

DRAFT RSPG OPINION
ON THE
RADIO SPECTRUM POLICY PROGRAMME
-
AER POSITION

The Association of European Radios (AER) is a Europe-wide trade body representing the interests of over 4,500 commercially-funded radio stations across the EU27 and in Switzerland.

AER's main objective is to develop and improve the most suitable framework for private commercial radio activity. AER constantly follows EU actions in the fields of media, telecommunications and private radio transmission, in order to contribute, enrich and develop the radio sector.

AER therefore welcomes the opportunity to comment on the draft Opinion of the Radio Spectrum Policy Group (RSPG) on the Radio Spectrum Policy Programme (RSPP).

AER would first like to recall certain obvious, but often forgotten key facts: commercially-funded radios constitute a unique network of small and medium-sized enterprises (SMEs), contributing to cultural diversity, media pluralism, access to creativity, social inclusion. They offer free-to-air services of general interest. Indeed:

- they evolve in highly competitive environmentsⁱ
- their programmes encompass, broadly speaking, all possible formats, from debates to music-onlyⁱⁱ
- as for the music broadcast, within one market, as soon as there is demand expressed, it has to be fulfilled; so, most of the musical expressions are represented
- most of them are non-politically affiliated, and certainly keep the freedom to express their opinion
- their audiences are mostly local and regional, sometimes national
- during natural, major or minor disaster, radio is one of the first tool to inform the publicⁱⁱⁱ
- they strive to develop on all possible platforms

Furthermore, although radio might not evoke spontaneously the most modern medium, it has, for decades, been granted with all its attributes: ubiquitous, mobile, simple-to-use and free-to-air. This also makes radio the most intimate medium: the features mentioned above enable our audience to cultivate a personal relationship with our programmes, our DJs, our hosts, and our brands. Our listeners thereby access programming they enjoy, and useful information^{iv}. Radio plays a fundamental role in today's society: it is often quoted as the most trusted medium by citizens and is entrusted with many public interest obligations. Radio therefore needs exclusive access to spectrum, managed by EU Member States.

Amongst the issues raised by the RSPG in its public consultation based on its draft Opinion on the RSPP, AER feels that the most important points where it should voice its concerns and observation on are the following ones (following the order set by the RSPG's draft opinion):

First, it is mentioned in this draft Opinion that *"the forthcoming policy programme covers the period from 2010 until 2015, however given the nature of the spectrum policy development, the RSPP shall reflect a long term and forward-looking approach and envisage perspectives beyond 2015 as well"*^{vi}

While AER welcomes this forward-looking approach, it would like to recall that, in most of Europe, currently and for the foreseeable future, there is only one viable business model: free-to-air FM broadcasting on Band II. European radios can only broadcast programmes free of charge to millions of European citizens, thanks to the revenues they collect by means of advertising. These revenues are decreasing all through Europe due to two factors: the shift towards internet-based advertising, and the recent financial crisis. For 2009, radio advertising market shares have decreased all across Europe compared to 2008^{vi}.

However, across the EU, plans to migrate from this satisfying analogue technology to digital technology are being actively discussed and tested. Any shift towards digital radio broadcasting entails very long-lasting and burdensome investments. Nevertheless, some individual nations may wish to proceed with a move to greater digital broadcasting at a faster rate, as there will be no 'one-size-fits-all' approach.

So any shift towards digital radio broadcasting will most likely require a very long process. Decision on the adequate time-frame should be left to each national industry: as a matter of principle, transition to any improved digital broadcasting system should benefit from a long time-frame, unless there is industry agreement to move at a faster rate.

As mentioned, on-air commercially-funded digital radio has not yet achieved widespread take up across European territories. The same is true for internet-based radio economically sustainable radio. These two means of transmission will be part of the patchwork of transmission techniques for commercially-funded radios in the future, but it is hard to foresee when^{vii}. **So no universal switch-off date for analogue broadcasting services should be envisaged at EU level and decision on standards to be used for digital radio broadcasting should be left to the industry on a country-by-country basis.**

Following the division set by the RSPG draft Opinion on the RSPP, there are other essential points AER would like to underline within this text's main parts:

I. Contribution to the EU2020 vision

AER looks forward to the EU's forthcoming Digital Agenda^{viii}. AER does not challenge the important role of the ICT industry in global EU recovery, nor does it challenge the importance of internet broadband's roll-out, also for radio.

However, it is worth underlining that, as mentioned previously, AER Members are SMEs, providing useful economic and social services. Besides, radio's audience is, first and foremost, local or regional. Commercially-funded radios already reach and ensure that underserved areas and segments of the population can make use of their services. It has done so efficiently through analogue broadcasting for decades, in a ubiquitous, mobile, simple-to-use and free-to-air manner. These services are essential not only for social inclusion, but also for cultural diversity, media pluralism, access to creativity. It is still unsure how a one-to-one system (via the internet) can efficiently replace a one-to-many system (via broadcasting).

Therefore, radios' activities still require use of spectrum, as a primary user. As mentioned earlier, in most of Europe, currently and for the foreseeable future, there is only one viable business model: free-to-air FM broadcasting on Band II. Thus, Band II is the frequency range between 87,5-108 MHz and only represents 20,5 MHz. Across Europe, nearly every single frequency is used in this bandwidth. Thanks to the broad receiver penetration and the very high usage by the listeners this small bandwidth is very efficiently used^{ix}. Radio's plans to broadcast digitally could use Band III (174-230 MHz), L-Band (1452-1492 MHz) and / or Band II, depending on the EU Member States^x.

Moreover, and as most of them are SMEs, commercially-funded radios are in no position to compete for access to spectrum with other market players^{xi}. **So, now and for a foreseeable future, commercially-funded radios need guaranteed access to spectrum, in all bands described above: regulation must be tailored to local needs in order to allow the best possible development of radio. In these bands, market-based approaches to spectrum management (such as service neutrality or secondary trading) should not be enforced^{xii}.**

Finally, and considering other parts of the spectrum: no further actions regarding the 800 MHz Band seem necessary at EU-level. The European Commission has sent a Recommendation to the EU Member States^{xiii}. They have to decide about the appropriate timeline and management of the 800 MHz Band. In any case, the possible new usage of the 800 MHz Band should not affect spectrum users in any other bands than the 800 MHz Band.

II. Spectrum governance in the EU

AER welcomes the RSPG's comprehensive approach to spectrum, and its will to study the situation of spectrum usage by radios in the EU^{xiv}. AER would thereby like to recall its availability for any further information on this issue.

AER also welcomes RSPG's acknowledgement that "*spectrum is a national resource*"^{xv}. When considering radio, AER would like to highlight that, as mentioned, audience is, first and foremost, local or regional. Moreover, spectrum is currently efficiently managed by European States and this should remain the case: national radio frequency landscapes and national radio broadcasting markets are different, with divergent plans for digitization, diverse social, cultural and historical characteristics and with distinct market structures and needs. It is therefore very difficult to envisage seamless services across borders in the case of commercially-funded radios. **Consequently, enhanced coordination at EU level of spectrum management of bands used by radios does not seem necessary, or appropriate.** From this perspective, AER warmly welcomes the RSPG's will to consider "*all sectoral interests*"^{xvi}: radio's specificities are to be dealt with at national level.

AER would like to encourage the RSPG in its will to examine further the issue of interference, and potential means to avoid this devastating phenomenon: digital transmissions are simply cut in case of interference.

III. External relations

European States already coordinate their views through ITU or CEPT. The existing coordination is seen as appropriate for the preservation of commercially-funded radio services across Europe.

However, if further EU coordination is required within ITU or CEPT, AER would like to recall that the following international agreements are adequate for the development of radio services and should therefore not be modified, at least for the parts alluding to radio:

- GE84 agreement
- MA02 agreement
- GE06 agreement

To conclude with, one should keep in mind that, **in order to maintain a vibrant radio broadcasting sector:**

- **it must be provided that European States can allocate spectrum exclusively or with priority to broadcasting, and, especially to commercially-funded radio broadcasting; harmonized approaches are not the appropriate answer: there is no one-size-fits-all solution. European States should retain the freedom to assign frequencies to radio broadcasters through individual licences;**
- **service neutrality should not be applied in the bands used by broadcasters; secondary trading should only be contemplated if there is no change of use of the traded frequencies, i.e., frequencies used for broadcasting shall still be used for broadcasting frequencies if they are traded**

- no universal switch-off date for analogue radio services should be envisaged at EU level and decision on standards to be used for digital broadcasting of radio should be left to the industry on a country-by-country basis
- Any shift towards digital broadcasting of radio will most likely require a long process. Decision on the adequate time-frame should be left to each national industry: as a matter of principle, transition to any improved digital broadcasting system should benefit from a long time-frame, unless there is industry agreement to move at a faster rate

AER remains available to explain this position in further details, should this be helpful to the RSPG.

ENDS

30/04/2010

Contact details: Frederik Stucki
AER Secretary General
76, av. d'Auderghem,
B-1040 Brussels,
Belgium
Tel: +32 2 736 9131
Fax: +32 2 732 8990
www.aereurope.org

ⁱ For example, and bearing in mind that the amount of radios in a given country depends of course on its size: Spain now has more than 2000 frequencies used across the country; similar FM overcrowded situations can be observed in France or Germany.

ⁱⁱ To give just examples, please see:

- the French AER Member, SIRT1 : <http://www.sirti.info/spip.php?page=adherents>
- the UK AER Member, RadioCentre:
<http://www.radiocentre.org/rc2008/stationSearchResults.aspx?searchType=fullmembers>

ⁱⁱⁱ For example: in the UK in December 2009, during the Cumbria floods, to keep their communities and other media outlets informed, Commercial Radio in the area began rolling news and updates during events that occurred a fortnight ago and the on-going clean up operations. As soon as the situation started unfolding, both CFM Radio and Lakeland Radio dropped their usual formats and presenters and switched to a service of news, travel, weather updates, advice and other information to help the local community. For more details, please see here: <http://www.radiocentre.org/rc2008/showContent.aspx?pubID=341>

Another very recent example was this morning when you had to avoid constructions on your way to work

^{iv} For instance, in the UK, London's Capital 95.8 won a Sony Award for its 'Lights Out London' initiative, which drew support from celebrities such as Justin Timberlake and politicians like the UK's former Secretary of State for the Environment, Rt Hon David Miliband MP. This involved encouraging listeners to switch off lights when they weren't needed. In another context, in Germany, during the recent blizzard, households were advised to "keep three or four days' worth of provisions, including alternative cooking fuel in case of power cuts. Among the essential items listed by the German Civil Protection's Office (BBK) is a battery-powered radio, for checking weather reports". Please see here: <http://www.financialnewsusa.com/more/52-world/10798-citizens-of-germany-prepare-for-blizzard>

^v Paragraph 5 of the Draft RSPG Opinion on the RSPP, page 1 – emphasis added.

^{vi} Depending on the EU Member State, commercially-funded revenues have decreased by up to 30% compared to 2008. Commercially-funded radios are primarily affected by the radio advertising market's situation as it is their only source of income. However, public radios are equally affected: e.g., Latvia has decided in 2009 to cut down some of the radio public broadcasters' services.

^{vii} In that sense, it should be underlined that most digital devices such as portable personal music player already include as a wide-spread feature a chip enabling reception of FM services

^{viii} For further information on AER's position on the Digital Agenda and the EU2020 strategy, please see here: http://www.aereurope.org/content/view/664/153/lang,en_GB/

^{ix} It should here underlined that this efficiency resides also in the economic, social and cultural aspects of commercially-funded radios unique role in Europe

^x As a reminder, radio is currently broadcast with analogue technology all through Europe on Band II (87.5-108 MHz), Long waves (148.5-283.5 kHz) and Medium waves (520-1610 kHz)

^{xi} AER therefore welcomes the RSPG's clear statement to broadcasters in its Opinion on the Digital Dividend of October 14th, 2009 (page 2): "It is foreseen that in bands below the 800 MHz band, i.e., 174-230 MHz and 470-790 MHz, the digital dividend will be used mainly for the development of new enhanced broadcasting services which will also bring significant benefits to society in terms of the value to industry and consumers. At a national

level some Member States may also use the digital dividend below the 800 MHz band for Electronic Communication Networks and Services, other than broadcast transmission networks and services.”

^{xiii} From this perspective, and regarding especially service neutrality, AER would like to recall the importance of the exceptions stated in article 9§4 of Directive 2002/21/EC on a common regulatory framework for electronic communications (Framework Directive) following the review of the EU framework for electronic communications networks and services (Telecom Package):

“Unless otherwise provided in the second subparagraph, Member States shall ensure that all types of electronic communications services may be provided in the radio frequency bands, declared available for electronic communications services in their National Frequency Allocation Plan in accordance with Community law. Member States may, however, provide for proportionate and non-discriminatory restrictions to the types of electronic communications services to be provided, including, where necessary, to fulfil a requirement under the ITU Radio Regulations.

Measures that require an electronic communications service to be provided in a specific band available for electronic communications services shall be justified in order to ensure the fulfilment of a general interest objective as defined by Member States in conformity with Community law, such as, and not limited to:

- (a) safety of life;
- (b) the promotion of social, regional or territorial cohesion;
- (c) the avoidance of inefficient use of radio frequencies; or
- (d) the promotion of cultural and linguistic diversity and media pluralism, for example by the provision of radio and television broadcasting services.”

As for secondary trading, one could envisage it in bands described in this position paper if obligations related to the use of spectrum are maintained, especially with regard to the service considered: broadcasting services could only be replaced by broadcasting services, or broadcast-related services.

^{xiii} Please see here: <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:308:0024:0026:EN:PDF>

^{xiv} Please see RSPG work programme for 2010, and AER’s contribution to the latter. Please see here:

http://www.aereurope.org/content/view/693/43/lang.en_GB/

^{xv} Paragraph 17 of the Draft RSPG Opinion on the RSPP, page 5

^{xvi} Paragraph 21 of the Draft RSPG Opinion on the RSPP, page 5 – emphasis added