

HISPASAT, S.A. RESPONSE TO THE EC CONSULTATION ON SPECTRUM TRADING

Company details

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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?

HISPASAT is in favour to implement the secondary trading of rights to use radio spectrum because it will benefit everybody: operators, businesses and consumers. The main cause of that will be a broader availability and effective use of this scarce resource.

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?

It is understood that the grant to be transferred is the “original” license. In this case the grille can go from partial transfer to full transfer included leasing. But we would like point that in any case the only type of transfer of rights would be the right of use as it. First licensee must retain the ownership of his right. It will be beneficial to third parties because will made more flexible the grant of licenses.

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

The rights and associated obligations should go in parallel with the granted right. In any case, the secondary granted subject must observe the first licensee’s rights and obligations as well as must strictly observe radio regulations rules.

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?

Yes. In fact, in Spain, the new Telecommunications Act (2003) - Ley 32/2003, General de Telecomunicaciones, open the possibility of transfer of right to use radio spectrum. Telecommunication Act do not define wich bands/services will be the object of transfer, it leave to develop this item for further regulations.

Secondary trade would be introduced as soon as possible and as broad as possible, duly coordinated and harmonized at international level. It would take into account frequency bands/services in a case by case bases.

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

An appropriate database open to users would encompass information about licensees, prices, taxes, operations, etc; in general all kind of useful information related to spectrum market (a sort of Stock Exchange).

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)

It is no clear what to reconfigure in this context means. If it is referred to the technology used it will be advisable that the “new user” must be obliged to use updated state of the art. The implementation of this technology would depend on coverage areas, type of service, etc. In any case reconfiguration rights would be done case by case.

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 constrains, other)

Yes. The use of the spectrum must no be constraint or limited to only one use or only one technology. This possibility would also be examined case by case.

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

This matter would be dealt in a case by case bases, but the extent of the tenure would not be indefinite. In principle the extent of the tenure would be as the original grant taking into account in any case previous agreement between the parties.

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?

Yes, the rules governing the use of the spectrum would be according to different type of services or frequencies.

b) If you see a need for different rules and regulations in question 9a above, please give examples

Especific rules would be necessary to operate services, like broadcasting, mobile, satellite; users, like public, private, military,etc..

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?

Without prejudice that the general competition law may be enough in some cases, a specific regulations for certain services would be necessary.

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 responsibilities for spectrum management authority as granting authorizations, establishment of blanket licenses would be the responsibilities in general assumed by the spectrum authority. One can emphasize on the control, monitoring, and inspection.

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?

Following universal and appropriate rules one do not see any impediment to the development of this kind of market.

Conditions to refuse a trade must be known ex-ante.

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)

Secondary trade of use of spectrum as already said is or must be placed under universal and appropriate rules umbrella. That means that rules ex-ante must be known.

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

Simplifying the administrative proceedings. Fostering the use the electronic means. Fees related to the secondary trade process should be limited to administrative costs.

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?

Yes. Rules governing radio spectrum would be harmonized to the maximum, based on the ITU Radio Regulations. Individual regimes will cause confusion and they will no contribute in any case to reach a good and fair competition, particularly in the field of satellite communications.

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?

Taking into account that some European Countries are already implementing the secondary trading of the radio spectrum it seems that measures to facilitate and to coordinate the european implementation would be necessary. This measures to harmonize national regulations must cover all matters related to the granting.

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

It is crucial that decisions related to frequencies, particularly for international services, should be taken based on ITU regulations and implemented accordingly.

Related experiences and examples of secondary trading

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

In general, current spectrum management regimes are normally inflexible. This situation should be revised. Some countries like Spain have already take measures to do that.

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

No experiences.

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

- In the cases of lacking of frequencies.
- To avoid idle use of the frequencies.
- To give flexibility to obtain licenses.
- To facilitate innovations.

21) Any other comments

We consider that present questionnaire is based in a term not yet defined: “secondary trading”. In this sense the answers are to a certain extent undefined.