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DG INFSO/B4

RSPG08-245

**PROGRESS REPORT OF THE RSPG WORKING GROUP
ON
STREAMLINING THE REGULATORY ENVIRONMENT FOR THE USE OF SPECTRUM**

1. INTRODUCTION

As agreed during RSPG#16, the working group met in July to review the draft Opinion presented at RSPG#16. After that meeting the RSPG agreed via written procedure to submit the document to a public consultation. The consultation took place between 29 July and 29 September 2008.

The results and the analysis of the public consultation are provided in section 2 and 3 respectively.

Following the public consultation the working group met on 13 and 14 October to review the draft Opinion taking into account the public consultation and further comments made by administrations and observers during the meeting. The Swedish administration indicated before the meeting their objection to the draft Opinion, their intention to refrain from participating in the next meetings of the group and that they will most likely oppose the adoption of the Opinion at the RSPG meeting.

2. RESULTS OF THE PUBLIC CONSULTATION

The purpose of the consultation was to seek the views from all interested parties on the strengths and weaknesses of the current regulatory process and on the various proposed recommendations contained in the draft Opinion.

A total of 15 responses were received from various organizations: ETSI, EICTA, EBU, GSMA Europe, SAP REG, 5 telecom operators, 1 equipment manufacturer, 1 public broadcaster, 1 consulting company and 2 administrations.

3. ANALYSIS OF THE RESPONSES

The responses were generally supportive of the proposed Opinion and of the list of recommendations.

Concerning the strengths and weaknesses of the current regulatory process, most respondents expressed the feeling that despite its complexity, the process involving EC, CEPT and ETSI in both equipment regulation and regulation of spectrum use was working quite well. However, they also agreed that this process could be improved in certain areas identified by the Opinion. One administration requested to strive for a more logical arrangement of EU legal instruments regarding spectrum use. A consulting company proposed a complete reform of the spectrum management based on the Australian experience. Several respondents stated that certainty in spectrum regulations and spectrum harmonisation, including at global level, should remain the key objectives.

There is a general agreement that the overlap of technical conditions contained in Commission Decisions and harmonised standards should be reduced, in particular to facilitate rapid evolutions of the sharing conditions, and that the technical conditions developed by CEPT should be transferred to the appropriate regulatory instrument in order to maintain confidence on the compliance with sharing conditions.

Some respondents have stated that regulating mitigation techniques which are necessary for the protection of other services is not in contradiction with the principle of technology neutrality.

The current respective roles of CEPT and ETSI in the definition of technical regulation were generally supported. It was emphasized by many respondents that CEPT/ECC, in good cooperation with ETSI, has been successful in the development of harmonised and timely European regulation and should continue to have the responsibility in defining the spectrum sharing conditions. The consistency of EC and ETSI deliverables with these conditions will remain the basis for the required certainty to market players. Many respondents supported the need to avoid finalizing Commission Decisions before the final response from CEPT is given to the respective Commission Mandates. Many respondents also supported the idea of making reference to ECC deliverables rather than detailing sharing conditions in Commission Decisions. The two responding administrations supported the idea to have detailed technical elements in harmonised standards rather than in Commission spectrum Decisions. One administration pointed out the need to avoid inconsistencies between the outcome of EC and ECC groups.

In addition, several other points relating to the proposed recommendations were raised:

- Warm support for ensuring that all stakeholders are part of the discussions on spectrum issues. Several respondents from industry asked for even more transparency and possibilities to influence the system through public consultation process, particularly with regard to the participation in the decision making at the EC level.
- Several respondents stressed that ex ante definition of technical regulations are necessary to ensure sharing and protection against interference which is the key element for maintaining confidence on long term.
- Agreement with the perception of “one-shot” nature of the Decisions on spectrum use and on the recommendation that it should be easier to review the rules for sharing taking into account the need for clear and long term conditions for market development.
- Two responding administrations questioned the difficulties expressed in the draft Opinion concerning the R&TTE safeguard clause and indicated, in relation with the recommendation on market surveillance, that they do not see the need for them to

review enforcement and market surveillance. However, several industry responses raises that a balanced approach is needed between ex ante and ex post regulation and that market surveillance should be enhanced as a main pillar of ex post regulation. It was also pointed out that such ex post measures do not replace ex ante regulation.

- There is a strong support, from the mobile operators' community, to have receiver parameters included in the harmonised standards. A few other responses supported the specification of receiver parameters but as part of product standards and others did not comment. In addition, broadcasters expressed concerns about the use of receiver characteristics which would not take into account the reality of the market where receivers may not comply with current standard.
- The importance of the RIG 2 model was emphasized together with the need to take into account recent development such as Block Edge Mask (BEM).
- The acknowledgment of the role of ITU, e.g. in connection with global harmonisation.

4. CONCLUSION

The draft Opinion was modified by the working group on the basis of the comments made during the public consultation and of the proposals made by administrations and observers during the meeting.

This working group supported presenting the draft Opinion to the RSPG for consideration for adoption.