



GSME Response to Questionnaire on WAPECS

15 September 2005

1. SUMMARY

- A clear definition of WAPECS is needed in order to ensure a stable regulatory framework. This is an important requirement for long term and significant investments in electronic communication services.
- The WAPECS regulatory framework should have as its primary objective the development of fair and non-discriminatory competition conditions between all spectrum users. This should take into account service convergence (broadcast/telecoms or fixed/mobile), and distinctions between and convergence of both technologies and networks, regardless of whether spectrum users provide commercial or non-commercial services. Where electronic networks compete, regardless of whether the spectrum used is licensed, used by licence exempt devices, or unlicensed, the WAPECS framework should seek to achieve a coherent set of regulations that recognises differences as well as convergence.
- WAPECS must not impose a revolutionary regulatory framework across the EU but should adopt an evolutionary approach to changing the legal framework, which takes into account the legacy issues arising from the fact that, currently, fixed, mobile and broadcasting networks remain very distinct in terms of investment levels and ongoing costs. Long term and significant investments have been made by many industry sectors, including the mobile communications sector, and this necessitates a sufficiently long transition period and evolutionary approach to be taken. Additionally, a large number of spectrum issues are currently under discussion and any change in the legal framework must take into account the progress and expectations set during these ongoing deliberations.
- WAPECS should not fragment the EU single market but should continue to ensure the harmonised use of spectrum in order to reap the benefits of economies of scale, roaming and network interoperability. Any changes must also take into account the specific situation in each Member State and this again requires a pragmatic and evolutionary approach to be taken.
- WAPECS should address technical (interference) issues as well as property rights in relation to technology neutrality.

GSM Europe

Diamant Building, Bd A. Reyers Ln 80, B- 1030 Brussels
Tel: +32 2 706 81 04 Mobile: +32 472 29 38 58 Fax: +32 2 706 81 08
Email: kwalravens@gsn.org Web: www.gsmeurope.org



2. RESPONSE TO QUESTIONNAIRE

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?

GSME considers that a comprehensive and clear definition of WAPECS is needed. In particular, the term “Access Platform” should be defined unambiguously. It is not clear from the current definition if WAPECS refers to technologies, services or applications, or a combination of each. **A clear definition of WAPECS is needed in order to ensure a stable regulatory framework. This is an important requirement for long term and significant investments in electronic communication services.**

The digitisation of content certainly means that services delivered over fixed, mobile and broadcasting platforms are increasingly converging. Consumers have increasing choice as to the platform – or platforms – that they wish to use. Increasing customer choice means that at a retail level it is not straightforward to identify the extent to which different forms of usage are competing or complementing each other. An individual may choose to subscribe to TV, cable, ADSL and mobile access to, say, the same piece of news coverage – or to any combination of these platforms – or to none.

While it is difficult to discern the extent to which different platforms substitute for each other at a retail level – and thus form different markets – this difficulty simply does not currently arise with respect to the underlying networks. GSME notes the definition of convergence given by Cmr Reding in a recent speech¹: “It means the merger of communication infrastructures, media content, and electronic devices, which is generating new media services and new modes of delivery”. GSME respectfully submits that it is premature to talk about the convergence of communication infrastructures.

While network “convergence” may be happening in the sense that many telcos are now moving away from circuit switching towards the creation of a core network carrying packets of data, fixed, mobile and broadcasting networks remain for the time

¹ “The Media and Globalisation”, European Forum Alpbach, 31 August 2005



being highly distinct with respect to underlying network costs and technology capabilities.

3GSM² is an evolving global mobile system that has delivered unique customer benefits. It is more than ‘wireless’: it is not simply an ‘access bridge’ providing connection to an IP network as WiFi does. It is a customer-centric framework delivering significant value to customers through End-to-End service delivery, with a strong emphasis on Quality of Service, and customer protection against misuse, (including identity theft, fraud, or invasion of privacy). The benefits deriving from 3GSM mobile systems are in stark contrast to the current IP model of the Internet world, where there is little or no focus on ensuring delivery of end-to-end services, and where the receiving consumer has very limited control over key aspects of service delivery, such as costs incurred and quality of service. Such differences in cost, purpose and capability are relevant to the establishment of a coherent spectrum management approach.

Concerning private and public applications, we consider that it is very hard to differentiate them from a market and services point of view. **The WAPECS regulatory framework should have as its primary objective the development of fair and non-discriminatory competition conditions between all spectrum users. This should take into account service convergence (broadcast/telecoms or fixed/mobile), and convergence of technologies, regardless of whether spectrum users provide commercial or non-commercial services.**

Importantly, the WAPECS concept proposed implies that it covers licence exempt (or unlicensed) bands in an identical manner to licensed spectrum bands. GSME considers that, **where electronic networks compete, regardless of whether the spectrum used is licensed, used by licence exempt devices, or unlicensed, the WAPECS framework should seek to achieve a coherent set of regulations, but should not necessarily require identical regulatory tools.**

² 3GSM is the collective term for 3G WCDMA technology evolution that includes 3G WCDMA, ‘evolved 3G’ and ‘super 3G’.

Consultation question 2: Do you consider that the term “platform” should be more closely defined? If so, what definition do you propose?

See our response to Q1.

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

Convergence of broadcast and telecoms services is already happening. Radio, television and video on demand services are already being offered to mobile users through DMB and DVB-H technologies, in VHF and UHF spectrum primarily used in the broadcast domain, and through EDGE and 3G technologies in higher frequency spectrum used in the telecoms domain. GSME considers that equitable spectrum access conditions should apply to market players offering competing services.

Furthermore, since broadcasters are beginning to switch their networks from analogue to digital, the issues raised by the Commission in its recent Communication on accelerating the transition from analogue to digital broadcasting are highly relevant to the WAPECS debate. These issues include:

- Timing of switchover to ensure clarity of dates for release of spectrum.
- Clarity of options for spectrum releases arising from switchover.
- Promotion of economies of scale and the single market when considering the “digital dividend”.
- Linkage between WAPECS and the discussion of TV without frontiers.

GSME considers that the issues arising from digital switchover should be central to the debate on WAPECS, since this is one of the most significant examples of convergence, and since Member States will need to conclude their consideration of future spectrum assignment policies once the formal ITU (RRC) spectrum planning activities conclude in mid-2006. **WAPECS should not fragment the EU single market but should continue to ensure the harmonised use of spectrum in order to reap the benefits of economies of scale, roaming and network interoperability.**

The spectrum planning process will release spectrum currently in the broadcast domain due to the higher efficiency of digital broadcast technologies. The released spectrum could be used for the extension of coverage of 3G networks or for the delivery of innovative services such as data casting. GSME therefore supports the inclusion of broadcast spectrum within the definition of WAPECS. We also support



the identification of the digital dividend for IMT-2000/UMTS and the harmonisation of this spectrum on a global basis.

Consultation Question 4: What specific rules should be introduced or maintained to safeguard the delivery of Services of General Economic Interest in the future? Is it most appropriate to deal with these issues through the regulation of spectrum, or through other instruments such as competition law or state aid policy?

Regulators should continue to ensure harmonised spectrum for Services of General Economic Interest. As previously stated, **WAPECS should not fragment the EU single market but should continue to ensure the harmonised use of spectrum in order to reap the benefits of economies of scale, roaming and network interoperability. Any changes must also take into account the specific situation in each Member State and this requires a pragmatic and evolutionary approach to be taken.** GSME considers that specific spectrum regulations will need to be maintained in the future to achieve this goal.

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?

Standardisation of wireless equipment and harmonisation of the use of spectrum are closely related issues. **GSME considers that harmonisation of the use of frequency bands should remain a priority consideration for the EU and member states, establishing a basis for the efficient development of electronic communications equipment and networks, as well as promoting innovation through the introduction of new applications, as demonstrated by the success of GSM and 3G (UMTS).**

Importantly, the impact of harmonisation is not solely limited to the availability of standards. Harmonisation is important for the availability of equipment available on the market in due time, and at a sufficiently acceptable price, for the customer. Harmonisation ensures the necessary economies of scale to see a reduction in prices for networks and end user equipment. The development of new features and enhancements to networks is also ensured through coordinated efforts in research and developments within industry standardisation bodies.

Consultation question 6: Are there any other challenges that the RSPG should consider?

The impact of convergence on the regulations needed to support the development of new electronic services is the main area that challenges the RSPG to provide clarity and guidance. ITU Study Group 1 (SG1) has already started to study the impact of convergence on international regulations. However, other significant aspects that should be considered include the conditions for competition and innovation, which are determined, amongst other factors, by national regulations and licensing processes and the application of the new regulatory framework to access and price obligations. Also, important differences exist in the regulations that are applied to different services, for example within the broadcasting and telecommunication sectors. GSME considers that RSPG should reflect and develop an opinion on the options that are available when considering changing the regulation of historically separate domains. However regulations may change, **WAPECS must not impose a revolutionary regulatory framework across the EU but should adopt an evolutionary approach to changing the legal framework, which takes into account the legacy issues arising from the fact that, currently, fixed, mobile and broadcasting networks remain very distinct in terms of investment levels and ongoing costs. Long term and significant investments have been made by many industry sectors, including the mobile communications sector, and this necessitates a sufficiently long transition period and evolutionary approach to be taken.** The investment profile for the establishment and operation of a mobile system is very different from the provision of IP access bridges.

From a technical perspective, GSME considers that the RSPG should also consider the interference and compatibility issues related to technology neutrality, on which the WAPECS concept is predicated. The RSPG should also provide guidance on the issue of property rights relating to spectrum use, and how these rights might be affected by the introduction of technologies such as Ultra WideBand (UWB), which appears to have been excluded from consideration within the WAPECS concept. UWB technologies run counter to the traditional method of spectrum management through the division of spectrum usage rights (i.e. licences) by frequency and the WAPECS concept appears to exclude this issue since it is based on frequency allocations (see Figure 1). **A large number of spectrum issues are currently under discussion and any change in the legal framework must take into account the progress and expectations set during these ongoing deliberations.**



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?

In our view, harmonisation should remain the main objective of spectrum management for the foreseeable future. Introduction of flexibility in the use of frequency bands, while often desirable from the operators’ point of view, should not jeopardize the harmonisation of frequency bands.

GSME considers that a "Big Bang" approach, or an approach that is too academic, regarding the regulation of frequency bands should be avoided. We would favour a pragmatic approach, focusing on practical issues that need to be addressed in the near future. These include:

- **PAMR and cellular mobile networks convergence.**
- **Use of 3G in 2G bands.**
- **Convergence of fixed and mobile services (e.g. 2G/3G vs. WiMax).**
- **Broadcasting (e.g. DVB-H) convergence with telecoms (3G).**
- **Use of the “digital dividend” (e.g. for mobile services).**
- **Complementary Ground Components in mobile satellite bands offering competing services to terrestrial mobile networks.**

Consultation question 8: Are there any other long term policy goals that the RSPG should consider?

It is well recognised that wireless electronic communications contribute to the knowledge based economy targeted by the 2000 Lisbon European Council, and that high speed wireless applications are a strategic sector of growing economic importance as identified in i2010, the strategic framework for the European Information Society. WAPECS appears to focus on differences between commercial services and does not specifically address the global need for an increase of spectrum available for commercial services. GSME considers that it could be valuable for RSPG to discuss the sharing with or transfer of spectrum from governmental agencies, which remain the main spectrum user under 10GHz. As previously stated, **WAPECS should take into account service convergence (broadcast/telecoms or fixed/mobile), and convergence of technologies, regardless of whether spectrum users provide commercial or non-commercial services.** Government use of spectrum should be maintained under **fair and non-discriminatory competition conditions between all spectrum users.**



Consultation Question 9: Do you think that these steps form an adequate basis for achievement of the European objectives in this area? Are there any other steps that are required?

As mentioned in the answer to question 7, GSME considers that action should focus on practical issues as an initial way forward. Some relevant cases where a coherent approach at the European level should be implemented can already be identified and some of these are listed above.