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COMMENT AND ANALYSIS

RECENT DEVELOPMENTS IN THE ITALIAN TELECOMMUNICATIONS LEGAL FRAMEWORK

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From the beginning of the year 2002, both the Italian Legislature and the Italian Communications Authority have introduced several important new rules in the telecom sector. It can be useful to briefly illustrate these recent developments.

First of all, the Italian Parliament has adopted the law of April 8th, 2002, No. 59, "Discipline related to the supplying of Access Services to the Internet" (published in the Italian Official Journal Law of April 12, 2002, No. 86).

With regard to the economic conditions and the fees to be paid for the interconnection, the new rules make the qualified operators which supply data transmission and access to the Internet services (Internet Service Providers) equal to the telecommunication operators which hold an individual license according to the Italian Communications Authority's Decision No. 467 of July 19th, 2000. So the ISPs may now enjoy the identical and more favourable economic conditions and fees applied to the telecommunication operators. The new rules shall apply to the ISPs with no distinction between the various fees or with regard to any fee provided by the ISP for its services.

The Italian Communication Authority shall adopt, within two months starting from the entering into force of the Law, a proper decision to specify the new criteria. In fact, Law No. 59/2002 provides that the identical fees to be applied to ISPs and Telecommunication Operators shall be set up by the Italian Communications Authority which shall refer to a basic interconnection offer published by a notified telecommunication operator having a relevant power and role in the telecom market (the so-called SPM operators). It must be pointed out, with regard to the latter considerations, that on the other hand, the Italian Communication Authority has adopted in the first months of 2002 a few decisions related to the so-called FRIACO offers (Flat Rate Internet Access Call Origination), which provide a base interconnection fee for the Internet traffic (the related Decisions are: Decision 25/01/CIR, link at: www.agcom.it/provv/d_25_01_CIR.htm (published in the Italian Official Journal of January 14, 2002, No. 17); Decision 04/02/CIR, link at: www.agcom.it/provv/d_4_02_CIR.htm (published on March 20, 2002, on the Authority's web site — publication in the Italian Official Journal still under way); Decision 05/02/CIR, www.agcom.it/provv/d_5_02_CIR.htm (published on

March 20, 2002, on the Authority's web site — publication in the Italian Official Journal still under way)).

Law No. 59/2002 also provides that its dispositions shall be valid for a period of three years starting from the date of entering into force of the law.

Rules on Universal Service

Another recent and important Decision adopted by the Italian Communication Authority is the Decision 36/02/CONS, "Rules and organisational modalities related to the realisation and the offer of a service of general Public Directory and adaptation of the Universal Service" (published on March 22, 2002 on the Authority's web site — publication in the Italian Official Journal still under way — link at: www.agcom.it/provv/d_36_02_CONS.htm). The General Public Directory shall contain all the telephone numbers (mobile included and e-mail at request) referred to all the Telecommunication Operators in Italy. The decision — in compliance with the Italian legislation on privacy — has set up the modalities for the creation of general public directories and for the constitution of a unique database (available on line and on CD-ROM). The subscribers shall have the right in any moment to access their data, to ask for modifications or erasure of the data or to ask for the insertion of the data even if the consent had been previously denied.

Finally, with two recent Decisions, the Italian Communications Authority has definitively introduced in Italy the Mobile Number Portability service (MNP). With the Decision No. 22 of October 10, 2001 (published in the Italian Official Journal of October 13, 2001, No. 247 — link at: www.agcom.it/provv/d_22_01_CIR.htm) the Authority has set up the technical requirements for the supplying of MNP services by the main Italian Telecommunication Operators (which are the following companies: BLU, IPSE 2000, H3G, Omnitel Pronto Italia, Telecom Italia Mobile, WIND Telecomunicazioni). By means of the more recent Decision No. 7 of March 28, 2002 (published in the Italian Official Journal of April 11, 2002 No. 85 — link at: www.agcom.it/provv/d_07_02_CIR.htm), the Authority has set up the economic conditions of MNP services as well as the requirements for the supplying of the services. It is provided that by November 30, 2002, the Authority shall indicate the maximum fee to be paid by users — starting from January 1, 2003 — to change their actual Mobile Telecommunication Operator with another (keeping the related mobile telephone number). This fee shall not be in any case higher than the fee that the user actually must pay for

the Number Portability related to Fixed Telecommunications (which is EUR10.00 (US\$8.89)). Taking into consideration that the Mobile Telecommunications Operators must supply the MNP services to the users no later than May 1, 2002, it must pointed out that in the period May 2002–December 2002, the fee to be paid by users for the Mobile Number Portability service shall be of EUR27 (\$24), according to

a recent General Agreement stipulated by the main Italian Mobile Telecommunications Operators (HGS excluded).

By the end of April 2002, the Italian Mobile Telecommunication Operators were to specify the contractual conditions related to the treatment of the residual credit with regard to the change of mobile telecom operator requested by the users.