

**RTÉ's contribution to Radio Spectrum Policy Group Public consultation on
Wireless Access Platforms for Electronic Communications Services (WAPECS)
September 14 2005**

RTÉ, Ireland's national Public Service Broadcaster, welcomes the opportunity to participate in this initial consultation. We understand that the intention is to develop a draft Opinion for consideration by the RSPG at its next meeting in late November 2005. We anticipate that there will be scope for further input and consultation at a later stage and therefore confine our comments to the broad principles and approach and respond to some of the questions posed.

RTÉ agrees that the availability of radio frequency spectrum has an important role to play in ensuring the achievement of the Lisbon agenda and the e-Europe Action Plan. In broad terms RTÉ agrees that current spectrum use and spectrum management approaches do need to be considered in the light of converging services and new technologies.

The key challenge for policy makers and regulators at national and international level, will be to facilitate access to spectrum that stimulates innovation and meets the needs of consumers and business into the future, without, disadvantaging services of general interest such as public-sector broadcasting and, without, distorting the market or by picking technology winners

RTÉ is concerned that policy provisions that safeguard access to spectrum for services of general economic interest are described as 'constraints' or 'overly narrowly defined applications'. As the paper suggests:

"For converged applications including broadcasting a number of constraints on the use of broadcasting spectrum are imposed by national policies and international agreements and to ensure media pluralism and cultural diversity".

It should be noted that such services of general economic interest set the benchmark for quality broadcast content provision. During the peak and flux of the 'dotcom' era it was these core services that contributed greatly to the take-up of new technology and new services.

Response to Questions:

Consultation question 1:

Do you agree with this operating definition of WAPECS? Do you consider that the WAPECS concept should include spectrum intended for private, as well as public, applications?

The suggestion to allocate spectrum assigned for public services, for new uses such as these, raises a number of important concerns:

1. the legitimate use of spectrum by Services of General Economic Interest, under EC Treaty rules and defined by Member States,
2. the EU 'Amsterdam Protocol' on public service broadcasting

3. the need for spectrum to be safeguarded for broadcast services at least until digital switchover is complete.

Combining together under the auspices of WAPECS commercial and public electronic services would objectively dilute the role of the latter and reduce their protection.

Therefore at this initial stage it is advisable that WAPECS should exist on spectrum intended for commercial applications.

Consultation Question 3: What, if any, constraints should there be on the provision of services using spectrum primarily in the broadcast domain?

Broadcast Spectrum needs to be preserved for broadcast services and maintained as such at least until analogue-to-digital switchover is completed. Services of General economic interest (i.e. public services broadcasters) need to have transitioned to digital and their services operational before any assessment of ‘unused’ spectrum can be made.

Consultation Question 4: What specific rules should be introduced or maintained to safeguard the delivery of Services of General Economic Interest in the future?

The Services of General Economic Interest are, under the terms of the EC Treaty, defined by Member States. There is no valid basis for challenging this. For reasons of cultural diversity and pluralism these services, public interest services, should and must be safeguarded.

There is no reason to suggest that the presence of such services would have a detrimental effect on the development of new information society services (on the contrary they may contribute significantly) or cause such significant constraints on spectrum that new concepts such as WAPECS cannot be fostered and encouraged. RTE believes that the principles of ensuring efficient use of spectrum and safeguarding public services are not mutually exclusive.

The section in the paper dealing with long term policy goals makes the following statement:

“The best approach to minimising and harmonising constraints in the use of spectrum may be to adopt a neutral approach to both services and technologies. This would require adherence to defined interference limits. This would facilitate both flexible use of spectrum and single market cohesion, although issues of potential interference would have to be carefully controlled and monitored “...

RTE would be concerned that such a *neutral* approach would not safeguard the required access to spectrum for services of general economic interest.

Consultation Question 5:

How do you think changes in spectrum policy will impact on the requirement for standardisation? What policy will best ensure the timely availability of standards?

The bullet point iii) in the original paper suggests:

'Facilitating standardisation where necessary to allow the relevant frequency bands to be exploited and to allow the single European market to benefit from economies of scale'

The key clause here is 'where necessary'. RTÉ believes that spectrum policy should not be too biased towards standardisation. Public broadcasting, while representing a valuable part of a national heritage, can play different role in the individual European countries. Attempts to impose standards through intervention could be fatal in small economies.

Consultation question 7:

What is your view on the above-mentioned issues and more specifically on how to achieve the right balance between “minimising and harmonising constraints” presented above?

RTÉ refers once again to the statement in the paper:

'The best approach to minimising and harmonising constraints in the use of spectrum may be to adopt a neutral approach to both services and technologies. This would require adherence to defined interference limits. This would facilitate both flexible use of spectrum and single market cohesion, although issues of potential interference would have to be carefully controlled and monitored.'

RTÉ would reiterate the point made earlier that such a neutrality approach, particularly at this stage prior to broadcast services transitioning to digital, would interfere with national policy for safeguarding services of general economic interest.

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