

COMMON POSITION (EC) No 17/95

adopted by the Council on 12 July 1995

with a view to adopting Directive 95/.../EC of the European Parliament and of the Council of ... on the application of open network provision (ONP) to voice telephony

(95/C 281/03)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF
THE EUROPEAN UNION,

Having regard to the Treaty establishing the European
Community, and in particular Article 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 referred to in
Article 189b of the Treaty ⁽³⁾,

- (1) Whereas 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 ⁽⁴⁾ provides, *inter alia*, for the adoption of a specific Directive establishing open network provision conditions for the voice telephony service;
- (2) Whereas in accordance with Directive 90/387/EEC, open network provision (ONP) applies to public telecommunications networks and, where applicable, public telecommunications services; whereas therefore the application of ONP to the voice telephony service must also include the application of ONP to the network over which the voice telephony service is provided;
- (3) Whereas ONP conditions for access to and use of the fixed public telephone networks and services shall apply to all the network technologies currently in use in Member States, including analogue telephone networks, digital networks and the integrated services digital network (ISDN);
- (4) Whereas this Directive does not apply to mobile telephony services; whereas it does apply to the use of fixed public telephone networks by operators of public mobile telephony services, in particular with respect to the interconnection of mobile telephone

networks with the fixed public telephone network in a single Member State, in order to achieve comprehensive Community-wide services; whereas this Directive does not apply to direct interconnection between operators of public mobile telephony services;

- (5) Whereas this Directive does not apply to services or facilities provided at network termination points located outside the Community;
- (6) Whereas Commission Directive 90/388/EEC of 28 June 1990 on competition in the markets for telecommunications services ⁽⁵⁾ requires Member States to withdraw exclusive rights for the supply of telecommunications services other than voice telephony; whereas Directive 90/388/EEC does not apply to telex, mobile radiotelephony and paging services;
- (7) Whereas some Member States have abolished exclusive rights for the provision of voice telephony and the public telecommunications network; whereas such Member States should ensure that all users can subscribe to harmonized telephony services in accordance with this Directive; whereas the provisions of this Directive should not hinder entry to markets for voice telephony or the provision of the public telecommunications network;
- (8) Whereas use of the voice telephony service has become important for social and economic reasons, and everyone in the Community should have the right to subscribe to this service; whereas in application of the principle of non-discrimination, voice telephony service must be offered and provided on request without discrimination to all users; whereas the principle of non-discrimination applies to, *inter alia*, availability of technical access, tariffs, quality of service, provision time (delivery period), fair distribution of capacity in case of scarcity, repair time, availability of network information and customer information, subject to relevant legislation concerning the protection of personal data and privacy;
- (9) Whereas in accordance with Directive 90/388/EEC, Member States which maintain exclusive rights for

⁽¹⁾ OJ No C 122, 18. 5. 1995, p. 4.

⁽²⁾ Opinion delivered on 31 May 1995 (not yet published in the Official Journal).

⁽³⁾ Opinion of the European Parliament of 16 May 1995 (not yet published in the Official Journal), common position of the Council of ... (not yet published in the Official Journal) and decision of the European Parliament of ... (not yet published in the Official Journal).

⁽⁴⁾ OJ No L 192, 24. 7. 1990, p. 1.

⁽⁵⁾ OJ No L 192, 24. 7. 1990, p. 10. Directive as amended by Directive 94/46/EC (OJ No L 268, 19. 10. 1994, p. 15).

- the provision and operation of public telecommunications networks must take the necessary measures to make the conditions governing access to and use of the network objective and non-discriminatory and to publish them; whereas it is necessary to harmonize which specifications should be published and in what form, in order to facilitate the provision of telecommunications services within Member States and between Member States, and in particular the provision of services by companies, firms or natural persons established in a Member State other than that of the company, firm or natural person for whom the services are intended;
- (10) Whereas in conformity with the principle of separation of regulatory and operational functions, national regulatory authorities have been created in Member States; whereas in application of the principle of subsidiarity, the national regulatory authority of each Member State should play an important role in the implementation of this Directive, particularly in matters relating to the publication of targets and performance statistics, dates for the implementation of new facilities, adequate consultation with users/consumers and user/consumer organizations, the control of numbering plans, the supervision of conditions of use, and the resolution of disputes and in ensuring that users are given fair treatment throughout the Community; whereas they should have the necessary means to carry out these tasks fully;
- (11) Whereas quality of service as perceived by users is an essential aspect of the service provided, and quality-of-service parameters and achieved performance should be published for the benefit of users; whereas harmonized quality-of-service parameters and common measurement methods are required in order to assess Community-wide convergence of quality of service, whereas different categories of user require different levels of quality of service, for which different tariffs may be appropriate;
- (12) Whereas users of the fixed public telephone network should have at least similar rights when dealing with telecommunications organizations as they have with the providers of other goods and services, and telecommunications organizations should not have any undue legal protection when dealing with users of the fixed public telephone network;
- (13) Whereas agreement between the parties involved can constitute a contract; whereas, in order to avoid unfair contractual clauses, it is necessary that national regulatory authorities have the right to require modifications of conditions imposed by telecommunications organizations on users in their contracts; whereas Member States may decide whether their national regulatory authority shall check these contractual conditions either before their use by telecommunications organizations, or at any time at the user's request;
- (14) Whereas Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts⁽¹⁾ already provides general protection for consumers with regard to contractual terms; nevertheless for the purpose of this Directive it is necessary to complete this general protection by adding more specific rules which should apply to all users;
- (15) Whereas, in addition to the basic voice telephony service made available to users it is desirable to ensure that, subject to technical feasibility and economic viability, a harmonized minimum set of advanced voice telephony facilities is offered to users, both for communications within a Member State and for communications between Member States;
- (16) Whereas the provision of other voice telephony facilities, provided in response to market demand in addition to the harmonized minimum set of voice telephony facilities described herein, should not impede the provision of the basic voice telephony facilities and should not lead to unreasonable increases in the prices for basic voice telephony service;
- (17) Whereas harmonized conditions for the voice telephony service should allow Member States flexibility to determine the timescales for implementation, given the different situations with regard to technical development of the network and market demand;
- (18) Whereas the Commission has issued Guidelines on the application of Community competition rules in the telecommunications sector⁽²⁾ in order, *inter alia*, to clarify the application of Community competition law when telecommunications organizations cooperate in order to implement Community-wide interconnectivity between public networks and services;
- (19) Whereas, in order to provide efficient and effective telecommunications services, and to offer new applications, telecommunications service providers and other users may, in accordance with the principles of Community law, require access to the fixed public telephone network at points other than the network termination points offered to the majority of telephone users; whereas such requests must be reasonable ones in terms of technical feasibility and economic viability; whereas procedures must be introduced to provide a balance between the requirements of users and the justified concerns of telecommunications organizations; whereas it is essential that in making full and

⁽¹⁾ OJ No L 95, 21. 4. 1993, p. 29.

⁽²⁾ OJ No C 233, 6. 9. 1991, p. 2.

- efficient use of the fixed public telephone network via such special network access, the integrity of the public network is maintained;
- (20) Whereas in accordance with the definition in Directive 90/387/EEC, the network termination point may be located on the premises of a telecommunications organization; whereas installation of equipment owned by service providers on the premises of a telecommunications organization is not specifically called for in this Directive;
- (21) Whereas it is necessary for adequate safeguards to be implemented by national regulatory authorities in order to ensure that telecommunications organizations do not discriminate against service providers with whom they are in competition including, in particular, safeguards to ensure fair access to network interfaces; whereas the tariffs which apply to telecommunications organizations when using the fixed public telephone network for the provision of telecommunications services should be the same as the tariffs which apply to other users;
- (22) Whereas users should benefit from economies of scope and scale which may result from new intelligent network architectures; whereas the development of the Community market in telecommunications services calls for the widest availability of facilities such as those identified in this Directive; whereas the principle of non-discrimination should be applied in a manner that does not hinder the development of advanced telecommunications services;
- (23) Whereas telecommunications organizations should be encouraged to establish the necessary cooperation mechanisms in order to ensure full Community-wide interconnectivity between public networks — in particular for the voice telephony service; whereas national regulatory authorities should facilitate such cooperation; whereas such interconnection should be subject to regulatory supervision in order to safeguard the interests of users Community-wide and ensure compliance with Community law, where appropriate in compliance with the existing international regulatory framework within the scope of the International Telecommunications Union (ITU); whereas therefore national regulatory authorities should have the right of access to full information about network interconnection agreements where required; whereas the Commission may request from Member States details of special network access agreements and interconnection agreements in so far as Community law so provide;
- (24) Whereas interconnection of public telephone networks is essential for the provision of Community-wide voice telephony services; whereas it is the responsibility of national regulatory authorities to ensure that the conditions governing interconnection with the fixed public telephone networks, including interconnection by telecommunications organizations from other Member States and operators of public mobile telephony services, are objective and non-discriminatory in accordance with Directive 90/387/EEC;
- (25) Whereas where the fixed public telephone network in a Member State is operated by more than one telecommunications organization, appropriate supervision of interconnection arrangements by national regulatory authorities is necessary in order to guarantee Community-wide provision of voice telephony service; whereas such interconnection arrangements should take due account of the principles laid down in this Directive;
- (26) Whereas the principle of non-discrimination in relation to interconnection primarily aims at avoiding abuse of a dominant position by telecommunications organizations;
- (27) Whereas in accordance with Directive 90/387/EEC common, efficient tariff principles, based on objective criteria and cost orientation, should be applied throughout the Community; whereas a reasonable transition period may be necessary in order to implement these tariff principles fully; whereas tariffs must nevertheless be transparent and properly published, must be sufficiently unbundled in accordance with the competition rules of the Treaty, and must be non-discriminatory and guarantee equality of treatment; whereas application of the principle of cost orientation should take account of the objective of universal service and may take account of town and country planning policies aimed at ensuring cohesion within a Member State;
- (28) Whereas national regulatory authorities should have responsibility for supervising tariffs; whereas tariff structures should evolve in response to technological development and user demand; whereas the requirement for cost-oriented tariffs means that telecommunications organizations should implement within a reasonable time limit cost accounting systems by which costs can be allocated to services as accurately as possible on the basis of a transparent cost accounting system; whereas such requirements can be fulfilled for example by implementation of the principle of fully distributed costing;
- (29) Whereas, within the overall principle of cost orientation, some flexibility is needed, under supervision of the national regulatory authority, in order to allow discount schemes for certain uses, or socially desirable tariffs for particular groups of people, for particular types of call, or at particular

- times of day; whereas discount schemes must comply with the competition rules of the Treaty, and in particular with the general principle that the conclusion of contracts must not be subject to acceptance of unrelated supplementary obligations; whereas, in particular, discount schemes must not link the supply of services provided under special or exclusive rights with services provided competitively;
- (30) Whereas users must be able to check the correctness of their bills by being given the possibility of itemized bills, to a level of detail compatible with user needs and with relevant legislation on data protection and privacy;
- (31) Whereas directories of users who subscribe to the voice telephony service should be readily available, since they are an important element for use of the voice telephony service; whereas directory information should be made available on fair and non-discriminatory terms; whereas users should have the choice of being included or excluded from directories, in conformity with relevant legislation on data protection and privacy; whereas this Directive does not change the regulatory situation regarding the supply of directories;
- (32) Whereas public pay-telephones provide an important means of access to the voice telephony service, especially for emergencies, and it is desirable to ensure that they are available to meet the reasonable needs of users;
- (33) Whereas, recognizing that users would benefit from a single type of telephone payment card usable in all Member States, the Commission has given the European Committee for Standardization (CEN)/the European Committee for Electrotechnical Standardization (Cenelec) a mandate to develop suitable standards; whereas, in addition to these standards, commercial agreements are needed to ensure that pre-payment cards issued in one Member State can be used in other Member States;
- (34) Whereas, within each Member State, measures may be taken to assist groups of people with special needs; whereas this may include provisions relating to the voice telephony service, because it is recognized as an important service for disabled people;
- (35) Whereas the Commission has requested the European Telecommunications Standards Institute (ETSI) to study the technical feasibility and economic viability of a harmonized single line network interface suitable for access to and use of the fixed public telephone network in all Member States; whereas, to ensure harmonized access for ISDN terminal equipment, it is desirable to set requirements for the corresponding network termination point including specifications for the socket;
- (36) Whereas national telephone numbers are a resource which should be controlled by national regulatory bodies; whereas numbering schemes should be developed in close consultation with telecommunications organizations and in harmony with a long-term Europe-wide numbering framework and the international numbering scheme; whereas number changes are expensive for both telecommunications organizations and users, and should be kept to a minimum compatible with national and international long-term requirements;
- (37) Whereas the Council resolution of 19 November 1992 on the promotion of Europe-wide cooperation on numbering of telecommunications services⁽¹⁾ considers as a major policy goal the strengthening of cooperation on the numbering arrangements for services with pan-European applications; whereas there is a need to create a European numbering space in order to facilitate the implementation and use of Europe-wide voice telephony services including freephone/green numbers.
- (38) Whereas in accordance with Directive 90/388/EEC Member States which make the supply of telecommunications services subject to a licensing or declaration procedure must ensure that the conditions for the grant of licences are objective, non-discriminatory and transparent, that reasons are given for any refusal, and that there is a procedure for appealing against any such refusal; whereas conditions for using the fixed public telephone network must be compatible with Community law and in particular Directive 90/387/EEC; whereas in accordance with Council Directive 92/44/EEC of 5 June 1992 on the application of open network provision to leased lines⁽²⁾, any restrictions aimed at ensuring compliance with the essential requirements should be compatible with Community law and imposed by the national regulatory authorities through regulatory means; whereas no technical restrictions may be introduced or maintained for the interconnection of leased lines and public telephone networks;
- (39) Whereas in accordance with Directive 90/387/EEC, the essential requirements upon which restrictions on access to and use of public telecommunications networks or services are justified are limited to the security of network operations, maintenance of network integrity, interoperability of services in

⁽¹⁾ OJ No C 318, 4. 12. 1992, p. 2.

⁽²⁾ OJ No L 165, 19. 6. 1992, p. 27. Directive as amended by Commission Decision 94/439/EC (OJ No L 181, 15. 7. 1994, p. 40).

justified cases and protection of data as appropriate; whereas, in addition, the conditions generally applicable to the connection of terminal equipment apply; whereas national regulatory authorities may authorize procedures whereby a telecommunications organization can react immediately in the event of a serious breach of conditions of access or use;

- (40) Whereas the principle of transparency should apply to the standards upon which voice telephony services are based; whereas in accordance with Directive 90/387/EEC, the harmonization of technical interfaces and access conditions must be based on common technical specifications which take account of international standardization; whereas in accordance with Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations ⁽¹⁾, new national standards must not be developed in areas where harmonized European standards are under development;
- (41) Whereas, to enable the Commission to monitor effectively the application of this Directive, it is necessary that Member States notify to the Commission the national regulatory authorities which will be responsible for the functions created by this Directive and the provision of the relevant information called for in this Directive;
- (42) Whereas, in addition to the rights of recourse granted under national or Community law, there is a need for a simple conciliation procedure for disputes both at a national level and at a Community level; whereas this procedure should be responsive, inexpensive and transparent and should involve all the parties concerned;
- (43) Whereas telecommunications services are subject to consumer protection legislation, data protection legislation and legislation concerning dissemination of information or material which may be considered offensive by the general public, and therefore no specific additional measures are envisaged in this Directive;
- (44) Whereas transparency would be improved by regular and systematic dialogue with telecommunications organizations, users, consumers, manufacturers and service providers as regards Community-wide issues raised by this Directive; whereas consultation with trade unions is already covered by Commission Decision 90/450/EEC ⁽²⁾ which set up, to assist the Commission, a Joint Committee

on Telecommunications Services consisting of representatives of employers and employees;

- (45) Whereas given the dynamic development in this sector, the application of open network provision to voice telephony must be a progressive and ongoing process, and the regulatory conditions must be flexible enough to meet the demands of a changing market and changing technology; whereas a responsive procedure for technical adjustment should therefore be established which takes full account of the views of Member States and involves the ONP Committee;
- (46) Whereas a procedure will probably have to be introduced for ensuring Community-wide convergence by determining harmonized targets and target dates for voice telephony services and facilities; whereas such a convergence procedure should involve the ONP Committee; whereas in such a procedure full account must be taken of the state of network development and market demand in the Community;
- (47) Whereas the goal of an advanced cost-effective Community-wide voice telephony service — an essential foundation of the internal market — cannot be realized satisfactorily at Member State level, and hence is better achieved at Community level by the adoption of this Directive;
- (48) Whereas Decision 91/396/EEC ⁽³⁾ requires the introduction in the Community of a single European emergency call number; whereas Council Directive 91/263/EEC of 29 April 1991 on the approximation of the laws of the Member States concerning telecommunications terminal equipment, including the mutual recognition of their conformity ⁽⁴⁾ defines the conditions for connection of terminal equipment to the fixed public telephone network;
- (49) Whereas Europe is shifting towards an information-based economy; whereas open access to networks is a critical issue at world level; whereas the Council has agreed a timetable for the liberalization of all telecommunications services, networks and infrastructures; whereas a balanced policy of liberalization and harmonization, including accompanying measures for universal service, will continue to ensure that business, industry and the public can access modern, economic and efficient communications infrastructures over which a rich and diverse range of services will be offered;

⁽¹⁾ OJ No L 109, 26. 4. 1983, p. 8. Directive as last amended by Directive 94/10/EC of the European Parliament and of the Council (OJ No L 100, 19. 4. 1994, p. 30).

⁽²⁾ OJ No L 230, 24. 8. 1990, p. 25.

⁽³⁾ OJ No L 217, 6. 8. 1991, p. 31.

⁽⁴⁾ OJ No L 128, 23. 5. 1991, p. 1. Directive as last amended by Directive 93/97/EEC (OJ No L 290, 24. 11. 1993, p. 1).

(50) Whereas the Council resolution of 22 July 1993⁽¹⁾ calls on the Commission to introduce the necessary proposals for legislation by 1 January 1996 and to consider how to adjust open network provision to future developments,

— 'public pay-telephone' means a telephone available to the general public, for the use of which the means of payment are coins, credit/debit cards and/or pre-payment cards.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Scope

1. This Directive concerns the harmonization of conditions for open and efficient access to and use of fixed public telephone networks and public telephony services, and the availability throughout the Community of a harmonized voice telephony service.

2. This Directive does not apply to mobile telephony services except in so far as it concerns the interconnection between the networks used for public mobile telephony services and the fixed public telephone networks.

Article 2

Definitions

1. The definitions given in Directive 90/387/EEC shall apply, where relevant, to this Directive.

2. For the purposes of this Directive:

— 'fixed public telephone network' means the public switched telecommunications network which is used, *inter alia*, for the provision of voice telephony service between network termination points at fixed locations;

— 'users' means end-users, including consumers (e.g. residential end-users), and service providers, including telecommunications organizations where the latter are engaged in providing services which are or may be provided also by others;

— 'national regulatory authority' means the body or bodies in each Member State, legally distinct and functionally independent of the telecommunications organizations, entrusted by that Member State, *inter alia*, with the regulatory functions addressed in this Directive;

— 'ONP Committee' means the Committee created by Article 9 (1) of Directive 90/387/EEC;

Article 3

Provision of service, connection of terminal equipment and use of the network

Member States shall ensure that the respective telecommunications organizations separately or jointly provide a fixed public telephone network and a voice telephony service in accordance with the provisions of this Directive, in order to guarantee a harmonized offering throughout the Community.

In particular Member States shall ensure that users can:

(a) obtain on request a connection to the fixed public telephone network;

(b) connect and use approved terminal equipment situated on the users' premises, in accordance with national and Community law.

Member States shall ensure that no restrictions are placed on the use made of the connection provided, other than those referred to in Article 22.

Article 4

Publication of and access to information

1. National regulatory authorities shall ensure that adequate and up-to-date information on access to and use of the fixed public telephone network and voice telephony service is published according to the list of headings given in Annex 1.

Changes in existing offerings and information on new offerings shall be published as soon as possible. The national regulatory authority may lay down a suitable period of notice.

2. The information referred to in paragraph 1 shall be published in an appropriate manner so as to provide easy access for users to that information. Reference shall be made in the national official journal of the Member State concerned to the publication of this information.

3. National regulatory authorities shall notify to the Commission no more than one year after the adoption of this Directive — and thereafter in the case of any change — the manner in which the information referred to in paragraph 1 is made available; the Commission shall regularly publish a corresponding reference to such notifications in the *Official Journal of the European Communities*.

⁽¹⁾ OJ No C 213, 6. 8. 1993, p. 1.

*Article 5***Targets for supply time and quality of service**

1. National regulatory authorities shall ensure that targets are set and published for the supply-time and quality-of-service indicators listed in Annex II. Definitions, measurement methods and the performance of telecommunications organizations in relation to those targets shall be published annually. Definitions, measurement methods and targets shall be reviewed at least every three years by the national regulatory authority.

2. Publication shall be in the manner laid down in Article 4.

3. Where appropriate, the Commission shall, in consultation with the ONP Committee, acting in accordance with procedure laid down in Article 30, request ETSI to draw up European standards for common definitions and measurement methods.

*Article 6***Conditions for the termination of offerings**

1. National regulatory authorities shall ensure that service offerings continue for a reasonable period of time and that termination of an offering, or a change that materially alters the use that can be made of it, can be done only after consultation with users affected and an appropriate public notice period set by the national regulatory authority.

2. Without prejudice to other rights of appeal provided for by national law, Member States shall ensure that users, acting where national law provides for this in conjunction with organizations representing user and/or consumer interests, can bring before the national regulatory authority cases where the users affected do not agree with the termination date as envisaged by the telecommunications organization.

*Article 7***User contracts**

1. National regulatory authorities shall ensure that users have a contract which specifies the service to be provided by a telecommunications organization and any compensation and/or refund arrangements to be provided if the contracted service quality levels are not met.

2. Telecommunications organizations shall respond to a request for connection to the fixed public telephone network without delay and shall give the user an estimated date for provision of service.

3. National regulatory authorities shall be able to require the alteration of the conditions of contracts and the conditions of any compensation and/or refund schemes used by telecommunications organizations. Users' contracts with telecommunications organizations shall contain a summary of the method of initiating procedures for the settlement of disputes.

4. Member States shall ensure that users have the right to institute proceedings against a telecommunications organization.

*Article 8***Variation of published conditions**

Where in response to a particular request a telecommunications organization considers it unreasonable to provide a connection to the fixed public telephone network under its published tariffs and supply conditions, it must seek the agreement of the national regulatory authority to vary those conditions in that case.

*Article 9***Provision of advance facilities**

1. National regulatory authorities shall ensure the provision, subject to technical feasibility and economic viability, of the facilities listed in Annex III (1), in accordance with the technical standards identified in Article 24.

2. National regulatory authorities shall facilitate and encourage provision of the services and facilities listed in Annex III (2), in accordance with the technical standards identified in Article 24, through commercial arrangements between telecommunications organizations and where applicable other persons providing the service or facility, in compliance with the competition rules of the Treaty and in response to user demand.

3. National regulatory authorities shall ensure that dates for the introduction of the facilities listed in Annex III (1) are set, taking into account the state of network development, market demand and progress with standardization, and are published in the manner laid down in Article 4. They shall encourage the setting and publication of dates for the services and facilities listed in Annex III (2) in the same manner.

Article 10

Special network access

1. National regulatory authorities shall ensure that telecommunications organizations respond to reasonable requests from users other than:

- (a) operators of public mobile telephony services;
- (b) telecommunications organizations when providing voice telephony service;

for access to the fixed public telephone network at network termination points other than the network termination points referred to in Annex 1.

Where in response to a particular request a telecommunications organization considers it unreasonable to provide the special network access requested, it must seek the agreement of the national regulatory authority to restrict or deny that access. Users affected should be granted the opportunity to put their case to the national regulatory authority before a decision is taken.

Where a request for special network access is denied, the user making the request should be given a prompt and justified explanation as to why the request has been refused; however, this provision shall not apply to any action taken under national regimes for the enforcement of licensing conditions in conformity with Community law or to proceedings before a national court.

2. Technical and commercial arrangements for special network access shall be a matter for agreement between the parties involved, subject to intervention by the national regulatory authority as laid down in paragraphs 1, 3 and 4. The agreement may include reimbursement to the telecommunications organization of the costs incurred *inter alia* in providing the network access requested; these charges shall fully respect the principles of cost orientation set out in Annex II to Directive 90/387/EEC.

3. National regulatory authorities may intervene on their own initiative at any time, and shall do so if requested by either party, in order to set conditions that are non discriminatory, are fair and reasonable for both parties and offer the greatest benefit to all users.

4. National regulatory authorities shall also have the right, in the interest of all users, to ensure that the agreements include conditions that meet the criteria set out in paragraph 3, are entered into and implemented in an efficient and timely manner and include conditions on conformity with relevant standards, compliance with essential requirements and/or the maintenance of end-to-end quality.

5. Conditions set by national regulatory authorities in accordance with paragraph 4 shall be published in the manner laid down in Article 4.

6. National regulatory authorities shall ensure that telecommunications organizations adhere to the principle of non-discrimination when they make use of the fixed public telephone network for providing services which are or may also be supplied by other service providers.

7. Where appropriate, the Commission shall, in consultation with the ONP Committee, acting in accordance with the procedure laid down in Article 30, request ETSI to draw up standards for new types of network access. Reference to such standards shall be published in the *Official Journal of the European Communities* in accordance with Article 5 (1) of Directive 90/387/EEC.

8. Details of agreements for special network access shall be made available to the national regulatory authority upon request.

Article 11

Interconnection

1. National regulatory authorities shall ensure that reasonable requests for interconnection with the fixed public telephone network from the organizations listed below are met, in particular to ensure Community-wide provision of voice telephony services:

- (a) telecommunications organizations providing fixed public telephone networks in other Member States and whose names have been notified in accordance with Article 26 (3);
- (b) operators of public mobile telephony services in the same Member State.

No request for interconnection shall be refused by a telecommunications organization without the prior agreement of its national regulatory authority.

The interconnection with the fixed public telephone network of operators of public mobile telephony services in other Member States whose names have been notified in accordance with Article 26 (3) may also be agreed between the parties involved. No request for such interconnection shall be refused by a telecommunications organization without the prior agreement of its national regulatory authority.

2. Technical and commercial arrangements for interconnection shall be a matter for agreement between the parties involved, subject to intervention by the national regulatory authority as laid down in Article 10 (3) and (4).

3. National regulatory authorities shall ensure that telecommunications organizations adhere to the principle

of non-discrimination when they enter into interconnection agreements with others.

4. If interconnection agreements include specific compensation provisions for the telecommunications organization in situations where different operating conditions, e.g. price controls or universal service obligations, are imposed upon the respective parties, such compensation provisions shall be cost oriented, non-discriminatory and fully justified, and shall only be applied with the approval of the national regulatory authority acting in accordance with Community law.

5. Details of interconnection agreements shall be made available to the national regulatory authorities concerned, upon request.

Article 12

Tariff principles and transparency

1. National regulatory authorities shall ensure that tariffs for use of the fixed public telephone network and the voice telephony service follow the basic principles of transparency and cost orientation set out in Annex II to Directive 90/387/EEC, and comply with the provisions of this Article.

2. Without prejudice to application of the principle of cost orientation, national regulatory authorities may impose on telecommunications organizations tariff constraints relating to the objectives of universal telephone-service accessibility, including town and country planning aspects.

3. Tariffs for access to and use of the fixed public telephone network shall be independent of the type of application which the users implement, except to the extent that they require different services or facilities.

4. Tariffs for facilities additional to the provision of connection to the fixed public telephone network and provision of voice telephony service shall, in accordance with Community law, be sufficiently unbundled, so that the user is not required to pay for facilities which are not necessary for the service requested.

5. Tariffs shall normally contain the following elements, each of which should be itemized separately for the user:

- an initial charge for connection to the fixed public telephone network and subscription to the voice telephony service,
- a periodic rental charge, based on the type of service and facilities selected by the user,

- usage charges, which may, *inter alia*, take account of peak periods and off-peak periods.

Where other tariff elements are applied, these must be transparent and based on objective criteria.

6. Tariffs shall be published in the manner laid down in Article 4.

7. Tariff changes shall be implemented only after an appropriate public notice period, set by the national regulatory authority, has been observed.

Article 13

Cost accounting principles

1. Member States shall ensure that their telecommunications organizations notified in accordance with Article 26 (2) operate by 31 December 1996 at the latest a cost accounting system suitable for the implementation of Article 12 and that compliance with such a system is verified by a competent body which is independent of those organizations. A statement concerning compliance shall be published periodically.

2. National regulatory authorities shall ensure that a description of the cost accounting system showing the main categories under which costs are gathered and the rules used for the allocation of costs to the voice telephony service is made available on request. National regulatory authorities shall submit on request to the Commission information on the cost accounting system applied by the telecommunications organizations.

3. Without prejudice to the last subparagraph of this paragraph, the system referred to in paragraph 1 shall include the following elements:

- (a) the costs of the voice telephony service shall in particular include the direct costs incurred by the telecommunications organizations in setting up, operating and maintaining the voice telephony service and in marketing and billing the service;
- (b) common costs, that is costs which can be directly assigned to neither the voice telephony service nor other activities, shall be allocated as follows:
 - (i) whenever possible, common cost categories shall be allocated on the basis of direct analysis of the origin of the costs themselves;
 - (ii) when direct analysis is not possible, common cost categories shall be allocated on the basis of an indirect linkage to another cost category or

group of cost categories for which a direct assignment or allocation is possible; the indirect linkage shall be based on comparable cost structures;

- (iii) when neither direct or indirect measures of cost allocation can be found, the cost category shall be allocated on the basis of a general allocator computed by using the ratio of all expenses directly or indirectly assigned or allocated, on the one hand, to the voice telephony service and, on the other hand, to other services.

Other cost accounting systems may be applied if they are suitable for the implementation of Article 12 and have been approved as such by the national regulatory authority for application by the telecommunications organizations, subject to the Commission being informed prior to their application.

4. Detailed accounting information shall be made available to the national regulatory authority on request and in confidence.

5. Member States shall ensure that the financial accounts of those telecommunications organizations notified in accordance with Article 26 are drawn up, published and submitted to audit in accordance with the provisions of national legislation.

Article 14

Discounts, low-usage schemes and other specific tariff provisions

1. National regulatory authorities may agree that bulk discount schemes can be offered to users and shall make those schemes subject to supervision by the national regulatory authority.

2. National regulatory authorities may agree special tariffs for the provision of socially useful services such as emergency services, or for low-usage users or specific social groups.

3. National regulatory authorities shall ensure that tariff structures allow for reduced-rate calls within the Community at off-peak times, including night-time and weekends if appropriate.

4. National regulatory authorities shall ensure that, where special tariffs are introduced for voice telephony services provided in connection with specific projects of limited duration, they shall be subject to prior notification to the national regulatory authority.

Article 15

Itemized billing

National regulatory authorities shall ensure that targets are set and published for the provision of itemized billing as a facility available to users on request, taking into account the state of network development and market demand.

Subject to the following paragraph and the level of detail permitted under relevant legislation on the protection of personal data and privacy, itemized bills shall show the composition of the charges incurred.

Calls which are free of charge to the caller, including calls to helplines, shall not be identified in the caller's itemized bill.

Within this framework, different levels of detail may be offered to users at reasonable tariffs.

Article 16

Directory services

Subject to the requirements of relevant legislation on the protection of personal data and privacy, national regulatory authorities shall ensure that:

- (a) directories of users who subscribe to the voice telephony service are made available to users in either printed or electronic form, and are updated on a regular basis;
- (b) users have the right to have or not to have an entry in publicly available directories;
- (c) telecommunications organizations make available on request public directory information concerning the voice telephony service on published terms which are fair, reasonable and non-discriminatory.

Article 17

Provision of public pay-telephones

National regulatory authorities shall ensure that public pay-telephones are provided to meet the reasonable needs of users, in terms of both numbers and geographical coverage, and that it is possible to make emergency calls from such telephones. Calls to the single European emergency call number referred to in Decision 91/396/EEC shall be free of charge.

*Article 18***Telephone pre-payment cards**

1. The Commission shall ensure that standards for a harmonized telephone pre-payment card suitable for use in pay-telephones in all Member States, and associated network interface standards, are drawn up by ETSI and/or CEN/Cenelec, in order to make it possible for pre-payment cards issued in one Member State to be used in other Member States. A reference to these standards and to those for associated equipment shall be published in the *Official Journal of the European Communities*.

2. National regulatory authorities shall encourage the progressive introduction of public pay-telephones conforming to these standards.

authorities, in order to ensure fair competition. In particular the procedures for allocating individual numbers and numbering ranges shall be transparent, equitable and timely and the allocation shall be carried out in an objective, transparent and non-discriminatory manner.

2. National regulatory authorities shall ensure that the main elements of the national numbering plan, and all subsequent additions or amendments to them are published, subject only to limitations imposed on the grounds of national security.

3. National regulatory authorities shall encourage appropriate use of any European numbering schemes for the provision of the facilities identified in Annex III (2).

*Article 19***Specific conditions for disabled users and people with special needs**

National regulatory authorities may draw up specific conditions to aid disabled users and people with special needs in their use of the voice telephony service.

*Article 20***Specifications for network access, including the socket**

1. Where appropriate, the Commission shall, in consultation with the ONP Committee, acting in accordance with procedure laid down in Article 30, request ETSI to draw up standards for new types of harmonized network access, in accordance with the reference framework set out in Annex II (2) to Directive 90/387/EEC. References to these standards shall be published in the *Official Journal of the European Communities*.

2. Where voice telephony service is supplied to users over the ISDN network at the S/T reference point, national regulatory authorities shall ensure that, after the implementation of this Directive, the introduction of a new network termination point complies with the relevant physical interface specifications, in particular those for the socket, referenced in the list of standards published in the *Official Journal of the European Communities*.

*Article 21***Numbering**

1. Member States shall ensure that national telephone numbering plans are controlled by national regulatory

*Article 22***Conditions of access and use and essential requirements**

1. Member States shall ensure that conditions which restrict access to and use of fixed public telephone networks or voice telephony services are based only on the grounds given in paragraphs 3, 4 and 5, and are imposed with the agreement of the national regulatory authority.

2. National regulatory authorities shall draw up procedures in order to decide, on a case-by-case basis and in the shortest possible time period, whether or not to allow telecommunications organizations to take measures such as the refusal to provide access to the fixed public telephone network or the interruption or reduction in availability of voice telephony service, for reasons of a user's alleged failure to comply with the conditions of use. These procedures may also provide for the possibility of the national regulatory authority authorizing, *a priori*, specified measures in the event of defined infringements of the conditions of use.

The national regulatory authority shall ensure that these procedures provide for a transparent decision-making process in which due respect is given to the rights of the parties. The decision shall be taken after both parties have been given the opportunity to state their case. The decision shall be duly substantiated and notified to the parties within one week of its adoption.

A summary of these procedures shall be published in the manner laid down in Article 4.

This provision shall not prejudice the rights of the parties concerned to apply to the courts.

3. Any restrictions placed upon users on the basis of special or exclusive rights for voice telephony shall be imposed through regulatory means and shall be published in accordance with Article 4.

4. Conditions for connection of terminal equipment to the fixed public telephone network shall comply with Directive 91/263/EEC and shall be published in accordance with Article 4 of this Directive.

Without prejudice to the provisions of Directive 91/263/EEC, where a user's terminal equipment does not comply or no longer complies with its approval conditions, or where it malfunctions in a way which adversely affects the integrity of the network, or where there is a danger of physical injury to persons, national regulatory authorities shall ensure that the following procedure is followed:

- the provision of service may be interrupted by the telecommunications organization until the terminal is disconnected from the network termination point,
- the telecommunications organization shall immediately inform the user about the interruption, giving the reasons for it,
- as soon as the user has ensured that the terminal equipment is disconnected from the network termination point, the provision of service shall be restored.

5. When access to or use of the fixed public telephone network is restricted on the basis of essential requirements, national regulatory authorities shall ensure that the relevant national provisions identify which of the essential requirements set out in (a) to (d) below are the basis of such restrictions.

Restrictions imposed on the basis of essential requirements shall be published in the manner laid down in Article 4.

Restrictions derived from essential requirements shall be imposed through regulatory means.

Without prejudice to Articles 3 (5) and 5 (3) of Directive 90/387/EEC, the essential requirements specified in Article 3 (2) of that Directive shall apply to the fixed public telephone network and voice telephony service in the following manner:

(a) *Security of network operations*

There shall be no restrictions on access to and use of the fixed public telephone network on the grounds of security of network operations except in emergency situations, when a telecommunications organization may take the following measures in

order to safeguard the security of network operations:

- interruption of the service,
- limitation of service features,
- denial of access to the network and service for new users.

An emergency situation in this context means catastrophic network breakdown or an exceptional case of *force majeure*, such as extreme weather, flood, lightning or fire, industrial action or lockout, war, military operations or civil disorder. In an emergency situation the telecommunications organization shall make every endeavour to ensure that service is maintained to all users.

National regulatory authorities shall ensure that telecommunications organizations have procedures in place where users and the national regulatory authority are immediately informed of the beginning and the end of the emergency, as well as the nature and extent of temporary service restrictions.

(b) *Maintenance of network integrity*

National regulatory authorities shall ensure that restrictions on access to and use of the fixed public telephone network on the grounds of maintenance of network integrity, in order to protect *inter alia* network equipment, software or stored data, are kept to the minimum necessary to provide for normal operation of the network. Restrictions shall be based on published, objective criteria and shall be applied in a non-discriminatory manner.

(c) *Interoperability of services*

When terminal equipment has been approved and is operating in compliance with Directive 91/263/EEC, no further restrictions on use shall be imposed on the grounds of interoperability of services.

Where the national regulatory authority imposes conditions concerning interoperability of services in contracts relating to interconnection of public networks or special network access, those conditions shall be published in the manner laid down in Article 4.

(d) *Protection of data*

Member States may restrict access to and use of the fixed public telephone network on the grounds of protection of data only to the extent necessary to ensure compliance with relevant regulatory provisions on the protection of data, including protection of personal data, the confidentiality of information transmitted or stored, and the protection of privacy, in a manner compatible with Community law.

6. National regulatory authorities shall ensure that, where appropriate, users are informed in advance by appropriate means by the telecommunications organizations of periods when access to or use of the fixed public telephone network may be restricted or denied as a result of planned maintenance activity.

Article 23

Non-payment of bills

Member States shall authorize specified measures, which shall be published in the manner laid down in Article 4, to cover non-payment of bills and any consequent service interruption or disconnection. These measures shall ensure that any service interruption is confined to the service concerned, as far as is technically feasible, and that due warning is given to the user beforehand.

Article 24

Technical standards

1. National regulatory authorities shall encourage the provision of services according to the standards listed below:

- standards published in the *Official Journal of the European Communities*, in accordance with Article 5 (1) of Directive 90/387/EEC or, in the absence of such standards,
- European standards adopted by ETSI, or CEN/Cenelec or, in the absence of such standards,
- international standards or recommendations adopted by the International Telecommunications Union (ITU), the International Organization for Standardization (ISO) or the International Electrotechnical Commission (IEC) or, in the absence of such standards,
- national standards or specifications;

without prejudice to reference to European standards, which reference may be made compulsory under Article 5 (3) of Directive 90/387/EEC.

2. National regulatory authorities shall ensure that telecommunications organizations inform users on request of standards or specifications, including any European and/or international standards which are implemented through national standards, in accordance with which the services and facilities in this Directive are provided.

Article 25

Provisions for Community-wide convergence

1. On the basis of the reports provided by the national regulatory authorities under Article 26 (5) and the information published under Article 4, the Commission shall review progress towards convergence of targets and implementation of common services and facilities within the Community.

2. If implementation of the requirements of Articles 5, 9 or 15 appears inadequate to ensure the provision of harmonized services and facilities to users at a Community level, harmonized targets and target dates may be determined in accordance with the procedure laid down in Article 31.

The procedure initiated by the Commission shall take full account of the state of network development and market demand in all individual Member States.

3. In particular, with regard to those facilities requiring Community-wide cooperation described in Article 9 (2), where commercial agreements between telecommunications organizations cannot be concluded, conditions necessary to achieve the provision of harmonized facilities to users may be recommended.

The recommendations shall take due account of the state of network development, the various architectures and market demand in the Community.

Article 26

Notification and reporting

1. Member States shall notify the name of their national regulatory authority to the Commission by [...] (*).

2. Member States shall notify to the Commission the names of those telecommunications organizations to which this Directive applies, in particular to ensure the provision of the network and service in accordance with Article 3.

Without prejudice to the future applicability of ONP measures, Member States which have abolished exclusive rights for voice telephony may apply this Directive to organizations defined on the basis of a significant market share or on the basis of a dominant position in their authorized area of operation, in such a way as to ensure that at every point in their territory at least one organization is subject to the provisions of this Directive.

(*) One year after the date of adoption of this Directive.

Member States may ensure that telecommunications organizations are obliged to supply the information necessary to determine the application of this Directive.

3. National regulatory authorities shall notify to the Commission the names of those telecommunications organizations in their territory which are authorized to interconnect their fixed networks directly with those of telecommunications organizations in other Member States in order to provide voice telephony service.

National regulatory authorities shall notify to the Commission the names of those operators of public mobile telephony services in their territory which are authorized to interconnect directly with the fixed networks of telecommunications organizations in other Member States in order to provide voice telephony service.

4. The Commission shall publish the names referred to in paragraphs 2 and 3 in the *Official Journal of the European Communities*.

5. National regulatory authorities shall make available to the Commission once each calendar year a report covering the progress made in achieving the targets agreed by the national regulatory authority under Articles 5, 9 and 15.

The annual report shall be sent to the Commission within five months of the end of the year.

6. National regulatory authorities shall keep available and submit to the Commission on request details of individual cases brought before them, other than those covered by Article 23, where access to or use of the public telephone network or voice telephony service has been restricted or denied, including the measures taken and their justification.

However, this provision shall not apply to any action taken under national regimes for the enforcement of licensing conditions in conformity with Community law, or to proceedings before a national court.

Article 27

Conciliation and national dispute resolution

Without prejudice to:

- (a) any action that the Commission or any Member State may take pursuant to the Treaty;
 - (b) the rights of the person invoking the procedure in paragraphs 3 and 4, of the telecommunications organizations concerned or of any other person under applicable national law, except in so far as they enter into an agreement for the resolution of disputes between them;
- (c) the provisions of this Directive which allow the national regulatory authorities to set the terms of contracts between telecommunication organizations and users,
- the following procedures shall be available to the user:
- (1) Member States shall ensure that any party, including users, service providers, consumers, or other telecommunications organizations having an unresolved dispute with a telecommunications organization concerning an alleged infringement of the provisions of this Directive, shall have a right of appeal to the national regulatory authority or another independent body. Easily accessible and in principle inexpensive procedures shall be created at a national level to resolve such disputes in a fair, transparent and timely manner. These procedures shall also apply in cases where users are in dispute with a telecommunication organization about their telephone bills.
 - (2) A user or a telecommunications organization may, where the dispute involves telecommunications organizations in more than one Member State, invoke the conciliation procedure provided for in paragraphs 3 and 4 by means of a written notification to the national regulatory authority and to the Commission. Member States may also allow their national regulatory authority to invoke the conciliation procedure.
 - (3) Whether the national regulatory authority or the Commission finds that there is a case for further examination, following a notification based on paragraph 2, it can refer the matter to the Chairman of the ONP Committee.
 - (4) In the circumstances referred to in paragraph 3, the Chairman of the ONP Committee shall initiate the procedure described below if satisfied that all reasonable steps have been taken at national level:
 - (a) the Chairman of the ONP Committee shall convene as soon as possible a working group including at least two members of the ONP Committee and one representative of the national regulatory authorities concerned, and the Chairman of the ONP Committee or another official of the Commission appointed by him. The working group shall be chaired by the representative of the Commission and shall normally meet within ten days of having been convened. The Chairman of the working group may decide, upon proposal by any of the members of the working group, to invite a maximum of two other persons as experts to advise it;
 - (b) the working group shall give the party invoking this procedure, the national regulatory authorities of the Member States involved and the telecommunications organizations involved the opportunity to present their opinions in oral or written form;

- (c) the working group shall endeavour to reach agreement between the parties involved within three months of the date of receipt of the notification referred to in paragraph 2. The Chairman of the ONP Committee shall inform that Committee of the results of the procedure so that it may express its views.
- (5) The party invoking the procedure shall bear its own costs of participating in this procedure.

Article 28

Deferment of certain obligations

1. When a Member State is unable to or can foresee that it will be unable to fulfil the provisions of Articles 12 and 13 it shall notify the Commission of the reasons.
2. Deferment of obligations under Articles 12 or 13 can be accepted only in cases where the Member States concerned can prove that fulfilment of the obligation would impose an excessive burden on the telecommunications organizations in that Member State.
3. The Member State shall inform the Commission of the date by which the obligation can be fulfilled and of the measures envisaged in order to meet that deadline.
4. When the Commission receives a notification in accordance with paragraph 1, it shall inform the Member State whether it deems that the particular situation of the Member State concerned justifies, on the basis of criteria set out in paragraph 2, a deferment for that Member State of the application of Article 12 or Article 13 and until which date such deferment is justified.

Article 29

Technical adjustment

Modifications necessary to adapt Annex (2), Annexes II and III to this Directive to technological developments or to changes in market demand shall be determined in accordance with the procedure laid down in Article 31.

Article 30

Advisory Committee procedure

1. The Commission shall be assisted by the Committee set up by Article 9 (1) of Directive 90/387/EEC.

The Committee shall, in particular, consult the representatives of the telecommunications organizations, users, consumers, manufacturers and service providers.

2. 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.

Article 31

Regulatory Committee procedure

1. Notwithstanding the provisions of Article 30, the following procedure shall apply in respect of the matters covered by Articles 25 and 29.
2. 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. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.
3. The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.
4. If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 32

Review

1. The European Parliament and the Council shall decide by 1 January 1998, on the basis of a proposal which the Commission will submit to them in good time, on the revision of this Directive to adapt it to the requirements of market liberalization.

2. The Commission shall examine and report to the European Parliament and to the Council on the functioning of this Directive, on the first occasion not later than [...] (*). The report shall be based *inter alia* on the information provided by the Member States to the Commission and to the ONP Committee. Where necessary, further measures may be proposed in the report for full implementation of the aims of the Directive.

Article 33

Implementation

1. Member States shall take the measures necessary to comply with this Directive before [...] (**). They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

2. Member States shall inform the Commission of the main provisions of national law which they adopt in the field governed by this Directive.

Article 34

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 35

This Directive is addressed to the Member States.

Done at ...

For the European Parliament
The President

For the Council
The President

(*) Three years after the date of adoption of this Directive.

(**) One year after the date of adoption of this Directive.

ANNEX I

HEADINGS FOR INFORMATION TO BE PUBLISHED IN ACCORDANCE WITH ARTICLE 4

1. NAME(S) AND ADDRESS(ES) OF TELECOMMUNICATIONS ORGANIZATION(S)

i.e. name(s) and head office address(es) of the telecommunications organization(s) providing fixed public telephone networks and/or voice telephony services.

2. TELECOMMUNICATIONS SERVICES OFFERED

2.1. Types of connection to the fixed telephone network

Technical characteristics of interfaces at commonly provided network termination points are required, including where applicable reference to national and/or international standards or recommendations, in accordance with Article 24:

- for analogue and/or digitally presented networks:
 - (a) single line interface,
 - (b) multiline interface,
 - (c) direct dialling-in (DDI) interface,
 - (d) other interfaces commonly provided;
- for ISDN:
 - (a) specification of basic and primary rate interfaces at the S/T reference points, including the signalling protocol,
 - (b) details of bearer services able to carry voice telephony services,
 - (c) other interfaces commonly provided;
- and any other interfaces commonly provided.

In addition to the above information to be published on a regular basis in the manner laid down in Article 4, telecommunications organizations must inform terminal equipment suppliers, without undue delay, of any particular network characteristics which are found to affect the correct operation of approved terminal equipment.

2.2. Telephone services offered

Description of the basic voice telephony service offered, indicating what is included in the subscription charge and the periodic rental charge (e.g. operator services, directories, maintenance).

Description of optional facilities and features of the voice telephony service which are tariffed separately from the basic offering, including where applicable reference to the relevant technical standards or specifications to which they conform, in accordance with Article 24.

2.3. Tariffs

covering access, usage, maintenance, and including details of any discount schemes

2.4. Compensation/refund policy

including specific details of any compensation/refund schemes offered

2.5. Types of maintenance service offered

2.6. Ordering procedure

including designated contact points within the telecommunications organization

2.7. Standard contract conditions

including any minimum contractual period, if relevant.

3. LICENSING REQUIREMENTS

This shall include a clear description of all licensing conditions which have an impact on users, including service providers, detailing at least:

- information on the character of the licensing conditions, in particular whether registration and/or authorization is required on an individual basis, or whether the licence is of a general nature which does not require individual registration and/or authorization;
- the duration of any relevant licences or authorizations;
- a list referring to all documents containing relevant licensing conditions which the Member State imposes.

4. CONDITIONS FOR ATTACHMENT OF TERMINAL EQUIPMENT

This shall include a complete overview of requirements for terminal equipment as regulated by the national regulatory authority, in line with the provisions of Directive 91/263/EEC, including, where appropriate, conditions concerning customer premises wiring and location of the network termination point.

5. RESTRICTIONS ON ACCESS AND USE

This shall include any restrictions on access and use imposed in accordance with the requirements of Article 22.

6. PERFORMANCE AND QUALITY-OF-SERVICE PARAMETERS

Definitions, measurement methods, targets and achieved performance figures, in accordance with the requirements of Article 5.

7. TARGETS FOR THE INTRODUCTION OF NEW SERVICES, FEATURES, FACILITIES AND TARIFFS

Targets shall be published in accordance with the requirements of Articles 9 and 15.

8. CONDITIONS FOR SPECIAL NETWORK ACCESS

This shall include conditions for special network access set by national regulatory authorities in accordance with Article 10 (5).

9. AVAILABILITY OF THE DESCRIPTION OF THE COST ACCOUNTING SYSTEM

The address from which the description of the cost accounting system may be requested in accordance with the requirements of Article 13.

10. MAIN ELEMENTS OF THE NATIONAL NUMBERING PLAN

In accordance with the requirements of Article 21.

11. TERMS FOR THE USE OF DIRECTORY INFORMATION

In accordance with Article 16 (c).

12. CONCILIATION AND DISPUTE RESOLUTION PROCEDURE

This shall include guidelines for users on the appeal mechanisms available for conciliation and resolving disputes with telecommunications organizations, according to the procedure described in Article 27. This shall also include a summary of the procedures for resolving disputes referred to in Article 22 (2).

13. PROCEDURE IN THE EVENT OF NON-PAYMENT OF BILLS

In accordance with the requirements of Article 23.

ANNEX II

SUPPLY-TIME AND QUALITY-OF-SERVICE INDICATORS IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 5

The following list specifies areas where quality-of-service indicators are required for telecommunications organizations notified in accordance with Article 26 (2):

- supply time for initial network connection,
- fault rate per connection,
- fault repair time,
- call failure rates,
- dial tone delay,
- call set up delay,
- transmission quality statistics,
- response times for operator services,
- the proportion of coin and card-operated public pay-telephones in working order,
- billing accuracy.

ANNEX III

PROVISION OF ADVANCED FACILITIES IN ACCORDANCE WITH ARTICLE 9

1. List of facilities referred to in Article 9 (1):

(a) *DTMF (dual-tone multifrequency operation)*

i.e. the fixed public telephone network supports the use of DTMF telephones for signalling to the exchange, using tones as defined in ITU-T Recommendation Q.23, and supports the same tones for end-to-end signalling through the network, both within a Member State and between Member States.

(b) *Direct dialling-in (or facilities offering equivalent functionality)*

i.e. users on a private branch exchange (PBX) or similar private system can be called directly from the fixed public telephone network, without intervention of the PBX attendant.

(c) *Call forwarding*

i.e. incoming calls sent to another destination in the same or another Member State (e.g. on no reply, on busy, or unconditionally).

This facility should be provided in accordance with relevant legislation on data protection and privacy.

(d) *Calling-line identification*

i.e. the calling party's number is presented to the called party prior to the call being established.

This facility should be provided in accordance with relevant legislation on data protection and privacy.

2. List of services and facilities referred to in Article 9 (2):

(a) *Community-wide access to green/freephone services*

Such services, variously known as green numbers, freephone services, 0800 numbers etc., include dial-up services where the caller pays either nothing for the call or only part of the total cost of the call.

(b) *Community-wide kiosk billing*

Kiosk billing means a facility whereby charges for the use of a service assessed through a telecommunications organization's network are combined with the network call charges ('premium rate service').

(c) *Community-wide call transfer*

i.e. transfer of an established call to a third party in the same or another Member State.

(d) *Community-wide automatic reverse charging service facility for calls which are terminated and originated within the Community*

i.e. prior to the call being connected, the called party, at the caller's request, agrees to accept the cost of the call.

(e) *Community-wide calling-line identification*

i.e. the calling party's number is presented to the called party prior to the call being established.

This facility should be provided in accordance with relevant legislation on data protection and privacy.

(f) *Access to operator services in other Member States*

i.e. users in one Member State can call the operator/assistance service in another Member State.

(g) *Access to directory enquiry services in other Member States*

i.e. users in one Member State can call the directory enquiry service in another Member State.

STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

The Commission submitted to the Council on 31 March 1995 a proposal for a Directive of the European Parliament and of the Council on the application of the principles of open network provision to voice telephony.

The Parliament delivered its opinion at its first reading of this proposal on 16 May 1995 while the Economic and Social Committee delivered its opinion on 31 May 1995.

II. COMMON POSITION

At its meeting on 12 July 1995 the Council adopted by a qualified majority the common position set out in 8280/95 ECO 110 CODEC 82.

III. OBJECTIVE OF THE DIRECTIVE

This proposal is a recast of the proposal originally submitted to the Council in 1992 but rejected by the European Parliament in July, following the co-decision procedure, conciliation having failed. This Directive, like its predecessor, forms part of the framework created by the Council Directive on the establishment of the internal market for telecommunications services through the implementation of open network provision (ONP), which identifies the voice telephony service as one of the priority areas in which the conditions for open network provision need to be determined.

This Directive has three basic objectives:

- to establish the rights of users of voice telephony services when dealing with telecommunications organizations,
- to improve access to the public telephone network infrastructure for all users, including service providers,
- to enhance Community-wide provision of voice telephony services.

IV. AMENDMENTS MADE TO THE COMMISSION'S ORIGINAL PROPOSAL

In its common position the Council has made the following amendments to the Commission proposal:

1. Regulatory Committee procedure (Article 31)

In the Commission proposal the Committee set up to assist the Commission in applying this Directive (ONP Committee set up by Framework Directive 90/387/EEC) was given a merely advisory role.

As the Member States wanted to be more closely involved with the decisions to be taken on the application of Article 25 (convergence procedure) and Article 29 (adjusting the Directive's Annexes to technical progress), the common position provides for such decisions to be taken by a Type IIIA Regulatory Committee procedure, which is also the procedure used in the framework Directive and in the ONP leased-lines Directive.

2. **Provisions to cater for full liberalization of telecommunications in the future** (already carried out in some Member States)

(i) *recital No 7 (new)*

This recital notes that Member States which have already abolished exclusive rights in relation to voice telephony should ensure that all users are able to have access to a harmonized telephony service in accordance with this Directive.

(ii) *Publication of and access to information* (Article 4)

The Commission proposed that changes in existing services should be published no later than two months before they were implemented. The Council found this time limit too rigid and has therefore amended the provision to allow the national regulatory authorities to set the period of notice most appropriate to the market situation.

(iii) *Community-wide convergence* (Article 25)

The text of Article 25 (3) has been aligned on that of the earlier common position.

(iv) *Notification and reporting* (Article 26)

A new subparagraph has been inserted into Article 26 (2) with details on how the Directive is to be implemented in Member States which have already abolished exclusive rights in relation to voice telephony.

(v) *Revision of this Directive* (Article 32)

A new provision has been inserted into Article 32, to the effect that the European Parliament and the Council will decide by 1 January 1998, on the basis of a Commission proposal, on revision of the Directive to adapt it to the requirements of market liberalization.

3. **User contracts** (Article 7)

Paragraph 1 of this Article specifies that any compensation and/or refund arrangements to be provided if service quality levels are not met must be included in user contracts. The European Parliament and the Council were divided on this question during the co-decision procedure on the previous proposal, and the latter has therefore agreed to take the European Parliament's concerns as to consumer protection into account.
