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(Information)

COUNCIL

COUNCIL RESOLUTION

of 7 February 1994

on universal service principles in the telecommunications sector

(94/C 48/01)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the proposal from the Commission,

Whereas Council resolution of 22 July 1993 on the review of the situation of the telecommunications sector and the need for further development in that market ⁽¹⁾ established as a major goal for Community telecommunications policy the liberalization of all public voice telephony services, whilst maintaining universal service;

Whereas the importance of universal service was recognized in the resolution of the European Parliament on the Commission communication of 21 October 1992 entitled '1992 review of the situation in the telecommunications services sector' and the resolution of the European Parliament on the Commission communication entitled 'Towards cost orientation and the adjustment of pricing structures — telecommunications tariffs in the Community' and by the opinion of the Economic and Social Committee on the 1992 telecommunications services review;

Whereas this resolution provides assistance in achieving the goal of universal service in a competitive environment and to the progressive rebalancing of tariff structures, by setting out the major elements constituting universal service at Community level and by providing guidance as to the principles to be applied to the financing of universal service;

Whereas, in determining how to ensure the provision of universal service, national regulatory authorities must take due account of the fact that in numerous cases market forces would be expected to lead to such provision being made on a commercial basis, without further intervention;

Whereas however in numerous cases market operators could be obliged to provide a basic service to customers whom they would otherwise have insufficient economic incentive to serve; whereas in this particular case it is

mainly a matter of the provision of a basic voice telephony service at an affordable price to all customers reasonably requesting it;

Whereas where under universal service obligations a basic voice telephony service can only be provided at a loss or provided under cost conditions falling outside normal commercial standards, that service may, where justified and subject to the approval of the national regulatory authority, be financed through internal transfers, access fees or other mechanisms which take due account of the principles of transparency, non-discrimination and proportionality, while ensuring compliance with competition rules in order to make a fair contribution to the burden which the provision of universal service represents;

Whereas national regulatory authorities may impose, within the limits laid down by Community law, other obligations with a view to adapting universal service to specific national circumstances, including town and country planning and the requirements of networks with a limited operating area, provided that it is possible to fulfil such obligations at a reasonable cost;

Whereas the concept of universal service must evolve in particular to keep pace with technical and economic progress,

NOTES:

that, in the framework of open network provision, the following Community acts have identified some elements to serve as a basis for a definition of universal service without altering either the legal nature of such acts or the obligations of the Member States in respect thereof:

— Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of open network provision ⁽²⁾,

⁽¹⁾ OJ No C 213, 6. 8. 1993, p. 1.

⁽²⁾ OJ No L 192, 24. 7. 1990, p. 1.

- Council Directive 92/44/EEC of 5 June 1992 on the application of open network provision to leased lines ⁽¹⁾,
- the common position adopted by the Council on 30 June 1993 on the proposal for a Council Directive on the application of open network provision to voice telephony,
- Council Recommendation 92/382/EEC of 5 June 1992 on the harmonized provision of a minimum set of packet-switched data services (PSDS) in accordance with open network provision (ONP) principles ⁽²⁾,
- Council Recommendation 92/383/EEC of 5 June 1992 on the provision of harmonized integrated services digital network (ISDN) access arrangements and a minimum set of ISDN offerings in accordance with open network provision (ONP) principles ⁽³⁾,

and that these elements have still to be examined in greater detail and, where necessary, adapted to take account of the future competitive environment and of practical experience.

RECOGNIZES:

- (a) that the maintenance and development of a universal telecommunications service, ensured through adequate financing, are a key factor for the future development of telecommunications in the Community;
- (b) that the principles of universality, equality and continuity are the basis for such a service to permit access to a defined minimum service of specified quality to all users everywhere and, in the light of specific national conditions, at an affordable price;
- (c) that common principles for the provision of universal service would be necessary in order to achieve a balanced and fair regulatory environment throughout the Community, while taking account of specific national conditions regarding regulatory and market aspects;
- (d) that special and targeted provision of universal service for social reasons should be possible;
- (e) that in order to promote Community-wide telecommunications services there is a need to ensure interconnection of public networks and, in the future competitive environment, interconnection between different national and Community operators;
- (f) that where under universal service obligations a basic voice telephony service can only be provided at a loss or provided under cost conditions falling outside

normal commercial standards, that service may, where justified and subject to the approval of the national regulatory authority, be financed through internal transfers, access fees or other mechanisms which take due account of the principles of transparency, non-discrimination and proportionality, while ensuring compliance with competition rules in order to make a fair contribution to the burden which the provision of universal service represents;

- (g) that in pursuing the objective of maintaining and developing a universal telecommunications service account will be taken of the specific circumstances of the peripheral regions with less-developed networks and of very small networks and the role which the appropriate Community support framework may play having regard to national priorities;
- (h) that the concept of universal service must evolve to keep pace with advances in technology, market development and changes in user demand;

WELCOMES:

the intention of the Commission to take full account of the requirement for universal service in preparing the future adjustment of the regulatory framework for the telecommunications sector, in particular by applying and adapting the open network provision principles;

CALLS UPON the Member States

to establish and maintain an appropriate regulatory framework and set appropriate targets, in accordance with the objectives and principles set out in this resolution and with Community law, in particular competition rules, in order to ensure, in the light of specific national circumstances, including town and country planning and the requirements of networks with a limited operating area, universal service throughout their territory;

INVITES the Commission:

- (a) to study and consult, in particular with national regulatory authorities, on the issues raised by the definition of universal service and its means of financing, taking specific account of the need for adjustment in peripheral regions with less-developed networks;
- (b) to study in consultation with the Member States tariff principles, accounting principles and transfers with a view to facilitating the preparation of their national adjustment programmes;
- (c) to draw up common access charge principles, in close consultation with the high-level committees of the national regulatory authorities;
- (d) to submit a report to the European Parliament and the Council on this issue by 1 January 1996.

⁽¹⁾ OJ No L 165, 19. 6. 1992, p. 27.

⁽²⁾ OJ No L 200, 18. 7. 1992, p. 1.

⁽³⁾ OJ No L 200, 18. 7. 1992, p. 10.