



COMMISSION OF THE EUROPEAN COMMUNITIES  
DIRECTORATE-GENERAL – COMPETITION

Information, Communication and Multimedia  
The Director

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

**COMPANY NAME**  
**ADDRESS**  
**ADDRESS**  
**ADDRESS**  
**ADDRESS**  
**To: MR/MS**

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

Dear Madam/Sir,

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 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. 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 85 53).
6. I would be grateful if you could confirm the receipt of this fax 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. :            Acknowledgment of Receipt  
                  Extracts from Council Regulation No 17/62/EEC  
                  Annex with questionnaire

**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](mailto:Bernardo.urrutia@cec.eu.int) and [Christian.Hocepied@dg4.cec.be](mailto: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).

## **Article 11 Questionnaire to Business Users in Case n°IV/37.638**

### **Sector inquiry - Leased Lines**

Please provide all relevant financial information in euros. If you require further information 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 Please provide company name, address, size (turnover in the EU) and information about your geographic presence within the EU.

[insert answer here]

1.1.2 Please provide a summary description of the telecommunications services purchased (total expenditure in the EU, types of services purchased, main provider(s)).

[insert answer here]

#### **1.2 Leased line services bought (nature, type, geographic dimension, etc.)**

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

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

as well as other services such as:

- VPN (Virtual Private Networks);
- managed network services;
- xDSL access;
- and dark fibre.

1.2.2 Please indicate the leased lines services and other services as listed above you require, if possible broken down by type of service, and route. Please provide a rough estimate of the average annual spend on each of these services, and the name of the service provider(s) you use for the provision of each service.

[insert answer here]

1.2.3 Please indicate here the tariffs of the services bought, before/ after discount (if any). Please explain on which basis discounts are offered.

[insert answer here]

1.2.4 Is there any relationship between the level of tariffs charged and the quality of service offered and length of contract? If so, please provide details.

[insert answer here]

**1.3 Type of contracts negotiated**

1.3.1 What is the length of contracts you typically enter into for leased line services?

[insert answer here]

1.3.2 What penalty clauses are included (if any) in the contracts you typically enter into for leased line services?

[insert answer here]

1.3.3 What is the time to delivery (duration between date of order of leased lines and date of delivery) for the provision of leased line services (or other related services) for the contracts you typically enter into?

[insert answer here]

1.3.4 Are the services provided under a package/ bundle offer? If, so, please describe.

[insert answer here]

1.3.5 What are the benefits from bundling for your organisation?

[insert answer here]

1.3.6 Are you aware of any discount in the contract? If so, please describe.

[insert answer here]

1.3.7 Are there any clauses in contracts with leased line service providers that you would describe as abusive or cause you concern. If so, please provide details of the clause and the name of the service provider.

[insert answer here]

**1.4 Quality of service**

1.4.1 Please use Table 1 below to list the quality of service (QoS) guaranteed and measured for the leased line services you purchase. 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 1: 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)		

1.4.2 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]

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

[insert answer here]

## 1.5 Ease of changing suppliers

1.5.1 Have you considered switching to an alternative supplier? If so what are the reasons (e.g. price, quality of service, availability of extra services)?

[insert answer here]

1.5.2 What prevents you from switching to a new leased line provider?

[insert answer here]

1.5.3 Have you transferred some lines to an alternative provider? What were the main benefits from switching? How satisfied are you with the new provider?

[insert answer here]

1.5.4 If you have not considered switching what are the reasons?

[insert answer here]

1.5.5 What is the cost of switching to another operator?

[insert answer here]

## 1.6 General views on competition issues

1.6.1 What are your views on the competitiveness of the market in which you purchase the services discussed thus far? Describe any problems you have encountered in this market, particularly when dealing with incumbent telecommunications operators.

[insert answer here]

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