internal market for satellite services and equipment.

This proposal now caters for an implementation of the mutual recognition procedure for licences for satellite services.

2. Approach chosen.

The proposed Directive aims at establishing balanced and efficient procedures for mutual recognition of licences and other authorisations for the provision of satellite services, both satellite network services (the establishment and operation of satellite earth station networks) and satellite communications services.

It provides that satellite network operators and satellite service providers, authorised and supervised by the competent authorities of any Member State may also establish and operate the satellite earth station networks and/or provide satellite communications services in all other Member States through the harmonisation of licensing conditions for certain satellite service categories, wherever possible.

The procedures have been drafted taking into account the specific situation in the telecommunications sector in general, and the satellite communications sector in particular.

Mutual recognition of licences implies that a level of protection of the harmonised essential requirements is obtained which will be practicable and valid in every Member State. To that effect, relevant essential requirements will be specified in the applicable Directives of the Community, in particular through the submitted Proposal for a Council Directive⁸ on approximation of the laws of the Member States concerning satellite earth station equipment, extending the scope of Council

⁸ COM(92)451 of 10.12.92, resulted in Common Position. see footnote 5.

Directive 91/263/EEC. Also of importance in this respect are the Council Directive on the application of Open Network Provision to leased lines⁹, and other ONP Directives - inter alia, the ONP Voice Telephony Directive.

Since harmonisation at Community-level of these essential requirements is still not fully achieved, a Member State might deem it necessary to impose conditions on the provision of satellite network services and/or on the provision of satellite communications services, which differ from those imposed by other Member States, to warrant compliance with the essential requirements.

In some instances, Member States have already introduced concepts which facilitate the application procedures for satellite services by allowing requests for satellite services licenses of other Member States to be cleared through national regulatory authorities via a joint single point of contact.

Also, the countries of the CEPT (European Conference of Postal and Telecommunications Administrations)¹⁰ are analysing the feasibility of harmonisation of conditions for certain telecommunication services. This work is useful and will facilitate future licensing of Europe-wide services.

In order to avoid additional complex procedures and to ensure a pragmatic approach, the proposal thus foresees that the expertise of the European Committee for Telecommunications Regulatory Affairs (ECTRA) and the European Radiocommunications Committee (ERC), recently set up in the CEPT framework, are fully taken advantage of in the proposed approach.

In this way, the directive is also brought in line with the Council Resolution of 22 July 1993 in which the Council "recognises 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 licenses and authorisations based on harmonised conditions and with an interim solution based on a one-stop-shopping procedure".

3. Recognition procedures.

A. Mutual recognition on the basis of harmonised conditions.

The proposal builds on the principle that mutual recognition is granted in a procedure on the basis of harmonisation of the national conditions for the authorisation of satellite services by service

⁹ OJ No C 58, 1991, p.10

¹⁰ Composed of 35 members, including all Community Member States (state of 1.8.93).

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 ECTRA and ERC.

A two-step approach is being proposed in this Directive for the determination of harmonised licensing conditions of satellite services.

As a first step, ECTRA may be mandated by the Commission to elaborate the technical basis for harmonised licensing conditions, based on the expertise of ECTRA and ERC, in the wider European context, and as such appropriate to satellite communications. The technical basis could include matters such as arrangements for the coordination of frequencies or for site approval, verification of space segment access arrangements, issuing of network numbering schemes, practical arrangements which facilitate contacts with prospective licenced satellite network operators in case of an emergency, practical adherence to specific national conditions in conformance with Community law, etc.

As a second step, the Commission will test the provided technical basis against Community law and Community policies, in particular telecommunications policy; after which common licensing conditions will be adopted, in accordance with the responsibilities conferred on the Commission by the Directive. Should the technical basis not be delivered in time, or not be in accordance with Community law, the Commission will adopt common licensing conditions on a technical basis proposed by the Commission itself, and in accordance with the foreseen Committee procedure.

The precise modalities for cooperation between the Commission and ECTRA (CEPT) are intended to be agreed upon in a Memorandum of Understanding. The MoU will, inter alia, stipulate the specific arrangements with regard to work contracted out by the Commission to ECTRA (or ETO). In this regard the role of ECTRA is to provide the necessary technical expertise for the completion of the contracted work, in accordance with a framework contract that will be concluded between the Commission and ECTRA under cover of the MoU.

B. Transition regime

As the mutual recognition of national authorizations for the provision of satellite communications services under this procedure will now normally require the prior harmonization of licensing conditions, a transitional "one-stop shopping" regime is introduced for those categories for which such harmonisation is still not achieved. This transition regime is explicitly foreseen to limit delays in the creation of a pan-European market for satellite communications services.

Under the transition regime, a mechanism is established 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 harmonization. It includes 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.

C. Review

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

D. Information requirement

The directive establishes clear requirements to provide information concerning the procedures 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.

4. **Applicability of the Directive.**

The Community, in implementing this Directive, must also work towards opening of third country markets to allow extensions of the satellite services to and from those markets. With this goal in mind, *the approach must take the current situation into account* in which a considerable number of countries have their markets firmly closed for foreign owned service providers.

Therefore the rights derived from this Directive shall apply only to undertakings which are owned and are continued to be owned through a three fourths majority ownership by Member States and/or nationals of Member States and which have its principal business and, if any, its registered office in a Member State.

These applicability provisions will remain to be applied until satisfactory completion of bilateral or multilateral agreements which allow a more balanced development, or until the developments of the satellite sector requires a review of these provisions in Council.

5. Outline of the Contents.

Underlying the proposed Directive is the aim to create simplified regulatory authorisation procedures which facilitate better the provision of Community-wide satellite services while respecting, in particular, concerns of Member States related to compliance with essential requirements and special or exclusive rights which are granted in conformity with Community law, as well as concerns regarding compliance with national laws and international obligations concerning frequency and site coordination.

The proposed Directive foresees that Commission and Member States share the workload and related responsibilities in the implementation of the Directive. The elaboration of harmonised conditions for satellite service licences is expected to be largely done at the level of the Member States, under a Commission mandate to the CEPT. Also the technical arrangements within the context of the one-stop shopping concept are expected to be dealt with by the Member States, possibly within the CEPT framework. The Commission further retains the responsibility to verify that the elaborated harmonised conditions are compatible with Community law and the Commission will subsequently adopt the related common licensing conditions with assistance of an advisory Committee, composed of Member States' representatives.

Leaving the arrangements for the elaboration of harmonised conditions to the Member States would entail multiple, bilateral agreements without assurances that coherent, harmonised conditions for satellite services would be implemented in parallel in all Member States. This would substantially delay, if not inhibit, the development of satellite services which are, by virtue of the technology, international in character.

The proposed Directive lays down the framework for the timely establishment of the harmonised licensing conditions, without entering into detail, or prescribing these conditions as this will be left, in first instance, to the Member States.

Article 1 establishes the overall objective of the Directive i.e. to provide a procedure to allow for the Community-wide provision of satellite services.

Article 2 defines the terms used.

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

Article 4 ensures the right to provide satellite services.

Article 5 sets out the effects of the mutual recognition arrangements.

Article 6 calls for the establishment of procedures for the establishment of the harmonisation conditions for satellite service licences.

Article 7 provides for the mutual recognition for those services for which no harmonisation is required.

Article 8 covers the granting of mutual recognition for certain satellite services.

Article 9 requires the Commission to publish the mutually recognised satellite service categories.

Article 10 concerns the scope of the transition regime.

Article 11 settles the technical administration of the transition regime.

Article 12 describes the conditions to which the transition regime has to comply.

Articles 13 to 17 sets out procedures for the necessary frequency and site coordination.

Article 18 provides for the harmonisation of frequency bands for satellite communications services and satellite network services in consultation with ERC.

Article 19 makes provision for a procedure for the allocation and registration of numbers, addresses or names.

Article 20 to 21 contain provisions on arrangements for access to space segment.

Article 22 makes provisions for the implementation, modification and withdrawal of authorisations.

Article 23 to 24 concern the appeal mechanism.

Article 25 to 26 concern the Committee procedures.

Article 27 seeks to ensure comparable treatment of nationals of the Member States in non-Community countries.

Article 28 provide Member States the possibility to intervene in interconnection agreements.

Article 29 describes the arrangements for contingencies in case of faulty transmissions and interference into other communication networks.

Article 30 concerns the provision of fees under the proposed regime.

Article 31 to 34 set out procedural provisions regarding fees, confidentiality covered by the obligation of professional secrecy, the establishment of procedures regarding emergency or

special satellite services, and the notification of national regimes and conditions by the Member States.

Article 35 to 37 contain standard clauses concerning the annual reporting procedure, the revision of the Directive, and the implementation of the Directive by the Member States.

6. Conclusion.

The draft Directive aims at facilitating substantially the provision of satellite services in the Community. It takes full account of the positions adopted by Council in its Resolutions of 19 December 1991 on Satellite Communications, and of 22 July 1993 on the Review of the situation in the Telecommunications Sector.

The proposal for a Directive is an important step in the development of the satellite communications sector which should substantially increase the economic activities in that sector and bring the resulting benefits to the users of satellite services.

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

TECHNICAL ANNEX TO THE EXPLANATORY MEMORANDUM

Background to Technical Issues in Licensing of Satellite Services.

T.1. Introduction.

Satellite earth station networks consist of one or several earth stations (up to several thousands) which interwork via a satellite system and which are controlled by means of a centralised control and monitoring facility. This does not mean that the functions of the facility are always central to the network (e.g. for the so-called "hub-stations" in VSAT networks) but that they are centralised at system level. The remote earth stations can be dispersed across various nations and even across various continents.

Current practice for the licensing of satellite earth station networks is the issuing of individual licences for each earth station of the network unless the network consists of receive-only terminals, in which case a class licence is given or no licence is required.

In addition, the licences for the network (including those for the remote stations) and the actual services over the network are in some countries considered under a single licence while others argue for separated licences.

Within the Community now, it seems sensible to have an arrangement for the licensing of satellite services which offers the possibility to separate the satellite earth station network operator from the satellite communications service provider. The network operator is by no means always the communications service operator and the licensing arrangements for networks and services are of quite a different type and nature. Nevertheless, a joint licence for both services shall also remain to be part of the possibilities, in line with current practice.

T.2. Satellite services: the parameters.

In order to analyse the situation, possible network configurations and technology issues as well as service characteristics need to be detailed. Ideally, technical parameters, taken into account in the licensing process, should be kept at a minimum and in a way that does not invite by-pass of the licence through the use of newer technologies.

The following list provides an overview of issues which are of varying importance in this respect.

Network characteristics

topology of the network
size of the network

Control and monitoring functions	centralised control, local control
Type approval issues	technical specifications and standards type approval of terminals
Frequency issues	frequency bands frequency coordination site clearance
Legal responsibilities	space segment operator earth stations operators service provider customer installation and maintenance organizations
Service issues	regulatory safeguards scope of services telecommunications vs. audio-visual
Space segment access	satellite system used operational agreements harmonization need and feasibility
Connection to other networks	to the public network to other authorised networks

The satellite earth station network licence is not intended to cover the area of commercial contract between the licence applicant and e.g. a equipment provider or the satellite capacity provider. However, the interactions between those entities might have to be considered and assurances have to be given that space segment is available, in view of effective use of orbital and related frequency resources.

Also, the licence does not assign frequencies for the service intended. Once a satellite system is notified to the International Frequency Registration Board (IFRB) of the International Telecommunications Union (ITU), and after the appropriate coordination of the system's frequency plan with other satellite operators, the satellite operator sells or leases capacity within the agreed and coordinated technical framework.

This would then mean that, in principle, the frequencies are available as they are coordinated with the introduction of the satellite system, however some terrestrial frequency coordination between individual earth station (and possibly some other terrestrial services) might remain necessary. It should not be forgotten however, that national use of frequencies might differ from the tables

agreed under the ITU fora, as long as other countries are not affected. In such cases, frequency and site coordination becomes very difficult and jointly declared exclusive use of bands for certain applications would facilitate the use of the bands with a minimum of coordination procedures.

T.3 The mutual recognition of licences or other national authorisations.

In providing a satellite network and communications services under a Community scheme, the main points to be solved are:

- a. Harmonization and/or mutual recognition of national licences or authorisations;
- b. Scope of this process;
- c. Control and legal intervention of the National Regulatory Authorities;

Certain regulatory questions need to be solved, some of which concern aspects existing in every country (and therefore, in principle, relatively easy to harmonise), while some issues only exist on a per country basis, though part of the same network. For example, the hub station is in one country, the remote satellite stations in others, while in some countries frequency coordination and site clearance might need to take place (not allocation of frequencies), in other the remotes are connected to the public network, etc., etc. The currently proposed licensing regime shall be sufficiently flexible to cater for these issues to be solved with a minimum of administrative burdens, while taking account of individual requirements of Member States.

T.4 Satellite Earth Station Network Characteristics.

A group of satellite earth stations can be considered as a network as soon as a set of networking functions, centralized or distributed, are common to this group of stations and are operated under the responsibility of a single operator known as "the satellite earth station network operator".

Those networking functions can include, for example, Closed User Group (CUG) management functions, tariffing and billing functions, and control and monitoring functions.

The general term "satellite earth stations" covers very different categories of stations. In general, a major division of satellite earth stations concerns "autonomous" stations and "remote" stations. The "autonomous" satellite earth stations concern infrastructure stations (e.g. INTELSAT-A and B, EUTELSAT-A), the central monitoring and control stations for VSAT and mobile networks, satellite news gathering stations, and certain types of larger business stations (e.g. INTELSAT-IBS,

EUTELSAT-SMS). These stations require permanent presence of qualified personnel, at least for the duration of any transmission, and access space segment directly under the supervisory control of a satellite operations centre.

However, "remote" stations access space segment under the control and monitoring capability of another satellite earth station, called a network control station. These "remote" stations are usually not manned with qualified professional operations staff and are located directly at customer's premises. Examples are the various mobile satellite stations (Inmarsat-A, B, C, M, EutelTracs, Prodat) as well as the Very Small Aperture Terminals (VSAT's) of various sizes and applications. Per definition, all receive-only stations (for TV as well as data) fall in this category as well as mobile handheld satellite terminals.

The network can consist of a single station (e.g. a satellite news gathering unit) controlled via a satellite operations centre and transmitting to one other station, or have [a] star or meshed configuration[s], but could also be mixes of star network via shared traffic hubs, various combinations of mobile and fixed networks etc. The existing national licensing regimes do not seem to put any conditions on the configuration of the network and it would certainly not be desirable to do so in the future as any such measures will come up against technology developments which will immediately go beyond any artificial boundaries.

Also, the traffic can be one-way, two-way, one-way with terrestrial returns, point-to-point, point-to-multipoint etc.

Currently, receive-only earth stations not connected to the public networks can be freely marketed, installed, maintained and operated, either under a class licensing scheme (or without any licence) as per Commission Directive 88/301/EEC.

Transmit/receive satellite earth stations deserve more attention, as they can induce harmful interferences, if not properly specified, installed or operated. As such, licensing is a requirement in order to try and avoid interference problems and have some guarantees of effective use of the orbit.

The size of the network can be quantified by, for example, the number of stations, the bit rate on the links, the diameter of the antennas. In most cases the dimensioning of the network itself should not raise any regulatory issues.

The Commission's Green Paper on Satellite Communications acknowledges though, that very large satellite communications systems, even when not connected to the public network, may obstruct the operation of services of general economic interest, in which case regulatory safeguards might apply. However the relation between the size of the satellite network and the

"harm" caused to those activities of general economic interest may vary substantially from one country to another, depending e.g. on the state of development of the public infrastructure.

Given the current, very low, percentage of satellite usage in Europe, combined with the developed state of most countries' terrestrial networks, it would seem that the size of satellite earth station network should not be part of the regulatory considerations.

T.5. Control and Monitoring Functions.

In existing satellite network architectures, networking functions include control and monitoring functions. Whether the traffic topology is a star configuration or a meshed configuration, the control and monitoring functions are generally centralised within the control and monitoring station. In the star configuration, this central control and monitoring station coincides usually with the traffic hub point.

The remote stations are those stations which can only transmit and access the space segment capacity when authorized to do so by the control and monitoring functions of a centralised network facility which is not part of the satellite operations centre.

The objective of the control and monitoring functions is to ensure a safe operation of the network. They allow identification and shut down (when necessary) of any remote earth station in one of the following situations:

- the remote earth station is in a failure status such that either the station is causing interference to other radio stations or there is a high probability that the station might cause interference to other radio stations;
- the remote earth station is in a failure status such that the control and monitoring functions are disabled.

The remote earth stations defined above are mostly designed to be inexpensive, easy to operate earth stations which might be unattended.

Satellite earth stations which are not remotely and automatically controlled by centralised control and monitoring functions should be attended 24 hours a day by qualified staff (or at least whenever they are transmitting) in order to be able to respond to instructions from a satellite operations centre. The main duties are to check that the transmitting parameters are maintained, and to take steps in the event of breakdown or in the case of causing interference. This not only applies to large infrastructure satellite earth stations (e.g. INTELSAT Standard A earth stations) but also to

private satellite earth stations (e.g. INTELSAT Standard E1 earth stations), satellite news gathering earth stations, and to the VSAT control and monitoring stations themselves.

As a general rule, the implementation within the networking functions of a minimum set of control and monitoring functions, answers two main concerns:

- It provides some form of guarantee that the operator has the appropriate tools to operate his network in the appropriate way (although it does not guarantee that the network is operated in that way)
- The introduction of a new, additional remote earth station and its subsequent operation can be undertaken under the control and responsibility of the satellite network operator. Thus, this should require very limited regulatory intervention (if any). This would give great flexibility to the licensee for any further extension of the network.

T.6. Standardisation and Type Approval.

The International Satellite Organisations (ISO's) were set up (at inception) to provide satellite space segment capacity for use by a number of network operators (the national Public Telecommunications network Operators) in order to meet the satellite communications requirements of the users. In order to fulfil their mission, the ISO's had to develop detailed specifications. For historical reasons, those specifications cover mainly the traditional large infrastructure earth stations (INTELSAT-A, B etc., EUTELSAT-A, etc.) although the newer and smaller stations are covered nowadays as well (e.g. Inmarsat-C and the new INTELSAT types).

Those specifications are well established references but can not be defined as "standards" in the true sense of the word. They are specifications to ensure interoperability within the confines of the technical systems those organisations have established. They were developed to guarantee:

- the interoperability of the earth stations and the space segment,
- the good cohabitation of users of the Organization's space capacity,
- compliance with the characteristics of the network as a total which were established on the basis of satellite network coordinations, and published by the IFRB.

These specifications themselves can be compliant with certain standards, like the ones developed by ETSI. These ETSI standards in the satellite earth station domain are technical envelopes, developed to allow the presence of several, different, systems to interwork within a certain defined

spectrum. These standards, however, do not provide any guarantees for proper functioning of satellite earth stations within a system.

It is therefore important to distinguish clearly between specifications and standards.

In general, the Satellite Earth Station Technical Committee (TC-SES) in ETSI has decided to rely to the maximum possible extent on the work already carried out in other fora concerning specifications/standards of earth stations.

The ETSI TC-SES Committee is currently drafting standards that cover:

- Receive Only TV Earth Stations in FSS 10/11/12 GHz band (outdoor unit only),
- Data Receive Only Earth Stations in FSS 10/11/12 GHz band,
- Two-way VSAT Earth Stations in FSS 12/14 GHz band,
- Low data-rate mobile satellite earth stations in the 1.4/1.6 GHz-band,
- Low data-rate mobile satellite earth stations in the 12-14 GHz-band,
- Satellite News gathering stations,
- Interconnection of satellite earth stations to the PSTN and PSDN,
- Monitoring and control functions of satellite VSAT networks.

Some additional ETSI standards are in preparation, like:

- Receive Only Earth Stations in BSS bands,
- VSAT Earth Stations in FSS 6/4 GHz band;
- Connection of satellite networks to the ISDN.

Currently, no standard is developed by ETSI for the "large infrastructure earth stations", as they are unique stations, and their specifications depend very much on the characteristics of the space segment. They are tested and approved by the space segment operator, jointly with the station operator, before they can be introduced in the network and, because of their uniqueness, do not normally qualify for type-approval.

T.7. Frequency Issues.

T.7.1. Frequency coordination

The most interesting features of satellite networks are often said to be their flexibility and reconfigurability. This supposes that no coordination is needed before the installation and bringing into service of a station.

In most frequency bands, coordination of the Fixed Satellite Service with, as a minimum, the Fixed Service is required. This process can be a lengthy one. For instance, for the coordination of a satellite earth station in a shared Ku-band, the diameter of the coordination area ranges from 100 km to 500 km, and has a good chance to cover more than a single country, certainly in Europe. The lead time for the examination of the coordination data is four months, and this is to be multiplied by the number of satellite earth stations to be coordinated.

As this coordination process has been one of the obstacles in Europe for the establishment of satellite networks, the use of exclusive bands deserves preference. Some parts of the 14/12 GHz and 30/20 GHz frequency bands seem suitable for future exclusive use by VSAT satellite systems, if agreement can be reached by all administrations concerned. Therefore, future use of virtually exclusive frequency bands for certain satellite services shall be investigated as a priority in the Community.

It should be made clear to satellite network operators that the use of shared bands introduces additional delays and constraints due to coordination procedures, and that these delays are beyond the control of individual regulatory authorities.

Downlinks could possibly be authorized in any band as the coordination issues are less stringent. However, downlinks in shared bands could not be granted any protection if their use is not coordinated.

T.7.2. Site clearance.

A number of regulatory bodies have introduced the need for "site clearance" around a number of very sensitive areas, such as airports or National/International Defence Installations as well as around national monuments and historical sites. The objective of this process is mostly to guarantee that the radio services which are of vital necessity to those sites are not unduly affected (usually military/government installations, sometimes airports - aviation safety -).

In the United Kingdom, the detailed procedures and the points of contact for site clearance around airports are given in a "Code of Practice".

Studies are currently under way (in F, UK) to analyse more precisely the immunity of systems to be protected, and see how site clearance procedures should be adapted in the future.

If the number of satellite earth stations grows as forecast in some market studies, the regulatory bodies might face two sorts of difficulties:

- on the one hand, the site clearance activity might become a real burden, and it might be necessary to adopt accelerated procedures in some determined cases, e.g. when the uplink is using exclusive bands, or when some parameters fall below predefined thresholds.
- on the other hand, the potential for interference will increase with the growing number of stations: thus it might be necessary to strengthen the site clearance rules and constraints.

Site clearance is most often a local necessity. It is not clear whether it is necessary to harmonise those procedures. It might be necessary to harmonise the criteria for site clearance. In any case, the diversity should not create any technical or economic impediment to the development of satellite networks.

T.8. Legal Responsibilities.

When considering the provision of satellite services, a number of different entities play important but distinctly different roles in this provision. One essential element is to determine what are the responsibilities of each of those entities, and who should be the holder(s) of the licence(s).

The main responsibilities are:

- * conformance to essential requirements:
 - security of persons,
 - no pollution of the radio frequency spectrum,
 - data protection;
- * conformance to special or exclusive rights on public voice telephony (if applicable);
- * conformance to regulatory safeguards for public data communications services (if applicable);
- * conformance to other supplementary conditions established at Community level, like ownership rules, conformance to use of European numbering schemes etc.

In determining the entity which should be the holder of the licence, the responsibilities of each of the entities is of importance.

The contractual relations between all those entities might be quite complex. Nevertheless, it will be necessary to provide the licences to those entities that have been identified among others as having the tools and means to be compliant with the licensing requirements within each of the Member States.

The satellite operator usually establishes and operates space segment capacity. He is responsible, through his administration, in respect of the ITU agreed orbit and frequency use, for any interference to any other satellite network or any other radiocommunication network, caused by the satellite system he operates.

To ensure that the earth segment (the entire complex of all earth stations) is properly operated in accordance with the requirements of his space segment, the satellite operator describes the terms and conditions under which a satellite network operator can have access to the satellite system. Those terms and conditions also ensure compliance with the terms and conditions negotiated for the coordination of the satellite system as a whole under the ITU coordination process.

The applicable terms and conditions are usually laid down in documents which define the characteristics of the satellite earth stations, the test procedures before a station is brought into service, and the operational procedures for operations (normal operations, in case of failure, reconfiguration of the network, etc).

Currently, within each country, the international satellite organisations (INTELSAT, EUTELSAT, INMARSAT) are always represented by the national TO's as Signatories to the organisations. The national satellite systems are mostly operated by the national TO's as well, while private systems have different representatives.

Main trunking or TV uplink satellite earth stations usually transmit without any automatic or remote control and/or authorisation. The automatic control and monitoring functions are very limited as they do not apply to these stations. The bringing into operations of these stations is assured manually, by qualified personnel, in coordination with the space segment control centres (like the INTELSAT Operations Centre).

The operator must ensure that these stations cause no interference to other users of the radio spectrum. As the monitoring actions are manual, the station requires 24 hours-a-day attendance of qualified staff.

All procedures for actions in case of a failure have been defined by the satellite operator. The satellite operator must normally be able to reach a predefined earth station control point-of-contact to handle emergency and contingency situations.

Satellite news gathering terminals also fall under this category of stations.

Among operators of main stations, we can distinguish a special category of stations, namely the operators of network control stations of satellite earth station networks. These network control stations have the responsibility to control the whole of a satellite terminal network (either of the VSAT type or of the mobile type), either in a centralised way through a single station, or in a distributed way across various stations.

The network control earth station(s) contain(s) all the hardware and software dealing with networking functions such as addressing of the remote terminals, management of the network databases, control and monitoring of the different components of the network.

In some configurations, part of the networking functions might be left to the customer, under the final control of the satellite network operator.

The satellite network operator therefore has a leading role and responsibility in the operation of the network. However, although he operates the network control station(s), he is not necessarily responsible for all operational functions of the remote earth stations of the network although the network's central monitoring and control functions would fall under his responsibility.

It is possible that the hub operator controls and monitors more than one network under a "shared hub" concept.

Remote earth stations can be unattended. They can be owned by the customer, by the satellite network operator, or by the satellite service provider. As they are remotely and automatically controlled, they may probably be considered as "terminals" as part of the satellite network (not as part of the public infrastructure network), with the only constraint that they have to be type approved (and possibly frequency coordinated).

The satellite service provider might be a third party company and, although possible, does not necessarily have to be the same entity as the satellite earth station operators. The service provider will be responsible for the compliance to "service issues" such as special or exclusive rights.

It seems difficult to define the role of the end-user. Although the end-user clearly uses the service for his telecommunications requirements, and as such might not need to be placed under any regulatory control, the user of the network might wish to operate the network himself - in that case he should be qualified as a network operator and service provider at the same time.

However, if the user does not have the expertise available within his organisation, he might prefer to sub-contract this activity to a more qualified and experienced operator, even if he still owns the equipment (e.g. for economic reasons).

Possible connections of the remote earth stations to the public network will often take place at the user's premises.

T.9. Space Segment Access.

The space segment used for the provision of satellite services can be either provided by one of the International Satellite Organisations (ISO's) or by a "separate" satellite system this being either space segment of a national satellite systems or of private satellite systems.

Within the ISO's it is customary to rely on the satellite operator for the specification of the operational conditions to access the space segment. For the separate satellite systems a similar arrangement is foreseen. These arrangements are a sensible means of protection against interference and operational problems and as such should be considered as an essential element in a licensing scheme. In that case, the satellite network operator should be asked to use a satellite system with proven operational procedures and conclude an operating agreement with such a space segment operator.

The items gathered in such an "operating agreement" and concluded between the satellite network operator and the satellite system operator, would contain the technical conditions to access the space segment such as:

- specifications of the stations;
- test results and a "conformance certificate";
- procedures to access the space segment;
- procedures during operations (e.g. in case of failure, interference resolution, change of parameters).

It should also indicate how responsibilities are shared between the satellite system operator and the satellite network operator.

In the case of a satellite earth station network, the operating agreement could be "network oriented" so as to exempt remote earth stations from being individually covered by such an agreement.

Any operating agreement between a satellite system operator and a satellite network operator should be under regulatory control by the regulatory bodies, firstly, to verify that all necessary

technical precautions are covered by the agreement, secondly, that the satellite operator does not introduce any unnecessary discriminatory conditions through this agreement process. Therefore, each applicant for a satellite earth station network licence will be asked to produce a specimen of his "operating agreement".

As concerns the discussions in the International Satellite Organisations INTELSAT, Inmarsat and EUTELSAT on improvements to the access conditions to the space segment capacity of their respective intergovernmental satellite systems, this proposal builds on the progress of these discussions and in particular the recent decision by the EUTELSAT Assembly of Parties to propose the Member States options for improved and broadened access either through the installation of a national Signatory Affairs Office and/or through the so-called multiple access option in which access to the capacity can also be sought via Signatories other than the national one. The proposal foresees that both options shall be implemented and recognised.

Of course, a Common Position should be build on in order to ensure fair treatment across the Community. This proposal takes full account of these developments.

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Proposal for a

EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE
ON A POLICY FOR
THE MUTUAL RECOGNITION OF LICENCES AND OTHER NATIONAL
AUTHORISATIONS FOR THE PROVISION OF
SATELLITE NETWORKS SERVICES
AND/OR
SATELLITE COMMUNICATIONS SERVICES.

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Community, and in particular Articles 57(2), 66, 100a and 235 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the Economic and Social Committee²,

- (1) Whereas the Green Paper on a common approach in the field of satellite communications in the European Community of 20 November 1990³ calls for measures for facilitating trans-European services, and in particular a Community scheme concerning the mutual recognition of licences for satellite earth station networks laying down inter alia, the conditions for the Community-wide operation of satellite earth station networks and possible conditions regulating hub (central control) earth station operations as well as a strengthened frequency

1

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3 COM (90) 490 final

coordination related to satellite communications in order to support Community-wide licensing.

- (2) Whereas the Council in its Resolution of 19 December 1991 on the development of the common market for satellite communications services and equipment⁴ gives its support to the general goals of the Commission's Green Paper on a common approach in the field of satellite communications in the European Community and considers harmonisation and liberalisation as far as required to facilitate the provision and use of Europe-wide satellite telecommunications services subject, where applicable to conditions necessary for compliance with essential requirements and special or exclusive rights, as a major goal in satellite telecommunications policy; whereas in this Resolution the Council calls for measures on the basis of the appropriate Community procedures for the establishment of a harmonized regulatory framework for the licensing of satellite networks and satellite services;
- (3) Whereas Council in its Resolution of 22 July 1993 on the review of the situation in the telecommunications sector and the need for further development in that market⁵ recognises 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 authorisations based on harmonised conditions and with an interim solution based on a one-shop shopping procedure, as well as the development of the policy established in the Council Resolution of 19 December 1991 in respect of satellite communications, in particular the adoption of measures envisaged in that framework and considers as major goal for the Community's telecommunications policy in the short term the adoption of legislative proposals in the field of satellites;
- (4) Whereas the proposal for a Council Directive on the mutual recognition of licences and other national authorizations for telecommunications services⁶ does not apply to the provision of mobile radio services and satellite services; whereas it is therefore necessary to extend the principle of mutual recognition of licences to satellite services, including mobile satellite services;
- (5) Whereas this Directive concerns the recognition of national authorisations for the provision of satellite communications services and the establishment and operation of satellite earth station networks granted by Member States; whereas an authorization to provide a satellite

4 OJ. No C 8, 14.1.92, p. 1

5 OJ. No C 213, 6.8.93, p. 1

6 COM (92) 254 of 15.07.92

communications service and an authorization to establish and operate a satellite earth station network can be granted separately or in one licence;

- (6) Whereas this Directive does not concern the mutual recognition of authorizations 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;
- (7) Whereas the approach which has been adopted to achieve mutual recognition of national licences and other authorizations is to establish procedures whereby the undertakings involved may obtain a mutual recognition of their national authorizations; whereas the main objective is to achieve this by way of mutual recognition on the basis of the establishment of harmonised licensing conditions for the provision of satellite services; whereas, for those satellite services for which harmonisation of licensing conditions has not yet been achieved, a transitional one-stop shopping regime shall facilitate the obtention of authorisations;
- (8) Whereas the specificities of satellite earth station networks and in particular their network topology requires detailed information to be available for each relevant national regulatory authority to assess compliance with the stipulations of this Directive for that part of the network which is intended to be operated on the territory under jurisdiction of each of the Member States; whereas this information should be provided by the applicant in accordance with the information requirement of Annex I;
- (9) Whereas, on the basis of mutually recognised national authorisations, the satellite service providers and satellite earth station network operators will be allowed to operate, throughout the Community, any or all of the activities for which they are holder of an authorization from one Member State, 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 in conformity with Community law which is not specifically related to satellite services, in particular legislation on broadcasting;
- (10) Whereas the provision of satellite services may involve interconnection arrangements being agreed between the holder of a recognised national authorisation and terrestrial public network operators; whereas Member States should have the power to intervene in interconnection negotiations in order to ensure their timely and efficient implementation;
- (11) Whereas for some categories of satellite 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 satellite services without prior harmonisation;

- (12) 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 harmonisation to the European Committee for Telecommunications Regulatory Affairs (ECTRA) and the European Radiocommunications Committee (ERC), which have been established in the framework of the CEPT;
- (13) Whereas notwithstanding the extension of the provision of satellite services to third countries their operation may require frequency and site coordination in third countries; whereas in these cases the third countries concerned must be provided with the necessary information; whereas those parts of the satellite earth station network which require frequency and site coordination shall only be established and operated if the necessary coordination procedures have been completed;
- (14) Whereas, as a transitional measure, a coordinated one-stop shopping procedure should be established facilitating the application for national authorisation 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 transition one-stop shopping regime will be progressively replaced by the mechanism for national licensing of service categories on the basis of mutual recognition;
- (15) Whereas, in respect of the one-stop shopping procedure, bodies such as ECTRA and/or ERC, 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;
- (16) Whereas in cases of new service categories for which the harmonised Community licensing conditions have not yet been agreed, such as in the case of services from non-geostationary satellites including low earth orbiting satellite systems, and in cases where certain satellite services might not be covered by any of the established service categories due to the uniqueness of the service for which a licence is sought, 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;
- (17) Whereas there is a necessary link between the authorisations granted for the operation of satellite network services and the exclusive use of certain frequencies; whereas the operation of certain satellite network services requires furthermore a clearance procedure to guarantee

the proper functioning of radio services of a vital importance to certain sensitive areas, such as governmental or military installations and airports; whereas the mutual recognition of licences granted for the operation of satellite network 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; whereas this directive therefore introduces additional measures as regard the allocation and coordination of frequencies for the operation of Community-wide satellite network services;

- (18) Whereas mobile satellite services and position-fixing satellite services, in particular those provided via transportable satellite earth stations, do not differ substantially from other two-way point-to-point or point-to-multipoint satellite communications applications and should therefore not be subject to regulatory safeguards and constraints other than those set out in this Directive; whereas however special considerations need to be taken into account with regard to frequency and site coordination arrangements for certain use of transportable and mobile satellite earth stations; whereas this proposal takes account of these special considerations;
- (19) Whereas the applicant should have the possibility to arrange for the necessary frequency coordination directly with the appropriate authorities concerned or, alternatively, should have the possibility to request for a frequency and site coordination arrangement, in parallel and in addition to the licensing procedure; whereas a suitable frequency and site coordination arrangement shall be agreed for each category of satellite network service; whereas, for this purpose, supplementary conditions shall be added to the mutually recognised national authorisation;
- (20) Whereas the creation of the European Radiocommunications Committee (ERC) and the European Radiocommunications Office (ERO) in the framework of the European Conference of Postal and telecommunications Administrations (CEPT), following Council Resolution 90/C 166/02 of 28 June 1990,⁷ has substantially strengthened cooperation mechanisms in the frequency field; whereas the recognised technical expertise of ERC/ERO could be build upon in appropriate cases, in order to identify the frequency coordination arrangements necessary for the mutual recognition of national authorisations for satellite services, on the basis of a mandate from the Commission;
- (21) Whereas any operation of satellite network services requires access to and provision of space segment capacity; whereas, in order to obtain space segment capacity, the operators of satellite earth station networks must in general lease capacity from an existing satellite

⁷ O.J. C 166, 07.07.90, p. 2, Council Resolution of 28 June 1990 on the strengthening of the Europe-wide cooperation on radio frequencies, in particular with regard to services with a pan-European dimension

operator; whereas the effective use of orbital and related frequency resources is of utmost importance; whereas this effective use shall be a Community goal; whereas safeguards shall be introduced to preserve orbit and frequency spectrum efficiency; whereas it is therefore appropriate to require in cases of applications concerning the mutual recognition of authorisations for satellite earth station networks that the necessary space segment capacity arrangements have been made in an appropriate way;

- (22) Whereas the procedures for space segment capacity arrangements should be facilitated; whereas in cases where the necessary space segment arrangement has been made directly with a satellite operator or his representative, this arrangement must be recognised by the Member States; whereas Member States must not object to the mutual recognition of a national authorisation on the ground that they do not admit direct access arrangements;
- (23) Whereas, taking into account recent developments in international satellite organisations and in particular those in EUTELSAT, Member States shall take all appropriate steps to eliminate incompatibilities with the Treaty provisions as expressed in Directive ../../CEE [Draft Directive amending Directives 88/301/EEC and 90/388/EEC with regard to satellite communications]; whereas, in accordance with the Treaty provisions, territorial restrictions and restrictions based on nationality which together or separately have the effect of preventing cross-border offering of services via leased capacity should be removed; whereas therefore the Member States should allow access to space segment capacity via other Signatories or other SAO's than only the national ones on the basis of a multiple access arrangement; whereas in cases where the necessary space segment arrangement has been made through a Signatory Affairs Office (SAO) of a Member State, or via a multiple access arrangement, these arrangements must be recognized by all other Member States; whereas the provisions of this Directive build on these arrangements; whereas it should be possible to recognise or establish arrangements in order to harmonise conditions for access to space segment across the Community;

- (24) Whereas Council Resolution of 19 November 1992 on the promotion of Europe-wide co-operation on numbering of telecommunications services⁸ calls for the setting up of a European Numbering Office (ENO) within the framework of European-wide cooperation on numbering, and the opening of a European numbering space for numbering of telephony-based pan-European services; whereas pan-European satellite service providers may require the allocation and registration of names, numbers or addresses possibly on both a national and Europe-wide basis; whereas applications for national authorisations for provision of Europe-wide satellite services may therefore often be linked with requests for allocation and registration of names, numbers and addresses;
- (25) 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 these fees may include the costs related to frequency and site coordination arrangements and to numbering arrangements; whereas the principle of transparency requires an appropriate publication of the fees assigned for the processing and the monitoring of the licences;
- (26) Whereas compliance by the holders of mutually recognised national authorisations with the terms of these licences must be guaranteed; whereas license holders therefore must inform the National Regulatory Authority of the Member State that granted the national authorization which was mutually recognised, and any other relevant National Regulatory Authority in the Community or of third countries, of any changes in the relevant circumstances;
- (27) Whereas appropriate measures to ensure compliance with the terms of the licence should be taken by the national regulatory authorities; whereas however these measures should be subject to review in an appeal mechanism;
- (28) 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;
- (29) 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;
- (30) 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

⁸ O.J. No C 318, 4.12.92, p. 2

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.

- (31) Whereas this directive does not limit the scope of application of national authorization procedures for satellite services; whereas however, concerning the application of the procedures for mutual recognition at Community level, safeguards must be introduced with regard to third countries to ensure a comparable treatment of nationals of the Member States in these third countries; whereas in this perspective, the Commission should make efforts to conclude agreements ensuring equal treatment with interested third countries;
- (32) Whereas given the dynamic technological development in this sector, it is necessary to establish a procedure for adjustment of the technical provisions of this directive;
- (33) Whereas in contingency situations, national regulatory authorities must have the power to require, if necessary, the holders of mutually recognised national authorisations to cease temporarily the operation of their service; whereas the licence holder has the right to be informed immediately of the nature of such a request;
- (34) 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;
- (35) 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;
- (36) Whereas the provision of satellite services on an emergency basis in case of, *inter alia*, disaster relief, as well as the provision of satellite services for experimental or other special purposes require special treatment; whereas in the case of disaster relief an accelerated procedure with minimum delays is of utmost importance; whereas the provision of satellite services from Community territory to off-shore installations in international waters, the provision of satellite services to exhibitions and trade-shows, and the experimental use of certain types of satellite equipment, are, *inter alia*, considered as special situations; whereas further special situations might be identified at later stage; whereas special procedures will have to be elaborated to cater for these special and emergency services;
- (37) Whereas experimental satellite services, which have been declared to be of common European interest, may have been granted recognition as a Trans-European Network (TEN); whereas the success of these projects is critically dependent on the timely availability of the appropriate authorisations; whereas therefore streamlined application and authorisation procedures shall be considered a priority;

- (38) Whereas satellite broadcasting to the general public - including both applications in terms of the definition used in the Radio Regulations for Broadcasting-Satellite Services, as well as applications operating in the framework of the Fixed-Satellite Services will continue to be subject to the specific regulations set up by Member States in conformity with Community law;
- (39) Whereas the goal of an advanced Community-wide market for satellite services requires the establishment of coherent, harmonised licensing conditions, timely implemented in all Member States, and compatible with Community law; whereas the alternative to Community legislation is an analogous system of provisions negotiated between Member States which would entail multiple, bilateral agreements; whereas these agreements give no guarantees concerning coherency and uniformity and would therefore be unsuitable for satellite services, themselves international in nature; whereas therefore the overall framework can be better achieved at Community level, leaving room for a detailed, first, elaboration of harmonised conditions at the level of the Member States and thus the Community action is strictly limited, pursuant to the principle of subsidiarity, to the requirements of a framework required for the mutual recognition of authorisations satellite services and for an appropriate transitional regime;
- (40) Whereas the Commission shall, within the review of the provisions of this Directive and its implementation up until 1 January 1996, evaluate for which satellite services there have not yet been adopted decisions concerning mutual recognition of authorisations; whereas the review shall pay special attention as to whether these services can be covered by mutual recognition of authorisations without prior harmonisation;
- (41) Whereas the application of the provisions of this Directive requires a Community policy in relation to the ownership or control of undertakings benefiting from its provisions; whereas the Treaty does not provide, for the adoption of such a policy, powers other than those of Article 235;

HAVE ADOPTED THIS DIRECTIVE :

CHAPTER I

Scope and Definitions

Article 1

Objective

This Directive aims at implementing a single market in satellite services through the establishment of procedures allowing a satellite network operator authorised to provide satellite network services and/or a service provider authorised to provide satellite communications services in one Member State to provide part or all of those satellite 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 .../.../CEE⁹ shall apply, where relevant to this Directive. In addition, for the purposes of this Directive :

1. 'Satellite' means a space based artificial body orbiting around earth and carrying equipment intended to transmit or retransmit radiocommunications signals;
2. 'Satellite earth station equipment' means equipment which is capable of being used either for transmission-only, or for transmission and reception ("transmit-receive"), or for reception only ("receive-only"), of radiocommunication signals by means of satellites or other space based systems;

⁹ [Proposal for a Directive by European Parliament and Council on the Mutual Recognition of Licences and other national authorisations for telecommunications service]

3. 'Satellite system' means one or more satellites under the operational control of one operator, for the purpose of providing communications capacity;
4. 'Space segment' means the communications capacity of satellites used for the establishment of communications with terrestrial systems or other satellites;
5. 'Satellite earth station network' means a configuration of two or more satellite earth stations which interwork by means of satellites;
6. 'Satellite network services' means the establishment and operation of satellite earth station networks; these services consist, as a minimum, in the establishment, by satellite earth stations, of radiocommunications to space segment ("uplinks"), and in the establishment of radiocommunications between space segment and satellite earth stations ("downlinks");
7. 'Satellite communications services' means services whose provision makes use, wholly or partly, of satellite network services;
8. 'Satellite services' means the provision of satellite communications services and/or the provision of satellite network services;
9. 'Frequency and site coordination' means the clearance process to satisfy a number of potential frequency interference requirements concerning, inter alia, radio interference, aviation safety, radiation levels, and national security;
10. '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 satellite communications services and/or satellite network services in a Member State, in conformity with Community Law;
11. 'Undertaking' means any natural person, any legal person, whether profit-making or not, or any official body whether having its own legal personality or not;
12. 'Licence' means an individual authorisation issued by a National Regulatory Authority and required as a condition for the provision of a satellite service in conformity with Community law;
13. 'Declaration' means the communication to a National Regulatory Authority by a service provider of its intention to provide a satellite service;
14. 'One-stop shopping procedure' means an arrangement facilitating the obtention of national authorisations for satellite services from more than one National Regulatory Authority in a coordinated procedure and at a single location;

15. 'Community Telecommunications Committee (CTC)', means the Committee established by Article 20 of Directive .../EEC [Proposal for a Council Directive on the Mutual Recognition of Licences and other national authorisations for telecommunications services].

Article 3

Scope

This Directive shall apply to all national authorisations relating to the provision of satellite communications services and/or the provision of satellite network services.

CHAPTER II

Mutual Recognition of National Authorisations

Article 4

Right to provide services

Member States shall ensure that undertakings which have been granted a national authorisation recognised under the procedures set out in this Directive are allowed to provide without delay the satellite network services and/or satellite communications services specified in that 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 recognised 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 satellite services to national legislation not specifically related to telecommunications and satellite services.

CHAPTER III

Mutual Recognition According To Common Licensing Regimes And Procedures For Harmonisation

Article 6

Harmonisation of conditions for authorisation

1. Where appropriate, harmonised conditions for authorisation shall be determined for certain satellite services. For this purpose, the Commission may, in accordance with the procedure laid down in Article 26 :
 - a) as a first step, adopt the measure for identifying the category of satellite service for which harmonised conditions are required, as well as a mandate to ECTRA and/or ERC 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 and/or ERC, 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 26, without following the procedures laid down in paragraph 1 (a) and (b).

3. The common licensing conditions, as adopted under the procedures of paragraph 1 or 2, may include provisions, where required, for the implementation of the provisions of Chapters relating to frequency and site coordination, numbering, and space segment access.

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 26, that mutual recognition of national authorisations may be granted for certain categories of satellite services which have not been 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 compatible with Community law, which shall be complied with by the providers of the service covered.
3. A decision taken in application of paragraph 1 may include provisions, where required, for the implementation of the provisions of Chapters relating to frequency and site coordination, numbering, and space segment access.

Article 8

Mutual Recognition

The satellite services which fall under a harmonised service category covered by a decision adopted under Articles 6 (1)(b), or 6 (2), or a satellite 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 satellite services covered by decisions adopted under Articles 6 (1)(b), 6 (2), or 7, including, where applicable, any 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 the transitional procedure

The provisions laid down in Articles 11 to 14 set out a transitional one-stop shopping procedure applicable to satellite 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

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, in accordance with the procedure laid down in Article 26.

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 satellite 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 applications and/or declarations can be filed.

Applications may include, as required, the information specified in Annex I and, where required, requests for frequency and site coordination in accordance with the provisions set out in Chapter V, and/or for allocation and registration of names, numbers or addresses, in accordance with the provisions set out in Chapter VI.

- (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 a satellite service to a licence, it shall take a decision on the grant of such a licence and inform the applicant as well as the entity with which the applications was filed of that decision within six weeks of the receipt of the application.

When a National Regulatory Authority submits the provision of a satellite service to a declaration requirement, it may raise objections against the provision of the service declared and it shall inform the applicant as well as the entity with which the declaration 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 satellite services, in response to commercial needs.
- (6) Where the provisions of Chapters V, VI and VII apply, the granting of licences may be made conditional to the completion of the procedures set out in those Chapters.

- (7) If no licence is issued or if no objections raised 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 for the reasons for its decision.
- (8) 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

Frequency and site coordination procedures

Article 13

Coordination directly by the applicant

In the case of applications concerning satellite networks services, the applicant may produce evidence, included in the application, that the necessary frequency and site coordination arrangements have been provided for in all relevant Member States and other countries affected by the establishment and operations of the planned satellite earth stations.

Article 14

Request for coordination via the application

1. Notwithstanding Article 13, in cases concerning satellite network services, a request for frequency and site coordination arrangements with relevant Member States and third countries affected by the establishment and operations of the planned satellite earth stations, may be included in the application(s).
2. The request for frequency and site coordination shall be forwarded to the national regulatory authorities and the appropriate authorities of relevant third countries, and enclosed shall be any relevant information provided in accordance with the appropriate parts of Annex I.

Article 15

Initiation of coordination procedures

1. After having been notified of the request for frequency and site coordination arrangements, the national regulatory authorities shall immediately initiate the necessary frequency and site coordination procedures in accordance with national laws applicable and international obligations.
2. The applicant shall, where appropriate, provide all assistance necessary to conclude a suitable frequency and site coordination arrangement.
3. Member States shall ensure that frequency and site coordination arrangements not yet completed for certain parts of satellite earth station networks, shall not delay the commencement of operations of those parts of the satellite network service for which the coordination arrangements have been concluded.
4. The operation of those parts of the satellite earth station network which require completion of frequency and site coordination procedures with non-Community countries shall be subject to satisfactory completion of these procedures, in accordance with international commitments of Member States.

Article 16

Commencement of the provision of satellite network services

1. In case of an application concerning satellite network services, the national authorisation shall include a supplementary condition that operation of that satellite earth station network may only commence for those parts of the satellite network for which frequency coordination and site clearance procedures have been completed.
2. The licensed satellite network service shall be subject to a supplementary condition that further frequency and site coordination arrangements might remain to be carried out in accordance with national laws applicable and international obligations for the entire period for which the licence is valid. If required, suitable modifications to the licence shall be sought in accordance with the provisions of Article 22.

Article 17*Completion of coordination arrangements*

In the case of applications concerning satellite network services, where no conclusive agreement is reached on the frequency and site coordination arrangements within six months after the national regulatory authorities have been notified of a request for coordination, any party involved in the coordination procedure may invoke the appeal procedure of Article 23.

Article 18*Harmonisation in consultation with ERC*

1. The Commission may request, where appropriate, the European Radiocommunications Committee (ERC) to determine harmonised frequency bands for satellite network services and satellite earth station networks in order to identify the frequency coordination provided for in this chapter, in accordance with the international commitments of the Member States in this area.
2. The satellite network services using the frequency bands thus identified, and the conditions placed upon their use, may be introduced as a service category in accordance with the procedures of Article 6.

CHAPTER VI**Numbering****Article 19***Allocation and registration of names, numbers or addresses*

1. A request for allocation and registration of names, numbers or addresses may be included in the application for the mutual recognition of licences.

2. This request shall be forwarded without delay to the appropriate authorities responsible for processing such requests.
3. The application for mutual recognition of licences may proceed independently of the request for allocation and registration of names, numbers or addresses.

CHAPTER VII

Access to space segment capacity

Article 20

Arrangements for space segment access and for conformance to operational requirements

1. In the case of applications concerning satellite network services, evidence has to be produced that the necessary space segment capacity is provided for and that appropriate technical arrangements have been made with the satellite system operator in order to ensure proper interworking of the satellite networks and satellite systems concerned.
2. The evidence referred to under paragraph 1 shall be provided to all national regulatory authorities under which responsibility parts of the satellite network service are operated, at the latest six months after the date of issue of the authorisation.
3. In case the evidence is not provided or is not conclusive, national regulatory authorities might invoke the procedures set out in Article 24.

Article 21

Access to space segment

1. In the case of applications concerning satellite network services, where the necessary space segment capacity may be arranged for directly with the satellite operator or his authorised

representative(s), or where the necessary space segment may be arranged for through another recognised arrangement in a Member State, in conformity with Community law, this arrangement shall be recognised by all Member States.

In such a case, the licensee may access the space segment capacity from any satellite earth station in the Community covered by the provisions of this Directive.

2. In cases where space segment capacity is intended to be provided by the International Satellite Organisations, the Commission may, in conformity with the procedure set out in Article 26, recognise or establish procedures for access to that capacity, which may be required for the Community-wide implementation of the arrangements of paragraph 1, in conformity with international obligations of Member States.

CHAPTER VIII

Monitoring Procedure

Article 22

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 24.
3. If no conciliation procedure is initiated within two weeks of receipt of the request of the party concerned by the Commission, or no agreement is reached according to the procedure set out in Article 24, the Commission shall, after having given the parties involved the opportunity of being heard, decide in conformity with the procedure set out in Article 26 whether the measures taken shall be maintained or modified..
4. The Commission notifies the decisions taken in accordance with paragraph 2 and 3 to the undertaking involved and inform the national regulatory authority thereof.

CHAPTER IX

Appeal Procedure

Article 23

Appeal to the Commission

1. When an authorisation is not granted as set out in this Directive, the applicant may submit a copy of its application(s) and/or declaration(s) to the Commission and ask the Commission to initiate the conciliation procedure set out in Article 24.
2. If no conciliation procedure is initiated within three weeks of receipt of appeal by the Commission, or no agreement is reached according to the procedure set out in Article 24, at the latest three months after the first meeting of the working group, a decision shall be taken in accordance with Article 26 on the basis, where applicable, of the relevant national licensing regime notified in accordance with Article 35.

Article 24

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.
- (2) The working group shall meet within ten days. The chairman of the CTC may decide, upon proposal from any member of the working group, to invite a maximum of two other persons as experts to advise it. In the case of frequency matters however, where appropriate, an

additional expert from the ERC should be invited. In the case of numbering issues, and where appropriate, an additional expert from the ENO should be invited.

- (3) The working group shall give the applicant, the national regulatory authorities of the Member States concerned, the telecommunications organisations or other parties involved the opportunity to present their opinion orally or in writing.
- (4) The working group shall endeavour to reach agreement between the applicant 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 participation in the procedure. The applicant shall bear the costs of the experts mentioned in paragraph 2.
- (6) Whenever an agreement is reached, the authorisation(s) shall be granted by the National Regulatory Authority(y)(ies) concerned within two weeks of the agreement.

CHAPTER X

Community Telecommunications Committee

Article 25

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 26

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 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 the representatives of telecommunications organisations, satellite organisations, space agencies, users, consumers, manufacturers, service providers and trade unions.

In addition, the Committee shall, taking account of the Community's telecommunications policy in general and the satellite communications policy in particular, foster the exchange of information between the Member States and between the Member States and the Commission, on the situation and the development of regulatory activities regarding the authorisation of satellite services.

CHAPTER XI

Final Provisions

Article 27

Applicability

1. An undertaking shall be granted neither recognition of a national authorisation according to harmonised conditions nor any rights resulting from the provisions of this Directive, unless its principal place of business, and, if any, its registered office are located in a Member State. Undertakings already established in a Member State shall be treated as Community enterprises
2. Without prejudice to agreements and conventions to which the Community is a contracting party, the undertaking may not, at any time, be more than 25 percent owned by third countries and/or nationals of third countries. It shall at all times be effectively controlled by Member States and/or nationals of Member States.

3. The Community will, after adoption of this Directive, open negotiations with a view to ensuring comparable and effective access in all markets, by removing foreign participation limitations and other restrictions in these countries. If this result is achieved, paragraphs 1 and 2 will be waived.
4. The Commission shall submit an annual report to the Council on progress made in multilateral or bilateral negotiations regarding access for Community undertakings to the markets of third countries in the field covered by this Directive, on any result which such negotiations may have achieved, and on the implementation in practice of all the agreements which have been concluded.

The Council, acting by qualified majority on a proposal from the Commission, may amend the provisions of this Article.

Article 28

Interconnection to public networks

1. Where a satellite service requires an interconnection agreement between the holder of the recognised national authorisation and another telecommunications organisation, Member States shall ensure that their national regulatory authority has the right to intervene in order to ensure that such agreements are entered into and implemented in an efficient and timely manner, and in accordance with Community law.
2. The national regulatory authority shall intervene if requested by either party, in order to set conditions which are fair and reasonable for both parties, and offer the greatest benefits to all users.

Article 29

Contingencies

1. In the case of satellite earth station networks, Member States shall ensure that national regulatory authorities have the power to request part or whole cessation of the transmissions of the network for a temporary period in the case of contingencies where proper functioning

of other telecommunications networks, including satellite earth station networks and satellite systems, is jeopardised.

2. Member States shall ensure that the licensee complies with such a request without delay.
3. Immediately following the request, the national regulatory authority shall inform in writing other affected countries as well as the licensee of the reasons for the request without delay.
4. The Member States shall ensure that the restoration of services provided by the licensee is not unreasonably delayed.

Article 30

Fees

1. Member States may allow their national regulatory authority to impose a reasonable fee to cover the administrative costs incurred in the implementation of this Directive as part of the overall national regulatory arrangements in the telecommunications sector.
2. Fees shall be published in an appropriate manner and detail so as to provide easy access to that information.

Article 31

Confidentiality

1. Without prejudice to the provisions of Article 35, the Commission and the national regulatory authorities, their officials and other servants, and experts called in pursuant to Article 24 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 secrecy.
2. The provisions of paragraph 1 shall not prevent publication of information on licensing conditions which does not include information of a confidential nature.

Article 32*Emergency, Experimental and other Special Satellite Services.*

1. Simplified conditions and separate procedures for submissions of applications and the mutual recognition of national authorisations for emergency satellite services, such as for disaster relief, as well as for experimental and special satellite services shall be adopted in accordance with the procedure laid down in Article 26.
2. The experimental provision of satellite services of a trans-European nature which have been declared projects of European interest, shall be considered with priority. Where authorisations for these services are required, applications may be forwarded directly to the Commission.

Article 33*Harmonisation priorities*

The establishment of harmonised conditions for satellite services, in accordance with the provisions of Articles 6 and 7, shall be in the order of priority indicated in Annex II.

Article 34*Notification*

1. The Member States 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 are assessed;
 - general national regulation specifically relevant in the area of satellite services.

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

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

Article 35

Review Procedures

1. Any modifications necessary to adapt the content of the Annexes of this Directive to new technological developments and appropriate practical procedures shall be determined in accordance with the procedure laid down in Article 26.
2. The Commission shall establish an annual report on the application of the procedures set out in Chapters II and IV.
3. 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 Parliament and Council. This report shall include an assessment, on the basis of the experience gained, of the need for further evaluation of the regulatory structures as regards authorisations.

Article 36

Implementation of the Directive

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive at the latest one year after the adoption of this Directive. They shall forthwith inform the Commission thereof.

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

2. Member States shall notify the Commission a list of 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 37

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament

The President

For the Council

The President

ANNEX I**INFORMATION REQUIREMENT IN RELATION TO APPLICATIONS.*****Preface.***

The elements in this annex can be used as an indicative basis for the information requirements to be supplied under the applications for authorisations.

In all cases, the information of part 1 (containing the general information) should be provided. In case an application relates to satellite earth stations networks, the relevant information of part 2 should be provided, while in the case of applications relating to licences for satellite communications services, the information of part 3 should be provided.

PART 1 - GENERAL INFORMATION.

General information to be provided under all applications.

- G1. Name and address of company/person applying and ownership, date, place and form of incorporation or, if applicable, similar details of partnership, association or otherwise.
 - G2. Nature of the satellite service operated.
 - G3. National Authorisation for the operation of the service(s) mentioned under point G2., specifying the legal ground (law, licence, class licence, etc.).
-

PART 2 - SATELLITE EARTH STATION NETWORKS

Information to be provided in case a licence is sought for satellite earth station networks or parts thereof.

Network architecture related aspects.

- N1. General network topology including details on the general architecture and configuration, and specifically on the monitoring and control configuration (see also space segment related aspects).
- N2. If applicable, details on foreseen connections via or with public telecommunications network(s), as well as connections via or with other telecommunications networks. In each case, details under which conditions equipment is already approved for connection to the networks.
- N3. In case of utilisation of, parts of or all, elements of other satellite earth station networks¹, details of these elements and of licences under which these elements operate.

Equipment related aspects.

- E1. Generic description of each type of satellite earth station used in the network and detail of harmonised European standards and/or Common Technical Regulations which apply to each of these type as well as detail on conformance tests and/or type-approvals obtained.
- E2. A description of each type of satellite earth station used in the network not covered by harmonised European standards or Common Technical Regulations, with detail of other national or international standards or widely acknowledged specifications² which might apply, as well as detail on conformance tests and/or type-approvals obtained³.

1 For example, in the case of shared hub, VSAT or mobile networks, the hub might already be licensed and the remote earth stations are added under a separate licence, or the hub station is located and licensed outside the Community.

2 For example, the specifications used by the international satellite organisations.

3 Either from national bodies or certificates from the international satellite organisations.

- E3. Indication of the use of each generic type of satellite earth station⁴ and, if different from generic type, indication of use for each individual satellite earth station⁵.
- E4. If applicable, (a) copy(ies) of the declaration(s) provided for in Article 11 of Directive .../.../EEC⁶, concerning satellite earth station equipment which is capable of, but not intended for connection to the public telecommunications network.

Frequency and site coordination related aspects.

- F1. Frequency bands envisaged for use by the network, with specificities of the bands for each country in which satellite earth stations are located and identification of the frequency bands used for each individual satellite earth station.
- F2. If applicable, geographical location and antenna height of each of the satellite earth stations used and type of station used in that location with reference to [equipment related aspects] above.
- F3. Frequency coordinations already obtained and an indication for which of the satellite earth stations further frequency coordination is required, in which frequency bands, with which services, and with which countries this coordination is to be carried out.
- F4. In case of further need for frequency coordination, sufficient detail to initiate the coordination procedures with the relevant nations.⁷
- F5. Site clearances already obtained and an indication for which of the locations of the satellite earth stations site clearances might be necessary and for which reason.
- F6. All locations of satellite earth stations close to borders with other countries and where there exists possible need for site clearance and/or frequency coordination procedures with these countries, shall be marked with an indicative list of those countries which might have to be contacted.

4 Fixed satellite, transportable fixed satellite or mobile satellite, landmobile satellite, aeronautical satellite, maritime satellite, radiodetermination satellite, otherwise.

5 For example, landmobile satellite units used in fixed locations.

6 Council Directive supplementing Directive 91/263/EEC in respect of satellite earth station equipment.

7 Frequency coordination is usually performed by national frequency offices of the countries involved, and the frequency manager of the applicant, as a minimum. Sufficient detail shall be provided so that these national frequency offices of Member States and non-Community countries can assess the issue and contact the applicant to initiate the coordination.

- F7. If applicable, detail which facilitate local frequency coordination and site clearance procedures for mobile and transportable stations, in particular for Satellite News Gathering units:

Space segment related aspects.

- SS1. The satellite system(s) or space based systems envisaged for use with detail on orbital parameters and characteristics of transponder(s).
- SS2. A copy of (a) formal statement(s) from the space segment provider(s) which confirm(s) the existence of either (a) commercial agreement(s) in conformity with Community law or declaration(s) of intent, the satellite(s) and transponder(s) used, as well as the foreseen frequency plan for the network of the applicant.
- SS3. An indication as to which satellite operations guides are applicable⁸ or an indication to any other operational procedures between the satellite operator and the applicant.
- SS4. Control and Monitoring facilities either integrated in the applicant's network and/or any external facilities used⁹, with details of harmonised European standards and/or Common Technical Regulations, or other standards or widely accepted specifications, which apply, as well as details on conformance tests and/or type-approvals obtained.

Operations related aspects.

8 For example, the EUTELSAT Systems Operations Guide ESOG.

9 The satellite network control centres of the satellite system operator which space segment is used, for example the INTELSAT Operations Centre.

- OP1. Anticipated presence of personnel at the satellite earth stations, their qualifications, and attendance¹⁰, particularly at transportable and autonomous¹¹ satellite earth stations.
- OP2. Description of any technical, operational or special constraints with might delay immediate cessation of, relevant parts or all, transmissions upon request by a National Regulatory Authority in case of contingencies.
- OP3. Name, address, telephone, fax, telex and /or electronic mail detail of the Operations Manager and the Network Manager On Duty, and any other person¹², either of which can order immediate cessation of, relevant parts or all, transmissions of the network, upon request by a National Regulatory Authority in case of contingencies.

Other aspects.

- OA1. Information on whether the presumption of conformity set out in Article 4 (1) of Directive .../.../EEC [Council Directive supplementing Directive 91/263/EEC in respect of satellite earth station equipment] is applicable to the equipment which will be used¹³.
- OA2. Details on licences obtained or applied for in non-Community countries relevant to the use of the network in question.
- OA3. If the network is intended for experimental use, details regarding the nature of the experiments, the date of commencement, the duration.
- OA4. If the network is intended for special use, such as at exhibitions and trade shows, the nature of this special use, the date of commencement, the duration.

10 During transmissions only, continuous 24 hrs/day, or otherwise.

11 Autonomous satellite earth station are those which fall under direct supervisory operational control of a satellite operators control and operations facility.

12 For example, Manager On Duty in the satellite operations centres.

13 In case equipment can cause a health hazard (e.g. location of high power satellite transmitters in a public location) details shall be provided on preventive or corrective measures foreseen.

- OA5. For information only, indication of other factors which are expected to impact partly or wholly on the establishment of the satellite network service¹⁴ but which are not directly subject to the provisions of the Single Community Satellite Communications Licence.

PART 3 - SATELLITE COMMUNICATIONS SERVICES

Information to be provided in case of applications for licences for satellite communications services.

- CS1. Nature of the satellite communications service which the application seeks for licensing.
- CS2. Origin and destination of the traffic of the various types of services under application.
- CS3. The standards applied for the services concerned.
- CS4. The measures envisaged to ensure data protection.
- CS5. For information only, indication of other factors which are expected to impact partly or wholly on the establishment of the communications service¹⁵ but which are not subject to the provisions of the Single Community Satellite Communications Licence.

Amendments to this annex shall be established under the procedure set out in Article 26.

14 For example, audiovisual regulations (copyright, ownership, content, advertisement, etc), environmental regulations, competition law, transborder operations.

15 For example, audiovisual regulations (copyright, ownership, content, advertisement, etc), competition law, transborder operations.

ANNEX II**SATELLITE SERVICES, THE CONDITIONS OF WHICH
SHOULD BE HARMONISED WITH PRIORITY.****SATELLITE NETWORK AND COMMUNICATIONS SERVICE CATEGORIES TO BE ADDRESSED WITH
PRIORITY IN ACCORDANCE WITH ARTICLE 6.**

1. VSAT networks operating in parts of the 14/12 GHz band.
2. Satellite News Gathering services.
3. Mobile satellite services.
4. Personal satellite communications services via geostationary and non-geostationary satellite systems including low earth orbiting systems.
5. Two-way Radiodetermination and Radiolocation satellite services.

Other services subject to further consideration:

VSAT networks operating in parts of the 30/20 GHz band.

**SATELLITE NETWORK AND COMMUNICATIONS SERVICE CATEGORIES TO BE ADDRESSED WITH
PRIORITY IN ACCORDANCE WITH ARTICLE 7.**

1. *One-way point to multipoint satellite services.*
2. *One-way radiolocation and radiodetermination satellite services*

Amendments to this annex shall be established under the procedure set out in Article 26.

D. FINANCIAL OUTLINE

I. FINANCIAL IMPLICATIONS

1. Title of Action

DIRECTIVE by European Parliament and Council on a policy for the mutual recognition of licences and other national authorizations for the provision of satellite network services and/or satellite communications services.

2. Budget Line

B-5 4020: Standardization in the field of telecommunications

3. Legal Basis

- Articles 57 (2), 66, 100 A and 235.
- Green Paper on a common approach in the field of satellite communications and services, COM(90)490 Final, 20.11.90.
- Council Resolution of 19th December 1991 on the development of the common market for satellite communications services and equipment OJ No C 8, 14.1.92, p.1.
- Directive /.../ EC [on the mutual recognition of licences and other national authorisations for telecommunications services].

4. Description

4.1 Specific Objectives of the Action.

This action aims for the establishment of a common market for satellite services, through the definition and implementation of a Community regime for the mutual recognition of national satellite services licences or other authorisations. The method consists in the establishment of a procedure for harmonization of existing divergent national regimes for the authorization of satellite 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 other CEPT bodies such as the European Radiofrequency Committee/European Radiofrequency Office or the European Numbering Office or to recognize or establish other arrangements in the field.

The action has a very strong impact on the development of satellite services in the Community and the rest of Europe and its justification lies in the necessity of establishing a Community-wide regime for services which are inherently international in nature and as such require an appropriate approach thereby establishing a broad base for the satellite services and equipments markets and the associated networks and services in the Community.

4.2 Duration.

The proposed action is an annual action. Its duration is not limited.

4.3 Population aimed at by the Action.

The Directive directly concerns the satellite service industry in the field of satellite earth station networks and satellite communications services and indirectly all equipment suppliers and users of satellite communications 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 application of the appeal mechanism and for subventions given to ECTRA, ERC/ERO and ENO for the elaboration of harmonized conditions and related tasks.

7. Financial implication for intervention credits

The Community resources will be required to cover a contribution to the work done by ECTRA, ERC/ERO and ENO in establishing harmonised conditions for the provision of Europe-wide services and related professional assistance.

Indicative timetable:	(B 5 - 4020)
1994:	200.000 ECU
1995:	200.000 ECU
1996:	200.000 ECU
1997:	200.000 ECU
1998+:	200.000 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. They will be required to cover expenses for additional staff as well as committee and working group meetings. 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 (1 A for 80.000 ECU, 1 C for 80.000 ECU) is estimated to cost 160.000 ECU annually which will be covered by Title A1 and A2 of the budget. Taking into account the budgetary situation in 1994 the additional staff required in 1994 will be found by a redeployment of existing staff. The Committee meetings will cost about 72.000 ECU (= 6 x 12.000) per year. This amount (72.000 ECU) will be covered by budget line A-2510.

III. ELEMENTS OF COST-EFFICIENCY ANALYSIS

1. Objectives and coherence with the financial programming.

- 1.1 The proposed Directive aims at establishment of a Community licensing regime for satellite earth station networks and satellite communications services through the mutual recognition of national licences or other authorisations.
- 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 general objective of the "establishment of an internal market for 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 satellite communications sector.

Currently, the establishment of satellite services requires parallel applications for licences, usually for each satellite earth station in a network, resulting in a time-consuming procedure of obtaining individual licences for up to hundreds of satellite earth stations. These administrative and regulatory barriers have severely hampered the development of Community-wide satellite services, especially in the rural regions. The proposed licensing regime provides for a one-stop shopping concept and is expected to boost the development of the satellite services and equipment markets. The proposed action is fully in line with the principle of subsidiarity as the introduction of such a concept by multilateral actions of the Member States would entail excessive delays and cumbersome procedures because it would require a large number of individual negotiations. The objective can therefore better be achieved by an action at Community level.

3. Follow-up and evaluation of the action.

The proposed Directive sets out a reporting procedure in its Article 36 which effectively consists of a requirement for the Commission to report before the 1st of January 1996 on the progress of implementation and the effectiveness of the measure.

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