



Europe

**GSMA Comments to the draft RSPG Report on the implementation
of the current RSPP and its revision to address the next period**

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About the GSMA

The GSMA represents the interests of mobile operators worldwide, uniting nearly 800 operators with more than 250 companies in the broader mobile ecosystem, including handset and device makers, software companies, equipment providers and Internet companies, as well as organisations in adjacent industry sectors. The GSMA also produces industry-leading events such as Mobile World Congress, Mobile World Congress Shanghai and the Mobile 360 Series conferences.

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The role of RSPP in the pursuit of a Digital Single Market

The GSMA considers that from a practical standpoint the Radio Spectrum Policy Programme fills two important gaps.

First, it provides the EU institutions with a powerful tool to adopt concrete harmonizing measures that go beyond technical harmonization and require the approval of Parliament and Council. Prime examples in the first RSPP are the deadlines for the authorisation process to be completed in the 800 MHz band and the mandate to allow the transfer and leasing of rights of use in the bands harmonized for Electronic Communication Services (ECS). The GSMA believes that there are large benefits for Europe in harmonizing assignment processes and license conditions in bands designated for ECS services, including bands that should be assigned in most European countries over the next two or three years, like 700 MHz, 1.5 GHz and 2300 MHz. The EU institutions should give a timely response to these harmonization needs, either through a revised RSPP or through other means. We note that the RSPG opinion on the revision of the RSPP does not represent a significant step forward in the harmonization of non-technical aspects of spectrum policy, although they are being discussed in the context of Framework Review and on the RSPG consultation on efficient awards and spectrum use. We urge RSPG to take into account the insights from these parallel debates and incorporate them into the final opinion on the revision of the RSPP.

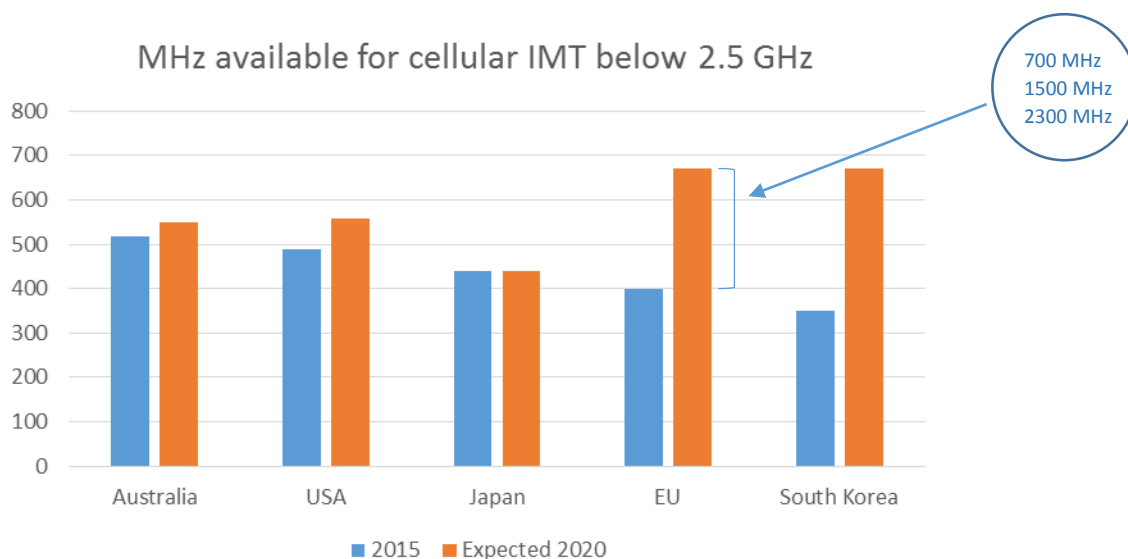
Second, the RSPP addresses all spectrum uses, including services not categorized as ECS. In theory, therefore, the RSPP is the legal vehicle best placed to extend the principles of service and technology neutrality to all spectrum bands, steering the transition from a command-and-control regime to a market-based regime. The GSMA believes that in this respect the first RSPP has been a lost opportunity, and is disappointed that the RSPG consultation is also too timid. Despite adhering to the neutrality principles, RSPG essentially adopts a command-and-control approach, inviting the Commission to identify specific EU policies other than ECS for which spectrum needs should be studied, and dismissing at the same time the traffic forecast for wireless broadband. We see a risk of NRAs trying to micromanage the spectrum input, rather than creating the context for the market to ensure that spectrum is used to maximize value to end users. After all, the first RSPP already contained provisions for services other than ECS, but time has shown that spectrum needs for WBB were a more pressing issue

Assuming that a renewed RSPP will not be in force until 2019/2020, after the completion of the Framework Review, it is important that harmonizing measures on awards and licence conditions, which would otherwise belong to the RSPP, are incorporated to the Framework, or to individual Decisions from the Council and the Parliament addressing specific bands. It is equally important not to delay the debate on the implementation of neutrality principles across all spectrum bands. We see a risk that the Framework Review focuses exclusively on spectrum policy principles for bands designated for ECS, disregarding the fact that ECS compete with other uses for spectrum resources.

Spectrum Challenges for the next 5 years

Spectrum needs for WBB

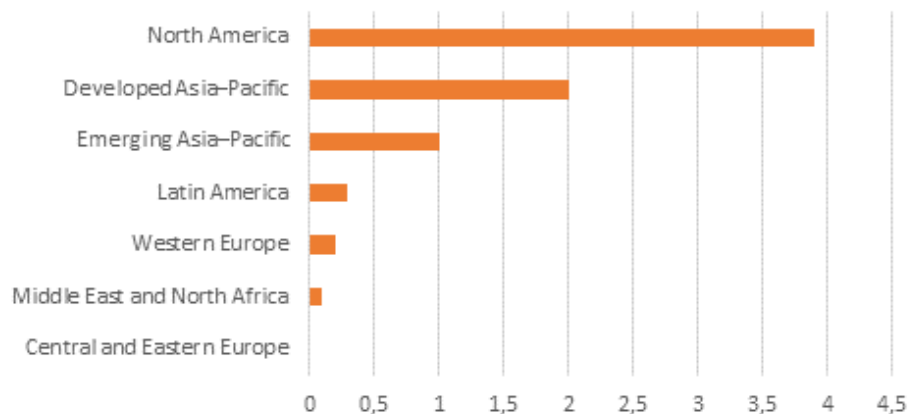
In our view the draft opinion is dangerously complacent regarding the spectrum needs for wireless broadband and the amount of spectrum harmonized for ECS in Europe. A close look at the comparison included in annex 3 of the draft opinion reveals that Europe has less harmonised spectrum in use than other regions, and less harmonized spectrum available below 2.5 GHz (see the graph below). This evidences, in our view, that there is no oversupply of harmonized spectrum in Europe, especially in low bands.



Source: RSPG draft opinion

The GSMA would like to highlight that increasing the spectrum available below 2.5 GHz is critical for Europe to close the gap with other regions in terms of mobile broadband usage. Networks in Korea, Japan and the US are much more capillary than in Europe (see graph below), reflecting in our view among other things the higher barriers to densification in Europe due to urban planning restrictions and excessive fees charged by local authorities. Europe has a legacy of site distribution that reflects these constraints, and even if the barriers to densification were reduced substantially the extant network structure implies that spectrum suitable for deployments based on macro or micro base stations may be more valuable in Europe than in other regions. Obviously, if the barriers to densification remain or it takes too long for new measures to be effective, the need to make additional harmonized spectrum available in lower bands will be more acute.

Small cells per Macro Base station in dense urban areas (2015)



Source: Analysys Mason

In sum, in a horizon of 2020, and to avoid the appearance of bottlenecks, it is critical that the spectrum in the pipeline in 700 MHz, 1.5 GHz and 2.3 GHz bands is harmonised and made available in a timely and appropriate manner. We note in this respect that the extensions of the 1.5 GHz band (50 MHz candidate for WRC 15) are included in the graph above and in the RSPG table, but the draft RSPG opinion on the revision of the RSPP does not make any recommendation regarding the need to harmonise it and the time-plan to make it available. The GSMA suggests RSPG to propose concrete measures in the final opinion, taking into account the outcome of WRC 15. Similar considerations apply to the possible use of the UHF band below 694 MHz for broadband SDL at least in parts of the EU, in co-existence with broadcasting as proposed by the Lamy Report. The GSMA would welcome an explicit reference to this topic as one of the challenges for the next 5 years and a relevant issue that should have been included in a revised RSPP. As a longer term exercise, we would also encourage RSPG to devote resources to think about the implementation of technology and service neutrality principles in the UHF band below 694 MHz when the current TV licenses expire.

A single market with different demands from country to country

The GSMA acknowledges that the fact that Europe is structurally more fragmented than for example the United States can have an impact on the demand for spectrum. Among other factors we can highlight:

- A different degree of development of alternative wired or wireless platforms across countries due to legacy situations.
- Wide variations in GDP per head across countries, that result in different demands for final products and services, and ultimately different demands for the spectrum frequencies used as input in the supply of those services.
- Different political approaches to the supply of public services like defence or emergency.
- Heterogeneous demographic constraints and housing habits.

However, in our view demand diversity is an intrinsic feature of any market. What is important in a “single market” is that there are no artificial bottlenecks that prevent users from accessing the input resources and using them in the most efficient way, which may or may not be the same across all

regions. Again, service and technology neutrality are the answer to the challenge, and demand diversity should not be an excuse to depart from those principles. RSPG should investigate, for example, the extent to which lack of perceived spectrum demand in some countries for ECS harmonized bands stems from the fact that the expected reserve prices in the auction, including yearly fees, are much higher than the price paid for the same frequencies by alternative uses.

The GSMA, in sum, would favour a more consistent EU wide approach to neutrality in the use of spectrum, which we believe would result in fewer divergences across countries than RSPG suggests.

Flexible deadlines in harmonizing measures

We interpret from the RSPG opinion that the RSPG takes a more pragmatic approach to the challenges raised by demand diversity, and recommends to increase flexibility in the national implementation of spectrum harmonizing measures. We agree with RSPG that there may be situations where fully harmonizing spectrum use can lead to underutilisation on a temporary and/or geographical basis, and more generally to inefficiencies if a non-optimal use is imposed or there is a mandate to clear a band in a region from existing services to make room for less valuable uses. We warn however of the risk of fragmentation if national flexibility is too high, which calls for a fully harmonised approach in bands in which economies of scale are very relevant or cross border conflicts hard to avoid. We welcome in any case the RSPG approach to take an EU wide decision on a band per band basis, based on an objective evaluation of the costs of not following a fully harmonized approach.

The GSMA agrees with RSPG that cross-border interference and economies of scale are the main factors to consider when evaluating the cost to society of non-harmonization, and suggests, as a practical implementation of flexibility, to set two cumulated deadlines in each harmonizing measure, to reflect the different nature of the two factors identified:

- A deadline after which the use of the band by Member States that do not follow the harmonising measure shall not prevent the introduction of the measure in neighbouring Member States. This deadline would, on the one hand, facilitate flexibility when different uses do not raise interference concerns in border regions. On the other hand, it would properly re-balance the distribution of the interference protection rights, in favour of the countries that follow the harmonising measure.
- A second deadline, added to the first one and set at a later point in time, by which a sufficiently large percentage of the EU population should be affected by the harmonising measure. This deadline would ensure that the spectrum users can benefit from EU economies of scale. In order to facilitate discussions among Member states and avoid the risk of underutilisation highlighted by RSPG, the percentage of the population covered by the measure could be below 100 %, with smaller countries possibly having an “opt-out” clause.

We note that this is not a new approach, as a simplified version was already used in the first RSPP for the 800 MHz band. However, we also note that the window of availability in the 800 MHz band has proven to be too large, which suggests that the deadlines should be determined with greater care in the future.

Spectrum Sharing

The GSMA agrees that increased demand and technological progress create more scope for spectrum sharing. We observe however that this debate has been on the table for some years already, and progress is relatively slow.

It does not help, first of all, that the concept of spectrum sharing is too wide in scope, encompassing unlicensed use of a band, access to TV or radar white spaces that are unassigned, opportunistic access to frequencies that are assigned (ie. without need for permission from the licensee), voluntary agreements between different uses (without impact on competition) and voluntary agreements of spectrum pooling among competitors (with possible impact on competition). This wide range of possible sharing definitions does not cope well with existing legal provisions. National laws differ widely in terms of what sharing scenarios are possible within the existing licences, and some of the potential scenarios would require a change in the national law or in the licences. We see in this respect a clear need for harmonizing EU legislation.

In addition, and as highlighted by RSPG, there are a large number of potential sharing technologies and services, as the case of the 2300 MHz band shows. When there is a need to protect the rights of the licensees but regulators want to promote opportunistic access, it is very difficult and resource consuming to develop technical solutions that respect the diverse rights of heterogeneous incumbents. It is not surprising, then, that RSPG recommends to essentially follow a country-by-country and band-per band approach. We are not convinced, however, that this approach will be successful, as it is very complicated to build the needed economies of scale both in terms of platforms that facilitate sharing and in terms of handsets and network equipment for prospective new users of the band.

RSPG points at the lack of interest from mobile operators as likely prospective users to explain delays in the implementation of sharing technologies, and the message seems to be that when mobile operators experience a shortage of exclusive spectrum they will embrace the new concept and in particular LSA. The GSMA believes there are more fundamental problems that need to be solved. In our view, network sharing will take off naturally only when two conditions are met:

- The legal framework across Europe is harmonized, incorporating in new licences the principles of service and network neutrality.
- The sharing deals are voluntary for the existing licensee. We have serious doubts about the benefits of incorporating in the licences a mandate to accept opportunistic access that does not cause harmful interference. We believe that it would devalue the licence for the licensee, and it would not incentivize investments by prospective users due to the high risk of conflict.