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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 “EECC”¹(hereinafter: WG) held two meetings (6 November – Budapest, Hungary and 6-7 December – Brussels - Belgium) 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 pointed out that the EECC, the Directive (EU) 2018/1972 has been published in the Official Journal on 17 December 2018.

After the last RSPG Plenary, WG received comments on the draft deliverable on the EECC. Taken into account guidance from RSPG and based on the comments the WG finalised the draft Report on the impact of the ‘EECC’ on RSPG by its analysis

Focusing on the Peer Review, as a result of the discussion and in response to comments made at the last RSPG plenary, the WG continued the deeper analysis of the consequence of the new regulation on the existing Peer review platform and prepared the skeleton of a separate Report.

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

Based on the overview document and guidance from the last RSPG plenary the WG reviewed and finalised its complete analysis of the impact of the EECC with the attached deliverable on “Impact from the CODE” including its annexes 1 and 2.

This Report describes various impacts from the EECC on RSPG, in particular, on

- its extended role;
- the “Peer Review Process”²; and
- the RSPG “Good Offices”³.

This final deliverable 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’.

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

² Peer review process refers to the process running according to Article 35. The term “peer review platform/workshop” is used to describe the pre-existing RSPG peer review.

³ the recognition and formalisation of the current RSPG “Good Offices”: To implement radio spectrum coordination among Member States as described by the EECC (Article 28)

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

The WG agreed to propose to the RSPG plenary the deliverable as an RSPG report and is suggesting to approve and to publish it.

2. Peer review Process

Further to discussion and in response to comments made at the last RSPG plenary, in order to avoid confusion with the Peer review to be put in place according to Article 35 of the EECC, the WG considered it fruitful to rename the existing RSPG Peer Review Platform (continuation of the 'Peer Review Platform' hosted on the CIRCABC website for the sharing of documents and peer discussion).

The WG suggests renaming the current Peer review. The proposal for the new name is "Pre-existing Peer Review" to provide more clarification on the possible future practical implementation of the "Peer review process" by the Article 35 of the EECC. The WG invites the RSPG plenary to comment on the name of the processes.

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 provided comments to EC on the informal draft EC Decision circulated prior the WG meeting.

Various improvements have been suggested, such as, to better highlight

- Coordination, cooperation with/between MS;
- Support from RSPG for establishing EU position for WRC (RSPG Opinion on WRC) and for EC cooperation agreements including spectrum matters;
- The possibility for RSPG to respond to request from EP and Council.

The WG thanked the European Commission for its good cooperation with the WG and welcomes the possibility to comments the informal draft of 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 intends to continue with a more detailed exchanges of views with the EC at its next meeting (further to the adoption of the EECC).

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

5. RSPP

RSPG notes that the EECC maintains the possibility for the European Commission, taking utmost account of the opinion of the RSPG, to develop a multi annual radio spectrum policy program (RSPP). This is aligned with the RSPG recommendation to maintain the reference to the RSPP in the new framework Directive – see RSPG Opinion on the implementation of the current RSPP and its revision to address the next period . In this Opinion the RSPG also concludes that the review of the current RSPP is necessary and identifies the key issues that should be addressed.

In line with the current Work Program and taking into account the previous Opinion, the WG intends to assess any impact on the current RSPP due to the new regulatory framework for electronic communications (EECC) and make relevant recommendations.

It should be noted that during the final preparation of the RSPG plenary, a question has been raised about the scope of article 4.4 of the EECC and on a possible future legislative proposal to the European Parliament and the Council from European Commission for the purpose of releasing harmonised radio spectrum for shared use or for use not subject to individual rights. It seems that this possible future legislative proposal could be developed separately from the RSPP.

This has been highlighted accordingly by the final RSG report on the impact of the EECC submitted to the RSPG.

- It is not clear at this stage how the European Commission will use this possibility either within the next update of the RSPP, which is not planned at this stage, or on ad hoc basis.
- In any case, due to its expertise on strategic issues dealing with shared use of spectrum, the RSPG is ready to engage with that issue either on this own initiative or at the request of the European Commission whenever that arises. This issue could be managed on an ad hoc basis within the RSPG work programme.

6. Cooperation with BEREC

Concerning the cooperation with BEREC on market regulation and competition issues related to radio spectrum, the voluntary participation of experts from BEREC to the peer review and the formalisation of cooperation between RSPG and BEREC under

EECC, the WG suggests establishing permanent points of contact in both RSPG and BEREC.

7. Next Steps

The next meetings will take place on 31/1/2019 Brussels and 14-15/3/2019 Brussels (further to RSC)] (Brussels - Belgium) (save the dates): starting either 15/3 afternoon or 16/3 afternoon (to avoid any overlap with RSCOM).

8. Any Other Issues

At its meeting on 6 November 2018 in Budapest the WG offered the possibility for remote participation via telephone line. This possibility was used by several delegates who could not attend the meeting in person. However, the WG found that with remote participation the exchange of views between participants and the work on a concrete document is significantly less effective than in case of an in person participation only. The WG therefore decided not to offer the possibility of remote participation as a standard.

Proposed course of actions

The RSPG Plenary Meeting #50 is invited:

- to note the progress report and the planned remaining steps,
- to approve and publish the deliverable on the impact of the EECC on RSPG, as a report
- to avoid ambiguity with the implementation of the Article 35 to rename the former RSPG peer review processes
- 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.
- To take note of the WG's experience on offering the possibility for remote participation.

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Attachment

- A. Draft RSPG report on the impact of the EECC on the work of RSPG + its
2 Annexes