COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMUNICATION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL ON THE CONSULTATION ON THE GREEN PAPER ON MOBILE AND PERSONAL COMMUNICATIONS

Proposal
for a Council Resolution
on the further development
mobile and personal communications
in the European Union

(presented by the Commission)

EXECUTIVE SUMMARY

THE INFORMATION SOCIETY: A POLITICAL CONTEXT FOR MOBILE POLICY

The mobile and personal communications sector has been brought to the forefront of the debate on the Information Society. The report on "Europe and the global information society"[1] identified mobile communications as a necessary building block of the Information Society and advised on the strengthening of its potential.

That report has helped to catch the popular imagination, defining the debate on the changes which will revolutionise Europe's economy, business, industry and the lives of every citizen. This revolution is not limited to one continent, but is global in scope and presents common challenges which have attracted political attention at the highest level throughout the World. Access to information, markets and customers anywhere in the World as well as the ability to stay in touch, will be central to commercial success and will also offer many benefits to Europe's citizen's in their every day lives.

The Bangemann Group Report builds on the direction given by the Commission's White Paper on Growth, Competitiveness and Employment (COM(93) 700 final). The White Paper highlighted the importance of moving forward towards the Information Society as one the essential elements to help Europe to enjoy continued growth, whilst remaining competitive on global markets and continue to expand employment.

At the same time, progress in this area cannot be at the expense of the more vulnerable in society. The emerging policies must strengthen cohesion in the Union and take full account of the impact on society as a whole and, in particular, the impact on employment, training, education and health care. They must exploit the possibilities which mobile technologies now offer to develop universal and affordable access to new services throughout the Union.

MOBILE AND PERSONAL COMMUNICATIONS IN THE INFORMATION SOCIETY

Mobile communications is currently the fastest growing area within the telecommunications sector. Over the last few years it has experienced unprecedented growth in subscriber numbers, especially in cellular mobile telephony. Europe has now more than 11 million cellular mobile telephony users, 3 million more than at the time of compilation of the Mobile Green Paper. There are also more than 8 million users of other mobile communications services, in particular, paging and so-called private mobile radio systems. It is forecast that by the year 2000, there could be nearly 40 million users in the European Union, and with the growing expansion into personal communications services (PCS), up to 80 million users by the year 2010.

The market is being driven by rapid advances in technology, by commercial opportunities and by falling prices. Subscriber growth rates during the last few years in Member States with high growth cellular telephony markets (car telephones and hand-held portables) have varied from 30 to 40%. Recent analysis shows that this trend is withstanding the current economic recession.

[1] Europe and the global information society, Recommendations to the European Council, 26 May 1994

The mobility offered by these new technologies and new services will be central to the development of Information Society. It will make the benefits of that society more easily accessible to every citizen and every business throughout the Union.

The need for communications 'on the move' is becoming a normal part of business life with users ranging from the multinational executive to the local plumber or builder. Over the next few years, as prices continue to fall, and as the latest technologies become well established, mobile communications are expected to make significant inroads into the mass consumer market.

As recognised in the Mobile Green Paper, mobility has a particular significance in the broader context of the European Union. On the one hand, mobility is at the very heart of the objective of the Union for the free movement of goods, people, services, and capital. On the other hand, the prospect of European-wide advanced mobile communications networks and services will help to turn the Information Society from vision to reality. In parallel with the integration of voice, data and pictures within new multi-media and on-line services, a personal communications environment is emerging in which traditional distinctions between fixed and mobile networks and services will disappear. Mobile technologies will help traditional operators to deliver communications services more cheaply into every home, whilst today's mobile operators will evolve alongside the traditional telecoms companies to provide nation-wide and Europe-wide networks and services.

THE ECONOMIC POTENTIAL OF THE MOBILE AND PERSONAL COMMUNICATIONS SECTOR

The creation now of the right framework for mobile communications will strengthen the contribution to growth and employment which mobile communications is already making in the Union. The Bangemann Group cited, for example, the case of Germany where 30,000 new jobs have been created in the mobile sector, and forecast the creation of 100,000 jobs within the Union if similar approaches are followed.

The growth of mobile communications will have a significant impact on the whole of the telecommunications industry. Mobile services themselves will continue to experience rapid growth, both in terms of subscriber numbers and corresponding traffic. This growth will in turn stimulate traffic over the fixed networks, with mobile networks continuing to deliver much of their traffic volumes to the fixed network, thereby increasing the overall use of telecommunications.

With the pan-European digital mobile system, GSM, the European Union has established a world-leading technology in this key area of the future global communications market. The Union must now build on this success.

Additionally, the market potential for personal communications services is huge. While the maximum density for fixed wireline telephones is not expected to exceed substantially an average penetration of some 50% of the population, (i.e. approximately one connection per household, plus business use), personal communications penetration has the ultimate potential to reach near 80% of the population (i.e. up to one connection per adult).

Mobile communications also has an important role to play in stimulating massive private and public investment into telecommunications networks and services, and in contributing to maintaining and developing service in the less developed or peripheral regions of the Union.

THE GLOBAL AIMS OF THE GREEN PAPER

The global aims the Green Paper were :

→ to permit the development of a Union-wide market for mobile services, equipment, and terminals ;

→ to identify common principles where required, for achieving this objective, in relation to the provision of mobile infrastructure, the development of mobile networks and services, and the supply and operation of mobile terminals ;

→ to promote the evolution of the mobile communications market into mass personal communications services, with particular emphasis on pan-European services ;

→ to facilitate and promote the emergence of trans-European networks and services in the sector, and to ensure that the sector's development is achieved in a manner consistent with the public interest.

The Green Paper represented a major step within the global phased approach to the telecommunications sector set by the Council Resolution of 22nd July 1993 for the future balanced relationship of fixed and mobile networks and services in the Union and for the maintenance and furthering of universal service in the sector for the European citizen.

In relation to universal service, the Green Paper recognised that regulatory and market conditions currently mean that mobile communications services are today aimed a niche, premium-priced market and so do not yet play a significant role in the provision of universal service or act as a substitute for the fixed phone in every home. At the same time, the Green Paper recognised that "mobile communications also has an important role in stimulating massive private and public investment into telecommunications networks and services, and in contributing to maintaining and developing service in less developed or peripheral regions of the Union".

THE MAIN ISSUES ADDRESSED IN THE GREEN PAPER

The Green Paper raised questions fundamental to the future development of the sector concerning:

- How competitive should mobile markets be and how should mobile networks and services be licensed (award procedures / licence conditions)?

- What role will service providers play and what should be the rules for interconnection between different networks and between networks and service providers?

- Should mobile networks be able to build their own or use third party fixed infrastructure within their networks?, and

- What steps are needed help the transition from niche market mobile communications today to mass market personal communications tomorrow?

At the same time, comments were invited in a range of areas linked to on-going policy actions which are important to the overall development of the sector. These included access to third county markets, data protection and privacy, health and safety issues, the environment, standardisation, and consumer protection.

THE CONSULTATION ON THE GREEN PAPER AND SUMMARY OF THE RESULTS

The public consultation period was initiated with the adoption of the Green Paper on 27 April 1994 and continued through to the middle of September. The Commission received more than 70 written comments from European and national organisations, companies and individuals active in the communications field, both inside and outside the European Union. In addition a series of consultation meetings resulted in a substantial contribution being made to the work of the Commission. This included meetings involving fixed network and mobile operators; the service provider industry, users, equipment manufacturers, consumer groups and with representatives of the trade unions in the communications industry. More than 250 organisations participated either orally or in writing.

The results of the consultation are summarised below to show the areas of consensus and those areas where, whilst divergent views were expressed, general trends could be identified.

SUMMARY OF THE AREAS OF CONSENSUS

- the need for the abolition of exclusive and special rights[2];
- the approach to national licensing procedures and licence conditions;
- the importance of service providers as a new way of providing telecoms services.
- the need for effective procedures to make frequencies and numbers available in time particularly in relation to new digital services, where lack of agreement could threaten their development;
- the need for number aloocation on fair, transparent and non-discriminatory grounds;
- the evolution strategy towards the personal communications environment

SUMMARY OF KEY AREAS WHERE DIVERGENT VIEWS WERE EXPRESSED

- *The future regulation of service provision.*

  In particular, (i) should there be an implied obligation on network operators to deal with all service providers in order to promote the emergence of pan-European services, and (ii) whether a Code of Conduct for service providers should be voluntary or mandatory?

  The views expressed reflected national approaches to regulation and experience of independent service provision.

- *Infrastructure.*

  Should mobile network operators have the right to use of own or third party infrastructure (including using microwave links)? Should they be able to directly connect to other mobile or fixed networks nationally or in other Member States?

  There was broad support for early action on liberalisation and direct interconnection, with the exception of a majority of existing fixed network operators. The approach should, however, be integrated into the global approach to be set out in Green Paper on infrastructure liberalisation[3].

- *Interconnection.*

  Different views were expressed about the future role of the Open Network Provision (ONP) as the basis for the regulatory framework in the sector, and, in particular, the extent to which regulatory intervention should take precedence over commercial negotitiations.

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2 In practice, mobile services are increasingly provided on a competitive basis with, for example, users having a choice between at least two digital mobile telephony systems in almost every Member State, with firm plans underway for a second network in the few Member States where this is not yet the case.

3 See, Green Paper on the liberalisation of telecommunications infrastructure and cable television networks: part 1 Principle and Timetable, COM(94) 440, 25.10.94.

Even where there was no consensus, the general trends suggest that positions are possible.

In relation to service provision, the development of that layer of the market should be kept under review, in particular, to see whether legislative measures prove themselves necessary.

As regards infrastructure and direct interconnection, the Commission agrees that the use of alternative infrastructure by mobile networks must be treated in the context of the Green Paper on Infrastructure (COM(94) 440) and this communication contributes to the general debate on that issue[4], without prejudging its outcome.

Finally, in relation to the future pattern for interconnection, the issues are closely linked to the proposed adaptation of the ONP framework to a competitive environment. Once again, this Communication makes a useful contribution to that debate.

Despite the absence of a complete consensus on all issues, the Commission believes its is possible to put forward a comprehensive set of proposals for the sector. These are summarised below.

ACTION REQUIRED FOR THE FUTURE REGULATORY ENVIRONMENT

On the basis of the consultation, a comprehensive programme of action can now be proposed.

Some proposals are specific to the mobile sector. Others such as those for infrastructure, interconnection and the future role of ONP are integrally linked to on-going work preparing the telecoms regulatory environment for the full liberalisation of voice telephony services. All of these actions must at the same time be viewed in the context of the Information Society and the Commission's Action Plan on Europe's Way to the Information Society.

PRIORITY AREAS FOR SECTOR SPECIFIC ACTION

- Introduction of competition. *All remaining special and exclusive rights should be abolished by 1 January 1996 and the competition rules should be fully applicable to the sector.*

- Development of a Code of Conduct for Service Providers.

- Ensuring service provider access to the market.

- Promoting the availability of frequency needed for new digital services and for operators to combine different technologies within one network and one service package for users; as well as targeted programmes to support market entry of emerging mobile technologies.

- Allowing after 1 January 1998, mobile network operators to provide public voice services via the fixed network and allowing fixed network operators to use radio-based technologies.

- Establish European level licensing of satellite PCS services.

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4 The Green Paper proposes the *"immediate removal of restrictions on the use of own or third party infrastructure authorised in Member States .... to provide links, including microwave links, within the mobile network for the provision of mobile communications services".*

PRIORITY ACTION LINKED TO GENERAL REFORM OF TELECOMMUNICATIONS IN 1998

- Removal of restrictions on the use of alternative infrastructure within mobile networks, in line with policy agreed within the context of the Green Paper on Infrastructure.

- Regulation of interconnection through ONP and the Treaty competition rules, within the context of an Interconnection Directive and the proposals for the future adaptation of ONP to be tabled by 1 January 1998.

- Establishment/amendment of rules for the mutual recognition of equipment, licenses and data protection and privacy, within the framework of current proposals.

ADDITIONAL ACTION REQUIRED IN DEVELOPING THE OVERALL REGULATORY AND TECHNOLOGICAL ENVIRONMENT

- Establishing schedules for standardisation, numbering and frequencies, as well as timetables for binding decisions on implementation by the Member States.

- Addressing the international agenda, in particular, in relation to access to third country markets and the development of new technologies within the overall context of the global debate on "information highways".

- Developing a comprehensive approach towards health and safety; the environmental impact of mobile communications and towards employment trends and retraining.

- Actively supporting through Community research programmes and other actions the development of advanced mobile communications systems, and in particular, the evolution towards universal mobile telecommunications system[5] (UMTS).

CONCLUSION

The broad consultation on the Green Paper on Mobile and Personal Communications has provided an opportunity for all interested parties to assist in shaping the emerging regulatory framework. This Communication sets out the results of that consultation process in detail and proposes concrete action to implement the conclusions drawn.

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[5] Confusion should be avoided between UMTS, which is a generic name of an emerging family of technologies and the political goal of universal service.

I INTRODUCTION

Mobile communications has developed over recent years into a key area of growth in the Union. Europe has now more than 11 million cellular mobile telephony users, 3 million more than at the time of compilation of the Mobile Green Paper. There are also more than 8 million users of other mobile communications services, in particular paging and private mobile radio systems. It is forecast that by the year 2000, there could be as many as 40 million users in the European Union, and, with the growing expansion into personal communications services (PCS), up to 80 million users by the year 2010.

In the light of the potential mass market for personal communications, a coherent policy framework for the sector, and for the development of trans-European networks, must be promoted in the context of the Union's global strategy on growth, competitiveness and employment.

It is against this background that the Commission adopted on the 27 April 1994 its Green Paper on Mobile and Personal Communications[6], referred to hereinafter as "the Green Paper".

In the meantime, the mobile and personal communications sector has been also brought to the forefront of the debate on the information society. The report on "Europe and the global information society"[7] identified mobile communications as a necessary building block of the information society and advised on the strengthening of its potential. Both the Commission's response to the Report, the so-called Action Plan, and the reaction of the European Council to it, emphasised the importance of mobile communications in the development of networks and services and announced that it would present a report on the results of the consultation phase on the Green Paper by the end of 1994.

This Communication constitutes that report . It should be read against the background of the Green Paper which sets forth a coherent set of proposed positions and provides substantial detail on the technical, market and regulatory aspects of the sector[8].

A brief outline of the Green Paper is shown in Annex 1 for ease of reference.

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6 Towards the Personal Communications Environment : Green Paper on a common approach in the field of mobile and personal communications in the European Union (COM(94)145 final, 27.04.1994).

7 Europe and the global information society, Recommendations to the European Council, 26 May 1994

8 The Green Paper also includes a detailed Glossary of terms used in the sector and referred to in this Communication

II THE CONSULTATION PROCESS

The aim of the consultation was to obtain the views of all interested players on the future regulatory framework in the area of mobile and personal communications.

The public consultation period was initiated with the adoption of the Green Paper on 27 April 1994 and continued through to the middle of September. The Commission received more than 70 written comments from European and national organisations, companies and individuals active in the communications field. These included contributions from many of the Telecommunications Organisations (TOs) and mobile operators in Europe, as well as from the European Telecommunications Network Operators association; from individual service providers and national representative associations; from large and medium-sized users of telecommunications services and from user associations; as well as from manufacturing associations and individual equipment suppliers. Written contributions were also received from the CEPT's European Radiocommunications Committee (ERC) and its European Committee for Telecommunications Regulatory Affairs (ECTRA) ; from the trade unions, and from the European Data Protection Commissioners. In addition comments were received from the GSM[9] and ERMES[10] Memoranda of Understanding. Further comments were received from organisations and companies based in other European countries, including the members of the European Economic Area, and from North America.

Formal opinions on the Green Paper have also been adopted or are in the process of being adopted by the European Parliament ; the Economic and Social Committee and the Committee of the Regions, as well as by the Joint Committee of Telecommunications which brings together management and unions in the Telecommunications Organisations (TOs) within the Union.

In addition to these written comments, a series of consultation meetings resulted in a substantial contribution being made to the work of the Commission. These meetings started with a general gathering held in June for all participants in the sector (fixed and mobile network operators, service providers, equipment manufacturers, consumer organisations and European bodies active in the fields of numbering, licensing, frequencies and data protection) which was attended by more than 130 organisations, companies and associations. Subsequently separate meetings were held for the TOs and mobile operators; for the service provider industry and for representatives of the trade unions in the communications industry. In addition to these consultation meetings, the Commission received presentations from the GSM MoU and from consumer organisations. More than 250 organisations participated either orally or in writing.

Consultations at a European level were complemented by those held at a national level within a number of Member States.

The Commission also worked closely with the High Level Committee of National Regulatory Authorities, in accordance with Council Resolution 93/C 213/01[11]

A list of the hearings and of the written comments received is set out in Annex 2.

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9 Global System for Mobile communications ; see Green Paper.

10 European Radio Messaging System (paging) ; see Green Paper

11 Council Resolution of 22nd July 1993 on the review of the situation in the telecommunications sector and the need for further development in that market, '93/C 213/01 ; OJ C213/1, 6 August 1993.

III COMMENTS RECEIVED ON THE MAIN POSITIONS PROPOSED IN THE GREEN PAPER

In the following paragraphs of this section, the main comments received during the consultation process are summarised according to the positions set out in the Green Paper. For those wishing further details, reference should be made to the full comments which are available on request.

III.1 LICENSING CONDITIONS FOR MOBILE NETWORK OPERATORS

III.1.1 Abolition of special and exclusive rights

There was widespread support for the abolition of exclusive and special rights in the mobile communications sector. Remaining exclusive and special rights were seen by many contributors as holding back the development of the sector, in particular, by limiting competition, keeping prices higher and restricting the range of mobile service available.

There was general acceptance that, subject to market demand, a minimum of two licences should be granted for each mobile technology. Additionally, strong support was expressed for the recommendation that at least one licence for DCS 1800[12] systems should be granted in each Member State and that access to DECT[13] be made available.

III.1.2 Future licensing procedures and licence conditions

In relation to the future licensing procedures and the framework for licensing conditions, there was strong support for open, non-discriminatory and transparent licensing procedures.

In order to ensure a fair competitive environment, it was seen as essential that both incumbent operators (particularly, where they were also operating a fixed network or were affiliated to the fixed network operator) and new entrants be subject to equivalent licensing conditions, though where appropriate, a new entrant's licence could be adapted to redress any specific advantages gained by the incumbent resulting from earlier entry into the market. This extended to the need for equality in the duration of licence terms granted.

These comments on equality included calls for clear time limits to be set for the completion of the assessment of bids by national regulatory authorities; a requirement that, where possible, competing mobile systems should commence operation at the same time and that no operators should automatically qualify for a new licence.

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12 Standard for micro cellular communications systems developed by ETSI, building on the GSM standard : see Green Paper.

13 Digital European Cordless Telecommunications ; new digital cordless standard developed by ETSI ; see Green Paper.