



EUROPEAN COMMISSION

Directorate-General Information Society

Communications Services: Policy and Regulatory Framework
Radio Spectrum Policy Group
RSPG Secretariat

Brussels, 30 January 2004
INFSO-B4/RSPG Secretariat

RSPG04-28 Annex 1

**Subject: questionnaire to be put for public consultation on the RSPG web-site
- ANNEX 1 to the 1st report from the chairman of the RSPG working
group on the secondary trading of rights to use radio spectrum
(RSPG04-28)**

Please find attached the above mentioned annex, produced under the responsibility of the subgroup and forwarded by the RSPG Secretariat to the RSPG participants.

Public consultation on *secondary trading of rights to use radio spectrum*

The use of spectrum has increased very rapidly in recent years. Radio-based equipment is in everyone's pocket, new applications are introduced by the minute and more and more information is transported over the airwaves, be that between your laptop and your mobile phone or from a satellite to your navigator. Vertical applications are being digitised throughout the radio spectrum. It is envisioned that the use of spectrum will continue to increase rapidly over the coming decade.

It has been suggested by some commentators that traditional methods of spectrum management are inadequate. According to them, the current regimes do not address the problem of shortage of spectrum, impede innovation, and are not agile enough to fully service the needs of current and future users of spectrum.

Some believe that one of the possible tools to achieve more flexible spectrum management is secondary trading of rights to use radio spectrum. Secondary trading may include: transfer of licences, leasing of licenses, transfer or lease of part of licenses, reconfiguration, change of use etc.

In the electronic communication framework directive (2002/21/EG) it is stated regarding secondary trading of rights to use radio spectrum that:

...

3. Member States may make provision for undertakings to transfer rights to use radio frequencies with other undertakings.

4. Member States shall ensure that an undertaking's intention to transfer rights to use radio frequencies is notified to the national regulatory authority responsible for spectrum assignment and that any transfer takes place in accordance with procedures laid down by the national regulatory authority and is made public. National regulatory authorities shall ensure that competition is not distorted as a result of any such transaction. Where radio frequency use has been harmonised through the application of Decision No 676/2002/EC (Radio Spectrum Decision) or other Community measures, any such transfer shall not result in change of use of that radio frequency.

Quote from the framework directive article 9 English version!

Currently initiatives are underway in a number of EU member states to implement article 9 of the framework directive. Implementation of license transfers as described in article 9 is however optional, and the directive does not specify in detail the regulatory framework to be used in implementing license transfers. This could lead to an uncoordinated implementation of the

¹http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Directive&an_doc=2002&nu_doc=21

directive throughout the EU. As has been described by Analysys² in their current work for the commission the implementation of the article ranges from no trading to full trading throughout the EU member states.

To investigate the level of interest in secondary trading of rights to use radio spectrum as a tool for more flexible spectrum management, the European Commission has issued a request for opinion³ to the Radio Spectrum Policy Group (RSPG). The main objective of the request is;

“...to ensure that the introduction of secondary trading in some or all Member States has a positive effect in the European Community, in particular for the EU internal market and for European competitiveness.”

In response to this, the RSPG has set up a working group on secondary trading to draft an RSPG opinion. One part of the work in formulating the RSPG opinion is to carry out this public consultation.

This questionnaire takes an overall EU wide perspective, thus the responses will be analysed and presented mainly from an EU perspective.

Please send your response electronically no later than xx to: NN, XX, YY, xx@yy.zz

All responses to this questionnaire will be made publicly available on the RSPG website.

Should you have any questions regarding the questionnaire or regarding the work performed by the RSPG work group please contact: NN, XX, YY, xx@yy.zz

1.1.

1.2. Your details

Name

Sector (Operator/Manufacturer/End-user/Other)

Organisation/Company

Title/Responsibility

Email

1.3. 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?

² Study commissioned by the European Commission entitled "Study on conditions and options in introducing secondary trading of radio spectrum in the European Community" (<http://www.analysys.com>)

³ Request by the European Commission to the Radio Spectrum Policy Group for an Opinion on Secondary Trading of Rights to use Radio Spectrum (RSPG03-13)

- 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?
- 3) What rights and associated obligations do you consider should be within the scope of secondary trading of rights to use radio spectrum?
- 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?
- 5) What information and electronic communication facilities should be made available to facilitate implementation of secondary trading of rights to use radio spectrum?

1.4. Scope of trading – change of use, reconfiguration

- 6) Is the possibility to reconfigure rights through the trading process important? If yes, what kinds of reconfiguration do you consider would benefit consumers, businesses and users of spectrum? (geography, frequency, time, change of use, change of technology, other)
- 7) To what extent is the tenure an important issue in assessing secondary trading? (indefinite, rolling, fixed, annual, other)
- 8) 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 8a above, please give examples

1.5. Competition aspects

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

1.6. The role of the spectrum management authority

- 10) What do you see as the main responsibilities for a spectrum management authority in regards to secondary trading of rights to use radio spectrum?
- 11) 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?
- 12) 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)
- 13) To what extent should the national spectrum management authority actively facilitate secondary trading of rights to use radio spectrum?

1.7. Community aspects

- 14) 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?
- 15) 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?
- 16) To what extent is European harmonisation of frequencies an important issue in regards to secondary trading of rights to use radio spectrum?

1.8. Related experiences and examples of secondary trading

- 17) What are your experiences with the current spectrum management regimes?
- 18) What are your experiences of secondary trading of rights to use radio spectrum?
- 19) Please describe specific scenarios in which you consider that the introduction of secondary trading of rights to use radio spectrum would be beneficial
- 20) Any other comments