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II

(Preparatory Acts)

COMMISSION

Proposal for a Council Directive on packaging and packaging waste

(92/C 263/01)

COM(92) 278 final — SYN 436

(Submitted by the Commission on 24 August 1992)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

1. Whereas the communication from the Commission to the Council and to Parliament on a Community Strategy for Waste Management ⁽¹⁾, adopted by the Council in its resolution of 7 May 1990 ⁽²⁾ underlines the following hierarchy for waste management: prevention first; recovery and in particular recycling, second, and final disposal only as a last resort;
2. Whereas packaging waste contributes in a great proportion to the increase in the volume of waste and to the saturation of landfills and if not recovered and in particular not recycled, packaging waste presupposes a waste of raw materials and energy;
3. Whereas Council Directive 85/339/EEC of 27 June 1985 on containers of liquids for human consumption ⁽³⁾ was the first step in reducing the

environmental impact of packaging and packaging waste;

4. Whereas a sectoral or a one-sided approach is no longer justified and Community policy must be orientated towards all kinds of packaging waste whether it is released at industrial, commercial, office, shop, service or household level; whereas, therefore, Directive 85/339/EEC should be replaced by a new directive with the widest possible scope;
5. Whereas, as long as life-cycle assessments justify no clear hierarchy, reusable packaging and recoverable packaging waste and in particular, recyclable packaging waste are to be considered as equal valid methods for reducing the environmental impact of packaging and this requires the setting up in the Member States of systems guaranteeing the return of used packaging and/or packaging waste;
6. Whereas on the basis of several life-cycle assessments it can be stated that from an environmental point of view recycling must constitute an important part of recovery, mainly for the reason that energy and raw material requirements and discharges decrease if the waste is recycled and the processed material is used in new production processes;
7. Whereas the current differences in national provisions concerning the management of packaging and packaging waste are liable to distort competition and affect the free movement of goods in the internal

⁽¹⁾ SEC(89) 934 final, 18 September 1989.

⁽²⁾ OJ No C 122, 18. 5. 1990, p. 2.

⁽³⁾ OJ No L 176, 6. 7. 1985, p. 18.

- market, and give rise to differences in the level of protection of the environment;
8. Whereas it is necessary to approximate measures to be undertaken by Member States dealing with the management of packaging waste in order to contribute to the completion of the internal market, avoid obstacles to trade and distortion and restriction of competition within the Community and to ensure a high level of protection of the environment;
 9. Whereas, in order to contribute to the establishment and smooth functioning of the internal market, it appears necessary to harmonize national provisions concerning the management of packaging and packaging waste and this by the:
 - introduction of harmonized measures,
 - definition of harmonized essential requirements and standards, and
 - establishment of criteria with which national measures have to comply;
 10. Whereas the existence of different targets in Member States regarding the recovery and the recycling of packaging waste, can create unjustified barriers to trade and lead to distortion of competition; whereas it is therefore important to harmonize from now on such targets to be attained by the Member States, taking a high level of protection of the environment;
 11. Whereas, in order to avoid obstacles to trade and distortion of competition, it is necessary to define the essential requirements as related to the composition and the nature of reusable and recoverable packaging; whereas the national provisions relating to the production and marketing of packaging and the management of packaging waste shall abide by these essential requirements;
 12. Whereas it is necessary that the return systems to be set up shall be designed in such a way as to avoid barriers to trade and distortion of competition;
 13. Whereas the need is felt that to reach the abovementioned objectives, quantified targets must be defined;
 14. Whereas the provisions of this Directive should contribute to maintaining and improving upon the level of reuse, recycling and recovery of packaging and packaging waste which has been achieved at the time of implementation of this Directive;
 15. Whereas it is necessary to minimize the total impact on the environment of packaging and packaging waste, taking into account not only quantitative but also qualitative aspects and chemical composition;
 16. Whereas the presence of noxious metals in packaging is part of the total concern in the light of their likely presence in emissions or ash when packaging is incinerated, or in leachate when packaging is landfilled; whereas it is desirable as a first step to reduce the toxicity of packaging waste to avoid the addition of the noxious heavy metals to packaging;
 17. Whereas Community markings are needed to indicate the reusable and/or recoverable nature of packaging and for the identification of the nature of the packaging material in order to inform consumers, communities and industrial operators of the correct way to deal with used packaging and packaging waste, to facilitate collection, sorting, reuse and recovery activities and to avoid obstacles to trade;
 18. Whereas the need for Community-wide data on the volume, weight and type of packaging and packaging waste has to be recognized in order to evaluate the achievement of objectives, the effectiveness of measures and to enable further initiatives to be taken with respect to the packaging waste problem;
 19. Whereas the consumer plays a key role in the management of packaging and packaging waste and thus has to be adequately informed in order to adapt his behaviour and attitude; whereas it is essential that enterprises become more conscious of the extent to which their products and packaging become waste, and that they accept responsibility for such waste and that the development and implementation of measures shall involve and require the close cooperation of all the partners within a spirit of shared responsibility;
 20. Whereas Member States shall take into account, when adopting measures to implement this Directive, the problems which will result for small and medium-sized enterprises (SMEs), on condition that this does not affect the provisions of this Directive or of Community law;
 21. Whereas economic instruments can have a considerable impact on the management of packaging waste by promoting and funding more environmentally sound practices;
 22. Whereas, in order to avoid discrimination, the measures taken by Member States to achieve the objectives must be integrated into a policy which covers all packaging and packaging waste and is not limited to any specific type of packaging or packaging material, a product or category of products;
 23. Whereas the Commission must be assisted by a technical committee in order to adapt the provisions and the Annexes to the directive on scientific and technical progress;

24. Whereas drafts of measures to be taken by Member States should be notified to the Commission so that it can be established whether or not they comply with the directive, and to request, if necessary, that the introduction of such measures, or part of them, be postponed; whereas such notification and examination is without prejudice to the obligations of the Member States pursuant to the Treaty and other relevant Community legislation;
25. Whereas the work for the purpose of amending Council Directive 83/189/EEC ⁽¹⁾, as last amended by Commission Decision 90/230/EEC ⁽²⁾, must be accelerated in order to permit the coverage of notification arising from the scope of this Directive;
26. Whereas for all the reasons referred to above it appears necessary for the Community, whilst limiting itself to what is strictly necessary, to adopt the appropriate harmonization measures,

HAS ADOPTED THIS REGULATION:

Article 1

Objectives

This Directive aims to harmonize national measures concerning the management of packaging and packaging waste in order to reduce their impact on the environment, to contribute to the completion and functioning of the internal market and to avoid obstacles to trade and distortion and restriction of competition within the Community.

To attain these objectives this Directive establishes targets and the essential requirements which packaging must meet, and provides for measures for the prevention of the production of packaging waste and for the promotion of return, reuse and recovery operations relating to packaging and packaging waste in order to ensure public health and the protection of the environment.

Article 2

Scope

This Directive covers all packaging placed on the market in the Community and all packaging waste, whether it is used or released at industrial, commercial, office, shop, service or household level, regardless of the materials used and whether it concerns primary, secondary or tertiary packaging.

This Directive shall apply without prejudice to the provisions of Council Directive 91/689/EEC of 12 December 1991 concerning hazardous waste ⁽³⁾.

Article 3

Definitions

For the purpose of this Directive:

(a) with respect to packaging classification:

1. 'packaging' means all products made of any materials of any nature to be used for the containment, protection, handling, delivery and presentation of goods, from raw materials to processed goods, from the producer to the user or the consumer. Disposables used for the same purpose are to be considered as packaging too;
2. 'sales packaging or primary packaging' means any packaging conceived so as to constitute a sales unit to the final user or consumer at the point of purchase;
3. 'grouping packaging or secondary packaging' means any packaging conceived so as to constitute at the point of purchase a grouping of a certain number of sales units whether the latter is sold as such to the final user or consumer or whether it serves only as a means to replenish the shelves at the point of sale; it can be removed from the product without affecting its characteristics;
4. 'transport packaging or tertiary packaging' means any packaging conceived so as to facilitate handling and transport of a number of sales units or grouped packagings in order to prevent physical handling and transport damage;

(b) with respect to packaging waste:

1. 'used packaging' means the packaging itself left over once it has been emptied or the product has been unpacked;
2. 'packaging waste' means any packaging or packaging material covered by the definition of waste in Council Directive 75/442/EEC ⁽⁴⁾;
3. 'packaging waste management' means the management of waste as defined in Directive 75/442/EEC;
4. 'prevention' means the reduction of the quantity and/or the harmfulness of waste at production processes level and at product level;
5. 'recovery' means any of the applicable operations provided for in Annex II.B to Directive 75/442/EEC;

⁽¹⁾ OJ No L 109, 26. 4. 1983, p. 8.

⁽²⁾ OJ No L 128, 18. 5. 1990, p. 15.

⁽³⁾ OJ No L 377, 31. 12. 1991, p. 20.

⁽⁴⁾ OJ No L 194, 25. 7. 1975, p. 39.

6. 'recycling' means the recovery of the waste materials for the original purpose or for other purposes excluding energy recovery; recycling means also regeneration and composting;
7. 'disposal' means any of the applicable operations provided for in Annex II.A to Directive 75/442/EEC;

(c) with respect to packaging management:

1. 'returnable packaging' means any packaging whose return from the consumer or final user is assured by specific means, (separate collection, deposits, etc.), independently of its final destination, in order to be reused, recovered, or subject to specific waste management operations;
2. 'non-returnable' packaging means any packaging for which no specific provisions for their return from the consumer or final user are established;
3. 'reusable packaging' means any packaging which has been conceived and designed to accomplish within its life cycle a number of trips or rotations in order to be refilled or reused for the same purpose for which it was conceived; such packaging will become packaging waste when no longer subject to reuse;
4. 'one-way packaging' means any packaging not being used more than once for the same purpose;

(d) 'economic operators' in relation to packaging means suppliers of packaging materials, packaging producers and converters, fillers and users, traders and distributors.

a limitation to not more than 10 % by weight of the packaging waste output.

2. Member States shall specify in the chapter on the management of packaging waste of their waste management plans as indicated in Article 10, intermediate targets for recovery, recycling and final disposal of packaging waste. They shall also specify in this chapter at what time the following targets will be attained simultaneously:

- removal of 60 % by weight of the packaging waste output from the waste stream for the purpose of recovery,
- removal of 40 % by weight of each material of the packaging waste output from the waste stream for the purpose of recycling.

This information must be provided in the first report to the Commission as required in Article 14.

3. If scientific research, or any other evaluation technique, such as eco-balances, prove that other recovery processes show greater environmental advantages, the targets for recycling can be modified in accordance with the procedure laid down in Article 17.

Also on the basis of scientific research and of the progress achieved in the Member States, the Commission shall re-examine the targets fixed in this Article, and shall within six years from the date by which this Directive must be implemented in national law, adopt any appropriate measures in accordance with the procedure laid down in Article 17.

Article 5

Return and management systems

1. Member States shall take the necessary measures to ensure that, within five years from the date by which this Directive must be implemented in national law, systems are set up to:

- (a) provide for the return of all used packaging and/or all packaging waste from the consumer or other final user in order to channel it to the most appropriate management alternatives;
- (b) ensure that the used packaging and/or packaging waste collected is effectively reused or recovered.

These systems shall ensure the coverage of imported products under non-discriminatory conditions and shall be designed in such a way that there are no barriers to trade or distortions of competition.

2. The measures referred to in paragraph 1 shall form part of a policy covering all packaging and packaging waste

Article 4

Targets

1. In order to comply with the objectives of this Directive, Member States shall take measures to attain the following targets:

- (a) regarding recovery of packaging waste: no later than 10 years from the date by which this Directive must be implemented in national law, 90 % by weight of the packaging waste output will be removed from the waste stream for the purpose of recovery. Within this general recovery target, and with the same time limit, 60 % by weight of each material of the packaging waste output shall be removed from the waste stream for the purpose of recycling;
- (b) regarding minimization of final disposal of packaging waste: no later than 10 years from the date by which this Directive must be implemented in national law, final disposal of the packaging waste output will be limited to the residues of the collection and sorting activities, with

and shall take into account, in particular: consumer protection, health, safety and sanitary requirements; protection of the quality, the authenticity and the technical characteristics of the packed good and materials used as well as industrial and commercial property rights.

3. The return and management systems set up in the different Member States, in accordance with the provisions of this Directive, shall be considered and recognized as equivalent throughout the whole Community and participation in such systems shall be open to the economic operators of the sectors concerned.

Article 6

Marking

1. To facilitate the reuse and recovery of packaging and packaging waste, Member States shall take the necessary measures to ensure that, within five years from the date by which this Directive must be implemented in national law, all packaging shall comply with the marking provisions laid down in this Article and in Annex I. Packaging shall bear the appropriate marking(s) either on the packaging itself or on the label.

2. All reusable and recoverable packaging shall bear the mark(s) shown in Annex I. Fixing these marks on a packaging means that:

- the used packaging waste is subject to established return and management systems,
- the packaging itself and the provisions for the management of used packaging and packaging waste comply with the provisions of this Directive and the essential requirements referred to in Article 7 and described in Annex II.

3. To facilitate return, reuse and recovery, packaging shall indicate, when needed for its identification and classification, the nature of the packaging material(s) used, in accordance with the identification system described in Annex I. The numbering and abbreviations on which the identification system is based shall be determined by the Commission, in accordance with the procedure set out in Article 17 not later than 12 months after the adoption of this Directive. It shall decide which materials shall be subject to the identification system, in accordance with the same procedure.

4. In order to inform the consumer or final user whether or not the packaging is made of recycled material, such packaging may bear the mark shown in Annex I.

5. Member States shall take the necessary measures to ensure that any markings other than those set out in Annex I, intending to serve the same purpose, shall be prohibited. The marks set out in Annex I may not be used for any purposes other than those envisaged in this Article.

6. The Commission shall, in accordance with the procedure set out in Article 17, no later than 12 months after the adoption of this Directive, adopt the markings required by this Article and which comply with criteria of visual perceptibility, readability and understanding by the European consumer.

7. By the procedure set out in Article 17 the Commission shall decide to what extent derogations from the marking provisions will be needed.

8. The Commission shall draw up, in accordance with the procedure set out in Article 17, the detailed rules for the marking system. These rules shall be published in the *Official Journal of the European Communities*.

9. The requirements referred to in paragraphs 1 to 8 shall be applied without prejudice to other marking or labelling schemes, set up at Community level, for health, security, environmental protection or consumer information purposes.

10. The provisions of this Article are without prejudice to the possibility that the markings described in it can be used by economic operators on materials and products other than packaging for analogous purposes, as long as they are effectively reusable, recoverable or made out of recycled material; their use shall be communicated to and approved by the competent authorities.

11. Member States shall take the necessary measures to ensure:

- the provisions of information on the purpose and application of all the markings,
- that proper use of the markings by economic operators is verified.

Article 7

Essential requirements

1. Member States shall take all appropriate measures to ensure that packaging may be placed on the market only if it complies with the essential requirements set out in Annex II.

2. Member States shall presume compliance with the requirements set out in Annex II in the case of packaging which is in conformity:

- (a) with the relevant harmonized standards, the reference numbers of which have been published in the *Official Journal of the European Communities*. Member States shall publish the reference numbers of national standards transposing these harmonized standards;
- (b) with the relevant national standards referred to in paragraph 3 in so far as, in the areas covered by such standards, no harmonized standards exist.

3. Member States shall communicate to the Commission the text of their national standards, as referred to in

paragraph 2 (b), which they regard as complying with the requirements referred to in this Article. The Commission shall forward such texts forthwith to the other Member States.

Member States shall publish the references of these standards. The Commission shall ensure that they are published in the *Official Journal of the European Communities*.

4. Where a Member State or the Commission considers that the standards referred to in paragraph 2 do not entirely meet the essential requirements referred to in paragraph 1, the Commission or the Member States concerned shall bring the matter before the Committee set up by Directive 83/189/EEC giving the reasons therefor. The Committee shall deliver an opinion without delay. In the light of the Committee's opinion, the Commission shall inform Member States whether or not it is necessary to withdraw those standards from publications referred to in paragraphs 2 and 3.

Article 8

Information systems

1. Member States shall take the necessary measures to ensure that databases on packaging and packaging waste shall be established in order to enable Member States and the Commission to develop packaging and packaging waste management policies. For reasons of efficiency the required data may cover other components of a particular waste stream.

2. The databases shall serve the following purposes:

- to provide information on the magnitude, characteristics and evolution of the packaging and packaging waste flows at the level of individual Member States.
- to provide information on the economic parameters related to packaging and packaging waste management,
- to provide information in order to be able to re-examine targets, to design the most appropriate measures to attain them and to evaluate their effectiveness.

3. To harmonize the characteristics and presentation of the data produced and to make the data of the Member States compatible, the databases shall be based on the formats described in Annex III.

4. Member States shall take into account the particular problems of small and medium-sized enterprises in providing detailed data.

5. The data obtained shall be made available for the first time three years after the date by which this Directive must be implemented in national law and shall be updated every three years. The results shall be communicated to the Commission in accordance with the reporting procedures set out in Article 14.

Article 9

Consumer information

Member States shall take measure to ensure that consumers and other users are informed about the advantages of using reusable and recoverable packaging, about the meaning of the markings on packaging, about the return systems available for them to dispose of their used packaging and of packaging waste, and about the existing management plans for packaging as referred to in Article 10.

Article 10

Management plans

1. Pursuant to the objectives and measures referred to in this Directive, Member States shall include in their waste management plans required by Article 7 of Directive 75/442/EEC a specific chapter on the management of packaging and packaging waste.

2. The chapter referred to in paragraph 1 shall include:

- the intermediate and final objectives and targets to be achieved,
- the measures to be adopted, which might be of a technical, economic or organizational character,
- the justification of the measures adopted or of any modification of the targets as considered in the provisions of this Directive.

Article 11

Economic instruments

Economic instruments may be adopted by Member States, in accordance with the provisions of the Treaty, to promote the objectives of this Directive.

Article 12

Standardization

The Commission shall promote, as appropriate, the elaboration of European standards relating in particular to:

- dimensions and shapes of packaging for agreed products in order to facilitate their reuse and rationalize and optimize management alternatives,
- modular distribution packaging for transport and distribution,
- product specifications for the use of recycled materials in the manufacturing of packaging and other products,
- criteria and methodology for life-cycle analysis on packaging.

*Article 13***Notification**

1. Without prejudice to Directive 83/189/EEC, before adopting such measures, Member States shall notify the drafts of measures which they intend to adopt within the framework of this Directive to the Commission, in order to permit the latter to examine them in the light of existing provisions and, where appropriate, to ask Member States to suspend their adoption.

2. If the proposed measure is also a technical matter within the meaning of Directive 83/189/EEC, the Member State concerned may indicate, when following the notification procedures referred to in this Directive, that the notification is equally valid for Directive 83/189/EEC.

*Article 14***Obligation to report**

Every three years, and for the first time on 1 April of the third year after the date by which this Directive must be implemented in national law, Member States shall send the Commission a report on the measures taken to implement this Directive. This report shall be based on a questionnaire, drawn up in accordance with the procedure referred to in Article 17, which the Commission shall send to the Member States six months before the said date.

On the basis of these reports, the Commission shall publish a consolidated report every three years, and for the first time on 1 April of the following year.

*Article 15***Freedom to place on the market**

Member States shall not impede the placing on the market on their territory of packaging which satisfies the provisions of this Directive.

*Article 16***Adaptation to scientific and technical progress**

The amendments necessary for adapting the provisions of this Directive to scientific and technical progress shall be adopted in accordance with the procedure laid down in Article 17.

This procedure shall also be applicable for amendments which need to be made to the provisions of this Directive

applicable to primary packaging for medical devices and pharmaceutical products. The provisions relating to such packaging shall take into account the safety, performance and quality requirements which must be satisfied by them, in accordance with the provisions of Community law.

In addition, the Commission, in accordance with the same procedure, shall adopt the measures necessary to deal with any difficulties encountered in applying the provisions of this Directive to small packaging.

*Article 17***Committee procedure**

The Commission shall be assisted by a committee of an advisory nature composed of the representatives of the Member States and chaired by the representatives of the Commission.

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 18***Implementation in national law**

Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive by . . .⁽¹⁾. They shall immediately inform the Commission thereof.

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

Article 19

Directive 85/339/EEC is hereby repealed with effect from . . .

Article 20

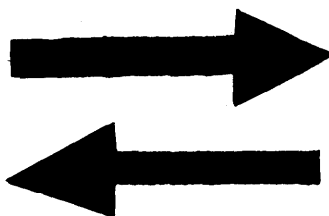
This Directive is addressed to the Member States.

⁽¹⁾ Eighteen months after the adoption of this Directive.

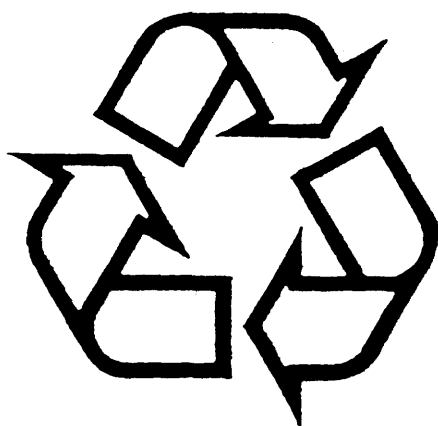
ANNEX I

MARKING

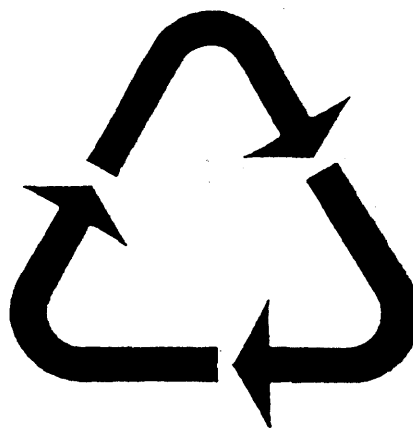
1. (a) Reusable packaging



1. (b) Recoverable packaging



or

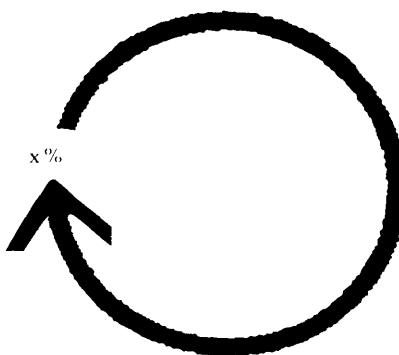


1. (c) Identification system

Plastic shall use a numbering from 1 to 19; paper and cardboard from 20 to 39; metal from 40 to 49; wood from 50 to 59; textiles from 60 to 69; glass from 70 to 79.

The identification may also be done by using the abbreviation to the used material(s) (e.g. HDPE: high density polyethylene). Numbering, or abbreviations, or both, may be used to identify materials. The said identification methods shall be located in the centre of or below the graphical marking indicating the reusable or recoverable nature of the packaging.

1. (d) Packaging made partly or entirely of recycled materials



x % = percentage of recycled material used in the manufacturing of the product.

ANNEX II

OUTLINE OF ESSENTIAL REQUIREMENTS ON THE COMPOSITION AND THE REUSABLE AND RECOVERABLE NATURE OF PACKAGING

1. Requirements specific to the manufacturing and composition of packaging

- Packaging shall be so manufactured that the packaging volume and weight be limited to the minimum adequate amount to maintain the necessary level of safety and acceptance for the packed product and for the consumer.
- Packaging shall be designed, produced and commercialized in such a way as to permit its reuse or recovery and to minimize its impact on the environment when packaging waste or residues from packaging waste management operations are disposed of.
- Packaging shall be so manufactured that the presence of noxious metals and other hazardous substances as constituents of the packaging material or of any of the packaging components is limited to such a level as to minimize their presence in emissions, ash or leachate when packaging or residues from management operations of packaging waste are incinerated or landfilled.
- The sum of concentration levels of lead, cadmium, mercury and hexavalent chromium present in packaging or packaging components shall not exceed the following:
 - 600 ppm by weight after two years of the entry into force of this Directive,
 - 250 ppm by weight after three years of the entry into force of this Directive,
 - 100 ppm by weight after five years of the entry into force of this Directive.

2. Requirements specific to the reusable nature of a packaging

The following requirements must be simultaneously satisfied:

- the physical properties and characteristics of the packaging shall enable a number of trips or rotations in normally predictable conditions of use,
- possibility of processing the used packaging in order to meet health and safety requirements,
- fulfil the requirements specific to recoverable packaging when the packaging is no longer reused and thus becomes waste.

3. Requirements specific to the recoverable nature of packaging

(a) *Packaging recoverable in the form of material recycling*

- Packaging must be manufactured in such a way as to enable the recycling of at least 'x' % by weight of the materials used into the manufacture of marketable products.

(b) *Packaging recoverable in the form of energy recovery*

- Packaging waste processed for the purpose of energy recovery shall have a minimum inferior calorific value of 13 MJ/kg (approximate energetic value of paper and cardboard).
- The energy recovery operation may not give rise to ash residues exceeding 'y' % by weight of the incinerated materials.
- If used as a substitute for other fuels (carburants), it should not have a greater impact on the environment, in terms of emissions and residues, than that of the substituted fuel.

(c) *Packaging recoverable in the form of composting*

- Packaging waste processed for the purpose of composting shall be of such a biodegradable nature, that it should not hinder the composting process or activity into which it is introduced or diminish the quality of the compost.

*ANNEX III***INFORMATION SYSTEM/DATABASE ON PACKAGING AND PACKAGING WASTE**

The database will be built up by the following formats:

- Format 1: Composition of municipal waste — household level (mandatory presentation — Annex III.A1)
- Format 2: Composition of municipal waste — other levels (mandatory presentation — Annex III.A2)
- Format 3: Packaging waste management (mandatory presentation — Annex III.B)
- Format 4: Product families to be recorded (Annex III.C) — consumption-based primary packaging data (mandatory presentation and explanatory note — Annex III.D1, III.D2 and III.D3)
- Format 5: Industrial packaging (mandatory presentation — Annex III.E)
- Format 6: Secondary and tertiary packaging consumption data (formats 4 and 5 related products) (mandatory presentation — Annex III.F)

FORMAT 1

Annex III.A1

Concept: Composition municipal waste — household level

Country:

Units: Kg, volume and %

Year:

| Components | kg | % | Volume |
|-----------------------------|----|---|--------|
| Glass — Total | | | |
| Packaging: | | | |
| — White: | | | |
| — Brown: | | | |
| — Green: | | | |
| Non-packaging | | | |
| Paper and cardboard — Total | | | |
| Packaging: | | | |
| — Cardboard: | | | |
| — Laminates: | | | |
| — Paper: | | | |
| Non-packaging: | | | |
| — Newspaper — periodicals: | | | |
| — Other: | | | |
| Plastics — Total | | | |
| Polyolefines | | | |
| — Packaging | | | |
| — Non-packaging | | | |
| Polystyrenes | | | |
| — Packaging | | | |
| — Non-packaging | | | |
| Halogenated polymers | | | |
| — Packaging | | | |
| — Non-packaging | | | |
| PET | | | |
| — Packaging | | | |
| — Non-packaging | | | |
| Others | | | |
| — Packaging | | | |
| — Non-packaging | | | |
| Textiles | | | |
| — Packaging | | | |
| — Non-packaging | | | |
| Ferro | | | |
| — Packaging | | | |
| — Non-packaging | | | |
| Non-ferro | | | |
| — Packaging | | | |
| — Non-packaging | | | |
| Wood | | | |
| — Packaging | | | |
| — Non-packaging | | | |
| Leather: | | | |
| Rubber: | | | |
| Stone: | | | |
| Carpets: | | | |
| Organics: | | | |
| Others: | | | |
| Sub-total packaging | | | |
| Sub-total non-packaging | | | |
| Total | | | |

FORMAT 2

Annex III.A2

Concept: Composition municipal waste — other levels

Country:

Units: Kg, volume and %

Year:

| Components | kg | % | Volume |
|-----------------------------|----|---|--------|
| Glass — Total | | | |
| Packaging: | | | |
| — White: | | | |
| — Brown: | | | |
| — Green: | | | |
| Non-packaging | | | |
| Paper and cardboard — Total | | | |
| Packaging: | | | |
| — Cardboard: | | | |
| — Laminates: | | | |
| — Paper: | | | |
| Non-packaging: | | | |
| — Newspaper — periodicals: | | | |
| — Other: | | | |
| Plastics — Total | | | |
| Polyolefines | | | |
| — Packaging | | | |
| — Non-packaging | | | |
| Polystyrenes | | | |
| — Packaging | | | |
| — Non-packaging | | | |
| Halogenated Polymers | | | |
| — Packaging | | | |
| — Non-packaging | | | |
| PET | | | |
| — Packaging | | | |
| — Non-packaging | | | |
| Others | | | |
| — Packaging | | | |
| — Non-packaging | | | |
| Textiles | | | |
| — Packaging | | | |
| — Non-packaging | | | |
| Ferro | | | |
| — Packaging | | | |
| — Non-packaging | | | |
| Non-ferro | | | |
| — Packaging | | | |
| — Non-packaging | | | |
| Wood | | | |
| — Packaging | | | |
| — Non-packaging | | | |
| Leather: | | | |
| Rubber: | | | |
| Stone: | | | |
| Carpets: | | | |
| Organics: | | | |
| Others: | | | |
| Sub-total packaging | | | |
| Sub-total non-packaging | | | |
| Total | | | |

Annex III.B

Country:

Year:

[illegible]

FORMAT 4

Annex III.C

Consumption-based primary packaging data

Product families to be recorded

- Biscuits and cakes
- Fats (other than milk fats)
- Chocolate and sugar confectionary
- Dairy products
- Dry beverages
- Frozen foods
- Heat-processed foods
- Jam and preserves
- Sauces
- Snack foods
- Fresh bread
- Fresh fish
- Fresh fruit and vegetables
- Fresh meat
- Beer and cider
- Carbonated soft drinks
- Fruit juices
- Mineral water and still drinks
- Wines and spirits
- Automotive products
- Cigarettes and tobacco
- Cleaning material
- Cosmetics
- Haircare
- Paints, stains and varnishes
- Pet foods
- Pharmaceuticals
- Soaps and detergents
- Toiletries
- Toys
- Electrical appliances
- Electronics
- Clothing
- Others

Annex III.D1

Concept: Consumption-based primary packaging data
Units: Pieces, grams, tonnes

Country:
Year:

| Product families | 1 000 pieces | Average weight per piece (gram) | Total (tonne) | Number of rotations/ Life span (x) | Total (tonne) |
|------------------|--------------|------------------------------------|------------------|---------------------------------------|------------------|
| | | | | | |

Annex III.D2

Concept: Consumption-based primary packaging data

Country:

Units: Pieces, gram, tonnes

Year:

| Total drink market April to May 1991 | 1 000 pieces | Average weight per piece (gram) | Total (tonne) | Number of rotations/ Live span (x) | Total (tonne) |
|---|--------------|---------------------------------------|------------------|--|------------------|
| Total drink market, non-alcoholic (N-A) | 196 070,25 | | | | |
| Total glass, non-alcoholic (N-A) | 36 689,50 | | | | |
| Non-returnable glass, N-A | 8 275,20 | | | | |
| Non-returnable glass, 0,20-0,25 l, N-A | 5 404,60 | 140 | 756,64 | | 756,64 |
| Non-returnable glass, 0,33 l, N-A | 89,70 | 220 | 19,73 | | 19,73 |
| Non-returnable glass, 0,50-0,75 l, N-A | 782,30 | | | | |
| Non-returnable glass, 1 l and more, N-A | 1 998,60 | 480 | 959,33 | | 959,33 |
| Returnable glass, N-A | 28 414,30 | | | | |
| Returnable glass, 0,20-0,25 l, N-A | 8 859,40 | 235 | 2 081,96 | 18/x1 | 2 081,91/x1 |
| Returnable glass, 0,50-0,75 l, N-A | 1 544,70 | | | | |
| Returnable glass, 1 l and more, N-A | 18 010,20 | 750 | 13 507,65 | 18/x2 | 13 507 /x2 |
| Plastic, N-A | 99 702,00 | | | | |
| Metal, N-A | 28 571,90 | | | | |
| Cardboard, N-A | 31 106,90 | | | | |
| Cardboard, 0,20 l, N-A | 18 270,70 | | | | |
| Cardboard, 0,50 l, N-A | 171,90 | | | | |
| Cardboard, 1 l and more, N-A | 12 664,30 | | | | |
| Total drink market, alcoholic (A) | 181 929,06 | | | | |
| Total glass, alcoholic (A) | 175 921,50 | | | | |
| Non-returnable glass, A | 32 773,10 | | | | |
| Non-returnable glass, 0,20-0,25 l, A | 23 928,30 | 130 | 3 110,68 | | 3 110,68 |
| Non-returnable glass, 0,33 l, A | 471,40 | 155 | 73,07 | | 73,07 |
| Non-returnable glass, 0,50 l, A | 93,70 | 225 | 21,08 | | 21,08 |
| Non-returnable glass, 0,70-0,75 l, A | 7 052,10 | 570 | 4 019,70 | | 4 019,70 |
| Non-returnable glass, 1 l, A | 901,90 | 500 | 450,95 | | 450,95 |
| Non-returnable glass, more than 1 l, A | 325,70 | | | | |
| Returnable glass, A | 143 148,38 | | | | |
| Returnable glass, 0,20-0,25 l, A | 124 955,75 | 265 | 33 113,27 | 35/x3 | 33 113,27/x3 |
| Returnable glass, 0,33 l, A | 16 452,70 | 265 | 4 359,97 | 35/x4 | 4 359,97/x4 |
| Returnable glass, 0,50 l, A | 0,10 | 365 | 0,04 | | 0,04 |
| Returnable glass, 0,70-0,75 l, A | 1 732,10 | 640 | 1 108,54 | 18/x5 | 1 108,54/x5 |
| Returnable glass, 1 l, A | 0,00 | 720 | 0,00 | | 0,00 |
| Returnable glass, more than 1 l, A | 7,70 | | | | |
| Metal, A | 6 007,60 | | | | |
| Metal, 0,25 l, A | 93,80 | | | | |
| Metal, 0,33 l, A | 5 678,80 | | | | |
| Metal, 0,50 l, A | 233,00 | | | | |
| Metal, 1 l, A | 1,60 | | | | |
| Metal, more than 1 l, A | 0,40 | | | | |

This is an Example: Numbers, grams, tonnes are illustrative, not real.

*Annex III.D3***Consumer-based primary packaging data***Explanatory note*

The number of pieces per product on the market of the Member States can be obtained from specialized market research companies such as Nielsen, GFK and others.

The number of pieces sold, multiplied by the average weight of the packaging will give the tonnage of waste each item is likely to generate at household level.

The tonnage of returnable, refillable packaging has to be divided by the number of years equal to the life-span of the product.

FORMAT 5

Annex III.E

Concept: Industrial packaging

Country:

Units: Pieces, grams, kg

Year:

| Types | Pieces | Average weight per piece (grams) | Total weight (kg) | Number of rotations/ Lifespan (x) | Total (kg) |
|------------------------------------|--------|--|----------------------|---|---------------|
| Intermediate bulk containers (IBC) | | | | | |
| — Woven PP | | | | | |
| — Octobins (cardboard) | | | | | |
| — HDPE | | | | | |
| — Metal | | | | | |
| — Others | | | | | |
| Drums | | | | | |
| — Metal | | | | | |
| — Plastic | | | | | |
| Jerrycans | | | | | |
| — Metal | | | | | |
| — Plastics | | | | | |
| Boxes | | | | | |
| — Cardboard | | | | | |
| — Wood and plywood | | | | | |
| Bags | | | | | |
| — Paper | | | | | |
| — Plastic | | | | | |
| — Woven | | | | | |
| Others | | | | | |
| Total | | | | | |

FORMAT 6

Annex III.F

Concept: Secondary and tertiary packaging

Country:

Units: Average weight in grams or kg

Year:

| | Carton | Plastic | Wood | Others |
|------------------------------------|--------|---------|------|--------|
| Trays — 6 — 12 — 24 | | | | |
| Crates — 6 — 12 — 24 | | | | |
| Boxes — 24 | | | | |
| Wrappings — Stretch — Shrink | | | | |
| Pallets — 120—80 — 120—120 | | | | |

Note: Reusables are to be divided by the number of years equal to the life span in the same way as indicated for primary packaging.

Proposal for a Council Directive on the application of open network provision (ONP) to voice telephony

(92/C 263/02)

COM(92) 247 final — SYN 437

(Submitted by the Commission on 28 August 1992)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

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 ⁽¹⁾ provides, *inter alia*, that the Council shall adopt 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 should be applicable 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 voice telephony services; whereas it does apply to the use of the fixed public telephone network by mobile service operators, in particular with respect to the interconnection of mobile telephone networks with the fixed public telephone network, in order to achieve comprehensive Europe-wide services;
5. Whereas this Directive does not apply to services or service features 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 ⁽²⁾ defines the special and

exclusive rights which Member States may maintain for the public telephone network and voice telephony service;

7. 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 proprietary information, subject to relevant legislation concerning the protection of personal data and privacy;
8. Whereas in accordance with Directive 90/388/EEC, Member States which maintain special or exclusive rights for 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 under which 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;
9. 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 service features, adequate consultation with users/consumers and user/consumer organizations, the control of numbering plans, the surveillance of usage conditions, and the resolution of disputes;
10. 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

⁽¹⁾ OJ No L 192, 24. 7. 1990, p. 1.

⁽²⁾ OJ No L 192, 24. 7. 1990, p. 10.

- 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;
11. Whereas users of the public telephone network should have 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 special legal protection when dealing with users of the public telephone network;
 12. Whereas, in addition to the basic voice telephony service made available to users for their own use, for shared use or for the provision of services to third parties, it is desirable to ensure that, subject to technical and economic feasibility, a harmonized minimum set of advanced voice telephony service features is offered to users, both for communications within a Member State and between Member States;
 13. Whereas the provision of other voice telephony service features, provided in response to market demand in addition to the harmonized minimum set of voice telephony service features described herein, should not impede the provision of the basic voice telephony service features;
 14. Whereas harmonized conditions for voice telephony 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;
 15. Whereas the Commission has issued guidelines on the application of EEC competition rules in the telecommunications sector ⁽¹⁾ in order, *inter alia*, to clarify the application of Community competition law when telecommunications organizations cooperate in order to implement Community-wide connectivity between public networks and services;
 16. Whereas, in order to provide efficient and effective telecommunications services, and to offer new applications, telecommunications service providers and others may, in accordance with the principles of Community law, require access to the public telephone network at points other than the network termination points offered to the majority of telephone users; whereas it is essential that in making full and efficient use of the public telephone network via such special network access, the integrity of the public network is maintained;
 17. 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; 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; whereas the tariffs which apply to telecommunications organizations when using the public telephone network for the provision of telecommunications services should be the same as the tariffs which apply to other users;
 18. 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 of telecommunications services calls for the widest availability of features 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;
 19. Whereas telecommunications organizations should be encouraged to establish the necessary cooperation mechanisms in order to ensure Community-wide full 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 oversight in order to safeguard the Community-wide interests of users and compliance with Community law, and therefore national regulatory authorities should have the right of access to full information about network interconnection agreements where required;
 20. Whereas in some Member States the provision of voice telephony service, including international telephone service, is not subject to exclusive rights; whereas an adequate level of 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 access to public telephone networks, including access by telecommunications organizations from other Member States, are objective and non-discriminatory in accordance with Directive 90/387/EEC;
 21. 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 fully implement these tariff principles; whereas nevertheless tariffs must 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;
 22. Whereas national regulatory authorities have a responsibility for overseeing of tariffs; whereas tariffs structures should evolve in response to technological development and user demand; whereas the requirement for cost-orientated tariffs means that telecommunications organizations should implement cost accounting systems by which costs can be allocated to services in a transparent manner; whereas, notwithstanding further obligations which might be set

⁽¹⁾ OJ No C 233, 6. 9. 1991, p. 2.

- out in particular to ensure transparency of financial transfers between activities within undertakings to which special or exclusive rights have been granted by the Member States, a minimum set of requirements should be established; whereas such requirements can be fulfilled for example by the implementation of the principle of fully distributed costing;
23. Whereas within the overall principle of cost orientation, certain 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 provision of services provided under special or exclusive rights with services provided competitively;
24. Whereas users require to be able to check the correctness of their bills by being given itemized bills, to a level of detail compatible with the user need and with relevant legislation on data protection and privacy;
25. Whereas directories of users who subscribe to the voice telephony service should be readily available, since they are an important element for access to the telephone service; whereas directory information should be made available to service providers and other telecommunications organizations on fair and non-discriminatory terms; whereas users should have the choice of being included or excluded from directories, in conformity with relevant law on data protection and privacy;
26. Whereas public telephone call boxes provide an important means of access to the voice telephony service, especially for emergencies, and it is desirable to ensure that there is adequate provision of them for use by the public;
27. 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 prepayment cards issued in one Member State can be used in other Member States; whereas the placing on the market and the free circulation and use of terminal equipment, including pay-telephones, must not be impeded, in compliance with Community law and in particular 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 ⁽¹⁾, and with the competition rules;
28. Whereas within Member States, support may be given to 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 handicapped people;
29. Whereas free circulation of telecommunications terminal equipment must be guaranteed, and Directive 91/263/EEC describes requirements for terminal equipment; whereas to ensure effective implementation of this objective, it is necessary to set requirements for the corresponding network termination point, including specifications for the socket, and if necessary to make provision for the use of terminal/network adaptors;
30. Whereas national telephone numbers are a resource which should be controlled by regulatory bodies; whereas numbering schemes should be developed in full consultation with telecommunications organizations and in harmony with a long-term Community-wide numbering framework and the international numbering scheme; whereas number changes are expensive for both telecommunications organizations and users to implement, and should be kept to a minimum compatible with national and international long-term requirements;
31. Whereas there is an immediate need to create a European numbering space in order to provide common numbers and common codes for Community-wide voice telephony services including freephone/green numbers;
32. 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 usage conditions for the 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⁾, no technical restrictions must be introduced or maintained for the interconnection of leased lines and public telephone networks;
33. Whereas in accordance with Directive 90/387/EEC, the essential requirements upon which restrictions on access to and usage of public telecommunications networks or services are justified include only security of network operations, maintenance of network integrity, interoperability of services in 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 access or usage conditions;
34. Whereas the principle of transparency should apply to the standards upon which voice telephony services are

⁽¹⁾ OJ No L 128, 23. 5. 1991, p. 1.

⁽²⁾ OJ No L 165, 19. 6. 1992, p. 27.

- 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⁾, as amended by Directive 88/182/EEC ⁽²⁾, new national standards must not be developed in areas where harmonized European standards are under development;
35. Whereas, to enable the Commission to monitor effectively the application of this Directive, it is necessary that Member States notify to the Commission which national regulatory authority will be responsible for its implementation, and provide the relevant information called for in this Directive;
36. Whereas in addition to the rights of recourse granted under national or Community law, there is a need for a simple conciliation procedure for resolving 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; whereas this does not prejudice the normal application of the proceedings provided for in Articles 169 and 170 and the competition rules of the Treaty;
37. Whereas for interconnection issues, a procedure is required to resolve disputes in order to ensure Community-wide services; whereas such a procedure should involve the ONP Committee;
38. Whereas, given the dynamic technological development in this sector, it is necessary to establish a procedure for adjustment of the technical provisions of this Directive, which involves the ONP Committee;
39. Whereas Council Directive . . . / . . . / EEC (concerning the protection of personal data and privacy in the context of public digital telecommunications networks, in particular the integrated services digital network (ISDN) and public digital mobile networks) ⁽³⁾ requires Member States to ensure the protection of personal data and privacy in the telecommunications sector, with regard to the collection, storage, and processing of personal data, and to ensure the confidentiality of information transmitted over public telecommunications networks; whereas Article 27 of Council Directive . . . / . . . / EEC (approximating certain laws, regulations and administrative provisions of the Member States concerning the protection of individuals in relation to the processing of personal data) ⁽⁴⁾ sets up a working party on the protection of personal data; whereas, where appropriate, the Commission may discuss with this working party measures concerning data protection and privacy in relation to open network provision;
40. Whereas telecommunications services are subject to consumer protection legislation and legislation concerning promulgation of information or material which may be considered offensive by the general public, and therefore no specific additional measures are envisaged in this Directive;
41. Whereas given the dynamic development in this sector, the application of ONP 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, therefore, a responsive procedure for technical adjustment should be established which takes full account of the views of Member States;
42. Whereas a need is foreseen for a procedure for ensuring convergence of voice telephony service and network features at a Community level; 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;
43. Whereas the goal of an advanced cost-effective trans-European telephony service — an essential foundation of the single market — requires effective and efficient interconnection of national networks and interoperability of services; whereas the alternative to Community legislation is an analogous system of provisions negotiated between the Member States which would involve obvious difficulties because of the number of organisms which would be involved in multiple bilateral negotiations; whereas on the contrary the form of a Community directive has repeatedly shown itself, in the sector of telecommunications among others, as a practicable, rapid and efficient means; whereas the objective of the action under consideration can therefore be better achieved at Community level,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER 1

GENERAL

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 services, and the availability throughout the Community of a harmonized voice telephony service.
2. The provisions of this Directive shall apply independently of the network technology used to provide voice telephony service. This Directive does not apply to mobile telephone services except in so far as it concerns the interconnection between the network used for mobile telephone services and the fixed public telephone networks.

⁽¹⁾ OJ No L 109, 26. 4. 1983, p. 8.

⁽²⁾ OJ No L 81, 26. 3. 1988, p. 75.

⁽³⁾ COM(90) 314 final — SYN 288, 13 September 1990.

⁽⁴⁾ COM(90) 314 final — SYN 287, 13 September 1990.

*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 telecommunications network which provides switched telephony capacity connections between network termination points at fixed locations, and which is used, *inter alia*, for the provisions of voice telephony service,
 - 'users' means end-users, including consumers (i.e. 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,
 - 'public pay-telephone' means a telephone available to the general public, for the use of which the means of payment can include coins, credit/debit cards and/or pre-payment cards,
 - 'public telephone call box' means a pay-telephone located on public ground.

CHAPTER 2

ACCESS TO AND USE OF PUBLIC TELEPHONE NETWORKS AND VOICE TELEPHONY SERVICES*Article 3***Provision of service, connection of terminal equipment, and use of the network**

Member States shall ensure that users have the right to:

- (a) be supplied with a connection to the public telephone network;
- (b) connect and use approved terminal equipment situated on the user's premises, in accordance with national and Community law;
- (c) use the public telephone network for voice telephony and other applications, including those which require a transparent telephony circuit, to the full extent allowed under Community law,

in accordance with the relevant targets for supply and quality of service set out in Article 5.

*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 public telephone network and voice telephony service is published according to the list of headings given in Annex I.

Changes in existing offerings shall be published as soon as possible and, unless the national regulatory authority agrees otherwise, no later than two months before their implementation.

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.

3. National regulatory authorities shall notify to the Commission before 1 January 1994 — and thereafter in case of any change — the manner in which the information referred to in paragraph 1 is made available; the Commission will regularly publish a corresponding reference in the *Official Journal of the European Communities*.

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

1. National regulatory authorities shall ensure that targets are set and published for supply time and quality of service indicators based on the list set out in Annex II, and that the performance of national telecommunications organizations in relation to those targets is published periodically. Definitions, measurement methods, and targets shall be reviewed periodically by the national regulatory authority, taking into account Community-wide convergence of quality of service criteria.

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

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

1. National regulatory authorities shall ensure that existing service offerings continue for a reasonable period of time, and that termination of an offering can be done only after consultation with users and organizations representing user and/or consumer interests.

2. Without prejudice to other rights of appeal provided for by national laws, Member States shall ensure that users and organizations representing user and/or consumer interests can bring before the national regulatory authority cases where the users 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 the compensation arrangements if the contracted service quality levels are not met.
2. Standard contract conditions and compensation schemes used by telecommunications organizations shall be agreed by the national regulatory authority. Users' contracts with telecommunications organizations shall contain a summary of the procedure for settlement of disputes.
3. Member States shall ensure that users, acting where national procedures allow, in conjunction with organizations representing user and/or consumer interests, have the right to institute proceedings against a telecommunications organization.

CHAPTER 3

ADVANCED FEATURES, SPECIAL NETWORK ACCESS AND INTERCONNECTION*Article 8***Provision of advanced features**

1. National regulatory authorities shall ensure the provision, subject to technical and economic feasibility, of the features listed in point 1 of Annex III, in accordance with technical standards identified in Article 22.
2. National regulatory authorities shall facilitate and encourage provision of the services and features listed in point 2 of Annex III in accordance with technical standards as identified in Article 22, through commercial arrangements between telecommunications organizations and where appropriate others, in conformity with the procedural and substantive rules of competition of the Treaty, and in response to user demand.
3. National regulatory authorities shall ensure that proposed dates for the introduction of these features are set, taking into account the state of network development, market demand and progress with standardization, and published in the manner laid down in Article 4.

*Article 9***Special network access**

1. National regulatory authorities shall ensure that telecommunications organizations respond to requests from users, including service providers, for access to the public telephone network at network termination points other than the network termination points referred to in Annex I.

Such requests may be referred to the national regulatory authority where the telecommunications organization considers that granting the access requested would adversely affect the normal operation of the public telephone network, or would impinge upon any special or exclusive rights granted to the telecommunications organization in accordance with Community law. Access shall be restricted or denied only on the grounds given in Article 21.

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

3. 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, 4 and 5. The agreement may include reimbursement to the telecommunications organization for specific costs incurred in providing the network access requested.

4. The national regulatory authority shall intervene if requested by either party, in order to set conditions that are non-discriminatory, fair and reasonable for both parties, and offer the greatest benefit to all users.

5. National regulatory authorities shall also have the right, in the interest of all users, to ensure that the agreements are entered into and implemented in an efficient and timely manner, and that they include conditions about conformance to relevant standards, conformance to essential requirements and/or the maintenance of end-to-end quality.

6. The Commission shall request standards for new types of network access to be drawn up by European Telecommunications Standards Institute (ETSI), where appropriate. Standards for these new types of network access shall be referenced in the *Official Journal of the European Communities* in accordance with Article 5 (1) of Directive 90/387/EEC.

7. Details of agreements for special network access shall be made available to the national regulatory authority upon request. The national regulatory authority shall make details of agreements for special network access available to the Commission on request.

*Article 10***Interconnection**

1. National regulatory authorities shall ensure that reasonable requests for network interconnection from authorized providers of voice telephony services are met, in particular to ensure Community-wide provision of voice telephony service. No request shall be refused without prior consultation of the national regulatory authority or authorities concerned.

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 9 (4) and (5).

3. 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 charges shall be cost-orientated, non-discriminatory and fully justified, and shall be levied only with the approval of the national regulatory authority acting in accordance with Community law.

4. National regulatory authorities shall notify to the Commission the names of those telecommunications organizations in their territory which are authorized to interconnect their networks directly with the networks of telecommunications organizations in other Member States, in order to provide voice telephony services. The Commission shall publish these names in the *Official Journal of the European Communities*.

5. Details of interconnection agreements shall be made available to the national regulatory authorities concerned, upon request. The national regulatory authorities shall make details of interconnection agreements available to the Commission on request.

CHAPTER 4

TARIFF AND COST ACCOUNTING PRINCIPLES

Article 11

Tariff principles

National regulatory authorities shall ensure that tariffs for use of the public telephone network follow the basic principles of cost orientation and transparency, and comply with the provisions given below:

- (a) tariffs for access to and use of the 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;
- (b) tariffs for service features additional to the provision of connection to the public telephone network and provision of voice telephone service shall, in accordance with Community law, be sufficiently unbundled, so that the user is not required to pay for features which are not requested;
- (c) tariffs shall normally contain the following elements, each of which should be itemized separately for the user:
 - an initial subscription charge, for connection to the public telephone network and subscription to the telephone service,
 - a periodic rental charge, based on the type of service and features selected by the user,

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

Where other tariff elements are employed, these must be transparent and based on objective criteria;

- (d) tariffs shall be published in the manner laid down in Article 4;
- (e) tariff changes shall only be implemented after an appropriate public notice period, set by the national regulatory authority, has been observed.

Article 12

Cost accounting principles

1. Member States shall, without prejudice to further specific obligations to be established in pursuance of the competition rules of the Treaty, ensure that their telecommunications organizations formulate and put into practice a cost accounting system suitable for the implementation of Article 11, and which as such has been approved by the national regulatory authority for application by the telecommunications organization.

2. National regulatory authorities shall ensure that a description of the approved cost accounting system is published in accordance with the requirements of Article 4.

3. National regulatory authorities shall ensure that the financial accounts of those telecommunications organizations notified in accordance with Article 24 (2) are audited on an annual basis by an independent body, in order to verify compliance of the telecommunications organizations' figures with the rules of the approved cost accounting system as set forth in this Article. The annual summary of accounts published by the telecommunications organization shall include a statement by the auditor on compliance of the figures with the rules of the approved cost accounting system.

On publication, the national regulatory authority shall send a copy of the published accounts to the Commission.

4. Details of the full financial accounts shall be made available to the national regulatory authority on request and in confidence. The national regulatory authority shall make details of the accounts available to the Commission on request and in confidence.

Article 13

Discounts, low usage schemes and other specific tariff provisions

1. National regulatory authorities shall ensure that discount schemes can be offered to users, subject to supervision by the national regulatory authority, in accordance with the competition rules of the Treaty.

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

3. National regulatory authorities shall ensure that tariff structures allow for reduced-rate night-time and weekend calls within the Community.

4. Special tariffs which are introduced for voice telephony services provided in connection with specific projects of limited duration, such as pilot trials, shall be subject to prior notification to the national regulatory authority.

CHAPTER 5

OTHER SERVICE FEATURES

Article 14

Itemized billing

National regulatory authorities shall ensure that targets are set and published for the provision of itemized billing in order to allow users to check their bills, taking into account the state of network development and market demand.

Itemized billing shall be available to users on request. Subject to the level of detail permitted under relevant legislation on the protection of personal data and privacy, itemized bills shall be able to show the composition of the charges incurred.

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

Article 15

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, at no additional charge;
- (c) in accordance with Community law, telecommunications organizations make directory information concerning the voice telephony service available on request, on published terms which are fair, reasonable and non-discriminatory.

Article 16

Provision of public telephone call-boxes

National regulatory authorities shall ensure that public telephone call boxes are provided to meet the needs of users, in terms of both numbers and geographical coverage, and that it is possible to make emergency calls from such telephones.

Article 17

Telephone pre-payment cards

1. The Commission shall ensure that standards for a harmonized telephone pre-payment card and associated equipment suitable for use in pay-telephones in all Member States are drawn up by ETSI and/or CEN/CENELEC, in order to allow pre-payment cards issued in one Member State to be used in other Member States. The standards shall be referenced in the *Official Journal of the European Communities* in accordance with Article 5 (1) of Directive 90/387/EEC.

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

Article 18

Specific facilities for handicapped users and people with special needs

Notwithstanding the provisions in Article 11, national regulatory authorities may draw up specific conditions to aid handicapped users and people with special needs in their use of the voice telephony service.

Article 19

Specifications for network access, including the socket

1. The Commission shall request ETSI and/or CEN/CENELEC to study the technical and economic feasibility of a harmonized single-line network interface suitable for access to and use of the public telephone network in all Member States, with a view to further standardization, including the socket. Standards for such a harmonized public telephone network interface shall be referenced in the *Official Journal of the European Communities* in accordance with Article 5 (1) of Directive 90/387/EEC.

2. Where voice telephony service is supplied to users over the ISDN network, national regulatory authorities shall ensure that, for service provided after 1 January 1994, the 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* ⁽¹⁾ on 29 December 1990.

CHAPTER 6

NUMBERING

Article 20

Numbering issues

1. Member States shall ensure that the control of national telephone numbering plans, which in accordance with

⁽¹⁾ OJ No C 327, 29. 12. 1990, p. 19.

Community law is the responsibility of the national regulatory authority, guarantees that numbers and numbering ranges are allocated in a fair, equitable and timely manner. The national regulatory authority shall ensure that there is no discrimination in the allocation of numbers between telecommunications organizations and other service providers.

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

3. The Commission shall promote the availability of Community-wide telephone numbering, which will in particular aim at the features listed in Annex IV.

4. Within the numbering scheme, a mechanism for the allocation of unique individual telephone numbers with pan-European significance shall be instituted in accordance with the procedure set out in Article 29. Such telephone numbers, to include green/freephone numbers and numbers for services which use kiosk billing, shall be the same for all callers within the Community and shall remain the same wherever the owner is located within the Community.

CHAPTER 7

USAGE CONDITIONS, ESSENTIAL REQUIREMENTS AND STANDARDS

Article 21

Usage conditions and essential requirements

1. Member States shall ensure that usage conditions which restrict the use of public telephone networks or voice telephony services are based only on the grounds given in paragraphs 3 to 6, 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, to allow or not to allow telecommunications organizations to take measures such as the refusal to provide access to the 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 usage conditions. These procedures may also provide for the possibility for the national regulatory authority to authorize *a priori* specified measures in case of defined infringements of usage conditions.

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 having given the opportunity to both parties to state their case. The decision shall be duly justified and notified to the parties within one week of its adoption; it shall not be enforced before its notification.

This provision shall not prejudice the rights of the parties concerned to institute proceedings before the courts.

The existence of these procedures shall be published in the manner laid down in Article 4.

3. *Infringement of special or exclusive rights for voice telephony*

Any usage restrictions placed upon users on the basis of special or exclusive rights for voice telephony shall be imposed through regulatory means, and not through technical restrictions.

4. *Conditions generally applicable to the connection of terminal equipment to the network*

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

Where a user's terminal equipment does not or does no longer comply with its approval conditions, or where it malfunctions in a way which adversely affects other users of the network, or where there is a danger of injury to personnel, 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 immediately informs the user about the interruption, giving the reasons for the interruption,
- 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. *Reasons based on essential requirements compatible with Community law*

Without prejudice to Articles 2 and 3 of Directive 90/388/EEC, when access to or use of the 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 (a) to (d) listed 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.

Usage restrictions derived from essential requirements shall be imposed through regulatory means, and not through technical restrictions.

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

(a) *Security of network operations*

There shall be no restrictions on the use of the public telephone network on the grounds of security of network operations except during the period when an

emergency situation prevails, when a telecommunications organization may take the following measures in order to safeguard the security of network operations:

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

An emergency situation in this context means an exceptional case of *force majeure*, such as extreme weather, flood, lightning or fire, industrial action or lock-outs, 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 whereby users and the national regulatory authority are immediately notified 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 the use of the public telephone network on the grounds of maintenance of network integrity, in order to protect network equipment, software, stored data or staff, 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

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

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

(d) Protection of data

Member States may restrict use of the 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, compatible with Community law.

6. Non-payment of bills

National regulatory authorities shall authorize, *a priori*, specified measures, which shall be published in the manner laid down in Article 4, to cover non-payment of bills. These measures shall ensure that any service

interruption is confined to the service concerned, and that due warning is given to the user beforehand.

Article 22

Technical standards

1. National regulatory authorities shall ensure that, in the provision of the services, facilities and features called for in this Directive, reference is made to standards or specifications relevant to the user, namely:

- standards published in the *Official Journal of the European Communities*, in accordance with Article 5 of Directive 90/387/EEC,

or, in the absence of such standards,

- European standards adopted by ETSI, CEN/Cenelec, or any successor thereof,

or, in the absence of such standards,

- international standards or recommendations adopted by the International Consultative Committee on Telegraphs and Telephones (CCITT), the International Consultative Committee on Radio (CCIR), the International Standards Organization (ISO) or the International Electrotechnical Committee (IEC),

or, in the absence of such standards,

- national standards or specifications,

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

2. Member States shall ensure that standards or specifications for use by telecommunications organizations are subject to the requirements of Directive 83/189/EEC.

CHAPTER 8

PROCEDURAL PROVISIONS

Article 23

Provisions for Community-wide convergence

1. Based on the reports provided by the national regulatory authorities pursuant to Article 24 (3) and the information published pursuant to Article 4, the Commission shall review progress towards convergence of targets and implementation of common services and facilities within the Community.

2. Where the Commission finds that, in relation to the requirements of Articles 3 to 21 above, the actions planned or taken or the targets agreed by national regulatory authorities are not achieving adequate convergence at

Community level, amendment of the relevant targets, plans or actions may be determined in accordance with the procedure set out in Article 29.

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

3. In particular, with regard to those features requiring Europe-wide cooperation described in Article 8 (2), where commercial agreements between telecommunications organizations cannot be reached, conditions of interconnection and access may be determined in accordance with the procedure set out in Article 29, in order to achieve the provision of harmonized features and facilities to users.

The procedures initiated by the Commission shall take due account of the state of network development and market demand in the Community.

Article 24

Notification and reporting

1. Member States shall notify to the Commission their national regulatory authority. The national regulatory authority shall be responsible for implementing the requirements laid down in this Directive, including ensuring the publication of targets, reviewing targets, and monitoring performance against those targets.

2. National regulatory authorities shall notify to the Commission the telecommunications organizations who provide public telephone networks and voice telephony services in accordance with the provisions of this Directive.

3. 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 pursuant to Articles 5, 8, 13, 14, and 17,
- a summary of cases where requests for special network access or network interconnection were refused, or where the procedure in Article 21 (2) was invoked.

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

4. National regulatory authorities shall keep available and submit to the Commission on request details of individual cases including the measure taken and their justification.

Article 25

Conciliation and dispute resolution procedure

1. Member States shall ensure that, in the event of an unresolved dispute with a telecommunications organization, users, including service providers, consumers, or other telecommunications organizations shall have a right of appeal to the national regulatory authority or another

independent body, and that easily accessible procedures are created at a national level to settle disputes in a fair, timely and transparent manner.

2. Without prejudice to:

- (a) any action that the Commission or any Member State might 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 issues between them,

the aggrieved party may, where either the dispute cannot be resolved at the national level or it involves telecommunications organizations in more than one Member State, invoke the procedure provided for in paragraphs 3 and 4 by way of a written notification to the national regulatory authority and to the Commission.

3. Where 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 such cases, the chairman of the ONP Committee shall initiate the procedure described below if satisfied that all reasonable steps have been taken at a 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 10 days. The chairman of the working group may decide, upon proposal of 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, 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.

5. When necessary, and in particular where no agreement can be reached, especially with regard to issues relating to Articles 9 and 10, measures to resolve the issue may be taken in accordance with the procedure set out in Article 29.

6. The party invoking the procedure shall bear its own costs of participating in this procedure.

*Article 26***Deferment**

1. When a Member State is not able to or can foresee that it will not be able to fulfil certain requirements of this Directive, it shall notify the Commission of the reasons.

2. Deferment of the obligations can only be accepted in cases where the Member State concerned can prove that the actual state of development of its public telephone network or the conditions of demand are such that the obligations would impose an excessive burden.

3. The Member State shall inform the Commission of the date by which the requirements can be met and of the measures envisaged in order to meet this deadline.

4. When the Commission judges that the proposed deferment is justified because of the particular situation of the Member State concerned, it shall confirm the date and measures proposed under paragraph 3.

*Article 27***Technical adjustment**

Modifications necessary to adapt the technical provisions of this Directive to new technological developments or to changes in market demand shall be determined in accordance with the procedure set out in Article 29.

*Article 28***Committee**

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

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

*Article 29***Committee procedure**

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.

CHAPTER 9

FINAL PROVISIONS

*Article 30***Review**

On the basis of the results of the implementation of this Directive up to 1 January 1995, the Commission will review whether its provisions need to be amended.

*Article 31***Implementation of the Directive**

1. Member States shall take the measures necessary to comply with this Directive before 1 January 1994. They shall immediately inform the Commission thereof.

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

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

*Article 32***Addressees**

This Directive is addressed to the Member States.

ANNEX I

HEADINGS FOR INFORMATION TO BE PUBLISHED IN ACCORDANCE WITH ARTICLE 4

1. Name(s) and address(es) of telecommunications organization(s)

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

2. Telecommunications services offered

2.1. Types of connection to the public telephone network

Technical characteristics of interfaces at commonly provided network termination points are required, including reference to national and/or international standards or recommendations, in accordance with Article 22:

- 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 as described in Article 4, telecommunications organizations should also publish, without undue delay, 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 reference to the relevant technical standards or specifications to which they conform, in accordance with Article 22.

2.3. Tariffs

Covering access, usage, maintenance, and including details of discount schemes.

2.4. Compensation/refund policy

Including specific details of the compensation/refund schemes offered.

2.5. Level(s) of maintenance service offered

2.6. Ordering procedure

Including designated contact points within the telecommunications organization.

2.7. Standard contracts

Including any minimum contractual period, if relevant.

3. Information on licensing requirements for users

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

For voice and non-voice terminal equipment as approved by the national regulatory authority, subject to the provisions of Directive 91/263/EEC, including, where appropriate, conditions concerning customer premises wiring and location of the network termination point.

5. Usage restrictions

In accordance with the requirements of Article 21.

6. Performance and quality of service parameters

Definitions, measurements 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

In accordance with the requirements of Articles 5, 8, 13, 14, and 17.

8. Notice periods for the withdrawal of existing services, features, facilities or tariffs

In accordance with the requirements of Articles 6 and 11.

9. Description of the approved cost accounting system

Showing the main categories under which costs are gathered (e.g. equipment, personnel, buildings, etc.), and the rules used for the allocation of costs to the voice telephony service, in accordance with the requirements of Article 12.

10. The national numbering plan

In accordance with the requirements of Article 20.

11. Terms for the use of directory information

In accordance with Article 15.

12. Conciliation and dispute resolution procedure

Guidelines for users on the appeal mechanisms available for resolving disputes with telecommunications organizations, including details of the procedure described in Article 25.

13. Procedure in the event of non-payment of bills

In accordance with the requirements of Article 21 (6).

*ANNEX II***SUPPLY TIME AND QUALITY OF SERVICE INDICATORS IN ACCORDANCE WITH THE
REQUIREMENTS OF ARTICLE 5**

1. The following list indicates areas where quality of service indicators are required, pursuant to Article 5:
 - supply time for initial network connection,
 - fault rate per connection,
 - fault repair time,
 - call failure rates for national, intra-Community and extra-Community calls,
 - dial tone delay,
 - call set up delay,
 - transmission quality statistics,
 - response times for operator services,
 - availability of coin and card-operated telephones in public telephones boxes,
 - billing accuracy.
 2. In accordance with Article 5, definitions and measurement methods must be published, with reference to the hierarchy of standards given in Article 22. Where appropriate, the Commission will request ETSI to draw up European standards for common definitions and measurement methods.
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ANNEX III

MINIMUM SET OF ADVANCED FACILITIES AND FEATURES TO BE PROVIDED IN ACCORDANCE WITH ARTICLE 8

1. List of features and facilities referred to in Article 8 (1):

(a) **DTMF (dual tone multi-frequency) operation**

The public telephone network supports the use of DTMF telephones for signalling to the exchange, using tones as defined in CCITT 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)

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

(c) **Call transfer**

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

(d) **Call forwarding**

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.

2. List of services, facilities and features requiring European-wide cooperation referred to in Article 8 (2)

(a) **European 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) **European wide kiosk billing**

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

(c) **Automatic reverse charging service feature**

— For calls which are terminated and originated within the Community.

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

(d) **Calling line identification**

That is, 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.

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

That is, users in one Member State can call the operator/assistance service in another Member State.

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

That is, users in one Member State can call the directory enquiry service in another Member State.

ANNEX IV

TARGET SET OF FEATURES FOR COMMUNITY-WIDE NUMBERING IN ACCORDANCE WITH
ARTICLE 20

The following are priorities to be considered pursuant to Article 20:

- standard prefix 00 for international calls ⁽¹⁾,
 - a European area code (i.e. a single European country code), to facilitate the introduction of Community-wide access codes for trans-European services ⁽²⁾, in particular for:
 - directory enquiries,
 - green/freephone (called party pays all) and shared cost calls (caller pays only local call charges),
 - value-added services which use kiosk billing,
 - global number portability.
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⁽¹⁾ OJ No L 137, 20 May 1992, p. 21.

⁽²⁾ COM(92) 344 final, 24 July 1992.

