



## Telefónica Group response to consultation on draft RSPG Opinion on the digital dividend

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### General comments

Telefónica would like to thank the Radio Spectrum Policy Group (RSPG) for giving stakeholders the opportunity to comment on their latest draft Opinion on the digital dividend. As we noted in our response to the 2006 RSPG Opinion public consultation<sup>1</sup>, Telefónica considers this to be an important issue. We agree that it is useful for the RSPG to provide strategic policy advice to the EC on how best to support Member States' realisation of a digital dividend, taking into account the potential benefits of an EU coordinated approach as well as individual national situations. Telefónica supports the aim of promoting competition and innovation in the provision of wireless services to European citizens and consumers. We believe that the switchover to digital broadcasting will lead to a more efficient use of the radio spectrum, but will also result in a more productive use of the digital dividend through the use of the 790-862MHz (800MHz) sub-band for the provision of electronic communication services (ECS) other than broadcasting. Only thus will the digital switchover contribute to the strategic goal set by the European Council in Lisbon, for Europe to become the most competitive and dynamic knowledge-based economy in the world, as envisaged by the November 2004 RSPG Opinion on "Spectrum implications of switchover to digital broadcasting".

As we have noted on several previous occasions<sup>2</sup>, Telefónica considers that ECS will play a very important part in achieving a ubiquitous Information Society across the European Union, and we are committed to their timely development. Telefónica therefore agrees with the common framework identified by the RSPG, which proposes:

- developing the technical elements that may be used by European countries making the 800MHz band available for ECS, other than broadcast transmission services;
- encouraging Member States to make the 800MHz band available, where appropriate, in accordance with those technical elements; and
- encouraging Member States to enter into frequency co-ordination agreements.

We note that much of the work relating to the first element of this framework has now been completed through the response of the CEPT to the second Mandate on the digital dividend issued by the European Commission (EC), and Telefónica supports the recommendation (Opinion 4) that any EU harmonisation of technical elements, such as channelling arrangements or common technical conditions, should be based on the outcome of this CEPT work.

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<sup>1</sup> "Telefónica Group response to consultation on draft RSPG Opinion on EU spectrum policy implications of the digital dividend", December 2006.

<sup>2</sup> Including *ibid* and "Telefónica Group response to the public consultation on the RSPG Opinion on mobile multimedia services", July 2006.

With regard to the second element of the proposed framework, we have already identified<sup>3</sup> that significant economies of scale can be realised for industry and benefits achieved for society if Member States cooperate on issues such as making available similar frequency ranges, channelling arrangements and technical conditions. Telefónica looks forward to seeing the results of the EC commissioned study that is also addressing this aspect.

Finally, we wholeheartedly support the need for a cooperative spectrum management approach to be taken by Member States in order to maximise the benefits to society and to minimise delays in making the 800MHz band available. This will require a significant commitment by Member States to addressing cross-border frequency co-ordination (Opinion 5) and other issues in a positive and timely manner. We support the call for the EC to act in response to this RSPG Opinion as quickly as possible (Opinion 2) in order to minimise EU level uncertainty in the ability of Member States to make available the 800MHz band, and the recommendation that Member States act collectively in geographic clusters if that expedites the work (Opinion 8).

#### Range of Services

As we have previously stated<sup>4</sup>, Telefónica believes that the use of the digital dividend for ECS is very important, but we also recognise that there may be different interpretations of the implementation of a liberalised approach to the digital dividend in different Member States. We continue to have a concern over the potential variation and future use of existing broadcasting licences that have been awarded for the purpose of promoting radio or television programming as a public policy. If these licences are subsequently varied to allow the provision of ECS other than public service broadcasting, then it seems to us that regulators are in danger of distorting ECS markets and such distortions may also lead to concerns about State Aid.

Telefónica agrees that Member States should take into account European Wireless Access Policy for Electronic Communication Services (WAPECS) principles (Opinion 3), but we consider that **one of the most important outcomes of the RSPG Opinion should be closer coordination of the implementation of liberalisation such that all Member States can proceed with licensing of the digital dividend for new ECS, in order that the benefits of these services can be appreciated by consumers in all Member States.**

#### International coordination outside of the EU

Telefónica has previously noted<sup>5</sup> that the 2006 Regional Radiocommunication planning Conference (RRC-06) agreed that digital entries in the final Plan (the GE-06 Agreement) “may also be notified with characteristics different from those appearing in the Plan, for transmissions in the broadcasting service or in other primary terrestrial services operating in conformity with the Radio Regulations”. We support the recommendation (Opinion 6) for the EC to support Member States in renegotiating aspects of the GE-06 Agreement with countries outside the EU if required.

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<sup>3</sup> In the Spectrum Value Partners study, co-sponsored by Telefónica, “Getting the most out of the digital dividend”, March 2008.

<sup>4</sup> “Telefónica Group response to consultation on draft RSPG Opinion on EU spectrum policy implications of the digital dividend”, December 2006.

<sup>5</sup> Ibid.

### Coordination within the EU

Telefónica agrees with the recommendation (Opinion 1) that the EC should assess the advantages and disadvantages of the options for a coordinated EU approach, including both harmonisation and non-mandatory action as appropriate, to make the 800MHz band available for ECS other than broadcast. A coordinated approach across the European Union regarding spectrum allocations for ECS will bring important benefits to consumers and the industry, including services with a pan-European basis, lower financial risk for vendors of infrastructure and handsets, and better economies of scale for operators.

In the past<sup>6</sup>, Commissioner Reding has acknowledged that we have to make a fundamental change, if we want to get the benefits of the digital dividend: “We have to look for economies of scale which means agreeing common spectrum allocations”. Telefónica notes that the sentiments that Mrs Reding expressed on that occasion on a global scale are even more true at the regional level. We acknowledge that some Member States may be restricted in terms of the timing of making the 800MHz band available by their digital switchover programmes, but for others early decisive action has the potential to make a real difference in ensuring a rapid introduction of new ECS.

### Review

Finally, Telefónica supports the recommendation (Opinion 7) that the EC gives consideration to the merits of a review process to facilitate EU-wide long term availability of the 800MHz band for mobile and fixed broadband applications, which may be important if the urgent actions identified above relating to the coordinated approach fail to drive forward the availability of the 800MHz band in a timely manner.

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<sup>6</sup> Including at her speech at the ITU “Telecom World 2006” Conference.