

8 July, 1986

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EC COMMISSION REPLY TO US GOVERNMENT COMMENTS ON PROPOSALS FOR
EEC DIRECTIVES ON TELECOMMUNICATIONS

The Commission has examined the United States Government's comments on the two draft Directives, one of which was adopted by the Council on 9 June, and wishes to clarify the situation. Many of the points raised relate to the extent to which GATT obligations under the Agreement on Technical Barriers to Trade will be respected by the Community; it goes without saying that the Community is determined in this case, as in others, to respect fully its international obligations. Other points, however, reflect genuinely different approaches to regulation in the telecommunications sector as between the United States and the Community which are bound to persist at least for the time being.

1. Proposal for a Directive on standardisation in the field of information technology
- A. Opportunity to comment on draft European standards

The Community is aware of the obligations of the GATT Standards Code to which the US note refers, and fully intends to comply with them, even if no explicit reference to them is made in the Directive.

- . As far as the obligations of Article 2.2 of the Code are concerned, there is no doubt that the Community is concerned to use international standards as the basis for European telecommunications standards, as are the regional standards organisations concerned. Only when no international standards exist or in the case of excessive delays will autonomous work on the definition of European standards take place.
- . In cases where new European standards, including common technical specifications, have to be developed the Commission will make best efforts to ensure that such standards are published by the regional organisations concerned or by their members and where such standards or specifications are to be made compulsory within the territory of the Member States of the EEC they will be notified to the GATT in accordance with Article 2.5 of the Code. At the request of the Commission the CEPT is actively considering publication for comment of draft NETS (European telecommunications standards).
- . The Commission shares the US understanding that technical specifications should also be subject to the provisions of Article 2.5 of the Code whenever

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their technical content"... is not substantially the same as the technical content of the relevant international standard..." or an international standard does not exist.

The question of the participation of industry representatives in regional standards organisations is not covered in the GATT code. In Europe such participation is organised through national standards organisations and permits representation of industrial interests, including locally-based subsidiaries of non-national companies, as well as user and consumer interests. Provided that the outcome of their work is published, and an appropriate opportunity provided for public comments, regional standards organisations are acting fully in accordance with the requirements of the GATT Standards Code as far as transparency is concerned.

B. Commitment to international standardisation

We fail to understand the US allegation that the Community intends to "circumvent the international process by promoting the drafting of unique European standard(s)". The Community and other European countries are active promoters of international standardisation; their record in this respect, particularly for telecommunications, is of long standing.

This being said, the GATT Code does not require Parties to wait indefinitely for consensus upon an international standard; Article 2.2 of the Code speaks only of the "imminent completion" of an international standard as having to be taken into account by Parties. The Commission would intend, even in cases where it had already instituted its own standards, to continue to work towards international standards in accordance with Article 2.3 of the Code.

C. Compatibility and interoperability

The development of standards on compatibility and interoperability is in full conformity with the GATT Standards Code. The well-known position of the United States that telecommunications regulation should be limited to the essential requirement of preventing harm to the network is based upon a particular view of the role of market forces in the economy, which may be appropriate when applied to a large and already homogeneous national market.

The Community, for historical and strategic reasons, attaches high political value to ensuring compatibility and interoperability of telecommunications equipment and has chosen to achieve this perfectly legitimate objective by

non-discriminatory regulation. This objective will, moreover, facilitate trade within the Community and between the Community and its trading partners.

2. Proposal for a Directive concerning the first phase of the establishment of the mutual recognition of type approval for telecommunications equipment

A. Interworking

As indicated under point I C above, the Community does not share the US view on what constitute essential requirements for telecommunications terminals.

B. Approved Test Laboratories

Article 6.2 of the Directive in question provides that all laboratories approved by the competent authorities in the Member States as qualified to verify conformity with the common specifications according to common criteria should have access to the system of mutual recognition of test data.

C. Data from conformity tests

The Community is aware of the practice of self-certification of terminal equipment in the United States, but this is not considered to be a realistic option for the Community under the present Directive.

D. Recognition of type approval

The Community is fully aware of its obligations under Article 7.2 of the Standards Code. The Directive, however, does not deal with the issue of recognition of type approval.