

RADIO SPECTRUM POLICY GROUP (RSPG)

RSPG Opinion on the implementation of the current RSP and its revision to address the next period

EchoStar Mobile Ltd. Comments

Overview

EchoStar Mobile Ltd. (EML) welcomes the opportunity to provide comments to the RSPG on its draft opinion on the implementation of the current Radio Spectrum Policy Programme (RSP), and its proposals to address the spectrum challenges of the future. The RSPG plays a vital role in the formulation of European radio spectrum policy, providing expert, impartial guidance to the European institutions. The draft opinion marks a comprehensive assessment of the achievements of the first multiannual RSP, and for that we applaud the RSPG.

However, in our view the opinion stops short of making some much needed recommendations to the European Commission (EC) to improve the implementation of spectrum harmonization decisions. The existing European regulatory framework has failed to produce the harmonization required to facilitate the deployment of our mobile satellite service (MSS) applications. We would ask that the RSPG amend its draft opinion to explicitly recognize the areas where European legislation has promised and yet failed to produce harmonized regulatory conditions, and identify the immediate steps necessary to rectify this.

Assessment of the Current Regulatory Framework – *Failure to implement harmonization decisions*

The RSPG rightly identifies a level of harmonization of radio spectrum within the EU as a vital step towards the completion of the single market for electronic communications, and a prerequisite for actions outlined under the Digital Single Market (DSM) Strategy. However, it is our experience that accessing the potential benefits through technical harmonization of the 2 GHz band for MSS/CGC¹ has been significantly hampered by costs levied by certain member states for securing the necessary regulatory approvals.

For EML, the costs of gaining the necessary licenses and regulatory permissions vary from country to country, as do the services permitted for delivery to customers. Because the policy goal of harmonization is not honored in practice, a divergent regulatory regime has emerged, leading to the imposition of unfair and unjustified costs on our business by different member states for accessing spectrum we were granted a pan-European authorization for in 2009.

EchoStar Mobile Recommendations

EML strongly supports the recommendation from the RSPG that there is a need for a common deadline for implementation of European technical harmonization. Our experience operating in the 2 GHz MSS/CGC band demonstrates the difficulties that arise when such a deadline is not enforced. Divergent interpretations of the 2 GHz MSS/CGC regulatory framework have been allowed to proliferate under the current regulatory framework imposing significant bureaucratic costs on our business, and undermining the creation of a single market for electronic communications.

We ask that the RSPG includes in its opinion the following specific recommendations to the EC that will help the practical implementation of the 2 GHz MSS/CGC harmonization decision:

1. End the requirement for separate corporate entities to be incorporated, or local representation be established, in certain member states before a spectrum license or authorization will be granted;
2. Harmonize the rules governing how fees for CGC licensees are set; and
3. Implement a common interpretation of how MSS/CGC spectrum can be used in different member states under the terms of the 2009 authorization.

¹ Mobile satellite service with a complementary ground component.

By developing models and guidelines for the license conditions governing the deployment of MSS/CGC services and enabling the policy goals of the MSS/CGC 2 GHz Decision, the successful deployment of harmonized MSS/CGC services across Europe will become an example of how the digital single market can work for spectrum resources.