



RESPONSE FROM THE FRENCH AUTHORITIES TO THE PUBLIC CONSULTATION OF
THE RSPG ON THE WIRELESS ACCESS PLATFORMS FOR ELECTRONIC
COMMUNICATIONS SERVICES (WAPECS)

English Version

*This is an English translation of the French authorities' response.
Only the French version can be considered as the official document.*

The consultation document from which the questions are derived contains a number of statements on which the French administration would like to comment, in addition to the responses presented hereafter.

- It is correctly stated that convergence implies that services to the end-user will be provided through a variety of wireless (and wired) means. It is also correct that it emphasizes the need for a coherent approach in the conditions of use of spectrum. However, it is erroneous to derive that "constraints attached to the usage of specific spectrum must be removed". In some cases, these constraints remain necessary for ensuring spectrum efficiency and undistorted competition.
- It is stated that "spectrum management has to be made more relevant to the rapid development of new markets and services". It is correct that spectrum management has to adapt permanently to new challenges (such as blurring of application definition) and new sharing solutions. However, it should not suggest that spectrum management has not satisfactorily adapted in the past.
- The paragraph stating that WAPECS can use frequencies from various allocations seems to be irrelevant. Terminals which are already able to use different radio interface / frequency bands, have been on the market for years (dual band GSM, bi-mode DECT/GSM, bluephone RLAN/GSM ...) without any regulatory impediment.
- WAPECS as it is defined encompass all commercial electronic applications. In the existing regulatory package it is already forbidden to have "narrow" application definitions unless justified by spectrum efficiency or undistorted competition. Envisaging that any technologies/systems would

be "stimulated" to deliver all applications/services only restricted by technical coexistence rules is missing the fact that it is necessary in some cases to delineate applications in order to ensure undistorted competition, spectrum efficiency, and achievement of the objectives of identified general services (media pluralism and cultural diversity for example).

Scope

The purpose of the consultation is to seek the views from all interested parties on the spectrum implications of WAPECS. Views are sought on the following questions:

Q.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?

R.1 The proposed definition is subject to so different interpretations and therefore needs to be more precise. As it stands, it means that WAPECS includes all wireless commercial electronic communication. It is proposed to refine the definition in order to point out the real new challenges and France can support the proposal prepared by the RSPG working group (RSPG-WG) with a complement on the identified general services, and under the condition that "technology and service neutral basis" is defined as proposed by RSPG-WG.

The new proposed definition, completing RSPG-WG's definition, is:

"WAPECS is a framework for the provision of electronic communications services within a set of frequency bands to be identified and agreed between European Union Member States in which a range of electronic communications networks and electronic communications services may be offered on a technological and service neutral basis, provided that certain technical requirements avoiding interference are met and that authorization conditions do not distort competition and enable the achievement of the objectives of identified general services."

There is no need to differentiate private and public within the wireless electronic communications field.

Q.2 Do you consider that the term "platform" should be more closely defined? If so, what definition do you propose?

R.2 As a consequence of the response to question 1, it is not felt necessary to define the term "platform".

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

R.3 The provision of services using spectrum in the broadcasting domain is subject to the demands resulting from the objectives of audiovisual policy, especially those legitimately set by the Directive "Television without frontier" and/or the set of directives on electronic communications. Based on our view on the WAPECS concept, there is no reason to modify this regulatory framework with regards to spectrum issues. The current framework already provides the flexibility required to allocate spectrum primarily in the broadcast domain either to broadcast services or to other electronic communications services, and in the particular case of audiovisual services, to allocate them either to network and electronic communications services operators or to service editors.

Q.4 What specific rules should be introduced or maintained to safeguard the delivery of Services of General Economic Interest (SGEI) 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?

R.4 The response depends on the particular SGEI that is considered. The reservation of some part of the spectrum to SGEI is essential as soon as it turns out to be necessary to supply the service: this is already the case for the broadcast public service, which requires that frequencies be reserved for public broadcasters. Part of the spectrum designated for Professional Mobile Radio (PMR) can also be reserved for governmental services (security forces, fire brigades, ambulances, etc.).

As for the appropriate regulatory supporting order to safeguard SGEI supply, French authorities assess that, far from excluding each other, sectorial and horizontal approaches (competition rules, horizontal law tool mentioned in the Commission's White Book on the SGEI) are both needed.

Concerning the issue 3a, it is noted that differing spectrum pricing economic values in spectrum is not just a legacy issues. For example, unlicensed spectrum is free when licensed spectrum is associated with fees. Pricing space services in the same way as 3G (in France) would simply prevent the development of new, worldwide services. It is essential to take into account the set of missions and obligations prescribed to the operators whom the spectrum is granted. It is legitimate, even in the longer term, not to have the same spectrum pricing policy depending on the WAPECS under consideration.

Q.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?

R.5 Spectrum policy and standardisation are done in parallel and this will continue. The issue is that industry is more and more eager in finding internationally harmonised spectrum (IMT-2000, RLAN, WiMax...) and that the availability of spectrum is a prerequisite in the development of standards and, even more importantly, in the development of equipment. In this respect, there is a significant risk that treating all WAPECS/electronic communications as one single regulatory object would undermine and confuse European industry. Cooperation between administrations and standardisation bodies will continue to be a significant challenge in the future. This cooperation can certainly be improved but no fundamental change is foreseen.

Item 4.ii introduces the necessary balance between flexibility and harmonisation. At the same time, it describes a full flexibility solution, therefore not reaching the required balance.

Item 4.iv may relate both to spectrum pricing (see above) and to coexistence rules. For coexistence rules, they are generally defined independently from who has the right to use frequencies. Obviously, if "incumbents and newcomers" refers to technology and application rather than to licensees, it refers to the use of a frequency band by different WAPECS.

Q.6 Are there any other challenges that the RSPG should consider?

R.6 Based on the broad definition of the WAPECS concept it seems that some domains included in this concept have some specificities. Only SGEI are mentioned, but other domains may need to be considered as well, such as the transport domain (Plane, Train, Car and trucks).

In the document on WAPECS, it is indicated nowhere how these specificities will be addressed.

Q.7 What is your view on the long term policy goals mentioned above and more specifically on how to achieve the right balance between "minimising and harmonising constraints" presented under point 9?

R.7 Converged and coherent spectrum regulation is the key challenge for WAPECS.

This should not be confused with full technology neutrality and service neutrality. Technology neutrality is already a general principle in the EU regulatory framework which does not prevent technology to be restricted in justified cases. Service neutrality

concept should be limited to electronic communications services. In any case, it is reminded that applications and networks may have to comply with some well specific conditions of use of spectrum in order to ensure spectrum efficiency and undistorted competition as explained above. France can support the long term objectives on technology neutrality and service neutrality as drafted by RSPG-WG, while continuing to ensure that those principles neither jeopardize the missions and obligations assigned to operators, nor result in the end in blocking the development of new markets.

Concerning the balance between harmonisation and flexibility, the proposal for neutral approach and interference restriction-only is precisely the implementation of full flexibility and does not take into account the need for more harmonisation claimed by the industry.

Q.8 Are there any other long term policy goals that the RSPG should consider?

R.8 WAPECS is not the only domain using the frequency spectrum. The two other main users having a totally different paradigm are the governmental users and the scientific community. The frame where common issues are discussed did not allow a proper representation of these two domains. RSPG should therefore consider how the two categories of spectrum user can be involved in frequency spectrum policy.

Q.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?

R.9 The establishment of a certain number of steps is certainly needed in order to progress on this issue. However, before defining these steps, a better understanding on the WAPECS concept is needed. At this stage, the key objective for WAPECS should be a coherent spectrum regulation taking into account convergence.