DIRECTIVE 98/61/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 24 September 1998

amending Directive 97/33/EC with regard to operator number portability and carrier pre-selection

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 [1],

Having regard to the opinion of the Economic and Social Committee [2],

Acting in accordance with the procedure laid down in Article 189b of the Treaty [3],

Whereas the Commission organised a broad public consultation on the basis of a Green Paper on a numbering policy for telecommunications services in Europe;

Whereas this consultation underlined the importance of equal quantitative and qualitative access to numbering resources for all market players and the crucial significance of adequate numbering mechanisms, in particular for number portability and carrier selection, as key facilitators of consumer choice and effective competition in a liberalised telecommunications environment;

Whereas the Council adopted a resolution [4] on 22 September 1997 inviting the Commission to submit proposals to the European Parliament and to the Council regarding the accelerated introduction of number portability and regarding the introduction of carrier pre-selection;

Whereas on 17 July 1997 the European Parliament adopted a resolution [5] calling on the Commission to submit a proposal for an amendment to an already existing directive with a view to introducing carrier pre-selection and number portability;

Whereas, in the interests of the consumer and taking into account specific national market situations, national regulatory authorities may extend the obligation to provide carrier pre-selection with call-by-call override to organisations operating public telecommunications networks without significant market power, where this does not impose a disproportionate burden on such organisations or create a barrier to entry in the market for new operators;

Whereas 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) [6] should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 97/33/EC is hereby amended as follows:

1. the following definitions shall be added to Article 2(1):

'(h) "subscriber" means 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;

(i) "geographic number" means a number from the national numbering plan where part of its digit structure contains geographic significance used for routing calls to the physical location of the network termination point of the subscriber to whom the number has been assigned;'

2. the first subparagraph of Article 12(5) shall be replaced by the following:

'5. National regulatory authorities shall encourage the earliest possible introduction of operator number portability whereby subscribers who so request can retain their number(s) on the fixed public telephone network and the integrated services digital network (ISDN) independent of the organisation providing service, in the case of geographic numbers at a specific location and in the case of other than geographic numbers at any location, and shall ensure that this

[1] OJ C 330, 1. 11. 1997, p. 19, and OJ C 13, 17. 1. 1998, p. 10.
[2] OJ C 73, 9. 3. 1998, p. 107.
[3] Opinion of the European Parliament of 20 November 1997 (OJ C 371, 8. 12. 1997, p. 180), Council common position of 12 February 1998 (OJ C 91, 26. 3. 1998, p. 42) and Decision of the European Parliament of 14 May 1998 (OJ C 167, 1. 6. 1998). Council Decision of 20 July 1998.
[4] OJ C 303, 4. 10. 1997, p. 1.
[5] OJ C 286, 22. 9. 1997, p. 232.
[6] OJ L 199, 26. 7. 1997, p. 32.