

COMMISSION OF THE EUROPEAN COMMUNITIES



Brussels, 12.02.1997
COM(97)32 final

95/0280 (COD)

OPINION OF THE COMMISSION

pursuant to Article 189 b (2) (d) of the EC Treaty,
on the European Parliament's amendments
to the Council's common position regarding the

proposal for a
EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

amending Council Directives 90/387/EEC and 92/44/EEC

for the purpose of adaptation to a
competitive environment in telecommunications

AMENDING THE PROPOSAL OF THE COMMISSION

pursuant to Article 189 a (2) of the EC Treaty

EXPLANATORY MEMORANDUM

Article 189b(2)(d) requests the Commission to express its opinion on the amendments proposed by the European Parliament in its Second Reading.

The Commission hereby presents its opinion on these amendments to the Council's common position regarding the proposal for a European Parliament and Council Directive amending Council Directives 90/387/EEC and 92/44/EEC for the purpose of adaptation to a competitive environment in telecommunications. This includes a modified proposal incorporating the amendments proposed by the European Parliament at Second Reading which were accepted by the Commission.

OPINION OF THE COMMISSION

1. BACKGROUND

- a) The Commission adopted its proposal on 14.11.95, and it was formally transmitted to the EP and the Council on 10.1.96¹.
- b) The Economic and Social Committee gave a favourable Opinion on 25.4.96².
- c) The European Parliament adopted a favourable Resolution at its First Reading on 22.5.96, and proposed 17 amendments to the Commission proposal³.
- d) The Commission adopted an amended proposal on 31.7.96, and submitted it on 3.9.1996⁴.
- e) The Council adopted its Common Position on 12.9.96⁵.
- f) The European Parliament voted on Second Reading on 10.12.96, adopting a favourable resolution which included 7 amendments to the Common Position⁶.

1 OJ C 62, 1.3.1996, p.3
2 OJ C 204, 15.7.1996, p. 14
3 OJ C 166, 10.6.1996, p. 87
4 OJ C 291, 4.10.1996, p. 18
5 OJ C 315, 24.10.1996, p. 41
6 A4-0402/96, PV1996

2. PURPOSE OF THE DIRECTIVE

This Directive is an essential component of the regulatory framework for the future liberalised telecommunications sector, to be in place by 1.1.98.

The proposed revision of the ONP Framework Directive aims at adapting the basic principles concerning access to and the use of public telecommunications networks and services to ensure Europe-wide services in a liberalized environment. It provides for a voluntary approach by the market players in a competitive context, whilst recognising the key importance of maintaining and developing universal service and the need for mandatory requirements in those areas where market forces alone may not be enough to meet European policy goals.

The revised Leased Lines Directive will ensure that all users have access to leased lines from at least one operator, under harmonised conditions of access and use, including access to a mandatory minimum set of leased lines. This obligation-to-provide will normally be placed only on organisations with significant market power. In any case, full territorial coverage must be ensured.

3. POSITION OF THE COMMISSION ON THE EP AMENDMENTS

3.1 EP AMENDMENTS ACCEPTED BY THE COMMISSION

Of the 7 amendments adopted by the European Parliament at Second Reading, the Commission accepts 4 in full, in part or in principle (i.e. with some reformulation of the text).

The Commission is consistent with its position during the First Reading, and is supportive of amendments which can improve the Common Position. On this basis, the Commission position on each amendment is the following:

Amendments accepted in full, in part or in principle: 2, 4, 6, 7

The Commission's position on each of these amendments is explained in the attached table. The most important amendments accepted by the Commission concern the three following areas:

Comitology [Amendment 2]

The Commission supports the EP's amendment which reverses a change introduced by Council. The Council had changed an advisory committee procedure to a regulatory committee procedure.

**Study of creation of a European regulatory authority
[Amendments 4 and 6(parts)]**

The Commission accepts the request in Amendments 4 (last part) and 6 (last part) for examination, in the report that the Commission is required to present before the end of 1999, of the possibility of establishing a European regulatory authority for telecommunications. The Council did not accept the EP amendment on this issue at First Reading.

In supporting the EP amendment, the Commission notes that the issue could be dealt with in the report proposed for 1999, even if this is not explicitly stated in the Directive.

**Number portability
[Amendment 7]**

The Commission supports in principle a reference to number portability in the Annex, but for clarity prefers to make the insertion at a different point in the text.

3.2. EP AMENDMENTS NOT ACCEPTED BY THE COMMISSION

The Commission has not accepted 3 of the 7 amendments proposed by the European Parliament.

The amendments not accepted by the Commission are the following:

Amendments not accepted: 1, 3, 5

The reasons are given below.

**Resources for NRAs
[Amendment 1]**

The Commission considers that the present wording of the Common Position adequately reflects the concern of the Parliament that national regulatory authorities should have all necessary resources to fulfil their mission in full autonomy.

The amendment is rejected because the word *must* is inappropriate in a Recital and would be inconsistent with the wording of Recital 10 of the ONP Voice Telephony Directive 95/62/EC.

**Directive on costing and financing of universal service
[Amendment 3]**

The Interconnection Directive sets out a framework for costing and financing of universal service. In addition, the Commission has now adopted a Communication on

costing and financing of universal service.⁷ Therefore, the Commission does not share the need for a specific Directive on this subject.

Definition of leased lines
[Amendment 5]

This amendment would affect the scope of the Leased Lines Directive, as the fixed public telephone network is commonly used for provision of leased lines. The current definition is stable and should not be amended. In some circumstances, the proposed amendment could lead to inconsistency with the non-discrimination requirements of Art. 8(2) of the Directive.

Review clauses
[Amendments 4 and 6(parts)]

Requirements for adaptation should be limited to the respective Directive, since each of them has its own provisions for examination and reporting by the Commission. The Commission has some sympathy with the concept of further measures proposed in the form of a single consolidated text, but does not find it appropriate to put this as a requirement in this Directive

4. CONCLUSION

The Commission has accepted 4 of the 7 amendments proposed by the European Parliament at Second Reading either in whole, in part or in principle.

In accordance with Article 189a paragraph 2 of the EC Treaty, the Commission's modified proposal incorporates these amendments.

⁷ COM(96) 608, 27.11.1996

AMENDED PROPOSAL FOR A
EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

**amending Council Directives 90/387/EEC and 92/44/EEC
for the purpose of adaptation to a
competitive environment in telecommunications**

**Article 1(5), fourth subparagraph
Article 5(4) of Directive 90/387/EEC
(based on EP Amendment 2)**

Where a Member State or the Commission considers that the harmonized standards and/or specifications referred to in paragraph 1 do not correspond to the objective of open and efficient access, interconnection and interoperability, in particular the basic principles and the essential requirements referred to in Article 3, it shall be decided whether or not it is necessary to withdraw references to those standards and/or specifications from the Official Journal of the European Communities in accordance with the procedure laid down in Article 10.

Where a Member State or the Commission considers that the harmonized standards and/or specifications referred to in paragraph 1 do not correspond to the objective of open and efficient access, interconnection and interoperability, in particular the basic principles and the essential requirements referred to in Article 3, it shall be decided whether or not it is necessary to withdraw references to those standards and/or specifications from the Official Journal of the European Communities in accordance with the procedure laid down in Article 9.

**Article 1(8)
Article 8 of Directive 90/387/EEC
(based on EP Amendment 4)**

The Commission shall examine and report to the European Parliament and to the Council on the functioning of this Directive, on the first occasion no later than 31 December 1999. The report shall be based inter alia on the information supplied by the Member States to the Commission and to the committee referred to in Articles 9 and 10. Where necessary, further measures for the adaptation of this Directive, taking account of developments towards a fully competitive environment, may be proposed in the report.

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**Article 2(12)
Article 14 of Directive 92/44/EEC
(based on EP Amendment 6)**

The Commission shall examine and report to the European Parliament and to the Council on the functioning of this Directive, on the first occasion no later than 31 December 1999. The report shall be based inter alia on the information supplied by the Member States to the Commission and to the open network provision Committee. The report shall include an assessment of the need for continuation of this Directive, taking account of developments towards a fully competitive environment. Where necessary, further measures for the adaptation of this Directive may be proposed in the report.

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**Annex I(4)
(based on EP Amendment 7)**

**Harmonized approach to
numbering/addressing/naming**

Numbering/addressing and in some instances naming provide for the selection of the destination or destinations, or for the selection of a service, of a service provider or a network operator.

Adherence to a harmonized approach for numbering/addressing and, where applicable, naming is therefore essential to guarantee Europe-wide end-to-end interconnection of users and the interoperability of services. Furthermore, the allocation of numbers/addresses/names should be fair, proportionate and consistent with the requirements for equal access.

To achieve that, it is necessary:

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To achieve that, it is necessary:

Common Position text

- to ensure the provision according to harmonized principles of adequate ranges of numbers and addresses, prefixes and short codes and, where applicable, of adequate naming, for all public telecommunications services,
- to ensure the coordination of national positions in international organizations and fora where decisions are taken on numbering/addressing/naming, taking into account possible future developments in numbering/addressing/naming at European level,
- to ensure that the relevant national telecommunications numbering/addressing/naming plans are under the supervision of the national regulatory authority, in order to guarantee independence from organizations providing public telecommunications networks or publicly available telecommunications services,
- to ensure that the procedures for allocating individual numbers/addresses/names, prefixes and short codes and/or addressing/numbering ranges are transparent, equitable and timely and that the allocation is carried out in an objective, transparent and non-discriminatory manner, taking into account the principle of proportionality,
- to give national regulatory authorities the possibility of laying down conditions for the use in numbering/addressing plans of certain prefixes or certain short codes, in particular where these are used for services of general public interest (e.g. directory services or emergency services), or to ensure equal access.

Amended text

- to ensure the provision according to harmonized principles of adequate ranges of numbers and addresses, prefixes and short codes and, where applicable, of adequate naming, for all public telecommunications services,
- to ensure the coordination of national positions in international organizations and fora where decisions are taken on numbering/addressing/naming, taking into account possible future developments in numbering/addressing/naming at European level,
- to ensure that the relevant national telecommunications numbering/addressing/naming plans are under the supervision of the national regulatory authority, in order to guarantee independence from organizations providing public telecommunications networks or publicly available telecommunications services, and to enable number portability,
- to ensure that the procedures for allocating individual numbers/addresses/names, prefixes and short codes and/or addressing/numbering ranges are transparent, equitable and timely and that the allocation is carried out in an objective, transparent and non-discriminatory manner, taking into account the principle of proportionality,
- to give national regulatory authorities the possibility of laying down conditions for the use in numbering/addressing plans of certain prefixes or certain short codes, in particular where these are used for services of general public interest (e.g. directory services or emergency services), or to ensure equal access.

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