



TO: [info-rspg@cec.eu.int](mailto:info-rspg@cec.eu.int)

**RE: RSPG Public Consultation on Secondary Trading of Rights to Use Radio Spectrum**

2 April 2004

The Satellite Action Plan Regulatory Group (SAP REG), representing the satellite industry as one major use of radio spectrum within the Community, is pleased to submit its views on the above RSPG consultation.

Yours sincerely

Kumar Singarajah  
SAP REG Chairman

**Your details**

Name	Mr. K. Singarajah
Sector (Operator/Manufacturer/End-user/Other)	Multiple Sectors ( incl. Operators & Manufacturers)
Organisation/Company	SAP REG (Satellite Action Plan Regulatory Group)
Title/Responsibility	Chairman
Contact Email	kumar.singarajah@btinternet.com

## General questions

*1) Do you consider secondary trading of rights to use radio spectrum to be beneficial to consumers, businesses and radio users? why/why not?*

For certain applications, spectrum trading can be a useful instrument to improve efficient spectrum use. However, it is **not** appropriate for satellite services that are not confined to national borders but available across the whole of Europe or even around the world.

Satellite services crucially rely on internationally harmonised bands. National spectrum trading cannot possibly be a solution to spectrum shortage of an **international operator**, since it is not possible to patch together harmonised spectrum through tens or hundreds of national trading mechanisms.

The frequency bands allocated to the different services and managed under an international coordination process are not allocated by the ITU as a resource that is tradable at national level. Indeed, the ITU procedures typically create a **cooperative environment** where no country is the sole beneficiary of the resource. Trading of such spectrum could trigger serious negative repercussions undermining the ITU efforts and damaging the interest of the whole European satellite industry.

Additionally, in the bands that are not exclusive to satellite services but shared with other radiocommunication services, it is clear that any trading mechanism will work **solely** to the benefit of the terrestrial / mobile services that are focused on national coverage.

*2) What types of transfer of rights to use radio spectrum (full, leasing, partial etc.) do you consider can be beneficial to consumers, businesses and radio users? Why/why not?*

No answer.

*3) What rights and associated obligations do you consider should be within the scope of secondary trading of rights to use radio spectrum?*

No answer.

*4) Would you want to see secondary trading of rights to use radio spectrum introduced in your country or in the countries of interest to you?*

*a) If yes – why, to what extent? when? frequency bands/services?*

*b) If no – why not, are there other tools that better suit your needs?*

The satellite sector does **not** wish to see secondary trading on international services introduced in any country included in footprints. In harmonised bands, there is **no** problem of scarcity. The best suited tools are minimum licensing requirements when it is necessary, i.e. where there are risks of harmful interference.

*5) What information and electronic communication facilities should be made available to facilitate implementation of secondary trading of rights to use radio spectrum?*

No answer.

## Scope of trading – change of use, reconfiguration

*6) Is the possibility to reconfigure rights important? If yes, what kinds of reconfiguration do you consider would benefit consumers, businesses and users of spectrum? (geography, frequency, time, other)*

Spectrum rights shall **not** be transferred for other applications or services than what spectrum is coordinated for, and services where a high degree of regulatory liberalisation has been achieved and that create minor risk of harmful interference ought to be subject to the **lightest** possible licensing regime.

*7) Is the possibility to use the spectrum in a flexible way important? If yes, what kinds of flexibility do you consider would benefit consumers, business and users of spectrum (service, technical constraints, other).*

In harmonised bands, the same spectrum bands are only used for transmission needs (if no signal, no transmission) and also can be re-used by various satellite operators using spacecrafts at different orbital positions, which **already** represents a high degree of flexibility.

*8) To what extent is the tenure an important issue in assessing secondary trading? (indefinite, rolling, fixed, annual, other)*

No answer.

*9) Should the same rules and regulations apply for the whole of the spectrum?*

*a) Is there a need for different rules and regulations for different frequency bands? geographical areas? services? users?*

Certainly, **harmonised spectrum bands** and **satellite services** ought to be subject to the lightest possible regime, without secondary trading. In bands that are shared with the terrestrial sector, it is crucial to take account of the **existing or planned satellite services** and make sure that introducing trading will not undermine the quality, continuity and development of these services.

*b) If you see a need for different rules and regulations in question 8a above, please give examples.*

## Competition aspects

*10) Should there be specific competition rules in relation to implementing secondary trading of rights to use radio spectrum, or is general competition law enough?*

No answer. **The role of the spectrum management authority**

*11) What do you see as the main responsibilities for a spectrum management authority in regards to secondary trading of rights to use radio spectrum?*

The most important priority is to identify those services, such as satellite services, that are **unsuited for trading** and make it clear to all national administrations. It is to be reminded that satellite systems **differ** from terrestrial systems in so far that spacecrafts are designed and built to last more than a decade without any possibility to modify their characteristics once launched. Further, the full capital investment is made up front and not gradually. Therefore, it is of essence that long-term availability of spectrum is ensured throughout the full footprint when the capital investment decision is made.

*12) To what extent is spectrum management authority approval of trades a benefit or an impediment to the development of a market for secondary trading of rights to use radio spectrum? Under what circumstances do you consider it would be necessary for a spectrum management authority to refuse a trade?*

It is paramount that secondary trading is **fully controlled** by a spectrum management authority in order to limit the emergence of speculative traders, with potential “local” and particular interests, and guarantee that secondary trading does not undermine existing services that are beneficial to end-users. This is of particular importance in the case of transnational services and networks, such as satellite services, for which harmonisation measures (e.g. in the case of broadcasting, Earth observation, science, defense, accessing remote areas, etc) stem in many cases from an aggregation of national interests. In this context, National Regulatory Authorities (NRAs) play an important role in achieving such measures, in conveying national needs which would also take into account wider-scope objectives than “local” stakeholders’, likely to obey to other interests.

*13) What specific measures could a spectrum management authority take to handle the issues if secondary trading is introduced? (ex ante approval procedures, ex post notification, competition aspects, limit change of use, interference aspects, other)*

Ex-ante approval of trading, strict application of competition rules, no change of use in coordinated spectrum bands and monitoring of interference issues are all **vital** in the market of radiocommunications.

*14) To what extent should the national spectrum management authority actively facilitate secondary trading of rights to use radio spectrum?*

No answer.

#### **Community aspects**

*15) Do you consider that adoption of individual regimes by EU member states will cause problems for consumers, businesses and radio users? If yes, in what ways and to what extent?*

On the basis of years of experience in dealing with specific licensing national regimes, it is obvious that individual regimes of secondary trading would cause **major impediments to the development** of international or transnational systems such as satellite. Again, it is not practicable to patch together harmonised spectrum through tens or hundreds of national trading mechanisms. The possible consequence could be that satellite services are getting **no more available** in some countries where spectrum use, whether for downlinks or uplinks, is made subject to tight regulatory or financial conditions, although the spacecraft will anyway remain available for years.

*16) Do you consider that the EU should take measures to facilitate the implementation of secondary trading of rights to use radio spectrum? If so, in what areas and to what extent?*

To the contrary, and for the reasons elaborated within this response, we think that measures should be taken on a harmonised approach in the EU with a view to avoiding spectrum trading mechanisms to be introduced in frequency bands subject to ITU satellite allocations, whether shared or not.

*17) To what extent is European harmonisation of frequencies an important issue in regards to secondary trading of rights to use radio spectrum?*

Satellite services **very much depend** on harmonised frequencies and similar rights to use these frequencies. Some progress has been recorded with the adoption of the New EU Regulatory Framework, but **much remains to do** to improve the regulatory situation at individual level where risks related to interference or health hazards are often misargued.

## Related experiences and examples of secondary trading

### *18) What are your experiences with the current spectrum management regimes?*

Satellite services still face a whole variety of national licensing regimes, which does not make sense for international operators.

### *19) What are your experiences of secondary trading of rights to use radio spectrum?*

None.

### *20) Please describe specific scenarios in which you consider that the introduction of secondary trading of rights to use radio spectrum would be beneficial.*

None as regards satellite.

### *21) Any other comments*

Secondary trading / spectrum trading, especially in regards to 'change of use' scenarios, seems to be contemplated by some NRAs as a means of generating significant revenues for national treasuries as opposed to promoting the various objectives incumbent on NRAs in the Framework Directive including in relation to promotion of transnational networks and services in the EU. While the RSPG consultation is focussed on the merits or otherwise of spectrum trading, SAP REG considers it is also relevant to highlight its concerns in relation to the higher (if not exorbitant) costs of access to spectrum for satellite-based electronic communication network and service providers, which would likely be triggered if spectrum (secondary) trading was to be implemented in frequency bands allocated to satellite services.

SAP REG therefore considers that the imposition of spectrum charges that are not **proportionate to costs associated with strictly essential regulatory or administrative functions** runs counter to public interest policies aimed at increasing satellite services through pro-competitive, market-driven efforts. Spectrum charges not only unnecessarily increase the price of satellite capacity, but also substantially increase the level of business uncertainty. Even the suggestion that such measures could be imposed is a deterrent to business plans, and will likely hinder, if not deter, the roll-out of new and advanced services to end-users. If countries begin to implement a trading mechanism applicable to the provision or use of satellite capacity, satellite operators and service providers will need to adjust their prices accordingly.

When one NRA establishes a trading mechanism for spectrum use or access, other NRAs are encouraged to follow suit. Since satellite technology inherently allows for the coverage of multiple countries and regions within a given footprint, one nation's actions can lead to **a cascade of similar charges** with serious negative implications for the development of satellite-based electronic communication networks and services. This will have a potentially devastating effect upon the ability to deliver broadband, voice, video, and other services throughout the world.

Finally, SAP REG believes that efforts to promote efficient spectrum use must also take into account **the technological differences** between terrestrial wireless and space-based platforms. In the case of satellites, spectrum efficiency must take into account the unique capabilities of satellites to reach all users throughout a region regardless of location and the capacity of satellite systems to use and re-use spectrum in an efficient manner.