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RSPG OPINION ON THE RADIO SPECTRUM POLICY PROGRAMME

Introduction

1. The Radio Spectrum Policy Group (RSPG) was created by a European Commission Decision in 2002, amended in December 2009, and it gathers high level governmental experts of the 27 EU Member States and a high level representative of the Commission. The RSPG provides the Commission with strategic advice on high level policy matters in relation to spectrum. The European Parliament and the Council can also request advice from the RSPG.
2. The new electronic communications framework legislation¹ calls for the Commission to elaborate legislative multiannual radio spectrum policy programmes (RSPP) 'to set out the policy orientations and objectives for the strategic planning and harmonisation of the use of radio spectrum in the Community'. The Commission is required to take utmost account of RSPG's views when elaborating its proposals for RSPP.
3. This paper represents the RSPG's response to the European Commission's request for an Opinion on the RSPP.
4. Before transmitting this Opinion to the Commission, the RSPG decided to submit it to public consultation in order to increase transparency and allow participation of all stakeholders. RSPG received 28 comments from the various main stakeholders groups.² RSPG appreciates the valuable contributions and comments which were considered when elaborating the final opinion of the Group.

¹ Directive 2009/140/EC of the European Parliament and of the Council

² The contributions are available on the RSPG web site

(http://rspg.ec.europa.eu/consultations/responses_rspp2010/index_en.htm)

5. The forthcoming policy programme covers the period from 2010 until 2015; however, given the nature of spectrum policy development, the RSPG shall reflect a longer term and forward-looking approach and envisage perspectives beyond 2015 as well.
6. The RSPG should be continuously monitored including an assessment of progress at mid-term. This should include public consultation and stakeholder workshops.
7. As a response to the 'EU2020' strategic vision, this RSPG Opinion puts emphasis on contributing to the creation of a competitive, connected and greener European economy, especially through fostering the upgrade and interconnection of infrastructures and the acceleration of the market uptake on innovation. To achieve this strategic vision an improved cooperation between competent national authorities, the European Commission, CEPT and ETSI as well as the joint formulation and efficient representation of European spectrum interests in international fora are necessary.

I. Contribution to the EU2020 vision

8. It is the Opinion of the RSPG that one of the key objectives of EU spectrum policy is to enhance the quality of life of European citizens. This includes lowering access barriers to spectrum for new uses and users, in so strengthening the internal market and fostering digital inclusion and social cohesion. With its significant potential to act as a catalyst for innovation and growth, spectrum management can contribute considerably to European recovery from the economic crisis and deliver sustainable economic growth as well as create new jobs. Efficient and effective use of spectrum technologies could also stimulate carbon reduction in other sectors. The sector can also reduce its own greenhouse emissions with the help of greener ICT. In rural and remote areas infrastructure and network sharing can reduce the environmental impact. In line with European initiatives such as the Digital Agenda, spectrum management can contribute to efforts to bridge the digital divide through enabling ubiquitous broadband access. In so doing spectrum would highly contribute to the objectives of smart, inclusive, sustainable growth envisaged in the EU2020 strategy.
9. It is the view of the RSPG that such general objectives can be achieved by establishing strong links between spectrum policy and other EU sectoral policy objectives, in order to facilitate a supportive spectrum policy approach; promoting enabling technologies and applications (e.g. broadband, cognitive radio technologies, digital broadcasting, telemedicine, navigation systems, safety, m-payment, etc.); promoting competition and facilitating the development of standards in commercial markets; and focusing EU research resources on the same leading objectives.
10. The RSPG believes that increasing economies of scope and scale is also necessary at EU level through enhanced coordination and harmonisation of technical parameters for use of spectrum and availability of spectrum, as appropriate. The utilisation of the digital dividend shall be a key objective.
11. The RSPG underlines that all of the European stakeholders with an interest in the digital dividend, including the European Parliament, the Council of the European Union, the European Commission and the RSPG, have recognised that there are significant societal and economic benefits to be gained from the unique opportunity of making available a digital dividend in the UHF band.
12. The 800 MHz band³ in particular, on the basis of the previous RSPG Opinion⁴ should be subject to EU-wide coordinated approach based on the guiding principles of service and technology neutrality and harmonised standards, is ideal for extending coverage and

³ 790-862 MHz band

⁴ RSPG09-291 - RSPG Opinion on the Digital Dividend

improving in-building penetration. The RSPG therefore invites the European Parliament and the Council to consider that coordinated availability of the 800 MHz band for ECS⁵ other than broadcasting should be achieved in all the EU Member States by 2015⁶.

13. The RSPG believes that, with a view to release more “new” spectrum, the European Commission should take into account an analysis of demand and technology trends to identify developing and potential future significant uses of spectrum. The process should also identify possible target frequency bands, including frequency bands currently used by the public and commercial sectors, to promote intelligent sharing and compatibility solutions with other commercial or public sector services and to duly consider whether certain frequency bands will need to be made available. In such cases the consequences for existing and affected services should be thoroughly investigated.
14. Such analysis shall have as its primary objective the continued promotion of efficient spectrum use and enabling innovation and competition. Regulatory and non-regulatory tools may also be applied in order to achieve this objective. Incentives, setting of fees and other tools, should aim at facilitating the introduction of new and innovative technologies and applications. These measures may also create opportunities for different spectrum usage (e.g. improved transmission and deployment schemes for broadcasting and intelligent spectrum sharing such as use of cognitive solutions, etc.).
15. The RSPG believes that the revised EU Directives on electronic communications contain significant regulatory improvements to remove unnecessary rigidity in spectrum management and put in place measures to deliver easier access to spectrum by such means as introducing service and technology neutrality and market mechanisms like secondary trading. It is of vital importance to facilitate the application of these new measures in order to achieve a truly effective and efficient use of spectrum at European level. These measures together with their implications for spectrum management in the longer term might also be subject to further assessment.
16. The RSPG underlines that avoidance of harmful interference is of primary importance in spectrum management. Decisions and measures on spectrum use have to maintain a balanced approach to avoid interference. Harmonised standards are also a key element in spectrum regulation and they have to include sharing conditions defined by regulators. Attention should also be paid to harmonised standards for electric and electronic equipments and networks so as to ensure that they will not interfere with spectrum use.

⁵ ECS: Electronic Communication Services

⁶ The set implementation date may have to be postponed in Member States facing frequency coordination issues with non EU countries until such issues are resolved in line with the policy recommended in this opinion. A similar need for postponement of implementation could arise in Member States where exceptional national or local circumstances would prevent the availability of the band.

II. Spectrum governance in the EU

17. It is the Opinion of the RSPG that, with the objective of improving efficiency in the use of spectrum, the management of spectrum for military and civil (commercial and non-commercial) uses should be reviewed to take account of best practice for each of the uses.
18. The RSPG acknowledges that spectrum is a national resource which, where appropriate, should be managed in a coordinated manner by EU Member States in conjunction with the European Commission within the international regulatory context.
19. The RSPG believes that the main objective of European spectrum governance shall be to facilitate the development and functioning of the internal market and to enable access to spectrum for applications and uses where demand is growing. The appropriate balance shall be assured between protecting existing uses and facilitating access to spectrum for new uses and applications. Thus spectrum shall be managed in a way as to reflect current and future demand.
20. In order to achieve this objective, the RSPG sees a strong need for enhanced cooperation between competent national authorities, the European Commission, CEPT and ETSI; coherence between their activities should also be further increased.
21. Firstly, cooperation should be improved regarding the regulation of spectrum. The internal market will continue to develop if regulation is limited to the necessary minimum, i.e. only the minimal and least restrictive conditions are imposed for spectrum use in a coordinated way across the EU. Based on the demand and technology trend analysis mentioned in paragraphs 13 and 14, the conditions for spectrum use shall be adapted to the evolution of radio systems and sharing situations. In order to create a sound basis for this work, sufficient guidance and resources for market surveillance and enforcement that play a key role in ex-post regulation should be provided.
22. Secondly, all sectoral interests (e.g. ECS, broadcasting, transport, military, public use of spectrum, environment, space, civil protection, energy, earth observation⁷, etc.) should be considered. It is necessary to ensure that all stakeholders are consulted in a transparent way on the elaboration of spectrum allocation solutions, concerning new technologies in particular. This also requires clarity and certainty so that all stakeholders have a view on how their positions are treated and how spectrum decisions are made.
23. The RSPG believes that in the spectrum planning and coordination process, both flexibility regarding the use of spectrum and harmonisation of technical parameters are

⁷ RSPG06-144 – RSPG Opinion on a Coordinated EU Spectrum Approach for Scientific Use of Radio Spectrum

desirable. Thus the level of harmonisation should be assessed in relevant cases based on market demand and the benefits and drawbacks of such harmonisation.

24. As noted in paragraph 16, the RSPG acknowledges that avoiding and controlling harmful interference is key to effective spectrum management. The cumulative impact of the increasing volume and density of wireless devices and applications combined with the diversity of spectrum use challenges the current approaches to interference management. These should be examined and reassessed; such an examination should include, inter alia, consideration of receiver characteristics. Where communications systems and devices are becoming more tolerant of interference, more sophisticated negotiated interference agreements are possible in adjacent areas. In order to cope with the challenges of increasing demands for access to spectrum and to exploit the full benefits of technological development, flexible regional and bilateral agreements that allow maximum usage of frequency spectrum should be facilitated.
25. The RSPG recommends that competent national authorities should be encouraged to share experiences and best practices, in particular where cases of technical issues, such as harmful interference, have arisen during coordination activities. Specific cooperation among national authorities should be based on a 'collective support mechanism'. According to this mechanism, upon request of affected parties, a team of experts within RSPG would be set up with the mandate to provide an independent expert opinion.

III. External relations

26. It is the Opinion of the RSPG that the EU's interest in relevant international spectrum bodies, such as the ITU, should be driven at the political level. In order that the European positions on spectrum use are successfully represented in dynamic international negotiations, the European Commission, taking due account of the RSPG opinion⁸, should identify areas of policy interest and priorities on forthcoming World Radiocommunication Conferences (WRC) agendas as soon as possible and should present policy objectives to the Council and the European Parliament at the earliest stage in the preparation of WRCs. In this process, where possible and desirable, an increased importance should be given to ensuring that the ITU Radio Regulations provide sufficient flexibility, facilitate harmonisation at European level and do not constrain the EU from acting in the best interests of European citizens and businesses.
27. Within CEPT, Member States should actively contribute to the preparation of European Common Proposals (ECPs) for the WRCs on all agenda items. During the preparation of these proposals, it is essential to ensure that European stakeholders can voice priorities and views. Support should be sought with other regions on the European objectives and ECPs.
28. Furthermore, where a potential for conflict of interest between differing groups of stakeholders arises, the Commission should provide guidance on European priorities in regard to those WRC agenda items relevant to the EU. This guidance should be based on an evaluation of social and economic consequences which should be undertaken in parallel with the compatibility analysis conducted by CEPT. The assessment of the social and economic impacts for all stakeholders should be discussed with Member States through RSPG.
29. During the conferences, Member States should make their best efforts to coordinate the evolution of ECPs in line with EU and CEPT policy objectives and to find a balanced compromise on all WRC agenda items taking into account the relevant policy objectives.
30. The identification of European spectrum interests and priorities shall be followed by the development of a programme for regular discussions on spectrum policies with non-EU countries and other regions. This programme should contain actions aimed at presenting EU spectrum policy objectives and understanding those of non-EU countries and other regions in order to obtain their understanding and support to reach the EU policy goals. This may serve the promotion of European spectrum policy in countries at the EU borders and even globally in order to facilitate cross-border coordination, economies of scale and opportunities for European industry.

⁸ RSPG09-294 - RSPG Opinion on the Preparation of ITU World Radiocommunication Conferences

31. During bilateral negotiations with non-EU countries, including candidate and acceding countries, political and technical support should be provided for individual Member States requesting assistance for solving frequency coordination issues (e.g. on the 800 MHz band), in particular when several countries are faced with the same difficulties and EU policy is concerned. In the provision of such assistance, the EU should use all its legal and political powers to promote the implementation of EU policies. Given the political dimension of these negotiations, RSPG invites the European Parliament and the Council to consider whether such assistance could constitute an integral part of the EU's wider international engagements and policy.⁹

⁹RSPG08-232 – RSPG Opinion on Spectrum Issues Concerning Outer EU Borders

IV. Spectrum policy objectives

32. Based on the considerations above, the RSPG is of the Opinion that the following high-priority spectrum policy objectives should form an essential part of the RSPP.

- (1) Identify EU level policies in both commercial and public sectors that have a spectrum dimension and assess how to facilitate the achievement of such policies.
- (2) Ensure that sufficient spectrum for coverage and capacity purposes is allocated within the EU so that all citizens could have access to ubiquitous high-speed broadband.
- (3) Achieve coordinated availability of the 800 MHz band for ECS other than broadcasting in all the EU Member States by 2015¹⁰.
- (4) Identify developing and potential future significant uses of spectrum taking into account demand and technology trends.
- (5) Take all actions to designate and make available more 'new' spectrum and liberalise, where possible, currently used spectrum under service and technology neutral regimes (i.e. WAPECS).
- (6) Make more spectrum available under a collective use model in order to facilitate rapid access to spectrum, promote innovation and competition¹¹.
- (7) Create appropriate regulatory mechanisms to foster more efficient use of spectrum, both for the commercial and public sector.
- (8) Develop a spectrum policy approach for intelligent spectrum sharing which should, inter alia, promote the use of cognitive technologies, to enhance the effective and efficient utilisation of spectrum.
- (9) Ensure that competent national authorities, the European Commission, CEPT and ETSI work towards the same objectives, enhancing collaboration and cooperation to reach those objectives, and clearly defining their respective roles and responsibilities.
- (10) Ensure that European spectrum interests and policy objectives are promoted in all relevant EU and international fora and discussed with non-EU countries and other regions.

¹⁰ The set implementation date may have to be postponed in Member States facing frequency coordination issues with non EU countries until such issues are resolved in line with the policy recommended in this opinion. A similar need for postponement of implementation could arise in Member States where exceptional national or local circumstances would prevent the availability of the band.

¹¹ RSPG08-244 - RSPG Opinion on Collective Use of Spectrum

- (11) Ensure that all Member States are given the necessary assistance when negotiating with non-EU countries, including candidate and acceding countries as well as neighbouring Member States on frequency coordination issues.