

14 July 2006

**To:** Radio Spectrum Policy Group  
**From:** Short Range Automotive Radar Frequency Allocation group  
**Subject:** "A coordinated EU spectrum approach for scientific use of radio spectrum"

The Short Range Automotive Radar Frequency Allocation group (SARA) is pleased to submit its comments on the Radio Spectrum Policy Group's (RSPG) progress report to the request from France and The Netherlands for an Opinion on spectrum used by scientific services. The progress report was issued 15 May and the comments are requested by 14 July 2006.

SARA may be uniquely able to comment in this proceeding, because it had the recent experience of seeking to share spectrum in the 24 GHz frequency band with two scientific services, the Earth exploration-satellite service (EESS) and radio astronomy service (RAS). SARA thus offers its perspectives on the rationality and objectivity of the process used to weigh competing interests with these services.

#### **Economic and Societal Value**

The progress report aptly notes the value to Community and worldwide economies and the social value of scientific services. The report also acknowledges, nevertheless, that precise figures for the value of spectrum used by such services must be viewed carefully, and SARA notes that some values described in the report refer to the value of a service as a whole, and cannot be attributed solely to the use of radio spectrum, or to some particular section of all the radio spectrum used by a particular service.

SARA does not seek to minimize the unique contributions of scientific services. SARA has relied on scientific services to develop technologies for accident mitigation applications of short range radar (SRR), in order to contribute to the Community policy for enhancing safety on the road under the e-Safety initiative. Thus, SARA supports the conclusion of the progress report that further attempts should be made to describe the benefits of scientific services. Only objective and non-discriminatory assessments of the specific value of particular scientific use of a frequency should be used when assessing whether or not to share that particular frequency. The “overall benefits” of scientific uses of spectrum should not be the comparison point, but the precise benefits of a particular use of spectrum should be compared when assessments are made of the social benefit of sharing that spectrum between scientific users and other applications. This approach would be consistent with draft element 9 of the RSPG opinion, which calls for a proportionate approach towards assessing sharing.

#### **Status of Radio Spectrum Used by Scientific Services**

SARA suggests that there is a basic misconception in the statement in section 5.3 (i) of the progress report concerning sharing conditions for space science passive sensors bands. The statement is incorrect that sharing “is not possible” for these bands, by reference to the provision in ITU footnote 5.340 that “all emissions are prohibited.” Sharing is indeed possible on a non-interference basis and it would intrude into long established concepts of national sovereignty to claim the contrary.

This issue was debated with great emotion and for years in the context of the SRR controversy.<sup>1</sup> As SARA established on numerous occasions, as a matter of international law the 5.340 footnote is not the absolute prohibition that it seems – otherwise on its face Commission Decision 2005/50/EC would violate international law. As Recital (8) to that decision notes, footnote 5.340 may be applied in conjunction with Article 4.4 of the Radio Regulations, which permits non-interference emissions.

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<sup>1</sup> SARA will not repeat the lengthy legal assessment made at the beginning of the SRR experience, but it can be reviewed in SARA’s submission to project team SE21 of the ECC’s Working Group Spectrum Engineering, Doc. SE21(02)70, “Comments on RR 5.340 and 4.4,” 6 May 2002.

For this reason, SARA submits that draft element 5 for the RSPG opinion is overstated. In that paragraph, the RSPG would say that it considers that “[e]xclusive allocations to scientific services ... corresponding to unique frequencies ... represent essential natural resources and urges Member States to comply with their obligations under No. 5.340 of the Radio Regulations, which prohibits all emissions in the corresponding frequency bands.” That position rests on a misconception of the correct application of 5.340, and is inconsistent with the Community’s own actions with respect to SRR in the 24 GHz range (as well as the actions of every other country that has finally considered the matter). Thus, this draft element will merely confuse future resolutions of other proposals to operate on a non-interference basis.

To avoid this confusion, SARA suggests either that the last clause of the draft element be deleted (“... which prohibits all emissions in the corresponding frequency bands”), or that a final clause be added to state “in conjunction with Article 4.4 of the Radio Regulations, which permits non-interference emissions.” SARA favors the latter approach, especially as it is consistent with Commission Decision 2005/50/EC.

Respectfully submitted

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