


Procedure file

Basic information	
COS - Procedure on a strategy paper (historic)	1996/2280(COS)
Procedure completed	
Telecommunications sector: application of the competition rules to access agreements	
Subject 2.60 Competition 3.30.03 Telecommunications, data transmission, telephone	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ECON Economic and Monetary Affairs, Industrial Policy		23/01/1997
		PPE ARGYROS Stelios	
	Committee for opinion	Rapporteur for opinion	Appointed
	JURI Legal Affairs, Citizens' Rights		05/02/1997
		PSE MEDINA ORTEGA Manuel	
Council of the European Union			

Key events			
10/12/1996	Non-legislative basic document published	COM(1996)0649	Summary
15/01/1997	Committee referral announced in Parliament		
18/06/1997	Vote in committee		Summary
18/06/1997	Committee report tabled for plenary	A4-0213/1997	
15/07/1997	Debate in Parliament		Summary
17/07/1997	Decision by Parliament	T4-0390/1997	Summary
17/07/1997	End of procedure in Parliament		
22/09/1997	Final act published in Official Journal		

Technical information	
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Procedure type	COS - Procedure on a strategy paper (historic)
Procedure subtype	Commission strategy paper

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Stage reached in procedure	Procedure completed
Committee dossier	ECON/4/08537

Documentation gateway

Non-legislative basic document	COM(1996)0649	10/12/1996	EC	Summary
Economic and Social Committee: opinion, report	CES0589/1997 OJ C 287 22.09.1997, p. 0008	28/05/1997	ESC	Summary
Committee report tabled for plenary, single reading	A4-0213/1997 OJ C 222 21.07.1997, p. 0003	18/06/1997	EP	
Text adopted by Parliament, single reading	T4-0390/1997 OJ C 286 22.09.1997, p. 0180-0234	17/07/1997	EP	Summary

Telecommunications sector: application of the competition rules to access agreements

OBJECTIVE: the draft communication seeks to set out how the Commission intends to apply the competition rules to access agreements in the telecommunications sector. **SUBSTANCE:** the Commission considers that in the telecommunications sector access agreements are the essential elements which allow those involved in the market to benefit from liberalization. The communication thus presents a group of rules seeking to assist the companies providing telecommunications services to have access to existing networks in competition with current suppliers. To this end the text: - sets out the access principles stemming from EU competition law in order to create greater market certainty and more stable conditions for investment and commercial initiative in the telecommunications and multimedia sectors; - defines and clarifies the relationship between competition law and sector specific legislation under the Article 100a framework (in particular this relates to the relationship between competition rules and Open Network Provision legislation); - explains how competition rules will be applied in a consistent way across the converging sectors involved in the provision of new multimedia services, and in particular to access issues and gateways in this context. In conclusion, the Commission considers that competition rules and sector specific regulation form a coherent set of measures to ensure a liberalised and competitive market environment for telecommunications markets in the EU. In taking action in this sector, the Commission will aim to avoid unnecessary duplication of procedures, in particular competition procedures and national/EU regulatory procedures as set out under the ONP framework. It should be noted that this draft communication has been published for public consultation only. A final version will be published when the ONP interconnection directive has been finally approved by Parliament and Council. ?

Telecommunications sector: application of the competition rules to access agreements

The Committee is happy with the structure of the draft document. However, it feels obliged to comment on certain points. The communication on the application of competition rules in the telecommunications sector should hold the status of an interpretative instrument and not attempt to second-guess the future behaviour of the various operators. The Committee fully supports the Commission's approach to the problem of the relationship between the sector-specific legislation (the ONP procedures and directives under Article 90 EC), and Community competition law. The Committee is concerned about the distinction between telecommunications service markets and the markets for service providers' access to the public networks. The Committee feels that the criteria identified by the Commission for assessing the existence of a dominant position on the telecommunications market are excessively rigid. The Committee endorses the general but effective way in which the Commission seeks to clarify how the various cases should be treated in the section of the communication which considers access agreements in the light of Article 85 EC. ?

Telecommunications sector: application of the competition rules to access agreements

The committee unanimously adopted the proposal for a resolution on the Commission's communication on the application of competition rules to access agreements in the telecommunications sector. While acknowledging that forecasting the future of the market was no easy matter, the rapporteur, Mr Argyros (PPE, EL), considered that the final communication should address the subsequent stages of liberalization rather than confining itself to the transitional stage, during which competition is restricted because of extant dominant positions. In addition, the text adopted called on the Commission to set limits on the action which transnational operators in the sector were authorized to take so that the coexistence of markets which had attained different levels of liberalization did not distort competition. In any event, the rapporteur called on Member States which had been granted an extension to the deadline to step up efforts to make the necessary structural adjustments so that a single European market in telecommunications could be established. With regard to the application of ONP rules to access agreements, the draft resolution set out a series of priorities: the national authorities should be completely independent of the public organizations supplying telecommunications networks; thus they should comply with competition rules and adopt a harmonized European approach, with efficient cooperation between them and the Commission. The Commission should clarify the relation between the forthcoming ONP directive on interconnection and access agreements and, in particular, address the provisions concerning the possibility of settling litigation at European level. In general, the rapporteur recommended defining a single regulatory framework for telecommunications, given that the fragmented ONP directives had not been conducive to the development of commercial activities in the sector in question, especially by SMEs. Having

addressed a number of other matters relating to the application of competition rules to access agreements, the draft resolution highlighted the need for the Union to make the Community framework for access agreements compatible with the system applicable in third countries in order to ensure that European companies were not at a disadvantage in comparison with their competitors on world markets.?

Telecommunications sector: application of the competition rules to access agreements

The rapporteur wanted up-to-date legislation compatible with the rapid technological developments, totally open access to services and the avoidance of monopolies by applying objective criteria. Commissioner Van Miert welcomed the generally positive tone of the report on the Commission's draft communication. As regards the transitional period, the Commissioner gave a few examples (in particular the interconnection tariffs of Deutsche Telekom which he considered were too high) of problems which the Commission had been forced to take into account. Finally, the Commissioner assured Parliament that the final text of the communication would be available in the autumn.

Telecommunications sector: application of the competition rules to access agreements

In adopting the report by Mr Stelios ARGYROS (PPE, G), the European Parliament expressed support for the Commission's efforts to formulate the principles which would govern the agreements affording new operators access to public contract procedures in the field of telecommunications and the enforcement of the competition rules by the national regulatory authorities. It called on the Member States which had requested an extension of the deadline for liberalization to step up their efforts to fulfil the necessary conditions for liberalizing the telecommunications sector so that a single European market could be established. It called on the Commission to clarify how it intended to regulate international access agreements between the liberalized and non-liberalized telecommunications markets during the period in which certain Member States would be exempt from full liberalization, in order to ensure fair competition during that transitional period. Parliament called for a European regulatory authority to be set up, particularly to resolve technical problems, while at the same time advocating that cooperation between national regulatory authorities and the Commission be stepped up. It considered that national regulatory authorities should be independent of the public organizations supplying telecommunications networks and that it should be possible to fine enterprises which breached Community competition rules. Parliament went on to call on the Commission: - to clarify the relation between the forthcoming ONP directive on interconnection and access agreements, ensure that they were compatible and determine the extent to which the directive applied to access agreements, with particular regard to the provisions concerning the possibility of recourse to the European level for the settlement of disputes; - to adopt a more flexible and global approach to assessing dominant positions; - to specify provision of equal access as one of the principal obligations of all telecommunications network providers and to ensure that the technical specifications required for access, the digital broadcasting sector included, did not constitute a means of abusing a dominant position. Parliament stressed the importance of greater pricing transparency and that prices should be determined in the light of objective criteria (prices should not be excessive). It was also important to ensure that liberalization of telecommunications services and infrastructure did not damage the interests of users; services in this sector must be universal. Lastly, Parliament stressed the need for the Community regulatory framework for access agreements to be consistent with the regulations applying in third countries, and urged the Commission to take this into account in negotiations with these countries. ?