



**Comments from ARD and ZDF
to the Consultation on the
Introduction of Multimedia Services in particular in the
frequency bands allocated to broadcasting Services
of the
Radio Spectrum Policy Group**

1. ARD and ZDF generally welcome the RSPG's conclusions of the Draft Opinion on the Introduction of Multimedia Services. In this respect, ARD and ZDF particularly approve of the significant acknowledgement that a potential spectrum dividend should first and foremost be allocated according to the individual needs and objectives of each Member State, rather than by way of generalised EU-wide rules.

These decisions on the allocation of spectrum must take into account a wide range of issues specific to each Member State and its particular requirements. They must not solely be based on economic criteria.

2. ARD and ZDF also confirm the RSPG Draft Opinion's finding that Member States have already comprehensively committed the spectrum dividend resulting from analogue switch-off to concrete future uses such as an increase in the number of digital terrestrial television channels available to consumers, additional enhanced services, a higher data rate to improve sound and picture quality up to high definition television as well as services for portable and mobile reception devices and electronic communication services other than broadcasting. European policy makers are well advised to take these findings into account during the decision making process for European guidelines in spectrum policy.

In this respect, it must remain the prerogative of Member States to decide which frequencies shall be assigned to which services, based on the results of the RRC 06.

Presently, ARD and the ZDF are not aware of any significant consumer demand for pan-european services, requiring a harmonised approach to spectrum allocation on a European level. Our extensive experience in regard to media-consumption patterns of audiences across Europe demonstrates how factors such as language, demand for local and regional information as well as for programmes catering to the specific cultural needs of listeners and viewers play a hugely important role. There is no indication of a pending change in such consumption patterns and existing pan-european programmes such as Euronews have not been able to attract significant percentages of audience shares.

ARD and ZDF support the RSPG's recommendation of enabling Member States to find the optimal use for the digital dividend for their national needs, by reconfirming their competence in the field of spectrum allocation.

3. ARD and ZDF regret that it was obviously not possible to await the results of the RRC 06 when drafting the RSPG opinion on “The Introduction of Multimedia Services in particular in the frequency bands allocated to the broadcasting services”. To include these results in the RSPG Draft Opinion’s final version would be highly recommendable.

Although, the results of the RRC 06 allow for 7 coverages in channels 21-69 in the UHF range in most European countries, these will not be fully available immediately, as in some regions they are presently being utilized by other radio services. Furthermore, the transition period until switch-off of all analogue transmitters in 2015 is substantial and could lead to restrictions in the timely implementation of the digital planning scheme in some Member States. This is due to the requirement to protect analogue transmitters – if so demanded.

4. ARD and ZDF also share the RSPG draft opinion’s assessment as to which frequency bands will potentially deliver a spectrum dividend. In particular, we support the evaluation in regard to the timeframe for the potential introduction of new multimedia services. Insofar, ARD and ZDF back Member States in their efforts to increase flexibility in spectrum allocation, as long as public interest objectives, such as the provision of public service broadcasting services on traditional as well as new distribution platforms, enjoy at least the same consideration as economic criteria.
5. Nevertheless, ARD and ZDF would like to critically point out, that the use of the term “multimedia services” – defined as the “coming together of the traditional broadcasting (point-to-area-coverage) and communication services (one-to-one) in a mobile environment” is far too general and lacking in clarity. Rather than offering a further explanation, however, the draft opinion only refers to the so called WAPECS-concept. In our view, this will not provide the necessary clarification, as the definition of WAPECS proposed in the RSPG Opinion extends the term which originally referred to wireless services such as services intended for densely populated areas (hot spots) to services such as IP access, multimedia, multicasting, interactive broadcasting, data casting and the frequency allocations as “mobile broadcasting and fixed”. Such a definition is rather diffuse and vague, risking more confusion rather than discernable benefits.¹
6. The lack of a clarity of the RSPG draft opinion in this respect also leads to the ambiguous assertion that “the use of spectrum for broadcasting is typically subject to complementary legislation, i.e. electronic communications legislation and content legislation”. Here, the specific use of the term “electronic communication service” fails to clarify whether the RSPG refers to infrastructure regulation, such as the European Regulatory Framework for Electronic Communication Services, content regulation such as the Commission’s proposal for an Audiovisual Media Service Directive or the E-Commerce Directive as classic internal market regulation.

ARD and ZDF strongly recommend to clarify the terminology on this point. Otherwise readers may come to the faulty conclusion that a convergence of multimedia services automatically leads to the convergence of regulatory regimes. This is by no means the case. While the different regulatory regimes are complementary, there is and will be a clear and logical separation between infrastructure and content regulation, which

¹ c.f. published version of ARD’s Comments to the Consultation on Wireless Access Platforms for Electronic Communication Services of the Radio Spectrum Policy Group of September 13th 2005: http://rspg.groups.eu.int/doc/consultations/comments_wapecs/wapecs_ard.pdf

is justified by different regulatory aims and objectives. These aims and objectives also have recognisable effects on spectrum allocation.

In addition, ARD and ZDF would like to propose reconsidering some of the RSPG Draft Opinion's statements on "mobile services". In our view mobile services do not form a category of their own, to which distinctive legal assessments can be attached. Instead, mobile services can belong to many different categories such as multimedia (and therefore also audiovisual) broadcasting services or telecommunication services. Respecting this aspect of mobile services, would also ensure that the RSPG opinion is in line with the principle of technological neutrality, enshrined in the European Framework for Electronic Communication as well as the Commission's Draft of an Audiovisual Media Service Directive.

Furthermore, the RSPG Draft Opinion should be amended by adding the following affirmation: Mobile broadcasting technologies such as DVB-H or DMB are based on and developed from traditional broadcasting technologies. Therefore, when allocating spectrum for the use of these technologies, the same criteria should apply as for traditional broadcasting services.

Finally, the mobile telephony industry in Germany advocates the introduction of mobile broadcasting service exclusively to frequencies below channel 54. They justify their demand by technical restrictions of their receivers and the need to minimise interference from GSM. ARD and ZDF on the contrary believe that receivers for mobile broadcasting services should be able to function in the entire spectrum in Bands IV and V. There should be no restrictions in regard to the use of channels in the UHF-range. One of the consequences of confining mobile broadcasting services to frequencies below channel 54 would be a need to switch existing DVB-T transmitters to different frequencies. This would entail considerable time, effort and cost.

Brussels, July 14th 2006

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