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RADIO SPECTRUM POLICY GROUP

Subject: Chairman's Report of RSPG#20, 5 November 2009

RSPG #20
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Summary

(1) Introduction to RSPG#20 and handover to the new RSPG chairman

The Chairman of RSPG, **Mr Dániel Pataki**, opened the meeting and noted the approval of the agenda¹. He confirmed that there was one candidate for the post of Vice-Chairman. Consequently, **Mr. Mike Byrne** was elected by acclamation as **Vice-Chairman**, replacing the outgoing vice Mrs Marianne Treschow. Mr. Pataki then handed over the chair to **Mr Roberto Viola**, following his confirmation as the **new Chairman of the RSPG** for a period of one year ending at RSPG#23 (November 2010).

Following the “troika” system, the outgoing Chairman, Mr Pataki, will serve as Vice-Chairman for an additional period of one year, while Mr Byrne will become the Chairman of the RSPG at the end of the one-year term of Mr Viola.

(2) Status of spectrum reforms and link to the RSPG

The **Commission representative, Mr A. Peltomäkki**, firstly informed the RSPG of the compromise deal which had just been reached between Parliament and Council in conciliation procedure the day before RSPG#20, and which paves the way for the adoption of the revised regulatory framework by the end of November. Mr Peltomäkki then highlighted one element of the new regulatory framework which is particularly relevant for the RSPG, the introduction of a multi-annual spectrum policy programme (RSPP) to be approved by the European Parliament and Council. The RSPG will have to give an Opinion on this programme, starting with the first programme foreseen in 2010. In addition, the RSPG is expected to report orally or in writing upon specific request of the Commission, Parliament or Council. The enhanced role of the RSPG should already be reflected in the context of the spectrum summit due to take place at the Parliament in early 2010 (to be confirmed).

The announcement of the compromise deal and other information presented was welcomed by the **RSPG Chairman**. The Commission also gave some indications on the organisation of the future spectrum summit. Finally, the Commission indicated that it shall adopt, before the entry into force of the new Directives, an EC Decision modifying the decision establishing the RSPG, to reflect the new role of the Group.

The Chairman concluded that the main challenge for the RSPG for 2010 will be to meet the expectations regarding its enhanced function resulting from the new regulatory framework and acknowledged that this is a truly positive development and will have impact on the organisation of work of the RSPG.

¹ Document RSPG09-287. This document, as well as all subsequently quoted RSPG documents, are available on the public RSPG web site at http://rspg.ec.europa.eu/ref_doc/index_en.htm

(3) **Outline of RSPG objectives for 2010 and preliminary work programme**

The new Chairman, Mr Roberto Viola, presented his proposal for the draft RSPG work programme 2010. The overview concentrated on the key objectives and deliverables for each of the proposed items including the contribution of the RSPG to the multi-annual spectrum policy programme, the preparation of the EU participation in international negotiations, the follow-up on the digital dividend, competition aspects in spectrum assignment and usage, a possible activity regarding the future digitalisation of radio broadcasting, technology impact on spectrum management, and other less urgent issues and internal RSPG organisational matters.

The presentation was welcomed by the RSPG as well as by the Commission. The Group acknowledged the necessity to ensure quick progress on the preparation of RSPG's input regarding the spectrum policy programme as a first draft Opinion should already be discussed at RSPG#21 on 11 February in view of adoption shortly after this meeting.

The Group gave its approval in principle on the items in the proposed draft programme. However, the Chairman proposed to first amend the current draft to reflect the discussions held at this meeting and to circulate a **new draft for written comments**. The revised draft should be submitted to **public consultation** once all delegations will have had a chance to communicate possible written comments, i.e. within a few weeks. The work programme 2010 will be formally adopted at the first plenary meeting in 2010 (RSPG#21).

(4) **Digital dividend**

RSPG Opinion already adopted on 18 September 2009

The Rapporteur in charge of the activity, **Mr Mike Byrne** (ComReg, Ireland), recalled the main political objectives pursued by the adopted RSPG Opinion². He expressed his gratitude to the working group for having met all the challenging deadlines to ensure that the Opinion could be adopted on time. This Opinion was an essential input to the Commission's preparation of the proposal for a common EU approach, published at the end of October.

The adopted Opinion had already been made public at the time of the meeting.

Introduction to the Commission proposals for a common EU approach

The Commission, Mr Pearse O'Donohue, recalled the socio-economic context underlying the action of the Commission on the digital dividend. He also referred to the main outcome of the Commission study and to the fact that the Commission initiative was subject to an extensive impact assessment. Mr O'Donohue then presented the Recommendation and Communication³ adopted by the College on 28

² Document RSPG09-291

³ Respectively document RSPG09-293 and document RSPG09-292

October. Mr O'Donohue further informed the RSPG that, following the final delivery by the CEPT of all reports in response to the Commission mandate, a draft EC Decision on the technical harmonisation of the 800 MHz band had been communicated to the members of the Radio Spectrum Committee (RSC) in advance of the RSC meeting on 10-11 December with a view to obtaining a stable text in order to seek a regulatory opinion of the Committee by written procedure a few weeks later. The final adoption of this Decision by the Commission is foreseen in February or March 2010. The Commission hopes that the proposed measure will provide the necessary legal and technical certainty to allow equipment manufacturers to make the necessary investment decisions and to step up product development efforts. It should also allow the Member States that have announced plans for auction of the spectrum of the 800 MHz sub-band for systems other than broadcasting to proceed without delay.

The Commission's Communication and Recommendation will now be discussed with the Council, which plans to adopt Council Conclusions at the ministerial meeting (Telecom Council) on 18 December. The European Parliament will also debate the Commission's proposals in early 2010 in the context of the preparation of the radio spectrum policy programme.

The RSPG members welcomed the Commission's initiative with the notable exception of the possible difficulty that may exist in some cases to ensure analogue switch-off by the 1 January 2012. Several Member States in fact indicated that it could be costly, or counter-productive, to move forward existing switch-off plans by a few months, especially when those have been carefully planned a long time in advance. **Several delegations** also underlined the importance to address any remaining technical issues, in particular those related to interference that may be caused by future communications devices operating in the 800 MHz sub-band and affecting existing equipment such as television receivers and possibly cable modems. Some members expressed interest in sharing experience and early test results in this field. One Member State indicated the difficulty to free the 800 MHz sub-band due to its current use by military services.

The Commission acknowledged the issues raised by some delegations. On the issue of interference to existing services, the Commission recognised that the problem was brought to light quite late in the process of preparation of the technical basis by the CEPT and has now to be addressed with all due care. Mr O'Donohue however expressed the opinion that, if properly addressed, these potential technical issues and their consequences could not reach a level of magnitude which would put the main EU approach into question. It is therefore important to concentrate on identifying solutions in a constructive spirit.

(5) **Coordination of EU spectrum interests**

Adoption of the two Opinions

The Rapporteur for this activity, **Mr François Rancy**, (ANFR, France) presented the status of work⁴ and the two draft RSPG Opinions which were submitted for adoption⁵. The first Opinion analyses the preparatory and negotiations coordination process of previous ITU World Radio Conferences, and make suggestions for future improvements. The second Opinion identifies the main themes of the WRC-12 agenda where EU policies and priorities could be at stake. The Rapporteur raised one open issue that had not been possible to resolve in the working group. It concerned the sixth "recommend" of the draft Opinion on the preparation of ITU World Conferences [RSPG09-294]. The text illustrating the point, referring to the objective of flexibility in the use and allocation of spectrum, was raised by one Member State (Luxembourg), which questioned the direct link between the aim of achieving more flexibility and the need for more harmonisation.

While Luxembourg expressed its general support for harmonization and flexibility in use of spectrum, they highlighted that flexibility cannot be an objective *per se* as any decision on additional flexibility should rely on favorable compatibility studies. In particular, as Agenda Point 1.2 of the WRC2012 addresses studies on flexibility, RSPG should not preempt on this point, before those studies are concluded. Furthermore, the draft work programme 2010 of RSPG contains a reference to flexibility and the results of this work should also be considered before going for a too general approach in flexibility.

A new wording for the sixth "recommend" [RSPG09-294] was agreed by the meeting. However, two delegations (Sweden and the UK) indicated that, while not opposing the adoption of the Opinion on the preparation of ITU World Conferences, they would have preferred to keep the wording as proposed in the initial draft Opinion and Luxembourg remarked that it understands that the wording "where possible" also relates to technical feasibility studies.

The two Opinions were then welcomed by **the RSPG** and were considered as a solid basis for the preparation of the next step which, according to the draft work programme should be a new Opinion in 2010 including more detailed recommendations on EU priorities for WRC-12.

Conclusion by the Chairman:

The Chairman noted the adoption of the two Opinions, highlighting, on the point that raised concern, that more flexibility should be supported in ensuring compatibility in the same and adjacent bands, and thanked Mr Rancy and Mr Fournier as well as the other participants in the working group.

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

⁴ Document RSPG09-296

⁵ Documents RSPG09-294 and RSPG09-295

Progress report

Mr Davide Gallino (AGCOM, Italy), Rapporteur for the third report in the year of this working group, dealing with the effect of wireless solutions on the definition of markets, gave a detailed status of the progress of work⁶. Contrary to initial plans, the third report could not be finalised by the working group. Mr Gallino described the two main issues which have slowed down the work of the group:

- The issue of complementarities and substitution effect between wired and wireless services and consequences on the definition of market: the working group could not yet agree on important aspects, in particular the extent to which mobile services can effectively replace fixed access services. The working group also had difficulties to agree on the relevance of a new concept of spectrum markets;
- The issue of the long term effect that can be played by secondary spectrum markets on the competition landscape, as well as their potential impact on fixed costs of mobile operators.

The RSPG recognised the particular difficulty of dealing with this sensitive topic while underlining the increasing importance of addressing competition issues arising from spectrum holdings. The working group was praised for helping bringing those important issues to light. Several delegations expressed the need to define more clearly the directions that should be taken by the activity, also in order to assist the working group in progressing with this matter.

Next step

The third report should be finalised before the next plenary meeting in view of a possible adoption at RSPG#21 (11 February 2010).

(7) **Assignment and pricing methods for more effective spectrum usage**

Adoption of the report

The Rapporteur for this work stream, **Mr Márton Ilyés** (NHH, Hungary), presented the proposed Report for adoption⁷.

The Report was accepted by the meeting.

The Commission representative appreciated the value of the work accomplished and mentioned the importance of understanding the implication of assignment methods on competition and the internal market. He also recalled that the current, as well as the soon to be adopted, regulatory framework includes important binding aspects for Member States which should also be taken into consideration when using the report. **RSPG members** were supportive of continuing the work in some form in the future due to the growing importance of competition considerations in spectrum management. Several delegations appreciated the value of the annex which is an

⁶ Document RSPG09-297

⁷ Document RSPG09-298

extensive data base of assignment information becoming available for the first time on a European level. There was a suggestion to exploit the information by performing a comparison between assignment methods and competition data in related downstream markets in an effort to progress the understanding of the impact of spectrum management on electronic communications services markets, possibly in the context of the joint ERG/RSPG working group.

Next step

Reflecting comments from a few RSPG members, **the Chairman, in agreement with the Rapporteur**, proposed to give some time to delegations to verify the data of the annex concerning their respective national data, and to make any necessary corrections before final publication. As a result, the report will only be made public in a few weeks, after these last verifications. The Chairman also asked the Rapporteur to extend the 2010 work programme to the new area that was identified.

(8) Cognitive radio

Approval of the draft report in view of launching a call for public input

The Rapporteur for this work stream, **Mr Fokko Bos** (Ministry of Economic Affairs, The Netherlands) gave a detailed overview of the various topics addressed in the proposed report⁸. Among the areas that were highlighted by Mr. Bos was the liability of providers of software to be used in "Software Defined Radio" systems. He indicated that there is a need to perform further studies and investigations to be able to anticipate any need for regulatory action in the case regulation itself would become an impediment to future innovation and investments in this field. Mr Bos also reported that the working group had suggested seeking for input from stakeholders and the larger public on the proposed report as a way to validate, and possibly complement, the information already available in the draft report.

Next step

The RSPG approved the draft Report and agreed with the Rapporteur's request to proceed with a **public call for input** lasting until the **end of December**⁹. **The RSPG Chairman** concluded that the report, possibly amended to reflect submissions received during the call for input, should be adopted at the next RSPG meeting in February 2010.

⁸ Document RSPG09-299

⁹ Information about the call for input available at: http://rspg.ec.europa.eu/consultations/index_en.htm

(9) Other policy matters

Report on Commission activities in radio spectrum policy

This information was made available to the RSPG in the form of a written report¹⁰.

Presentation by Dr R. Hahn (BNetzA, Germany) on the German experience regarding the award of spectrum in the bands 800 MHz / 1.8 GHz / 2 GHz / 2.6 GHz

At BNetzA's request, **Dr Rudiger Hahn** presented an overview of the current plans in Germany to auction spectrum in the digital dividend and other spectrum bands as part of the economic stimulus package II and of the federal government's broadband strategy (addressing the issue that approximately 2.5 million households in Germany have no internet access with a minimum of 1 MBit/s). The overall objective is to reach a broadband coverage of 90% of the population by 2016.

In 2010, the Federal Network Agency will open up the possibility of access to radio frequencies for wireless network access under 1 GHz on a service neutral basis by assigning available spectrum in the band 800 MHz (Decision BK1 a-09/002). This award procedure will be combined with spectrum award already initiated in the bands 1.8 GHz, 2 GHz and 2.6 GHz for wireless network access for the provision of electronic communications services.

The RSPG Chairman thanked Dr Hahn on behalf of the RSPG for sharing this valuable information which should be useful for the preparation of similar awards in other Member States.

(10) Organisational matters

Following a proposal by the Chairman, the **RSPG approved the list of documents** eligible for **public access**.

The Chairman informed the RSPG that a **press release** was to be issued at the end of the meeting and summarised the key messages that he was planning to convey at **RSPG debriefing sessions**, with the press and with stakeholders.

The Chairman announced the outcome of the first appointments of Rapporteurs for the various activities of the work programme 2010:

- Radio Spectrum Policy Programme: **Mr D. Pataki** (HHU, Hungary);
- Digital Dividend roadmap: **Mr M. Byrne** (Comreg, Ireland);
- Spectrum impact on competition aspects: **Mr C. Woolford** (Ofcom, UK) and **Mr D. Gallino** (AGCOM, Italy) in a joint chairmanship;
- EU interests in international conferences (WRC-12): **Mr E. Fournier** (ANFR, France);

¹⁰ Document RSPG09-300

– Cognitive radio and follow-up: **Mr. F. Bos** (Ministry of Economy, The Netherlands).

The chairmen / rapporteurs of working groups for the remaining work stream (Radio Broadcasting) will be announced shortly, following additional contacts with delegations.

The **next RSPG meeting** (RSPG#21) is scheduled to take place in Brussels on **Thursday 11 February 2010**.

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