

## DIRECTIVE 98/10/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 26 February 1998

on the application of open network provision (ONP) to voice telephony and on universal service for telecommunications in a competitive environment

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission<sup>(1)</sup>,

Having regard to the Opinion of the Economic and Social Committee<sup>(2)</sup>,

Acting in accordance with the procedure laid down in Article 189b of the Treaty<sup>(3)</sup>, in the light of the joint text approved by the Conciliation Committee on 14 January 1998,

(1) Whereas from 1 January 1998, with transition periods for certain Member States, the provision of telecommunications services and infrastructure in the Community will be liberalised; whereas the Council<sup>(4)</sup>, the European Parliament<sup>(5)</sup>, the Economic and Social Committee<sup>(6)</sup> and the

Committee of the Regions have all recognised that liberalisation goes hand in hand with parallel action to create a harmonised regulatory framework which secures the delivery of universal service; whereas the concept of universal service must evolve to keep pace with advances in technology, market developments and changes in user demand; whereas progress has been made in the Community towards defining the scope of universal service and laying down rules for its costing and financing<sup>(7)</sup>; whereas the Commission has undertaken to publish a report on the monitoring of the scope, level, quality and affordability of the universal telephone service in the Community before 1 January 1998, and at regular intervals thereafter;

(2) 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<sup>(8)</sup>, provides a general framework for the application of ONP principles in specific areas;

(3) Whereas Article 32(1) of European Parliament and Council Directive 95/62/EC of 13 December 1995 on the application of open network provision (ONP) to voice telephony<sup>(9)</sup> calls for the European Parliament and the Council to decide by 1 January 1998, on the basis of a proposal submitted by the Commission, on the revision of the Directive to adapt it to the requirements of market liberalisation; whereas Directive 95/62/EC does not apply to mobile telephony services; whereas in view of the growing demand for mobile telephony services it is appropriate that certain provisions of this Directive should apply to mobile telephony services; whereas this Directive does not prevent Member States, in conformity with Community law, from extending the application of provisions of the Directive to mobile networks and/or services

<sup>(1)</sup> OJ C 371, 9.12.1996, p. 22 and OJ C 248, 14.8.1997, p. 13.

<sup>(2)</sup> OJ C 133, 28.4.1997, p. 40.

<sup>(3)</sup> Opinion of the European Parliament of 20 February 1997 (OJ C 85, 17.3.1997, p. 126), Council Common Position of 9 June 1997 (OJ C 234, 1.8.1997, p. 87) and Decision of the European Parliament of 17 September 1997 (OJ C 304, 6.10.1997, p. 82). Decision of the European Parliament of 29 January 1998 and Decision of the Council of 12 February 1998.

<sup>(4)</sup> Council Resolution 94/C48 of 7 February 1994 on Universal Service principles in the telecommunications sector (OJ C 48, 16.2.1994, p. 1) and Council Resolution 95/C258 of 18 September 1995 on the implementation of the future regulatory framework for telecommunications (OJ C 258, 3.10.1995, p. 1).

<sup>(5)</sup> European Parliament Resolution of 19 May 1995 on the Green Paper on the liberalisation of telecommunications infrastructure and cable television networks — Part II A4-0111/95; (OJ C 151, 19.6.1995, p. 27).

<sup>(6)</sup> Opinion of the Economic and Social Committee of 13 September 1995 on the Green Paper on the liberalisation of telecommunications infrastructure and cable television networks — Part II (OJ C 301, 13.11.1995, p. 24).

<sup>(7)</sup> Directive 97/33/EC of the European Parliament and of the Council of 30 June 1997 on interconnection in telecommunications with regard to ensuring universal service and interoperability through application of the principles of Open Network Provision (ONP) (OJ L 199, 26.7.1997, p. 32).

<sup>(8)</sup> OJ L 192, 24.7.1990, p. 1. Directive as amended by Directive 97/51/EC (OJ L 295, 29.10.1997, p. 23).

<sup>(9)</sup> OJ L 321, 30.12.1995, p. 6.

even if they are not explicitly mentioned in its scope; whereas, in moving to a competitive market, there are certain obligations which should apply to all organisations providing telephone services over fixed networks and whereas there are others which should apply only to organisations enjoying significant market power or which have been designated as a universal service operator in accordance with Article 5; whereas full account has been taken of the user and consumer requirements for affordability, cost control and user facilities as expressed in the public consultation on universal service for telecommunications; whereas, since the modifications required to Directive 95/62/EC are substantial, it is convenient for the sake of clarity to reformulate the said Directive; whereas this Directive does not affect the timescale for Member States' implementation of Directive 95/62/EC, as set out in Annex IV;

(4) Whereas a fundamental requirement of universal service is to provide users on request with a connection to the fixed public telephone network at a fixed location, at an affordable price; whereas there should be no constraints on the technical means by which the connection is provided, allowing for wire or wireless technologies; whereas fixed public telephone network infrastructure newly installed after 1 January 1998 should be of a quality which supports, in addition to speech, data communications at rates suitable for access to online information services; whereas affordable price means a price which the Member States define at national level in the light of specific national conditions, including town and country planning aspects, after carrying out the consultation referred to in Article 24; whereas the Commission is to prepare reports on the evolution of tariffs throughout the Community on the basis of the rules and criteria for ensuring affordability published at national level and in doing so may carry out additional consultation at the European level; whereas the affordability of telephone service is related to the information which users receive regarding telephone usage expenses as well as the relative cost of telephone usage compared to other services; whereas, in relation to the provisions for affordable services for users in rural or high cost areas, Member States may make exceptions for holiday homes;

(5) Whereas tariff rebalancing is leading to a move away from non-cost oriented tariffs; whereas, until competition is effectively established, safeguards may be necessary to ensure that price increases in remote or rural areas are not used to compensate for losses in revenue resulting from price decreases

elsewhere; whereas tariff rebalancing is an essential feature of a competitive market; whereas price caps or geographical averaging or similar schemes may be used to ensure that the necessary rebalancing does not unduly affect users and does not endanger the affordability of telephone services;

(6) Whereas the importance of the fixed public telephone network and service is such that the latter should be available to anyone reasonably requesting it; whereas, in accordance with the principle of subsidiarity, it is for Member States to decide on the basis of objective criteria which organisations have the responsibility for providing the universal service for telecommunications as defined in this Directive, taking into account the ability and, where appropriate, the willingness of organisations to provide all or part of it; whereas corresponding obligations could be included as conditions in authorisations to provide publicly available telephone services; whereas, in accordance with Article 5(1) of Directive 97/33/EC of the European Parliament and of the Council of 30 June 1997 on interconnection in telecommunications with regard to ensuring universal service and interoperability through application of the principles of Open Network Provision (ONP)<sup>(1)</sup>, Member States may establish mechanisms for sharing the net cost of the universal service obligations with other organisations operating public telecommunications networks and/or publicly available voice telephony services; whereas public telecommunications networks include both public fixed networks and public mobile networks; whereas national regulatory authorities should satisfy themselves that those organisations benefiting from universal service funding provide sufficient level of detail of the specific elements requiring such funding in order to justify their request; whereas, in accordance with Community law, Member States' schemes for the costing and financing of universal service will be communicated to the Commission for verification of compatibility with the Treaty;

(7) Whereas provision of directory services is a competitive activity; whereas Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data regulates the processing of personal data<sup>(2)</sup>; whereas Directive 97/66/EC of the European Parliament and of the Council of 15 December 1997 concerning the processing of personal data and the protection of

<sup>(1)</sup> OJ L 199, 26.7.1997, p. 32.

<sup>(2)</sup> OJ L 281, 23.11.1995, p. 31.

privacy in the telecommunications sector<sup>(1)</sup>, in particular in the Integrated Services Digital Network (ISDN) and in digital mobile networks, will give the subscriber the right to be omitted, or to have certain data omitted, from a printed or electronic directory at his or her request; whereas users and consumers desire comprehensive directories and directory enquiry service covering all listed telephone subscribers and their numbers (including fixed, mobile and personal telephone numbers); whereas the situation whereby certain telephone directories and directory services are provided in a manner which is perceived to be free of charge to the user is not affected by this Directive;

- (8) Whereas Member States shall, where appropriate, take suitable measures in order to guarantee access to and affordability of all fixed public telephone services for disabled users and users with special social needs; whereas specific measures for disabled users could include, as appropriate, making available public text telephones or equivalent measures for deaf or speech impaired people, providing services such as directory enquiry services free of charge or equivalent measures for blind or partially sighted people, and providing itemised bills in alternative format on request for blind or partially sighted people;
- (9) Whereas Council Decision 91/396/EEC of 29 July 1991 on the introduction of a single European emergency call number<sup>(2)</sup> called for Member States to ensure that no later than 31 December 1996 the number '112' is introduced in public telephone networks as the single European emergency call number; whereas it is important that users are able to call emergency telephone numbers and, in particular, the single European emergency call number '112' free of charge from any telephone, including public pay-telephones, without the use of coins or cards;
- (10) Whereas transparency of network interface specifications is a prerequisite for a competitive market in terminal equipment; whereas the national regulatory authority may consult the interested parties and especially terminal equipment suppliers and the representatives of the users and consumers on the changes in existing network interface specifications;
- (11) Whereas Directive 97/13/EC<sup>(3)</sup> provides for a common framework for general authorisations and individual licences in the field of telecommunications services; whereas quality and price are key factors in a competitive market and whereas national regulatory authorities should be able to monitor achieved quality of service for organisations with significant market power or which have been designated in accordance with Article 5; whereas national regulatory authorities should also be able to monitor the achieved quality of services by other organisations providing fixed public telephone networks and/or fixed public telephone services where the latter have been operating for more than 18 months and where the national regulatory authority deems it necessary; whereas, in relation to the quality of service attained by both types of organisations, national regulatory authorities shall be able to take appropriate corrective measures where they deem it necessary; whereas the Commission will report by 1 January 1998, and at regular intervals thereafter, on the quality, level and scope of universal service in the European Community, as indicated in its Communication of 13 March 1996 on Universal Service for Telecommunications in the perspective of a fully liberalised environment; whereas these powers are without prejudice to the application of competition law by national and Community authorities;
- (12) Whereas conditions on access to and use of fixed public telephone networks or publicly available telephone services may be imposed exceptionally by a Member State on the grounds of essential requirements; whereas national regulatory authorities should have procedures to address at least those situations where an organisation providing voice telephony services which has significant market power or has been designated in accordance with Article 5 and has significant market power interrupts, reduces or varies the availability of services to organisations providing telecommunications networks and/or services; whereas, except in cases of persistent late payment or non-payment of bills, consumers should be protected from immediate disconnection from the network on the grounds of an unpaid bill and, particularly in the case of disputes over high bills for premium rate services, should continue to have access to essential telephone services pending resolution of the dispute; whereas in some Member States such access may continue to be provided only if the subscriber continues to pay line rental charges; whereas the provisions of this Directive do not prevent a Member State from taking measures justified on grounds set out in Articles 36 and 56 of

<sup>(1)</sup> OJ L 24, 30.1.1998, p. 1.

<sup>(2)</sup> OJ L 217, 6.8.1991, p. 31.

<sup>(3)</sup> OJ L 117, 7.5.1997, p. 15.

the Treaty, in particular on grounds of public security, public policy and public morality;

- (13) Whereas tone dialling and itemised billing facilities are normally available on modern telephone exchanges and can therefore be provided inexpensively once old exchanges are modernised or new exchanges installed; whereas tone dialling is increasingly being used for interaction with special services and facilities, including value added services, and whereas lack of this facility can prevent users from accessing certain services; whereas itemised billing and selective call barring are valuable means for users to control and monitor their usage of telephone networks; whereas Directive 97/66/EC on the processing of personal data and the protection of privacy in the telecommunications sector safeguards the privacy of users with regard to itemised billing, gives them the means to protect their right to privacy when calling line identification is implemented and safeguards them against nuisance which may be caused by call forwarding; whereas 'number portability' is a facility whereby end users who so request can retain their number(s) on the fixed public telephone network at a specific location independently of the organisation providing service; whereas harmonised technical interface standards have been drawn up by the European standardisation organisations for access to the Integrated Services Digital Network (ISDN) at what is known as the S/T reference point;
- (14) Whereas price transparency should ensure that residential subscribers do not subsidise discounts to business customers; whereas certain obligations concerning tariffs and cost accounting systems will no longer be appropriate once competition is introduced and whereas others can be relaxed by the competent national regulatory authority as soon as competition achieves the desired objectives; whereas in all cases the non-discrimination requirements of the competition rules of Community law apply; whereas the requirement for unbundling does not prevent facilities from being combined in a tariff package, provided this practice is not used to unduly restrict the users' freedom of choosing their suppliers for the different services they may wish to use;
- (15) Whereas issues related to the level of affordability, quality of service and future scope of the universal service should be the subject of consultation at national level with all interested parties; whereas this requires that adequate information on the level, quality and affordability of universal service is available; whereas disabled users should, wherever possible, receive a broadly similar level of services compared to other users in terms of their access to or use of telephone services;
- (16) Whereas the Commission has to be able to monitor effectively the application of this Directive and whereas European users need to know where to find published information on telephone services in other Member States; whereas, in accordance with Directive 97/13/EC on licensing, national regulatory authorities shall not disclose information covered by the obligation of professional secrecy, except where such disclosure is essential for the purpose of fulfilling their duties;
- (17) Whereas, in view of the forecast convergence of fixed and mobile telephone services, the extent to which this Directive applies to mobile services should be re-examined when the Directive is reviewed; whereas the review date of 31 December 1999 will allow for a coordinated review of all the ONP Directives in the light of experience with the liberalisation of public telecommunications networks and voice telephony services; whereas the review should also examine the removal of obligations no longer needed in a market where there is effective competition;
- (18) Whereas the essential goals of ensuring universal service for telecommunications for all European users and of harmonising conditions for access to and use of fixed public telephone networks and publicly available telephone services cannot be realised satisfactorily at Member State level;
- (19) Whereas a *modus vivendi* was concluded on 20 December 1994 between the European Parliament, the Council and the Commission concerning the implementing measures for acts adopted in accordance with the procedure laid down in Article 189b of the Treaty,

HAVE ADOPTED THIS DIRECTIVE:

#### CHAPTER I

#### SCOPE, AIM AND DEFINITIONS

##### *Article 1*

#### Scope and Aim

1. This Directive concerns the harmonisation of conditions for open and efficient access to and use of

fixed public telephone networks and fixed public telephone services in an environment of open and competitive markets, in accordance with the principles of open network provision (ONP).

The aims are to ensure the availability throughout the Community of good quality fixed public telephone services and to define the set of services to which all users, including consumers, should have access in the context of universal service in the light of specific national conditions, at an affordable price.

2. This Directive does not apply to public mobile telephone networks and public mobile telephone services, with the exception of Articles 6, 9(b) and (c), 10 and 11(1).

3. This Directive replaces Directive 95/62/EC.

## 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:

- (a) 'users' means individuals, including consumers, or organisations using or requesting publicly available telecommunications services;
- (b) 'consumer' means any natural person who uses a publicly available telecommunications service for purposes which are outside his or her trade, business or profession;
- (c) 'subscriber' shall mean any natural or legal person who or which is party to a contract with the provider of publicly available telecommunications services for the supply of such services;
- (d) 'public pay-telephone' means a telephone available to the general public, for the use of which the means of payment are coins and/or credit/debit cards and/or pre-payment cards;
- (e) 'voice telephony service' means a service available to the public for the commercial provision of direct transport of real-time speech via the public switched network or networks such that any user can use equipment connected to a network termination point at a fixed location to communicate with another user of equipment connected to another termination point;
- (f) 'universal service' means a defined minimum set of services of specified quality which is available to all users independent of their geographical location and, in the light of specific national conditions, at an affordable price;

(g) 'national regulatory authority' means the body or bodies in each Member State entrusted by that Member State with, *inter alia*, the regulatory functions addressed in this Directive;

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

(i) 'organisation with significant market power' means an organisation authorised to provide fixed public telephone networks and/or voice telephony services in a Member State which, for the purpose of this Directive, has been designated by the national regulatory authority in that Member State as having significant market power and notified to the Commission.

An organisation shall be presumed to have significant market power when it has a share of 25 % or more of the relevant market in the geographical area in a Member State within which it is authorised to operate.

National regulatory authorities may determine that an organisation with a market share of less than 25 % in the relevant market has significant market power. They may also determine that an organisation with a market share of more than 25 % in the relevant market does not have significant market power. In either case, the determination shall take into account the organisation's ability to influence market conditions, its turnover relative to the size of the market, its control of the means of access to end-users, its access to financial resources and its experience in providing products and services in the market.

3. For the purposes of this Directive:

- (a) The terms 'fixed public telephone network' and 'public mobile telephone network' are described in Annex I of Directive 97/33/EC on Interconnection.
- (b) The term 'publicly available telephone services' includes both fixed public telephone services and public mobile telephone services.

Fixed public telephone services, as indicated in Annex I part I of Directive 97/33/EC on Interconnection, may include — in addition to voice telephony service — access to emergency '112' services, the provision of operator assistance, directory services, provision of public pay phones, provision of service under special terms and/or provision of special facilities for customers with disabilities or with special social needs, as set out in this Directive, but does not include value added services provided over the public telephone network.

## CHAPTER II

**PROVISION OF A DEFINED SET OF SERVICES WHICH  
MAY BE FUNDED IN THE CONTEXT OF UNIVERSAL  
SERVICE***Article 3***Availability of services**

1. Member States shall ensure that the services set out in this Chapter are made available to all users in their territory, independent of geographical location, and, in light of specific national conditions, at an affordable price.

Taking into account the progressive adjustment of tariffs towards costs, Member States shall in particular maintain the affordability of the services set out in this Chapter for users in rural or high cost areas and for vulnerable groups of users such as the elderly, those with disabilities or those with special social needs.

To this end, Member States shall remove obligations which prevent or restrict the use of special or targeted tariff schemes for the provision of the services specified in this Directive and may, in accordance with Community law, implement price caps or geographical averaging or other similar schemes for some or all of the specified services until such time as competition provides effective price control.

Schemes designed to ensure affordability shall follow the principles of transparency and non-discrimination. Member States shall publish the rules and criteria for ensuring affordability at the national level, taking into account Article 24.

2. Member States shall publish regular reports on the evolution of tariffs which should be made available to the public. The Commission shall publish regular reports on the evolution of tariffs throughout the Community.

*Article 4***Financing schemes**

Where the services set out in this Chapter cannot be commercially provided on the basis of conditions laid down by the Member State, Member States may set up universal service funding schemes for the shared financing of those services, in conformity with Community law and, in particular, with Directive 97/33/EC on Interconnection.

National regulatory authorities shall ensure that organisations benefiting from such a shared financing scheme make a declaration to their national regulatory authority indicating the specific elements for which funding is requested, the information referred to in Article 5 of Directive 97/33/EC on Interconnection being made available to interested parties on request, in accordance with Article 11(4).

Member States may impose additional requirements concerning the provision of telecommunication services in accordance with existing Community law. Such additional requirements may not have an impact on the costing of universal service provision as laid down at Community level and may not be financed from a mandatory contribution by market players.

*Article 5***Provision of network connections and access to  
telephone services**

1. Member States shall ensure that all reasonable requests for connection to the fixed public telephone network at a fixed location and access to fixed public telephone services are met by at least one operator and may, if necessary to this end, designate one or more operators so that the whole of their territory is covered.

2. The connection provided shall be capable of allowing users to make and receive national and international calls, supporting speech, facsimile and/or data communications.

*Article 6***Directory services**

1. The provisions of this Article are subject to the requirements of relevant legislation on the protection of personal data and privacy, such as Directive 95/46/EC and Directive 97/66/EC.

2. Member States shall ensure that:

- (a) subscribers have the right to have an entry in publicly available directories and to verify and, if necessary, correct or request removal of that entry;
- (b) directories of all subscribers who have not expressed opposition to being listed, including fixed, mobile and personal numbers, are available to users in a

form approved by the national regulatory authority, whether printed or electronic, or both, and are updated on a regular basis;

- (c) at least one telephone directory enquiry service covering all listed subscribers numbers is available to all users, including users of public pay telephones;

3. In order to ensure provision of the services referred to in paragraph 2(b) and 2(c), Member States shall ensure that all organisations which assign telephone numbers to subscribers meet all reasonable requests to make available the relevant information in an agreed format on terms which are fair, cost oriented and non-discriminatory.

4. Member States shall ensure that organisations providing the service referred to in paragraph 2(b) and 2(c) follow the principle of non-discrimination in their treatment and presentation of information provided to them.

#### *Article 7*

##### **Public pay telephones**

1. Member States shall ensure that public pay telephones are provided to meet the reasonable needs of users in terms of both numbers and geographical coverage.

A Member State may authorise its national regulatory authority not to apply the requirements of this paragraph in all or part of its territory if it is satisfied that these facilities are widely available.

2. Member States shall ensure that it is possible to make emergency calls from public pay telephones using the single European emergency call number '112' referred to in Decision 91/396/EEC and other national emergency numbers, all free of charge and without having to use coins or cards.

#### *Article 8*

##### **Specific measures for disabled users and users with special social needs**

Member States shall, where appropriate, take specific measures to ensure equal access to and affordability of fixed public telephone services, including directory services for disabled users and users with special social needs.

### CHAPTER III

#### **SPECIFIC PROVISIONS CONCERNING ORGANISATIONS PROVIDING FIXED AND/OR MOBILE PUBLIC TELEPHONE NETWORKS AND/OR PUBLICLY AVAILABLE TELEPHONE SERVICES**

#### *Article 9*

##### **Connection of terminal equipment and use of the network**

Member States shall ensure that all users provided with a connection to the fixed public telephone network can:

- (a) connect and use terminal equipment suitable for the connection provided, in accordance with national and Community law;
- (b) access operator assistance services and directory enquiry services in accordance with Article 6.2(c), unless the subscriber decides otherwise;
- (c) access Emergency Services at no charge, using the dialling code '112' and any other dialling codes specified by national regulatory authorities for use at a national level.

Member States shall ensure that mobile users can also access the services mentioned in (b) and (c).

#### *Article 10*

##### **Contracts**

1. National regulatory authorities shall ensure that organisations providing access to fixed public telephone networks and mobile public telephone networks provide a contract. The contract shall specify the service to be provided or shall make reference to publicly available terms and conditions. The contract or the publicly available terms and conditions shall at least specify the supply time for initial connection and the types of maintenance service offered, the compensation and/or refund arrangements for subscribers which apply if the contracted service is not met and a summary of the method of initiating procedures for the settlement of disputes in accordance with Article 26 and shall provide information on service quality levels offered.

2. National regulatory authorities or other competent bodies according to national legislation shall be able on their own initiative or upon request by an organisation representing user or consumer interests to require the alteration of the conditions of contracts referred to in

paragraph 1 and the conditions of any compensation and/or refund schemes used insofar as they concern the provisions of this Directive in order to protect the rights of users and/or subscribers.

#### Article 11

##### Publication of and access to information

1. Member States shall ensure that all organisations providing fixed public telephone networks and mobile public telephone networks or publicly available telephone services publish adequate and up-to-date information for consumers on their standard terms and conditions with regard to access to and use of the public telephone networks and/or publicly available telephone services. In particular, national regulatory authorities shall ensure that tariffs for end-users, any minimum contractual period, if relevant, and conditions of renewal of the contracts are presented clearly and accurately.

2. National regulatory authorities shall ensure that organisations providing fixed public telephone networks provide them with details of technical interface specifications for network access, as identified in Annex II, part 1, to be made available in accordance with paragraph 4. Changes in existing network interface specifications and information on new network interface specifications shall be communicated to the national regulatory authority in advance of implementation. The national regulatory authority may lay down a suitable period of notice.

3. Where and for as long as the provision of fixed public telecommunications networks and voice telephony services are subject to special or exclusive rights in a Member State, national regulatory authorities shall ensure that adequate and up-to-date information on access to and use of the fixed public telecommunications networks and fixed public telephone services is published according to the list of headings given in Annex II, part 2 in the manner laid down in paragraph 4.

4. National regulatory authorities shall ensure that the information is made available in an appropriate manner in order to provide easy access to that information for interested parties. Reference to the manner in which this information is published shall be made in the national Official Gazette of the Member State concerned.

5. National regulatory authorities shall notify to the Commission by no later than 30 June 1998 the manner in which the information referred to in paragraphs 2 and 3 is made available. The Commission shall regularly publish a reference to such notifications in the *Official Journal of the European Communities*. Any changes shall be notified immediately.

#### Article 12

##### Quality of service

1. Member States shall be able to set the quality of services identified in this Directive for organisations providing fixed public telephone networks and/or fixed public telephone services in accordance with the procedures set out in this Article.

In accordance with Directive 97/13/EC on Licensing, they may to this end set performance targets in the individual licences, in particular for organisations which have significant market power in the provision of fixed public telephone networks and/or voice telephony services or which have been designated in accordance with Article 5.

In the case of organisations which retain special or exclusive rights for the provision of fixed public telecommunications networks and/or voice telephony services, Member States shall ensure that targets are set and published for the relevant parameters laid down in Annex III, in accordance with Article 11(4).

2. National regulatory authorities shall ensure that organisations with significant market power or which have been designated in accordance with Article 5 start to keep up-to-date information concerning their performance based on the parameters, definitions and measurement methods laid down in Annex III. National regulatory authorities shall also be able to request that other organisations which have been providing fixed public telephone networks and/or fixed public telephony services for more than 18 months do the same.

This information shall be provided to the national regulatory authority on request.

3. Where appropriate, and taking account of, in particular, the views of interested parties in accordance with the provisions of Article 24, national regulatory authorities shall ensure publication, in accordance with Article 11(4), of the performance data referred to in paragraph 1 and may set performance targets for organisations providing fixed public telephone networks and/or fixed public telephone services which either have significant market power or have been designated in accordance with Article 5 where such targets do not exist already.

Persistent failure by an organisation to meet performance targets may result in specific measures being taken in accordance with conditions set out in the relevant authorisation for that organisation.

4. National regulatory authorities shall have the right to call for independent audits of the performance data in order to ensure the accuracy and comparability of the data made available by the organisations referred to in paragraph 2.



## Article 13

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

1. Without prejudice to the procedure for the resolution of national disputes laid down in Article 26(1), national regulatory authorities shall have procedures in order to address situations where organisations providing fixed public telephone networks and/or fixed public telephone services, or at least those organisations providing voice telephony services which either have significant market power or have been designated in accordance with Article 5 and have significant market power, take measures such as the interruption, termination, significant variation or reduction in availability of services at least to organisations providing telecommunications networks and/or services.

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

A summary of these procedures shall be published in the manner laid down in Article 11(4).

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

2. Member States shall ensure that, when access to or use of fixed public telephone networks and/or the fixed public telephone services is restricted on the basis of essential requirements, the relevant national provisions identify which of the essential requirements set out in (a) to (e) below are the basis of such restrictions.

These restrictions shall be imposed through regulatory means and shall be published in the manner laid down in Article 11(4).

Without prejudice to action which may be taken in accordance with Articles 3(5) and 5(3) of Directive 90/387/EEC, the following essential requirements shall apply to the fixed public telephone network and fixed public telephone services in the following manner:

(a) *security of network operations*

Member States shall take all necessary steps to ensure that the availability of fixed public telephone networks and of fixed public telephone services is maintained in the event of catastrophic network breakdown or in cases of *force majeure*, such as

extreme weather, earthquake, flood, lightning or fire.

In the event of the circumstances referred to in the first subparagraph, the bodies concerned shall make every endeavour to maintain the highest level of service to meet any priorities laid down by the competent authorities.

National regulatory authorities shall ensure that any restrictions on access to and use of the fixed public telephone network on the grounds of the security of networks are proportionate and non-discriminatory and are based on objective criteria identified in advance.

(b) *maintenance of network integrity*

Member States shall take all necessary steps to ensure that the integrity of the fixed public telephone network is maintained. National regulatory authorities shall ensure that restrictions on access to and use of the fixed public telephone network on the grounds of maintenance of network integrity, in order to protect, *inter alia*, network equipment, software or stored data, are kept to the minimum necessary to provide for normal operation of the network. Such restrictions shall be non-discriminatory and based on objective criteria identified in advance.

(c) *interoperability of services*

When terminal equipment is operating in compliance with Directive 91/263/EEC<sup>(1)</sup>, no further restrictions on use shall be imposed on the grounds of interoperability of services.

(d) *protection of data*

Conditions on access to and use of fixed public telephone networks and/or fixed public telephone services based on the grounds of protection of data may be imposed only in accordance with relevant legislation on the protection of personal data and privacy, such as Directive 95/46/EC and Directive 97/66/EC.

(e) *effective use of the frequency spectrum*

Member States shall take all necessary steps to ensure the effective use of the frequency spectrum and the avoidance of harmful interference between radio-based systems which could restrict or limit access to or use of fixed public telephone networks and fixed public telephone services.

<sup>(1)</sup> OJ L 128, 23.5.1991, p. 1, as amended by Directive 93/68/EEC (OJ L 220, 30.8.1993, p. 1).

3. Where and for as long as Member States maintain special or exclusive rights for the provision of public telecommunications networks and voice telephony services, conditions imposed on users on the basis of such special or exclusive rights shall be imposed through regulatory means under the authority of the national regulatory authority.

#### *Article 14*

##### **Itemised billing, tone dialling and selective call barring**

1. In order to ensure that users have access over fixed public telephone networks as early as possible to the facilities of:

- tone dialling,
- itemised billing and selective call barring as facilities available on request,

Member States may designate one or more operators to provide these facilities to most telephone users before 31 December 1998 and to ensure that they are generally available by 31 December 2001.

A Member State may authorise its national regulatory authority not to apply the requirements of this paragraph in all or part of its territory if it is satisfied that these facilities are widely available.

Tone dialling and selective call barring are specified in Annex I, part 1.

2. Subject to the requirements of relevant legislation on the protection of personal data and privacy, such as Directive 95/46/EC and Directive 97/66/EC, itemised bills shall show a sufficient level of detail to allow verification and control of the charges incurred in using the fixed public telephone network and/or fixed public telephone services.

A basic level of itemised billing shall be available at no extra charge to the user. Where appropriate, additional levels of detail may be offered to subscribers at reasonable tariffs or at no charge. National regulatory authorities may lay down the basic level of itemised bills.

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

#### *Article 15*

##### **Provision of additional facilities**

1. National regulatory authorities shall ensure that organisations providing voice telephony services, which

either have significant market power or have been designated in accordance with Article 5 and have significant market power, provide, subject to technical feasibility and economic viability, the facilities listed in Annex I, part 2.

2. Subject to the requirements of relevant legislation on the protection of personal data and privacy, such as Directive 95/46/EC and Directive 97/66/EC, Member States shall take all necessary measures to remove any regulatory restrictions which prevent provision of the services and facilities listed in Annex I, part 3, in compliance with the competition rules of Community law.

3. National regulatory authorities shall ensure that dates for the introduction of the facilities listed in Annex I, part 2 are set, taking into account the state of network development, market demand and progress with standardisation, and are published in the manner laid down in Article 11(4).

4. Where the facility of number portability, as referred to in Article 12(5) of Directive 97/33/EC on Interconnection, is not yet in use, national regulatory authorities shall ensure that, for a reasonable period after a subscriber has changed supplier, either a telephone call to his old number can be re-routed to his new number for a reasonable fee or callers are given an indication of the new number, without charging the called party for this service.

National regulatory authorities shall ensure that any fees for the above facilities are reasonable.

#### *Article 16*

##### **Special network access**

1. National regulatory authorities shall ensure that organisations with significant market power in the provision of fixed public telephone networks deal with reasonable requests from organisations providing telecommunications services for access to the fixed public telephone network at network termination points other than the commonly provided network termination points referred to in Annex II, part 1. This obligation may only be limited on a case-by-case basis and on the grounds that there are technically and commercially viable alternatives to the special access requested, and if the requested access is inappropriate in relation to the resources available to meet the request.

2. The organisation making such a request shall be granted an opportunity to put its case to the national regulatory authority before a final decision is taken to restrict or deny access in response to a particular request.

Where a request for special network access is denied, the organisation making the request should be given a prompt and justified explanation of why the request has been refused.

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 2, 4 and 5.

The agreement may include reimbursement to the organisation of its costs incurred in providing the network access requested; these charges shall fully respect the principles of cost orientation set out in Annex II to Directive 90/387/EEC.

4. National regulatory authorities may intervene on their own initiative at any time, where justified, in order to ensure effective competition and/or interoperability of services and shall do so, if requested by either party, in order to set conditions which 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 include conditions which meet the criteria set out in paragraph 4, are entered into and implemented in an efficient and timely manner and include conditions on conformity with relevant standards, compliance with essential requirements and/or the maintenance of end-to-end quality.

6. Conditions set by national regulatory authorities in accordance with paragraph 5 shall be published in the manner laid down in Article 11(4).

7. National regulatory authorities shall ensure that organisations with significant market power referred to in paragraph 1 adhere to the principle of non-discrimination when they make use of the fixed public telephone network and, in particular, use any form of special network access, for providing publicly available telecommunications services. Such organisations shall apply similar conditions in similar circumstances to organisations providing similar services and shall provide special network access facilities and information to others under the same conditions and of the same quality as they provide for their own services or those of their subsidiaries or partners.

8. Where appropriate, the Commission shall, in consultation with the ONP Committee, acting in accordance with the procedure laid down in Article 29, request the European Telecommunications Standards Institute (ETSI) to draw up standards for new types of network access. Reference to such standards shall be published in the *Official Journal of the European Communities* in accordance with Article 5 of Directive 90/387/EEC.

9. Details of agreements for special network access shall be made available to the national regulatory authority on request. Without prejudice to the rights and obligations referred to in Article 20(2) of Directive 97/13/EC on Licensing, national regulatory authorities shall keep confidential those parts of the agreements referred to in paragraph 3 which deal with the commercial strategy of the parties.

#### Article 17

##### Tariff principles

1. Without prejudice to the specific provisions of Article 3 in relation to affordability or to paragraph 6, national regulatory authorities shall ensure that organisations providing voice telephony services which either have significant market power or have been designated in accordance with Article 5 and have significant market power comply with the provisions of this Article.

2. Tariffs for use of the fixed public telephone network and fixed public telephone services shall follow the basic principles of cost orientation set out in Annex II to Directive 90/387/EEC.

3. Without prejudice to Article 7(3) of Directive 97/33/EC on Interconnection, tariffs for access to and use of the fixed public telephone network shall be independent of the type of application which the users implement, except to the extent that they require different services or facilities.

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

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

6. Without prejudice to Article 3 in relation to affordability, a Member State may authorize its national regulatory authority not to apply paragraphs 1, 2, 3, 4 or 5 of this Article in a specific geographical area where it is satisfied that there is effective competition in the fixed public telephone services market.

#### Article 18

##### Cost accounting principles

1. Member States shall ensure that, where an organisation has an obligation for its tariffs to follow the

principle of cost orientation in accordance with Article 17, the cost accounting systems operated by such organisations are suitable for the implementation of Article 17 and that compliance with such systems are verified by a competent body which is independent of those organisations. National regulatory authorities shall ensure that a statement concerning compliance is published annually.

2. National regulatory authorities shall ensure that a description of the cost accounting systems referred to in paragraph 1, showing the main categories under which costs are compiled and the rules used for the allocation of costs to voice telephony services, is made available to them on request. National regulatory authorities shall submit to the Commission, on request, information on the cost accounting systems applied by the organisations concerned.

3. Where and as long as the provision of public telecommunications networks and voice telephony services are subject to special or exclusive rights in a Member State, the systems referred to in paragraph 1 shall, without prejudice to the last subparagraph of this paragraph, include the following elements:

- (a) the costs of the voice telephony service shall include, in particular, the direct costs incurred by the telecommunications organisations in setting up, operating and maintaining the voice telephony service and in marketing and billing the service;
- (b) common costs, i.e. costs which cannot be directly assigned to either the voice telephony service or other activities, shall be allocated as follows:
  - (i) whenever possible, common cost categories shall be allocated on the basis of direct analysis of the origin of the costs themselves;
  - (ii) when direct analysis is not possible, common cost categories shall be allocated on the basis of an indirect linkage to another cost category or group of cost categories for which direct assignment or allocation is possible; the indirect linkage shall be based on comparable cost structures;
  - (iii) when neither direct nor indirect measures of cost allocation can be found, the cost category shall be allocated on the basis of a general allocator computed by using the ratio of all expenses directly or indirectly assigned or allocated to, on the one hand, the voice telephony service and, on the other hand, other services.

Other cost accounting systems may be applied if they are suitable for the implementation of Article 17 and have been approved as such by the national regulatory authority for application by the telecommunications

organisations, subject to the Commission's being informed prior to their application.

4. Member States shall ensure that the financial accounts of all organisations providing fixed public telephone networks and/or voice telephony services are drawn up, submitted to audit and published in accordance with the provisions of national and Community legislation applying to commercial undertakings. Detailed accounting information shall be made available to the national regulatory authority in order to ensure compliance with the provisions of this Directive, on its request and in confidence, without prejudice to the rights and obligations of national regulatory authorities referred to in Article 20(2) of Directive 97/13/EC on Licensing.

#### *Article 19*

##### **Discounts and other special tariff provisions**

Member States shall ensure that, where an organisation has an obligation for its tariffs to follow the principle of cost orientation in accordance with Article 17, discount schemes for users, including consumers, are fully transparent and are published and applied in accordance with the principle of non-discrimination.

National regulatory authorities may require such discount schemes to be modified or withdrawn.

#### *Article 20*

##### **Specifications for network access, including the socket**

1. Standards suitable for access to fixed public telephone networks shall be published in the ONP List of Standards referred to in Article 5 of Directive 90/387/EEC.

2. Where the services referred to in this Directive are supplied to users over the ISDN network at the S/T reference point, national regulatory authorities shall ensure that the ISDN network termination points comply with the relevant physical interface specifications, in particular those for the socket, referenced in the ONP List of Standards.

#### *Article 21*

##### **Non-payment of bills**

Member States shall authorise specified measures, which shall be proportionate, non-discriminatory and published in the manner laid down in Article 11(4), to cover non-payment of telephone bills for use of the fixed public

telephone network. These measures shall ensure that due warning of any consequent service interruption or disconnection is given to the subscriber beforehand.

Except in cases of fraud, persistent late payment or non-payment, these measures shall ensure, as far as is technically feasible, that any service interruption is confined to the service concerned. Member States may decide that, where appropriate, complete disconnection takes place only after a stated period during which calls which do not incur a charge to that subscriber are permitted.

#### Article 22

##### Conditions for the termination of offerings

1. This Article shall apply where and for as long as the provision of public telecommunications networks and voice telephony services are subject to special or exclusive rights in a Member State.

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

3. Without prejudice to other rights of appeal provided for by national law, Member States shall ensure that users and, where national law so provides, organisations representing user and/or consumer interests can bring before the national regulatory authority cases where the users affected do not agree with the termination date as envisaged by the organisation concerned.

#### Article 23

##### Variation of published conditions

1. This Article shall apply where and for as long as the provision of public telecommunications networks and voice telephony services are subject to special or exclusive rights in a Member State.

2. Where, in response to a particular request, an organisation with such special or exclusive rights considers it unreasonable to provide a connection to the fixed public telephone network under its published tariffs and supply conditions, it must seek the agreement of the national regulatory authority to vary those conditions in that case.

## CHAPTER IV

### PROCEDURAL PROVISIONS

#### Article 24

##### Consultation with interested parties

Member States shall take into account, in accordance with national procedures, the views of the representatives of organisations providing public telecommunications networks, of users, consumers, manufacturers and service providers on issues related to the scope, affordability and quality of publicly available telephone services.

#### Article 25

##### Notification and reporting

1. Member States shall notify to the Commission any changes in the information which had to be published under Directive 95/62/EC. The Commission shall publish this information in the *Official Journal of the European Communities*.

2. Member States shall also notify to the Commission:

- organisations with significant market power for the purposes of this Directive,
- details of situations where organisations providing fixed public telephone networks and/or voice telephony services no longer have to follow the principle of cost orientation of tariffs, in accordance with Article 17(6),
- organisations designated in accordance with Article 5, if any.

The Commission may request national regulatory authorities to provide their reasons for classifying or not classifying organisations in either or both of the categories referred to in the first two indents.

3. Where a Member State maintains special or exclusive rights for the provision of public telecommunications networks and voice telephony services, national regulatory authorities shall keep available and submit to the Commission, on request, details of individual cases brought before them other than those covered by Article 21, where access to or use of the fixed public telephone network or voice telephony service has been restricted or denied, including the measures taken and their justification.

*Article 26***Conciliation and resolution of national disputes**

Without prejudice to:

- (a) any action which the Commission or any Member State may take pursuant to the Treaty;
- (b) the rights of the person invoking the procedure in points 3 and 4, of the organisations concerned or of any other person under applicable national law, except insofar as they enter into an agreement for the resolution of disputes between them;
- (c) Article 10(2), which allows the national regulatory authorities to alter the conditions of subscriber contracts,

the following procedures shall be available:

- (1) Member States shall ensure that any party, including, for example, users, service providers, consumers or other organisations having an unresolved dispute with an organisation providing fixed public telephone networks and/or fixed public telephone services concerning an alleged infringement of the provisions of this Directive, shall have a right to bring cases before the national regulatory authority or another independent body. Easily accessible and in principle inexpensive procedures shall be available at a national level to resolve such disputes in a fair, transparent and timely manner. These procedures shall, in particular, apply in cases where users are in dispute with an organisation over their telephone bills or over the terms and conditions under which telephone service is provided.

Organisations representing user and/or consumer interests may bring to the attention of the national regulatory authority or another independent body cases where terms and conditions under which telephone service is provided are deemed to be unsatisfactory for users.

- (2) A user or an organisation may, where the dispute involves organisations in more than one Member State, invoke the conciliation procedure provided for in points 3 and 4 by means of a written notification to the national regulatory authority and to the Commission. Member States may also allow their national regulatory authority to invoke the conciliation procedure.
- (3) Where the national regulatory authority or the Commission finds that there is a case for further examination, following a notification based on point 2, it may refer the matter to the Chairman of the ONP Committee.

- (4) In the circumstances referred to in point 3, the Chairman of the ONP Committee shall initiate the procedure described below if he is satisfied that all reasonable steps have been taken at national level:

- the Chairman of the ONP Committee shall convene as soon as possible a working group including at least two members of the ONP Committee and one representative of the national regulatory authorities concerned, and the Chairman of the ONP Committee or another official of the Commission appointed by him. The working group shall be chaired by the representative of the Commission and shall normally meet within ten days of having been convened. The Chairman of the working group may decide, on a proposal by any of the members of the working group, to invite a maximum of two other persons as experts to advise it,
- the working group shall give the party invoking this procedure, the national regulatory authorities of the Member States involved and the organisations involved the opportunity to present their opinions in oral or written form,
- the working group shall endeavour to reach agreement between the parties involved within three months of the date of receipt of the notification referred to in paragraph 2. The Chairman of the ONP Committee shall inform that Committee of the results of the procedure so that it may express its views.

- (5) The party invoking the procedure shall bear its own costs of participating in this procedure.

*Article 27***Deferment of certain obligations**

1. Deferments granted in relation to Articles 12 and 13 of Directive 95/62/EC shall remain unchanged with regard to Articles 17 and 18 of this Directive.
2. Deferment of the obligations under Article 15(4) may be requested where the Member State concerned can prove that they would impose an excessive burden on certain organisations or classes of organisation. The Member State shall inform the Commission of the reasons for requesting a deferment, the date by which the requirements can be met, and the measures envisaged in order to meet this deadline. The Commission shall consider the request taking into account the particular situation in that Member State and the need to ensure a coherent regulatory environment at a Community level, and shall inform the Member State whether it deems that

the particular situation in that Member State justifies a deferment and, if so, until which date such deferment is justified.

#### Article 28

##### Technical adjustment

Modifications necessary to adapt Annexes I, II and III to this Directive to technological developments or to changes in market demand shall be determined in accordance with the procedure laid down in Article 30.

#### Article 29

##### Advisory Committee procedure

1. The Commission shall be assisted by the ONP Committee. The Committee shall, in particular, consult the representatives of the organisations providing fixed public telephone networks, publicly available telephone services, users, consumers and manufacturers.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

#### Article 30

##### Regulatory Committee procedure

1. Notwithstanding the provisions of Article 29, the following procedure shall apply in respect of the matters covered by Article 28.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

3. The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

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

#### Article 31

##### Review

The Commission shall examine and report to the European Parliament and to the Council on the functioning of this Directive, on the first occasion not later than 31 December 1999, taking into account the Report on Universal Service to be published by the Commission before 1 January 1998. The review shall be based on, *inter alia*, the information provided by the Member States to the Commission and shall examine in particular:

- the scope of the Directive, in particular the extent to which it is desirable to apply the provisions of this Directive to mobile telephony,
- the provisions in Chapter II in the light of changes in market conditions, user demand and technological progress,
- the maintenance of the obligations imposed under Articles 17, 18 and 19 in the light of the emergence of competition.

Where necessary, further periodic reviews may be proposed in the report.

#### Article 32

##### Transposition

1. Member States shall take the measures necessary to comply with this Directive by 30 June 1998. They shall forthwith inform the Commission thereof.

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

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

*Article 33*

**Repeal of Directive 95/62/EC**

Directive 95/62/EC is hereby repealed with effect from 30 June 1998, without prejudice to Member States' obligations for implementation of that Directive according to the timescales laid down in Annex IV.

References made to the repealed Directive shall be construed as being made to this Directive.

Annex V provides a comparative table showing the relationship between the Articles of Directive 95/62/EC and the Articles of this Directive.

*Article 34*

**Entry into force**

This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Communities*.

*Article 35*

**Addressees**

This Directive is addressed to the Member States.

Done at Brussels, 26 February 1998.

*For the  
European Parliament*

*The President*

J. M. GIL-ROBLES

*For the Council*

*The President*

B. ROCHE



## ANNEX I

## DESCRIPTION OF FACILITIES REFERRED TO IN ARTICLES 14 AND 15

## PART 1

**Facilities referred to in Article 14(1)**(a) *Tone dialling or DTMF (dual-tone multifrequency operation)*

i.e. the fixed public telephone network supports the use of DTMF telephones for signalling to the exchange, using tones as defined in ETSI ETR 207, and supports the same tones for end-to-end signalling throughout the network both within a Member State and between Member States.

(b) *Selective call barring for outgoing calls*

i.e. the facility whereby the subscriber can, on request to the telephone service provider, bar outgoing calls of defined types or to defined types of numbers.

## PART 2

**List of facilities referred to in Article 15(1)**(a) *Calling-line identification*

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

This facility should be provided in accordance with relevant legislation on protection of personal data and privacy, such as Directive 95/46/EC and Directive 97/66/EC.

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

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

(c) *Call forwarding*

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

This facility should be provided in accordance with relevant legislation on protection of personal data and privacy, such as Directive 95/46/EC and Directive 97/66/EC.

## PART 3

**List of services and facilities referred to in Article 15(2)**(a) *Community-wide access to green/freephone services*

These services, variously known as green numbers, freephone services, cover dial-up services where the caller pays nothing for the call to the number dialled.

(b) *Shared cost services*

These services cover dial-up services where the caller pays only part of the cost of the call to the number dialled.

(c) *Community-wide premium rate services/shared revenue services*

Premium rate service is a facility whereby charges for the use of a service accessed through a telecommunications network are combined with the network call charges.

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

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

This facility should be provided in accordance with relevant legislation on protection of personal data and privacy, such as Directive 95/46/EC and Directive 97/66/EC.

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

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

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

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

This facility should be provided in accordance with relevant legislation on protection of personal data and privacy, such as Directive 95/46/EC and Directive 97/66/EC.

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## ANNEX II

## HEADINGS FOR INFORMATION TO BE PUBLISHED IN ACCORDANCE WITH ARTICLE 11

## PART 1

*Information to be supplied to the national regulatory authority in accordance with Article 11(2)*

**Technical characteristics of network interfaces**

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

- 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: (where provided)
  - (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 submitted to the national regulatory authority on a regular basis in the manner laid down in Article 11(2), all organisations providing fixed public telephone networks must inform their national regulatory authority, without undue delay, of any particular network characteristics which are found to affect the correct operation of terminal equipment.

The national regulatory authority shall make this information available on request to terminal equipment suppliers.

## PART 2

*Information to be published in accordance with Article 11(3)*

*Note:* The national regulatory authority has a responsibility to ensure that the information in this Annex is published, in accordance with Article 11(3). It is for the national regulatory authority to decide which information is to be published by the organisations providing telecommunications networks and/or publicly available telephone services and which by the national regulatory authority itself.

1. **Name(s) and address(es) of organisation(s)**
  - i.e. names and head office addresses of organisations providing fixed public telephone networks and/or publicly available telephone services.
2. **Telephone services offered**
  - 2.1. *Scope of the basic service*

Description of the basic telephone services offered, indicating what is included in the subscription charge and the periodic rental charge (e.g. operator services, directories, directory services, selective call barring, itemised billing, maintenance etc).

Description of optional facilities and features of the telephone service which are tarified separately from the basic offering, including where applicable reference to the relevant technical standards or specifications to which they conform.

2.2. *Tariffs*

covering access, all types of call charges, maintenance, and including details of discounts applied and special and targeted tariff schemes.

2.3. *Compensation/refund policy*

including specific details of any compensation/refund schemes offered.

2.4. *Types of maintenance service offered*

2.5. *Standard contract conditions*

including any minimum contractual period, if relevant.

3. **Conditions for attachment of terminal equipment**

This shall include a complete overview of requirements for terminal equipment in line with the provisions of Directives 91/263/EEC or 93/97/EEC<sup>(1)</sup>, including, where appropriate, conditions concerning customer premises' wiring and location of the network termination point.

4. **Restrictions on access and use**

This shall include any restrictions on access and use imposed in accordance with the requirements of Article 13.

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<sup>(1)</sup> OJ L 290, 24.11.1993, p. 1.

## ANNEX III

## SUPPLY-TIME AND QUALITY-OF-SERVICE INDICATORS, DEFINITIONS AND MEASUREMENT METHODS IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 12

Indicator <sup>(1)</sup>	Definition	Measurement method
supply time for initial connection	ETSI ETR 138	ETSI ETR 138
fault rate per access line	ETSI ETR 138	ETSI ETR 138
fault repair time	ETSI ETR 138	ETSI ETR 138
unsuccessful call ratio	ETSI ETR 138	ETSI ETR 138
call set up time	ETSI ETR 138	ETSI ETR 138
response times for operator services	ETSI ETR 138	ETSI ETR 138
response times for directory enquiry services	as for operator services	as for operator services
proportion of coin and card operated public pay-telephones in working order	ETSI ETR 138	ETSI ETR 138
billing accuracy	( <sup>2</sup> )	( <sup>2</sup> )

<sup>(1)</sup> Indicators should allow for performance to be analysed at a regional level (i.e. no less than level 2 in the Nomenclature of Territorial Units for Statistics (NUTS) established by Eurostat.)

<sup>(2)</sup> Billing accuracy. National definitions and measurement methods should be used until such time as a common definition and measurement method are agreed at the European level.

*ANNEX IV***TIMESCALE REFERRED TO IN ARTICLE 33**

Date by which Member States were obliged to take the necessary measures to  
comply with Directive 95/62/EC

13 December 1996.

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## ANNEX V

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