

# COMMISSION OF THE EUROPEAN COMMUNITIES

SEC(90) 1710 final - SYN 204

Brussels, 6 September 1990

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT

pursuant to Article 149.2(b) of the EEC Treaty

**concerning**

**THE COMMON POSITION OF THE COUNCIL,  
THE OPINION OF THE EUROPEAN PARLIAMENT AND  
THE OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE**

**on the**

**PROPOSAL FOR A DIRECTIVE ON THE APPROXIMATION  
OF THE LAWS OF THE MEMBER STATES CONCERNING TELECOMMUNICATIONS  
TERMINAL EQUIPMENT, INCLUDING THE MUTUAL  
RECOGNITION OF THEIR CONFORMITY.**

1. INTRODUCTION.

Pursuant to Article 149 (2) (a) of the Treaty, the Council has carried, on 24.07.1990, the final adoption of a common position on the amended proposal for a Council Directive on the approximation of the laws of the Member States concerning telecommunications technical equipment, including the mutual recognition of their conformity. This amended proposal, based upon Article 100 a of the Treaty had been sent to the Council on 19 June 1990 following the first reading in the European Parliament.

The objective of this communication is to inform the European Parliament, in accordance with Article 149 (2) (b) of the Treaty, of the Commission's position, account being taken of the Council's position, Parliament's opinion and the opinion of the Economic and Social Committee.

2. PROPOSAL COM (89) 289 FINAL - SYN 204 OF 27 JULY 1989.

On 27 July 1989 the Commission presented a proposal for a Council Directive on the approximation of the laws of the Member States concerning telecommunications terminal equipment, including the mutual recognition of their conformity. The Economic and Social Committee finalized its opinion during second half of 1989 whereas the Parliament's opinion resulting from the first hearing was adopted during the first half of 1990.

2.1 POSITION OF THE ECONOMIC AND SOCIAL COMMITTEE.

During its plenary session of 4 October 1989 the Economic and Social Committee adopted by unanimity its opinion on the proposed Directive.

The Committee expressed its agreement with the Commission's approach and stressed in particular the following advantages :

- From a technical point of view, the Directive will make it possible to fully utilize the opportunities provided by international telecommunications and will safeguard the further developments of systems;
- From an economic point of view, it will make it possible to capitalize on the advantages of a single European market, which in turn will consolidate the EC position on the world market;
- From the legal and administrative points of view, procedures will be simplified as it will no longer be necessary to carry out further testing and conformity procedures in each EC Member State, thereby saving both time and money.

It is also stressed, that the Directive, once it becomes into force, also serve to stimulate standardisation work at EC level.

## 2.2 POSITION OF THE EUROPEAN PARLIAMENT OF 3 APRIL 1990.

On 3 April 1990 Parliament adopted by a large majority a list of amendments to the Commission proposal.

The Parliament expressed in particular concern mainly over the following points:

- a) The overall scope of the draft Directive is found to be too broad and too general with the definitions provided. A more precise definition is sought whereby the intended purpose of the terminal equipment is determining the procedures to apply;
- b) The interpretation of the essential requirement dealing with end-to-end interworking is linked with the case being determined as justified. This is believed to create too much uncertainty, and a strengthening of the "in justified cases" is deemed necessary;
- c) A number of amendments dealing in particular with the aspects of broad consultations and of reporting back to the Parliament were suggested.

And finally, the Parliament addressed the issue of commercial as well as technical reciprocity. The Commission was in this respect asked to ensure to the fullest possible extent that Community goods enjoy roughly equal access to third country markets.

## 3. AMENDED PROPOSAL COM (90) 263 FINAL - SYN 204.

On 19 June 1990 the Commission presented an amended proposal for a Council Directive on the approximation of the laws of the Member States concerning telecommunications terminal equipment, including the mutual recognition of their conformity.

The amended proposal includes the amendments mentioned in points 2.2 (c). This revision included out of the in total 24 proposed amendments the inclusion in full or in part of 19 amendments.

The amended proposal also took account to the possible extent of the concerns addressed in points 2.2 (a) and (b) by introducing two changes (Article 1 and Article 3) to the draft amended Directive.

In this way the amended proposal reflects and in most cases has taken fully into account the amendments originating from the first hearing in Parliament.

## 4. COMMON POSITION OF THE COUNCIL.

The Council has in its common position not only accepted the modifications included in the amended proposal for a Directive, but has precised the scope of the draft Directive and aspects concerning its application of certain essential requirements in three principal areas :

- The definition of the terminal equipment covered is more strictly defined for equipment intended to be connected to public telecommunications networks, and is amended to clarify the procedures to be followed for equipment capable of, but not intended to be connected to these networks.

- All types of terminal equipment making use of the radio frequency spectrum is a priori presumed to fall under the provisions of this draft Directive.
- The essential requirement covering interworking of terminals in the public telecommunications network, in justified cases, has been amended for the purpose of clarifying the criterias for those justified cases.

Furthermore, the common position includes further details regarding the recitals concerning extra Community aspects (now recitals 5.1,5.2 and 5.3) as well as aspects dealing with cooperation and/or consultation with the technical regulators of the Member States (recital 13 A).

Finally, the common position does no longer contain the original draft Article 14 dealing with final and transitional provisions, due to the fact that the Article 30 of the Treaty and the jurisprudence related to the implementation of this Article is regarded as adequately covering this aspect.

The Annexes to the current draft Directive have undergone minor adaptations, in order to better correspond to the exact peculiarities of telecommunications terminal equipment. The design examination procedure has been withdrawn from Annex IV, with a view to alleviating the burden for industry.

#### 5. POSITION OF THE COMMISSION.

The Commission is of the opinion that the common position has introduced an increased precision in the text, taking into account the real situation in the Community market for terminal equipment. In particular, the modifications introduced in the definition of the terminal equipment (Article 1) and the precisions given for the determination of the justified cases for terminal equipment interworking (Art. 4 g) are in conformity with the European Parliament wishes, and improve the precision of the Directive. As a whole, the modifications introduced contribute to make the Directive clearer and more easily applicable.

#### 6. CONCLUSIONS.

The Commission accepts the common position of the Council being based upon the amended proposal for a Council Directive on the approximation of the laws of the Member States concerning telecommunications terminal equipment, including the mutual recognition of their conformity.

The Commission appreciates that the amendments proposed by the Parliament in its first reading have been suitably incorporated in the common position of the Council.

The Commission consequently considers, that the current text of the Directive will fully enable the realisation of the Commissions objectives in the field of placing on the market and putting into service of telecommunications terminal equipment, and thereby contributing to the implementation of one of the essential aspects of the 1992 telecommunications policy objectives.