



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 14.11.1995
COM(95) 545 final

95/0282 (COD)

Proposal for a
EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

on a common framework for general authorizations and individual licences
in the field of telecommunications services.

(presented by the Commission)

LIST OF CONTENTS

Explanatory Memorandum

Background

Scope and aim

Wide scope for general authorizations as opposed to individual licences

A balanced set of rights and obligations

Limitation in the number of licensees

Harmonization

Specific procedures

Summary of the contents of the proposed Directive

Consultation process

Conclusion

Proposal for a European Parliament and Council Directive on a common framework for general authorizations and individual licences in the field of telecommunications services

Article 1 Scope and aim

Article 2 Definitions

Article 3 Principles governing authorizations

Article 4 Conditions attached to general authorizations

Article 5 Procedures for general authorizations

Article 6 Fees for general authorizations

Article 7 Scope

Article 8 Conditions attached to individual licences

Article 9 Procedures for the granting of individual licences

Article 10 Limitation on the number of individual licences

Article 11 Fees for individual licences

Article 12 Principle

Article 13 Coordination of authorization procedures

Article 14 Harmonization

Article 15 One-stop-shopping procedure for individual licences

Article 16 Establishment of the EUTC

Article 17 Procedures for the EUTC

Article 18 Third countries

Article 19 Confidentiality

Article 20 Notification

Article 21 Authorizations existing at the date of entry into force of this Directive

Article 22 Review Procedures

Article 23 Deferment

Article 24 Implementation of the Directive

Article 25 Entry into force

Article 26 Addressees

Financial statement

EXPLANATORY MEMORANDUM

1. Background

(a) Council Resolution

This proposal for a directive on a common framework for general authorizations and individual licences in the field of telecommunications services is an essential part of a general legislative reform package for the telecommunications sector.

The political agreement to liberalize telecommunication services and telecommunications infrastructure by 1st January 1998⁽¹⁾ has been reached through Council Resolutions of 22 July 1993⁽²⁾ and 22 December 1994⁽³⁾.

As far as authorization regimes are more particularly concerned, the Council Resolution of 18 September 1995 on the implementation of the future regulatory framework for telecommunication⁽⁴⁾ "...recognizes as key factors in drawing up the future regulatory framework for telecommunications in the Union:

(a) *the extension of competition to the whole sector through:*

the establishment, in accordance with the principle of subsidiarity, of common principles for general authorizations and individual licensing regimes in the Member States, based on categories of balanced rights and obligations;

the absence of any restrictions on market entry other than those justified on the grounds of objective, transparent, proportionate and non-discriminatory criteria relating to the availability of scarce resources;

the implementation by the national regulatory authorities of objective, transparent and non-discriminatory award procedures and criteria;

the efficient management of essential resources, and particularly frequencies, numbers and rights of way, to ensure the equitable treatment of the various market players, under the supervision of the competent national authorities;

the approximation of general authorization and individual licensing regimes in order to promote the development of trans-European networks and services;..."

(1) Greece, Ireland, Portugal and Spain have possible transition periods of up to five years; Luxembourg has a possible transition period of up to two years.

(2) OJ No C 213, 6.8.1993, p. 1.

(3) OJ No C 379, 31.12.1994, p. 4.

(4) OJ No C 258, 3.10.1995, p. 1.

(b) European Parliament Resolutions

In its Resolution on the Commission's Green Paper on the liberalization of telecommunications infrastructures and cable television networks⁽⁵⁾, the European Parliament *"asks that there should be no attempt to limit the number of licences granted in the area of infrastructures and services. Licences should only be refused in cases where companies cannot demonstrate that they can meet objective criteria on issues such as technical standards, quality standards and universal service obligations"*.

It is also important to note that this Directive replaces the two former Commission proposals on mutual recognition of licences. This Directive continues the way already laid out by these two proposals in the field of licensing, whilst taking into account the objective of liberalization of the provision of telecommunications infrastructure by 1 January 1998.

In its Resolution on the amended proposal on the mutual recognition of licences⁽⁶⁾, the European Parliament expressed in particular the opinion that the principle of mutual recognition of national licences and other authorizations should be extended to cover general regulatory authorizations such as class licences. It also outlined that the scope of a directive on licensing should cover voice telephony, telex and mobile radio services.

2. Scope and aim

This proposal for a Directive goes beyond the objectives of ensuring full, Union-wide competition and harmonizing national legislation; it also reflects the role of authorization regimes in imposing rights and obligations and in monitoring markets.

There indeed exists a consensus that, in an open environment, telecommunications operators have to comply with a number of requirements relating both to predominantly technical issues (essential requirements) as well as to public service objectives. Authorization regimes provide an appropriate means to supervise access to the market and to monitor compliance with the requirements which are imposed on operators. At the same time it has become clear that the development of competition will be served best by authorization regimes which do not impose undue burdens on operators, whether through conditions or through procedures.

By 1 January 1998 liberalization will extend to all telecommunications services and infrastructure, including terrestrial mobile services and public voice telephony, as well as to satellite services and infrastructure. Rules on authorizations must therefore be in place to cover all telecommunications services and infrastructures, including the use of radiofrequencies for that purpose. In this context, the question arises whether several legal instruments are required. For reasons of transparency and simplicity preference should be given to a single instrument covering the full scope of the granting of authorizations in telecommunications.

The regulatory framework for the granting of authorizations must also take into account the changes in the regulatory landscape in the Union (interconnection, universal service), as well as developments in relation to the provision of services to and from third countries.

Furthermore any regime on authorizations is required to defer to the need to contribute to the establishment of trans-European telecommunications networks as envisaged in Title XII of the Treaty establishing the European Community.

Finally the regulatory framework which applies to new audiovisual services will be reviewed at a later stage in the framework of the green paper that the Commission is preparing on these new services.

⁽⁵⁾ Resolution A4-0111/95 of 19 May 1995 on the green paper on the liberalization of telecommunications infrastructure and cable television networks (Part II).

⁽⁶⁾ Resolution A4-0030/95 of 16 March 1995.

3. Wide scope for general authorizations as opposed to individual licences

The definition at a Union level of a regulatory framework for authorizations has to be consistent with legal requirements in relation to the principle of freedom of establishment and freedom to provide services. Articles 52 and 59 of the Treaty require that any restrictions be justified by overriding reasons relating to the public interest and that they be proportional to the objective being pursued. In addition the consultation on the Commission's green paper on the liberalization of telecommunications infrastructure has confirmed the importance of the availability of the lightest possible regimes, in order to ensure the efficient development of the sector.

As a result, where possible preference must be given to the establishment of general rules (general authorizations) to give effect to public interest requirements rather than to the application of an *a priori* control (individual licences). Only where it is demonstrated that these general rules are insufficient, should a prior individual licensing regime be introduced. Moreover, there should be no obligation for Member States to require an authorization (whether a general authorization or an individual licence) for the provision of some telecommunications services or infrastructures.

In line with the principle of subsidiarity, the granting of authorizations will be the responsibility of Member States, in compliance with the principles established by this Directive.

As used in this text, the concept of authorization includes any permit required for the provision of telecommunications services and, where applicable, for the establishment and/or operation of infrastructure for the provision of these services. The choice of whether such permits are given through one or more documents, or given by one or more national/regional/local authorities, should remain a matter for Member States.

The notion of general authorization covers authorizations for the provision of telecommunications services or certain infrastructures which allow undertakings to start providing such services or infrastructures under the conditions set out in the general authorization and without having to obtain a prior individual permission.

Such general authorization can be set out directly in legislation or implemented through a system of class licences. It can operate without any notification or application requirement; but in cases where closer supervision is required, it can be accompanied by a notification requirement.

The introduction of general authorizations in Member States would imply that service or infrastructure providers do not have to go through individual licensing procedures in each Member State in which they intend to provide a service or infrastructure covered by a general authorization.

Where a service or infrastructure cannot be introduced wholly on the basis of the general authorization procedure because the latter is insufficient to attain the stated public interest objectives, an additional procedure for the granting of individual licences, taking account of additional requirements in conformity with Community law, can be applied.

This would be the case where operators require individual rights over localised or scarce resources, such as frequencies, rights of way or rights to numbers, or where they require rights to provide public telecommunications infrastructure from or to a third country or where operators need to comply with specific obligations on account of their market power, or because they have an obligation of mandatory provision of public telecommunications services.

That individual licence should be limited to ensuring compliance with the requirement(s) necessitating the individual assessment (e.g. in the case of use of frequencies).

4. A balanced set of rights and obligations

General authorization and individual licence systems will enable the regulatory authority to impose conditions to safeguard public interest objectives in conformity with Community law.

These conditions should be objective, transparent, non-discriminatory and in conformity with the principle of proportionality. They should not in particular impose restrictions on operators which are out of proportion with the objective which is being pursued.

These principles of objectivity, transparency, non-discrimination and proportionality apply also to procedures.

Thus authorization regimes should be aimed at introducing a differentiated system of rights and obligations, depending on the purposes pursued by different telecommunications providers. These rights and obligations should constitute balanced sets where greater rights are the counterparts for more onerous obligations. Where an operator provides services to the public, this is likely to justify greater supervision and hence a more comprehensive authorization regime than the provision of private telecommunications services. Likewise, network operators which require access to public land or to radiofrequencies should accept public interest requirements which are not incurred by operators who do not need these scarce resources. Conversely, smaller operators may benefit from an alleviated authorization regime.

5. Limitation in the number of licensees

As agreed in the Resolutions of the Council and Parliament mentioned above, the number of authorizations granted in a Member State should only be limited in relation to physical infrastructure, as opposed to service provision, on the basis of the efficient use of radio spectrum, and should be subject to review at reasonable intervals.

6. Harmonization

The definition, at a Union level, of principles for authorization regimes should lead to a considerable improvement in the situation of operators intending to provide services in different Member States.

Nevertheless, the obligations set out in authorizations could differ significantly from Member State to Member State. Undertakings could therefore still be faced with a situation in which they would have to adapt their services or networks to different regulatory obligations if they wanted to provide a service or infrastructure in more than one Member State, thereby hindering the establishment of trans-European networks or services.

In order to overcome barriers to the creation of an internal market for telecommunications networks and services and, in particular, the imposition of heavier costs or more onerous administrative procedures resulting from diverging authorization regimes and obligations attached to such authorizations, a procedure should be provided for the harmonization of such conditions. Such a harmonization procedure would be built on the procedure already set out in the proposals on mutual recognition and allow for the possibility of involving ECTRA/ETO and ERC/ERO in the technical preparation of harmonized conditions. The preparation of harmonized conditions should include a Europe-wide public consultation; their adoption by the Commission should follow standard Committee procedures.

7. Specific procedures

The provision of a one-stop-shopping procedure (also already set out in the proposals on mutual recognition) is useful to facilitate simultaneous applications for and granting of individual Member State licences.

Operators intending to provide large trans-European telecommunications systems should also benefit from a mechanism allowing them where necessary to obtain authorizations on substantially the same conditions in one or more Member States.

Finally, this Directive establishes a committee, called the European Union Telecommunications Committee. On the one hand this Committee should deal with specific licensing issues, in particular with regard to the provisions of Articles 13, 14, 15, 20 and 22 of the Directive; on the other hand, it would be the appropriate forum for broader discussions at a high level on telecommunications policies.

8. Summary of the contents of the proposed Directive

Section I contains three Articles stating general provisions.

Article 1 describes the basic scope and aim of the Directive.

Article 2 contains definitions of the main terms used in the Directive.

Article 3 outlines the major principles governing the conditions that can be attached to authorizations, requiring in particular that any conditions attached to authorizations shall be objectively justified and proportionate. It states precisely that authorizations may only contain conditions justified on the grounds of ensuring compliance with applicable requirements. This Article also expresses the priority to be given to regimes either requiring no authorization or relying on general authorizations and states that Member States may only require an individual licence to the extent that the beneficiary is given access to scarce physical and other resources or is subject to particular obligations or benefits from particular rights.

Section II (Articles 4 to 6) contains provisions on general authorizations.

Article 4 sets out transparency requirements concerning the conditions attached to general authorizations and indicates that priority should be given to the least onerous regime possible.

Article 5 lays down the principle according to which Member States shall not prevent an undertaking which complies with the conditions set out in a general authorization from providing the intended telecommunications service. Certain limits to that principle may however be established: prior notification, communication of relevant information, observance of a waiting period before starting providing the service. This Article also contains provisions applicable where an undertaking providing telecommunications services does not comply with a condition set out in a general authorization.

Article 6 allows the imposition of fees to cover the administrative costs in the case of general authorizations and requires these fees to be published.

Section III (Articles 7 to 11) contains provisions on individual licences.

Article 7 lists the situations justifying the imposition of a individual licensing regime. These situations are linked to access to scarce physical or other resources (radio frequencies, numbering, public or private land) or to the provision of public telecommunications infrastructure to and from third countries; individual licensing regimes may also be justified to impose obligations on licensees with regard to the mandatory provision of public telecommunications services and, in relation to the provision of public telecommunications networks and telecommunications services, with regard to the market power of licensees. This Article also states that undertakings wishing to provide services which cannot be provided

without authorization and which are not yet covered by a general authorization or to benefit from additional rights not granted by general authorizations may, in addition, apply for an individual licence.

Article 8 requires that the conditions attached to an individual licence only relate to the situations justifying the grant of such a licence and that Member States shall apply balanced sets of rights and obligations for the beneficiaries of individual licences. In addition this Article addresses the situation where the terms of the applicable general authorizations would be incorporated into an individual licence.

Article 9 contains procedural requirements for individual licensing regimes, related to transparency (appropriate publication), the setting of reasonable time limits, the granting procedures (which must be open, non-discriminatory and transparent) and the situation where the benefit of an individual licence is refused, withdrawn or suspended. It also requires the provision of appealing procedures.

Article 10 more specifically addresses the situation where a Member State intends, in accordance with Directive .../.../EEC⁽⁷⁾, to limit *a priori* the number of individual licences. Such a situation shall only be permitted to ensure the efficient use of radio frequencies. In such a case, additional requirements and principles are defined by this Article: Member States shall in particular give due weight to the need to facilitate the development of competition and to maximize benefits for users, and provide for additional transparency. Selection criteria must be objective, detailed, transparent, proportionate and non-discriminatory.

Article 11 addresses the issue of fees for individual licences, allowing Member States to impose, in addition to administrative fees, fees related to the use of scarce resources. However such practices must comply with a number of requirements (non-discrimination, publication...).

Section IV (Articles 12 to 15) is related to the provision of telecommunications services throughout the European Union.

Article 12 sets out the principle according to which Member States shall facilitate the provision of such services.

Article 13 gives the possibility to undertakings intending to provide telecommunications services or to establish telecommunications infrastructures in more than one Member State to request the national regulatory authorities concerned to coordinate their procedures in order to deliver the necessary authorizations on substantially the same conditions. Where the undertaking concerned is unable to obtain the necessary authorizations, the Directive provides for a procedure involving the Member States concerned and the Commission through the European Union Telecommunications Committee (see Articles 16 and 17).

Article 14 addresses harmonization. It specifies that Member States must ensure that the categories of telecommunications services listed in Annex II can be provided either without authorization, or on the basis of a general authorization. It sets up as a goal that wherever necessary the conditions attached to authorizations for the provision of the telecommunications services listed in Annex II, the procedures for the grant of general authorizations and individual licensing and the determination of the level of fees shall be harmonized. This Article also provides for a harmonization mechanism through mandates assigned by the Commission to relevant harmonization bodies. The Directive stresses that the harmonization of conditions and procedures shall aim to develop the least onerous regime possible consistent with ensuring compliance with the applicable requirements and to elaborate balanced sets of rights and obligations for the beneficiaries of authorizations.

⁽⁷⁾ Commission Directive amending Commission Directive 90/388/EEC regarding the implementation of full competition in telecommunications markets, OJ No L 192, 24.7.1990, p. 10.

Article 15 sets up a one-stop-shopping procedure for individual licences.

Section V (Articles 16 and 17) describes the European Union Telecommunications Committee.

Articles 16 and 17 establish a committee composed of representatives the Member States and chaired by a representative of the Commission, called the European Union Telecommunications Committee (EUTC). This Committee will assist the Commission in giving opinions on measures to be taken, in particular with regard to the provisions of Articles 13, 14, 15, 20 and 22 of the Directive.

Section VI (Articles 18 to 25) contains final provisions.

Article 18 addresses the application of this Directive to undertakings from third countries. It provides for a mechanism to ensure comparable and effective access to third country markets, where it appears that Community undertakings are encountering difficulties in obtaining authorizations in such third countries.

Article 19 contains standard procedures on confidentiality.

Article 20 requires Member States to notify the Commission of general information on national authorization regimes. It contains a mechanism where upon request of a Member State or at its own initiative, the Commission will assess the compliance of any conditions, criteria and procedures set out in a national authorization regime with the principles of the Directive.

Article 21 concerns authorizations already granted at the date of entry into force of the Directive.

Article 22 contains a general provision on the review of implementation of the Directive in Member States, a provision for future adaptations of content of the Annexes of this Directive in the light of new technological developments and a specific provision related to access to third countries telecommunications markets by Community undertakings.

Article 23 allows Member States with less developed networks or with very small networks to request additional implementation periods.

Article 24 contains standard provisions on the transposition of the Directive into Member States' national law, providing for this to be accomplished by 1 July 1997.

Article 25 states that the Directive is addressed to the Member States.

Annex I lists the conditions that may be attached to authorizations.

Annex II addresses the services to be covered by general authorizations.

9. Consultation process

The need for a clear and effective framework for the granting of authorizations within the European Union was a central issue arising out of the public consultations on both the Green Paper on a common approach in the field of mobile and personal communications⁽⁸⁾ and the Green Paper on the liberalization of telecommunications infrastructure and cable television networks⁽⁹⁾. These consultations involved all interested parties and, in particular, national regulatory authorities, fixed and mobile operators, service providers, equipment manufacturers, users, consumer organizations and the trade unions.

⁽⁸⁾ COM(94) 145, 27.4.1994.

⁽⁹⁾ COM(94) 682, 15.1.1995.

The Commission's communications on the results of these consultations, particularly its Communication on the Infrastructure Green Paper⁽¹⁰⁾, showed strong support for the general principles set out in this proposal for a Directive, according to which the principle of proportionality should be the main determinant of the granting of authorizations in the Union, creating a balanced set of rights and obligations in relation to different categories of services. This was seen to be likely to lead to the lightest possible regulatory burden, with the use of general authorizations becoming the rule, and more onerous individual licences being the exception (reserved primarily for situations involving the grant of radio frequencies/rights of way, the imposition of obligations to provide public telecommunications services and the imposition of particular competitive safeguards given the particular operator's market position).

It was also felt that national authorization or licensing procedures would have to be open, transparent and non-discriminatory. Refusals would have to be justified (and subject to appeal) and *a priori* limitations on numbers could only be based on physical limitations, i.e. lack of frequency and not on an economic assessment of the market's capacity by the national regulator.

The draft of this Directive reflects these concepts. The principles embodied in the proposed Directive have been discussed in the Open Network Provision Committee with national regulatory authorities.

10. Conclusion

This proposal for a Directive on a common framework for general authorizations and individual licences in the field of telecommunications services is an essential part of a general legislative reform package for the telecommunications sector, in the perspective of a balance between harmonization and liberalization. The current proposal will, once adopted, complement the introduction under Directive .../EEC⁽¹¹⁾ of full competition in the provision of telecommunication services and telecommunications infrastructure in the Community by 1 January 1998, subject to possible additional transitional periods for certain Member States of up to five years.

⁽¹⁰⁾ COM(95) 158, 3.5.1995.

⁽¹¹⁾ Commission Directive amending Commission Directive 90/388/EEC regarding the implementation of full competition in telecommunications markets, OJ No L 192, 24.7.1990, p. 10.

Proposal for a
EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

on a common framework for general authorizations and individual licences
in the field of telecommunications services

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 57(2), 66 and 100a thereof,

Having regard to the proposal from the Commission⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee⁽²⁾,

Acting in accordance with the procedure in Article 189b of the Treaty,

1. Whereas the Council Resolution of 22 July 1993 on the review of the situation in the telecommunications sector and the need for further development in that market⁽³⁾, together with the Council Resolution of 22 December 1994 on the principles and timetable for the liberalization of telecommunications infrastructures⁽⁴⁾, as well as the European Parliament resolutions of 20 April 1993⁽⁵⁾, 7 April 1995⁽⁶⁾ and 19 May 1995⁽⁷⁾, have supported the process of complete liberalization of telecommunications services and infrastructures by 1 January 1998, with possible transition periods for certain Member States;
2. Whereas the Communication on the consultation on the green paper on the liberalization of telecommunications infrastructure and cable television networks has confirmed the need for rules at Union level, in order to ensure that general authorization and individual licensing regimes are based on the principle of proportionality and are open, transparent and non-discriminatory; whereas the Council Resolution of 18 September 1995 on the implementation of the future regulatory framework for telecommunications⁽⁸⁾ recognizes as a key factor for this regulatory framework in the Union the establishment, in accordance with the principle of subsidiarity, of common principles for general authorizations and individual licensing regimes in the Member States, based on categories of balanced rights and obligations; whereas those principles should cover all authorizations which are required for the provision of any telecommunications services and for the establishment and/or operation of any infrastructure for the provision of telecommunications services;

(1) OJ

(2) OJ

(3) OJ No C 213, 6.8.1993, p. 1.

(4) OJ No C 379, 31.12.1994, p. 4.

(5) OJ No C 150, 31.5.1993, p. 39.

(6) OJ No C 109, 1.5.1995, p. 310.

(7) OJ No C 151, 19.6.1995, p. 479.

(8) OJ No C 258, 3.10.1995, p. 1.

3. Whereas a common framework should be established for general authorizations and individual licences granted by Member States in the field of telecommunications services; whereas under Community law and in particular under Commission Directive 90/388/EEC of 28 June 1990 on competition in the markets for telecommunications services⁽⁹⁾, as last amended by Directive 96/.../EC⁽¹⁰⁾, market entry should only be restricted on the basis of objective, transparent, proportionate and non-discriminatory selection criteria relating to the availability of scarce resources, or else on the basis of the implementation by national regulatory authorities of objective, transparent and non-discriminatory award procedures; whereas that Directive also sets out principles regarding inter alia fees and rights of way; whereas these rules should be supplemented and enlarged by this Directive to determine this common framework;
4. Whereas conditions attached to authorizations are necessary in order to attain public interest objectives to the benefit of telecommunications users, such as requirements relating to consumer protection; whereas according to Articles 52 and 59 of the Treaty, the legislative scheme in the field of telecommunications should be consistent with the principles of freedom of establishment and freedom to provide services and should take into account the need to facilitate the introduction of new services as well as the widespread application of technological improvements; whereas therefore general authorization and individual licensing systems should provide for the lightest possible regulation compatible with the fulfilment of applicable requirements; whereas Member States should not be required to introduce or maintain authorization schemes, in particular where the provision of telecommunications services or the establishment and/or operation of telecommunications infrastructure is not, at the date of entry into force of this Directive, subject to such authorization scheme;
5. Whereas this Directive therefore will make a significant contribution to the entry of new operators into the market, as part of the development of the Information Society;
6. Whereas Member States may define and grant different categories of authorization; whereas this should not prevent undertakings, in particular those established in another Member State, from determining their own commercial strategies and, in particular, the type of telecommunications services or infrastructures that they wish to provide, subject to compliance with relevant regulatory obligations;
7. Whereas in order to facilitate the Community-wide provision of telecommunications services, priority should be given to market access schemes not requiring authorizations or relying on general authorizations, to be supplemented where necessary by individual licences setting out conditions for those elements which cannot be suitably dealt with by general authorizations;
8. Whereas any conditions attached to authorizations should be objectively justified in relation to the service concerned, and should be non-discriminatory, proportionate and transparent; whereas authorizations should not impose obligations unrelated to telecommunications on the beneficiaries of such authorizations; whereas authorizations may be the means for applying conditions required by Community law, in particular in the area of Open Network Provision;
9. Whereas the harmonization of conditions attached to authorizations should significantly facilitate the free provision of telecommunications services in the Community;
10. Whereas any fees imposed on undertakings as part of authorization procedures must be based on objective, transparent and non-discriminatory criteria;

⁽⁹⁾ OJ No L 192, 24.7.1990, p. 10.

⁽¹⁰⁾ OJ No L

11. Whereas the introduction of individual licensing systems should be restricted to limited, pre-defined situations; whereas Member States should not a priori limit the number of individual licences for any category of telecommunications services, except to the extent required to ensure the efficient use of radio frequencies;
12. Whereas Member States should be allowed to impose specific conditions on undertakings providing public telecommunications networks and telecommunications services because of their market power; whereas the market power of an undertaking depends on a number of factors including its share of the relevant product market or service market in the relevant geographical market, its turnover relative to the size of the market, its ability to influence market conditions, its control of the means of access to end-users, its access to financial resources, and its experience in providing products and services in the market; whereas, for the purpose of this Directive, an undertaking with a share of more than 25% of a particular telecommunications market in the geographical area in a Member State within which it is authorized to operate would be presumed to enjoy significant market power, unless its national regulatory authority determined, in accordance with the Community competition rules, that this was not the case; whereas, for an undertaking falling below this threshold market share, the national regulatory authority may nevertheless, albeit only for the purposes of applying the provisions of European Parliament and Council Directive ... on interconnection to public telecommunications networks and public telecommunications services in the context of Open Network Provision (ONP)⁽¹¹⁾, determine that the undertaking enjoyed significant market power;
13. Whereas telecommunications services have a role to play in strengthening social and economic cohesion, inter alia by furthering the achievement of universal service, in particular in remote, peripheral, landlocked and rural areas and islands; whereas Member States should therefore be allowed to impose universal service obligations by means of individual licences;
14. Whereas in order to facilitate the granting of individual licences to undertakings applying for such licences in more than one Member State, a "one-stop-shopping procedure" should be established;
15. Whereas any authorization systems should defer to the need to contribute to the establishment of trans-European telecommunications networks as envisaged in Title XII of the Treaty; whereas to this end coordination of national authorization procedures may prove useful for undertakings intending to provide a telecommunications service or to establish and/or operate a telecommunications infrastructure in more than one Member State;
16. Whereas Community undertakings should benefit from effective and comparable access to third countries markets and enjoy a similar treatment in a third country as is offered by the Community framework to undertakings owned directly or through majority ownership, or effectively controlled, by nationals from the third country concerned; whereas World Trade Organization negotiations on telecommunications, scheduled to be finished in April 1996, should result in a balanced and multilateral agreement ensuring effective and comparable access for Community operators in third countries;
17. Whereas an advisory committee should be established to assist the Commission;
18. Whereas, without prejudice to other procedures available to ensure the application of Community law, it is appropriate to provide for a specific procedure in order to facilitate the implementation of the principles set out in this Directive;

⁽¹¹⁾ OJ No L

19. Whereas the functioning of this Directive should be reviewed in due course; in the light of the development of the telecommunications sector and of trans-European networks, as well as in the light of experience gained from the harmonization and one-stop-shopping procedures set out in this Directive;
20. Whereas on the basis of the full implementation of a competitive framework, in particular Directive 90/388/EEC, in order to achieve the essential goal of ensuring the development of the internal market in the field of telecommunications and specifically the free provision of telecommunications services and infrastructure throughout the Community, the adoption of this Directive will substantially contribute to the attainment of this goal; whereas Member States should, in particular through their national regulatory authorities, implement this common framework,

HAVE ADOPTED THIS DIRECTIVE:

SECTION I SCOPE, DEFINITIONS AND PRINCIPLES

Article 1

Scope and aim

This Directive concerns the procedures associated with the granting of authorizations and the conditions attached to such authorizations, for the purpose of providing telecommunications services.

Article 2

Definitions

1. For the purposes of this Directive,
 - (a) "Authorization" means any "general authorization" or "individual licence" as defined below:
 - "general authorization": permission regardless of whether it is regulated by a "class licence" or under general law and regardless of whether such regulation requires registration, allowing undertakings to provide telecommunications services and, where applicable, to establish and/or operate infrastructure for the provision of such services;
 - "individual licence": an authorization which is granted by a national regulatory authority and which gives an undertaking operating under a general authorization specific rights, or which subjects that undertaking's operations to specific obligations, where the undertaking is not entitled to exercise the rights concerned until it has received the decision by the national regulatory authority;
 - (b) "National regulatory authority" means the body or bodies, legally distinct and functionally independent of the telecommunications organizations, charged by a Member State with the granting of, and supervision of compliance with, authorizations.
 - (c) "One-stop-shopping procedure" means an arrangement facilitating the obtaining of individual licences from more than one national regulatory authority in a coordinated procedure and at a single location.

- (d) "Essential requirements" means the non-economic reasons in the public interest which may cause a Member State to impose conditions on the establishment and/or operation of telecommunications networks or the provision of telecommunications services. Those reasons are limited to security of network operations, maintenance of network integrity, and, where justified, interoperability of services, data protection, the protection of the environment and town and country planning objectives as well as the effective use of the frequency spectrum and the avoidance of harmful interference between radio-based telecommunications systems and other technical systems, whether space-based or terrestrial. Data protection may include the protection of personal data, the confidentiality of information transmitted or stored, and also the protection of privacy.
 - (e) "Telecommunications services" means services whose provision consists wholly or partly in the transmission and/or routing of signals on telecommunications networks.
 - (f) "Public telecommunications service" means a telecommunications service available to the public.
 - (g) "Universal service" means a defined minimum service or set of services of specified quality which is accessible to all users everywhere and, in the light of specific national conditions, at an affordable price.
2. Other definitions given in Council Directive 90/387/EEC⁽¹²⁾ and Directive [on interconnection] shall apply, where relevant, to this Directive.

Article 3

Principles governing authorizations

1. Where Member States make the provision of a telecommunications service subject to an authorization, the grant of such authorization and the conditions to be attached thereto shall comply with the principles set out in paragraphs 2 and 3.
2. Authorizations may contain only the conditions listed in Annex I.

Moreover, such conditions shall be objectively justified in relation to the service concerned, non-discriminatory, proportionate and transparent.
3. Member States shall ensure that telecommunications services can be provided either without authorization, or on the basis of general authorizations, to be supplemented where necessary by rights and obligations requiring an individual assessment of applications and giving rise to one or more individual licences. Member States may require an individual licence only where the beneficiary is given access to scarce physical and other resources, or is subject to particular obligations or enjoys particular rights, in accordance with the provisions of Section III.

⁽¹²⁾ OJ No L 192, 24.7.1990, p. 1.

SECTION II. GENERAL AUTHORIZATIONS

Article 4

Conditions attached to general authorizations

1. Where Member States subject the provision of telecommunications services to general authorizations, the conditions which where justified, may be attached to such authorizations as set out in Annex I, points 2 and 3. Such authorizations shall entail the least oneroussystem possible consistent with enforcing the relevant essential requirements and other public interest requirements set out in Annex I, points 2 and 3.
2. Member States shall ensure that the conditions attached to general authorizations are published in an appropriate manner so as to provide easy access to that information for interested parties. Reference to the publication of this information shall be made in the national official gazette of the Member State concerned.
3. When amending the conditions attached to a general authorization, Member States shall give appropriate notice of their intention to do so and enable interested parties to express their views on the proposed amendments.

Article 5

Procedures for general authorizations

1. Member States shall not prevent an undertaking which complies with the applicable conditions set out in a general authorization in accordance with Article 4 from providing the intended telecommunications service.
2. Member States may require that, before providing the telecommunications service, the undertaking enjoying the general authorization shall notify the national regulatory authority of its intention to do so, and shall communicate the information relating to the service concerned which is necessary for the purpose of ensuring compliance with the applicable conditions set out in accordance with Article 4. The undertaking may be required to observe a waiting period not exceeding two weeks before it may start providing the services covered by the general authorization.
3. Where the undertaking enjoying a general authorization does not comply with a condition set out in a general authorization in accordance with Article 4, the national regulatory authority may inform the undertaking concerned that it is not entitled to avail itself of the general authorization. The national regulatory authority shall give the undertaking concerned a reasonable opportunity to state its views on the application of the conditions and to remedy any breaches. If the undertaking concerned does not remedy the breaches, the national regulatory authority shall confirm its decision and state the reasons for its decision, which shall be communicated within one week of its adoption to the undertaking concerned. Member States shall lay down a procedure for appealing against such a decision to an institution independent of the national regulatory authority.
4. Member States shall ensure that information concerning the procedures relating to general authorizations is published in an appropriate manner, so as to provide easy access to that information. Reference to the publication of this information shall be made in the national official gazette of the Member State concerned.

Article 6

Fees for general authorizations

1. Member States shall ensure that any fees imposed on undertakings as part of the authorization procedures seek only to cover the administrative costs incurred in the implementation of the general authorization scheme.

2. Fees, the criteria upon which they are based and any changes thereto, shall be published in an appropriate and sufficiently detailed manner, so as to be readily accessible.

SECTION III. INDIVIDUAL LICENCES

Article 7 Scope

1. Member States may, in addition to conditions attached to general authorizations for the telecommunications services, including those services mentioned in Annex II, require individual licences imposing conditions as listed in Annex I, point 4, but only for the following purposes:
 - (a) to allow the licensee access to specific radio frequencies or numbers;
 - (b) to give the licensee particular rights with regard to access to public or private land;
 - (c) to grant the licensee rights to provide public telecommunications infrastructure between the Community and third countries;
 - (d) to impose obligations on the licensee relating to the mandatory provision of public telecommunications services;
 - (e) to impose specific obligations, in conformity with Community competition rules, where the licensee has significant market power in relation to the provision of public telecommunications networks and telecommunications services.
2. Undertakings wishing to provide services which are not yet covered by a general authorization and which cannot be provided without authorization, or wishing to enjoy additional rights not granted by the applicable general authorization, may apply for an individual licence.
3. In the situations addressed in paragraph 2 Member States shall, as rapidly as possible, either consent to the provision of the service concerned or the establishment and/or operation of infrastructure concerned without authorization, or grant the relevant general authorizations in accordance with Section II.

Article 8 Conditions attached to individual licences

1. The conditions which may, where justified, be attached to individual licences are set out in Annex I, point 4.

Such conditions shall relate only to the situations justifying the grant of such a licence, as defined in Article 7.

However, Member States may incorporate the terms of the applicable general authorizations in the individual licence.
2. The rights given under and the conditions attached to any general authorizations must not be varied by the granting of an individual licence, except in objectively justified cases and in a proportionate manner.
3. Member States shall ensure that information concerning the conditions which will be attached to any individual licence are published in an appropriate manner, so as to provide easy access to that information. Reference to the publication shall be made in the national official gazette of the Member State concerned.

Article 9
Procedures for the granting of individual licences

1. Where a Member State grants individual licences, it shall ensure that information concerning the procedures for individual licences is published in an appropriate manner, so as to be readily accessible. Reference to the publication shall be made in the national official gazette of the Member State concerned.
2. In the situations addressed in Article 7(2), Member States shall grant an individual licence before completing the procedure set out in paragraph 1 of this Article.
3. Where a Member State intends to grant individual licences:
 - it shall grant individual licences through open, non-discriminatory, transparent procedures and, to this end, shall subject all applicants to the same procedures, unless there is an objective reason for differentiation; and
 - it shall set reasonable time limits; inter alia it shall communicate to the applicant a decision on the application as soon as possible but not later than six weeks after it has received the application.
4. Without prejudice to Article 10(1), any undertaking which fulfils the conditions decided and published by Member States in accordance with the relevant provisions of this Directive shall be entitled to receive an individual licence.
5. Where the beneficiary of an individual licence does not comply with a condition set out in the licence in accordance with the relevant provisions of this Directive, the national regulatory authority may withdraw or suspend the individual licence. The national regulatory authority shall give the undertaking concerned a reasonable opportunity to state its views on the application of the conditions and to remedy any breaches. If the undertaking concerned does not remedy the breaches, the national regulatory authority shall confirm its decision and state the reasons therefor, which shall be communicated within one week of its adoption to the undertaking concerned.
6. Member States refusing to grant, or withdrawing or suspending an individual licence shall state the reasons therefor. Member States shall lay down an appropriate procedure for appealing against such refusals, withdrawals or suspensions to an institution independent of the national regulatory authority.

Article 10
Limitation on the number of individual licences

1. Member States may a priori limit the number of individual licences for any category of telecommunications services, only to the extent required to ensure the efficient use of radio frequencies and in conformity with Community competition rules.
2. Where a Member State intends to limit the number of individual licences granted, it shall:
 - give due weight to the need to facilitate the development of competition and to maximize benefits for users;
 - enable interested parties to express their views on any limitation;
 - publish its decision to limit the number of individual licences, stating the reasons therefor;
 - review the limitation at reasonable intervals;
 - invite applications for licences.

3. Member States shall grant such individual licences on the basis of selection criteria which must be objective, detailed, transparent, proportionate and non-discriminatory. Any such selection must give due weight to the need to facilitate the development of competition and to maximize benefits for users.

Member States shall ensure that information on such criteria is published in an appropriate manner, so as to be readily accessible. Reference to the publication shall be made in the national official gazette of the Member State concerned.

4. Where a Member State finds, either on its own initiative or following a request by an undertaking, either at the time of entry into force of this Directive or at a later time, that the number of individual licences can be increased, it shall publish this fact and invite applications for additional licences.

Article 11

Fees for individual licences

Member States shall ensure that any fees imposed on undertakings as part of authorization procedures seek only to cover the administrative costs incurred in the implementation of the applicable individual licence. Fees, the criteria upon which they are based and any changes thereto, shall be published in an appropriate and sufficiently detailed manner, so as to be readily accessible.

In addition, where resources are scarce, Member States may allow their national regulatory authorities to impose, in a non-discriminatory manner, a fee for the granting of an individual licence. This fee shall reflect the need for the optimal use of this resource as well as for the introduction and the development of innovative services and competition.

SECTION IV. PROVISION OF TELECOMMUNICATIONS SERVICES THROUGHOUT THE COMMUNITY

Article 12

Principle

Member States shall, in the formulation and application of their authorization systems, facilitate the provision of telecommunications services between Member States.

Article 13

Coordination of authorization procedures

1. An undertaking intending to provide a telecommunications service or to establish a telecommunications infrastructure in more than one Member State may request the national regulatory authorities concerned to coordinate their authorization procedures in order to issue the necessary authorizations on substantially the same conditions.
2. Where the undertaking concerned is unable to obtain the necessary authorizations in one or more of those Member States within the time periods set out in this Directive, or where significant variations appear between the authorization conditions in these Member States, the procedure described in paragraphs 3 and 4 shall be available.
3. The undertaking concerned may refer the matter to the committee provided for in Article 16.

Where that committee finds that there is a case for further examination, it shall convene as soon as possible a working group including at least two members of that committee and one representative of the national regulatory authorities concerned. The working group shall set out its position within three months.

4. The position agreed according to the procedure set out in paragraph 3 shall form the basis of a solution to be implemented by the Member State concerned, without delay. If no agreed position is reached, or if an agreed position is not implemented within a reasonable time which shall not, except in justified cases, exceed two months, measures to resolve the issue shall be taken in accordance with the procedure set out in Article 17.

Article 14 Harmonization

1. Without prejudice to the right of Member States to authorize additional services, Member States shall ensure that the categories of telecommunications services listed in Annex II can be provided either without authorization, or on the basis of a general authorization.
2. Wherever necessary, the conditions attached to general authorizations for the provision of the telecommunications services listed in Annex II, the procedures for the grant of general authorizations and individual licences, and the setting of fees shall be harmonized.

The harmonization of conditions and procedures shall aim to develop the least onerous system possible consistent with ensuring compliance with the relevant essential requirements and other public interest requirements set out in Annex I, points 2 and 3.

Harmonization shall furthermore aim to establish balanced sets of rights and obligations for the undertakings enjoying authorizations.

3. The Commission shall, in accordance with the procedure laid down in Article 17, award mandates to CEPT/ECTRA, CEPT/ERC or other relevant harmonization bodies. These mandates shall define the tasks to be performed and the categories of general authorizations to be harmonized, and lay down a time schedule for the preparation of harmonized conditions and procedures. A decision shall be adopted in accordance with the procedure laid down in relation to Article 17, stating that the relevant telecommunications services can be provided on the basis of a harmonized general authorization.
4. The provisions of paragraph 3 shall lapse on 1 January 2001, unless the Commission has proposed to maintain or to modify it in the report referred to in Article 22.

Article 15 One-stop-shopping procedure for individual licences

1. The Commission shall undertake the necessary steps to provide for the operation of a one-stop-shopping procedure for individual licences, including suitable arrangements for its technical administration, in accordance with the procedure laid down in Article 17. References to such arrangements will be published in the Official Journal of the European Communities.
2. The one-stop-shopping procedure shall conform to the following conditions:
 - (a) It shall be open to all service providers wishing to operate telecommunications services in the Community.

- (b) The submission of applications and/or declarations at a single location in the Community shall be possible and one or more bodies shall be designated to which the applications and/or declarations can be presented. Applications may include, where required, requests for frequency coordination and site clearance and/or for allocation and registration of names, numbers or addresses.
- (c) Within seven days of formal receipt, the application(s) and/or declaration(s) shall be supplied to the national regulatory authorities concerned, by the body to which the application was presented.
- (d) The national regulatory authorities concerned shall take a decision on the grant of the licence within six weeks after they have received the application; they shall inform both the applicant and the body to which the relevant application was presented of that decision within one week of receipt of the application.
- (e) Where possible, national regulatory authorities shall endeavour to shorten the period of six weeks indicated in paragraph (d) for certain categories of services, in response to commercial needs.
- (f) Article 9 shall apply to applications for individual licences made by means of the one-stop-shopping procedure.
- (g) The body with which the applications and/or declarations may be filed shall report annually to the Commission on the operation of the one-stop-shopping procedure, including information on refusals of applications and objections raised to declarations.

SECTION V. EUROPEAN UNION TELECOMMUNICATIONS COMMITTEE (EUTC)

Article 16 Establishment of the EUTC

The Commission shall be assisted by a committee of an advisory nature composed of representatives of the national regulatory authorities of the Member States and chaired by a representative of the Commission. The Committee shall be called the European Union Telecommunications Committee (hereinafter referred to as "the Committee").

Article 17 Procedures for the EUTC

1. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the committee of the manner in which its opinion has been taken into account.

2. The Commission shall where necessary inform the Committee on the outcome of regular consultations with the representatives of telecommunications organizations, users, consumers, manufacturers, service providers and trade unions.

In addition, the Committee shall, taking account of the Community's telecommunications policy, foster the exchange of information between the Member States and between the Member States and the Commission, on the situation and the development of regulatory activities regarding the authorization of telecommunications services.

SECTION VI. GENERAL AND FINAL PROVISIONS

Article 18

Third countries

1. With a view to ensuring effective and comparable access to third countries markets to the benefit of Community undertakings, Member States shall inform the Commission of any general difficulty encountered, de jure or de facto, by Community undertakings in obtaining authorizations and in operating under authorizations in third countries, which has been brought to their attention. Member States and the Commission shall ensure that commercial confidentiality is respected.
2. Whenever the Commission establishes that a third country is not providing Community undertakings with rights to authorizations which are comparable to those which the Community grants to undertakings from that third country, the Commission may submit proposals to the Council for the appropriate mandate to negotiate with a view to obtaining comparable rights for Community undertakings. The Council shall decide by qualified majority.
3. In the circumstances set out in paragraph 2, the Commission may at any time propose that the Council exempt one or more Member States from obligations laid down by this Directive in relation to undertakings from that third country. The Commission may make such a proposal on its own initiative or at the request of a Member State. The Council shall act by qualified majority as soon as possible.
4. Measures taken pursuant to paragraphs 1, 2 and 3 shall be without prejudice to Community obligations under any international agreement governing the liberalization of telecommunications networks and services.

Article 19

Confidentiality

1. The Commission and the national regulatory authorities shall not disclose any information covered by the duty of professional secrecy.
2. The provisions of paragraph 1 shall not prevent publication of information on licensing conditions which does not include information of a confidential nature.

Article 20

Notification

1. In addition to the information already required under Directive 90/388/EEC, Member States shall supply the Commission with the following information:
 - the names and addresses of the national authorities and bodies competent to issue national authorizations;
 - all information on national authorization regimes, including conditions and procedures, in particular whether and for which services individual licences are required, and the criteria on the basis of which applications are assessed;
 - general national provisions specifically relevant in the area of telecommunications services.

2. Member States shall notify any changes in respect of the information supplied under paragraph 1, within two weeks of their entry into force.
3. At the request of a Member State or on its own initiative the Commission shall examine any conditions, criteria and/or procedures set out in a national authorization, in particular with regard to the justifiability of the measures and their compliance with the principle of proportionality. The Commission shall, within one month of receipt of a request and following the procedure set out in Article 17, decide whether the Member State may continue to apply the measure. The Commission shall communicate its decision to the Council and to the Member States.

Article 21

Authorizations existing at the date of entry into force of this Directive

Member States shall make all necessary efforts to bring authorizations in force at the date of entry into force of this Directive into line with its provisions before 1 January 1999. Obligations which have not been brought into line by that date with the provisions of this Directive shall be inoperative. Where justified, Member States may be granted by the Commission, upon request, a deferment of the provisions of this Article.

Article 22

Review Procedures

1. Any amendments necessary to adapt the content of the Annexes to new technological developments and appropriate practical procedures shall be determined in accordance with the procedure laid down in Article 17.
2. Before 1 January 2000 the Commission will review whether an amendment of the provisions of this Directive is necessary, on the basis of a report to be supplied to the European Parliament and Council. The report shall include an assessment, on the basis of the experience gained, of the need for further development of the regulatory structures as regards authorizations, in particular in relation to harmonization and to trans-European services and networks.
3. Before 1 January 1999 the Commission shall report on the possibilities of access by Community undertakings to telecommunications markets in third countries. If appropriate, the Commission may submit proposals as mentioned in Article 18.

Article 23

Deferment

Where Member States with less developed networks make use of the deferment they have been granted in conformity with Directive 90/388/EEC with regard to the obligation to remove special or exclusive rights in relation to voice telephony and the provision of public telecommunications networks, in order to achieve the necessary structural adjustments, such Member States shall be granted upon request a similar deferment for the application, to the provision of voice telephony and public telecommunications networks, of the provisions of Articles 7(1), 10(1) and 21 of this Directive.

Where Member States with very small networks make use of the deferment they have been granted in conformity with Directive 90/388/EEC with regard to the obligation to remove special or exclusive rights in relation to voice telephony and the provision of public telecommunications networks, in order to achieve the necessary structural adjustments, such Member States shall be granted upon request a similar deferment for the application, to the provision of voice telephony and public telecommunications networks, of the provisions of Articles 7(1), 10(1) and 21 of this Directive.

Article 24

Implementation of the Directive

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 July 1997. They shall immediately inform the Commission thereof.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

2. Member States shall notify to the Commission a list of representatives to the European Union Telecommunications Committee not later than two months after publication of this Directive.

Article 25

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Communities.

Article 26

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

CONDITIONS THAT MAY BE ATTACHED TO AUTHORIZATIONS

1. Any conditions that are attached to authorizations must comply with Commission Directive 90/388/EEC⁽¹⁾ and its amendments, in particular the amending Directive 94/46/EEC⁽²⁾, the amending Directive 95/.../EEC⁽³⁾, the amending Directive 95/.../EEC⁽⁴⁾ and the amending Directive 95/.../EEC⁽⁵⁾.
2. **Conditions that may be attached to all authorizations, where justified and subject to the principle of proportionality**
 - 2.1. Conditions aiming at ensuring compliance with relevant essential requirements.
 - 2.2. The provision of information reasonably required to verify compliance with applicable conditions.
3. **Specific conditions that may be attached to general authorizations for the provision of public telecommunications services, and of infrastructure used for the provision of such services, where justified and subject to the principle of proportionality**
 - 3.1. Conditions related to the protection of users, as set out in the directive on the application of open network provision to voice telephony⁽⁶⁾ and, subject to part I of this Annex, to the protection of consumers, in particular in relation to:
 - prior approval by national regulatory authority of the standard consumer contract,
 - provision of detailed and accurate billing,
 - provision of a dispute settlement procedure,
 - publication and adequate notice of change of access conditions, including tariffs, quality and availability of service.

⁽¹⁾ Commission Directive 90/388/EEC regarding the implementation of full competition in telecommunications markets, OJ No L 192, 24.7.1990, p. 10.

⁽²⁾ Commission Directive of 13 October 1994 amending Directive 88/301/EEC and Directive 90/388/EEC in particular with regard to satellite communications, OJ No L 268, 19.10.1994, p. 15.

⁽³⁾ Commission Directive of 18 October 1995 amending Directive 90/388/EEC with regard to the abolition of the restrictions on the use of cable television networks for the provision of already liberalized telecommunications services, C(95) 2422 final.

⁽⁴⁾ Draft Commission Directive amending Commission Directive 90/388/EEC with regard to mobile and personal communications, OJ No C 197, 1.8.1995, p. 5.

⁽⁵⁾ Draft Commission Directive amending Commission Directive 90/388/EEC regarding the implementation of full competition in telecommunications markets, OJ No C 263, 10.10.1995, p. 6.

⁽⁶⁾ Commission's proposal for a Directive on the application of the principles of open network provision to voice telephony, COM(94) 689 final, OJ No C 122, 18.5.1995, p. 4, and Council common position of 12 July 1995 on that proposal.

- 3.2. Financial contribution to the provision of universal service, according to the Directive on interconnection⁽⁷⁾.
 - 3.3. Communication of customer database information necessary for the provision of universal directory information.
 - 3.4. Provision of emergency services.
 - 3.5. Special arrangements for disabled people.
 - 3.6. Conditions relating to interconnection, according to the directive on interconnection⁽⁸⁾ and to obligations of Community law.
 - 3.7. Conditions related to the achievement of public interest requirements recognized by the EC Treaty and, in particular, Articles 36 and 56 of that Treaty, specifically in relation to public morality and public security.
- 4. Specific conditions that may be attached to individual licences, where justified and subject to the principle of proportionality**
- 4.1. Specific conditions linked to the allocation of numbering rights (compliance with national numbering schemes...).
 - 4.2. Specific conditions linked to the allocation of specific radio frequencies.
 - 4.3. Specific environmental and specific town and country planning requirements, linked to the use of scarce resources.
 - 4.4. Maximum duration, only in order to ensure the efficient use of radiofrequencies, and without prejudice to other provisions concerning the withdrawal or the suspension of licences.
 - 4.5. Provision of universal service obligations according to the directives on interconnection and on the application of the principles of open network provision to voice telephony⁽⁹⁾.
 - 4.6. Conditions applied to operators having a significant market position, as notified by Member States under the directive on interconnection⁽¹⁰⁾, aiming at ensuring interconnection or specific monitoring requirements.

⁽⁷⁾ Commission proposal for a Directive on interconnection to public telecommunications networks and public telecommunications services in the context of Open Network Provision (ONP), adopted by the Commission on 19 July 1995, not yet published.

⁽⁸⁾ Commission proposal for a Directive on interconnection to public telecommunications networks and public telecommunications services in the context of Open Network Provision (ONP), adopted by the Commission on 19 July 1995, not yet published.

⁽⁹⁾ Commission proposal for a Directive on interconnection to public telecommunications networks and public telecommunications services in the context of Open Network Provision (ONP), adopted by the Commission on 19 July 1995, not yet published. Commission's proposal for a Directive on the application of the principles of open network provision to voice telephony, COM(94) 689 final, OJ No C-122, 18.5.1995, p. 4, and Council common position of 12 July 1995 on that proposal.

⁽¹⁰⁾ Commission proposal for a Directive on interconnection to public telecommunications networks and public telecommunications services in the context of Open Network Provision (ONP), adopted by the Commission on 19 July 1995, not yet published.

- 4.7. Provision of information on ownership in other companies, where the procedure set out in Article 18(3) is in operation.
- 4.8. Requirements related to quality, availability and permanence of the service or the network, including the financial, managerial and technical competence of the applicant and conditions setting a minimum period of operation.
- 4.9. Defence related requirements.

*

This list of conditions shall be without prejudice to the specific rules adopted by Member States in accordance with Community law and concerning the content of audio-visual programmes intended for the general public.

SERVICES TO BE COVERED BY GENERAL AUTHORIZATIONS

1. Bearer data services, including fixed packet- or circuit-switched data services offered to the public.
2. Other fixed telecommunications services other than voice telephony for the public, telex and bearer data services, including:
 - value-added data transmission services, such as telefax services, X.400 services (message handling systems), X.500 services (global electronic directory);
 - value-added voice transmission services, such as storage and voice-mail services, E-mail services, audiotex and teletex services, video-conferencing, re-forwarding of messages via PSTN (private switching), video-phones, enquiries;
 - premium rate services, such as shared cost, shared revenue or freephone services, calling cards;
 - voice telephony provided to closed user groups.
3. Satellite personal communication services (S-PCS).
4. Satellite network and communication services other than S-PCS, including very small aperture terminal, satellite news gathering and mobile satellite services.
5. Mobile communications.
6. Voice telephony for the public.
7. Leased lines.

*

The general authorizations covered by this list of services shall be without prejudice to the specific rules adopted by Member States in accordance with Community law and concerning the content of audiovisual programmes intended for the general public.

FINANCIAL STATEMENT

1. TITLE OF ACTION

European Parliament and Council Directive on a common framework for general authorizations and individual licences in the field of telecommunications services.

2. BUDGET LINE

A-2510 Expenditures on meetings of Committees whose consultation is compulsory in the procedure for drafting Community legislation.

3. LEGAL BASIS

Articles 57(2), 66 and 100a of the Treaty establishing the European Community.

4. DESCRIPTION

4.1 General objective of the action

The Directive aims at establishing a common framework for the granting of authorizations in the field of telecommunications services, both for national applicable procedures and for conditions that can be attached to such authorizations.

4.2 Duration and renewal

The duration of the action is, in principle, not limited. However, the provisions of paragraph 14(3) of the Directive (dealing with the possibility for the Commission to assign harmonization mandates to relevant bodies) will lapse on 1 January 2001, unless the Commission proposes to maintain or to modify it in the report referred to in Article 22 of the Directive.

As regards the annexes, any modifications necessary to adapt them to new technological developments shall be made in accordance with the comitology procedure laid down in Article 17 of the Directive, involving the Commission with the assistance of the European Union Telecommunications Committee.

5. CLASSIFICATION OF THE EXPENDITURE

5.1 Non Obligatory Expenditure

5.2 Dissociated Credits

6. NATURE OF OPERATIONAL SPENDING

No intervention credits.

The Community's financial contribution will cover costs incurred by participants at the meetings of the committee established by the Directive and of the working groups involved in coordination of authorizations procedures (Article 13 of the Directive). It is not envisaged to recruit additional staff.

The Directive establishes a committee, called the European Union Telecommunication Committee (EUTC) in order to assist the Commission in the application of the principles set up by the Directive for market access and for the granting of authorizations.

7. ANTI-FRAUD PROVISIONS

For each meeting mentioned in point 9.3, the secretary of the meeting will complete the list of participants and verify the travelling documents for reimbursement.

8. ELEMENTS OF COST-EFFICIENCY ANALYSIS

8.1. Specific and quantifiable objectives, population aimed at by the action

The Directive establishes a common framework for the granting of authorizations in the field of telecommunications services, both for national applicable procedures and for conditions that can be attached to such authorizations. It will ensure that wherever possible priority is given to the lightest possible regimes.

The Directive directly concerns undertakings providing telecommunications services on the territory of the European Union or establishing and/or operating infrastructure for the provision of these services.

8.2. Justification of the action

With the full liberalization of the telecommunications sector in 1998 (with possible transitional periods for some Member States), a framework for the granting of authorizations in the field of telecommunications services is necessary. This framework will have to ensure that authorizations, which in most cases will be the appropriate means of monitoring markets and implementing certain public service objectives, are not imposing an undue burden on operators and are proportionate, transparent and non-discriminatory. It is necessary to build up such a framework at a Union level.

In order to assist the Commission, it is also justified to establish a committee.

8.3. Follow up and evaluation of the action

The proposed Directive sets out in its Article 22 that the Commission, before 1 January 2000, will report to the European Parliament and to the Council on the functioning of the Directive and in particular assess the need for further evolution of the regulatory structures as regards authorizations.

In addition, Article 22 establishes the basis to adapt the Annexes of the proposed Directive to future technological developments in telecommunications.

9. ADMINISTRATIVE EXPENSES

The actual utilisation of the required administrative resources will be the result of an annual decision by the Commission on the allocation of resources, taking due account of the manpower and additional budget which have been allocated by the budgetary authorities.

9.1 Impact on employment

Employment type		Affected manpower			of which		duration
		Permanent	Temporary	Existing resources	Additional resources		
Fonctionnaires or temporary	A	1		1			
	B						
	C	1/2		1/2			
Other resources							
Total		1 + 1/2		1 + 1/2			undetermined

9.2 Global financial impact on additional human resources

None

9.3 Increase of other costs resulting from the action

(in Ecus)

Budget line (No and title)	Amounts	Detail of calculation
A 2510 Meetings of Committees whose consultation is compulsory	152 460 per year	The specific requirements for committee meetings can be estimated to be about six meetings per year of a Committee with 30 members specifically constituted for the purpose of this Directive. The estimated costs of meetings will be about ECU 138 600 (6 x 23 100) per year. The estimated costs of working group meetings will be about ECU 13 860 per year (on the basis of six meetings per year involving three members of the Committee).
Total	152 460 per year	

The agenda for adoption of the Directive is approximately the end of 1996. Thus the first year where the abovementioned expenses will occur should be 1997.

It must be noted that when the European Union Telecommunications Committee has been established by the Directive, it is anticipated that the ad hoc high level Committee of National Regulators referred to in Council Resolution of 17 December 1992 will not have to meet again. However, the expenditures related to this ad hoc Committee are currently paid for by the Member States.

ISSN 0254-1475

COM(95) 545 final

DOCUMENTS

EN

15 08

Catalogue number : CB-CO-95-603-EN-C

ISBN 92-77-96214-3

Office for Official Publications of the European Communities

L-2985 Luxembourg