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Proposal for a

EUROPEAN PARLIAMENT AND COUNCIL DECISION

on the

**co-ordinated introduction of mobile and wireless communications (UMTS) in the
Community**

(presented by the Commission)

EXPLANATORY MEMORANDUM

Subject: Proposal for a European Parliament and Council Decision on the co-ordinated introduction of mobile and wireless communications (UMTS) in the Community.

1. Introduction

This proposal for a European Parliament and Council Decision lays down conditions in view of the co-ordinated introduction by Member States of the third generation mobile and wireless communications (UMTS) in the European Union on the basis of the existing European Union legal framework. UMTS will offer users a wireless access to the Internet and other multi-media services in addition to mobile telephony and messaging services already available today.

The Commission presented on 15.10.1997 a Communication on the strategy and policy orientations with regard to the further development of mobile and wireless communications (UMTS). This communication reported on the consultations with Member States and sector players on the basis of a previous communication of 29.5.97 and set out an action plan for creating a favourable environment for the development of UMTS¹.

This decision proposal is a reply to the Council's invitation to the Commission "to submit by early 1998, a proposal for a European Parliament and Council Decision which would enable orientations to be established on the substance of the issue and facilitate within the existing Community legal framework the early licensing of UMTS services and, if appropriate and on the basis of the existing repartition of competencies, in respect of co-ordinated allocation of frequencies in the Community and pan-European roaming".²

In its resolution of 29 January 1998³, the European Parliament also expressed strong support to the Commission's Communication of 15 October 1997 and stressed the urgent need for a European approach in particular on regulation, standardisation and frequency allocation.

2. Background

The 1994 Green Paper on mobile and personal communications⁴ already stressed the importance of the future development of mobile and personal communications in the Community and at global level. The Community has played a major role in the development of the second generation of mobile communications including GSM and related digital communications services⁵; this is now a great market success with more than 70 million

¹ COM(97)513 final, 15.10.97 - Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions - Strategy and policy orientations with regard to the further development of mobile and wireless communications (UMTS) - Outcome of the public consultation and proposals for creating a favourable environment, and COM(97)217 final, 29.5.97. Communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on the further development of mobile and wireless communications - Challenges and choices for the European Union.

² Council conclusions of 1 December 1997.

³ European Parliament Resolution of 29 January 1998 - A4-0027/98.

⁴ Green Paper on a common approach to mobile and personal communications in the European Union, COM(94) 145 final, 27.4.94.

⁵ Council Recommendation of 23 June 1987 on the coordinated introduction of public pan-European cellular digital land-based mobile communications in the Community (OJ L 196, 17.7.87, p.81)

users in more than 110 countries. Mobile communications used to connect computers and to access the Internet as well as satellite based personal communications systems are also appearing and developing against the background of full opening to competition of telecommunications markets in most Member States on 1 January 1998.

Building on these developments, the communications industry is developing a strategic vision on the next generation of digital mobile systems referred to in Europe as the Universal Mobile Telecommunications System (UMTS). Therefore, details of future service concepts and user requirements need to be considered in order to formulate regulatory, frequency and standardisation responses at a Community and national level.

The adoption of the proposed decision will prove political determination to make UMTS a success, thereby creating favourable conditions for the development of UMTS and providing for the necessary legal certainty to industry.

The European market for cellular mobile services including UMTS is expected to reach in the year 2005 over 100 BECU annual revenues with some 200 million subscribers. The global market is expected to grow even faster, in particular in Asia. UMTS should lead to the creation of tens of thousands of new jobs in the Community in a highly advanced and strategic sector of the economy.

In addition to the terrestrial segment, UMTS will also include a satellite component which will be of particular importance to developing countries. This must be considered in the context of the increasing role of satellites in the global economy.⁶

In view of the development of UMTS in the European Union and within Community's main trade partners, a strong home market in Europe would provide the best conditions for European industry to compete on the global market and allow it to consolidate the leading position that it holds today on the world market with GSM and in the creation of a global "wireless Information Society".

This proposed decision comes immediately after industry has reached consensus on 29 January 1998 within ETSI⁷ on the radio interface technology concept for UMTS. This reflects the need for a common, open and internationally competitive standard for the UMTS radio interface. In addition to this preliminary agreement, the technical specifications of this radio-interface standard will now need to be defined and various issues such as intellectual property rights attached to it will need to be solved.

While there is broad recognition that UMTS development must be market-led, administrations should ensure that the existing regulatory framework is fully exploited to facilitate innovation and investment for UMTS. Industry almost unanimously considers that an early clarification of licensing regimes and certainty as regards the timely availability of frequencies are key to future success.

Community regulatory action is necessary on licensing procedures, spectrum availability and harmonisation as well as standardisation to ensure the development of Community-wide and pan-European services through the rapid introduction of compatible UMTS high quality services. For this purpose, diverging national administrative actions need to be

Council Directive of 25 June 1987 on the frequency bands to be reserved for the coordinated introduction of public pan-European cellular digital land-based mobile communications in the Community (OJ L 166, 17.7.87, p.85)

⁶ See for example the recent Commission Communication on a Trans-European Satellite Positioning and Navigation System adopted on 21 January 1999 COM (99)29

⁷ ETSI: European Telecommunications Standards Institute

avoided in order not to hinder or prevent the provision of Community-wide UMTS services and the free movement of related equipment and services.

In the framework of existing EU legislation and in particular of the Licensing Directive⁸, the decision aims to set up without delay the conditions of application of existing legislation regarding UMTS.

Timing is essential as

- the first phase of UMTS development will lead to the introduction of UMTS services by 2002 ;
- a strategy for the introduction of UMTS in the European Union taking into consideration the need to promote the UMTS standard as a key element of the recommendation for the next generation mobile communications (named IMT-2000) currently in preparation at the International Telecommunications Union (ITU) for implementation in the year 2000; the agreement reached in ETSI on 29 January 1998 on the UMTS radio interface technology now positions UMTS as a strong candidate for acceptance as a global standard in this global context.
- additional frequency spectrum needs to be allocated at European level in order to meet market demand;
- harmonisation of licensing conditions is becoming necessary as certain Member States are already faced with applications for the provision of advanced mobile communications services in frequency bands reserved for UMTS.

3. Aims and Objectives of the proposed Decision

The purpose of the decision is to provide without delay at Community level for specific measures for Member States regarding the harmonised introduction of UMTS in the European Union which the Licensing Directive alone or individual action by Member States cannot ensure or provide.

A European Union decision is considered to be the most effective way to ensure the harmonised and rapid introduction of compatible UMTS services so as to secure Europe-wide roaming of future UMTS services through the timely and Europe-wide availability of frequency spectrum for UMTS as well as common, open and internationally competitive standards to ensure the development of Community-wide and pan-European services.

This decision extends the harmonisation process of the Licensing Directive, which involves the CEPT and comitology. This will apply to both general authorisations and to individual licenses. The decision also requires that licenses be based on European standards developed by ETSI where available.

⁸ Directive 97/13/EC of the European Parliament and of the Council of 10 April 1997 on a common framework for general authorisations and individual licenses in the field of telecommunications services (OJ L 117 of 7.5.97, p.15)

4. Applicability of the proposed Decision

Member States and their national regulatory authorities have an important role to play in the granting of licences and authorisations. They will be required by the decision to exercise their role and responsibilities in a harmonised way. The decision also provides for co-operation with the CEPT/ERC and CEPT/ECTRA⁹ and refers to standards to be developed by the European Telecommunications Standards Institute (ETSI).

Member States will therefore be required to allow the harmonised provision of UMTS services on their territory by 1 January 2002 at the latest and in particular to establish a harmonised authorisation system for UMTS no later than 1 January 2000. This will require specific measures such as the harmonisation of frequencies in co-operation with the CEPT as well as the introduction, for organisations providing UMTS networks, of rights and obligations to negotiate roaming agreements with similar organisations to provide seamless Community-wide service coverage. In particular, licensing should be based on a common, open and internationally competitive radio-interface standard to be developed by ETSI.

The scope of the decision needs to be defined. The proposed decision in Annex I defines key characteristics of UMTS. By doing so, the Commission reflects the Council's request for substantive orientations on UMTS. Although the concept of UMTS is indeed difficult to define, the characteristics listed reflect the common understanding on UMTS by all actors consulted.

As to spectrum, the proposed decision provides that UMTS services must be organised in frequency bands which are harmonised by CEPT. Sufficient spectrum must be allocated before UMTS services are commercially deployed and a clear strategy is necessary for the release of such spectrum as demand for UMTS further increases. The proposed decision sets out a methodology, in a similar way as foreseen in the S-PCS decision¹⁰, for the timely implementation at Community level of spectrum allocations identified by the CEPT. A provisional timetable is set out in Annex II of the proposed decision.

Harmonisation will be done through comitology with the Licensing Committee set up by the Licensing Directive 97/13/EC. This will involve a Committee I and IIB.

At international level, given the agreements signed in the World Trade Organisation, the Commission shall take all necessary actions to implement existing international agreements and may ask for a mandate for further multilateral or bilateral negotiations.

The Commission shall report to the Council and the European Parliament on the application of the decision after two years. Specific information obligations will also bear on Member States. The decision will be valid for a period of four years.

⁹ CEPT: European Conference of Postal and Telecommunications Administrations
ECTRA: European Committee for Telecommunications Regulatory Affairs
ERC: European Radiocommunications Committee

¹⁰ Decision 710/97/EC of the European Parliament and the Council, of 24 March 1997 on a co-ordinated authorisation approach in the field of satellite personal communications services in the Community (OJ L 105 of 23.4.97, p.4)

5. Summary and Content of the proposed Decision

Article 1 defines the basic purpose of the decision.

Article 2 contains the definition of UMTS. Orientations on the substance of the issue are required by the Council. UMTS is a new generation of services which needs to be defined taking into consideration technological progress and work done at the ITU and in the industry. A clear definition of UMTS will greatly help orient the harmonisation of UMTS in the European Union.

Article 3 outlines the major principles of co-ordinated authorisation by Member States.

Article 3.1 requires Member States to take all actions necessary in order to allow the harmonised provision of UMTS services on their territory by 1 January 2002 at the latest; Member States will in particular have to establish authorisation systems by 1 January 2000.

Article 3.2. provides for frequency harmonisation through CEPT and in reference to European standards developed by ETSI and in particular a common, open and internationally competitive air-interface standard. Moreover, licences need to support roaming throughout the Community.

Article 3.3. requires that the basic characteristics of UMTS as described in Annex I be implemented by Member States when granting licenses.

Article 3.4. provides for a safeguard clause in the case of incompatibility of systems and lack of sufficient frequency spectrum to accommodate all systems: Member States will have to co-ordinate their authorisation procedures in order to authorise compatible UMTS services in the Community.

Article 4 covers roaming rights and obligations.

Article 4.1. imposes on Member States to ensure that organisations providing UMTS networks have rights and obligations to negotiate roaming agreement with other similar organisations to ensure seamless Community-wide coverage.

Article 4.2. allows Member States to take action including promoting agreement among operators to ensure coverage of less populated areas, in the limits of Community law.

Article 5 establishes the co-operation with CEPT. Mandates will be granted to CEPT/ECTRA and CEPT/ERC to harmonise frequency use and conditions attached to authorisations for UMTS networks and services. A timetable is provided in Annex II. On the completion of the mandates, it shall be decided in accordance with the type II b comitology procedure whether the result of the work done pursuant to the mandates shall be made applicable in the Community. Article 5.3. provides for a safeguard in case of delay in the process.

Article 6 provides for co-operation with ETSI where necessary to promote a common and open standard for the provision of compatible UMTS services taking into account the global environment at the International Telecommunications Union.

Article 7 establishes the comitology procedure. The Committee will be the Licensing Committee created by the Licensing Directive 97/13/EC.

Article 8 provides that the Commission shall regularly inform the committee on the results of its consultations and that the committee encourages the exchange of information between the Commission and the Member States on UMTS.

Article 9 covers international aspects. The Commission shall take all necessary measures to facilitate the introduction of UMTS services in third countries and the free circulation of UMTS equipment. It shall seek implementation of existing international agreements and may ask for specific mandates for negotiation of new agreements.

Article 10 requires Member States to provide all information requested by the Commission for the implementation of the decision.

Article 11 contains standard obligations regarding confidentiality.

Article 12 provides that the decision will remain valid for a period of 4 years.

Article 13 imposes a reporting obligation on the Commission to the Council and the Parliament after two years.

Article 14 contains the standard provision regarding implementation by Member States.

Article 15 provides that the decision is addressed to the Member States.

Annex I lists the characteristics of UMTS and is referred to by articles 2 and 3.3.

Annex II contains a timetable for the granting of mandates to CEPT/ERC and CEPT/ECTRA.

5. Consultation

As summarised in its two recent communications, the Commission has conducted a broad public consultation to present strategy and policy orientations for the further development of mobile and wireless communications (UMTS). A list of contributors to the consultation is provided hereinafter.

Industry fully supports Community legislative action for the introduction in the EU of the third generation mobile communications after in particular GSM. It almost unanimously considers that early indication of licenses and certainty as regards the timely availability of frequencies are key to future success.

6. Conclusion

The proposed decision is an essential element of the regulatory environment required to ensure the effective harmonised introduction of UMTS services in the European Union within a certain deadline taking into consideration the global development of such services.

**ANNEX : LIST OF CONTRIBUTORS TO THE CONSULTATION
as per 19/09/1997**

Member States or their representative offices

ETO

Denmark, Research Ministry

Finland, Ministry of Transport and
Communications

France, DPT

Germany, Bundesregierung

Italy, Ministry of Communications

Portugal, Instituto das Comunicacoes

Sweden, Ministry of Transport and Communicatio

UK

UK Home Office

Industry, industry associations and others

Airtel Movil

Airtouch

Alcatel

Autel

Bayerische Rundfunk/Mueller-Roemer

Belgacom

BT

Cable & Wireless

Cegetel

Cellnet

CNPF

Deutsche Telekom

Diehl GmbH

e plus

ECTEL

Enertel

Ericsson

ETNO

Finmeccanica SPA

Finnet Group

France Telecom

INMARSAT

Mannesmann Mobilfunk

MATAV

Nokia

Olivetti

One-2-One

ONP-CCP/Joint industry group

Orange

Philips

Picienne Italia

Post and Telekom Austria

Proximus

Siemens

T-Mobil

Telecel

Telefonica

Telenor

Tescher Team

TIM

UMTS Forum Manufacturers Group

UNICE

Vodafone

WDR

**Proposal by the Commission
for a Decision of the European Parliament and of the Council on the
co-ordinated introduction of mobile and wireless communications (UMTS) in the
Community**

**THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN
UNION,**

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

Having regard to the proposal of the Commission,

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

Having regard to the opinion of the Committee of the Regions,

1. Whereas the Commission presented on 29 May 1997 to the European Parliament,
to the Council, the Economic and Social Committee and the Committee of the
Regions a Communication¹ on the further development of mobile and wireless
communications;
2. Whereas after consulting the industry and other parties concerned², and considering
the trade, industry, frequency and standardisation aspects of UMTS, the
Commission has presented on 15 October 1997 a Communication³ on a Strategy
and Policy Orientations with regard to the further Development of Mobile and
Wireless Communications (UMTS) and proposed policy orientations and actions to
increase investment security in UMTS and to prepare the necessary regulatory
framework so as to promote innovation and flexibility by industry;
3. Whereas on 1 December 1997, the Council invited the Commission "to submit by
early 1998, a proposal for a European Parliament and Council Decision which
would enable orientations to be established on the substance of the issue and will
facilitate within the existing Community legal framework, the early licensing of
UMTS services and, if appropriate and on the basis of the existing repartition of
competencies, in respect of co-ordinated allocation of frequencies in the Community

¹ COM (97) 217 final, 29.5.1997

² The UMTS Forum has been set up on 16 December 1996 among regulators, operators,
manufacturers, satellite operators and other interested parties as well as the European
Telecommunications Standards Institute (ETSI), the European Radiocommunications Office (ERO)
and the European Telecommunications Office (ETO), with the support of the Commission; this
Forum aims at developing common views for the development and implementation of UMTS and
advise on the development of a policy framework relating to the introduction of UMTS.

³ COM(97) 513 final, 15.10.1997 Communication from the Commission to the Council, the European
Parliament, the Economic and Social Committee and the Committee of the Regions - Strategy and
policy orientations with regard to the further development of mobile and wireless communications
(UMTS) - Outcome of the public consultation and proposals for creating a favourable environment.

and pan-European roaming"⁴; whereas the European Parliament has adopted on 29 January 1998 a resolution⁵ expressing its strong support to the Commission's Communication on the "Strategy and Policy Orientations with regard to the Further Development of Mobile and Wireless Communications";

4. Whereas UMTS is not a single system or network but a modular concept; whereas subsequent to the current second generation of mobile systems, a new generation of innovative systems needs be developed for the provision of wireless wideband multimedia services, including Internet and other Internet Protocol (I/P) based services, flexible and personalised service provision, support of high volume data rates combining the use of terrestrial fixed and mobile as well as satellite components; whereas this decision shall apply to satellite components without prejudice to the European Parliament and Council Decision 710/97/EC of 24 March 1997 on satellite personal communications⁶; whereas there is a need to ensure rapid market access for a ubiquitous coverage and low cost, and innovative service offering through a sufficient level of competition;
5. Whereas the ITU World Administrative Radio Conference (WARC 92) identified in 1992 frequency spectrum for the development of both the satellite and terrestrial parts of Future Public Land Mobile Telecommunications System (FPLMTS) later renamed IMT-2000; whereas according to ITU Resolution 212 and to the World Radiocommunications Conference in 1995 (WRC 95), the initial implementation of the terrestrial element should take place around the year 2000;
6. Whereas UMTS in the Community needs to be compatible with the third generation mobile system concept called International Mobile Telecommunications-2000 (IMT 2000) developed by the International Telecommunications Union (ITU) at world level on the basis of ITU Resolution 212;
7. Whereas mobile and wireless communications are of strategic importance both for the development of the Community telecommunications industry and the Information Society as well as for the Community economy and employment as a whole; whereas the Commission has adopted on 3 December 1997 a Green Paper on the convergence of the telecommunications, media and information technology sectors, and the implications for regulation⁷; whereas on the basis of the consultation which will result from that Green Paper, the Commission will take into consideration the impact of convergence on UMTS considering in particular the review of Community telecommunications regulation by 1999; whereas early decisions on harmonisation of authorisations and co-ordination of the introduction of UMTS services should aim at creating a favourable climate for investment and deployment of UMTS;
8. Whereas this requires specific regulatory action at Community level on licensing procedures, spectrum availability and harmonisation and standardisation; whereas in order to ensure the development of Community-wide as well as pan-European

⁴ Conclusions of the Council, of 1 December 1997.

⁵ Resolution of the European Parliament of 29 January 1998 - A4-0027/98.

⁶ OJ L 105, 23.4.97, p.4

⁷ COM(97)623

and global services with the widest possible territorial coverage, Member States should ensure the rapid and simultaneous introduction of compatible UMTS services in the Community on the basis of internal market principles by means of a co-ordinated approach; whereas diverging national laws, regulations and administrative action would hinder or prevent the provision of Community-wide and global UMTS services, and the free movement of related equipment;

9. Whereas existing Community legislation including competition rules in particular Commission Directive 96/2/EC of 16.1.96 on mobile and personal communications⁸ and Commission Directive 96/19/EC of 13.3.96⁹ on full competition, as well as Directive 97/13/EC of 10 April 1997 of the European Parliament and of the Council on a common framework for general authorisations and individual licences in the field of telecommunications services¹⁰ (Licensing Directive) and Directive 97/33/EC of the European Parliament and the Council on Interconnection in Telecommunications with regard to ensuring Universal Service and interoperability through application of the Principles of ONP¹¹ (the Interconnection Directive) apply to this sector;
10. Whereas UMTS service providers should be able to enter the market without unnecessary constraints to allow for a dynamic market and a broad competitive service offering; whereas where an authorisation procedure is considered necessary, general authorisations or declarations should be the rule;
11. Whereas pursuant to Community law, in particular Directive 37/13/EC of the European Parliament and the Council and Directive 96/02/EC of the Commission: i) individual licenses should be limited to the operation of UMTS networks ii) the number of UMTS licenses may only be limited for reasons of demonstrated lack of frequency spectrum capacity iii) licenses should be made accessible to any organisation and should not be reserved to existing operators of other systems;
12. Whereas conditions to be attached to authorisations should be defined in such a way as to secure Community-wide and pan-European services as well as roaming capabilities through co-ordinated introduction; whereas Europe-wide roaming will enable industry to meet user and societal needs; whereas the conditions listed in the Annex of the Licensing Directive may be imposed on a UMTS system by a Member State even where no part of that system is located within the territory of that Member State; whereas national licensing regimes and harmonisation of licensing conditions and procedures among telecommunications authorities should be adopted without delay in the context of the CEPT in co-operation with ECTRA for UMTS; whereas in particular the one-stop-shopping procedure provided in the Licensing Directive should apply to the granting of individual licenses and for notifications in the case of general authorisations to facilitate the granting of UMTS services authorisations to undertakings in more than one Member State;

⁸ Commission Directive 96/2/EC of 16.1.96 amending Directive 90/388/EEC with regard to mobile and personal communications, OJ L 20, 26.1.96, p. 59.

⁹ Commission Directive 96/19/EC of 13.3.96 amending Directive 90/388/EEC with regard to the implementation of full competition in telecommunications markets, OJ L 74, 22.3.96, p. 13.

¹⁰ OJ L 117, 7.5.1997 p. 15

¹¹ OJ L 199, 26.7.97, p. 32

13. Whereas the amount of spectrum made available will have a direct impact on how competitive the market place will be; whereas estimated demand should therefore determine the amount of spectrum to be allocated; whereas sufficient spectrum must be allocated and cleared sufficiently in advance to foster a broad competitive offering of mobile multi-media services;
14. Whereas spectrum allocation is most efficiently pursued in the context of the CEPT by the European Radiocommunications Committee (ERC); whereas according to CEPT rules, CEPT country members which also include Community Member States, are free to commit themselves to implement ERC decisions; ; whereas it should therefore be ensured that appropriate and timely regulatory measures are taken in the Community to achieve the implementation of ERC decisions if necessary; ; whereas Member States shall provide the Commission with regular information as to the implementation of ERC measures; whereas complementary Community action may be required to ensure the timely implementation of CEPT decisions within Member States;
15. Whereas measures adopted by the ERC and ECTRA are, if consistent with Community law, a basis for the use of the relevant frequencies and for the preparation of the criteria for the authorisation of UMTS; whereas sufficient spectrum will be necessary to foster the development of a market with a broad competitive offering of mobile multi-media services; whereas the European Radiocommunications Committee (ERC) has adopted on 30 June 1997 Decision ERC/DEC/(97)07 on the frequency bands for the introduction of Universal Mobile Telecommunications Systems (UMTS) which entered into force by 1 October 1997;
16. Whereas this ERC decision has designated the frequency bands 1900-1980 MHz, 2010-2025 MHz and 2110-2170 MHz to terrestrial UMTS applications, and accommodates UMTS satellite component applications within the bands 1980-2010 MHz and 2170-2200 MHz; whereas it already appears that additional frequency spectrum capacity will be necessary to meet the demand in the Community and to ensure introduction of UMTS in Europe even before 1 January 2002; whereas sufficient spectrum must be allocated within the bands identified by WARC 92 according to the increasing needs therefor before UMTS services are commercially deployed; Whereas additional frequency spectrum may become necessary by 2005 and therefore the 900, 1800 and 1900 MHz bands would also need to be freed or refarmed as far as possible;
17. Whereas at ITU level the review of spectrum and regulatory issues relating to UMTS and the facilitation of multimode terminal operation and world-wide roaming of IMT-2000 have been included in the WRC 99 agenda in order to identify additional frequency spectrum to satisfy market demand by 2005-2010; whereas therefore European common positions need to be developed and promoted at global level with the participation of all parties interested;
18. Whereas spectrum availability and appropriate pricing, coverage and quality will be essential aspects to the success of UMTS development; whereas any spectrum pricing method should not adversely impact on the competitive structure of the market, should respect the public interest, guarantee roaming capabilities while ensuring efficient use of the spectrum as a valuable resource;

19. Whereas Europe-wide roaming of UMTS services is essential to the development of pan-European UMTS services as a basis for the internal market for telecommunications; whereas specific co-operation among operators may be also necessary to provide coverage of less populated areas;
20. Whereas a proposal has been presented on 4 June 1997 by the Commission for a Council and European Parliament Directive on connected telecommunications equipment and the mutual recognition of the conformity of equipment¹² to amend the Council Directive 91/263/EEC of 29 April 1991 on the approximation of the laws in the Member States concerning telecommunications terminal equipment, including the mutual recognition of their conformity¹³; whereas appropriate harmonised standards developed by ETSI and recognised under Directive 91/263/EEC will ensure free movement of terminals and will allow the putting into service of UMTS in the Community¹⁴;
21. Whereas as provided in the Interconnection Directive, interconnection to public telecommunications networks and publicly available telecommunications services provided by organisations having significant market power shall follow the principles of non-discrimination and transparency;
22. Whereas, without prejudice to Community competition law, organisations providing UMTS networks must have rights and obligations to negotiate roaming and infrastructure sharing agreements with other telecommunications organisations to ensure seamless Community-wide service coverage; whereas such negotiation needs to occur on the basis of a common, open and internationally competitive air-interface standard;
23. Whereas urgent and specific action at Community level is required in order to reach co-ordinated introduction of UMTS on the basis of common, open and internationally competitive standards, in order to secure Community-wide roaming of future UMTS services at low cost as well as early licensing of UMTS services in the Community in the bands identified by the CEPT;
24. Whereas the Community should build on the success of the current generation of mobile digital technology including GSM both in Europe and in the world taking into consideration interworking between UMTS and second generation systems; whereas there should be no discrimination between GSM operators and new entrants on UMTS markets;
25. Whereas the UMTS aims at a global market and therefore should be placed in a global context on the basis of a coherent plan for the Community; whereas the creation of a common standard in the Community would help European industry in competing in global markets; whereas compatibility with other standards of the ITU IMT-2000 family would facilitate interworking and roaming at global level; whereas the ITU has set the deadline to May 1998 for the adoption of the "IMT-

¹² OJ C 248, 14.8.97, p.4.

¹³ OJ L 128, 23.5.91, p. 1

¹⁴ A consensus agreement has been reached on 29 January 1998 within ETSI in view of the elaboration of a common radio interface standard for UMTS called UTRA.

2000 Family Concept", to September 1998 for submitting candidates for the radio interface for the "IMT-2000 family concept" of standards and to end 1999 for the adoption of IMT 2000 standard final recommendation by ITU; whereas this Family Concept supports a set of air interfaces and of core network standards; whereas a common European UMTS standard should be adopted and proposed as a member of that Family in order to increase the chances of UMTS to be adopted on markets outside Europe; whereas these deadlines therefore need to be met within the Community;

26. Whereas while voluntary application of standards remains the general rule, recourse to mandatory standards may be required for interfaces and situations where necessary to ensure interoperability and facilitate roaming of mobile networks and services; whereas harmonised standards are adopted by standardisation bodies such as the European Telecommunications Standards Institute (ETSI) which facilitates regulatory action; whereas the proposals for common technical regulations are, as a general rule, drawn up on the basis of harmonised standards and of additional consultations;

27. Whereas in order to allow for effective service competition and innovation, the UMTS standardisation process should be limited to what is necessary for systems development while allowing for service provision differentiation ;

28. Whereas common and open European standards are essential for the critical interfaces in particular the air interface (UMTS Terrestrial Radio Access - UTRA) and for the UMTS core network in order to foster a strong start of UMTS in the Community and to ensure end-to-end interoperability in a pan-European environment and open competition for roaming traffic and to avoid market fragmentation in Europe, increased costs of UMTS systems and loss of competitiveness;

29. Whereas the Commission has granted in 1995 to ETSI a general standardisation mandate related to UMTS pursuant to Council Directive 83/189/EEC of 28 March 1983¹⁵ and Council Decision 87/95/EEC of 22.12.1986;

30. Whereas the ETSI mechanism dealing with intellectual property rights (IPRs) in the context of standardisation should be followed; whereas ETSI members should make every attempt to unveil intellectual property rights applicable to UMTS in the world;

31. Whereas adequate support should be provided within the Community R&D programmes with the objective of further developing the technological basis for UMTS; whereas this would involve further research into technical solutions for UMTS such as software radio;

32. Whereas social and societal effects should be taken into account in the transition towards the wireless information society; whereas UMTS development should be co-ordinated with related efforts such as the development of a Community-wide information society, support of training on UMTS related technologies, access for

¹⁵ OJ L 109, 26.4.1983, p.8

elderly and disabled persons, research on possible health hazards of mobile communications;

33. Whereas the implementation of UMTS systems and services should take into consideration the needs of potential groups of users working in services of public interest (health, education, transport, environment, etc.) and pay attention to the requirements that have already been incorporated into European standards;
34. Whereas market access and free circulation of UMTS systems and terminals to the global market should be promoted; whereas interoperability of UMTS services at Community and global levels should be encouraged among the industry, standardisation bodies and Member States;
35. Whereas the need to ensure the introduction of interoperable UMTS at both pan-European and global levels may require the conclusion of a number of agreements with third countries on, inter alia, interconnection, roaming, free movement and use of equipment at global level through multilateral rules, access to third countries' networks and markets; whereas these agreements are closely related to market access arrangements;
36. Whereas Community undertakings should fully benefit from international trade agreements such as agreements signed within the World Trade Organisation (WTO) and have effective market access in the specific terms and conditions, including national treatment, bound by those countries within the WTO;
37. Whereas UMTS equipment would be covered by international tariffs agreements entered by the Community such as the Information Technology Agreement signed in the Framework of the World Trade Organisation¹⁶ and the Istanbul Convention on the elimination of customs duties on personal effects and professional equipment¹⁷;
38. Whereas, the Commission may take all necessary actions to implement international agreements; whereas the Commission may start further multilateral and bilateral negotiations on aspects of UMTS on the basis of specific mandates from the Council, which should make it possible to conclude balanced agreements ensuring further effective access for Community operators in third countries as well as mutual recognition arrangements for global circulation of terminals;
39. Whereas the results of the international consultations and other changes in the situation may require that decisions taken pursuant to this Decision be amended or other appropriate measures be undertaken;
40. Whereas in the implementation of this Decision, the Commission should be assisted by the Licensing Committee established by Directive 97/13/EC; whereas the Committee should act as a consultative committee according to the procedure laid down in Article 16 or as a management committee type II b according to the procedure laid down in article 17 of Directive 97/13/EC;

¹⁶ Agreement on Trade in Information Technology Products, Council Decision 97/359/EC of 24.3.97, OJ L 155, 12.6.97, p.10

¹⁷ Council Decision 93/329/EC of 15.3.93, OJ L 130 of 27.5.93, p.1

HAVE ADOPTED THIS DECISION:

Article 1

Purpose

The aim of this Decision shall be to facilitate the rapid introduction of compatible UMTS networks and services in the Community on the basis of internal market principles and in accordance with commercial demand by means of co-ordination of national licensing regimes.

Article 2

Definition

For the purpose of this Decision, Universal Mobile Telecommunications System (UMTS) shall mean a third generation mobile communications system capable of providing in particular innovative wireless multimedia services, beyond the capability of current second generation systems such as GSM, and combining the use of terrestrial and satellite components. It shall include the characteristics referred to under Annex I.

Article 3

Co-ordinated authorisation

1. Member States shall take all actions necessary in order to allow the harmonised provision of the UMTS services on their territory by 1 January 2002 at the latest and in particular shall establish an authorisation system for UMTS no later than 1 January 2000.

2. When preparing and applying their authorisation systems Member States shall ensure

- that the provision of UMTS services is organised in frequency bands which are harmonised by CEPT in accordance with the procedure laid down in Article 5,

- and pursuant to European standards developed by ETSI where available, including in particular a common, open and internationally competitive air-interface standard. Member States shall ensure that licenses support roaming throughout the Community.

3. When authorising UMTS services, Member States shall ensure that the specific characteristics listed in Annex I are implemented.

4. In the case of incompatibility of potential systems and if it is established in accordance with the procedure laid down in Article 17 of Directive 97/13/EC and in conjunction with CEPT that it is necessary to limit the number of UMTS services authorisations, Member States shall co-ordinate their authorisation procedures with a view to authorising compatible UMTS services in the Community.

Article 4

Roaming Rights and Obligations

1. Member States shall ensure that organisations providing UMTS networks have rights and obligations to negotiate roaming agreements with other organisations providing UMTS networks to ensure seamless Community-wide service coverage.
2. Member States may where necessary take action, including the promotion of agreements between operators in accordance with Community law, to ensure the coverage of less populated areas.

Article 5

Co-operation with CEPT

1. The Commission shall, in accordance with the procedure laid down in Article 16 of Directive 97/13/EC pursuant to the timetable set out in Annex II, give CEPT/ERC and CEPT/ECTRA mandates to harmonise frequency use and the conditions attached to authorisations for UMTS networks and services without prejudice to the provisions of the Licensing Directive regarding individual licences. Those mandates shall define the tasks to be performed and lay down a timetable.
2. On the completion of the mandates, it shall be decided in accordance with the procedure laid down in Article 17 of Directive 97/13/EC whether the result of the work done pursuant to the mandates shall be made applicable in the Community.
3. Notwithstanding Article 5(2), if the Commission or any Member State considers that work done pursuant to the mandate given to the CEPT/ECTRA or CEPT/ERC is not progressing satisfactorily having regard to the timetable laid down, it may refer the matter to the Licensing Committee, which shall act in accordance with the procedure laid down in Article 17 of Directive 97/13/EC.

Article 6

Co-operation with ETSI

The Commission shall take all necessary measures where appropriate in co-operation with ETSI to promote a common and open standard for the provision of compatible UMTS services throughout Europe, in accordance with market requirements, taking into account the need to present a common standard to the International Telecommunications Union (ITU) as an option for the world-wide ITU IMT 2000 standard.

Article 7

The Committee

In the implementation of this Decision, the Commission shall be assisted by the Licensing Committee set up by Article 14 of Directive 97/13/EC.

Article 8

Exchange of Information

1. The Commission shall regularly inform the committee of the outcome of consultations with the representatives of telecommunications organisations, users, consumers, manufacturers, service providers and trade unions.
2. The committee shall, taking into account the Community's telecommunications policy, encourage the exchange of information between the Member States and the Commission on the situation and the development of regulatory activities regarding the authorisation of UMTS services.

Article 9

International Aspects

1. The Commission shall take all necessary measures to facilitate the introduction of UMTS services in third countries and the free circulation of UMTS equipment.
2. For this purpose, the Commission shall make proposals to take all necessary actions to seek the effective implementation of international agreements applicable to UMTS, and shall, in particular and where necessary, submit proposals to the Council for appropriate mandates for the negotiation of bilateral and multilateral agreements with third countries and international organisations. The Council shall decide by qualified majority.

Article 10

Notification

Member States shall give the Commission such information as it may require for the purpose of verifying the implementation of this Decision.

Article 11

Confidentiality

1. Neither the Commission nor the national regulatory authorities shall disclose any information covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.
2. Paragraph 1 shall be without prejudice to the right of national regulatory authorities to undertake disclosure where it is essential for the purposes of fulfilling their duties, in which case such disclosure shall be proportionate and shall have regard to the legitimate interests of the undertakings in the protection of their business secrets.

3. Paragraph 1 shall not preclude the publication of information on licensing conditions which does not include information of a confidential nature.

Article 12

Duration

This Decision shall enter into force on the 20th day after its publication in the Official Journal of the European Communities and shall remain in force for four years after that date

Article 13

Report

The Commission shall keep developments in the field of UMTS under review and report to the European Parliament and to the Council on the effectiveness of action taken pursuant to this Decision after two years.

Article 14

Implementation

Member States shall take all measures necessary, by law or administrative action, for the measures provided for in, or agreed on pursuant to this Decision to be implemented.

Article 15

Addressees

This Decision is addressed to the Member States.

ANNEX I

Characteristics of UMTS

Services

1. Multimedia capability with wide area mobility
2. Efficient access to the Internet, Intranets and other Internet Protocol (I/P) based services
3. High quality speech commensurate with that of fixed networks.
4. Service portability across distinct UMTS environments
5. Indoor, outdoor and far outdoor operation of GSM/UMTS in one seamless environment including full roaming between GSM as well as between the terrestrial and satellite components of UMTS networks.

Terminals

- Dual mode/band GSM/UMTS terminals, where appropriate.
- Dual mode terrestrial/ satellite UMTS terminals, where appropriate.

Radio Access Networks

- New air interface in for access to all services including to packet data based services
- Good overall spectral efficiency

Core network

- Evolution from GSM system family; call control mobility management including full roaming functionality based on core GSM network standard
- Mobile/fixed convergence elements

ANNEX II

TIMETABLE

Mandates to CEPT on further spectrum allocation including availability of additional spectrum beyond WARC-92 FPLMTS bands and freeing or refarming of the 900, 1800, 1900 MHz bands for UMTS Feb. 1999

Mandates to CEPT for harmonisation of conditions attached to authorisations Feb. 1999

One-stop-shopping procedure ready for services where necessary End 1999

FINANCIAL FICHE

1. Title of the Action

European Parliament and Council Decision on the co-ordinated introduction of mobile and wireless communications (UMTS) in the Community.

2. Budget Line

B-5 -302: Definition and implementation of Community policy in the field of telecommunications and posts.

3. Legal Basis

European Union Treaty 57, 66, 100a.

4. Description

4.1. Main objectives of the action

This action aims to establish a common market third generation for mobile and personal communications (also called UMTS - Universal Mobile Telecommunications System) through an action at Union level to set up a licensing framework based on harmonised criteria.

The action will have an important impact on the further development of mobile and personal communications within the Community and in the rest of Europe, as well as globally. As it was the case for the second generation (GSM in particular), it is necessary to ensure a Community approach so as to have a timely and harmonised introduction of systems, taking also into consideration the importance of harmonisation at global level through the International Telecommunications Union.

4.2. Duration and extension

Pursuant to Article 14 of the decision, the action is limited to a period of four years. A one One-stop-shopping procedure should be ready for services where necessary by the end 1999. Start of UMTS service provision should be ensured by 2002 following co-ordination at ITU level.

5. Specialisation of expenses

NCE/DC

6. Nature of operational expenses

Pursuant to article 5 of the proposed Decision, the Commission will give CEPT/ERC and CEPT/ECTRA¹ mandates. On the basis of framework contracts entered by the Commission and ERO/ETO², which will be extended in a first phase until September 1999, work orders will be given to ERO and ETO. These mandates and work orders will define the tasks to be performed and lay down a timetable; they will aim to harmonise frequency use and the conditions attached to authorisations for UMTS networks and services.

¹ CEPT: European Conference of Postal and Telecommunications Administrations

ECTRA: European Committee for Telecommunications Regulatory Affairs

ERC: European Radiocommunications Committee

² ERO: European Radiocommunications Office

ETO: European Telecommunications Office

7. Financial Implications

7.1 Method of calculating total cost of the Action

Pursuant to the framework contracts with ETO and ERO, specific contracts shall be place with the ERO and ETO which shall specify the commitments of the contracting parties, i.e. the scope of work, the schedule for deliverables, the manpower requirements, cost including a breakdown into secretarial, meeting, mission and subcontract work); payment instalments and terms and redlines of payments to be made by the Commission for the execution of the specific contracts. A specific contract shall take effect upon signature by the contracting parties.

The cost of work orders has been determined on the basis of article 5 of the framework contracts with ETO and ERO. It is the product of the value man-month unit and the number of man-months for the execution of the work. The cost of the experts of ERO/ETO is calculated on the basis of the man-month unit (MM) the value of which may not exceed ECU 15,000 including ECU 2250 contribution to social charges, mission expenses and ETO/ERO's general expenses.

Payments shall be scheduled as follows:

- 30% upon the signature of the specific contract;
- 55% in one or more instalments after acceptance by the Commission of the progress reports as agreed in the specific contract;
- 15% after acceptance of the final report and receipt of all deliverables.

The attached table provides for a determination of the cost of each set of work order per topic and per year with an indication of the number of man-months required.

The number of MM takes into consideration the work load necessary to produce work on harmonisation over the four years. The spread of work is based on the higher amount of work necessary in 1999 and 2000 and on the available personnel resources of ERO/ETO. Special efforts will have to be developed as soon as the decision is adopted in 1999 by ERO/ETO. Time will then be necessary for ERC/ECTRA/CEPT and the Commission to review the results of the work done and to introduce them under Community law according to comitology procedures, in order to meet the deadlines fixed at world level by the ITU (plans for use of frequency bands for UMTS to be available by mid 1999, allocation of additional spectrum to be done by the World Radio Conference of the ITU in Nov. 1999; from 1999, additional spectrum beyond WARC-92 FPLMTS bands should also be made available in Europe; start of UMTS service provision to be ensured by 2002 following co-ordination at ITU level.)

7.2. Breakdown per action element

The table below describes the breakdown of costs for each element of the Action, expressed in ECU.

Element	1999	2000	2001	2002	2003	Total
work orders to ETO for the definition of licensing conditions and procedures for UMTS	120,000 (8 MM)	120,000 (8 MM)	60,000 (4 MM)	60,000 (4 MM)	30,000 (2 MM)	390,000 (26 MM)
work orders to ETO for numbering, naming and addressing in the context of UMTS	75,000 (5 MM)	75,000 (5 MM)	30,000 (2 MM)	30,000 (2 MM)	30,000 (2 MM)	240,000 (16 MM)
work orders to ERO of the harmonisation of frequencies re. UMTS	90,000 (6 MM)	90,000 (6 MM)	90,000 (6 MM)	45,000 (3 MM)	45,000 (3 MM)	360,000 (24 MM)
Grand total	285,000 (19 MM)	285,000 (19 MM)	180,000 (12 MM)	135,000 (9 MM)	105,000 (7 MM)	990,000 (66 MM)

The exact technical content of the work orders will depend on the results of the ETSI standardisation process in the course of 1998.

7.3. Schedule of Commitment and Payment Credits

The table below provides for an assessment of payment credits compared to commitment credits for the duration of the Action.

	1999	2000	2001	2002	2003	Total
Commitment Credits	285,000	285,000	180,000	135,000	105,000	990,000
Payment Credits						
1999	142,500					
2000	142,500	142,500				
2001		142,500	90,000			
2002			90,000	67,500		
2003				67,500	105,000	
Total	285,000	285,000	180,000	135,000	105,000	990,000

8. Anti-Fraud Provisions

Before paying its contribution, the Commission shall control the payment of any service, preparatory study, feasibility or evaluation study, taking into account applicable contractual obligations, economic principles and good financing or management practices. All agreements and contracts entered into between the Commission and the beneficiaries of payments shall include anti-fraud provisions (monitoring, reporting obligations, etc.).

9. Elements of Cost/efficiency Analysis

9.1. Specific Objectives

The proposed action aims at establishing a common market for the third generation of mobile and personal communications (UMTS), through the implementation of an action at Community level providing for the harmonised authorisation of UMTS services on the basis of common and harmonised criteria.

9.2. Action Justification

The proposed decision is a legislative measure which is necessary for the establishment of an internal market in the mobile communications sector and the further development of this sector into the third generation of mobile communications.

UMTS services should be introduced as soon as possible taking into account their global development as tabled within the International Telecommunications Union which has called for the provision of UMTS services by the year 2002 at the latest at world level (resolution 212). Given the time necessary to put into place the proper framework for the such services, it is now urgent to agree within the EU on a co-ordinated action which will allow Member States to grant the necessary authorisations for the provision of UMTS services on the basis of harmonised national regulatory conditions and criteria.

Therefore, the proposed decision provides that an action be adopted at Community level in order to ensure the harmonised introduction of UMTS services so as to secure Europe-wide roaming of future UMTS services on the basis of timely and Europe-wide availability of frequency spectrum for UMTS as well as a common, open and internationally competitive standard, taking into account the global dimension thereof.

The proposed action fully takes into account the subsidiarity aspects: seamless provision of UMTS services in the Community requires the adoption of Community measures to ensure that national measures are taken in a harmonised way in order to foster the development of the third generation mobile wireless communications in the Community and the achievement of the internal market objectives for these services.

Need for a Community legislative measure

- Community regulatory action is necessary on licensing procedures, on ensuring spectrum availability and harmonisation as well as on standardisation to ensure the development of Community-wide and pan-European services through the introduction of compatible UMTS services. For this purpose, diverging national administrative actions need to be avoided in order not to hinder or prevent the provision of Community-wide UMTS services and the free movement of related equipment and services. In the framework of existing EU legislation including the Licensing Directive³, the purpose of the decision is to provide without delay for specific solutions regarding UMTS which the Licensing Directive alone cannot provide.
- The principle of proposing legislative measures in order to facilitate the harmonised introduction of UMTS in the European Union has received broad support from all actors involved including the industry; on 1 December 1997, the Council invited the Commission to present a proposal for a decision by early 1998.

Impact on Business

Directly, this decision will affect the whole telecommunications industry and in particular all existing and potential UMTS system operators and service operators, as well as the manufacturing industry. Indirectly, it will affect the whole economy given the importance of the telecommunications sector.

The decision would provide confidence to industry that there is political will to make UMTS a success. As for GSM, Europe should be again positioned in a leading role for creating a global "wireless Information Society". Consumers and the whole society will benefit from technological progress created by UMTS.

The European market for cellular mobile services including UMTS services is expected to reach in the year 2005 over 100 BECU annual revenues with some 200 million subscribers. The global market is expected to grow even faster, in particular in Asia. A strong home market in Europe would provide the best conditions for European industry to compete in other parts of the world.

This decision will also facilitate entry into the market of small and medium size telecommunications enterprises and compete with other organisations in a liberalised environment. Although no specific measures in the proposal address SMEs as such, the decision calls for an open standard which will enable SMEs to compete.

The decision is addressed to Member States. Specific conditions for harmonisation will apply to them in the general framework of existing legislation. The industry is bound by existing Community legislation.

9.3. Follow-up and Evaluation of the action

- The need for a specific regulatory action has been analysed in two communications and has received broad support from the industry, from the Council and from the Parliament (resolution to be adopted on 28 January 1998).
- Harmonisation is under way through CEPT in several other areas of telecommunications such as DCS 1800, DECT, Satellite personal communications. The result of the work is included in ERC decisions which are then implemented into the national regulatory regime of each Member State under the supervision of the Commission.
- The proposed action lays down a procedure pursuant to which the Commission shall keep development in the field of UMTS under review and report to the European Parliament and the Council on the effectiveness of action taken pursuant to the Decision after two years (see Article 15 of the proposed decision). The working plan and results achieved will be reviewed and the need for further harmonisation measures will be reviewed.

³ Directive 97/13/EC of the European Parliament and of the Council of 10 April 1997 on a common framework for general authorisations and individual licenses in the field of telecommunications services (OJ L 117 of 7.5.97, p.15)

10. Administrative Expenses

The effective use of administrative resources necessary shall be subject to yearly decisions by the Commission on the allocation of resources, taking into account human resources and additional budgetary resources allocated by budgetary authorities.

10.1. Impact on Employment

Type of employment		Work force allocated		of which		Duration
		permanent	temporary	existing resources	additional resources	
Officials or temporary agents	A		1	1		4 years
	B					
	C					
Other resources						
Total						4 years

10.2. Global Financial impact on additional human resources

None.

10.3. Increase in other costs resulting from the action

The cost of using the Licensing Committee created under the Licensing Directive 97/13/EC of 10.4.97 is covered by the financial commitment under the Licensing Directive and also used in the framework of the Council and European Parliament Decision 710/97 of 24.3.97 on a co-ordinated authorisation approach in the field of satellite personal communications services in the Community.

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