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COUNCIL DIRECTIVE 92/44/EEC
of 5 June 1992
on the application of open network provision to leased lines

(OJ L 165, 19.6.1992, p. 27)

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► <u>M1</u> Commission Decision 94/439/EC of 15 June 1994	L 181	40	15.7.1994
► <u>M2</u> Directive 97/51/EC of the European Parliament and of the Council of 6 October 1997	L 295	23	29.10.1997

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► C1 Corrigendum, OJ L 96, 22.4.1993, p. 35 (92/44/EEC)



COUNCIL DIRECTIVE 92/44/EEC

of 5 June 1992

on the application of open network provision to leased lines

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⁽¹⁾,

In cooperation with the European Parliament⁽²⁾,

Having regard to the opinion of the Economic and Social Committee⁽³⁾,

- (1) Whereas Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of open network provision⁽⁴⁾, provides that the Council shall adopt specific open network provision conditions for leased lines;
- (2) Whereas in this Directive the concept of leased lines covers the offer of transparent transmission capacity between network termination points as a separate service and does not include on-demand switching or offers which form part of a switched service offered to the public;
- (3) Whereas, in accordance with Commission Directive 90/388/EEC of 28 June 1990 on competition in the markets for telecommunications services⁽⁵⁾, Member States which maintain special or exclusive rights for the provision and operation of public telecommunications networks shall take the necessary measures to make the conditions governing access to and use of the network objective and non-discriminatory and publish them; whereas it is necessary to harmonize which specifications should be published and under which form, in order to facilitate the provision of competitive services using leased lines, 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;
- (4) Whereas, in application of the principle of non-discrimination, leased lines shall be offered and provided on request without discrimination to all users;
- (5) Whereas the principle of non-discrimination as laid down in the Treaty 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 regulatory provisions on data protection;
- (6) Whereas a number of technical restrictions have been applied, in particular for the interconnection of leased lines among each other or for the interconnection of leased lines and public telecommunications networks; whereas such restrictions, which impede the use of leased lines for the provision of competitive services, are not justified, as they can be replaced by less restrictive regulatory measures;
- (7) Whereas, in accordance with Community law, access to and use of leased lines may only be restricted in application of essential requirements as defined in this Directive and to safeguard

⁽¹⁾ OJ No C 58, 7. 3. 1991, p. 10.

⁽²⁾ OJ No C 305, 25. 11. 1991, p. 61 and Decision of 13 May 1992 (not yet published in the Official Journal).

⁽³⁾ OJ No C 269, 14. 10. 1991, p. 30.

⁽⁴⁾ OJ No L 192, 24. 7. 1990, p. 1.

⁽⁵⁾ OJ No L 192, 24. 7. 1990, p. 10.

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exclusive or special rights; whereas those restrictions must be objectively justified, must follow the principle of proportionality and must not be excessive in relation to the aim pursued; whereas it is necessary to specify the application of these essential requirements in respect of leased lines;

- (8) Whereas, in accordance with Directive 90/388/EEC which does not apply to telex, mobile radiotelephony, paging and satellite services, Member States shall withdraw all special or exclusive rights for the supply of telecommunications services other than voice telephony; whereas this is the commercial provision for the public of the direct transport and switching of speech in real-time between public switched network termination points, enabling any user to use equipment connected to such a network termination point in order to communicate with another termination point;
- (9) Whereas Member States may, until the dates provided in Directive 90/388/EEC prohibit, as regards packet- or circuit-switched data services, economic operators from offering leased line capacity for simple resale to the public; whereas there should be no other restriction on the use of leased lines, in particular in respect of the transmission of signals which are not originated by the user who subscribed to the leased line offering, the transmission of signals which are not finally destined for the user who subscribed to the leased line offering, or the transmission of signals which are neither originated by nor finally destined for the user who subscribed to the leased line offering;
- (10) Whereas, in accordance with Directive 90/387/EEC, the Community-wide definition of harmonized technical interfaces and access conditions must be based on the definition of common technical specifications based on international standards and specifications;
- (11) 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 shall ensure that those who so request can obtain leased lines within a reasonable period;
- (12) Whereas, in order to make leased lines available to a sufficient extent to users for their own use, for shared use or for the provision of services to third parties, it is necessary that Member States ensure that a harmonized set of leased lines with defined network termination points is made available in all Member States both for communications within a Member State and between Member States; whereas it is therefore necessary to determine which type of leased lines should be included in the harmonized set and within which time limit if they are not yet available; whereas given the dynamic technological development in this sector, it is necessary to establish a procedure for adjusting or enlarging such a set;
- (13) Whereas other leased lines, in addition to the harmonized minimum set, will also be provided subject to market demand and the state of public telecommunications network; whereas the other provisions of this Directive apply to these leased lines; whereas however it should be ensured that the provision of these other leased lines does not impede the provision of the minimum set of leased lines;
- (14) Whereas in conformity with the principle of separation of regulatory and operational functions and in application of the principle of subsidiarity, the national regulatory authority of each Member State will play an important role for the implementation of this Directive;
- (15) Whereas common ordering procedures, as well as one-stop ordering and one-stop billing are needed in order to encourage the use of leased lines throughout the Community; whereas any cooperation of the ►**M2** organizations notified in accordance with Article 11 (1) (a) ◀ in that respect is subject to compliance

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with Community competition law; whereas, in particular, such procedures should respect the principle of cost orientation and should not result in any price fixing or market sharing;

- (16) Whereas the implementation of one-stop ordering and one-stop billing procedures by ►M2 organizations notified in accordance with Article 11 (1) (a) ◀ must not prevent offers by service providers other than ►M2 organizations notified in accordance with Article 11 (1) (a) ◀;
- (17) Whereas, in accordance with Directive 90/387/EEC, tariffs for leased lines must be based on the following principles; they must be based on objective criteria and must follow the principle of cost-orientation, taking into account a reasonable time needed for rebalancing; they must be transparent and properly published; they must be sufficiently unbundled in accordance with the competition rules of the Treaty and they must be non-discriminatory and guarantee equality of treatment; whereas tariffs for leased lines provided by one or more ►M2 organization notified in accordance with Article 11 (1) (a) ◀ must be based on the same principles; whereas a favourable prejudice is given to a tariff based on a flat-rate periodic rental, except where other types of tariffs are justified by cost;
- (18) Whereas any charge for access to and use of leased lines must comply with the principles set out above and with the competition rules of the Treaty and must also take into account the principle of fair sharing in the global cost of the resources used and the need for a reasonable level of return on investment which is required for the further development of the telecommunications infrastructure;
- (19) Whereas, in order to ensure the application of the tariff principles set out in the previous two recitals, ►M2 organizations notified in accordance with Article 11 (1) (a) ◀ shall use an appropriate transparent cost accounting system which can be verified by accounting experts ensuring the production of recorded figures; whereas such requirement can be fulfilled for example by the implementation of the principle of fully distributed costing;
- (20) 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 requested by the Commission;
- (21) Whereas the Committee referred to in Articles 9 and 10 of Directive 90/387/EEC should play an important role for the application of this Directive;
- (22) Whereas disagreements between users and ►M2 organizations notified in accordance with Article 11 (1) (a) ◀ on the provision of leased lines will normally be solved between these parties involved; whereas it must be possible for parties to refer their case to a national regulatory authority and the Commission in cases where this is considered necessary; whereas this does not prejudice normal application of the procedures laid down in Articles 169 and 170 and the competition rules of the Treaty;
- (23) Whereas a specific procedure must be established in order to examine whether, in justified cases, the time limit set out in this Directive for the provision of a minimum set of leased lines and for the implementation of an appropriate cost accounting system may be extended;
- (24) Whereas this Directive does not apply to leased lines one network termination point of which is located outside the Community,

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HAS ADOPTED THIS DIRECTIVE:

*Article 1***Scope**

This Directive concerns the harmonization of conditions for open and efficient access to and use of the leased lines provided to users on public telecommunications networks, and the availability throughout the Community of a minimum set of leased lines with harmonized technical characteristics.

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Member States shall ensure that at every point in their territory at least one organization is subject to the provisions of this Directive.

Member States shall ensure that obligations arising out of this Directive are not imposed on organizations without significant market power in the relevant leased-lines market, unless there are no organizations with significant market power in the relevant leased-lines market in a given Member State.

*Article 2***Definitions**

1. The definitions given in Directive 90/387/EEC, as amended by Directive 97/51/EC⁽¹⁾, shall apply, where relevant, to this Directive.

2. In addition, for the purposes of this Directive,

- ‘leased lines’ shall mean the telecommunications facilities which provide for transparent transmission capacity between network termination points and which do not include on-demand switching (switching functions which the user can control as part of the leased line provision),
- ‘Open Network Provision Committee’ shall mean the committee referred to in Articles 9 and 10 of Directive 90/387/EEC,
- ‘national regulatory authority’ shall mean the body referred to in Article 5a of Directive 90/387/EEC.

3. For the purposes of this Directive, an organization shall be presumed to have significant market power when its share of the relevant leased-lines market in a Member State is 25 % or more. The relevant leased-lines market shall be assessed on the basis of the type(s) of leased line offered in a particular geographical area. The geographical area may cover the whole or part of the territory of a Member State.

National regulatory authorities may determine that an organization with a market share that is less than 25 % of the relevant leased-lines market has significant market power. They may also determine that an organization with a market share that is 25 % or more of the relevant leased-lines market does not have significant market power.

In either case, the determination shall take into account the organization's ability to influence the leased-lines market conditions, its turnover relative to the size of the market, its access to financial resources and its experience in providing products and services in the market.

▼B*Article 3***Availability of information**

1. Member States shall ensure that information in respect of leased lines, offerings on technical characteristics, tariffs, supply and usage conditions, licensing and declaration requirements, and the conditions for the attachment of terminal equipment is published in accordance with the presentation given in Annex I. ► **M2** Changes in existing offerings and information on new offerings shall be published as soon as

⁽¹⁾ OJ L 295, 29. 10. 1991, p. 23.

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possible. The national regulatory authority may lay down a suitable period of notice. ◀

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

Member States shall notify to the Commission before 1 January 1993, and thereafter in case of any change, the manner in which the information is made available. The Commission will regularly publish reference to such notifications.

▼M2**▼B***Article 4***Information on supply conditions**

The supply conditions to be published pursuant to Article 3 shall include at least:

— information concerning the ordering procedure

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— the typical delivery period, which is the period, counted from the date when the user has made a firm request for a leased line, in which 95 % of all leased lines of the same type have been put through to the customers.

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This period will be established on the basis of the actual delivery periods of leased lines during a recent time interval of reasonable duration. The calculation must not include cases where late delivery periods were requested by users. For new types of leased lines a target delivery period shall be published instead of the typical delivery period,

— the contractual period, which includes the period which is in general foreseen for the contract and the minimum contractual period which the user is obliged to accept,

— the typical repair time, which is the period, counted from the time when a failure message has been given to the responsible unit within the ►M2 organization notified in accordance with Article 11 (1) (a) ◀ up to the moment in which 80 % of all leased lines of the same type have been re-established and in appropriate cases notified back in operation to the users. For new types of leased lines a target repair time period shall be published instead of the typical repair time. Where different classes of quality of repair are offered for the same type of leased lines, the different typical repair times shall be published,

— any refund procedure.

*Article 5***Conditions for the termination of offerings**

Member States shall ensure that existing offerings continue for a reasonable period of time, and that termination of an offering can be done only after consultation with users affected. Without prejudice to other rights of appeal provided for by national laws, Member States shall ensure that users can bring the case before the national regulatory authority where the users do not agree with the termination date as envisaged by the ►M2 organization notified in accordance with Article 11 (1) (a) ◀.

▼ B*Article 6***Access conditions, usage conditions and essential requirements**▼ M2

1. Member States shall ensure that when access to and use of leased lines is restricted in accordance with Community law those restrictions are imposed by the national regulatory authorities through regulatory means.

No technical restrictions shall be introduced or maintained for the interconnection of leased lines among each other or for the interconnection of leased lines and public telecommunications networks.

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2. Where access to and use of leased lines are restricted on the basis of essential requirements, Member States shall ensure that the relevant national provisions identify which of the essential requirements listed in paragraph 3 are the basis of such restrictions.

3. The essential requirements specified in Article 3 (2) of Directive 90/387/EEC shall apply to leased lines in the following manner:

(a) *Security of network operations*

An ► M2 organization notified in accordance with Article 11 (1) (a) ◀ may take the following measures in order to safeguard the security of network operations during the period when an emergency situation prevails:

- the interruption of the service,
- the limitation of service features,
- the denial of access to the service.

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An emergency situation in this context shall mean an exceptional case of *force majeure*, such as extreme weather, earthquakes, flood, lightning or fire.

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In an emergency situation the ► M2 organization notified in accordance with Article 11 (1) (a) ◀ shall make every endeavour to ensure that service is maintained to all users. The Member States shall ensure that the ► M2 organization notified in accordance with Article 11 (1) (a) ◀ immediately notifies to the users and to the national regulatory authority the beginning and the end of the emergency as well as the nature and extent of temporary service restrictions;

(b) *Maintenance of network integrity*

The user has the right to be provided with a fully transparent service, in conformity with the specifications of the network termination point, which he can use in an unstructured manner as he wants, e.g. where no channel allocations are forbidden or prescribed. There shall be no restrictions on the use of leased lines on the ground of the maintenance of network integrity, as long as the access conditions related to terminal equipment are fulfilled;

(c) *Interoperability of services*

Without prejudice to the application of Article 3 (5) and Article 5 (3) of Directive 90/387/EEC, the use of a leased line shall not be restricted on the grounds of the interoperability of services, when the access conditions related to terminal equipment are fulfilled;

(d) *Protection of data*

In respect of data protection, Member States may restrict the use of leased lines 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, as well as the protection of privacy compatible with Community law.

4. Access conditions related to terminal equipment

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Access conditions relating to terminal equipment shall be considered to be fulfilled when the terminal equipment complies with the approval conditions laid down for its connection to the network-termination point of the type of leased line concerned in accordance with Directive 91/263/EEC⁽¹⁾ or 93/97/EEC⁽²⁾.

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In the case where a user's terminal equipment does not comply or no longer complies with these conditions, the provision of the leased line may be interrupted until the terminal is disconnected from the network termination point.

Member States shall ensure that the ► **M2** organization notified in accordance with Article 11 (1) (a) ◀ immediately informs the user about the interruption, giving the reasons for the interruption. As soon as the user has ensured that the non-complying terminal equipment is disconnected from the network termination point, the provision of the leased line shall be restored.

*Article 7***Provision of a minimum set of leased lines in accordance with harmonized technical characteristics**

1. Member States shall ensure that the respective ► **M2** organizations notified in accordance with Article 11 (1) (a) ◀ separately or jointly provide a minimum set of leased lines in accordance with Annex II, in order to guarantee a harmonized offering throughout the Community.

2. Where leased lines which implement the standards listed in Annex II are not yet available, Member States shall take the necessary measures to ensure that these types of leased lines will be implemented by the date resulting from the application of Article 15.

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2a. Member States shall encourage provision of the additional types of leased lines specified in Annex III, taking into account market demand and progress with standardization.

3. The amendments necessary to adapt Annexes II and III to new technical developments and to changes in market demand, including the possible deletion of certain types of leased lines from the Annexes, shall be adopted by the Commission under the procedure provided for in Article 10 of Directive 90/387/EEC, taking into account the state of development of national networks.

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4. The provision of other leased lines beyond the minimum set of leased lines which must be provided by Member States shall not impede the provision of this minimum set of leased lines.

*Article 8***Control by the national regulatory authority**

1. Member States shall ensure that the national regulatory authority lays down the procedures whereby it decides, on a case-by-case basis and in the shortest time period, to allow or not ► **M2** organizations notified in accordance with Article 11 (1) (a) ◀ to take measures such as the refusal to provide a leased line, the interruption of the provision of leased lines or the reduction of the availability of leased line features for reasons of alleged failure to comply with the usage conditions by users of leased lines. These procedures may also foresee the possibility for the national regulatory authority to authorize, a priori, specified measures in the case of defined infringements of usage conditions.

Member States shall ensure that these procedures provide for a transparent decision-making process in which due respect is given to

⁽¹⁾ OJ L 128, 23. 5. 1991, p. 1.

⁽²⁾ OJ L 290, 24. 11. 1993, p. 1.

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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 motivated 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 right of the parties concerned to apply to the courts.

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2. The national regulatory authority shall ensure that the organizations notified in accordance with Article 11 (1) (a) adhere to the principle of non-discrimination when providing leased lines. Those organizations shall apply similar conditions in similar circumstances to organizations providing similar services, and shall provide leased lines 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, where applicable.

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3. Where, in response to a particular request, an ►M2 organization notified in accordance with Article 11 (1) (a) ◀ considers it unreasonable to provide a leased line under its published tariffs and supply conditions, it must seek the agreement of the national regulatory authority to vary those conditions in that case.

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Article 10

Tariffing principles and cost accounting

1. Member States shall ensure that tariffs for leased lines follow the basic principles of cost orientation and transparency in accordance with the following rules:

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(a) tariffs for leased lines shall be independent of the type of application which the users of the leased lines implement, without prejudice to the principle of non-discrimination set out in Article 8 (2);

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(b) tariffs for leased lines shall normally contain the following elements:

- an initial connection charge,
- a periodic rental charge, i.e. a flat-rate element.

When other tariff elements are applied, these must be transparent and based on objective criteria;

(c) tariffs for leased lines apply to the facilities provided between network termination points at which the user has access to the leased lines.

For leased lines provided by more than one ►M2 organization notified in accordance with Article 11 (1) (a) ◀, half-circuit tariffs, i.e. from one network termination point to a hypothetical mid-circuit point, can be applied.

2. Member States shall ensure that their ►M2 organizations notified in accordance with Article 11 (1) (a) ◀ formulate and put in practice, by 31 December 1993 at the latest, a cost accounting system suitable for the implementation of paragraph 1.

Without prejudice to the last subparagraph, the system referred to in the first subparagraph shall include the following elements:

(a) the costs of leased lines shall in particular include the direct costs incurred by the ►M2 organizations notified in accordance with Article 11 (1) (a) ◀ for setting up, operating and maintaining leased lines, and for marketing and billing of leased lines;

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- (b) common costs, that is costs which can neither be directly assigned to leased lines nor to other activities, are allocated as follows:
- (i) whenever possible, common cost categories shall be allocated based upon direct analysis of the origin of the costs themselves;
 - (ii) when direct analysis is not possible, common cost categories shall be allocated based upon an indirect linkage to another cost category or group of cost categories for which a direct assignment or allocation is possible. The indirect linkage shall be based on comparable cost structures;

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- (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 assigned or allocated to leased lines, on the one hand, to those allocated to other services, on the other hand.

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After 31 December 1993, other cost accounting systems may be applied only if they are suitable for the implementation of paragraph 1 and have as such been approved by the national regulatory authority for application by the ►**M2** organization notified in accordance with Article 11 (1) (a) ◀, subject to the Commission being informed prior to their application.

3. The national regulatory authority shall keep available, with an adequate level of detail, information on the cost accounting systems applied by the ►**M2** organizations notified in accordance with Article 11 (1) (a) ◀ pursuant to paragraph 2. It shall submit this information to the Commission on request.

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4. The national regulatory authority shall not apply the requirements of paragraph 1 where an organization does not have significant market power in respect of a specific leased-lines offering in a specific geographical area.

The national regulatory authority may decide not to apply the requirements of paragraph 1 in a specific geographical area where it is satisfied that there is effective competition in the relevant leased-lines market as evidenced by tariffs that already comply with those requirements.

▼B*Article 11***Notification and reporting****▼M2**

1. Member States shall notify the Commission of their national regulatory authority or authorities responsible for carrying out the tasks specified in this Directive.

They shall promptly notify the Commission of any changes in their national regulatory authorities.

1a. National regulatory authorities shall notify the Commission of the names of those organizations providing leased lines subject to requirements pursuant to this Directive. That notification shall, where appropriate, include the types of leased lines that each organization is required to provide in each geographical area in order to comply with Article 1 and shall include any cases where, pursuant to Article 10 (4), Article 10 (1) is not applied.

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2. The national regulatory authority shall make available statistical reports showing the performance in relation to the supply conditions, in particular with respect to delivery time and repair time, published in accordance with Article 3 at least for each calendar year. The reports shall be sent to the Commission no later than five months after the end of the annual reporting period.

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The national regulatory authority shall keep available and submit to the Commission on request the data on all cases in which access to or use of leased lines has been restricted, as well as details of the measures taken, including the reasons why they were taken.

▼ **B***Article 12***Conciliation procedure**

Without prejudice to:

- (a) any action that the Commission or any Member State might take pursuant to the Treaty, and in particular Articles 169 or 170 thereof;
- (b) the rights of the person invoking the procedure in paragraphs 1 to 5 of this Article of the ► **M2** organizations notified in accordance with Article 11 (1) (a) ◀ concerned or 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 following conciliation procedure shall be available to the user:

1. Any user complaining that he has been or may be injured by the infringement of the provisions of this Directive, particularly regarding intra-Community leased lines, shall have the right to appeal to the national regulatory authority or authorities.
2. Where agreement cannot be reached at a national level, the aggrieved party may invoke the procedure provided for in paragraphs 3 and 4, by way of a written notification to the national regulatory authority and 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 it to the Chairman of the ONP Committee.
4. In the case referred to in paragraph 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 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 normally meet within 10 days of the meeting being convened. The Chairman 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 ► **M2** organizations notified in accordance with Article 11 (1) (a) ◀ 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. The Chairman shall inform the ONP Committee of the results of this procedure.
5. The party invoking the procedure referred to in this Article shall bear its own costs of participating in this procedure.

*Article 13***Deferment of certain obligations**

1. When a Member State is not able to or can foresee that it will not be able to fulfil the requirements of Article 7 (1) or (2) or Article 10 (1) or (2), it shall notify the Commission of the reasons.
2. Deferment of the obligations under Article 7 (1) or (2) can be accepted only in cases where the Member State concerned can prove that the actual state of development of its public telecommunications

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network or the conditions of demand are such that the obligations under Article 7 would impose an excessive burden on the ►**M2** organization notified in accordance with Article 11 (1) (a) ◀ in that Member State.

3. Deferment of the obligations under Article 10 (1) or (2) can be accepted only in cases where the Member State concerned can prove that the fulfilment of the requirements would impose an excessive burden on the ►**M2** organization notified in accordance with Article 11 (1) (a) ◀ in that Member State.

4. 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.

5. When the Commission receives a notification in accordance with paragraph 1, it shall inform the Member State whether it deems that the particular situation of the Member State concerned justifies, on the basis of criteria set out in paragraphs 2 and 3, a deferment for this Member State of the application of Article 7 (1) or (2) of Article 10 (1) or (2) and until which date such deferment is justified.

6. No deferment can be granted in application of paragraph 2 where the non-compliance with Article 7 results from activities of ►**M2** organizations notified in accordance with Article 11 (1) (a) ◀ of the Member State concerned in competitive areas within the meaning of Community law.

▼M2*Article 14***Report**

The Commission shall examine and report to the European Parliament and to the Council on the functioning of this Directive, on the first occasion no later than 31 December 1999. The report shall be based *inter alia* on the information supplied by the Member States to the Commission and to the Open Network Provision Committee. The report shall include an assessment of the need for continuation of this Directive, taking account of developments towards a fully competitive environment. Where necessary, the report shall examine what provisions of this Directive should be adapted in the light of the developments in the market, and further measures may be proposed in the report in pursuit of the aims of this Directive.

▼B*Article 15*

1. Member States shall take the measures necessary to comply with this Directive before 5 June 1993. 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 a 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 16

This Directive is addressed to the Member States.

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ANNEX I

PRESENTATION OF THE INFORMATION TO BE PROVIDED IN RESPECT OF LEASED LINES IN ACCORDANCE WITH ARTICLE 3 (1)

The information referred to in Article 3 (1) of this Directive shall follow the presentation given below:

A. Technical characteristics

The technical characteristics include the physical and electrical characteristics as well as the detailed technical and performance specifications which apply at the network termination point, without prejudice to 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 ► M2 ⁽¹⁾ ◀. Clear reference shall be made to the standards implemented.

B. Tariffs

The tariffs include the initial connection charges, the periodic rental charges, and other charges. Where tariffs are differentiated, e.g. for reasons of different levels of quality of service or the number of leased lines provided to a user (bulk provision), this must be indicated.

C. Supply conditions

The supply conditions include at least the elements defined in Article 4 (1).

D. Licensing requirements

The information on licensing requirements, licensing procedures and/or licensing conditions provides a complete overview of all factors which have an impact on the usage conditions set out for leased lines. It shall include the following information, where applicable:

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4. the conditions resulting from the application of the essential requirements in conformity with Article 6;

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7. a list referring to all documents containing licensing conditions which the Member State imposes on the users of leased lines when these are using leased lines for the provision of services to others.

▼ M2**E. Conditions for the attachment of terminal equipment**

The information on the attachment conditions must include a complete overview of the requirements with which terminal equipment to be attached to the relevant leased line must comply in accordance with Directive 91/263/EEC or 93/97/EEC.

⁽¹⁾ OJ L 109, 26. 4. 1983, p. 8. Directive as last amended by Directive 94/10/EC of the European Parliament and of the Council (OJ L 100, 19. 4. 1994, p. 30).

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ANNEX II

**DEFINITION OF A MINIMUM SET OF LEASED LINES WITH
HARMONIZED TECHNICAL CHARACTERISTICS, IN ACCORDANCE
WITH ARTICLE 7**

Leased line type	Technical characteristics ⁽¹⁾	
	Interface presentation specification	Connection characteristics and performance specifications
Ordinary quality voice bandwidth	2 or 4 wire analogue	ITU-T M.1040
Special quality voice bandwidth	2 or 4 wire analogue	ITU-T M.1020/ M.1025
64 kbit/s digital ⁽²⁾	ETS 300 288 ⁽³⁾	ETS 300 289 ⁽⁴⁾
2 048 kbit/s digital unstructured ⁽⁵⁾	ETS 300 246 ⁽⁶⁾	ETS 300 247 ⁽⁷⁾
2 048 kbit/s digital structured	ITU-T G.703 and G.704 (excluding section 5) ⁽⁸⁾	Relevant ITU-T G.800 series recommendations In-service monitoring ⁽⁹⁾

⁽¹⁾ The ITU-T recommendations referenced refer to the 1988 version. ETSI has been requested to carry out further work on standards for leased lines.

⁽²⁾ The attachment requirements for terminal equipment to be connected to these leased lines are described in Common Technical Regulation 14 (CTR 14).

⁽³⁾ Until 31 December 1996 leased lines may be provided in accordance with ITU-T G.703 instead of ETS 300 288. For an interim period extending beyond 31 December 1996, leased lines may be provided using other interfaces, based on X 21 or X 21 *bis*, instead of ETS 300 288.

⁽⁴⁾ Until 31 December 1996 leased lines may be provided in accordance with relevant ITU-T G.800 series recommendations of ETS 300 289.

⁽⁵⁾ The attachment requirements for terminal equipment to be connected to these leased lines are described in CTR 12.

⁽⁶⁾ Until 31 December 1996 leased lines may be provided in accordance with ITU-T G.703 instead of ETS 300 246.

⁽⁷⁾ Until 31 December 1996 leased lines may be provided in accordance with relevant ITU-T G.800 series recommendations instead of ETS 300 247.

⁽⁸⁾ With cyclic redundancy checking in accordance with ITU-T G.706.

⁽⁹⁾ In-service monitoring can facilitate improved maintenance by the ►M2 organization notified in accordance with Article 11 (1) (a) ◄.

For the types of leased lines listed above, the specifications referred to also define the network termination points (NTPs), in accordance with the definition given in Article 2 of Directive 90/387/EEC.

▼ **M2***ANNEX III***DEFINITION OF LEASED LINES THE PROVISION OF WHICH IS TO BE ENCOURAGED IN ACCORDANCE WITH ARTICLE 7 (2) (a)**

Leased line type	Technical characteristics	
	Interface presentation specifications	Connection characteristics and performance specifications
34 368 kbit/s digital structured	ETS 300 686 (*)	ETS 300 687 (*)
34 368 kbit/s digital unstructured	ETS 300 686 (*)	ETS 300 687 (*)
139 264 kbit/s digital structured	ETS 300 686 (*)	ETS 300 688 (*)
139 264 kbit/s digital unstructured	ETS 300 686 (*)	ETS 300 688 (*)
155 Mbit/s digital (STM-1) (**)	based on ITU-T G.708	based on ITU-T G.708

(*) These standards are still under development in ETSI.

(**) ETSI has been requested to carry out further work on standards for SDH VC-based leased digital bandwidth.