



## EBU TECHNICAL

MEDIA TECHNOLOGY & INNOVATION

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### EBU COMMENTS TO

#### THE DRAFT RSPG OPINION ON STREAMLINING THE REGULATORY ENVIRONMENT FOR THE USE OF THE SPECTRUM

The European Broadcasting Union (EBU) is the largest association of national broadcasters in the world (75 active Members, 45 associate Members). The EBU helps public service broadcasters to deliver unique high quality programming to their audiences. It offers Members technical, operational and legal services, and coordinates a growing supply of quality content for radio, television and new platforms. It provides Members with information and analysis on media trends, and training designed to meet their needs. The EBU works to secure recognition of the crucial role of public service broadcasters in the digital audiovisual landscape.

The EBU gives great importance to the use of spectrum and therefore appreciates the opportunity to comment on the Draft RSPG Opinion on 'Streamlining the regulatory environment for the use of the spectrum'. EBU views are summarised in the answers to the questions proposed in the public consultation.

#### **What are the strengths and weaknesses of the current regulatory process and where do you think it can be streamlined and improved?**

The current regulatory process is managed by three different bodies: the EC, the CEPT and the ETSI. Each body has undertaken a different task. The EC work is essential in order to harmonise decisions and to create a strong European market; the CEPT plays a fundamental role in high quality technical studies and the ETSI in standardisation of radio equipment.

Each body has a role which is essential in the regulatory process and which should be enhanced, but tasks have to be clearly defined and overlaps should be avoided. In particular, the CEPT has a unique and uncontested role in providing a forum for a dialogue between its 48 member administrations, as well as for interaction between administrations and industry on the technical and regulatory issues in the field of post and telecommunications. Furthermore, the CEPT facilitates Europe-wide harmonisation and co-operation, not least between the EU member countries and the non-EU members. In developing EU regulations the European Commission relies on CEPT technical inputs. The CEPT also represents European interests at an international level through the ITU (e.g. through the ECPs) and in communications with other regions. The EBU supports the view that all of the abovementioned CEPT roles are important. We consider them as strengths which should be reinforced to strengthen the current regulatory process.

The current regulatory environment for the use of spectrum has proved to be an efficient way of working. In the field of broadcasting services, there have been some notable successes in recent years to accommodate digital terrestrial broadcasting technologies such as DVB-T and T-DAB. This includes the two European T-DAB planning conferences (Wiesbaden 1995 and Maastricht 2002) which provided a

framework for the introduction of digital audio services, as well as the RRC-06 process which resulted in the GE-06 Agreement and associated Plan.

However it is less clear how the current regulatory process can provide adequate spectrum for new services whilst at the time preserving specificities of broadcasting service. In some circumstances the framework has difficulty keeping up with the recent and rapid developments in technology and innovation. The result is that, in order to respond to market needs, spectrum is sometimes designated for new services before the necessary compatibility studies are performed. Once a service is operational, spectrum managers have limited options to rectify the situation in the case of serious interferences. This is not in line with one of the main objectives of spectrum management, i.e. to avoid harmful interference.

As the pace of technological evolution and innovation goes faster and faster, regulation is becoming lighter and more flexible in order to facilitate the market, to find a place for all newcomers and to not lose opportunities to establish new markets. The principles of service and technology neutrality and giving general authorisations whenever possible are examples of these flexible regulatory regimes. However, such a process can lead to inefficient use of spectrum if non-compatible services have to share the same frequency bands and low cost equipment, which does not satisfy the minimum requirements to avoid interference, is placed on the market.

We agree with the Opinion that the demand of services for spectrum is increasing and since the spectrum is a scarce and finite resource, it is becoming more and more common for services to share the spectrum. Although innovation and evolution of technology bring more sophisticated mitigation techniques, interference remains a limitation. In this situation, it is essential that radio equipment meets agreed standards in order to avoid harmful interference. The standards should be clearly defined by the regulation bodies and adhered to by the manufacturers.

The EBU agrees with the RSPG opinion that, in order to maintain confidence, existing spectrum users should have a secure basis to maintain existing services and develop new ones and that services should be protected from interferences. Adding flexibility to the use of spectrum to rapidly accommodate new services should not be at the expense of adding constraints to existing users. Furthermore, clarity in terms of the interference situation for all users is essential for good regulation.

The EC plays an important role in promoting new, innovative and pan-European services; but opening the spectrum to new entrants should not be at the expense of public value services, in particular those provided by Broadcasters which promote cultural and media policy objectives such as cultural and linguistic diversity and media pluralism. Moreover, it should not ultimately result in less support to content industries. European citizens' interest should also be preserved as they will have made substantial investments in new receiver equipment. Member states must be able to continue to deliver rights of use of spectrum in compliance with EU law and with their national requirements.

### **What aspects of the regulatory environment for the use of spectrum should be subject to spectrum regulation or subject to standardization (Harmonised Standards)?**

The EBU is of the opinion that radio equipment should be subject to standardisation and in some cases to spectrum regulation also. To ensure interference-free use of spectrum, detailed technical studies involving all relevant stakeholders are required before introducing new technologies and equipment. In some cases such studies take a long time because they involve negotiations at national, European and international level. However, they are very important and the quality of the result should not be sacrificed for the sake of urgency.

In particular, the performance of broadcast receivers is also a key issue for broadcasters in order to maximise the efficient use of the spectrum. We recognise the difficulties in properly addressing regulation

in this domain. However, appropriate regulation could certainly help in order to unify the performance of broadcast receivers. The EBU would support any regulatory mechanism (market-surveillance, enforcement, or other) to ensure that receivers available on the market comply with the requirements defined in the standards. In addition, standards should be reviewed and updated on a regular basis in order to be in line with technology developments.

The EBU is of the view that the use of broadcasting bands by low-power consumer devices should be regulated and that the use of license-exempt devices should be carefully addressed. Under the license exempt regime it is impossible to control the number of devices which are operational at the same time, in the same area (and therefore to avoid the real risk of serious interference). In such circumstances, spectrum managers have limited opportunity to rectify the situation. In addition, users may have difficulty in identifying to which regulatory body they should report the interference. Therefore, devices operating in the broadcasting bands should be subject to spectrum regulation.

Another important aspect is unwanted electromagnetic radiation, which is increasing as more electrical and communication equipment is used. In order to avoid harmful interference, adequate EMC limits should be defined and enforced by relevant standardisation bodies. This also applies to PLT systems.

**To what extent should spectrum decisions specify technical details such as mitigation techniques and do you consider that this could be in contradiction with the principle of technology neutrality?**

The EBU is in favour of the principle of technology neutrality as far as protection against interference is guaranteed. Although under the principles of service and technology neutrality any frequency should be open for the deployment of any service using any technology, certain technologies are better suited in certain frequency bands. In addition, sharing of the spectrum between different services requires detailed compatibility studies in order to avoid interference. The results of such studies are often a list of mitigation techniques to make the sharing possible. We would support the inclusion of those technical details, such as mitigation techniques, in ECC Decisions or in Harmonised Standards when applicable.

In applying the principle of technology neutrality, particular care should be taken that no harmful interference is caused to the services in the adjacent bands, such as terrestrial broadcasting.

**What is your assessment of the consistency between the activities of the European Commission, CEPT (European Conference of Postal and Telecommunications Administrations) and ETSI (European Telecommunications Standards Institute) and what are the ways to improve it?**

We support the RSPG Opinion that when the Commission issues separate mandates to the CEPT and ETSI related to a possible binding spectrum decision it is essential that both mandates are coherent in scope and timing where necessary. In cases of sharing between different services/technologies it is also very important that all relevant stakeholders communicate in order to find feasible sharing solutions and that measurement campaigns are undertaken when necessary before decisions are taken on spectrum allocations. In any case, a Harmonised Standard should not be approved before relevant spectrum issues have been discussed and solved.

We strongly support the idea that CEPT deliverables include all relevant technical details resulting from compatibility studies and measurements. Sharing conditions and parameters should be defined in cooperation with ETSI. Those studies should be objective, should involve all related stakeholders and should remain purely technical. Additional studies of a strategic and/or economic nature can be

performed independently before decisions are taken. It is important that technical studies are not biased by these other considerations.

The EBU believes that community law should be kept independent of detailed technical considerations. These should be left to the member states and the CEPT, who can issue ECC Reports, Recommendations and Decisions, including all relevant technical details. In case of a need for updates, the process could be quicker if only the CEPT is involved. However, we would support EC Decisions making reference to an ECC Decision where the technical requirements are detailed.

In summary we agree with the RSPG that a high degree of coordination is needed between the EC, the CEPT and ETSI to ensure that the deliverables contain consistent technical provisions and are implemented in a coordinated manner. We also support the RSPG view that it should be avoided that a Commission Decision is issued before the corresponding ECC Report or Decision has been finalised and agreed following consultation.

### **Do you support the recommendations expressed in section 5?**

We support the recommendations expressed in Section 5 with the following comments (in addition to the comments expressed above):

- General Principle 5.3: The limitation of spectrum regulation to the minimum necessary (as for example the block edge mask BEM concept) may not be sufficient to avoid harmful interference for all types of service or application. Therefore it should be limited to certain types of service/application and to certain frequency bands, after detailed compatibility studies have been agreed. Where applicable, spectrum regulation should include additional provisions to prevent harmful interference.
- Recommendation 5.11: The EBU agrees that receiver parameters are important for spectrum planning and that they should be specified by ETSI. However, we would like to draw attention to the fact that it is important to note that compatibility studies normally take account of characteristics of existing receivers on the market, which sometimes differ from those in standards or which sometimes are not included in the standards at all.
- Recommendation 5.13: To assign a frequency band that is already used by a given application to another application should not be done prior to compatibility studies having confirmed the possible coexistence with existing services without harmful interference and/or without putting additional constraints on existing services. Possible mitigation techniques or technical conditions necessary to ensure compatibility should be clearly defined and charged to the new user.
- Recommendation 5.17: The EBU believes it would be more appropriate that Commission Decisions cite ECC Decisions rather than enshrine ECC Decision technical elements into community law.