




# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	1995/0207(COD) Procedure completed
Telecommunications: interconnection, universal service and interoperability of networks and services, open network provision ONP Amended by <a href="#">1997/0250(COD)</a>	
Subject 2.40.02 Public services, of general interest, universal service 3.30.03.04 Telecommunication networks	

Key players				
European Parliament	Former committee responsible			
	<b>ECON</b> Economic and Monetary Affairs, Industrial Policy		06/04/1995	
		PSE <a href="#">READ Imelda Mary</a>		
	<b>ECON</b> Economic and Monetary Affairs, Industrial Policy		06/04/1995	
		PSE <a href="#">READ Imelda Mary</a>		
	Former committee for opinion			
	<b>ENER</b> Research, Technological Development and Energy		17/10/1995	
		PPE <a href="#">VAN VELZEN W.G.</a>		
	<b>RELA</b> External Economic Relations		17/10/1995	
		PSE <a href="#">MANN Erika</a>		
	<b>JURI</b> Legal Affairs, Citizens' Rights	The committee decided not to give an opinion.		
	<b>ENVI</b> Environment, Public Health and Consumer Protection		21/11/1995	
		PSE <a href="#">WHITEHEAD Phillip</a>		
Council of the European Union	Council configuration		Meeting	Date
	<a href="#">General Affairs</a>	<a href="#">2011</a>		02/06/1997
	<a href="#">Competitiveness (Internal Market, Industry, Research and Space)</a>	<a href="#">1970</a>		26/11/1996
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">1937</a>		19/06/1996
	Telecommunications	<a href="#">1910</a>		21/03/1996
	Telecommunications	<a href="#">1888</a>		27/11/1995

Key events			
19/07/1995	Legislative proposal published	COM(1995)0379	Summary

18/09/1995	Committee referral announced in Parliament, 1st reading		
27/11/1995	Debate in Council	<a href="#">1888</a>	
25/01/1996	Vote in committee, 1st reading		Summary
25/01/1996	Committee report tabled for plenary, 1st reading	<a href="#">A4-0017/1996</a>	
13/02/1996	Debate in Parliament		Summary
14/02/1996	Decision by Parliament, 1st reading	T4-0050/1996	Summary
20/03/1996	Modified legislative proposal published	COM(1996)0121	Summary
18/06/1996	Council position published	<a href="#">06901/2/1996</a>	Summary
20/06/1996	Committee referral announced in Parliament, 2nd reading		
09/09/1996	Vote in committee, 2nd reading		Summary
09/09/1996	Committee recommendation tabled for plenary, 2nd reading	<a href="#">A4-0276/1996</a>	
18/09/1996	Debate in Parliament		Summary
19/09/1996	Decision by Parliament, 2nd reading	T4-0463/1996	Summary
26/11/1996	Parliament's amendments rejected by Council		Summary
19/03/1997	Formal meeting of Conciliation Committee		
20/03/1997	Final decision by Conciliation Committee		
29/04/1997	Joint text approved by Conciliation Committee co-chairs	<a href="#">3610/1997</a>	
21/05/1997	Report tabled for plenary, 3rd reading	<a href="#">A4-0171/1997</a>	
02/06/1997	Decision by Council, 3rd reading		
10/06/1997	Debate in Parliament		Summary
11/06/1997	Decision by Parliament, 3rd reading	T4-0290/1997	Summary
30/06/1997	Final act signed		
30/06/1997	End of procedure in Parliament		
26/07/1997	Final act published in Official Journal		

## Technical information

Procedure reference	1995/0207(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amended by <a href="#">1997/0250(COD)</a>
Legal basis	EC before Amsterdam E 100A

Stage reached in procedure	Procedure completed
Committee dossier	CODE/4/08489

## Documentation gateway

Legislative proposal	<a href="#">COM(1995)0379</a> <a href="#">OJ C 313 24.11.1995, p. 0007</a>	19/07/1995	EC	Summary
Committee report tabled for plenary, 1st reading/single reading	<a href="#">A4-0017/1996</a> <a href="#">OJ C 047 19.02.1996, p. 0005</a>	25/01/1996	EP	
Text adopted by Parliament, 1st reading/single reading	T4-0050/1996 <a href="#">OJ C 065 04.03.1996, p. 0060-0069</a>	14/02/1996	EP	Summary
Economic and Social Committee: opinion, report	<a href="#">CES0249/1996</a> <a href="#">OJ C 153 28.05.1996, p. 0021</a>	29/02/1996	ESC	Summary
Modified legislative proposal	<a href="#">COM(1996)0121</a> <a href="#">OJ C 178 21.06.1996, p. 0003</a>	20/03/1996	EC	Summary
Commission communication on Council's position	SEC(1996)1122	14/06/1996	EC	
Council position	<a href="#">06901/2/1996</a> <a href="#">OJ C 220 29.07.1996, p. 0013</a>	18/06/1996	CSL	Summary
Committee recommendation tabled for plenary, 2nd reading	<a href="#">A4-0276/1996</a> <a href="#">OJ C 320 28.10.1996, p. 0004</a>	09/09/1996	EP	
Text adopted by Parliament, 2nd reading	T4-0463/1996 <a href="#">OJ C 320 28.10.1996, p. 0126-0138</a>	19/09/1996	EP	Summary
Commission opinion on Parliament's position at 2nd reading	COM(1996)0535	11/11/1996	EC	Summary
Joint text approved by Conciliation Committee co-chairs	<a href="#">3610/1997</a>	29/04/1997	CSL/EP	
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading	<a href="#">A4-0171/1997</a> <a href="#">OJ C 182 16.06.1997, p. 0003</a>	21/05/1997	EP	
Text adopted by Parliament, 3rd reading	T4-0290/1997 <a href="#">OJ C 200 30.06.1997, p. 0060-0067</a>	11/06/1997	EP	Summary

## Additional information

European Commission	<a href="#">EUR-Lex</a>
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## Final act

<a href="#">Directive 1997/33</a> <a href="#">OJ L 199 26.07.1997, p. 0032</a> Summary
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## Telecommunications: interconnection, universal service and interoperability of networks and services, open network provision ONP

OBJECTIVE: the proposal for a directive from the European Parliament and the Council aims to permit new entrants to the market to interconnect their equipment to that of existing market operators. This measure is needed for the effective liberalization of the telecommunications sector on 1 January 1998 and will therefore apply before that date. At the same time the measure will introduce safety clauses guaranteeing the interconnection and interoperability of networks and services, so that users will be able to benefit increasingly from

the universal provision of telecommunications services throughout the territory of the European Union. SUBSTANCE: The directive provides a harmonized framework for interconnection by application of the principles of open network provision (ONP). The main provisions of the directive are as follows: . application of the principles of transparency, objectivity and non-discrimination in the provision of an open network, in accordance with the principle of proportionality; . priority is given to commercial negotiations between the parties to an interconnection agreement, subject to certain conditions which must be laid down in advance by the national regulatory authorities; . the precise responsibilities of the national regulatory authorities, in accordance with the principle of subsidiarity, including effective mechanisms for settling disputes; . description of the way in which the essential requirements (security of operations handled on the network, maintenance of network integrity, interoperability of services and protection of personal data and confidentiality) are applied when providing interconnection services; . in addition, the Treaty's rules on competition are to be applied. ?

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The Committee on Economic and Monetary Affairs adopted the report by Mrs Imelda Mary READ (PSE, UK) on the proposal for a directive relating to interconnection in the telecommunications sector with a view to ensuring a universal service and interoperability by application of the principles for the provision of an open network (ONP) (COD0207). With regard to the Commission's proposal, the Committee on Economic and Monetary Affairs proposed, in particular: - conferring upon the Commission increased powers of action so that rules could be defined at European level. Eventually, a European regulatory authority could be established; - clarifying certain control rules; - limiting obligations relating to transparency and accounting separation to certain large organisations; - encouraging competition whilst preventing penetration of the market by inefficient players; - encouraging investment rather than physical collocation; - ensuring numbering continuity and number portability when changing supplier; - emphasising universal service, with the introduction of European legislation, and sharing the cost of universal service between all operators. ?

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The rapporteur, Mrs Read (PSE, UK), said that most of the amendments were of a technical nature, though this did not mean that they were not based on a coherent philosophy: the aim of the directive was to ensure a universal service for telephone users at an acceptable cost and in accordance with a set of clear rules for the industry. Commissioner Bangemann began by declaring that the Commission could take over 45 of the 70 amendments tabled. He went on to point out that the universal service did not mean a public service and with this in mind he supported the rapporteur's definition by emphasising that the universal service should provide each citizen with the same quality of service at an affordable price. Mr Bangemann also said that there was no contradiction between a universal service and the rules of the market, since the latter was not a jungle where there were no holds barred. Rather the market could be regarded as an instrument that formed an integral part of a mass of instructions that were fixed in relation to other objectives lying outside the sphere of the market, such as social justice and the protection of the environment. He also gave examples of the deregulation and improvement of the universal service, as in the case of Scotland and Sweden. With regard to interconnection, he declared that he was in favour of environmental considerations being included when setting up new installations. This was why Amendment No 44 was preferable to Amendment No 70, because it provided that the interconnection agreements would include conditions on compliance with town and country planning requirements. Finally, the Commissioner reaffirmed his confidence in the new technical opportunities being made available, provided they proved to be of more practical use to consumers than had been the case in the past.

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The European Parliament adopted the report by Mrs Mel READ (PSE, UK) on the proposal for a directive on interconnection in telecommunications with regard to ensuring universal service and interoperability through application of the principles of Open Network Provision (ONP). In relation to the Commission proposal, the European Parliament proposed, in particular: - conferring on the Commission increased powers of action with a view to rules being laid down at European level. This could result in the establishment of a European Regulatory Authority; - clarifying certain control rules; - limiting obligations relating to transparency and accounting separation to various large organizations; - encouraging competition whilst preventing penetration of the market by inefficient players; - encouraging investment rather than physical collocation; - ensuring numbering continuity and number portability when changing supplier; - clarifying the concept of universal service in the directive, with the introduction of European legislation, and sharing the cost of universal service between all operators. A universal service must permit access to a minimum service to all users at an affordable price. The Commission was invited to come forward with a Communication forming the basis of a definition of universal service at the latest by 31 December 1996. ?

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While welcoming the Commission's proposal, the ESC makes a number of points that need to be taken into account: - the need to ensure that differences in national rules are kept to a minimum on the basis of a legislative framework applicable across the EU; - the proposed Directive is rather ambiguous, especially concerning the definition of public networks and services; - the issues of interconnection and interoperability are juxtaposed with the provision of universal services, which may in future lead to problems when operators have to interpret the provisions in practice. The ESC takes the view, therefore that it would be better if a Directive of this importance were clearer and actually defined and delimited the terms used. Its structure should also be more methodical and logical. The Committee also hopes that the current process of liberalizing telecommunications in the EU will be founded on efficiency, competitiveness, solidarity, while at the same time respecting the

"European Social Model" and ensuring adequate protection for consumers. Regarding the Commission's more specific proposals, the Committee feels, inter alia, that the regulatory framework for the telecommunications sector needs to be balanced, non-discriminatory and should maintain equality of opportunity for all market players. It calls for the Commission to propose codes of conduct which set objective limits for fair and unfair competition, and for more clarity in references to universal service, although it is aware that the Commission will publish a communication - to which it looks forward with interest - on this subject in the near future. The Committee also suggests that the idea of organizations which have "significant market power" should be defined at Community level, taking account of existing Community case-law in this area.?

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The amended proposal incorporated, in whole or in part, 45 of the 69 amendments adopted by Parliament at first reading. The Commission accepted the amendments: - stressing the importance of guaranteeing universal service and a single European telecommunications market; - concerning number portability; - stressing the need to protect the environment; - increasing transparency and ensuring reasonable confidentiality; - calling for greater coordination among national regulatory authorities and between them and the Commission; - clarifying the text in a manner consistent with the objectives of the Directive; - calling for the possibility of setting up a European regulatory authority for telecommunications to be studied in connection with the review of the Directive in 1999; - which were compatible with existing European legislation. However, the Commission did not incorporate the amendments seeking in particular: - to restrict the scope of the Directive to interconnection between public networks of the same type and extending the confidentiality requirement to all telecommunications networks (public and private); - to replace the requirement of complete accounting separation with a less stringent requirement that accounts be transparent; - to regard services which cannot at present be made available to all users as forming part of a universal service obligation; - provide for the costs of universal service obligations to be shared among all telecommunications network operators (and not only among public network operators); - to delete the concept of market advantage for organizations subject to universal service obligations; - to reduce the role of national regulatory authorities in supervising contributions to covering universal service costs; - to make it possible to bring proceedings simultaneously in the national courts and at EU level; - to delete certain elements from the definition of the concept of power on the market; - to restrict the framework governing collocation and facility sharing. ?

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In many instances, the common position of the Council follows the position of the Commission as expressed in its amended proposal. The Council's changes to the Commission proposal and its attitude towards Parliament's amendments were motivated by its concern to: - ensure consistency with other relevant Community provisions, in particular the Directives on the application of open network provision (ONP) (e.g. as regards the procedure applicable for the committee); - clarify the scope of certain provisions (e.g. by extending universal service cost-sharing to organizations providing voice telephony services available to the public); - simplify the Directive by introducing greater flexibility in the planned provisions. The Council therefore introduced new provisions in its common position, particularly the following: - Definitions: reformulation of the definitions of 'interconnection' and 'telecommunications services'; - Rights and obligations for interconnection: organizations which have significant market power must meet all reasonable requests for access to the network; - Definition of 'significant market power': this is now defined in an article rather than a recital; - Universal service: inclusion of organizations providing voice telephony services accessible to the public among the possible contributors towards the costs of universal service obligations; - Principles for interconnection charges and cost accounting systems: the principles of transparency and cost orientation are extended to suppliers of networks and public mobile telephony services with significant market power. It is also permissible to set a number of different tariffs, terms and conditions for interconnection for different categories of organizations; - Accounting separation and financial reports: Member States may require structural separation of telecommunications operations in the case of organizations which have special or exclusive rights for the provision of services in other sectors; - Essential requirements: the reference to specific conditions concerning compensation is deleted; - Technical standards: the reference to specifications having a wide acceptance within industry and developed by international industry bodies is deleted; - Publication of and access to information: up-to-date information must be made available on request and free of charge to interested parties; - Comitology: a Type III(a) regulatory committee is chosen to adapt Annexes IV, V and VII to technological progress, in order to maintain consistency with the other ONP directives; - Review of implementation of the Directive: the review will particularly concern the provisions of the Directive on universal service and the date 01/01/2003 for the introduction of number portability in major population centres; - Fixed public telephone network: the definition of the fixed public telephone network is extended to include provision of special facilities to meet special social needs. The common position did not incorporate Parliament's amendments, notably concerning: - the portability of telephone numbers; - the emphasis on the need to protect the environment; - consideration of the possibility of setting up a European regulatory authority for telecommunications when the Directive is reviewed in 1999. ?

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The Economic and Monetary Committee adopted the recommendation by Imelda READ (PSE, UK) together with several amendments. One delicate point concerns the need to take account of environmental considerations within the framework of interconnection agreements and the balance to be struck between ecology and universal service. In addition, the committee insisted on: - a European character for the functioning of the telecommunications networks; - a guarantee of consumer protection in the form of "number portability"; - the introduction of a "pay or play" system in universal service.?

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The rapporteur, Mrs Read, again presented the amendments that had not been taken over by the Council, namely those relating to the cost and financing of the universal service, the cost of interconnection, environmental protection, telephone numbering and the setting-up of a European regulatory authority. Commissioner Bangemann declared that the establishment of a regulatory authority was absolutely essential. He assured the rapporteur that Amendments Nos 5 and 27 on number portability would be acceptable and that Amendment No 10 would also be taken over if it could be re-worded.

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Parliament unanimously adopted the recommendation for second reading by Mrs Imelda READ (PSE, UK) on the Directive concerning interconnection and interoperability of telecommunications networks and services. At second reading the EP retabled the amendments which had not been taken over by the Council, relating to the costing and financing of universal service, the cost of interconnection, environmental protection, numbering, and the setting up of a European Regulatory Authority. Furthermore, Parliament stressed the need to ensure a European character for the functioning of the telecommunications networks, which means reforming the institutional framework proposed by the Council, and a consumer protection guarantee by way of number portability (continuity of numbering and rerouting of old numbers when a user changes supplier). In addition, the EP would like to see the introduction of a 'Pay or play' system in universal service, whereby the provision of universal service would not be confined to the former monopoly. New entrants capable of providing such a service could be exempted from the financial contribution required of the operators. ?

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The Commission amended its proposal by incorporating, in full or in part, 21 of the 31 amendments adopted by the European Parliament at second reading. The main amendments accepted by the Commission relate to the following eight areas: - study into the creation of a European regulatory authority: the Commission agreed to examine in the report which it is required to submit by the end of 1999 the possibility of introducing a European telecommunications regulatory authority, although it considered it premature at this stage to specify the tasks which it would be required to carry out; - procedure for settling cross-border disputes on interconnection at Union level: reintroduction of a binding procedure; - postponement, for certain Member States, of certain obligations provided for in the directive: support for amendments requiring that Member States granted transitional periods for complete deregulation in accordance with Commission directive 96/19/EC call for the corresponding postponement of certain obligations provided for in the directive, where this is justified by special or exclusive telecommunications rights; - definition of interconnection: service providers must be included in the definition of interconnection; - re-examination of the need for the directive once there is real competition; - number portability: the Commission supports the demand for calls to be rerouted to the new number or for the caller to be given the new number. This service should be provided for a reasonable charge approved by the national regulatory authority (for portable numbers and call rerouting) or free of charge (for giving callers the new number); - strengthening of the requirement for the positions of Member States to be coordinated in international bodies and fora where decisions are taken on numbering; - guidelines laid down by the Commission: the Commission reintroduced guidelines on cost accounting and separation of accounts in the field of interconnection. These guidelines, which the Commission will draw up, will not be binding. It should be noted that the Commission did not accept amendments seeking: - the establishment by the Member States of a mechanism for funding the universal service in order to finance the net cost of the universal service requirement; - the elaboration by the Commission, by 31 December 1996, of a proposal for a directive on the evaluation of the cost and funding of the universal service. - separation of accounts; - comitology (the Commission accepted the type IIIa regulatory committee).?

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The Council established that it was not in a position to take over all of Parliament's amendments to its common position of 17 June 1996 concerning the proposal for a directive relating to interconnection in the telecommunications sector. The Conciliation Committee would therefore be convened under the terms of Article 189b of the Treaty.

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Commissioner Fischler welcomed the fact that Parliament and Council had agreed on the funding of the universal service, the cross-border arbitration process, cost-based pricing, reasonable pricing and number portability. In this last respect, the Commission agreed that the subscriber should be able to have any telephone call made to him at the former company transferred in return for a reasonable fee. The Commissioner also confirmed that Article 7(1) of the Interconnection Directive would be applied to all organisations operating the public telecommunications networks and/or publicly available telecommunications services as set out in Annex 1.

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In adopting the report by Mrs Imelda READ (PSE, UK), the European Parliament approved the joint text of the Conciliation Committee of the European Parliament and the Council on the directive on interconnection and interoperability of telecommunications networks and services. The compromise mainly concerned the following points: - financing of universal service: it was agreed that the Integrated Services Digital Network (ISDN) would not be subject to a universal service requirement at this stage, but that such a requirement could be extended to it later; - facilitating market entry for new operators: national regulatory authorities will be able to lay down in advance conditions governing the negotiation of interconnection agreements. Such negotiations must be equitable to new entrants to the market; - interconnection charges: in the case of organizations 'which have significant market power', charges for interconnection must be transparent and based on real costs. National regulatory authorities may request an organization to justify and where appropriate adjust charges and other aspects of their offers; - the setting-up of a European Regulatory Authority: the possibility of setting up such an Authority is to be considered when the Directive is reviewed, taking into account the preparatory work of the Commission, which is to report before the end of 1999; - coordination of positions in international bodies: the Member States must seek to coordinate their positions in international forums and organizations where decisions are taken on numbering; - settlement of crossborder disputes: a procedure for resolving disputes concerning interconnection involving national regulatory authorities is provided for. At the request of one of the parties to a dispute, these authorities must coordinate their efforts to arrive at a solution which strikes a fair balance between the legitimate interests of the parties and respects the national rules applicable. The solution must be arrived at within 6 months; - portability of subscriber numbers: on this controversial subject, the Commission agreed to accept an amendment by Parliament whereby, until it becomes possible for subscribers to retain the same number when changing suppliers, the subscriber should be able to arrange, in return for a reasonable charge, that all calls made to him at the previous company will be transferred to him or that the caller will be informed of his new number without charge. The Council undertook to study the matter on the basis of a Commission proposal. The solution could be incorporated in the text of the directive on voice telephony which is currently being revised; - as regards commitment and on the basis of the *modus vivendi* for informing Parliament, the same solution was adopted as had been negotiated for the directive on voice telephony.?

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**OBJECTIVE:** to permit new entrants to the market to interconnect their equipment to that of existing market operators. This measure is needed for the effective liberalisation of the telecommunications sector on 1 January 1998. **COMMUNITY MEASURE:** European Parliament and Council Directive 97/33/EC relating to interconnection in the telecommunications sector with a view to ensuring a universal service and interoperability by application of the principles for the provision of an open network. **CONTENT:** the directive lays down common rules for the interconnection of fixed and mobile networks and for the interoperability of services, which are intended to ensure the provision of a universal service in a competitive environment. The main provisions of the directive are as follows: - Member States must remove all restrictions to the negotiation of interconnection agreements between operators; - obligation for operators having significant market power, that is those having a greater than 25% share of the market, to accept reasonable requests for interconnection to their network; - laying down of conditions governing the financing systems which Member States may introduce in order to share the cost of providing the universal service. It is important to note that the Integrated Services Digital Network (ISDN) is not, at this stage, the subject of obligation for a universal service, but that it may be incorporated at some subsequent date: - the national regulatory authorities may lay down in advance the conditions governing the negotiation of interconnection agreements. Such a negotiation must be equitable for new entrants to the market; - interconnection agreements may be added to conditions which are intended to protect essential requirements, such as the security of operations which are handled on the network, the interoperability of services and the protection of data; - interconnection charges are laid down in a transparent manner, based on actual costs; - Member States must guarantee an adequate provision of numbers and ranges of numbers for public telecommunications services. In addition, they must ensure as soon as possible (and at the very latest by 1 January 2003 in major population centres) that portability of subscriber numbers, a service by which the subscriber keeps the same telephone number even when changing supplier, is provided; - a procedure for settling crossborder disputes concerning interconnection involving national regulatory authorities is provided for; - the question of creating a European Telecommunications Authority is to be examined during the review of the directive, and by the 21 December 1999 at the latest. **ENTRY INTO FORCE:** 15/08/1997 **DEADLINE FOR TRANSPOSITION:** 31/12/1997 ?