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DG INFSO/B4

RSPG07-191 Final

REQUEST BY THE EUROPEAN COMMISSION
TO THE RADIO SPECTRUM POLICY GROUP
FOR AN OPINION
ON

STREAMLINING THE REGULATORY ENVIRONMENT FOR THE USE OF SPECTRUM

1. INTRODUCTION

In accordance with Article 4 of the Commission Decision establishing the Radio Spectrum Policy Group (RSPG Decision) and with Article 6 of the provisional Rules of Procedure of the RSPG (document RSPG03-12), the RSPG is hereby requested to develop and adopt an Opinion on “streamlining the environment for EU spectrum regulation”.

2. CONTEXT

Several EU regulations are addressing the availability and the efficient use of radio spectrum. Where it concerns the use for electronic communication services, the rights to use spectrum are granted on the basis of the set of directives on electronic communications networks and services, mainly the Framework Directive (2002/21/EC) and the Authorization Directive (2002/20/EC). The coordination of policy approaches with regard to the availability and efficient use of the radio spectrum is carried out through the process defined in the Radio Spectrum Decision (676/2002/EC). Furthermore, equipment regulation such as the R&TTE Directive (1999/5/EC) or the EMC Directive (2004/108/EC) have a direct impact on the efficient use of the spectrum since they regulate the requirements that products must meet in order to be placed on the market and be used. They harmonise, in particular, the requirements of products to efficiently use the radio spectrum and to avoid harmful interference.

The objective of these EU regulations is to foster free circulation and use of products and services throughout Europe while maximising the benefits from use of radio resources. The Radio Spectrum Decision allows technical implementing measures for the harmonisation of radio frequency allocation to be adopted by the Commission via legally-binding Decisions, on the basis of formal technical input by CEPT and agreement by EU Member States within the Radio Spectrum Committee (RSC). Furthermore, ETSI develops harmonised standards that give presumption of conformity with the requirements of the R&TTE Directive which are also contributing to the overall harmonisation process. Where manufacturers intend to market products in areas where no harmonised standards exist (yet) or where existing harmonised standards are not fully appropriate, there is an obligation for manufacturers to consult a notified body. Consequently there is a need to ensure a streamlined cooperation between the three instances involved in the harmonisation process (the EC, CEPT, ETSI and Notified Bodies).

3. THE ISSUE

Several debates on the designation and on the definition of harmonised conditions for the use of spectrum for important applications, e.g. RLAN or UWB, have shown that the interrelation between spectrum management decisions (as discussed in RSC) and harmonised standards covered by the R&TTE Directive is increasing. In several cases, the implementation of technical or regulatory solutions to facilitate the introduction of new applications using spectrum required parallel action on both the spectrum regulatory side pursuant to the Radio Spectrum Decision and on standards under the R&TTE Directive provisions. In such context, in order to support the relevant spectrum EU policies, CEPT and/or ETSI respectively generate relevant deliverables (CEPT reports; ETSI standards) further to EC mandates either to CEPT and ETSI or to one of those bodies. Discussions in these two key organisations of the European spectrum regulatory landscape involve a large number of stakeholders from administrations and industry.

There is also a need to ensure coherence between the parameters relevant for the avoidance of harmful interference which are related to equipment requirements in the harmonised standards under the R&TTE Directive (as part of the essential requirements) and those related to spectrum use in authorisation conditions (as listed in the annexes of the Authorization Directive, covering Electronic Communications Services). Double regulation is to be avoided and a clear understanding of what is regulated where is required.

Another debate relates to the importance of receiver parameters in ensuring an efficient spectrum management. Some of these receiver parameters determine the immunity of equipment against interference from other sources. These parameters are regulated under the R&TTE Directive, either as EMC immunity requirements or requirements to avoid harmful interference. Harmonised standards however do not always detail these into technical requirements, thereby leaving some ambiguities whether in case of harmful interference this is due to insufficient immunity or to emissions. ETSI is currently considering the issue. Therefore, adequate receiver immunity may become increasingly necessary to facilitate the introduction of new systems, to extend sharing opportunities and, eventually, to ensure efficient spectrum management.

The discussions on all these issues have highlighted the need to better define the boundaries and interrelations between spectrum management and equipment regulation without hindering technological innovation. In a regulatory context, where licence exempt use of spectrum will increase its footprint within the overall spectrum, misinterpretations on boundaries and interrelations could delay free circulation and use of radio products or introduction of innovative technologies within the EU in absence of common understanding and definition.

Finally, the WAPECS opinion also includes long term policy goals affecting constraints identified above, and is currently in the process of being gradually implemented. RSPG had decided earlier to revisit regularly any issues hindering the implementation of WAPECS. Therefore, this proposed activity may also be seen in the context of ensuring a proper follow-up of the WAPECS Opinion. The proposals being developed by the EC regarding the forthcoming regulatory framework review come into play as far as they touch upon implementing the WAPECS approach. At the same time, the R&TTE Directive will also undergo a review process starting in 2008. All these developments provide an opportunity to improve consistency between these EU regulations.

4. MAIN OBJECTIVES

The main objective of this Request for an RSPG Opinion is to obtain policy-level advice from the RSPG on operational streamlining and better coordination within the EU framework and between existing institutions in a context which would be "post" EU regulatory framework review and "pre" R&TTE directive review. Such an Opinion should assist the Commission in identifying solutions to ensure consistency between various regulations affecting spectrum and to improve the cooperation between bodies involved in spectrum policies, in order to facilitate making spectrum available for new applications and improve the efficient use of radio spectrum and the avoidance of harmful interference.

5. TASKS TO BE PERFORMED AND ISSUES TO BE ADDRESSED IN THE OPINION

In order to reach the main objectives mentioned under point 4 above and in line with 6 (2) of the RSPG provisional Rules of Procedure, the Members of the group are hereby invited to adopt an Opinion which would address the following elements:

- Investigate all EU regulations which have an impact on spectrum management, their respective scope and their decision mechanisms
- Investigate the overall cooperation process between the EC, CEPT, ETSI and Notified Bodies in achieving the overall objectives of spectrum regulations
- Identify any areas where the current decision mechanisms, problems with cooperation or legal inadequacies may have hindered the introduction of new innovative applications and any proposals for improvement

- Propose solutions to improve decision mechanisms, cooperation or legislation so as to ensure consistency between the parameters which are relevant for avoidance of harmful interference and relate to equipment requirements in the harmonised standards under the R&TTE Directive (as part of the essential requirements) and those applying to users of the spectrum use in authorisation conditions (as listed in the annexes of the Authorization Directive, covering Electronic Communications Services)

6. TIMING

- RSPG#14 (November 2007): formal acceptance of the request for an RSPG Opinion.
- RSPG#15 (February 2008): discussion on the proposed recommendations and possibly on a preliminary draft Opinion.
- RSPG#16 (June 2008) : adoption of Opinion.

7. ORGANISATION OF WORK

In accordance with Article 10 of the provisional Rules of Procedure of the RSPG, a working group is to be established.
