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To: DG INFSO B4: Radio Spectrum Policy, Secretariat of Radio Spectrum Policy Group

**Comments on Interinstitutional dossier: 2010/0252 (COD)
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The subject which is of concern to us is radio spectrum policy in Europe. The first recital to the proposal before the European Parliament and the Council establishing the first radio spectrum policy programme reads as follows:

‘(1) Article 8a(3) of the Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) provides that the Commission may submit a legislative proposal to the European Parliament and Council for establishing multiannual radio spectrum policy programmes setting out policy orientations and objectives for the strategic planning and harmonisation of the use of spectrum in accordance with the directives applicable to electronic communications networks and services. These policy orientations and objectives should refer to the availability and efficient use of spectrum necessary for the establishment and functioning of the internal market. This Decision is without prejudice to existing EU law, in particular Directives 1999/5/EC and Directives 2002/20/EC and 2002/21/EC, as well as Decision No 676/2002/EC. It is also without prejudice to measures taken at national level, in compliance with EU law, to pursue general interest objectives, in particular relating to content regulation and audio-visual policy and to the right of Member States to organise and use their spectrum for public order and public security purposes and defence.’

Amateur radio operators in principle have no objections to the targeted regulation of radio spectrum policy at European level. However, we note in this connection that, with few exceptions (public security and public order, defence), the discussion is always about radio spectrum in general. We deduce from this that the radio spectrum allocated to amateur radio operators is included in this. The targets are also specified:

These policy orientations and objectives should refer to the availability and efficient use of spectrum necessary for the establishment and functioning of the internal market.

In other words, spectrum allocated to amateur radio operators should also be made subordinate to these targets. We cannot accept this and therefore request that this spectrum (as referred to in the spectrum use plan in the Regulation on radio spectrum) be excluded from the spectrum which is being negotiated.

Reasons:

According to the plans being hatched in Brussels, radio spectrum is to be clearly made subordinate to economic interests. The users of radio spectrum are predominantly private and

public broadcasters, businesses, firms and other private organisations.

However, amateur radio is a service by means of which state-examined amateur radio operators use the amateur radio service ‘because they have a personal interest in it and not for commercial or economic purposes’ (Amateur Radio Act (AfuG) 1997, Section 2, para. 1).

This makes it absolutely clear that amateur radio operators use the service as a hobby and not for commercial, religious, philosophical or political purposes.

Section 2, para. 2, AFuG states:

‘Amateur radio is a radio service used by amateur radio operators amongst themselves for experimental and technical/scientific studies, for their own further education, for understanding between nations and to support rescue operations in emergencies and disasters. Amateur radio includes the use of radio satellites in space. Amateur radio and satellite-based amateur radio are not security-related radio services.’

Section 5 AFuG expressly defines the rights and obligations of amateur radio operators, more specifically in paragraphs 4 and 5:

‘(4) An amateur radio post may not

1. be used for commercial or economic purposes or

2. operated for the purposes of providing commercial telecommunications services.’

‘(5) An amateur radio operator may only conduct radio traffic with other amateur radio posts. An amateur radio operator may not transmit messages which do not concern the amateur radio service either on behalf of or to third parties. The second sentence shall not apply in disasters or emergencies.’

This makes it clear that the spectrum used by amateur radio services cannot fall within the scope of the proposed regulations.

The RTA therefore urgently asks Germany to ensure that, in accordance with the German Amateur Radio Act, the above spectrum is non-negotiable.