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RADIO SPECTRUM POLICY GROUP

**Progress Report of the RSPG Working Group on
the “European Electronic Communications Code”**

Progress Report of the RSPG Working Group on “EECC”

The RSPG Working Group on “EECC¹”(hereinafter: WG) held two meetings (18 June – Brussels - Belgium and 30 August – Maisons-Alfort - France) since the last RSPG plenary. Progress has been made also by correspondence between WG meetings (The WG mailing list includes more than 50 subscribers.).

The WG finalised its analysis on the impact of the ‘EECC’ and developed an Overview of the impact of the ‘EECC’ on RSPG. It furthermore drafted an RSPG report. The result of the analysis is to be finalized in the next months. Concerning the peer review, the WG started to assess the practical issues resulting from future implementation of Article 35 of the EECC and intends to develop a separate report in the next months to clarify them in detail. Moreover, based on the analysis of the impact of ‘EECC’, the WG identified proposals for the update of the EC Decision establishing RSPG² and of its rules of procedures (RoPs). Finally, the WG included within its Overview of the impact of the Code its analysis on RSPG reviews and cooperation with BEREC.

1. Overview of the impact of the EECC on the role of RSPG

The RSPG Working Group on “EECC” (hereinafter: WG) took into due consideration the results of the policy agreement at “trilogue” of 5 June 2018 and based its analysis on the relevant version of the ‘EECC’. The European Commission provided relevant updates of the progress work and information on planned adoption by the European Parliament and Council.

The WG finalised its analysis on the overview of the impact of the EECC. It is submitted to the RSPG plenary, as an internal document for the further work of RSPG, for information and discussion. This overview describes various impacts from the EECC on RSPG, in particular, on

- its extended role
- the “Peer Review Process”³
- the recognition and formalisation of the RSPG “Good Offices”: To implement radio spectrum coordination among Member States as described by the EECC

¹ Directive of the European Parliament and of the Council on European Electronic Communications Code (under final adoption process)

² Decision 2002/622/EC of the Commission of 26 July 20021 establishing the Radio Spectrum Policy Group as amended by Decision 2009/978/EC2 of the Commission, (hereinafter ‘EC Decision establishing RSPG’)

³ Peer review process refers to the process running according to Art. 35 . The term “peer review platform/workshop” is used to describe the current RSPG peer review.

(Article 28), RSPG benefits from the “Good Offices” already in place, which is running well.

This Overview includes also proposals to update the EC Decision establishing RSPG and the current RSPG RoP⁴, in order to be fully in line with the evolution of the role of RSPG resulting from the ‘EECC’ and an analysis on the RSPP and on cooperation with BEREC. **This overview is submitted as an internal working document for the further work of RSPG for information and discussion.**

This overview has been developed taken into account the following:

- In order to implement in practice art 35 of the EECC, the WG developed preliminary consideration of the new roles for RSPG and responsibilities of the RSPG in relation to the Peer;
- The WG has reviewed the responsibilities of RSPG under the current framework (EC Decision establishing RSPG) and under the EECC;
- The WG has assessed the impact of the EECC on RSPG;
- The WG has updated the analysis of the impact of RSPG Deliverables supporting Policy Objectives. The initial analysis has been published earlier in Feb 2016 as an Annex of the RSPG Opinion on RSPP and has been updated accordingly.

Based on this overview and guidance from this RSPG plenary, the WG intends to finalise its complete analysis of the impact of the Code with a deliverable (report) to be submitted for final approval at the next RSPG plenary (see working document attached for information).

2. Peer review Process

The WG developed a detailed analysis on the impact of the Article 35 “Peer review process” in order to implement it in practice. Number of issues need to be further clarified and described:

- scope and limits of peer review under article 35
- Information to be shared
- peer review meeting chair (on MS demand , at the RSPG initiative),
- number of peer review meetings per year,
- location & organization peer review meeting,
- scope of RSPG annual report
- procedure for adopting reports and/or opinions.

⁴ RSPG rules of procedure (RoP); See http://rspg-spectrum.eu/wp-content/uploads/2013/11/rules_of_procedure_1_jan_2012.pdf

In particular, the “criteria” to exceptionally convene a peer review at the RSPG initiative has been subject to a careful analysis and 3 options have been identified.. During the drafting, some comments have been made in favour of **a minimum number of MS** in order to trigger the peer review initiative from RSPG while the other two options described received less support. The WG therefore intends to focus on the “a minimum number of MS” option in its further work on the peer review. The plenary is invited to react, if needed, on that issue.

The WG intends to draft a separate RSPG report in order to provide more clarification on the possible future practical implementation of the “Peer review process”. The WG invites the RSPG plenary to comment initial analysis this proposal and to confirm this proposed way forward.

In addition to the Peer review process under Article 35, the WG recommends also maintaining the sharing of best practices, as they are in place in the current Peer Review Platform (continuation of the ‘Peer Review Platform’ hosted on the CIRCABC website for the sharing of documents and peer discussion). The WG identified the possibility to continue with ex post sharing of best practise between Member States, if appropriate.

3. EC Decision establishing RSPG

The WG noted that there will be a need to update the framework establishing RSPG. This update should be done at the latest 6 months after publication of the EECC.

The WG noted that the effective coordination of the interests of the European Community in international organizations competent in radio spectrum matters is not addressed by the EECC although it is in the current framework establishing the RSPG. The WG recommends maintaining a Framework in order to ensure the effective coordination of the interests of the European Community in international organisations competent in radio spectrum. In particular, the RSPG has an extensive experience and competence in assisting the European Commission in the preparation of Common Policy Objectives, now the Union Position, for WRC.

The WG thanked the European Commission for its good cooperation with the WG and welcomes the possibility to cooperate with the European Commission on the update.

4. RSPG rules of procedure

The WG noted that the current RoP have been adopted in 2012 further to the last update of the EC Decision establishing the RSPG.

The WG identifies the need to update the current RoP in order to address the following issues: cooperation with MS, direct cooperation with EP and Council, peer review, good offices, assistance and advice to MS on common authorisation process.

The WG welcomes the possibility to cooperate with the European Commission on that future update of the rules of procedures.

5. RSPP

The WG noted that the EECC still maintains the possibility for the European Commission to develop a multi annual radio spectrum policy program (RSPP) taking utmost account of the Opinion of the RSPG.

At this stage, due to the EECC which grants policy and practical objectives to be implemented by EU Member States, the WG does not identify a need to update the current RSPP. In line with its current WP, the WG will reconsider the RSPP issue later next year.

6. Cooperation with BEREC

Concerning the cooperation with BEREC on market regulation and competition issues related to radio spectrum and voluntary participation of experts from BEREC to the peer review, the WG identifies the needs for BEREC to identify a contact point in order to ensure that relevant information could be circulated, as appropriate, by the RSPG secretariat. The WG noted that, where relevant, BEREC will decide and internally organise its participation in RSPG workstreams.

7. Next Steps

The next meetings will take place on the 6/11/18 (Budapest – Hungary), 6-7 Dec (Brussels - Belgium) (save the dates): starting either 6 /12 morning or 6 /12 afternoon (to avoid any overlap with RSCOM).

Proposed course of actions

The RSPG Plenary Meeting #46 is invited:

- to note the progress report and the time schedule for adoption of the final RSPG deliverable (report) on impact of the EECC on RSPG ;
- to take note of the overview of the impact of the EECC on RSPG (internal document) and to provide guidance to the WG as appropriate ;

- to agree that WG EECC proceeds with its work by elaborating a separate RSPG report to describe the practical implementation of the article 35 by RSPG;
- to support the further cooperation of the WG with the EC on the amendment of the EC Decision establishing RSPG decision and the RSPG RoPs.

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