

COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a
EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE
on the application of open network provision (ONP)
to voice telephony

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. BACKGROUND AND AIM OF THE DIRECTIVE

Open network provision is the Community policy designed to ensure open and efficient access to telecommunications networks and services, and to provide a minimum set of harmonized offerings throughout the European Union. The policy of open network provision was established by Council Directive 90/387/EEC⁽¹⁾.

In June 1992, the Council adopted a specific Directive on the application of open network provision to leased lines⁽²⁾, and two Recommendations on the application of open network provision to Packet Switched Data Services⁽³⁾ and Integrated Services Digital Networks⁽⁴⁾ respectively.

The Council called for a specific Directive on the application of open network provision to voice telephony in Council Directive 90/387/EEC, Annex III.

A proposal for a Council Directive was first submitted by the Commission in September 1992. Following the entry into force of the Treaty of European Union on 1 November 1993, the European Parliament and the Council were unable to reach agreement on a joint text, mainly on account of the issue of comitology. The Common Position confirmed by the Council in June 1994 was rejected by the European Parliament in July 1994.

The proposal is now being re-submitted, as called for by the European Parliament⁽⁵⁾. With the exception of the Articles related to comitology, the Commission has maintained as far as possible the text which was to a large extent agreed between the European Parliament and the Council during the Conciliation Meetings.

The aim of the proposed European Parliament and Council Directive on the application of open network provision to voice telephony is to:

- establish the rights of users of the telephone service;
- ensure open and non-discriminatory access to the telephone network for all users, including service providers offering competitive services;
- enhance Community-wide provision of voice telephony services.

The proposed Directive is consistent with the importance which the Treaty gives to consumer protection in the European Union.

(1) OJ No L 192, 27.7.1990, p. 1.

(2) OJ No L 165, 19.6.1992, p. 27.

(3) OJ No L 200, 18.7.1992, p. 1.

(4) OJ No L 200, 18.7.1992, p. 10.

(5) EP Resolution adopted on 30 September 1994 (PE 182.008, B4-0039/94).

Further background information on this proposed Directive can be found in the Commission's original proposal⁽⁶⁾.

2. HISTORY

The Commission submitted its original proposal to the Council and the European Parliament in September 1992, under the cooperation procedure. The proposal was supported by the Economic and Social Committee⁽⁷⁾ and the European Parliament at first reading⁽⁸⁾, and the Council adopted a common position on 30 June 1993.

Following the entry into force of the Treaty of European Union on 1 November 1993, the Directive was formally re-submitted under the co-decision procedure in Article 189b of the Treaty.

The European Parliament proposed a number of amendments at its second reading in January 1994, and four of these were taken up by the Commission and included in a modified Commission proposal⁽⁹⁾. The Council did not accept all the European Parliament's second reading amendments, and in accordance with Article 189b(3) of the Treaty, the conciliation procedure was invoked.

Two conciliation meetings were held between the European Parliament and the Council in March and April 1994 to consider the European Parliament's second reading amendments, but no agreement was reached. The main problem was the issue of comitology, in particular the procedures for consultation that apply when the Commission exercises implementing powers conferred upon it by an instrument adopted jointly by the European Parliament and Council.

Following the failure to reach a joint text during the Conciliation process, the Council confirmed its original common position in June 1994, without any of the European Parliament's second reading amendments, and as a result the European Parliament voted to reject the Directive at its July 1994 Plenary, in accordance with the procedure in Article 189b(6) of the Treaty.

On 30 September 1994, the European Parliament adopted a Resolution calling on the Commission to re-introduce a draft Directive on ONP voice telephony at the earliest possible date.

3. AMENDMENTS IN THE RE-SUBMITTED PROPOSAL

This re-submitted proposal builds upon detailed discussion between the Council and the European Parliament on the amendments proposed at second reading by the European Parliament.

⁽⁶⁾ OJ No C 263, 12.10.1992, p. 20.

⁽⁷⁾ OJ No C 19, 25.1.1993, p. 126.

⁽⁸⁾ EP Resolution adopted on 10 March 1993 (PE 203.347, A3-0064/93).

⁽⁹⁾ COM(94) 48, 1.3.1994.

The details of the main changes between this version and the Commission's modified proposal of 1 March 1994 are as follows:

Recital/Article	Amendment
Changes based on discussion between EP and Council during Conciliation process	
Recital 9	Additional sentence
Recital 42a	New recital
Art 10(1)	Final subparagraph amended
Art 13(1)	Modification of previous text
Art 13(5)	Additional subparagraph (based on previous 13(3)a)
Art 26(6)	Modification of previous text of 26(5)a.

In addition, the regulatory committee procedure (formerly Article 31) has been changed to an advisory committee procedure, with a consequent change in Article 25 and Article 29. In this respect, the re-submitted proposal is consistent with the Commission's original proposal. It is also consistent with the Declaration adopted by the 1985 Intergovernmental Conference on the Single European Act, in which the Council is requested to give the advisory committee procedure in particular a predominant place for the exercise of the powers of implementation conferred on the Commission within the field of Article 100a of the Treaty.

Other changes are the inclusion of specific dates in Articles 13(1), 26(1), 31, and 32, clarification to recital 30, addition of recitals 46 and 47, re-numbering of Articles after Article 30, and minor editorial amendments to reflect the change from cooperation procedure to co-decision procedure.

4. COMITOLOGY

In December 1994, the European Parliament, the Council and the Commission agreed a modus vivendi concerning the rules for exercising the powers to implement acts adopted jointly by the European Parliament and the Council in accordance with the procedure laid down in Article 189b of the Treaty establishing the European Community.

The re-submitted proposal follows established practice and makes reference to an advisory committee procedure, consistent with Council Decision of 13 July 1987⁽¹⁰⁾.

5. CONCLUSION

This proposed Directive will stimulate telecommunications services in Europe and provide important protection for consumers. The re-submitted proposal builds upon the large measure of agreement reached by the European Parliament and the Council on the original proposal.

The European Parliament and the Council are requested to adopt the attached proposal for a Directive without further delay.

⁽¹⁰⁾ OJ No L 197, 18.7.1987, p. 33.

Proposal for a
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on the application of open network provision (ONP)
to voice telephony

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

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

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

Acting in accordance with the procedure referred to in Article 189b of the Treaty,

1. Whereas Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of open network provision⁽³⁾ provides *inter alia* for adoption of a specific directive establishing open network provision conditions for the voice telephony service;
2. Whereas, in accordance with Directive 90/387/EEC, open network provision (ONP) applies to public telecommunications networks and, where applicable, public telecommunications services; whereas therefore the application of ONP to the voice telephony service should also include the application of ONP to the network over which the voice telephony service is provided;
3. Whereas ONP conditions for access to and use of the fixed public telephone networks and services should apply to all the network technologies currently in use in Member States, including analogue telephone networks, digital networks and the integrated services digital network (ISDN);
4. Whereas this Directive does not apply to mobile telephony services; whereas it does apply to the use of the fixed public telephone network by operators of public mobile telephony services, in particular with respect to the interconnection of mobile telephone networks with the fixed public telephone network in a single Member State, in order to achieve comprehensive Community-wide services; whereas this Directive does not apply to direct interconnection between operators of public mobile telephony services;
5. Whereas this Directive does not apply to services or facilities provided at network termination points located outside the Community;

⁽¹⁾ OJ No

⁽²⁾ OJ No

⁽³⁾ OJ No L 192, 24.7.1990, p. 1.

6. Whereas Commission Directive 90/388/EEC of 28 June 1990 on competition in the markets for telecommunications services⁽⁴⁾, as last amended by Directive 94/46/EC⁽⁵⁾, requires Member States to withdraw exclusive rights for the supply of telecommunications services other than voice telephony; whereas Directive 90/388/EEC does not apply to telex, mobile radiotelephony and paging services;
7. Whereas use of the voice telephony service has become important for social and economic reasons, and everyone in the Community should have the right to subscribe to this service; whereas in pursuance of the principle of non-discrimination, voice telephony service should be offered and provided to all users on request, without discrimination; whereas the principle of non-discrimination applies *inter alia* to availability of technical access, tariffs, quality of service, provision time (delivery period), fair distribution of capacity in case of scarcity, repair time, availability of network information and customer information, subject to relevant legislation concerning the protection of personal data and privacy;
8. Whereas in accordance with Directive 90/388/EEC, Member States which maintain exclusive rights for the provision and operation of public telecommunications networks must take the necessary measures to make the conditions governing access to and use of the network objective and non-discriminatory and to publish them; whereas it is necessary to harmonize which specifications should be published and in what form, in order to facilitate the provision of telecommunications services within Member States and between Member States, and in particular the provision of services by companies, firms or natural persons established in a Member State other than that of the company, firm or natural person for whom the services are intended.
9. Whereas in conformity with the principle of separation of regulatory and operational functions, national regulatory authorities have been created in Member States; whereas in pursuance of the principle of subsidiarity, the national regulatory authority of each Member State should play an important role in the implementation of this Directive, particularly in matters relating to the publication of targets and performance statistics, dates for the implementation of new facilities, adequate consultation with users/consumers and user/consumer organizations, the control of numbering plans, the surveillance of usage conditions, and the resolution of disputes and in ensuring that users are given fair treatment throughout the Community; whereas they should have the necessary means to carry out these tasks fully;
10. Whereas quality-of-service as perceived by users is an essential aspect of the service provided, and quality-of-service parameters and achieved performance should be published for the benefit of users; whereas harmonized quality-of-service parameters and common measurement methods are required in order to assess Community-wide convergence of quality-of-service; whereas different categories of user require different levels of quality-of-service, for which different tariffs may be appropriate;

⁽⁴⁾ OJ No L 192, 24.7.1990, p. 10.

⁽⁵⁾ OJ No L 268, 19.10.1994, p. 15.

11. Whereas users of the fixed public telephone network should, when dealing with telecommunications organizations, have rights at least similar to those they have when dealing with the providers of other goods and services, and telecommunications organizations should not have any undue legal protection when dealing with users of the fixed public telephone network;
12. Whereas agreement between the parties involved can constitute a contract; whereas, in order to avoid unfair contractual clauses, it is necessary that national regulatory authorities have the right to require modifications of conditions imposed by telecommunications organizations on users in their contracts; whereas Member States may decide whether their national regulatory authority shall check those contractual conditions either before their use by telecommunications organizations, or at any time on the user's request.
13. Whereas Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts⁽⁶⁾ already provides a general protection for consumers as regards contractual terms; whereas, nevertheless, for the purpose of this Directive it is necessary to enlarge this general protection by adding more specific rules which should apply to all users;
14. Whereas, in addition to the basic voice telephony service made available to users it is desirable to ensure that, subject to technical feasibility and economic viability, a harmonized minimum set of advanced voice telephony facilities is offered to users, for communications both within a Member State and between Member States;
15. Whereas the provision of other voice telephony facilities, provided in response to market demand in addition to the harmonized minimum set of voice telephony facilities described herein, should not impede the provision of the basic voice telephony facilities and should not lead to unreasonable increases in the prices for basic voice telephony service;
16. Whereas harmonized conditions for the voice telephony service should allow Member States flexibility to determine the timescales for implementation, given the disparities in the technical development of the network and in market demand;
17. Whereas the Commission has issued Guidelines on the application of EEC competition rules in the telecommunications sector⁽⁷⁾ in order inter alia to clarify the application of Community competition law when telecommunications organizations cooperate in order to implement Community-wide inter-connectivity between public networks and services;
18. Whereas, in order to provide efficient and effective telecommunications services, and to offer new applications, telecommunications service providers and others may, in accordance with the principles of Community law, require access to the fixed public telephone network at points other than the network termination points offered to the majority of telephone users; whereas such requests must be reasonable in terms of technical feasibility and economic viability; whereas procedures should be introduced to provide a balance between the requirements of users and the justified concerns of

⁽⁶⁾ OJ No L 95, 21.4.1993, p. 29.

⁽⁷⁾ OJ No C 233, 6.9.1991, p. 2.

telecommunications organizations; whereas it is essential, in making full and efficient use of the fixed public telephone network via such special network access, to maintain the integrity of the public network;

19. Whereas in accordance with the definition contained in Directive 90/387/EEC, the network termination point may be located on the premises of a telecommunications organization; whereas installation of equipment owned by service providers on the premises of a telecommunications organization is not specifically called for in this Directive;
20. Whereas it is necessary for adequate safeguards to be implemented by national regulatory authorities in order to ensure that telecommunications organizations do not discriminate against service providers with whom they are in competition including in particular, safeguards to ensure fair access to network interfaces; whereas the tariffs which apply to telecommunications organizations when using the fixed public telephone network for the provision of telecommunications services should be the same as the tariffs which apply to other users;
21. Whereas users should benefit from economies of scale which may result from new intelligent network architectures; whereas the development of the Community market in telecommunications services calls for the widest availability of facilities such as those identified in this Directive; whereas the principle of non-discrimination should be applied in a manner that does not hinder the development of advanced telecommunications services;
22. Whereas telecommunications organizations should be encouraged to establish the necessary cooperation mechanisms in order to ensure Community-wide full interconnectivity between public networks, in particular for the voice telephony service; whereas national regulatory authorities should facilitate such cooperation; whereas such interconnection should be subject to regulatory oversight in order to safeguard the Community-wide interests of users and ensure compliance with Community law, and as far as applicable, in compliance with the existing international regulatory framework within the scope of International Telecommunications Union (ITU); whereas therefore national regulatory authorities should have the right of access to full information about network interconnection agreements where required; whereas the Commission may request from Member States details of special network access agreements and interconnection agreements in so far as Community law so provides;
23. Whereas interconnection of public telephone networks is essential for the provision of Community-wide voice telephony services; whereas it is the responsibility of national regulatory authorities to ensure that the conditions governing interconnection with the fixed public telephone networks, including interconnection by telecommunications organizations from other Member States and operators of public mobile telephony services, are objective and non-discriminatory in accordance with Directive 90/387/EEC;
24. Whereas, where the fixed public telephone network in a Member State is operated by more than one telecommunications organization, appropriate supervision of interconnection arrangements by national regulatory authorities is necessary in order to guarantee Community-wide provision of voice telephony service; whereas such

interconnection arrangements should take due account of the principles laid down in this Directive;

25. Whereas the principle of non-discrimination in relation to interconnection primarily aims at avoiding the abuse of a dominant position by telecommunications organizations;
26. Whereas in accordance with Directive 90/387/EEC, common, efficient tariff principles, based on objective criteria and cost-orientation, should be applied throughout the Community; whereas a reasonable transition period may be necessary in order to fully implement these tariff principles; whereas, nevertheless, tariffs should be transparent and properly published, should be sufficiently unbundled in accordance with the competition rules of the Treaty, and should be non-discriminatory and guarantee equality of treatment; whereas application of the principle of cost-orientation should take account of the objective of universal service and may take account of town and country planning policies aimed at ensuring cohesion within a Member State;
27. Whereas national regulatory authorities should have a responsibility for overseeing tariffs; whereas tariff structures should evolve in response to technological development and user demand; whereas the requirement for cost-oriented tariffs means that telecommunications organizations should implement within a reasonable time limit cost accounting systems by which costs can be allocated to services as accurately as possible on the basis of a transparent cost accounting system; whereas such requirements can be fulfilled for example by implementation of the principle of fully distributed costing;
28. Whereas within the overall principle of cost orientation some flexibility is needed, under supervision of the national regulatory authority, in order to allow discount schemes for certain uses, or socially desirable tariffs for particular groups of people, for particular types of call, or at particular times of day; whereas discount schemes must comply with the competition rules of the Treaty, and in particular with the general principle that the conclusion of contracts must not be subject to acceptance of unrelated supplementary obligations; whereas, in particular, discount schemes must not link the supply of services provided under special or exclusive rights with services provided under competitive conditions;
29. Whereas users should be able to check the correctness of their bills by being given the right to receive itemized bills, to a level of detail compatible with user needs and with relevant legislation on personal data protection and privacy;
30. Whereas directories of users who subscribe to the voice telephony service should be readily available, since they are an important element for use of the voice telephony service; whereas directory information should be made available on fair and non-discriminatory terms; whereas users should have the choice of being included or excluded from directories, in conformity with relevant law on personal data protection and privacy;
31. Whereas public pay-telephones provide an important means of access to the voice telephony service, especially for emergencies, and it is desirable to ensure that they are available to meet the reasonable needs of users;

32. Whereas, recognizing that users would benefit from a single type of telephone payment card usable in all Member States, the Commission has given the European Committee for Standardization (CEN)/the European Committee for Electrotechnical Standardization (CENELEC) a mandate to develop suitable standards; whereas in addition to these standards, commercial agreements are needed to ensure that pre-payment cards issued in one Member State can be used in other Member States;
33. Whereas within Member States, support may be given to groups of people with special needs; whereas this may include provisions relating to the voice telephony service, because it is recognized as an important service for disabled people;
34. Whereas the Commission has requested the European Telecommunications Standard Institute (ETSI) to study the technical feasibility and economic viability of a harmonized single line network interface suitable for access to and use of the fixed public telephone network in all Member States; whereas to ensure harmonized access for ISDN terminal equipment it is desirable to set requirements for the corresponding network termination point including specifications for the socket;
35. Whereas national telephone numbers are a resource which should be monitored by national regulatory bodies; whereas numbering schemes should be developed in full consultation with telecommunications organizations and in keeping with a long-term Europe-wide numbering framework and the international numbering scheme; whereas number changes are expensive for both telecommunications organizations and users to implement, and should be kept to a minimum compatible with national and international long-term requirements;
36. Whereas Council Resolution of 19 November 1992 on the promotion of Europe-wide cooperation on numbering of telecommunications services⁽⁸⁾ considers as a major policy goal the strengthening of cooperation on the numbering arrangements for services with pan-European applications; whereas there is a need to create a European numbering space in order to facilitate the implementation and use of Europe-wide voice telephony services including freephone numbers;
37. Whereas in accordance with Directive 90/388/EEC, Member States which make the supply of telecommunications services subject to a licensing or declaration procedure should ensure that the conditions for the grant of licences are objective, non-discriminatory and transparent, that reasons are given for any refusal, and that there is a procedure for appealing against any such refusal; whereas usage conditions for the fixed public telephone network must be compatible with Community law and in particular Directive 90/387/EEC; whereas in accordance with Council Directive 92/44/EEC of 5 June 1992 on the application of open network provision to leased lines⁽⁹⁾, as amended by Commission Decision 94/439/EC⁽¹⁰⁾, any restrictions aimed at ensuring compliance with the essential requirements should be compatible with Community law and imposed

⁽⁸⁾ OJ No C 318, 4.12.1992, p. 2.

⁽⁹⁾ OJ No L 165, 19.6.1992, p. 27.

⁽¹⁰⁾ OJ No L 181, 15.7.1994, p. 40.

by the national regulatory authorities through regulatory means; whereas no technical restrictions should be introduced or maintained for the interconnection of leased lines and public telephone networks;

38. Whereas in accordance with Directive 90/387/EEC, the essential requirements upon which restrictions on access to and use of public telecommunications networks or services are justified are limited to security of network operations, maintenance of network integrity, interoperability of services in justified cases, and protection of data as appropriate; whereas, in addition, the conditions generally applicable to the connection of terminal equipment apply; whereas national regulatory authorities may authorize procedures whereby a telecommunications organization can react immediately in the event of a serious breach of conditions as to access or use;
39. Whereas the principle of transparency should apply to the standards upon which voice telephony services are based; whereas in accordance with Directive 90/387/EEC, the harmonization of technical interfaces and access conditions must be based on common technical specifications which take account of international standardization; whereas in accordance with Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations⁽¹¹⁾, as last amended by European Parliament and Council Directive 94/10/EC⁽¹²⁾, new national standards should not be developed in areas where harmonized European standards are under development;
40. Whereas, to enable the Commission to monitor effectively the application of this Directive, it is necessary that Member States notify to the Commission the national regulatory authorities which will be responsible for performing the functions created by this Directive and for providing the relevant information called for in this Directive;
41. Whereas in addition to the rights of recourse granted under national or Community law, there is a need for a simple conciliation procedure for disputes both at a national level and at a Community level; whereas this procedure should be responsive, inexpensive and transparent, and should involve all the parties concerned;
42. Whereas telecommunications services are subject to consumer protection legislation, data-protection legislation and legislation on the dissemination of information or material which may be considered offensive by the general public, and therefore no specific additional measures are envisaged in this Directive;
43. Whereas transparency would be improved by regular and systematic dialogue with telecommunications organizations, users, consumers, manufacturers, and the service providers, to discuss Community-wide issues raised by this Directive; whereas

⁽¹¹⁾ OJ No L 109, 26.4.1983, p. 8.

⁽¹²⁾ OJ No L 100, 19.4.1994, p. 30.

consultation with trade unions is already covered by Commission Decision 90/450/EEC⁽¹³⁾ which set up a Joint Committee on Telecommunications Services to assist the Commission, consisting of representatives of employers and employees.

44. Whereas given the dynamic development in this sector, the application of ONP to voice telephony must be a progressive and ongoing process, and the regulatory conditions must be flexible enough to meet the demands of a changing market and changing technology; whereas therefore a responsive procedure for technical adjustment should be established which takes full account of the views of Member States and should involve the ONP Committee;
45. Whereas a need is foreseen for a procedure for ensuring convergence at a Community level by setting harmonized targets and target dates for voice telephony services and facilities; whereas such a convergence procedure should involve the ONP Committee; whereas in such a procedure, full account must be taken of the state of network development and market demand in the Community;
46. Whereas the goal of an advanced cost-effective Community-wide voice telephony service - an essential foundation of the single market - cannot be realized satisfactorily at Member State level, and hence is better achieved at Community level by the adoption of this Directive;
47. Whereas according to Council Decision 91/396/EEC a single European emergency call number⁽¹⁴⁾ should be introduced in the Community; whereas Council Directive 91/263/EEC of 29 April 1991 on the approximation of the laws of the Member States concerning telecommunications terminal equipment, including the mutual recognition of their conformity⁽¹⁵⁾, as last amended by Directive 93/68/EEC⁽¹⁶⁾, defines the conditions for connection of terminal equipment to the fixed public telephone network;
48. Whereas Europe is shifting towards an information-based economy; whereas open access to networks is a critical issue at world level; whereas the Council has agreed a timetable for the liberalization of all telecommunications networks, infrastructures and services; whereas a balanced policy of liberalization and harmonization - including accompanying measures for universal service - will continue to ensure that Europe's business, industry and citizens can access modern, affordable and efficient communications infrastructures over which a rich and diverse range of services will be offered,

⁽¹³⁾ OJ No L 230, 24.8.1990, p. 25.

⁽¹⁴⁾ OJ No L 217, 6.8.1991, p. 31.

⁽¹⁵⁾ OJ No L 128, 23.5.1991, p. 1.

⁽¹⁶⁾ OJ No L 220, 30.8.1993, p. 1.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Scope

1. This Directive concerns the harmonization of conditions for open and efficient access to and use of fixed public telephone networks and public telephony services, and the availability throughout the Community of a harmonized voice telephony service.
2. The Directive does not apply to mobile telephony services except in so far as it concerns the interconnection between the networks used for public mobile telephony services and the fixed public telephone networks.

Article 2

Definitions

1. The definitions given in Directive 90/387/EEC shall apply, where relevant, to this Directive.
2. For the purposes of this Directive:
 - "fixed public telephone network" means the public switched telecommunications network which is used inter alia for the provision of voice telephony service between network termination points at fixed locations;
 - "users" means end-users, including consumers (such as residential end-users), and service providers, including telecommunications organizations where the latter are engaged in providing services which are or may be provided by others as well;
 - "national regulatory authority" means the body or bodies in each Member State, being legally distinct from and functionally independent of the telecommunications organizations, entrusted by that Member State with inter alia the regulatory functions addressed in this Directive;
 - "ONP Committee" means the committee created by Article 9(1) of Directive 90/387/EEC;
 - "public pay-telephone" means a telephone available to the general public, for the use of which the means of payment may include coins, credit/debit cards and/or pre-payment cards.

Article 3

Provision of service, connection of terminal equipment and use of the network

Member States shall ensure that the respective telecommunications organizations separately or jointly provide a fixed public telephone network and a voice telephony service in accordance with the provisions of this Directive, in order to guarantee a harmonized offering throughout the Community.

In particular, Member States shall ensure that users can:

- (a) obtain on request a connection to the fixed public telephone network;
- (b) connect and use approved terminal equipment situated on the users' premises, in accordance with national and Community law.

Member States shall ensure that no restrictions are placed on the use made of the connection provided, other than those referred to in Article 22.

Article 4

Publication of and access to information

1. National regulatory authorities shall ensure that adequate and up-to-date information on access to and use of the fixed public telephone network and voice telephony service is published according to the list of headings given in Annex I.

Changes in existing offerings and information on new offerings shall be published as soon as possible and, unless the national regulatory authority decides otherwise, no later than two months before their implementation.

2. The information referred to in paragraph 1 shall be published in an appropriate manner so as to provide users with easy access to it. Reference shall be made in the official gazette of the Member State concerned to the publication of such information.
3. National regulatory authorities shall notify to the Commission no more than one year after the entry into force of this Directive - and thereafter in case of any change - the manner in which the information referred to in paragraph 1 is made available; the Commission shall regularly publish a corresponding reference to such notifications in the Official Journal of the European Communities.

Article 5

Targets for supply time and quality of service

1. National regulatory authorities shall ensure that targets are set and published for supply time and quality of service indicators based on the list in Annex II. Definitions, measurement methods and the performance of national telecommunications organizations in relation to those targets shall be published annually. Definitions, measurement methods

and targets shall be reviewed at least every three years by the national regulatory authority.

Publication shall be in the manner laid down in Article 4.

2. Where appropriate, the Commission shall, in accordance with the procedure under Article 30, request the European Telecommunications Standards Institute (ETSI) to draw up European standards for common definitions and measurement methods.

Article 6

Conditions for the termination of offerings

1. National regulatory authorities shall ensure that service offerings continue for a reasonable period of time, and that termination of an offering or a change that materially alters the use that can be made of it, takes place only after consultation with the users affected and an appropriate public notice period set by the national regulatory authority.
2. Without prejudice to other rights of appeal provided for by national laws, Member States shall ensure that users, acting where national law provide for this in conjunction with organizations representing user and/or consumer interests, can bring before the national regulatory authority cases where the users affected do not agree with the termination date as envisaged by the telecommunications organization.

Article 7

User contracts

1. National regulatory authorities shall ensure that users have a contract which specifies the service to be provided by a telecommunications organization. National regulatory authorities shall require compensation and/or refund arrangements to be provided if the contracted service quality levels are not met.
2. Telecommunications organizations shall respond to a request for connection to the fixed public telephone network without delay and shall give the user an estimated date for the provision of the service.
3. National regulatory authorities shall be able to require the alteration of the conditions of contracts and conditions of any compensation and/or refund schemes used by telecommunications organizations. Users' contracts with telecommunications organizations shall contain a summary of the method of initiating procedures for the settlement of disputes.
4. Member States shall ensure that users have the right to institute judicial proceedings against a telecommunications organization.

Article 8

Deviation from published conditions

Where, in response to a particular request, a telecommunications organization considers it unreasonable to provide a connection to the fixed public telephone network under its published tariffs and supply conditions, it must seek the agreement of the national regulatory authority to vary those conditions in that case.

Article 9

Provision of advanced facilities

1. National regulatory authorities shall ensure the provision, subject to technical feasibility and economic viability, of the facilities listed in Annex III(1), in accordance with technical standards as identified in Article 24.
2. National regulatory authorities shall facilitate and encourage provision of the services and facilities listed in Annex III(2), in accordance with technical standards as identified in Article 24, through commercial arrangements between telecommunications organizations and where applicable other persons providing the service or facility, in compliance with the rules of competition of the Treaty, and in response to user demand.
3. National regulatory authorities shall ensure that dates for the introduction of these facilities listed in Annex III(1) are set, taking into account the state of network development, market demand and progress with standardization, and published in the manner laid down in Article 4. National regulatory authorities shall encourage in the same manner the setting and publication of dates for the services and facilities listed in Annex III(2).

Article 10

Special network access

1. National regulatory authorities shall ensure that telecommunications organizations respond to reasonable requests from users other than
 - (a) operators of public mobile telephony services,
 - (b) telecommunications organizations when providing voice telephony services

for access to the fixed public telephone network at network termination points other than the network termination points referred to in Annex I.

Where in response to a particular request the telecommunications organization considers it unreasonable to provide the special network access requested, it must seek the agreement of the national regulatory authority to restrict or deny that access. Users affected shall be granted the opportunity to put their case before the national regulatory authority before a decision is taken.

Where a request for special network access is denied, the user making the request should be given a prompt and justified explanation as to why the request has been refused, except where the supply of such information could prejudice proceedings before a national court or other action being taken under national regimes for the enforcement of licensing conditions in accordance with Community law;

2. Technical and commercial arrangements for special network access shall be a matter for agreement between the parties involved, subject to intervention by the national regulatory authority as laid down in paragraphs 1, 3 and 4. The agreement may include reimbursement to the telecommunications organization of the costs incurred *inter alia* in providing the network access requested; those charges shall fully adhere to the principles of cost-orientation set out in Annex II to Directive 90/387/EEC.
3. National regulatory authorities may intervene on their own initiative at any time, and shall do so if requested by either party, in order to set conditions that are non-discriminatory, fair and reasonable for both parties, and offer the greatest benefit to all users.
4. National regulatory authorities shall also have the right, in the interest of all users, to ensure that the agreements include conditions that meet the criteria set out in paragraph 3, are entered into and implemented in an efficient and timely manner, and that they include conditions as to compliance with relevant standards, compliance with essential requirements and/or the maintenance of end-to-end quality.
5. Conditions set by national regulatory authorities in accordance with paragraph 4 shall be published in the manner laid down in Article 4.
6. National regulatory authorities shall ensure that telecommunications organizations adhere to the principle of non-discrimination when they make use of the fixed public telephone network for providing services which are or may also be supplied by other service providers.
7. The Commission shall, in accordance with the procedure under Article 30, request that standards for new types of network access be drawn up by ETSI, where appropriate. Reference to standards for these new types of network access shall be published in the Official Journal of the European Communities in accordance with Article 5(1) of Directive 90/387/EEC.
8. Details of agreements on special network access shall be made available to the national regulatory authority upon request.

Article 11

Interconnection

1. National regulatory authorities shall ensure that reasonable requests for network interconnection to the fixed public telephone network from the organizations listed below are met, in particular so as to provide Community-wide voice telephony services:

- (a) telecommunications organizations providing fixed public telephone networks in other Member States who have been notified in accordance with Article 26(3);
- (b) operators of public mobile telephony services in the same Member State.

No request for interconnection shall be refused by a telecommunications organization without the prior agreement of its national regulatory authority.

Interconnection to the fixed public telephone network of operators of public mobile telephony services in other Member States who have been notified in accordance with Article 26(3) may also be agreed between the parties involved. No request for such interconnection shall be refused by a telecommunications organization without the prior agreement of its national regulatory authority.

- 2. Technical and commercial arrangements for interconnection shall be a matter for agreement between the parties involved, subject to intervention by the national regulatory authority as laid down in Article 10(3) and 10(4).
- 3. National regulatory authorities shall ensure that telecommunications organizations adhere to the principle of non-discrimination when they enter into interconnection agreements with others.
- 4. If interconnection agreements include specific compensation provisions for the telecommunications organization in situations where different operating conditions such as price controls or universal service obligations are imposed upon the respective parties, such compensation provisions shall be cost-oriented, non-discriminatory and fully justified, and shall only be applied with the approval of the national regulatory authority acting in accordance with Community law.
- 5. Details of interconnection agreements shall be made available to the national regulatory authorities concerned, upon request.

Article 12

Tariff principles and transparency

- 1. National regulatory authorities shall ensure that tariffs for use of the fixed public telephone network and the voice telephony service follow the basic principles of transparency and cost orientation set out in Annex II to Directive 90/387/EEC, and comply with the provisions of this Article.
- 2. Without prejudice to the application of the principle of cost-orientation, national regulatory authorities may impose on telecommunications organizations tariff constraints relating to the objectives of universal telephone-service accessibility including those of town and country planning.
- 3. Tariffs for access to and use of the fixed public telephone network shall be independent of the type of application which the users implement, except to the extent that they require different services or facilities.

4. Tariffs for facilities additional to the provision of connection to the fixed public telephone network and provision of voice telephony service shall, in accordance with Community law, be sufficiently unbundled, so that the user is not required to pay for facilities which are not necessary for the service requested.
5. Tariffs shall normally contain the following elements, each of which should be itemized separately for the user:
 - an initial charge for connection to the fixed public telephone network and subscription to the voice telephony service;
 - a periodic rental charge, based on the type of service and facilities selected by the user;
 - charges for use, which may, inter alia, take account of peak periods and off-peak periods.

Where other tariff elements are applied, these must be transparent and based on objective criteria.

6. Tariffs shall be published in the manner laid down in Article 4.
7. Tariff changes shall only be implemented after an appropriate public notice period, set by the national regulatory authority, has been observed.

Article 13

Cost accounting principles

1. Member States shall ensure that their telecommunications organizations, having been notified in accordance with Article 26(2), operate by 31 December 1996 a cost accounting system suitable for the implementation of Article 12 and that compliance with such cost accounting system is verified by a competent independent body. A statement concerning compliance shall be published annually.
2. National regulatory authorities shall ensure that a description of the cost accounting system, showing the main headings under which costs are assembled and the rules used for the allocation of costs to the voice telephony service is made available on request. National regulatory authorities shall submit on request to the Commission information on the cost accounting systems used by the telecommunications organizations.
3. Without prejudice to the second subparagraph of this paragraph, the system referred to in paragraph 1 shall include the following elements:
 - (a) The costs of the voice telephony service, which shall in particular include the direct cost incurred by the telecommunications organizations for setting up, operating and maintaining the voice telephony service and for marketing and billing the voice telephony service;

- (b) Common costs, that is to say, costs which cannot be directly assigned either to the voice telephony service or to other activities, are allocated as follows:
- (i) Whenever possible, common cost categories shall be allocated on the basis of direct analysis of the origin of the costs themselves;
 - (ii) When direct analysis is not possible, common cost categories shall be allocated on the basis of an indirect linkage to another cost category or group of cost categories for which a direct assignment or allocation is possible. The indirect linkage shall be based on comparable cost structures;
 - (iii) When neither direct nor indirect measures of cost allocation can be found, the cost category shall be allocated on the basis of a general allocator computed by using the ratio between all expenses directly or indirectly assigned or allocated to the voice telephony service, on the one hand, and, on the other hand, other services.

Other cost accounting systems may be applied only if they are suitable for the implementation of Article 12 and have been approved as such by the national regulatory authority for use by the telecommunications organizations, subject to the Commission being informed prior to their application.

4. Detailed accounting information shall be made available to the national regulatory authority on request and in confidence.
5. Member States shall ensure that the financial accounts of those telecommunications organizations notified in accordance with Article 26 are drawn up, published and submitted to independent audit. Such audit shall be carried out in accordance with the relevant rules of national legislation.

Article 14

Discounts, low-use schemes and other specific tariff provisions

1. National regulatory authorities may agree that bulk discount schemes can be offered to users and shall make those schemes subject to their supervision.
2. National regulatory authorities may agree special tariffs for the provision of socially desirable services such as the emergency services, or for low-use users or specific social groups.
3. National regulatory authorities shall ensure that tariff structures allow for reduced-rate calls within the Community at off-peak times, including where applicable night-time and weekends.
4. National regulatory authorities shall ensure that where special tariffs are introduced for voice telephony services provided in connection with specific projects of limited duration, they shall be subject to prior notification to the national regulatory authority.

Article 15

Itemized billing

National regulatory authorities shall ensure that targets are set and published for the provision of itemized billing as a facility available to users on request, taking into account the state of network development and market demand.

Subject to the level of detail permitted under relevant legislation on the protection of personal data and privacy, itemized bills shall show the composition of the charges incurred.

Calls which are free of charge to the caller, including calls to helplines, shall not be identified in the caller's itemized bill.

Within this framework, different levels of detail may be offered to users at reasonable tariffs.

Article 16

Directory services

Subject to the requirements of relevant legislation on the protection of personal data and privacy, national regulatory authorities shall ensure that:

- (a) directories of users who subscribe to the voice telephony service are made available to users in either printed or electronic form, and are updated on a regular basis;
- (b) users have the right to have, or not to have, an entry inserted in public directories,
- (c) telecommunications organizations make available on request public directory information concerning the voice telephony service on published terms which are fair, reasonable and non-discriminatory.

Article 17

Provision of public pay-telephones

National regulatory authorities shall ensure that public pay telephones are provided to meet the reasonable needs of users, in terms of both numbers and geographical coverage, and that it is possible to make emergency calls from such telephones. Calls to the single European emergency call number referred to in Decision 91/396/EEC shall be free of charge.

Article 18

Telephone pre-payment cards

1. The Commission shall ensure that standards are drawn up by ETSI and/or CEN/CENELEC for a harmonized telephone pre-payment card suitable for use in pay-telephones in all Member States, and associated network interface standards, in order to make it possible for pre-payment cards issued in one Member State to be used in other

Member States. A reference of those standards and those for associated equipment shall be published in the Official Journal of the European Communities.

2. National regulatory authorities shall encourage the progressive introduction of public pay-telephones conforming to the standards referred to in paragraph 1.

Article 19

Specific conditions for disabled users and people with special needs

National regulatory authorities may draw up specific conditions to aid disabled users and people with special needs in their use of the voice telephony service.

Article 20

Specifications for network access, including the socket

1. Where appropriate, acting in accordance with the Article 30 procedure, the Commission shall request standards for new types of harmonized network access to be drawn up by ETSI, in accordance with the reference framework set out in Annex II(2) of Directive 90/387/EEC. References to standards for such new types of harmonized network access shall be made in the Official Journal of the European Communities.
2. Where voice telephony service is supplied to users over the ISDN network at the S/T Reference Point, national regulatory authorities shall ensure that the introduction of a new network termination point complies with the relevant physical interface specifications, in particular those for the socket, referenced in the list of standards published in the Official Journal of the European Communities.

Article 21

Numbering issues

1. Member States shall ensure that national telephone numbering plans are controlled by the national regulatory authority, in order to provide for fair competition. In particular the procedures for allocating individual numbers and numbering ranges shall be transparent, equitable and timely and the allocation shall be carried out in an objective, transparent and non-discriminatory manner.
2. National regulatory authorities shall ensure that the main elements of the national numbering plan, and all subsequent additions or amendments to them, are published, subject only to limitations imposed on the grounds of national security.
3. National regulatory authorities shall encourage appropriate use of possible European numbering schemes for the provision of the facilities identified in Annex III(2).

Article 22

Access and use conditions and essential requirements

1. Member States shall ensure that conditions which restrict access to and use of fixed public telephone networks or fixed public voice telephony services are based only on the grounds given in paragraphs 3, 4 and 5, and are imposed with the agreement of the national regulatory authority.
2. National regulatory authorities shall draw up procedures for deciding, on a case-by-case basis and in the shortest possible time period, whether or not to allow telecommunications organizations to take measures such as refusing to provide access to the fixed public telephone network, or interrupting or reducing the availability of a voice telephony service, on account of a user's alleged failure to comply with the conditions as to use. These procedures may also allow the national regulatory authority to authorize pre-specified measures in case of defined infringements of conditions as to use.

The national regulatory authority shall ensure that the procedures provide for a transparent decision-making process in which due regard is had to the rights of the parties. The decision shall be taken after having given both parties the opportunity to state their case. The decision shall be duly justified and notified to the parties within one week of its adoption.

A summary of the procedures shall be published in the manner laid down in Article 4.

This provision shall not prejudice the rights of the parties concerned to apply to the courts.

3. Any usage restrictions placed upon users on the basis of special or exclusive rights for voice telephony shall be imposed through regulatory means, and shall be published in accordance with Article 4.
4. Conditions for connection of terminal equipment to the fixed public telephone network shall comply with Directive 91/263/EEC, and shall be published in accordance with the requirements of Article 4 of this Directive.

Without prejudice to the provisions of Directive 91/263/EEC, where a user's terminal equipment does not comply, or no longer complies, with its approval conditions, or where it malfunctions in a way which adversely affects the integrity of the network, or where there is a danger of injury to persons, national regulatory authorities shall ensure that the following procedure is followed:

- the service may be discontinued by the telecommunications organization until the terminal is disconnected from the network termination point;
- the telecommunications organization shall immediately inform the user of the discontinuation, giving the reasons therefor;

- as soon as the user has ensured that the terminal equipment is disconnected from the network termination point, the service shall be restored.

5. When access to or use of the fixed public telephone network is restricted on account of essential requirements, national regulatory authorities shall ensure that the relevant national provisions identify which of the essential requirements in points (a) to (d) listed below are the basis of such restrictions.

Restrictions imposed on the basis of essential requirements shall be published in the manner laid down in Article 4.

Restrictions derived from essential requirements shall be imposed through regulatory means.

Without prejudice to Articles 3(5) and 5(3) of Directive 90/387/EEC, the essential requirements as specified in Article 3(2) of Directive 90/387/EEC shall apply to the fixed public telephone network and voice telephony service in the following manner:

- (a) There shall be no restrictions on access to and use of the fixed public telephone network on grounds of security of network operations except during an emergency, when a telecommunications organization may take the following measures in order to safeguard the security of network operations:

- discontinuation of the service;
- limitation of facilities;
- denial to new users of access to the network and service.

An emergency in this context means catastrophic network breakdown or force majeure, such as extreme weather conditions, flooding, lightning or fire, industrial action or lockouts, war, military operations or civil disorder. In an emergency the telecommunications organization shall make every endeavour to ensure that service is maintained to all users.

National regulatory authorities shall ensure that telecommunications organizations have procedures in place whereby users and the national regulatory authority are immediately informed of the beginning and the end of the emergency, as well as the nature and extent of temporary service restrictions.

- (b) National regulatory authorities shall ensure that restrictions on access to and use of the fixed public telephone network on the grounds of maintenance of network integrity, in order to protect inter alia network equipment, software or stored data are kept to the minimum necessary to provide for normal operation of the network. Restrictions shall be based on published, objective criteria, and shall be applied in a non-discriminatory manner.

- (c) When terminal equipment has been approved and is operating in compliance with Directive 91/263/EEC, no further usage restrictions shall be imposed on the grounds of interoperability of services.

Where the national regulatory authority imposes conditions as to interoperability of services in contracts relating to interconnection of public networks or special network access, those conditions shall be published in the manner laid down in Article 4.

- (d) Member States may restrict access to and use of the fixed public telephone network on grounds of protection of data only to the extent necessary to ensure compliance with relevant regulatory provisions on the protection of data, including protection of personal data, confidentiality of information transmitted or stored, and protection of privacy, compatible with Community law.
6. National regulatory authorities shall ensure that, where appropriate, users are informed in advance by appropriate means by the telecommunications organizations of periods when access to or use of the fixed public telephone network may be restricted or denied as a result of planned maintenance activity.

Article 23

Non-payment of bills

Member States shall authorize specified measures, which shall be published in the manner laid down in Article 4, to cover non-payment of bills and any consequent service discontinuation or disconnection. The measures shall ensure that any discontinuation is confined to the service concerned, as far as is technically feasible, and that due warning is given to the user beforehand.

Article 24

Technical standards

1. National regulatory authorities shall encourage the provision of services according to the standards listed below:
- standards published in the Official Journal of the European Communities, in accordance with Article 5(1) of Directive 90/387/EEC,
- or, in the absence of such standards,
- European standards adopted by ETSI, or CEN/CENELEC,
- or, in the absence of such standards,
- international standards or recommendations adopted by the International Telecommunications Union (ITU), the International Organization for Standardization (ISO) or the International Electrotechnical Committee (IEC),

or, in the absence of such standards,

- national standards or specifications,

without prejudice to reference to European standards which may be made compulsory under Article 5(3) of Directive 90/387/EEC.

2. National regulatory authorities shall ensure that telecommunications organizations inform users on request of standards or specifications, including any European and/or international standards which are implemented through national standards, in accordance with which the services and facilities in this Directive are provided.

Article 25

Provisions for Community-wide convergence

1. Based on the reports provided by the national regulatory authorities under Article 26(5) and the information published under Article 4, the Commission shall review progress towards convergence of targets and implementation of common services and facilities within the Community.
2. If implementation of the requirements of Articles 5, 9, or 15 appears inadequate to ensure the provision of harmonized services and facilities to users at a Community level, harmonized targets and target dates may be determined in accordance with the procedure under Article 30.

The procedure initiated by the Commission shall take full account of the state of network development and market demand in all individual Member States.

3. In particular, with regard to those facilities requiring Community-wide cooperation described in Article 9(2), where commercial agreements between telecommunications organizations cannot be concluded, conditions necessary to achieve the provision of harmonized facilities to users may be determined in accordance with the procedure in Article 30.

The Commission shall take due account of the state of network development, the various architectures and market demand in the Community.

Article 26

Notification and reporting

1. Member States shall notify to the Commission their national regulatory authority by 31 December 1995.
2. Member States shall notify to the Commission the names of those telecommunications organizations to which this Directive is to be applied, in particular to ensure the provision of the network and service in accordance with Article 3.

3. National regulatory authorities shall notify to the Commission the names of those telecommunications organizations in their territory which are authorized to interconnect their fixed networks direct with those of telecommunications organizations in other Member States in order to provide voice telephony service.

National regulatory authorities shall notify to the Commission the names of those operators of public mobile telephony services in their territory which are authorized to interconnect direct with the fixed networks of telecommunications organizations in other Member States in order to provide a voice telephony service.

4. The Commission shall publish the names referred to in paragraphs 2 and 3 in the Official Journal of the European Communities.
5. National regulatory authorities shall make available to the Commission once each calendar year a report covering the progress made in achieving the targets agreed by the national regulatory authority under Articles 5, 9 and 15.

The annual report shall be sent to the Commission within five months of the end of the year.

6. National regulatory authorities shall keep available and submit to the Commission on request details of individual cases brought before them, other than those covered by Article 23, where access to or use of the fixed public telephone network or fixed public voice telephony service has been restricted or denied, including the measures taken and their justification. Submission of information to the Commission may be deferred where such submission could prejudice proceedings before a national court or other action being taken under national regimes for the enforcement of regulatory controls in conformity with Community law.

Article 27

Conciliation and national dispute resolution

Without prejudice to

- (a) any action that the Commission or any Member State may take pursuant to the Treaty
- (b) the rights of the person invoking the procedure in points 3 and 4, of the telecommunications organizations concerned or of any other person under applicable national law except in so far as they enter into an agreement for the resolution of disputes between them
- (c) the provisions of this Directive which allow the national regulatory authorities to set the terms of agreements between telecommunications organizations and users

the following procedure shall be available to the user:

1. Member States shall ensure that any party, including users, service providers, consumers, or other telecommunications organizations having an unresolved dispute with a telecommunications organization concerning an alleged infringement of the provisions of this Directive shall have a right of appeal to the national regulatory authority or another independent body. Easily accessible and in principle inexpensive procedures shall be created at a national level to resolve such disputes in a fair, timely and transparent manner. These procedures shall also apply in cases of where users are in dispute with a telecommunication organization about their telephone bills.
2. A user or a telecommunications organization may, where the dispute involves telecommunications organizations in more than one Member State, invoke the conciliation procedure provided for in points 3 and 4 by means of a written notification to the national regulatory authority and to the Commission.

Member States may also allow their national regulatory authority to invoke the conciliation procedure.

3. Where the national regulatory authority or the Commission finds that there is a case for further examination, following a notification based on point 2, it can refer the matter to the Chairman of the ONP Committee.
4. In the cases referred to in point 3, the Chairman of the ONP Committee shall initiate the procedure described below if satisfied that all reasonable steps have been taken at a national level:
 - (a) The Chairman of the ONP Committee shall convene as soon as possible a working group including at least two members of the ONP Committee and one representative of the national regulatory authorities concerned, and the Chairman of the ONP Committee or another official of the Commission appointed by him.

The working group shall be chaired by the representative of the Commission, and shall normally meet within ten days of the convening of the working group. The chairman of the working group may decide, upon proposal by any of the members of the working group, to invite a maximum of two other persons as experts to advise it.
 - (b) The working group shall give the party invoking this procedure, the national regulatory authorities of the Member States involved, and the telecommunications organizations involved the opportunity to present their opinions in oral or written form.
 - (c) The working group shall endeavour to reach agreement between the parties involved within three months of the date of receipt of the notification referred to in point 2. The Chairman of the ONP Committee shall inform that committee of the results of the procedure so that the committee may express its views.
5. The party invoking the procedure shall bear its own costs of participating in this procedure.

Article 28

Deferment

1. When a Member State is not able, or can foresee that it will not be able, to fulfil the provisions of Articles 12 and 13 it shall notify the Commission of the reasons.
2. Deferment of the obligations under Articles 12 or 13 can only be accepted in cases where the Member State concerned can prove that the fulfilment of the requirement would impose an excessive burden on the telecommunications organizations in that Member State.
3. The Member State shall inform the Commission of the date by which the requirements can be met and of the measures envisaged in order to meet this deadline.
4. When the Commission receives a notification in accordance with paragraph 1, it shall inform the Member State whether it considers that the particular circumstances of the Member State concerned justifies, on the basis of criteria set out in paragraph 2, a deferment in favour of this Member State in the application of Article 12 or Article 13, and shall state until what date such deferment is justified.

Article 29

Technical adjustment

Modifications necessary to adapt Annex I(2), Annexes II and III to new technological developments or to changes in market demand shall be determined in accordance with the procedure in Article 30.

Article 30

Committee procedure

1. The Commission shall be assisted by the ONP Committee set up by Article 9(1) of Directive 90/387/EEC.
2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

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

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

Article 31

Review

The Commission shall examine and report to the European Parliament and to the Council on the functioning of this Directive, on the first occasion not later than 31 December 1998. The report shall be based inter alia on the information provided by the Member States to the Commission and to the ONP Committee. Where necessary, further measures may be proposed in the report for full implementation of the aims of the Directive.

Article 32

Implementation

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 1995. They shall forthwith inform the Commission thereof.

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

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

Article 33

Entry into force

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

Article 34

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

**HEADINGS FOR INFORMATION TO BE PUBLISHED
IN ACCORDANCE WITH ARTICLE 4**

1. NAME(S) AND ADDRESS(ES) OF TELECOMMUNICATIONS ORGANIZATION(S)

i.e. name(s) and head office address(es) of the telecommunications organization(s) providing fixed public telephone networks and/or voice telephony services.

2. TELECOMMUNICATIONS SERVICES OFFERED

2.1. Types of connection to the fixed public telephone network

Technical characteristics of interfaces at commonly provided network termination points are required, including where applicable reference to national and/or international standards or recommendations, in accordance with Article 24:

- for analogue and/or digitally presented networks;
 - (a) single line interface
 - (b) multi-line interface
 - (c) direct dialling in (DDI) interface
 - (d) other interfaces commonly provided
- for ISDN;
 - (a) specification of basic and primary rate interfaces at the S/T reference points, including the signalling protocol
 - (b) details of bearer services able to carry voice telephony services
 - (c) other interfaces commonly provided
- and any other interfaces commonly provided.

In addition to the above information to be published on a regular basis as described in Article 4, telecommunications organizations should inform terminal equipment suppliers, without undue delay of any particular network characteristics which are found to affect the correct operation of approved terminal equipment.

2.2 Telephone services offered

Description of the basic voice telephony service offered, indicating what is included in the subscription charge and the periodic rental charge (e.g. operator services, directories, maintenance).

Description of optional facilities and features of the voice telephony service which are tariffed separately from the basic offering, including where applicable reference to the relevant technical standards or specifications to which they conform, in accordance with Article 24.

2.3 Tariffs

covering access, usage, maintenance, and including details of any discount schemes

2.4 Compensation/refund policy

including specific details of any compensation/refund schemes offered.

2.5 Types of maintenance service offered

2.6 Ordering procedure

including designated contact points within the telecommunications organization

2.7 Standard contract conditions

including any minimum contractual period, if relevant

3. LICENSING REQUIREMENTS

This shall include a clear description of all licensing conditions which have an impact on users, including service providers, detailing at least:

- information on the character of the licensing conditions, in particular whether registration and/or authorization is required on an individual basis, or whether the licence is of a general nature which does not require individual registration and/or authorization;
- the duration of any relevant licences or authorizations;
- a list referring to all documents containing relevant licensing conditions which the Member State imposes.

4. CONDITIONS FOR ATTACHMENT OF TERMINAL EQUIPMENT

This shall include a complete overview of requirements for terminal equipment as regulated by the national regulatory authority, in line with the provisions of Directive 91/263/EEC, including, where appropriate, conditions concerning customer premises wiring and location of the network termination point.

5. ACCESS AND USAGE RESTRICTIONS

This shall include any access and usage restrictions imposed in accordance with the requirements of Article 22.

6. PERFORMANCE AND QUALITY OF SERVICE PARAMETERS

Definitions, measurements methods, targets and achieved performance figures, in accordance with the requirements of Article 5.

7. TARGETS FOR THE INTRODUCTION OF NEW SERVICES, FEATURES, FACILITIES AND TARIFFS

Targets shall be published in accordance with the requirements of Articles 9 and 15.

8. CONDITIONS FOR SPECIAL NETWORK ACCESS

This shall include conditions for special network access set by National regulatory authorities in accordance with Article 10(5).

9. AVAILABILITY OF THE DESCRIPTION OF THE COST ACCOUNTING SYSTEM

The address from which the description of the cost accounting system may be requested in accordance with the requirements of Article 13.

10. MAIN ELEMENTS OF THE NATIONAL NUMBERING PLAN

- in accordance with the requirements of Article 21.

11. TERMS FOR THE USE OF DIRECTORY INFORMATION

- in accordance with Article 16(c).

12. CONCILIATION AND DISPUTE RESOLUTION PROCEDURE

This shall include guidelines for users on the appeal mechanisms available for conciliation and resolving disputes with telecommunications organizations, according to the procedure described in Article 27. This shall also include a summary of the procedures for resolving disputes as set out in Article 22(2).

13. PROCEDURE IN THE EVENT OF NON-PAYMENT OF BILLS

- in accordance with the requirements of Article 23.

**SUPPLY TIME AND QUALITY OF SERVICE INDICATORS IN ACCORDANCE
WITH THE REQUIREMENTS OF ARTICLE 5**

The following list specifies areas where quality of service indicators are required for telecommunications organizations notified in accordance with Article 26(2):

- supply time for initial network connection
- fault rate per connection
- fault repair time
- call failure rates
- dial tone delay
- call set up delay
- transmission quality statistics
- response times for operator services
- the proportion of coin and card-operated public pay-telephones in working order
- billing accuracy.

PROVISION OF ADVANCED FACILITIES IN ACCORDANCE WITH ARTICLE 9

1. List of facilities referred to in Article 9(1)

(a) DTMF (dual tone multi frequency) operation

i.e. the fixed public telephone network supports the use of DTMF telephones for signalling to the exchange, using tones as defined in ITU-T Recommendation Q.23, and supports the same tones for end-to-end signalling through the network, both within a Member State and between Member States.

(b) Direct dialling in (or facilities offering equivalent functionality)

i.e. users on a Private branch exchange (PBX) or similar private system can be called directly from the fixed public telephone network, without intervention of the PBX attendant.

(c) Call forwarding

i.e. incoming calls sent to another destination in the same or another Member State (e.g. on no reply, on busy, or unconditionally).

This facility should be provided in accordance with relevant legislation on data protection and privacy.

(d) Calling line identification

i.e. the calling party's number is presented to the called party prior to the call being established.

This facility should be provided in accordance with relevant legislation on data protection and privacy.

2. List of services and facilities referred to in Article 9(2)

(a) Community-wide access to green/freephone services

Such services, variously known as green numbers, freephone services, 0800 numbers etc, include dial-up services where the caller pays either nothing for the call, or only part of the total cost of the call.

(b) Community-wide kiosk billing

Kiosk billing means a facility whereby charges for the use of a service accessed through a telecommunications organizations' network are combined with the network call charges ('premium rate service').

(c) Community-wide call transfer

i.e. transfer of an established call to a third party in the same or another Member State.

(d) Community-wide automatic reverse charging service facility

for calls which are terminated and originated within the Community.

i.e. prior to the call being connected, the called party, at the caller's request, agrees to accept the cost of the call.

(e) Community-wide calling line identification

i.e. the calling party's number is presented to the called party prior to the call being established.

This facility should be provided in accordance with relevant legislation on data protection and privacy.

(f) Access to operator services in other Member States

i.e. users in one Member State can call the operator/assistance service in another Member State.

(g) Access to directory enquiry services in other Member States

i.e. users in one Member State can call the directory enquiry service in another Member State.

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