



EUROPEAN COMMISSION
Information Society and Media Directorate-General
Electronic Communications Policy
RSPG Secretariat

Brussels, 9 December 2008
DG INFSO/B4/RSPG Secretariat

RSPG08-250 Final

PUBLIC DOCUMENT

RADIO SPECTRUM POLICY GROUP

Subject: Chairman's Report of RSPG#17, 19 November 2008

RSPG #17
Brussels, 19 November 2008

Summary

(1) Introduction to RSPG#17 and handover to the new RSPG chairman

Mrs Marianne Treschow, Director General of the Swedish National Post & Telecom Agency, opened the meeting and noted the approval of the agenda¹. She then handed over the chairmanship to **Mr Dániel Pataki**, President of Hungary's National Communications Authority following his confirmation as **new Chairman of the RSPG** for a period of one year ending at RSPG#20 (November 2009).

The new **Chairman** proceeded by making a final call for candidacies for the open post of Vice-Chairman. Consequently, **Mr Roberto Viola**, Secretary General of Agcom, Italy, was elected by acclamation as **Vice-Chairman**. Following the “troika” system, Mr Viola will become automatically the Chairman of the RSPG at the end of the one-year term of Mr Pataki, and the outgoing Chairman, Mrs Treschow, will serve as Vice-Chairman for an additional period of one year.

(2) Status of regulatory proposal regarding spectrum reforms

Introduction by the Commission

The **Commission representative, Mr Fabio Colasanti**, gave an overview of the current status of the regulatory review regarding spectrum issues.

Mr Colasanti indicated that the timetable was very tight due to the fact that the final adoption of the regulatory package must intervene before the European Parliament elections in June 2009. He informed the Group that, following the adoption of the Parliament's Opinion, the Commission has now adopted its amended proposal. It was anticipated that the Council would agree on a common position on 27 November.

Regarding spectrum issues, Mr Colasanti mentioned that informal contacts have confirmed that one of the MEPs' main concerns regarding spectrum reforms is to ensure that the Parliament will be more closely associated in the definition of future strategic orientations of EU spectrum policy. In this context, the Commission may be required to prepare, periodically, a high level strategic plan, or strategic agenda. In this case, the RSPG could be requested to provide its Opinion as an essential input. This new task would undoubtedly have an impact on the role of RSPG and would give the Group an increased visibility, especially with regards the Council and Parliament.

¹ Document RSPG08-238. This document, as well as all subsequently quoted RSGP documents, are available on the public RSPG web site at http://rspg.ec.europa.eu/meeting_documents/index_en.htm

Concerning the other spectrum reform proposals, Mr Colasanti was more reserved: most proposals regarding increased flexibility, many of which were based on past RSPG Opinions, do not have support from Member States. There is also little support for the possibility to take harmonisation decisions in the field of authorisations.

Mr Colasanti concluded that he expected negotiations to accelerate once the informal "trilogue" discussions begin, once the Council has adopted a position in first reading.

Reaction of the RSPG

The presentation was followed by a **brief discussion**. **Several delegations** expressed a more optimistic view about the likely outcome of the negotiations and expressed support for the current compromise by the French Presidency. **Mr Colasanti** still regretted that some Member States seem to defend positions in Council discussions which diverge somewhat from their past views in RSPG.

(3) **Outline of RSPG objectives for 2009 by the new Chairman**

The Chairman presented his proposal regarding the RSPG objectives for 2009.

Based on a systematic methodology to identify strategic issues at stake, Mr Pataki proposed to concentrate the RSPG's work on four topics: the **digital dividend**, **wireless broadband**, the **joint ERG/RSPG activity on spectrum and competition** and **increasing efficiency in public use of spectrum**.

Regarding the internal working of the RSPG itself, Mr Pataki expressed the ambition for the Group to become:

- more **visionary**, concentrating on the original role of policy making;
- more **visible**, and serve as a point of reference for all stakeholders in Europe;
- more **participative**, ensuring that plenary meetings constitute a genuine discussion platform.

The RSPG widely endorsed the proposed objectives and welcomed the strategic focus as well as the overall approach. The Group also welcomed improving external communication as it may contribute to a better understanding of the key issues, not only by the wider public, but also at political level where an increasing number of decisions are made.

(4) **Joint RSPG/ERG activity on "new competition challenges resulting from a more flexible management of spectrum"**

Presentation of the proposed activity

Mr Jonas Wessel, who had been appointed at the last meeting to develop, jointly with **Mr Ola Bergström** for ERG, the final draft mandate for this activity as well as to start the elaboration of the main work, presented the result of the preparation activity. He was assisted by a working group which already met twice. These are the main results of the preparation activity:

- The group recommended producing a **joint ERG/RSPG Report** as formal output instead of a formal RSPG Opinion. An Opinion would not be appropriate since this work is not aimed primarily at providing strategic advice to the Commission but rather about sharing information between Member States.
- The group defined the proposed scope of activities including mainly two topics: transitional issues during the introduction of more flexible regulations and the issue of dominant positions and spectrum hoarding. The group recommended to put on "hold" the two other issues initially identified (market definitions and information transparency) and to reassess them at a later stage.
- The group also produced a preliminary draft version of the ERG/RSPG report on "Transitional issues in relation to spectrum liberalisation"².

Approval by the RSPG

The proposals submitted by the working group were accepted by the RSPG and the Request for a Report was formally approved³.

During the debate leading to the approval of the work, the **Commission representative** re-stated that the Commission considers that issues regarding spectrum and competition should be dealt with under general competition law, unless it would be clearly demonstrated that there is a need for sector-based regulations in this field.

RSPG Members also discussed the merit and drawbacks of increased competition in relation to spectrum access.

Next steps:

The working group will present the first report (on transitional issues) for approval at RSPG#18 (11 February 2009) and the second report (on spectrum hoarding) at RSPG#19 (13 May 2009).

(5) European approach to collective use of spectrum

Presentation of the final draft Opinion in view of adoption

The Rapporteur for this RSPG opinion, **Mr Chris Woolford** (Ofcom, UK), presented an overview of the result of the public consultation which took place over the summer period⁴. According to Mr Woolford, one of the clear outcomes of the consultation is that it showed a difference of views between "non traditional" spectrum users, or newcomers in the wireless sector, which were generally supportive of the collective use approach and incumbent users, especially those with significant holdings of individual licenses, which tended to underline the risks associated with this management paradigm..

² This document is not published at this point in time because this is work in progress

³ Document RSPG08-242

⁴ Document RSPG08-243

Adoption of the Opinion

After incorporating a minor editorial change to the text, the **RSPG adopted the final Opinion by consensus**⁵.

The Group commended the Rapporteur for his efficient leadership and the high quality of the Opinion. The Commission representative, **Mr Colasanti**, indicated that this work will be an essential input to the **Commission Communication** on this subject planned for the first half of 2009.

(6) Best practices regarding the use of spectrum by some public sectors

Progress of the preparation of the RSPG Opinion

The **Rapporteur** of the working group developing the draft Opinion, **Mr Stelios Himonas** (Ministry of Communications and Works, Cyprus), presented the third progress report⁶.

Mr Himonas also sought for RSPG guidance on a specific issue, namely the relevance of addressing in this Opinion possible ways and means to reflect the opportunity cost of spectrum in public procurement strategies for radio equipment and infrastructures, in particular the adequacy of the proposed paragraph 6.19 of the draft Opinion.

Discussion

The third progress report was well received by the RSPG. The main points of the ensuing discussion are listed below:

- There is a need to clarify the possibility of co-existence of spectrum management models, especially between administrative and market-based paradigms;
- The impact of increased flexibility in spectrum use should be further analysed, especially when it increasingly leads to dissociate particular usages from specific bands. In this context, it is expected that the delineation between some public and private uses will be blurring in the future;
- The RSPG discussed briefly the influence of international organisations such as ITU in this policy debate on spectrum use by public sectors;
- On the issue raised by the Rapporteur regarding procurement decisions and opportunity cost of spectrum, several delegations acknowledged the fact that this aspect should be taken into consideration. The working group was invited to discuss this matter in further details to see if a consensus can be reached.

Overall, the RSPG clearly supported the current draft Opinion. The Rapporteur announced the next meeting of the working group on 15 January 2009 in Nicosia.

(7) Streamlining the regulatory environment for the harmonisation of spectrum

⁵ Final Opinion: document RSPG08-244 Final

⁶ Document RSPG08-241

Presentation of the final draft Opinion in view of adoption

The Rapporteur for this RSPG opinion, **Mr Eric Fournier** (ANFR, France), thanked the working group for having reached agreement to launch the public consultation on time in July and expressed satisfaction that the group had "ironed out" most divergences of views over time. Mr Fournier proceeded with a presentation of the result of the public consultation⁷ and of the content of the final Opinion.

Adoption of the Opinion

The RSPG thanked the Rapporteur for his personal contribution and for his ability to steer the group towards a successful result.

Two delegations took the floor to express some concerns regarding the final result of this Opinion. Both delegations – UK and Sweden - would have preferred an Opinion which would have included a more strategic perspective and more "forward-looking" recommendations. The same delegations also regretted that the Opinion may give the impression that the current equipment regulations under the R&TTE directive do not work so well, while they are in fact quite effective in their opinion. These delegations made it clear, however, that they were not opposing the adoption of the Opinion recognising that the Opinion was the result of a delicate compromise between delegations represented in the working group.

On this basis, the **RSPG adopted the final Opinion**⁸.

The **Commission Representative, Mr Ruprecht Niepold**, replacing Mr Colasanti for the afternoon session, stressed the merit of this working group in having conducted a good analysis of the current issues.

(8) Presentation by PSCE Forum (Forum for Public Safety Communication Europe) on spectrum requirements regarding Public Protection and Disaster relief (PPDR) applications

Presentation:

Messrs Manfred Blaha (PSCE third Vice-Chair, Ministry of Interior, Austria), **Jeppe Jepsen** (Chair "Spectrum Harmonisation Initiative in PSCE, Motorola) and **Eric Olivier** (Ministry of Interior, France), acting on behalf of PSCE Forum, presented the view of their constituency on the future need for spectrum for public safety and security in Europe.

The presentation⁹ was focused on the needs of the public safety and security sectors and was structured around three main domains: interoperability, special functional

⁷ Document RSPG08-245

⁸ Final Opinion: document RSPG08-246 Final

⁹ Slides of the presentation available on the public RSPG web site RSPG#17: Agenda item 8 - PPDR - Presentation by PSC Europe Forum

requirements and competition (multi vendor supply). The speakers explained that the sector needed dedicated networks on dedicated spectrum for mission-critical operations, in a context where new applications (streaming video, medical data, geographic images) require more bandwidth.

Discussion:

The **RSPG** welcomed the opportunity to be informed about this subject.

A few **Member States** commented that they were witnessing new initiatives being currently developed at national level but that those appeared to be still in a preliminary stage. Nonetheless, there was a wide recognition in the RSPG that there would be an interest in making an inventory of national developments in view of identifying any new generic need, especially those that could feature an emerging EU dimension.

Some delegations raised the fact that the presentation claimed upfront to reserve specific spectrum for specific uses without adequate reference to objective and complete justifications. For example, the presentation did not refer to the rationale why particular spectrum bands are preferred, and whether or not there are other ways to accommodate some of the presented needs (e.g. by the use of non exclusive spectrum and/or alternative bands).

It was also highlighted in the discussion that the choice of possible bands for specific uses always imply performing trade-offs between various economic and social interests, and these decisions have eventually to be made by governments, not users.

The **Chairman, Mr Pataki**, concluded that there is no support to launch an activity at this moment and that further substantive analysis will be required.

(9) Digital dividend

Introduction of the new study by the Commission

As an introduction to this topic, the **Commission** set out the political context of the study. In summary:

- In its resolution of September 2008 on the digital dividend, the European Parliament urged the Commission to conduct the required technical and socio-economic studies and to submit, as soon as the above-mentioned studies have been completed, a proposal to the European Parliament and the Council for better coordination measures at Community level on the use of the digital dividend;
- The Council also requested the Commission to provide feedback on studies and to report on the progress of the cooperation at EU level as well as on any further steps required;
- This Commission study is "atypical" because it goes far beyond the usual preparation of recommendations to the Commission services. It will include a significant "consensus building" activity involving all main stakeholders and Member States authorities.

Based on wide consultations, the study will perform the evaluation of the possible scenarios and approaches for an EU coordination of the dividend, and will provide the essential data to perform the required impact assessment.

The Commission's intention is to fully associate the RSPG to this activity, both by providing regular information to RSPG on the progress of the study, as well as by associating the RSPG to the reflection process on strategic issues.

Presentation by the Consultants in charge of the study

The consortium in charge of the study, represented by the firms Analysys Mason Limited, Dotecon and Hogan & Hartson, gave an overview of the main objectives and tasks of the study¹⁰.

The RSPG welcomed the Commission initiative to launch this study. There were however concerns expressed regarding the timing of this activity as coming too late. Some other RSPG members raised the risk that the Commission's initiative could have a delaying effect on existing plans in the Member States which are the most advanced in the process of re-allocating the released spectrum to new uses. In general, delegations stressed the importance to stick strictly to the announced timetable. Other delegations reminded the RSPG of the need to take due account of the former RSPG Opinion on the digital dividend¹¹ and to ensure that legacy situations are also properly considered in the development of any kind of common approach.

In turn, **the Chairman** welcomed the launch of the study and reiterated his expectation to be closely informed on the progress of work.

Presentation by Mr Rancy, President of ANFR, France, of the French case study with regard the refarming of a part of the dividend

Mr Rancy informed the Group about the decision of the French government to allocate the band 790-862 MHz to mobile services after 30 November 2011, as part of the French digital plan "France Numérique 2012". Mr Rancy's presentation¹² addressed mainly the share-out of the digital dividend between different categories of uses, in particular the extension of broadcasting service coverage, an increase in the number of national channels as well as in their image quality (HDTV), new capacity for mobile TV services, and finally access for mobile communications and wireless broadband access to bridge the digital divide. Mr Rancy also mentioned the main lessons learned from the ongoing frequency relocation plan regarding analogue TV transmitters. This relocation exercise was required to free frequency for the introduction of digital broadcasting during the transition period (simulcast). Mr Rancy finally referred to the potential use of the "white spaces" as an additional opportunity in the future.

¹⁰ Slides available on the public RSPG web site: RSPG#17 - agenda item 9 - 'Exploiting the digital dividend' – a European approach: overview of the study for the European Commission - Presentation by Consultants

¹¹ Document RSPG07-161 available on the RSPG web site at: rspg.ec.europa.eu/rspg_opinions/index_en.htm

¹² Slides available on the public RSPG web site: RSPG#17 - agenda item 9 - Decisions on the allocation of the digital dividend in France - Communication by Mr Rancy

(10) RSPG Work Programme 2009

Proposal by the Chairman

Following the earlier discussion on RSPG objectives and priorities for 2009, **the Chairman** called for comments on the draft work programme¹³ as submitted in advance to the meeting. **Mr Pataki** also called for candidacies to lead the various work programme items.

Discussion and next step

The proposed topics for the work programme were widely supported by the RSPG. There were some detailed comments mainly regarding the type of instruments to use as an output for some of the activities (opinion, report, position, etc.) and the ambitious timetable, in particular regarding activities where a public consultation is envisaged. It was therefore agreed to endorse the list of topics at the meeting but to allow more time to finalise the description of the work items, the timing and specification of output.

In order to finalise the work programme, **the Chairman** proposed to open a two-week period for submitting written comments (deadline: 28 November 2008) and to prepare a revised version of the work programme by the end of the year in cooperation with those who have expressed their interest in leading individual work programme items. This would allow the RSPG to formally approve the work programme through a written procedure well in advance of the next plenary meeting in February 2009.

The **RSPG delegations** who expressed interest in leading future work package were:

- **The UK** for the work item on spectrum for wireless broadband services;
- **Ireland** for the work item on the digital dividend;
- **France** for the coordination of EU spectrum interests and WRC-11;
- **Hungary** regarding methods for a more effective spectrum use;
- **The Netherlands** regarding the activity in relation to cognitive technologies.

The **Chairman** closed this agenda item by expressing his appreciation for the support of the RSPG on this topic.

(11) Report on Commission activities in radio spectrum policy

Report on Commission activities in radio spectrum policy

The Commission provided an overview of the relevant activities in radio spectrum policy since RSPG#16 in the form of a written report¹⁴. There was no verbal

¹³ This document will be published once it is finalised

¹⁴ Document RSPG08-234.

presentation of this report this time as the most relevant topics had already been addressed through other agenda points (review, digital dividend study, etc).

As part of this agenda point, **the Commission, Mr Pearse O'Donohue**, Head of Unit for spectrum policy, informed the RSPG that the Commission had just adopted the same day, 19 November, the **new proposal for an amended GSM Directive**¹⁵ allowing a more flexible use of the related spectrum, including by 3G technologies and other technologies in the future. The proposal now has to be approved by the Council and the European Parliament.

(12) Other matters

Following a proposal by the Chairman, the RSPG approved the list of documents eligible for public access and agreed to move the planned RSPG#20 meeting from 5 to **12 November 2009**.

The next RSPG meeting (RSPG#18) is scheduled to take place in Brussels on **Wednesday 11 February 2008**.

* * *

*

¹⁵ Text of the proposal available at http://ec.europa.eu/information_society/policy/radio_spectrum/docs/in_transit/gsm/gsm_proposal_en.pdf