



COMMISSION OF THE EUROPEAN COMMUNITIES
DIRECTORATE-GENERAL – COMPETITION

Information, Communication and Multimedia
The Director

Brussels,
COMP.C1/ JTL/D/99*1620
**By Registered Post with advice of
delivery**

**Subject: Case No IV/37.638 – Sector Inquiry-Leased Lines
(Please quote this reference in all correspondence)
Request for information to EU incumbents**

Dear «Name»,

1. As you will know the Commission has decided, on 27 July 1999, to open a sector inquiry under Article 12 of Regulation 17 in the sector of telecommunications, relating to:
 - a) the provision and pricing of leased lines;
 - b) the provision of access to and use of the residential local loop;
 - c) the mobile roaming services;

involving requesting information from all or the main incumbent fixed network operators, (ii) all or the main mobile network operators, (iii) a number of newly authorised fixed telecommunications network operators, as well as (iv) big business users and (v) Member States' authorities.

For practical reasons, it has been decided to investigate those three areas in three phases, and to start the inquiry with the investigation into the leased lines area. Three cases have therefore been opened for that purpose, including the present case regarding leased lines.

2. Under Article 12 of Regulation 17, the Commission may initiate general inquiries into those sectors of the economy in which it notices indicators showing that in the sector concerned competition is possibly being restricted or distorted within the common market.

The aim of this provision is to allow the Commission to investigate suspicious pricing behaviour or other conduct indicating a possible anti-competitive situation across a whole industry. No indications that specific undertakings have infringed Treaty obligations are required. Once the Commission has adopted such a decision, it has a legal basis for using powers such as those in Article 11 of Regulation 17 allowing it to request and obtain all necessary information from the Governments and competent authorities of the Member States and from undertakings and associations of undertakings.

With regard to the provision and pricing of leased lines, it has been noticed that tariffs for leased lines remain high notwithstanding the establishment of competing infrastructures by new entrants. A comparison between tariffs for leased lines applied by incumbent operators across the common market was recently conducted by the main international telecommunications users association (INTUG). This indicates that the ratio between cross-border and national tariffs exceeded 120% in all Member States, and in some cases was as high as 500%. Informal complaints have been received concerning alleged discriminatory treatment in pricing, treatment, delays of delivery or quality of service.

By means of the present investigation, the Commission wishes to determine whether the practices and prices observed constitute infringements of the EC competition rules, in particular Articles 81, 82, and/or 86 of the EC Treaty.

3. This letter is a formal request for information made in accordance with Articles 11 and 12 of Council Regulation 17, of which the relevant extracts are annexed, together with extracts of Article 15 of that Regulation, to which I also draw your attention.

Article 11 empowers the Commission to obtain all necessary information from undertakings and associations of undertakings whether or not they are suspected of any infringement of the rules on competition.

The purpose of this request is to enable the Commission to assess the compatibility of the practices, including pricing relating to the provision of leased lines, with the EC rules on competition, in particular Articles 81 and 82 of the EC Treaty, in full knowledge of the facts and in their correct economic context. I shall be grateful, therefore, if you will supply the information requested in the annex, which annex forms an integral part of this letter.

I should inform you that it may be necessary to request further or supplementary information later.

4. It may become necessary at a later stage of the procedure in this case to grant access to the file to other parties. Access is not, however, granted to the business secrets of other undertakings nor to confidential information. May I therefore ask you to:
 - identify the information (documents or parts of documents) contained in your reply which you regard as business secrets, and the confidential documents whose disclosure would injure you;
 - substantiate in writing your claim(s) that information constitutes business secrets or is confidential;
 - give the Commission a non-confidential version of your reply, in which business secrets and confidential passages are deleted and replaced by an a non-confidential

summary, where possible, or an indication “[BUSINESS SECRETS]” or “[CONFIDENTIAL]” as the case may be.

5. In accordance with Article 11(5) of Regulation No 17/62/EEC the time limit for reply to this letter is **six weeks** from the date of receiving it. We would appreciate receiving both a paper as well as an electronic version of your reply. The electronic version is needed mostly for treatment of the data requested in the form of Excel tables, attached to the present letter. Should you have any questions about this request you may contact Ms Schiff (+32-2-295-76-57), Mr Hoceped (+32-2-296-04-27) or Mr Urrutia (+32-2-295-58-53).
6. I would be grateful if you could confirm the receipt of this letter by sending an acknowledgment of receipt (a model is enclosed) to fax number +32.2-296-70-81. For your convenience and to facilitate the treatment of the answers received, we shall send by email an electronic version of that letter and annexes, including tables to be filled in Excel format, to the contact person identified in your acknowledgment of receipt. Finally, I would like to add that this letter is written in English for practical reasons, but that you are entitled to reply to the present letter in the official language of the Member State where your company is established. Should you wish the version of the present letter in that official language, it will be provided. For that purpose, please contact one of the case-handlers mentioned above.

Yours faithfully,

John Temple Lang

Enc. : Annex with questionnaire, including Excel Tables to be filled in
 Acknowledgment of Receipt
 Extracts from Council Regulation No 17/62/EEC

**Article 11 Questionnaire to EU incumbents in Case n°IV/37.638
Sector inquiry - Leased Lines**

Where requested, please provide the quantitative information in electronic format (Excel 4, or earlier version) according to the tables provided in that format, as attached to the present document. Please provide all relevant financial information in euros. If you require further clarification on any of the contents of this questionnaire please contact one of the case-handlers responsible for this inquiry whose names and telephone numbers are mentioned on the cover note.

0. Contact details for clarification.

Please indicate the name, title, telephone and fax numbers as well as the email address of the person responsible for the drafting of the reply.

[insert answer here]

1.1 General company information

1.1.1 Company name, address; please indicate whether the company is part of a broader group. Please transmit your company's last annual report, if available.

[insert answer here]

1.1.2 Please provide a short description of the telecommunications services offered by your company.

[insert answer here]

1.1.3 Please indicate the geographic coverage of the company's activities.

[insert answer here]

1.1.4 Please provide the following aggregate figures (1997, 1998, 1999) in euros

Table 1: Domestic services

	Sales/ revenues			Operating profit/ loss		
	1997	1998	1999	1997	1998	1999
Total telecoms services						
Total leased lines business						
Total business communications services						
Dark fibre offerings						
Virtual Private Network services (voice)						
Domestic managed network services						
xDSL access services						

Table 2: International (intra-EU) services

	Sales/ revenues			Operating profit/ loss		
	1997	1998	1999	1997	1998	1999
Total telecoms services						
Total leased lines business						
Total business communications services						
Dark fibre offering						
International managed network services						
International VPN (voice)						

1.2 Services offered

For the purpose of this questionnaire, the following types of leased line services are considered:

- digital 64kbps;
- digital 2Mbps;
- digital 34Mbps;
- digital 155 Mbps;

as well as the following offerings:

- virtual private network (VPN);
- managed network services;
- xDSL access services;
- dark fibre.

1.2.1 Please list the additional services which are provided in conjunction with each of the types of services listed above (e.g. billing, network management, access network, etc.).

[insert answer here]

1.2.2 Please list the service packages which include these types of services.

[insert answer here]

1.2.3 Please use Table 3 to list the capacity provided and spare capacity (expressed in Mbps for each route) for the five most significant domestic routes (most important in terms of traffic), and two less important in terms of traffic.

Table 3: Capacity provided and spare capacity

	Capacity provided	Spare capacity
	Mbps	Mbps
Five most important routes		
1 (please specify)		
2 (please specify)		
3 (please specify)		
4 (please specify)		
5 (please specify)		
Two other routes		
1 (please specify)		
2 (please specify)		

1.2.4 Please use Table 4 to list the quality of service (QoS) guaranteed and measured for the leased line services you provide. Please list indicators such as Mean-Time-To-Failure (MTTF) and Mean-Time-To-Repair (MTTR), down time, lead time to start a new service, etc.

Table 4: Quality of service

Quality of service indicators	Guaranteed QoS	Measured QoS
Indicator 1 (please specify)		
Indicator 2 (please specify)		
Indicator 3 (please specify)		
Indicator 4 (please specify)		
Indicator 5 (please specify)		

1.2.5 Please list here any additional investment to be made by the customer in order to obtain the service (e.g. new modems or servers, civil work).

[insert answer here]

1.2.6 Please list here any additional services required to operate the service (e.g. connection from point of presence (POP) to customer premises, line management services, collocation, etc.).

[insert answer here]

1.3 Price and volume information – historic

1.3.1 Please provide tariffs in electronic format **in the Excel tables provided (see Pricing data tab)** for 1997, 1998 and 1999 for both domestic and cross-border EU services. Example tables are provided below as a guide, but the complete tables are attached at the end of this questionnaire.

Table 5: Example of tables to be used for entering pricing data by service by distance for both domestic and cross-border EU traffic, 1997-9

(An electronic version of all of the Excel Tables to be filled in will be sent to the person identified as the contact person in charge of replying to the present request for information).

For prices, please indicate the prices as of 1st January of the year considered. Please also indicate when changes, if any, occurred in the course of the years considered, and the changes implemented.

PRICING DATA													
Price by service by distance													
Domestic													
1997													
Type of Service	Distance	Published Retail				Discounts Retail (average discount)				Wholesale part circuit to other operators			
		Connection (One-Off)		Rental (Euro/month)		Connection (One-Off)		Rental (Euro/month)		Connection (One-Off)		Rental (Euro/month)	
		Maximum	Minimum	Maximum	Minimum	Maximum	Average	Maximum	Average	Maximum	Minimum	Maximum	Minimum
64 kbps	< 5km												
	< 50km												
	< 200km												
	> 200km												
2 mbps	< 5km												
	< 50km												
	< 200km												
	> 200km												
34 mbps	< 5km												
	< 50km												
	< 200km												
	> 200km												
155 mbps	< 5km												
	< 50km												
	< 200km												
	> 200km												
VPN													
MNS													
Dark fiber													
xDSDL													

Table 6: Example of tables to be used for entering pricing data by service by route for domestic traffic, 1997-9

PRICING DATA							
Price by service by route							
Domestic							
1997							
Type of Service	Route *	Price per kilometre for			Price per route		
		Users	Discounted for Large Users	Part circuit to other operators	Users	Discounted for Large Users	Part circuit to other operators
64 kbps	1						
	2						
	3						
	4						
2 mbps	1						
	2						
	3						
	4						
34 mbps	1						
	2						
	3						
	4						
155 mbps	1						
	2						
	3						
	4						
VPN	1						
	2						
	3						
	4						
MNS	1						
	2						
	3						
	4						
Dark fiber	1						
	2						
	3						
	4						

* Please specify the three routes that account for most of the traffic (1,2,3) and for one route between two major cities excluding the capital (4)

Table 7: Example of tables to be used for entering pricing data by service by route for cross-border EU traffic, 1997-9

PRICING DATA										
Price by service by route										
Cross-border EU										
1997										
Type of Service	Route from capital to	Price per kilometre for			Price per route					
From	To	Users	Discounted for Large Users	Part circuit to other operators	Users	Discounted for Large Users	Part circuit to other operators			
64 kbps	Amsterdam									
	Athens									
	Berlin									
	Brussels									
	Copenhagen									
	Dublin									
	Helsinki									
	Lisbon									
	London									
	Luxembourg									
	Madrid									
	Paris									
	Rome									
	Stockholm									
Vienna										
2 mbps	Amsterdam									
	Athens									
	Berlin									
	Brussels									
	Copenhagen									
	Dublin									
	Helsinki									
	Lisbon									
	London									
	Luxembourg									
	Madrid									
	Paris									
	Rome									
	Stockholm									
Vienna										
34 mbps	Amsterdam									
	Athens									
	Berlin									
	Brussels									
	Copenhagen									
	Dublin									
	Helsinki									
	Lisbon									
	London									
	Luxembourg									
	Madrid									
	Paris									
	Rome									
	Stockholm									
Vienna										
155 mbps	Amsterdam									
	Athens									
	Berlin									
	Brussels									
	Copenhagen									
	Dublin									
	Helsinki									
	Lisbon									
	London									
	Luxembourg									
	Madrid									
	Paris									
	Rome									
	Stockholm									
Vienna										

1.3.2 Please provide sales volume information in electronic format **in the Excel tables provided (see Volume data tab)** for 1997, 1998 and 1999 for both domestic and cross-border EU services. Example tables are provided below as a guide.

Table 8: Example of tables to be used for entering volume data by service by distance for both domestic and cross-border EU traffic, 1997-9

VOLUME DATA						
Volume by service by distance						
Domestic						
1997						
Type of Service	Distance	Sales volume				Revenue (in Euros)
		Lines	Minutes	Mbps	km	
64 kbps	< 5km					
	< 50km					
	< 200km					
	> 200km					
2 mbps	< 5km					
	< 50km					
	< 200km					
	> 200km					
34 mbps	< 5km					
	< 50km					
	< 200km					
	> 200km					
155 mbps	< 5km					
	< 50km					
	< 200km					
	> 200km					
VPN	*					
MNS	*					
xDSL	*					
Dark fiber	*					

* pls specify distance - please use additional rows for different distances, if information varies by distance

Table 9: Example of tables to be used for entering volume data by service by route for domestic traffic, 1997-9

VOLUME DATA						
Volume by service by route						
Domestic						
1997						
Type of Service	Route *	Sales volume				Revenue (in Euros)
		Lines	Minutes	Mbps	km	
64 kbps	1					
	2					
	3					
	4					
2 mbps	1					
	2					
	3					
	4					
34 mbps	1					
	2					
	3					
	4					
155 mbps	1					
	2					
	3					
	4					
VPN	1					
	2					
	3					
	4					
MNS	1					
	2					
	3					
	4					
Dark fiber	1					
	2					
	3					
	4					

* Please specify the three routes that account for most of the traffic (1,2,3) and for one route between two major cities excluding the capital (4)

Table 10: Example of tables to be used for entering volume data by service by route for cross-border EU traffic, 1997-9

(See the electronic version supplied).

VOLUME DATA						
Volume by service by route						
Cross-border EU						
1997						
Type of Service	Route from capital to	Sales volume				Revenue (in Euros)
From *-		Lines	Minutes	Mbps	km	
To:						
64 kbps	Amsterdam					
	Athens					
	Berlin					
	Brussels					
	Copenhagen					
	Dublin					
	Helsinki					
	Lisbon					
	London					
	Luxembourg					
	Madrid					
2 mbps	Paris					
	Rome					
	Stockholm					
	Vienna					
	Amsterdam					
	Athens					
	Berlin					
	Brussels					
	Copenhagen					
	Dublin					
	Helsinki					
Lisbon						
London						
Luxembourg						
Madrid						
34 mbps	Paris					
	Rome					
	Stockholm					
	Vienna					
	Amsterdam					
	Athens					
	Berlin					
	Brussels					
	Copenhagen					
	Dublin					
	Helsinki					
Lisbon						
London						
Luxembourg						
Madrid						
Paris						
Rome						
Stockholm						
Vienna						

1.3.3 What were the new service offerings introduced in the last three years?

[insert answer here]

1.3.4 What were the services withdrawn in the last three years? What were the reasons?

[insert answer here]

1.4 Price structure

1.4.1 For each type of service listed above, please indicate any variable element, sell-back or resale arrangements.

[insert answer here]

1.4.2 What is the basis for the setting of traffic by type of service route and location? How often are they reviewed?

[insert answer here]

1.4.3 If there is a variation between the published standard tariffs charged, please indicate the degree of variation by service and the reason for the variation, including

- volume discounts: basis for discount, size of discount, average discount;
- variation according to customer size;
- variation due to additional services offered (either geographic or different types of services);
- variation due to offers valid for specific periods of time or periods during the day;
- variation due to any resell or sell-back agreements.

[insert answer here]

1.4.4 Are your tariffs for retail/ wholesale leased lines offerings published? If the actual tariffs charged differ from the published tariffs, please indicate the services where this is the case, the degree of variation and the reasons for the difference.

[insert answer here]

1.4.5 Where services are packaged on a contract basis, please indicate:

- the number of contracts and the share of revenue by service accounted for by contracts;
- the standard lengths of the contracts: whether it differs / type of customer and/or type of service, influence on price, etc;
- how are tariffs set by the type of service.

[insert answer here]

1.4.6 For services packages (where leased line services are bundled in a single contract), please indicate the price of the package and your estimates for the price of the leased line component, including

- the quality of service offered;
- the conditions for renewal and termination of the contract;
- any sell-back/ resell clauses and the related volume/ tariffs conditions;
- additional service options/ requirements offered on the contract (maintenance, etc.);
- other contractual obligations.

[insert answer here]

1.4.7 Do you lease parts of your network to other providers of leased line services? If so, please indicate the number of providers that you have leasing agreements with, the tariffs charged by type of service, route and location, the quality of service offered and the length of the agreement. What is the basis for the setting of tariffs in such agreements?

[insert answer here]

1.4.8 How long does it usually take to negotiate such an agreement? Please provide an indication of the average time it takes to negotiate such agreements by type of service and geography and cases where it has taken significantly longer than the average.

[insert answer here]

1.4.9 Are there any services / geographic markets for which you failed to reach an agreement with other leased line service providers in the last two years? If so, please provide information on the type of service, route and location, the name of the provider and a brief description of the reasons you failed to reach an agreement.

[insert answer here]

1.4.10 Are you currently negotiating leasing parts of your network to other leased line service providers? If so, please indicate to the type of service, route and location and provider you are currently negotiating with.

[insert answer here]

1.5 Cost information

1.5.1 Please indicate what is the cost of delivering the leased lines services, if possible by type of service. Please distinguish between domestic and cross-border services if necessary. The cost should be attributable to the provision of the relevant services and no other service. Information on total cost should be provided, as well details of the costs taken into account. Please provide the corresponding volume of services provided and the average per unit cost.

[insert answer here]

1.5.2 What is the capital expenditure and operating expenditure allocated for the provision of leased line services, and capital expenditure apportioned to leased line capacity increases?

[insert answer here]

1.5.3 Please indicate the licence terms and conditions which may form a barrier to entry/ exit (e.g. large licence fees, network build out obligations, coverage obligations, minimum investment obligations).

[insert answer here]

1.6 Profitability and financial information

1.6.1 Please provide financial ratios for your domestic and international leased lines business, dividing between wholesale, retail:

- return on sale;
- return on capital employed (ROCE);
- return on assets (ROA);

[insert answer here]

1.7 Marketing strategy information

1.7.1 Please indicate the new leased line technology and services introduced in the last three years

[insert answer here]

1.7.2 Please indicate your main target market (geographic, customer profile, etc.).

[insert answer here]

1.7.3 Please indicate any bundling schemes. Do customers benefit (in terms of time and effort) from the existence of such schemes? Please also indicate the extent to which leased line services are available only in combination with other telecommunications services or as part of a service package. Please also indicate the extent to which such other services are directly related to the provision of leased line services.

[insert answer here]

1.7.4 How much do you spend on advertising promotion of leased line services by type of service/ route/ location?

[insert answer here]

1.7.5 Are your advertising campaigns national or international? Do they contain price information and/or service range and quality information?

[insert answer here]

1.7.6 How important are for your customers quality level agreements?

[insert answer here]

1.7.7 Do your major customers have good information on the services provided by the different leased line services providers by type of service and geographic location? Please indicate services/geography where you believe this not to be the case.

[insert answer here]

1.8 Revenue information

1.8.1 Please provide information for the last three years, where possible on average value of sales per subscriber.

[insert answer here]

1.9 Market share information

1.9.1 Please indicate your views on the definition of the product and geographical markets where you are active in the area of the provision of leased lines services. Please explain your definition of relevant markets.

1.9.2 Please provide, for each of those markets:

- your estimates of your market shares in volume and in value,
- your estimates of your three main competitors' market shares, according to the format set out in Table 11 below.

Table 11: Market share

Market (please specify)		Volume	Value
	Name of service provider	%	%
Estimate of your own market share	n.a.		
Estimate of competitor 1			
Estimate of competitor 2			
Estimate of competitor 3			

1.10. Please feel free to make any additional comment you would wish to make in relation to the area covered by the present sector inquiry.

Acknowledgment of Receipt

Please send to fax: +32-2-296-70-81

Case No IV/37.638 – Sector Inquiry-Leased Lines

From:

Company Name:
Company Address:

Name of person responsible:
Fax Number:
Email Address:

To:

Unit C/1
Office 3/88
Directorate General for Competition
European Commission
Avenue de Cortenberg 150
Brussels
B-1049
Belgium

Attention: Bernardo Urrutia /Christian Hocepied
Fax: +32-2-296-70-81
Email: Bernardo.urrutia@cec.eu.int and Christian.Hocepied@dg4.cec.be

This is to acknowledge receipt by the above company of the Request for Information number dated in Case No IV/37.638 – Sector Inquiry – Leased Lines

Signed:

Date:

*Extracts from Council Regulation No 17
(OJ No 13 of 21 February 1962, p. 204,
Special Edition 1959-1962,p. 87)*

Article 11(1): In carrying out the duties assigned to it ... the Commission may obtain all necessary information ... from undertakings and associations of undertakings.

Article 11(3): In its request the Commission shall state the legal basis and the purpose of the request and also the penalties provided for in Article 15(1)(b) for supplying incorrect information.

Article 11(4): The owners of the undertakings or their representatives and, in the case of legal persons, companies or firms, or of associations having no legal personality, the persons authorised to represent them by law or by their constitution, shall supply the information requested.

Article 11(5): Where an undertaking or association of undertakings does not supply the information requested within the time limit fixed by the Commission, or supplies incomplete information, the Commission shall by decision require the information to be supplied. The decision shall specify what information is required, fix an appropriate time limit within which it is to be supplied and indicate the penalties provided for in Article 15(1)(b) and Article 16(1)(c) and the right to have the decision reviewed by the Court of Justice.

Article 12(1): If in any sector of the economy the trend of trade between Member States, price movements, inflexibility of prices or other circumstances suggest that in the economic sector concerned competition is being restricted or distorted within the common market, the Commission may decide to conduct a general inquiry into that economic sector and in the course thereof may request undertakings in the sector concerned to supply the information necessary for giving effect to the principles formulated in Articles 81 and 82 of the Treaty and for carrying out the duties entrusted to the Commission.

Article 12(2): The Commission may in particular request every undertaking or association of undertakings in the economic sector concerned to communicate to it all agreements, decisions and concerted practices which are exempt from notification by virtue of Article 4 (2) and Article 5 (2).

Article 12(3): When making inquiries pursuant to paragraph 2, the Commission shall also request undertakings or groups of undertakings whose size suggests that they occupy a dominant position within the common market or a substantial part thereof to supply to the Commission such particulars of the structure of the undertakings and of their behaviour as are requisite to an appraisal of their position in the light of Article 82 of the Treaty.

Article 12(4): Article 10 (3) to (6) and Articles 11, 13 and 14 shall apply correspondingly.

Article 15(1)(b): The Commission may by decision impose on undertakings or associations of undertakings fines of from one hundred to five thousand units of account where, intentionally or negligently:

...

(b) they supply incorrect information in response to a request made pursuant to Article 11(3) or (5) or to Article 12, or do not supply information within the limit fixed by a decision taken under Article 11(5).