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(Information)

COUNCIL

COUNCIL RESOLUTION

of 18 September 1995

on the implementation of the future regulatory framework for telecommunications

(95/C 258/01)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Commission communication of 25 January 1995 entitled 'Green Paper on the liberalization of telecommunications infrastructure and cable television networks' and the Commission communication on the results of the public consultation,

Having regard to Council resolution 93/C 213/01 of 22 July 1993 on the review of the situation in the telecommunications sector and the need for further development in that market ⁽¹⁾,

Having regard to Council resolution 94/C 48/01 of 7 February 1994 on universal service principles in the telecommunications sector ⁽²⁾,

Having regard to Council resolution 94/C 379/03 of 22 December 1994 on principles and the timetable for liberalization of the telecommunications sector ⁽³⁾,

Considering that resolutions 93/C 213/01 and 94/C 379/03 specified 1 January 1998, with possible transitional periods for certain Member States, for the liberalization of telecommunications infrastructures and public voice telephony services, in parallel with the objective of maintaining and developing universal service;

Considering that through those resolutions the Council called for the rapid definition of a clear and stable regulatory framework at Union level, introducing common principles ensuring, *inter alia*, the provision and the

financing of universal service, the establishment of inter-connection rules, the setting up of licensing procedures and conditions, fair competition and comparable and effective market access, including in third countries;

Considering that the Council specified, in its resolution 94/C 48/01, the essential elements of universal telecommunications service in the Union in a competitive environment, while, in particular, recognizing the importance of ensuring its adequate financing and that the concept of universal service evolves in line with technical progress, market development and changes in user requirements;

Considering that resolution 93/C 213/01 urges Member States to promote the progressive rebalancing of tariffs;

Considering that Member States may, in accordance with the principle of proportionality, legitimately include different public service requirements in certain categories of licences;

Considering that the regulatory framework should provide fair conditions of competition, in particular by requiring accounting transparency and through the equitable management of essential resources,

1. WELCOMES the publication by the Commission of its Green Paper on the liberalization of telecommunications infrastructure and cable television networks and the broad consultation carried out on the subject and NOTES the consensus resulting from it in favour of the establishment of an appropriate regulatory framework focusing on universal service, licences and interconnection, which should permit the introduction of fair and dynamic competition in accordance with the timetable laid down in resolutions 93/C 213/01 and 94/C 379/03.

⁽¹⁾ OJ No C 213, 6. 8. 1993, p. 1.

⁽²⁾ OJ No C 48, 16. 2. 1994, p. 1.

⁽³⁾ OJ No C 379, 31. 12. 1994, p. 4.

2. RECOGNIZES the considerable social and societal impact of the whole liberalization of the telecommunications sector and NOTES that the Commission has established a forum to study the related issues, in particular the trend towards growing employment in this sector.
3. RECOGNIZES as key factors in drawing up the future regulatory framework for telecommunications in the Union:
- (a) the extension of competition of the whole sector through:
- the establishment, in accordance with the principle of subsidiarity, of common principles for general authorization and individual licensing regimes in the Member States, based on categories of balanced rights and obligations,
 - the absence of any restrictions on market entry other than those justified on the grounds of objective, transparent, proportionate and non-discriminatory criteria relating to the availability of scarce resources,
 - the implementation by the national regulatory authorities of objective, transparent and non-discriminatory award procedures and criteria,
 - the efficient management of essential resources, and particularly frequencies, numbers and rights of way, to ensure the equitable treatment of the various market players, under the supervision of the competent national authorities,
 - the approximation of general authorization and individual licensing regimes in order to promote the development of trans-European networks and services;
- (b) the maintenance and development of a universal service in accordance with resolution 94/C 48/01, and to that end, in compliance with the principles of transparency, proportionality and non-discrimination:
- the obligation placed on certain operators by Member States to provide a defined minimum range of telecommunications services of specified quality and, in the light of specific national conditions, at an affordable price,
 - the adoption at Union level of common principles for determining the financial compensation of operators which may be justified by such obligations, placing prime importance on achieving the highest level of productivity in the provision of universal service,
 - the establishment by the Member States, where necessary, of the rules for calculating any corresponding net costs and the mechanisms for sharing such costs between market players, under the control of the national regulatory authorities;
- (c) the establishment, so that all calls between end users remain possible, of a specific regulation on interconnection, resulting in:
- the obligation for operators, within the framework of certain categories of licences and authorizations, to satisfy reasonable requests for interconnection in a non-discriminatory way and in line with essential requirements,
 - the additional obligation for some of those operators, depending on their size, market position and the competition situation, to publish, in an appropriate manner, a reference interconnection offer and to put in place an appropriate cost-accounting system,
 - the elaboration of guidelines for the commercial negotiation of interconnection agreements, setting out a priori the main negotiation conditions, and in particular the timetable, in an objective, transparent and non-discriminatory way,
 - the possibility for all parties to refer to the national regulatory authority with a view to the settlement of any disputes,
 - the possibility, as a last resort, for the national regulatory authorities to impose interconnection in order to protect essential public interests, in compliance with the principle of proportionality;
- (d) the guarantee of comparable and effective market access, including in third countries, in particular through discussions in the appropriate framework.

4. AGREES that the implementation of these principles at Union level requires the adoption, according to the procedures laid down in the Treaty, of legislative measures centring on:

- liberalization of all telecommunications services and infrastructures, in accordance with the procedures and transitional periods provided for in resolutions 93/C 213/01 and 94/C 379/03,
- adaptation to the future competitive environment of ONP measures,
- the maintenance and development of a minimum supply of services throughout the Union and the definition of common principles for financing the universal service,
- the establishment of a common framework for the interconnection of networks and services,
- the approximation of the general authorization and individual licensing regimes in the Member States.

5. REAFFIRMS that it is important that the conditions governing the definition of the future Community policy on the subject should be the result of political agreement based on the compromise of December 1989, and NOTES the Commission's support for this approach.

6. CALLS ON the Commission, in accordance with the timetable set out in resolutions 93/C 213/01 and

94/C 379/03, to present to the European Parliament and the Council before 1 January 1996 all legislative provisions intended to establish the European regulatory framework for telecommunications accompanying the full liberalization of this sector.

7. INVITES the Member States to foster the establishment of dynamic competition by:

- promoting the necessary rebalancing of tariffs in order to establish efficient economic conditions for all players and users, while ensuring the development of universal service,
- defining and publishing at the earliest opportunity, with a view to the future Community regulatory framework, the general authorization and individual licensing regimes applicable to the whole telecommunications sector.

8. INVITES the Commission and the Member States to continue consultation on the elaboration of the future regulatory framework, in particular within the *ad hoc* high-level Committee of National Regulators referred to in resolution 93/C 02/05 ⁽¹⁾.

9. EMPHASIZES THAT the main points of the regulatory framework defined in this resolution, and the timetable set out in resolutions 93/C 213/01 and 94/C 379/03 must be used as a basis for negotiation in the context of the World Trade Organization.

⁽¹⁾ OJ No C 2, 6. 1. 1993, p. 5.