

Cable Europe Comments on the draft RSPG Opinion on the Radio Spectrum Policy Programme

30 April 2010

Cable Europe welcomes the opportunity given by the RSPG to comment on its draft Opinion.

Cable companies are using frequencies to deliver high speed broadband, telephony and television services to millions of households. Cable companies also show an increasing interest in competing in the mobile market and have struck MVNO deals or are considering acquiring radio frequencies to launch mobile services as a fully fledged MNO. A consortium of cable companies in the Netherlands has recently acquired 40 Mhz as part of the 2.6Ghz licensing of mobile broadband services and it is Cable Europe understanding that other cable companies in Europe may follow suit.

Cable Europe supports the objective of improving the efficiency in the use of spectrum (military and civil) and a better coordination of spectrum policy at the level of the EU. However, a more flexible use of frequencies, based on services and technology neutral principles, also entails new challenges such as interference between new and existing services which will impact European citizens directly. A good radio spectrum management needs to take a holistic approach on the impact that future decisions on spectrum will have on citizens as well as on public and commercial stakeholders.

I. Contribution to the EU 2020 vision

We agree with the RSPG that the Radio Spectrum Policy Programme should be seen in light of the EU 2020 Strategy, with the emphasis on the creation of a competitive, connected and greener European economy especially through fostering the upgrade and interconnection of infrastructures and the acceleration of the market uptake on innovation.

Cable companies are continuously upgrading their networks and innovating their product and services thus stimulating the competitive forces in the electronic communications and broadcasting markets.

Enhancing the quality of life of European citizens should be set as one of the key objectives of EU spectrum policy. We agree with RSPG that this can be achieved through establishing links between spectrum policy and other EU policy objectives and through promoting enabling applications and technologies as well as competition in commercial markets. However, in the context of a technology neutral approach, the promotion of competition in the market should have a more prominent role than the promotion of a particular service or enabling technologies and applications.

By way of example, there is significant discussion on bridging the digital divide. The way in which wired, terrestrial wireless and satellite services can best contribute to addressing Europe's digital divide is by being given the best opportunity to compete as end-to-end

infrastructure based rivals. It is this form of competition which is proven to yield higher broadband penetration rates and speed offerings⁽¹⁾. Also, the EU should adopt a technology neutral approach.

Specific broadband targets are set in EU2020 but many different providers in the market can provide similar services and as such should be encouraged to compete. It is not a recommended approach to allocate specific frequencies to a specific technology on the premise that rural areas are inadequately served. While bridging any digital divide in Europe is absolutely crucial, it would be a retrograde step if EU industrial policy objectives were inappropriately favoured at the expense of Europe's forward looking and market driven policies.

Cable Europe agrees that economies of scope and scale are necessary at EU level and that a better coordination and harmonisation of national spectrum policies have become a key element going forward.

With respect to the digital dividend and the 800 Mhz band in particular, the work carried out by Cable Europe and shared with the European Commission show that a more flexible use of the spectrum - although an innovative and important step forward - has a much wider impact on the market and possibly end-customer experience than what was initially foreseen by experts on paper. As a way of example CEPT 30 Report does not address the LTE interference problem which Cable Europe has identified between mobile terminal equipment and the in-house consumer equipment, including the TV set. Although this issue was raised with CEPT it was not taken into account in their technical report and therefore constitutes a major default in the effort of harmonising the technical conditions for mobile services using the digital dividend band.

If it is widely accepted that the digital dividend constitutes a test case for future radio spectrum policy then one should also accept that it is totally premature to consider a "coordinated availability of the 800 Mhz band for mobile services by 2015". Having the consumer/end-customer interest in mind, progress on digital dividend frequencies should be made step by step allowing all stakeholders to assess the interference risk and the impact on the market once new mobile services are rolled-out using the 800Mhz band. Ex-ante and ex-post impact assessments are needed for all stakeholders also when considering the release of more "new" spectrum. These impact assessments are also needed when considering allowing the use of cognitive technologies. Deployment of cognitive technologies enables the use of spectrum that is currently unused, but might harm existing services provided via cable.

Cable Europe welcomes the opinion of the RSPG that the consequences for existing services should be thoroughly analyzed in particular when harmonised decisions are envisaged but also when these decisions can have significant distorting consequences with respect to competition. For example, interferences arising from the implementation of LTE services in 800 MHz sub-band could adversely affect the fierce platform competition existing between cable, satellite, DTT, fixed networks etc. A more in-depth EU level impact assessment is needed to clarify the political, technical, financial consequences as well as the effect on competition of LTE mobile services in the 800 Mhz sub band.

Whereas the continued promotion of efficient spectrum use is indeed paramount to further developments in EU spectrum policy, we believe that the focus to achieve this objective should be on "non-regulatory" rather than on "regulatory" tools. The use of regulatory tools seems premature at this stage in particular when measures to promote efficient spectrum use conflict with other important policy objectives. Therefore we

¹ SOLON – Cable in Europe: Delivering the Future Today, 2009

believe that incentives - rather than the setting of fees - should be considered to facilitate the introduction of new and innovative technologies and applications. In the case of allowing new services/technologies to be rolled out in spectrum already being used, it is vital to have appropriate mechanisms that will best manage the delicate balance of coexistence for existing as well as new services. For example, in the case of potential widespread LTE interference with a multitude of existing services in the 800MHz band, a state fund based on proceeds from spectrum auctions could be set up to manage the costs that will be incurred by the 'polluting' actor. Such a fund would require wide-ranging consultation to ensure that member states as well as the service providers in the various markets are treated fairly.

II. Spectrum Governance in the EU

Cable Europe agrees that the management of spectrum for military and civil use should be thoroughly reviewed and be made the subject of an exchange of best practice between national administrations.

Enhanced cooperation between competent national authorities, the European Commission, CEPT and ETSI is also necessary. Cable Europe welcomes the request made by RSPG for sufficient guidance and resources for market surveillance and regulatory enforcement. We also believe that a transparent process involving all sectoral interests is to be guaranteed when determining spectrum allocation concerning new technologies.

Considering Cable Europe's concerns regarding LTE interference with a wide range of consumer equipment (TV sets, STBs, video recorders, wireless microphones and headphones, etc.), we support RSPG's acknowledgement that avoiding and controlling interference (of all forms) is key to effective spectrum management. We agree that current approaches to interference management need to be examined and re-assessed. The LTE interference risk that has been identified by Cable Europe also makes it clear that effective EMC guidelines and spectrum policy are becoming increasingly interdependent. The spectrum policy programme should take this into account by intertwining EMC policy and radio spectrum policy.

Finally, Cable Europe supports the RSPG proposal to foster cooperation among national authorities when dealing with cases of technical issues using a 'collective support mechanism' where a team of experts within RSPG would be set up with the mandate to provide an independent expert opinion.

III. External relations

Cable Europe supports the broad lines of the RSPG Opinion relating to this point..

IV. Spectrum Policy Objectives

Cable Europe supports most of the objectives that the RSPG believes should become an essential part for the RSPP. However we do not agree with the fact that sufficient spectrum "for coverage and capacity purposes" needs to be allocated based on the overarching objective of bridging the digital divide, in particular when this objective conflicts with safeguarding competition or other policy areas such as the allocation of state aid for broadband projects in rural areas.

As mentioned before, the coordinated availability of the 800 MHz band for electronic communications services other than broadcasting in the EU by 2015 seems a premature objective as many consequences of making the 800 Mhz band available to LTE mobile services have not yet been thoroughly addressed. Using the 800 Mhz band as a test case for the RSPP would actually result in putting the cart before the ox and maybe complicate further the overall adoption and implementation of the RSPP.

Cable Europe does not support the objective of creating appropriate regulatory mechanisms to foster more efficient use of spectrum but rather would see the emphasis put on non-regulatory measures.

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