



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

Brussels, 17 February 2010
DG INFSO/B4/RSPG Secretariat

RSPG10-318 Final

PUBLIC DOCUMENT

RADIO SPECTRUM POLICY GROUP

Subject: Chairman's Report of RSPG#21, 11 February 2010

RSPG #21
Brussels, 11 February 2010

(1) Introduction to RSPG#21

The Chairman of RSPG, **Mr Roberto Viola (Agcom, Italy)**, opened the meeting and noted the approval of the agenda¹. He further referred to the recent decision of Mr Dániel Pataki to step down from his position of President of Hungary's National Communications Authority and consequently from his position of vice-chairman and member of RSPG. Mr Viola thanked Mr Pataki for his significant contribution to the work and steering of the RSPG, and described his departure as a great loss for the Group.

(2) Cognitive radio

Approval of the final report

Mr Peter Anker (Ministry of Economic Affairs, Netherlands) reported on the progress of activity regarding this work stream in absence of the Rapporteur, Mr Fokko Bos. He gave an overview of the issues raised by stakeholders in the context of the public consultation that closed on 28 December. He indicated how the comments have been taken into account in the finalisation of the text. On behalf of the working group, Mr Anker expressed appreciation to all those who contributed to the public consultation.

The **Commission representative, Mr A. Peltomäki**, followed by several delegations, raised the need for a follow-up to this work, in particular developing an Opinion with possible recommendations on regulatory issues that should be considered in an EU-wide context.

The Chairman concluded that the type of follow-up to this work should be further discussed and agreed in the context of the discussion on the Work Programme 2010.

The Report² was then formally approved.

(3) Radio Spectrum Policy Programme (RSPP)

Organisation of work

The Chairman presented the proposed re-organisation of the work following the departure of Mr Pataki, who had initially been attributed responsibility for this activity. **Mr Viola** proposed that the activity be now under the direct responsibility of the Chairman in cooperation with the **vice-chairman, Mr Mike Byrne**. At the same time,

¹ Document RSPG10-303. This document, as well as all subsequently quoted RSGP documents, are available on the public RSPG web site at http://rspg.ec.europa.eu/ref_doc/index_en.htm

² Document RSPG10-306

Mr Laszlo Toth, Hungarian National Communications Authority, will continue to lead the operational activities of the working group as Rapporteur and report to the chairman. The proposed organisation was unanimously approved by the RSPG.

Discussion of the time table

The Chairman presented two options regarding the planned schedule of deliverables³, indicating a preference for the option that would allow for a full-fledged public consultation to take place in due time and to include the outcome of the spectrum summit on 22-23 March. Mr Viola stressed that such consultation is also important to increase the transparency and accountability of the RSPG vis-à-vis all stakeholders, as in particular asked by many during the consultation on the RSPG work programme. **The Commission representative** indicated that, in order to meet the ambitious objective of having the Commission proposal for the RSPP adopted by the College in late June, it is imperative that a stable draft RSPG Opinion be already available by mid April, followed by final adoption by the RSPG by late May at the latest.

The RSPG agreed to the option recommended by the Chairman. The Commission accepted the proposal but stressed the importance to stick to the agreed timetable.

Status of the development of the RSPG Opinion in preparation of the RSPP

Mr Toth presented a preliminary set of items for consideration in the RSPG Opinion⁴ discussed in the first meeting of the Working Group on the 8 February, based on three main pillars:

- contribution to the EU's 2020 vision, i.e. in the context of the digital agenda;
- spectrum governance;
- external relations.

The proposal for the substance and structure of the RSPG Opinion was commented by the Group and the high level priorities were agreed. Several RSPG members however stressed that this is only the beginning of the reflection and substantial work will be needed to translate the principles into more concrete policy recommendations.

Next steps:

The Chairman welcomed the positive reaction of the Group to the preliminary proposals. He invited delegations to ensure proper participation in the working work as it will be the essential to come quickly to a high level on consensus due to the relatively short time frame available. **Mr Toth** confirmed that the next meeting of the working group will take place on 22 February 2010. **The RSPG** finally agreed in principle to hold an extraordinary plenary meeting on the afternoon of 23 March (following the closure of the spectrum summit at noon time) in order to discuss the outcome of the summit and progress on the RSPG Opinion due by mid April. This time plan would allow to launch the public consultation tentatively by around end of March.

³ Presentation at the briefing session following RSPG21 by Mr Roberto Viola, Chairman of RSPG, slide 4

⁴ Presentation at the briefing session following RSPG21 by Mr Roberto Viola, Chairman of RSPG, slide 5

(4) Follow-up on the digital dividend

The Rapporteur in charge of the activity, **Mr Mike Byrne**, reported on the progress of activities and more specifically on the outcome of the first follow-up meeting of the working group which took place on 27 January 2010. He first expressed satisfaction for the strong interest in participation in the working group. Mr Byrne started by explaining the scope of work and the main priority identified by the working group. Regarding the scope, the working group came to the conclusion that it was necessary to broaden the field of investigations beyond the mere 800 MHz band (for recall, the previous RSPG Opinion was focused on the 790-862 MHz sub-band). The working group also identified one theme/objective as an overarching priority, namely how to further improve spectrum efficiency and the utilisation in frequency bands relevant to the digital dividend. Mr Byrne explained that the achievement of an efficient use of digital dividend spectrum across Europe should not be based only on market forces. Therefore, it may require appropriate incentives in place, and a better communications of the associated costs and benefits. The working group also proposed to include the examination of improvement of cross-border frequency coordination in the scope of the work, and to address them from a generic perspective as far as possible in order to facilitate a common EU approach.

Concerning the format of deliverables, **Mr Byrne**, recommended producing a set of Position Papers rather than a single Opinion, reflecting the evolving nature of the interim recommendations under development. An initial Position Paper could be produced by June addressing the first work area (namely potential efficiency improvement in broadcasting networks). The other potential work areas (such as the use of cognitive radio in the white spaces and PMSEs, considerations for future efficiency incentive mechanisms, as well as those arising from the Multi Annual Spectrum Programme) could be dealt with by November in one or more specific Position Papers. Mr Byrne stated that he will ensure to avoid duplication of work with other fora such as the CEPT, and that he will also look at proper coordination with the work on the RSPP in which the Digital Dividend is expected to be an important element.

The meeting agreed on the overall proposal. It was recognised that the proposed agenda does include all relevant matters at this point in time and that it will be important to concentrate on the key strategic aspects. **Several RSPG members** stressed the view that any proposed actions regarding the issue of the efficiency of broadcasting networks should remain at the level of guidelines and best practice, and not be imposed indiscriminately on all Member States as situations vary widely between regions. There were also some questions about the nature of the deliverables (Position Papers instead of Opinions or Reports). ETSI requested that the reference to the use of "better standards" be clarified in further work when it is used in the context of "more efficient transmission". **The Rapporteur** will reflect about the comments made at the meeting and provide further feedback in due time.

The next meetings of the working groups are scheduled on **25 March** and **19 May**.

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

Progress report regarding the third Report

Mr Mauro Martino (AGCOM, Italy), standing in for the **Rapporteur Mr Davide Gallino**, gave an overview of the status of the third report on the effect of wireless solutions on the definition of markets. Mr Martino explained that, despite a last fruitful meeting in January, there are still some controversial issues regarding specific aspects of the Report, such as the "substitutability" between fixed and wireless services as well as on the potential concept of wholesale spectrum markets. The same concerns were raised in discussions in ERG/BEREC. The working group intends to proceed by trying to reach consensus at a forthcoming meeting scheduled for the 10 March.

Several RSPG members, while praising the efforts to address this topic in a forward-looking manner, echoed the recurrent concerns about the relevance of some of the concepts being studied in the context of this third report. The RSPG also discussed the fact that any information resulting from this work must reach a high level of consensus, and be sufficiently assessed..

The Chairman proposed to postpone any decision regarding the finalisation of the third report until after the outcome of the next meeting of the working group. He indicated that he would then try to consult electronically with the RSPG members when the report is mature for approval. He also asked the delegations to ensure that their participants in the working group are effectively able to represent properly the views of both the **spectrum authorities** and the **competition authorities**.

Further joint ERG-RSPG activities in 2010

The second appointed **Co-Rapporteur Mr Chris Woolford** (Ofcom, UK), presented his proposal for the next phase of the joint ERG/RSPG work on competition issues, in line with the requirements of the draft 2010 Work Programme. Details about this proposal are available in an "orientation" document⁵. Mr Woolford emphasised that, among the proposed topics, two main work areas have been identified as a priority:

- the issue of competition arising from the opening of the digital dividend which has prompted in some Member States a so-called re-farming of spectrum among existing right holders, and the expected introduction of "spectrum caps" in future auctions in order to maintain a functioning competitive situation;
- the issue of "spectrum sharing" as potential means to improve spectrum access in the future.

The Rapporteur noted that the proposed work in relation to re-farming issues should exclusively consist in "information sharing" and study of "best practices". It should not be meant to become normative. Mr Woolford further proposed that, in view of the additional work required on the previous Report, the initial timing of delivery on the proposed activities be postponed from November 2010 to February 2011 (RSPG#24).

⁵ Document RSPG10-310

The continued cooperation with the ERG/BEREC on competition issues was recognised as **important** by the **RSPG** and the **proposal by Mr Woolford** was widely **supported**. **The Commission** also warmly welcomed the proposed work plan.

The Chairman finally noted that, at the request of a RSPG member, supported by the Group, the proposal will be slightly amended to include the 2 GHz band in the list of bands under review regarding the re-farming topic.

(6) Ad hoc intervention regarding the need for spectrum engineers in the run up to, and during, the 2012 Olympics

Mr Woolford (Ofcom) addressed the RSPG on a specific issue relating to the anticipated lack of spectrum engineers for the preparation and operations of the 2012 Olympics. Mr Woolford suggested that other national spectrum authorities could assist Ofcom by making engineers available on a voluntary basis for short periods of time before and during the Olympics. He announced that Ofcom is working on a proposal for the practical conditions applicable for such secondment of staff (including financial compensation) and will approach national authorities shortly. To explain the broader context of the request, **Mr Peter Bury**, Ofcom's Director of Olympics Spectrum Planning, made a presentation of the background and key aspects to be taken into account⁶.

The RSPG supported the principle of such cooperation. **The Chairman** said he was looking forward to this proposal to materialise as it is also a unique opportunity for engineers to acquire practical experience in coping with extremely demanding spectrum requirements in a real-live situation.

(7) New Rules of Procedure

The Chairman introduced the agenda item by reminding the RSPG that the current draft proposal is "work in progress". Although it has been prepared in full cooperation with the Commission's spectrum policy unit, it has not yet been scrutinised by all required Commission services, in particular, the Commission's legal service. The current draft text should therefore be an opportunity for the RSPG to give early views and comments before the Commission's own internal review begins.

At the Chairman's request, **Mr Pearse O' Donohue**, head of the EU spectrum policy unit, gave an overview of the main elements of the proposed rules. Mr O' Donohue further explained that the current draft rules of procedure were developed on the basis of a new Commission's template for the rules governing similar advisory bodies while trying to ensure as much as possible continuity with the existing rules used by the RSPG since its inception.

The Group discussed several elements of the draft Rules of Procedure.

⁶ Slides of presentation of Mr Dury available on the RSPG web side, next to the meeting documents RSPG#21

Having obtained agreement of the Group to proceed on the basis of the current draft text, **the Chairman** requested specific approval on the issue of the proposed extension of the duration of the mandate of the Chairman from 1 to 2 years, without retroactive effect (i.e. starting from the next elections in November 2010). It is proposed that this extension be accompanied by a provision still allowing the possibility to reduce the duration of the mandate to one year on a case by case basis, if approved by a majority of members. **The RSPG agreed also to this point.**

During the **interim period** preceding the formal adoption of the new rules, **the Chairman** suggested to apply the voting rules foreseen in the draft document every time there would be no unanimity. This proposal was accepted by the Group. Mr Viola concluded by asking the Commission to proceed speedily with the internal process in view, if possible, to have finalised rules available by the time of the adoption of the RSPG Opinion on the RSPP in May. The Chairman will consider a written adoption of the Rules if feasible.

(8) Adoption of the RSPG Work Programme 2010

Result of the public consultation

The Chairman reported on the results of the public consultation which took place from 21 December 2009 until 21 January 2010⁷. Responses can be found on the public RSPG web site at: http://rspg.ec.europa.eu/consultations/index_en.htm. A majority of responses were addressing specific work areas with variable levels of detail. Therefore, these specific input were transmitted to the relevant working groups for due consideration in their particular contexts. The Chairman and the Rapporteurs welcomed these input and committed to take due account of those in their work and thanked the participants for their valuable contributions.

Adoption of the Work Programme

Two aspects of a more general nature, related respectively to the follow-up of the work on cognitive radio technologies and to the time line for the work on the RSPP, required two limited amendments to the draft work programme. Regarding cognitive radio technologies, the Group confirmed its earlier position and decided to proceed with the preparation of an RSPG Opinion addressing potential regulatory issues. The Rapporteur was tasked to propose a timetable to prepare such an Opinion as a follow-up to the Report which was just adopted at this meeting. A small modification regarding the summary of responses to the consultation was also agreed. As noted in the discussion on the RSPP, an amendment was also introduced to take account of the decision to allow a public consultation, as requested by many respondents. **The Work Programme 2010 was then adopted by the RSPG** and the final text is available on the RSPG web site⁸.

⁷ Document RSPG10-313.

⁸ Document RSPG10- 314

(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 report⁹.

Proposed work on the future of Radio Broadcasting

Mr Jonas Wessel (PTS, Sweden) presented an overall proposal for undertaking the work on the future of radio broadcasting¹⁰, as planned in the RSPG Work Programme 2010. Mr Wessel indicated that, in his opinion, the work should be broad (possibly from UHF to L-band and possibly beyond) and embrace both analogue and digital evolutions (digitalisation being seen as one of the issues but not the only one). His proposed approach would be to conduct a fact finding exercise and to produce an RSPG Report to be made public. The Report should then allow to determine if more specific action is required. Mr Wessel described the area as very interesting but difficult because of its multi-disciplinary dimension and its potentially politically-sensitive nature as it touches upon broadcasting delivery and hence to audiovisual policies. Mr Wessel committed to liaise broadly in order to get the views of all interested parties.

ETSI volunteered to provide technical information on the existing standards.

Mr Wessel informed the Group that would give responsibility to conduct the activities of the working group to his colleague **Mr. Magnus Falk** (also PTS) as **Rapporteur**. Mr Wessel would however continue to follow closely the preparation of the Report.

The RSPG agreed with the proposal.

(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 intending to convey at **stakeholders briefing sessions** following the plenary meeting.

The Commission informed the Group that the final draft proposal for the EC Decision on the 800 MHz band was about to be communicated to Member States informally in view of preparing the official transmission in due time for the next RSC meeting on 17 March.

The CEPT Representative, Mr T. Ewers, informed the RSPG members that a joint **public EC-ECC workshop on the preparation of WRC-12** was scheduled on **10 June 2010**. Mr Ewers thanked the Commission for the opportunity to jointly hold this consultation of stakeholders. He also expressed the view that the timing was adequate in order to meet the deadlines imposed by the ITU preparation process (and preparation of Common European Positions in Conference Preparatory Group in autumn 2010).

⁹ Document RSPG10-317

¹⁰ Document RSPG10-316

The **next RSPG meeting** (RSPG#21) is scheduled to take place in Brussels on **Wednesday 9 June 2010**. An additional (extraordinary) plenary meeting is also tentatively scheduled for **23 March 2010 (PM)** to make progress on the preparation of the RSPG Opinion on the RSPP immediately after the spectrum summit.

* *

*