



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 27.07.1998
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98/ 0051 (COD)

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

EXPLANATORY MEMORANDUM

The Commission hereby presents an amended proposal for a European Parliament and Council Decision on the co-ordinated introduction of mobile and wireless communications (UMTS) in the Community. The modified proposal incorporates those amendments proposed by the European Parliament in first reading which were accepted by the Commission.

1. Introduction

1.1 Background

The Commission adopted its proposal on 11 February 1998, which was formally transmitted to the Parliament and the Council on 3 March 1998.

The Economic and Social Committee gave its opinion on 29 April 1998. The European Parliament adopted a favourable opinion in first reading on 18 June 1998, and proposed 10 Amendments to the Commission proposal¹.

1.2. Purpose of the Decision:

This decision aims at facilitating within the existing Community legal framework - such as the Licensing Directive - the early co-ordinated licensing of compatible third generation mobile communications (UMTS) services in the Community on the basis of co-ordinated allocation of frequencies and of common, open and internationally competitive standards while ensuring pan-European roaming.

¹ European Parliament Doc. A4-0221/3

2. Position of the Commission relating to the Parliament amendments

The position of the Commission on the 10 amendments adopted by the European Parliament in first reading is summarised in the following table, taking into consideration the fact that Amendment 2 of the Report by Mr. Camisón Asensio has been incorporated in amendment 3.

<i>Situation</i>	<i>Number</i>	<i>Total</i>
Amendments acceptable	1, 3, 5, 8, 9, 11	6
Amendments acceptable in part / in principle	7 (in principle) 6 (in part)	2
Amendments not acceptable	4, 10	2

2.1. Amendments accepted by the Commission:

- **Amendment 1 to recital 10:** change the terms "UMTS service providers" into "organisations providing UMTS networks". This is in line with the need to put the focus on network operators rather than on service providers. Recital 10 is also modified to call on national authorities not to impose excessive fees to UMTS service providers for entry into the market. As a matter of principle, the Commission supports the elimination of excessive fees as already expressed in article 6 of the Licensing Directive 97/13/EC.
- **Amendment 3 to recital 16** changes the timing from "2005" to "within a number of years" by which time additional frequency spectrum is likely to become necessary. Since the original date of 2005 was indicative, the Commission may accept some flexibility. **Amendment 2 of the Report to recital 16** has been incorporated in amendment 3; amendment 2 calls for freeing and refarming of the 900, 1800 and 1900 MHz bands to be done with a view to ensure non discrimination. This amendment makes clear that non-discrimination applies to the result of the refarming and freeing exercise and not to the refarming and freeing itself.
- **Amendment 5** modifies article 2 and makes clear that the list in annex I includes the minimum capabilities which the UMTS system shall be capable of supporting. The Commission agrees that the purpose of Annex I is to provide for a list of minimum capabilities the system should be able to support. There is no obligation for each operator to effectively offer the services corresponding to such capabilities.
- **Amendment 8 to article 9(2)** deletes the words "make proposals to take all necessary actions to", so that the Commission will be directly entitled to seek effective implementation of international agreements applicable to UMTS. The words "make proposals to take all necessary actions to" are not necessary given that art. 9 par.1 already allows the Commission to take all measures necessary

to facilitate the introduction of UMTS services and the free circulation of UMTS equipment in third countries.

- **Amendment 9 to annex I, 1st section, par.1** redrafts title to make clear that annex I refers to "system capabilities needed to accommodate service features". The new wording is also more precise as to the levels of application mobility: "full mobility and low mobility applications in different geographical environments beyond the capability of the second generation systems such as GSM". This makes clear that UMTS will be a complete technological change compared to GSM-type second generation.
- **Amendment 11 on annex I, 3d section, "core network"** takes into consideration call handling, service control and location and mobility management, in line with comments received in particular from industry. The last part of the sentence stresses the need to take into account the convergence between fixed and mobile networks.

2.2 Amendments not accepted by the Commission

- **Amendment 4 modifies Recital 22** in order to include coverage of less populated areas in the scope of roaming agreements that organisations providing UMTS networks should have rights and obligations to negotiate in view of ensuring Community-wide roaming. Since less populated areas are already covered in recital 19 on national roaming, the Commission believes that it is out of context in recital 22 which addresses cross-border roaming.
- **Amendment 10 to Annex I point 5** replaces "full roaming between GSM" with "full roaming with all GSM services". The exact wording of the proposal, as published in the OJ, is "full roaming with GSM" and not "between GSM". This part of the amendment is therefore not necessary. Furthermore, the words "all" and "services" are not acceptable: Commission does not want to impose roaming with all possible GSM services; the purpose of the requirement is to create the possibility for roaming with GSM as far as needed pursuant to market demand. As to the refusal of the word "services" by the Commission, the purpose of this paragraph is to allow roaming between networks and not between services.

2.3. Amendments partly accepted by the Commission

- **Amendment 6 adds in article 3(3)** a reference to Community law and in particular to the principles of non-discrimination and transparency. Commission believes that this amendment is superfluous as Community law applies anyway and as there is no need to repeat that the principles of non-discrimination and transparency are part of Community law. Moreover, the proposed wording is not best positioned in 3.3 as article 3.3 purpose is to make annex I applicable to national licensing procedures. Therefore, although the Commission is ready to accept the addition of the words "in compliance with the Community legislation in force" as proposed in amendment 6, it rejects the addition of a specific reference to the principles of non-discrimination and transparency. The Commission also proposes to move the words "in compliance with the Community legislation in force" to the beginning of article 3.2. after "shall ensure".

- **Amendment 7 to article 3(4)** makes clear that the justification for limiting the number of UMTS services authorisations in case of incompatibility of potential systems is the lack of frequency spectrum. Commission agrees in substance with the addition of the words "for reasons of frequency spectrum efficiency" which reflects the idea which is behind article 3.4 and is in conformity with article 10 of the Licensing Directive. Recital 11 of the proposal also makes clear that pursuant to the licensing directive and Commission Directive 96/2/EC the number of UMTS licenses may only be limited for reasons of demonstrated lack of frequency spectrum capacity. Commission therefore also proposes to add the words "in accordance with existing Community law", considering that the term efficient use of frequency spectrum needs to be interpreted in the light of existing Community law.

Conclusion

The Commission has accepted 8 out of the 10 amendments proposed by the European Parliament in First reading either in whole or in part.

In accordance with Article 189 A paragraph 2 of the EC Treaty, the Commission amends its initial proposal, so as to incorporate these amendments.

Initial Proposal	Amended Proposal
<p align="center">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</p>	<p align="center">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</p>
<p>Recital 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;</p>	<p align="center">(Amendment 1)</p> <p>Recital 10. Whereas organisations providing UMTS networks should be able to enter the market without unnecessary constraints or excessive fees 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;</p>
<p>Recital 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;</p>	<p align="center">(Amendment 3)</p> <p>Recital 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 within a few years and therefore the 900, 1800 and 1900 MHz bands would also need to be freed or refarmed as far as possible with a view to ensuring non discrimination;</p>
<p align="center">Article 2 Definition</p>	<p align="center">(Amendment 5)</p> <p align="center">Article 2 Definition</p>
<p>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</p>	<p>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. This system shall at least be capable of supporting the characteristics referred to under</p>

referred to under Annex I.

Article 3

Co-ordinated authorisation

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.

Article 3

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 9

International Aspects

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

Annex I.

(Amendment 6)

Article 3

Co-ordinated authorisation

2. When preparing and applying their authorisation systems Member States shall ensure, in compliance with the Community legislation in force,

- 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.

(Amendment 7)

Article 3

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 for reasons of frequency spectrum efficiency in accordance with existing Community law, Member States shall co-ordinate their authorisation procedures with a view to authorising compatible UMTS services in the Community.

(Amendment 8)

Article 9

International Aspects

2. For this purpose, the Commission shall 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.

ANNEX I

Characteristics of UMTS

Services

1. Multimedia capability with wide area mobility

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

Council shall decide by qualified majority.

(Amendment 9)

ANNEX I

Characteristics of UMTS

System capabilities needed to accommodate service features

1. Multimedia capability; full mobility and low mobility applications in different geographical environments beyond the capability of the second generation systems such as GSM.

(Amendment 11)

Core network

- Call handling, service control and location and mobility management including full roaming functionality based on an evolution of existing core network systems, for example on an evolved GSM core network, taking the convergence between fixed and mobile networks into account.

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