



EUROPEAN
BROADCASTING UNION

UNION EUROPEENNE DE RADIO
TELEVISION

Geneva, 2 April 2004

EBU reply to RSPG Public consultation on secondary trading of rights to use radio spectrum

The EBU is open to contribute to the discussion of secondary trading of rights to use radio spectrum. However, the specific character of the broadcasting sector needs to be taken into account.

Control of interference and compatibility between services sharing the same spectrum are fundamental to obtaining a high degree of spectrum use efficiency.

Public service broadcasters (PSBs) have an important public mission which includes promoting national culture and social cohesion and providing reliable, unbiased information and varied and balanced programming for all sections of the population. PSBs in Europe are also required to approach "universal" coverage, which means that public service programmes should be available to virtually every citizen throughout the national territory. To that end, PSBs need adequate radio spectrum for transmitting their programmes and services both now and in the future.

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?

Secondary trading of spectrum could be beneficial to consumers in certain circumstances - provided the benefits are not outweighed by drawbacks caused by its use. It might be possible in some circumstances to apply spectrum trading in the broadcast bands, though to answer the question would require a detailed analysis of conditions and outcomes.

However, deciding on a fair price for the spectrum will be difficult, because there are many different delivery media with which to compare.

As this could be the case in certain countries, broadcasters might gain income by using spectrum for services which are not part of the 'public offer' for which they have been granted the right to use the spectrum in the broadcast bands. This is a sensitive area because it may create a non-level playing field for other businesses, and would need careful evaluation.

Recognising the commercial value of spectrum is beneficial because it may encourage investment in spectrum efficient equipment, but this needs to be kept in proportion, because most of the nation's investment in broadcasting systems is made by consumers, and not by broadcasters.

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?

To facilitate secondary trading in general, a flexible regulatory regime must be introduced while still guaranteeing necessary access rights to the radio spectrum. Control of the risk of interference must be ensured and administered. The use of international technical standards is a way to create unified usage beyond borders and must also be respected. These factors suggest that full leasing will be impracticable, though partial leasing could be possible.

However, public service terrestrial TV and radio broadcasting cannot be included for the following reasons:

- Public service broadcasting is in the main not subscriber based. In most cases it provides universal coverage. Broadcast content is governed by the public interest and obligations are included in the broadcaster's license conditions. The broadcaster and the receiver manufacturer are independent entities.
- Spectrum licensed for PSBs must serve to fulfil their specific mission; and, together with other obligations, this will limit secondary trading.

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

It is of primary importance, in order to maintain spectrum efficiency that the current and future planned use of the spectrum should not be changed. The European allocation table and the ITU Radio Regulations must be respected.

- Rights and obligations must be clearly defined.
- A common framework as a basis for further trading must be provided. This framework should define the spectrum use.
- The interference situation should be clarified. This could be done by stating the output power limitations together with an indication of what interference or noise level can be accepted. Only in this way, the compatibility between uses can be guaranteed.

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?

In line with answers to questions 1-3, the EBU considers that it would not be appropriate to introduce secondary trading without full, in-depth, consideration of the issues affecting broadcasting.

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

- Interference conditions must be known in order to establish compatibility between services sharing the spectrum. This information is needed inside a country, as well as beyond its borders. For that reason the applications of spectrum in a country must be fully known to its neighbours, if departures from harmonised use are allowed.
- Means to monitor spectrum usage must be available. Frequency tables and electronic databases are essential.

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)

In the case of broadcasting, any reconfiguration must take account of existing frequency plans and the public service mission of public service broadcasters.

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)

- Yes, flexibility is important for the use of a given frequency band.
- Adopting a spectrum mask concept can contribute to increased flexibility. This concept implies that a broadcasting entry in a plan can be used for another service provided that no more interference is caused to other services and no more protection is asked for.
- The application of allotment planning to broadcasting will facilitate the implementation of services applying the mask concept.
- However, the flexible allocation of spectrum to all services in all bands may fragment the spectrum bands and, in the long term, may be detrimental to spectrum efficiency. This needs careful evaluation. Certain harmonisation on the spectrum regulations at an international level could avoid fragmentation and consequential loss of spectrum use efficiency in the long term.

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

Adequate measures must be taken in the mechanism of spectrum trading to make sure that efficiency gains in the short term do not become counterproductive in the longer term. If such measures are not taken, it would be better to avoid spectrum trading.

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

If the same rules and regulations apply for the whole spectrum, it would restrict the efficient use of the spectrum. Different services have different characters and the different parts of spectrum provide different technical conditions. For example, economical and technical considerations in rural areas are different from those in urban areas.

a) Yes, different rules and regulations should be applied to different frequency bands, geographical areas, services and users. International plans and agreements must be respected.

b) Example: Broadcasting frequency plans.

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?

There should be specific competition rules to make sure that 'first come, first served' rules do not hamper the deployment of new technologies.

Regarding broadcasting services see answer to question 2.

The difficulty of determining the fair price for broadcasting spectrum will also call for specific rules. See also answers to questions 1 and 9.

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?

Spectrum management authorities should keep track and control of all spectrum trading to be sure that interference and compatibility requirements are met. All obligations must be the subject of contracts between parties.

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 will be important to have the means to refuse a trade when interference and compatibility problems are likely to arise. Purchasers of spectrum licensing must be certain of what they are buying and what their liabilities will be, in order to safeguard their investments.

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)

Spectrum management authorities should be responsible for many of the elements cited in brackets including: ex ante approval procedures , competition aspects, limiting change of use and interference aspects.

In the broadcasting case, international plans should be respected to ensure that equal opportunities are given to all countries (equitable access to the spectrum) and to ensure that interference and compatibility issues are respected. A country should not limit the possibilities of its neighbours.

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

The regulation of secondary trading is needed as given in the answer to Question 13. Spectrum trading awareness can reasonably be left to market forces, but it is vital that the national authorities actively contribute to the creation of the framework.

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, the adoption of individual regimes by EU members could cause problems to the radio spectrum usage. It is essential that for broadcasting the international plans are respected. The need to create a framework to keep track of interference and compatibility conditions calls for collaboration by neighbouring countries. For that reason, and in order to facilitate European markets, it is recommended not to limit any future framework to EU members.

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?

Interference and compatibility requirements should be harmonised, met and controlled at international level, in a geographically wider forum than the EU. In this area, CEPT and ITU roles have been proved to be successful.

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

A certain degree of harmonisation of frequencies is vital to minimise fragmentation of the spectrum bands and increase spectrum use efficiency in the long term. See also answers to questions 15 and 16. However, due to economical, cultural, social differences between European countries, countries may have different national needs. Those differences should be accepted if interference and compatibility rules are respected.

Related experiences and examples of secondary trading

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

The EBU has actively participated in CEPT and ITU spectrum management studies. Both organisations (which represent a wider forum than the EU) have considerable experience of effective spectrum management. The ITU regime has been successful for many years, and it is only recently that demands have been raised to make the regime more flexible. This could be achieved by complementing the present regime with new means such as the ones mentioned in the answer to question 7.

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

EBU Members have a very limited experience of secondary trading of rights of radio spectrum. This experience has been for data services and some special transmissions on an occasional basis in a very limited number of countries.

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

The EBU has not identified any such specific scenarios.

21. Any other comments

Due attention must be paid to universal coverage requirements for PSBs, which is expensive in transmission infrastructure and demanding in spectrum requirements.

Digital broadcasting is more efficient than analogue broadcasting:

- it is much more spectrum efficient because the digital compression makes possible to have four or more programmes of a given quality in place of one analogue one in a given frequency channel;
- in most cases, it demands less protection from interference;
- planning is less constrained by receivers, with better rejection of adjacent-channels and image-channel, plus lower levels of local oscillator radiation.

Moving from analogue to digital broadcasting is the best way to use spectrum more efficiently. Many PSBs are investing in digital technology but this is a minor part of the total investment needed, with the major part the purchase of new receivers by consumers. Applying spectrum trading and pricing to broadcasting will not accelerate the important transition from analogue to digital broadcasting and will be a barrier to achieving universal coverage.