

Trade in Services

EUROPEAN COMMUNITIES AND THEIR MEMBER STATES

Schedule of Specific Commitments

Supplement 3

(This is authentic in English, French and Spanish)

This text supplements the entries relating to the Telecommunications services section contained in documents GATS/SC/31, GATS/SC/7, GATS/SC/33 and GATS/SC/82.

THE EUROPEAN COMMUNITIES AND THEIR MEMBER STATES - SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply	2) Consumption abroad	3) Commercial presence	4) Presence of natural persons
Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
<p>2.C Telecommunications services</p> <p>Telecommunications services are the transport of electro-magnetic signals - sound, data image and any combinations thereof, excluding broadcasting¹. Therefore, commitments in this schedule do not cover the economic activity consisting of content provision which require telecommunications services for its transport. The provision of that content, transported via a telecommunications service, is subject to the specific commitments undertaken by the European Communities and their Member States in other relevant sectors.</p> <p>All sub-sectors</p>			<p>The European Communities and their Member States undertake additional commitments as contained in the attachment, all parts of which are equally binding.</p>

¹ Broadcasting is defined as the uninterrupted chain of transmission required for the distribution of tv and radio programme signals to the general public, but does not cover contribution links between operators.

Sector or subsector	1) Cross-border supply	2) Consumption abroad	3) Commercial presence	4) Presence of natural persons	Additional commitments
	<p>Limitations on market access</p> <p>FIN : The general horizontal requirements for legal entities in GATS/SC/33 shall not apply to the telecommunications sector except as :</p> <ul style="list-style-type: none"> - half of the founders, half of the members of the board of directors and the managing director must have permanent residence in the European Economic Area. If the founder is a legal person, it must have residence in the EEA. <p>1) None except for:</p> <p>P: basic services can be supplied only by companies established in Portugal.</p> <p>GR: access through S.A. and the company must be exclusively engaged in the supply of telecommunication services.</p> <p>2) None</p>	<p>Limitations on national treatment</p> <p>FIN : The general horizontal requirements for legal entities in GATS/SC/33 shall not apply to the telecommunications sector. Requirements concerning the Åland islands shall continue to apply.</p> <p>1) None</p> <p>2) None</p>	<p>Additional commitments</p> <p>B: Licensing conditions may address the need to guarantee universal service, including through financing, in a transparent, non-discriminatory and competitively neutral manner and will not be more burdensome than necessary.</p>		

Modes of supply: 1) Cross-border supply	2) Consumption abroad	3) Commercial presence	4) Presence of natural persons
Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
<p>3) None except for(*) :</p> <p>GR: access through S.A. and the company must be exclusively engaged in the supply of telecommunication services.</p> <p>P : The direct or indirect participation of natural persons, who are non-nationals of EC Member States or non-EC companies or firms in the capital of companies supplying basic telecommunications services cannot exceed 25%.</p> <p>F : Indirect: none. Non-EC natural or juridical persons may not hold directly more than 20% of the shares or voting rights of companies authorised to establish and operate radio-based infrastructure for the provision of telecommunications services to the general public. For the application of this provision, companies or firms legally established according to the laws of a Member State of the EC are considered EC juridical persons.</p>	<p>3) None</p>	<p>3) None</p>	<p>P: The Government of Portugal has the intention of presenting to the Parliament draft legislation aiming at removing partially the present limitations on foreign equity participation in the capital of companies supplying basic telecommunication services no later than in 1998. In case of approval, the new legislation will be bound no later than in 1999.</p>
<p>4) Unbound except as indicated in the horizontal section.</p>	<p>4) Unbound except as indicated in the horizontal section.</p>	<p>4) Unbound except as indicated in the horizontal section.</p>	

(*)Footnote for clarification purposes: Some EC Member States maintain public participation in certain telecommunication operators. EC Member States reserve their rights to maintain such public participation in the future. This is not a market access limitation. In Belgium, government participation and voting rights in Belgacom are freely determined under legislative powers as is presently the case under the law of 21 March 1991 on the reform of government-owned economic enterprises.

Modes of supply:	1) Cross-border supply	2) Consumption abroad	3) Commercial presence	4) Presence of natural persons
Sector or sub-sector	Limitations on market access	Limitations on national treatment	Additional commitments	
<p>Domestic and international Domestic and international services provided using any network technology, on a facilities based or resale basis, for public and non-public use, in the following market segments (these correspond to the following CPC numbers: 7521, 7522, 7523, 7524**, 7525, 7526 and 7529**, broadcasting is excluded):</p>	<p>1) None except for:²</p> <p>E: none, except that the liberalisation calendar will be as follows: one additional nation-wide licence in January 1998; full liberalisation as from 30.11.1998³.</p> <p>IRL: None except for public voice telephony and facilities-based services where none as of 1 January 2000.</p> <p>P: None, except for public voice telephony, telex and telegraph where none as from 1 January 2000, and facilities-based services where none as from 1 July 1999.</p> <p>GR: None except for public voice telephony and facilities-based services where none as of 1 January 2003.</p>	<p>1) None</p>		
<p>a. Voice telephone services</p>				
<p>b. Packet switched data transmission services</p>				
<p>c. Circuit-switched data transmissions services</p>				
<p>d. Telex services</p>				
<p>e. Telegraph services</p>				
<p>f. Facsimile services</p>				

² Luxembourg has requested a delayed date for the liberalisation of telecommunications until 1.1.2000. The EC decision on this request is still pending.

³ Applications for further licences to be received as from 1 August 98.

Modes of supply:	1) Cross-border supply	2) Consumption abroad	3) Commercial presence	4) Presence of natural persons
Sector or sub-sector	Limitations on market access	Limitations on national treatment	Additional commitments	
g. Leased circuit services	<p>2) None</p> <p>3) None except for:⁴</p> <p>E: none, except that the liberalisation calendar will be as follows: one additional nation wide licence in January 1998; full liberalisation as from 30.11.1998⁵.</p> <p>IRL: None except for public voice telephony and facilities-based services where none as of 1 January 2000.</p> <p>P: None, except for public voice telephony, telex and telegraph where none as from 1 January 2000 and facilities-based services where none as from 1 July 1999.</p> <p>GR: None except for public voice telephony and facilities-based services where none as of 1 January 2003.</p> <p>4) Unbound except as indicated in the horizontal section.</p>	<p>2) None</p> <p>3) None</p> <p>4) Unbound except as indicated in the horizontal section.</p>		

⁴ Luxembourg has requested a delayed date for the liberalisation of telecommunications until 1.1.2000. The EC decision on this request is still pending.

⁵ Applications for further licences to be received as from 1 August 98.

Modes of supply:	1) Cross-border supply	2) Consumption abroad	3) Commercial presence	4) Presence of natural persons
Sector or sub-sector	Limitations on market access	Limitations on national treatment	Additional commitments	
o. Other services: Mobile and personal communications services and systems	1) None except for: IRL, P: international interconnection of mobile networks with other mobile or fixed networks where none as of 1.1.1999. 2) None 3) None except for: IRL, P: international interconnection of mobile networks with other mobile or fixed networks where none as of 1.1.1999.	1) None 2) None 3) None		

ADDITIONAL COMMITMENT BY THE EUROPEAN COMMUNITIES
AND THEIR MEMBER STATES

SCOPE:

The following are definitions and principles on the regulatory framework for the basic telecommunications services underpinning the market access commitments by the European Communities and their Member States.

DEFINITIONS:

User mean service consumer and service suppliers.

Essential facilities mean facilities of a public telecommunications transport network and service that

- a) are exclusively or predominantly provided by a single or limited number of suppliers; and
- b) cannot feasibly be economically or technically substituted in order to provide a service.

A *major supplier* is a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for basic telecommunications services as a result of:

- a) control over essential facilities; or
- b) use of its position in the market.

1. COMPETITIVE SAFEGUARDS:

1.1. Prevention of anti-competitive practices in telecommunications:

Appropriate measures shall be maintained for the purpose of preventing suppliers who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.

1.2. Safeguards:

The anti-competitive practices referred to above shall include in particular:

- a) engaging in anti-competitive cross-subsidization;
- b) using information obtained from competitors with anti-competitive results; and
- c) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

2. INTERCONNECTION:

2.1. This section applies to linking with suppliers providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier.

2.2. Interconnection to be ensured:

Within the limits of permitted market access, interconnection with a major supplier will be ensured at any technically feasible point in the network. Such interconnection is provided⁶:

- a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates⁷;
- b) in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and
- c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

2.3. Public availability of the procedures for interconnection negotiations :

The procedures applicable for interconnection to a major supplier will be made publicly available.

2.4. Transparency of interconnection arrangements:

It is ensured that a major supplier will make publicly available either its interconnection agreements or a reference interconnection offer.

2.5. Interconnection : dispute settlement:

A service supplier requesting interconnection with a major supplier will have recourse, either :

- a) at any time or
- b) after a reasonable period of time which has been made publicly known to an independent domestic body, which may be a regulatory body as referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.

⁶Suppliers of services or networks not generally available to the public, such as closed user groups, have guaranteed rights to connect with the public telecommunications transport network or services on terms, conditions and rates which are non-discriminatory, transparent and cost-oriented. Such terms, conditions and rates may, however, vary from the terms, conditions and rates applicable to interconnection between public telecommunications networks or services.

⁷Different terms, conditions and rates may be set in the Community for operators in different market segments, on the basis of non-discriminatory and transparent national licensing provisions, where such differences can be objectively justified because these services are not considered "like services".

3. UNIVERSAL SERVICE:

Any Member has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive *per se*, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Member.

4. PUBLIC AVAILABILITY OF LICENSING CRITERIA:

Where a licence is required, the following will be made publicly available:

- a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a licence and
- b) the terms and conditions of individual licences.

The reasons for the denial of a licence will be made known to the applicant upon request.

5. INDEPENDENT REGULATORS:

The regulatory body is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.

6. ALLOCATION AND USE OF SCARCE RESOURCES:

Any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, will be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands will be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.