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RADIO SPECTRUM POLICY GROUP

Subject: Chairman's Report of RSPG#14, 22 November 2007

RSPG #14
Brussels, 22 November 2007

Summary

(1) Introduction to RSPG#14

Mr François Rancy, Directeur Général of the Agence Nationale des Fréquences, opened the meeting and noted the approval of the agenda¹.

Following the confirmation of **Mrs Marianne Treschow**, Director General of the Swedish National Post & Telecom Agency, as **new Chairperson of the RSPG** for a period of one year ending at RSPG#17 (November 2008), Mr Rancy handed over the chairmanship for the meeting to her.

The **Chairman** made the final call for candidacies for the open post of Vice-Chairman. **Mr Dániel Pataki**, President of Hungary's National Communications Authority (NCA), was elected by acclamation as **Vice-Chairman**. Following the “troika” system, Mr Pataki will become automatically the Chairman of the RSPG at the end of the one-year term of Mrs Treschow, and the outgoing Chairman, Mr Rancy, will serve as Vice-Chairman for an additional period of one year.

The outgoing Chairman, **Mr Rancy**, thanked the RSPG for the excellent collaboration spirit that prevailed during his time at the helm of RSPG, during which four opinions were adopted: on multimedia services, on the digital dividend, on scientific services and on the EU priorities for WRC-07. Mr Rancy called on the RSPG to continue addressing issues from the broader perspective. He also stressed the importance to continuously strive for improvements in the field of spectrum and to ensure that public interest is taken in consideration at all times. On this point, he added that it was not appropriate to use the terms "broadcasting spectrum", "defence spectrum", or "mobile spectrum", but only spectrum used for broadcasting, for defence, or for mobile services, and that these uses may change over time.

¹ Document RSPG06-183. This as well as all subsequently quoted RSGP documents are available at http://rspg.ec.europa.eu/meeting_documents/index_en.htm

The **Commission representative, Mr Bernd Langeheine**, Director for electronic communications policy, thanked Mr Rancy for his successful chairmanship of the RSPG and the solid work programme which has been prepared for the next phase of activity. Mr Langeheine also welcomed Mrs Treschow's accession to chairmanship, as well as the election of Mr Pataki as vice-chairman.

In her acceptance words, **Mrs Treschow** underlined that RSPG has made a significant footprint on EU spectrum reforms under the leadership of Mr Rancy and also under the previous Chairman, Mr Mathias Kurth, who was instrumental to bringing to a successful completion the opinions on flexibility (WAPECS) and mobile multimedia services (MMS).

Mr Pataki expressed his great satisfaction to become vice-chairman of the RSPG at a time where radio spectrum is high on the EU political agenda, and at the heart of the regulatory review. He also believed that his forthcoming chairmanship of the European Regulators Group (ERG) in 2008 would help strengthening the cooperation between the two groups.

(2) **Progress of work regarding a European approach to collective use of spectrum**

Progress reporting

The **Rapporteur** of the working group developing the draft Opinion, **Mr Chris Woolford** (Ofcom, UK), presented the **progress achieved to date**². During its first meeting in London on 19 October, the definition and scope of the Collective Use model were discussed in detail in order to clarify the terminology and to ensure a common understanding to facilitate the future development of the RSPG Opinion. Further work of the working group will touch upon issues such as the guiding principles for deciding to apply Collective Use, strategic relevance of the model as well as its technical and societal value, and the way the responsibility for interference coordination is dealt with. Mr Woolford also indicated that the working group was looking for more information on one particular aspect of the model which concerns the "light licensing" regime and called upon administrations to report their experience with this approach (agreed deadline: 12th January 2008). The next meeting of the group is scheduled on 22nd January 2008.

Discussion

The RSPG welcomed the first progress report. During the discussion, RSPG Members raised several issues that they considered as particularly important in the context of this Opinion, notably the relationship between Collective Use and "quality of service", the issue of the responsibility for the prevention of harmful interference, the co-existence of the Collective Use model with other models, for example in case of leasing or sub-leasing (private commons), the possible use of this model for civil protection applications, and the establishment of clear criteria that could be used to identify situations where the model is

² Document RSPG07-187

most appropriate. There were also comments about the EU dimension: some members welcoming some harmonisation in a field that they consider still highly fragmented and others preferring a fairly strategic opinion in order to preserve the need for flexibility at national level.

The RSPG considered the definition of CUS. After further explanation from the rapporteur the RSPG approved the proposal made by the working group.

The Commission representative referred to the technical study conducted in 2006 by a consortium of companies led by Mott MacDonald. Mr Langeheine reminded the Group that the Commission is more specifically interested in the EU dimension of the topic, namely a possible need for action at EU level, the technological and economic trends that could lead to a greater reliance on this model in the future and a better understanding of the place of the Collective Use model in the overall balance between the different spectrum management approaches.

Mrs Treschow thanked the Rapporteur and the participants in the working group for their valuable contributions and announced that the matter would be followed up at the next RSPG meeting.

(3) Presentation by the European Defence Agency (EDA) on spectrum use for defence at EU level

Presentation by the EDA representative

Mr Staicu, of the Capabilities directorate of EDA³, presented the role and organisation of EDA. The mission of EDA is to support the Council and the Member States in their effort to improve the EU's defence capabilities in the field of crisis management and to sustain the European Security and Defence Policy as it develops in the future. The work of the agency is driven by its "Long term Vision" titled "A secure Europe in a better world", a major piece of work achieved in 2006, and which sets out the key assumptions for the need for security and defence in Europe between now and 2020. In the field of radio spectrum, the agency's work is led by its project team Radio Spectrum. The precise tasks of the project team are still under finalisation with the members of EDA. A preliminary list include: co-ordination and input on spectrum to EDA projects; information exchange on EU military spectrum issues; input to Commission spectrum activities. Other possible tasks under consideration are: liaison with NATO and the co-ordination of EU military position in the run-up to WRC 2011.

³ Third party document available at http://rspg.ec.europa.eu/meeting_documents/index_en.htm

Discussion

The **RSPG** welcomed the presentation by EDA and the prospect of improving spectrum planning between civil and military uses. Several delegations requested clarifications regarding the respective roles of **EDA** and **NATO** in the field of spectrum coordination. In response, Mr Staicu made clear that EDA would seek to avoid duplication of activities by closely liaising with the NATO frequency management group, in the context that NATO was not an exclusively European organisation, nor were all EU Member States members of NATO.

The RSPG also enquired about the degree of advancement of the terms of reference and definition of tasks for the new EDA project team on radio spectrum. On this point, Mr Staicu informed the Group that progress was on track. The project team being established favoured the gradual development of a good collaboration on concrete issues within EDA and with external organisations.

The RSPG welcomed the demand from EDA to be involved in the preparation of the opinion on the use of spectrum by public sectors.

(4) Proposal for an RSPG Opinion on "best practices regarding the use of spectrum by some public sectors"

Background

The objective of the Opinion is to identify best practices to encourage a more efficient use of spectrum by public sector bodies, with a view to assist spectrum management authorities in Member States in ensuring that such public sector bodies fulfil their duties more effectively and that scarce radio frequencies are not under-utilised. In his introduction of the request for Opinion, the Commission representative, **Mr Langeheine**, stressed that the outcome of this Opinion would mainly be addressed to Member States, rather than to the Commission.

During an earlier discussion at RSPG#13, it was decided that the Opinion would concentrate on three public sectors, which would be examined within the existing institutional framework: **defence, emergency and public safety service and public transport.**

Discussion

Following an extensive discussion, the proposed text was amended to better specify that the expected Opinion should aim at an "exchange of best practices" within the existing institutional framework and with the current agreed scope. The proposed timetable was extended to take into account the expected workload associated to this Opinion.

Conclusion of the discussion within the Group and next step

On the basis of the agreed revised text, the **RSPG accepted the Request for Opinion**⁴. A working group under the chairmanship of **Mr Stelios Himonas** (Cyprus) will be set up to develop a draft Opinion for RSPG#18 (beginning of 2009). The first meeting of the working group is scheduled on 15 January 2008 in Cyprus. The Rapporteur is expected to present a proposal on how to deal with the request for Opinion at the next RSPG meeting.

(5) Debriefing of RSPG on WRC-07

Reporting on the outcome of the Conference

The **CPG Chairman, Mr Anders Frederich**, presented a preliminary assessment of the outcome of WRC-07. He pointed out that the results obtained by the European negotiators working together within CEPT were in line with the Council Conclusions on WRC-07. Some of the results which may be considered at first as "disappointing" should be seen in the context of the initial level of general support existing before the conference for each particular European Common Position (ECP). Mr Frederich concluded by expressing a positive opinion on the content of the agenda agreed for WRC-11, in particular the inclusion of an item regarding the issue of "spectrum flexibility". Further details can be found in the slides of the presentation⁵.

For the Commission services, **Mr Langeheine** presented preliminary comments on the results of WRC-07, pending a Commission Communication to Council and the European Parliament in early 2008. In general, results of WRC-07 were assessed as encouraging or even satisfactory for most of the conference items, but that on two important issues, HF spectrum and mobile (UHF and C band), the objectives expressed by the Commission in its Communication on WRC-07 had not been met. In particular on the latter, the mitigated results could, in the Commission's view, only be optimally exploited by continuing and even strengthening collaboration between Member States at the European Union level. The Commission representative pointed out that the agreed agenda for WRC-11 contained significant relationships with specific EU policies and regulation and would therefore require additional attention from the EU side.

Preliminary exchange of views on the results of WRC-07

Most delegations welcomed the results achieved for Europe by the CEPT coordination, recognising that compromises were unavoidable at such world conferences. The achieved opening of the upper part of the UHF band for mobile services was seen as an important step into a more flexible use of the digital dividend. On this topic, **the Commission representative** reiterated his concern, also expressed by two other delegations, that the

⁴ Document RSPG07-188

⁵ Document RSPG07-189

different requirements in footnotes could lead to a fragmented market for mobile services before 2015. In addition, concerns were expressed about the difficulties experienced with some non-EU CEPT countries during the negotiations. The chairmanship of WRC-07 by Mr Rancy was praised by the RSPG.

(6) **Launch of a new RSPG Opinion on "Streamlining the regulatory environment for the use of spectrum"**

The proposed request for an Opinion was presented by **Mr Eric Fournier, French spectrum agency (ANFR)**, who had prepared it in cooperation with Commission services. The main objective of this request for Opinion was to develop policy-level advice to the Commission to improve the operation of EU regulations affecting spectrum, notably the R&TTE Directive. Furthermore, the overall cooperation between bodies involved in spectrum management ought to be optimised, in order to facilitate making spectrum available for new applications while strengthening the EU single market.

Mr Fournier indicated that there was a narrow window of opportunity for this Opinion, i.e. between the presentation of the Commission's proposals to review the e-communications regulatory framework and while CEPT reforms were being discussed, as well as in time for the forthcoming revision of the R&TTE directive on the placing of equipment on the market.

The **request for Opinion was well received by the RSPG**. Among the few comments, it was felt that the Opinion should not only aim at strengthening the internal market but also at finding a balance between this objective and the objective of efficient use of spectrum. It was recognised that one of the main challenges in this initiative is to remain focussed and avoid an overly wide approach. The proper involvement of key institutions (in particular ETSI and CEPT) will also be a decisive success factor.

Mr Fournier was confirmed as Rapporteur for this activity and the request for Opinion was approved⁶ with a minor modification to reflect the importance of "maximising the benefit of the use of radio resources", in addition to supporting the "internal market". The Rapporteur is expected to set up a correspondence group and to present preliminary considerations about this request for Opinion at the next RSPG meeting.

(7) **Debriefing on the Commission's legislative proposals regarding the review of the regulatory framework for Electronic Communications Services**

Introduction

For the **Commission** services, **Mr Langeheine** presented the **spectrum-related** aspects of the new legislative proposals. He highlighted the fact that a number of the spectrum related

⁶ Document RSPG07-191

proposals **resulted directly from past RSPG recommendations** and noted that the first reactions from Member States seem to indicate a **good level of support for the spectrum elements** of the review package.

Discussion

Many issues were addressed during the exchanges of view, notably:

- On the role of the market-based approach to spectrum (trading), the Commission explained that the general proposals were based on principles which had been endorsed by the RSPG.
- Regarding the relationship between CEPT and the future European Electronic Communications Market Authority (EECMA), the Commission clarified that the Radio Spectrum Decision was outside the scope of the current review and that the involvement of the Authority in spectrum issues should be seen as encouraging the development of pan-European services, as well as assisting and facilitating the current mechanism set up under the RSD, within which CEPT would continue responding to Commission mandates.
- There were also questions about the future of the RSPG in relation to the advisory role of the Authority on spectrum. The Commission believed that there might be some overlapping functions but also some clear distinctions. In particular, the focus of the RSPG was clearly on policy advice, exemplified by the participation of ministry representatives who would not be on the board of the Authority. In any case, it was too early to speculate about the inter-relationship between the two bodies, and the RSPG itself should contribute to the definition of that relationship.
- In response to a question on whether the existence of individual mobile licences could be put into question by the general authorisation principle of the proposed regulatory framework, the Commission clarified that general authorisations should in the future be the rule, but that for many commercial services individual licensing would continue to be clearly justified, in order to avoid the risk of interference and guarantee quality of service.
- Regarding the need for pan-European coordination of authorisation and selection procedures, some RSPG members questioned whether there were sufficient pan-European applications to be coordinated. The Commission agreed that the number of cases requiring such pan-European coordination procedures may be limited, but that in these cases pan-European approaches are highly relevant (e.g. for satellite services with a broad geographical footprint). However, other pan-European services are likely to emerge as the single EU market for telecommunication services further develops in the future.
- Some delegations also indicated that the Commission's legislative proposals were broadly in line with the reforms they had engaged at national level, notably concerning technology and service neutrality. On these two principles, some RSPG members

hoped for greater spectrum flexibility to be introduced without increasing fragmentation of the internal market for services and equipment.

(8) Preparation of joint ERG/RSPG session in February 2008

The European Regulators Group (ERG) and the RSPG will hold a joint meeting on 27th February 2008, followed by an official dinner. In this context, **Mrs Treschow** outlined her proposal concerning the theme of the joint event: "**Broadband challenges in a converging environment**". Wireless is one of the most promising enablers to bridge the broadband gap and to address the digital divide, which is also an objective of the ERG and, in a broader context, an objective of the i2010 initiative and the Lisbon agenda. More generally, Mrs Treschow stressed that the ERG and RSPG often face similar challenges and issues. Therefore, the two Groups should get closer to each other in the future.

(9) Launch of a new RSPG Opinion on "Spectrum issues at EU outer borders"

Introduction

This request for Opinion was introduced by the **Commission representative, Mr Langeheine**. The purpose of the requested opinion was to explore how to use the tools and mechanisms available at EU level to assist individual Member States, or a sub-group of Member States, that need to coordinate spectrum issues with **non-EU countries** when implementing EU spectrum policy measures, in order to exploit the "political weight" of the European Union in such activities.

Member States supported this new activity but stressed the need to build on existing bilateral and multilateral procedures. The Opinion should be aimed at developing "best practices", and not at imposing any new formal mechanism or procedures.

Next step

The request for an Opinion was unanimously approved⁷, following two minor adaptations to the proposed text to include "acceding" countries in the scope of the opinion and to add a reference to the need to take into account international conventions and agreements.

Mr Díez de Frutos (Spain) accepted the role of Rapporteur for this activity. He is expected to set up a correspondent group and to present a proposal on how to deal with the request for Opinion at the next RSPG meeting.

(10) Report on Commission activities in radio spectrum policy

⁷ Document RSPG07-194

