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RADIO SPECTRUM POLICY GROUP

Opinion

on

“The future of the electronic communications sector and its infrastructure”

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1. Introduction

The Radio Spectrum Policy Group (RSPG) gathers high-level governmental experts of EU Member States. The RSPG provides the European Commission, Parliament and the Council with strategic advice on high-level policy matters in relation to spectrum. The RSPG is also a forum for fruitful exchange on effective and efficient management and use of radio spectrum of electronic communications networks and services.

Since 2003 the RSPG has provided timely and relevant advice on strategic policy issues to policymakers supporting implementation of EU policy in order to reap the full potential of spectrum for the sustainable development of Europe's economy and society. The RSPG stands on a solid base of cooperation between the national experts on spectrum policy, management, harmonisation and licensing. The RSPG triggers spectrum harmonisation initiatives and develops spectrum policy further to interactions with relevant stakeholders (through workshops, public consultation, etc.).

The European Commission has launched a broad consultation on “*The future of the electronic communications sector and its infrastructure*”¹. Further, the European Commission's current work program includes submitting a draft Radio Spectrum Policy Programme (RSPP) to the European Council and European Parliament within a few months.

The RSPG sees great value in contributing to these processes both by emphasising previous RSPG Opinions on relevant topics and through this Opinion on some of the issues raised in the above exploratory consultation (most notably questions 36-39).

When developing this Opinion, the RSPG considered the two Opinions from 2021 on a new RSPP² and on the Digital Decade³. The contents of these Opinions, outlining relevant policies for a future RSPP and the role of spectrum management in the Digital Decade respectively, are still valid. The recommendations put forward in these two Opinions shall be seen as an integral part of this Opinion.

The RSPG remains available to respond to any request for Opinion from the European Commission, Council and Parliament on radio spectrum policy issues arising from or after the current consultation.

¹ <https://digital-strategy.ec.europa.eu/en/consultations/future-electronic-communications-sector-and-its-infrastructure>

² RSPG Opinion on “*a Radio Spectrum Policy Programme (RSPP)*”, RSPG21-033

³ RSPG Opinion on “*the targeted consultation on the 2030 Digital Compass*”, RSPG21-037

2. How to harmonise radio spectrum in the EU

The RSPG fully agrees that radio spectrum is a key enabler of the evolution of electronic communications networks and services. Further, active radio spectrum management is vital to boost EU competitiveness and innovation.

The European spectrum governance model⁴ has proven successful and is a fundamental pillar for European spectrum harmonisation supporting the development of electronic communications networks and services. Moreover, the RSPG considers that the radio spectrum management framework, as it stands, allows for timely access to spectrum in response to relevant needs.

The RSPG is ready to support the development of EU spectrum policy contributing to a futureproof framework for electronic communications networks and services that facilitates technological developments and favourable investment conditions in Europe. The RSPG adopted its recent Opinion on a future RSPP with recommendations on strategic spectrum issues and spectrum needs in the EU and supporting EU vision and policies⁵. Furthermore, the RSPG recommends the Radio Spectrum Committee⁶ as the committee to assist the implementation of a new RSPP.

The RSPG recalls the positive effect of EU harmonised technical conditions supporting the EU market for electronic communications networks and services, the development of innovation, EU industry and citizens including geographical regions well beyond the European internal market. A recent example is the setting of the European policy direction for 5G spectrum⁷ which went on to have a global reach.

Other policy issues are addressed beyond spectrum harmonisation. One such example is assessing the impacts of mobile technology evolution on sunsets of 2G and 3G technologies⁸ as done by the RSPG.

Further, the RSPG would like to highlight the positive impact on the European internal market of equipment standardisation through ETSI and the free circulation of radio equipment and invites the Commission to take into due consideration its recommendations on the matter⁹.

Moreover, the RSPG recalls the national sovereignty of Member States to organise and use their spectrum for public order, security and defence purposes¹⁰.

⁴ See annex

⁵ RSPG Opinion on RSPP (RSPG21-033), sections strategic spectrum issues, spectrum needs

⁶ Decision No 243/2012/EU (RSPP) – article 13: Committee Procedure; Radio Spectrum Committee established by Decision No 676/2002/EC

⁷ RSPG Opinions on 5G (RSPG16-032, RSPG18-005, RSPG19-007)

⁸ RSPG Report on “*Mobile technology Evolution: experiences and strategies*”, RSPG23-010

⁹ RSPG Opinion on RSPP (RSPG21-033), section standardisation and spectrum governance

¹⁰ RSPG Opinion on RSPP (RSPG21-033), section civilian/military coordination

3. EU-level licensing and authorisation scheme for spectrum

The licensing of radio spectrum remains a national competence according to the European Electronic Communications Code (EECC). Member States are in the process of gaining experience with the EECC. Both Member States and industry require regulatory predictability and legal certainty. There may be multiple levels of coordination, harmonisation and collaboration needed to enable access to spectrum for different purposes.

The RSPG facilitates cooperation between European Economic Area (EEA) countries on authorisations through the Peer Review Process¹¹.

Furthermore, it is in this context important to note national specificities due to local issues (protection of existing services, local development, etc.) and that EU level award of spectrum is not part of the current legislation. At the same time, there is no indication that EU level awards and/or authorisations would lead to improvements in terms of service provision, coverage, competition, prices for end-users or competitiveness of the European Union in the international context. On the contrary, such procedures would even bear the risk of less competition.

With regard to large scale authorisations in the field of satellite communications the RSPG is currently developing an Opinion on “*the future of the EU-level regulatory framework on Mobile Satellite Services beyond 2027*” considering lessons learnt, developing forward looking recommendations for the benefit of EU interests related to the 2 GHz MSS band. Further, the RSPG intends to assess the issue in the field of satellite communication including Union Secure Connectivity Programme (USC)¹² when discussing a future work program.

Another area where large scale authorisations have been discussed recently is for vertical industries and users. Vertical use cases are often individual, regionally or locally limited, and in most cases do not intrinsically have an EU wide dimension beyond EU spectrum harmonisation and making spectrum available. However, the RSPG has identified a need for EU spectrum harmonisation and making spectrum available for verticals which is on-going accordingly¹³. The opportunity to get timely access to harmonised spectrum for verticals is however an area where further work is needed. Instead of EU level authorisations, voluntary cooperation between Member States (through Article 37 EECC) is an area where further collaboration at RSPG level could be beneficial in order to meet specific demands from verticals for spectrum.

¹¹ RSPG Opinion on “*the targeted consultation on the 2030 Digital Compass*” (RSPG21-037): section mechanism for spectrum awards

¹² Regulation (EU) 2023/588 of the European Parliament and of the Council of 15 March 2023 establishing the Union Secure Connectivity Programme for the period 2023-2027

¹³ RSPG Opinion on “*Additional spectrum needs and guidance on the fast rollout of future wireless broadband networks*” (RSPG21-024) and European Commission mandate to CEPT on “*technical conditions regarding the shared use of the 3.8-4.2 GHz frequency band for terrestrial wireless broadband systems providing local-area network connectivity in the Union*” (<https://digital-strategy.ec.europa.eu/en/library/radio-spectrum-cept-mandates>)

4. Spectrum policy and management supporting EU interests and EU's digital sovereignty

The RSPG fully agrees that sovereignty of the EU and of Member States, including digital sovereignty, is of very high importance and should be fostered. The RSPG, with its recommendations on spectrum policy and management, is actively engaged in contributing to this common objective. Digital sovereignty should be achieved by strengthening the ability to act for the benefit of EU interests.

The RSPG has taken due consideration of developments in recent years including a challenging geopolitical climate, increasing digital transformation and innovation in electronic networks and services when developing this Opinion. This includes also the current European spectrum governance model, given the involvement of non-EU countries, EEA and European Free Trade Association (EFTA) countries¹⁴, EU accession countries and entities in the decision-making processes in international negotiations and in technical preparation of harmonisation decisions.

4.1. CEPT as a multiplier for EU interests

The RSPG emphasises the benefits of the European spectrum management model⁴ with the participation of non-EU countries, as a multiplier for EU interests, which benefits the Union itself, the EU market and its citizens. This model provides efficient contributions to international harmonisation and a voluntary harmonisation coherent with the EU framework, while CEPT recommends EU technical harmonisation in response to European Commission mandates¹⁵ under the Radio Spectrum Decision¹⁶. Such harmonisation initiatives minimise also the risk of interference between electronic communication networks and services at the outer borders of the EU¹⁷ and protect, at international level, services and applications supported by EU policies and initiatives.

Moreover, CEPT has a deep knowledge of the complexities of spectrum management and inherently enables permanent cross fertilisation of experts working within it. Its responses¹⁸ to European Commission mandates serve as a basis for EU harmonisation, and the material in its responses also helps EEA/EFTA countries to prepare and adapt national laws to EU law according to the EEA arrangements, and helps candidate countries¹⁹ in their steps towards further integration of EU legislation into their national law.

In consequence, the RSPG invites EU Member States and the Commission to intensify their efforts to support EU interests in the work done in CEPT. The work done in CEPT

¹⁴ Iceland, Liechtenstein and Norway

¹⁵ European Commission mandates to CEPT under Radio Spectrum Decision: <https://digital-strategy.ec.europa.eu/en/library/radio-spectrum-cept-mandates>

¹⁶ Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision)

¹⁷ CEPT develops recommendations on cross-border issues helping its member in negotiation cross-border agreements

¹⁸ https://docdb.cept.org/document/category/CEPT_Reports?status=ACTIVE

¹⁹ <https://ec.europa.eu/environment/enlarg/candidates.htm>

plays a strategic role in international and European harmonisation which benefits EU interests.

4.2 Supporting and promoting EU interests in the international environment

CEPT, as a multiplier for EU interests, is also effective in the World Radiocommunication Conference (WRC) process. The EU benefits from the expertise and consensus building recognition within CEPT and its influence²⁰ in ITU-R Region 1. However, EU coordination at WRC²¹ is important to promote EU interests.

The RSPG is of the view that the current process for developing EU positions⁴ is working well and, in order to increase the influence of Member States in CEPT, recommends that the timing of the submission to the Council of the proposal from Commission for a Council Decision on WRC²² and its adoption along with the relevant EU Position for WRC should be in line with the timing of the final CEPT preparation of European Common Proposals (ECPs).

In that context, the RSPG considers the CEPT process to be resilient in the face of non-EU interests. In the unlikely event where there would be no European Common Proposal in support of an EU Position, a joint contribution from the 27 Member States into the WRC process remains possible. In order to safeguard EU interests during WRCs, the RSPG reiterates its recommendations regarding EU coordination at ITU-R Radiocommunication Conferences.

Finally, to serve EU interests and to preserve the EU's digital sovereignty, the RSPG recalls the strategic dimension of the European Commission's cooperation and negotiations with other organisations and non-EU countries²³.

4.3 Harmonisation measures supporting EU's interests

The procedure set out in the Radio Spectrum Decision²⁴, with a resilience confirmed by the EECC, is well established and recognised by industry and has proven to be effective, reactive and efficient²⁵ for developing EU harmonisation measures on radio spectrum.

The RSPG recommends, in order to serve EU interests and preserve EU's digital sovereignty, that the European Commission maintains and uses, as appropriate, the procedure established by the Radio Spectrum Decision ensuring that only Member States are entitled to give opinions on mandates to CEPT and on EU harmonisation measures.

²⁰ 46 countries out of 121 in ITU-R region 1

²¹ RSPG Opinion on “*EU coordination at ITU-R Radiocommunication Conferences*” See RSPG19-009

²² Proposal for a Council Decision on the position to be taken on behalf of the European Union in the International Telecommunication Union World Radiocommunication Conference

²³ RSPG Opinion on “*a Radio Spectrum Policy Programme*”, RSPG21-033 (section 5.3)

²⁴ Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision)

²⁵ Mandates issued to CEPT led to currently 84 CEPT Reports in response https://docdb.cept.org/document/category/CEPT_Reports?status=ACTIVE

In addition to EU harmonisation measures, the RSPG confirms that cross-border coordination can be addressed by Member States bilaterally or multilaterally between themselves or third countries with the support, as appropriate, of the RSPG “Good Offices” while also making use of recommendations from CEPT.

5. Spectrum coordination with third countries

The EECC recognises, through its Article 28, the strategic role of cross-border coordination between Member States and with third countries in particular to facilitate the use of harmonised bands. Each EU Member State retains full sovereignty in the process of negotiating and concluding bilateral or multilateral coordination agreements with other EU Member States and third countries. The role of the RSPG “Good Offices” in cross-border coordination when requested by an EU Member State is also recognised. The RSPG emphasised recently the impact of international negotiations with third countries on spectrum coordination issues related to EU harmonised services and adopted relevant recommendations in its Opinion on a new RSPP.

EU Member States face different categories of neighbouring third countries: EEA/EFTA countries, candidate countries, Belarus and Russian Federation, and other countries. The complexity of cross-border coordination therefore varies. Some coordination engagements can be considered as regular spectrum management activities while others include a political dimension.

In practice, cross-border coordination is best left to the countries concerned and involves technical expertise, awareness of local situations, a good knowledge of how to solve the interference cases and what actions are required, as each interference case is different. Although this coordination process strictly relates to the technical arrangements, it needs to be stressed that due to the recent and ongoing geopolitical events, some of co-ordination cannot be undertaken in the foreseeable future, making any technical agreements impossible to conclude. The European Commission should therefore take into consideration these objective reasons which may prevent a Member State from implementing EU Decisions due to the ongoing factors affecting their abilities to initiate effective cross-border coordination.

Today, the RSPG “Good Offices” is already a place to exchange and to report about the actions carried out by the Commission in assisting in coordination with a third-country (high level political action, EU funding to help in implementing a solution) and about the progress of the bilateral or multilateral cross-border negotiations between concerned Member States and third countries.

Based on these lessons learnt, the RSPG recommends that the supporting role of the European Commission in the negotiation with third countries, when requested by a Member State, could be enhanced in practice. This enhancement could be in the form of giving the RSPG “Good Offices”, with relevant Member States and the Commission, the role of defining the work plan, the negotiation targets/objectives, timeline and the actions to achieve those targets/objectives. This would ensure a better consistency of these actions. Such a work plan and negotiation targets, including negotiating objectives to be achieved by the European Commission on behalf of a Member State or Member States, should be agreed between the European Commission and concerned Member States requesting support. Any geopolitical context that prevents initiating

and/or concluding of the negotiation process should be duly noted and if necessary communicated at the EU level within the RSPG.

Annex: Overview of the European Spectrum management model

The RSPG has in its recent deliverables²⁶ highlighted that spectrum management is developed in a deep collaboration in order to ensure efficient usage of spectrum. The purpose of spectrum management is to avoid radio interference and to protect various services and applications supported by EU Policies²⁷. Harmonisation of spectrum use yields economies of scale. In this context, the RSPG fully recognises the benefit of a wide harmonisation of spectrum for electronic communications and services beyond the European Union, regionally and, as appropriate, globally. This in turn benefits EU policies and interests, EU industry and citizens, and applications/services supported by EU policies and initiatives.

Cooperation between European Commission and CEPT

The current European spectrum management model is based on an active cooperation between the European Commission and CEPT. A Memorandum of Understanding between the European Commission²⁸ and CEPT²⁹ supports on-going activities on the harmonisation of radio spectrum and benefits all parties concerned. The result is exceptional co-operation which gives EU interests an additional dimension³⁰.

CEPT considers and develops policies on electronic communications activities in the European context, taking account of European and international legislation and regulations to improve efficiency and co-ordination for the benefit of European society. The RSPG notes that CEPT is able to react to geopolitical developments as recent history shows³¹.

International negotiations: CEPT, as recognised regional organisations in ITU-R, represents European interests in the ITU and other international organisations

CEPT is the ITU recognised regional organisation for policy makers and regulators/spectrum managers from 46 countries³² across Europe, including all EU Member States, as well as EEA/EFTA countries and all candidate and potential candidate countries. The European Union is a full Sector Member to all of ITU's three Sectors, allowing not only to monitor, but also to contribute to global standards and best practices; engage in global and regional debates; launch innovative public-private partnerships; and network with ICT regulators, policymakers and experts from industry

²⁶ RSPG Opinion on “a Radio Spectrum Policy Programme” (RSPG21-033), on “the targeted consultation on the 2030 Digital Compass” (RSPG21-037), on “the ITU-R World Radiocommunication Conference 2023” (RSPG22-040) see https://radio-spectrum-policy-group.ec.europa.eu/opinions-and-reports_en

²⁷ For examples: Galileo (https://defence-industry-space.ec.europa.eu/eu-space-policy/galileo_en), Copernicus (https://defence-industry-space.ec.europa.eu/eu-space-policy/copernicus_en)

²⁸ MOU - EC: <https://cept.org/files/6682/MoU%20EC%20and%20CEPT.pdf>

²⁹ https://www.cept.org/files/1047/CEPT%20Leaflet_March%202022.pdf

³⁰ <https://digital-strategy.ec.europa.eu/en/policies/radio-spectrum-committee>

³¹ <https://cept.org/cept/news/suspension-of-the-russian-federation-and-belarus-from-cept-membership>

³² Albania, Andorra, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Montenegro, Netherlands, Republic of North Macedonia, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Türkiye, Ukraine, United Kingdom and Vatican.

and academia. The ITU-R is the international organisation dealing with spectrum policy matters and organises every 3 to 4 years the World Radiocommunication Conferences³³ in order to update the Radio Regulations³⁴.

The RSPG recalled in its Opinion on “*the ITU-R World Radiocommunication Conference 2023*”³⁵ and its Report on “*the result of the ITU-R World Radiocommunication Conference 2019*”³⁶ the increasing role of regional organisations in WRC preparations and in WRC. CEPT is one of the recognised regional organisations in ITU-R and prepares European Common Proposals contributing thus to this process and represents European interests in the ITU and other international organisations. EU interests are successfully fed into the CEPT process to develop European positions and European Common Proposals, by the activities of the contributing EU Member States, in order to be recognised to the utmost at WRCs.

With its Opinion for each WRC, in practice, the RSPG recommends EU positions for WRC Agenda Items relevant to EU policies.

Based on this RSPG Opinion, the Commission should develop in a timely manner a proposal for an EU position for the WRC to the Council. After its consideration and potential amendments to this Commission proposal, the Council approves a Decision on an EU position for WRC. Thus, this procedure via the Council guarantees that only EU Member States take the final decision on EU Position for WRC.

EU interests are then successfully fed into the CEPT process to develop European positions and European Common Proposals, by the activities of the contributing EU Member States, in order to be recognised to the utmost at WRCs. However, in order to make use of the influence of EU Member States in CEPT, the timing of the submission to the Council of the proposal from the Commission for a Council Decision on WRC³⁷ and its adoption, along with the EU Position for WRC, should be aligned with the timing of the final CEPT preparation of European Common Proposals. Such an alignment of timing would benefit EU interests.

EU harmonisation with support from CEPT

By adopting Spectrum Roadmaps and others deliverables, the RSPG, in practice, recommends to the European Commission spectrum harmonisation initiatives in the field of electronic communications networks and services. It triggers follow up actions from the European Commission such as relevant EC mandates³⁸ under the Radio Spectrum Decision³⁹, which are adopted further to a positive opinion of EU Member States.

³³ <https://www.itu.int/en/ITU-R/Conferences/WRC/Pages/default.aspx>

³⁴ Radio Regulations (RR) have treaty status and is binding on ITU Member States.

³⁵ RSPG22-040

³⁶ RSPG20-022

³⁷ Proposal for a Council Decision on the position to be taken on behalf of the European Union in the International Telecommunication Union World Radiocommunication Conference

³⁸ <https://digital-strategy.ec.europa.eu/en/library/radio-spectrum-cept-mandates>

³⁹ Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision)

Relevant CEPT responses to EC mandates under the Radio Spectrum Decision serve as a basis for developing binding EU spectrum harmonisation measures pursuant to the Radio Spectrum Decision leading to the harmonisation of the technical conditions for the availability and efficient use of spectrum. The adoption of EC mandates requires a positive opinion from Member States. Equally, adoption by European Commission of resultant harmonisation measures, must receive a positive opinion from the Member States. If deemed necessary, at the initiative of the European Commission or at the request of Member States, the compatibility of the CEPT's response with the mandate's objectives or the progress of the response to the EC mandate (e.g. any negative influence of non-EU countries, external stakeholders, etc.) could be addressed in the Radio Spectrum Committee as appropriate. Thus, the above procedure via the Radio Spectrum Committee⁴⁰ guarantees that only EU Member States take the final decision on EU implementing decisions on radio spectrum harmonisation.

⁴⁰ <https://digital-strategy.ec.europa.eu/en/policies/radio-spectrum-committee>