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Electronic Communications Policy

Radio Spectrum Policy Group

RSPG Secretariat

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DG INFSO/B4/RSPG Secretariat

RADIO SPECTRUM POLICY GROUP

**Subject: Rules of Procedure for the Radio Spectrum Policy Group
(as amended on 16 November 2011)**

RULES OF PROCEDURE FOR
THE RADIO SPECTRUM POLICY GROUP

THE RADIO SPECTRUM POLICY GROUP,

Having regard to Decision 2002/622/EC of the Commission of 26 July 2002¹ establishing the Radio Spectrum Policy Group as amended by Decision 2009/978/EC² of the Commission, (hereinafter ‘RSPG Decision’) and in particular Article 4 thereof,

Considering the amendments adopted at the 26th Plenary meeting of the RSPG held on 16 November 2011,

HAS DRAWN UP ITS RULES OF PROCEDURE:

Article 1

Convening a Meeting

1. The Commission shall convene the meetings of the Radio Spectrum Policy Group (hereinafter ‘the Group’) through the secretariat in agreement with the Chairperson. The Chairperson or a majority of the members of the Group may ask the Commission to convene a meeting.
2. Meetings shall in principle take place on Commission premises.
3. Joint meetings of the Group with other groups or entities may be convened to discuss matters falling within their respective areas of responsibility.

Article 2

Agenda

1. The secretariat shall draw up the agenda under the responsibility of the Chair and send it to the members of the Group.

¹ OJ L 198 of 27.7.2002, p. 49.

² OJ L 336 of 18.12.2009, p.50.

2. The Group shall adopt its agenda at the start of each meeting. Upon request from a member, including the Commission, the Chairperson may decide to add an item to the agenda.
3. The conclusions shall be recorded in the summary minutes referred to in Article 10 below.

Article 3

Documentation to be sent to Group Members

1. The secretariat, in agreement with the Chairperson, shall send the invitation to the meeting and the draft agenda to the group members no later than thirty calendar days before the date of the meeting.
2. The secretariat shall send meeting documents to the Group members in accordance with Article 15 (2), as a general rule, no later than fourteen calendar days before the date of the meeting.
3. In urgent or exceptional cases, the secretariat, in agreement with the Chairperson or at the request of a Group member, may shorten the period laid down in the above paragraphs to five calendar days before the date of the meeting.

Article 4

Opinions

1. At the Commission's request or at its own initiative, the Group may adopt opinions to advise or assist the Commission, including in relation to the preparation by the Commission of:
 - legislative proposals to the European Parliament and the Council for establishing multiannual radio spectrum policy programmes setting out the policy orientations and objectives for the strategic planning and harmonisation of the use of radio spectrum necessary for the establishment and functioning of the internal market;
 - proposals to the European Parliament and the Council of common policy objectives to ensure the effective coordination of the interests of the European Community in international organisations competent in radio spectrum matters.
2. In assisting the Commission, the Group shall take due account of the principles of better regulation as prescribed by the Commission in particular in the Communication of the Commission on Better Regulation for Growth and Jobs in the European Union of 2005³.

³ COM (2005)97 of 16.3.2005.

3. The opinions shall indicate the extent to, and the manner in which the public has been consulted with regard to the issue under consideration; a list of the consulted parties and of the documents considered shall be included in the opinion.

Article 5

Reports and Opinions requested by European Parliament or the Council

1. The Group shall adopt Reports and Opinions requested by the European Parliament or the Council pursuant to Article 4, paragraph 2 of the RSPG Decision.
2. In case of oral presentation to the European Parliament and / or the Council, the Group shall formally authorise its Chairperson or a member of the Group. Such authorisation shall be included in the Chairperson's report.

Article 6

Decision making procedure

1. As far as possible, the Group shall adopt opinions and reports, as well as procedural decisions under Articles 2, 4, 5, 12, 13, 14 and 17, by consensus, or if not possible, on the basis of a simple majority of the votes, each member having one vote except the Commission which shall not vote. In addition to the possibility to attach dissenting opinions pursuant to Article 4.1 of the RSPG Decision, any member, including the Commission, has the right to include its individual views as an annex in the opinions and reports adopted by the Group.
2. Observers mentioned in Article 12(1) and (2) may participate in the deliberation but shall not vote.
3. The Chairperson, on his own initiative or at the request of a member of the Group, may postpone the adoption of an opinion, report or procedural decision until the end of the meeting or a later meeting:
 - if a substantive change is made to the proposed opinion, report or procedural decision during the meeting,
 - if the text of the draft opinion, report or procedural decision has been submitted to the Group during the meeting.
4. If a member of the Group so requests, an adoption can be postponed if the documents relating to a specific agenda point have not been sent to the members within the timeframe laid down in Article 3 (2) and (3).

However, at the proposal of the Commission or of the Chairperson or at the request of any other member of the Group, the Group may decide by a simple majority voting of members to keep this point on the agenda because of the urgency of the matter.

5. If the Group has not decided within the timeframe laid down by the Chairperson, the latter may extend this period, except in cases of urgency, no longer than the end of the

next meeting. If necessary, the written procedure provided for in Article 7 may be applied.

Article 7

Written procedure

1. If necessary and justified, any opinion, report or procedural decision may be adopted by a written procedure, under the same voting rules as for decisions taken in plenary meetings. To this end, the secretariat in agreement with the Chairperson shall send the members of the Group the opinion, report or procedural decision, in accordance with Article 15(2). Any member of the Group which does not express its opposition or intention to abstain within the response deadline laid down in the letter is considered to have given its tacit agreement to the proposal; the deadline must not be less than 14 calendar days.
2. However, if at least two members of the Group request that the proposed opinion, report or procedural decision be examined at a Group meeting, the written procedure shall be terminated without result; the Chairperson shall then call a meeting of the Group as soon as possible.

Article 8

Chair

1. A Chairperson and a Deputy Chairperson shall be elected from among the members of the Group. In the event of absence or incapacity of the Chairperson, or by delegation of the Chairperson, the Deputy Chairperson shall be empowered to exercise the responsibilities of the Chairperson.
2. The election shall be conducted at the last Plenary meeting before the end of the outgoing Chairperson's term of office. The Chairperson and the Deputy Chairperson shall each be elected by a simple majority vote of the members of the Group.
3. The duration of the term of office of the Chairperson and of the Deputy Chairperson shall be for a period of two years, unless it is decided unanimously by the members of the Group that the duration shall be limited to one year, starting on the first of January of the first year of the term of office.
4. In the event of resignation or permanent incapacity of the Chairperson or of the Deputy Chairperson, a new Chairperson and/or Deputy Chairperson shall be elected without delay for the remainder of the term of office of the person to be replaced.

Article 9

Membership, quorum, conflict of interest and confidentiality

1. The Group shall be composed of one high-level governmental expert from each Member State as well as of a high-level representative from the Commission, who shall

be regarded as the members of the Group. The members of the Group shall be in a position to represent a co-ordinated view from their Member State on policies which affect the use of radio spectrum.

2. Each Member State and the Commission may also appoint a second representative, who in the event of absence or incapacity of the member shall be empowered to exercise the responsibilities of the member.
3. Each Member State shall inform the secretariat of the Group through its Permanent Representation about its appointments regarding paragraphs 1 and 2 above as well as about any change thereof.
4. Without prejudice to paragraphs 1 and 2 above, each Member State decides on the composition and size of its delegation, which shall be headed by the member, and informs the secretariat of the Group thereof via a dedicated mailbox of the Group. However, the reimbursement of travel expenses by the Commission is limited to one person per delegation.
5. A member may, if necessary, represent a maximum of one other member as proxy. The member of the Group that is represented must inform the secretariat of the Group thereof in writing.
6. No meeting and no vote shall take place with less than two-thirds of the Group members represented.
7. A list with the names and affiliation of the members of the Group as well as of their proxies shall be made public. Collection, management and publication of the names of members shall be carried out in the limits of Article 18 of these Rules of Procedure.
8. Should a conflict of interest in relation to a member of the Group arise, that member shall inform the Chairperson at the start of the meeting. In the event of such conflict of interest, the member shall abstain from discussing the items on the agenda concerned and from any vote on these items. These rules shall also apply accordingly to deliberations taken by the Group in written procedure.
9. The obligations of professional secrecy which, by virtue of the EU Treaties and the rules implementing them, applies to all members of the Commission and its staff, is also relevant for the Group. Members and their representatives as well as invited experts and observers are bound by these obligations. Should they fail to respect them, the Commission may take all appropriate measures.

Article 10

Summary Minutes of the meeting ("Chairperson's report")

Summary minutes of each meeting shall be drawn up in the form of a Chairperson's report by the secretariat of the Group under the responsibility of the Chairperson. These summary minutes shall not mention the individual position of the members during the Group's deliberations. However, each member and the Commission shall have the right to ask to have its position recorded in the minutes on specific issues and in exceptional circumstances. They shall also contain any authorisation granted pursuant to Article 5(2).

Article 11

Secretariat

1. The Commission shall provide the secretariat to the Group. In addition, the Commission may provide assistance to working groups upon request subject to the availability of secretarial resources.
2. The secretariat of the Group shall ensure document management and access.
3. The secretariat shall be responsible for the tasks assigned to it under Article 17.
4. At each meeting, the secretariat shall draw up an attendance list specifying the authorities or bodies to which the person appointed by the Member States to represent them, as well as any other persons in that Member State's delegation, belong. Observers and experts shall be included in the attendance list.

Article 12

Observers and Experts

1. The Group may invite observers, including those from EEA⁴ States and those States that are candidates for accession to the European Union, as well as from the European Parliament, the European Conference of Postal and Telecommunications Administrations (CEPT) and from the European Telecommunications Standards Institute (ETSI), to attend its meetings. They shall withdraw when the Group moves to a vote.

Observers shall be represented by no more than two persons.

The representatives of candidate countries may intervene when specifically invited by the Chairperson.

2. The Group may hear experts and interested parties, including representatives from relevant European associations, on particular matters related to specific items on the agenda. The participation of these experts and interested parties shall be limited to the relevant agenda items; they shall withdraw when the Group moves to a vote.

Article 13

Working Groups

1. The Commission, or the Group with the agreement of the Commission, may set up one or several working groups, as appropriate in order to advise the Group on specific issues. Working groups shall be disbanded once their task is accomplished. They shall operate in accordance with the rules laid down by the Group and with the general principles of these rules of procedure.

⁴ Agreement on the European Economic Area, OJ L 1 of 3.1.1994 p. 3.

2. Whenever it proposes to create a working group, the Commission shall consult members on its remit and composition. The Commission shall include any member of the Group having expressed the desire to be a member of the working group. Other members of the working group shall be appointed on a clear and transparent basis.
3. Composition of a working group may be confined to members or their appointees and to observers of the Group. In specific cases, working groups may be open to external participants, although it may only be chaired by a member.
4. Members of the public shall be informed about the establishment of a working group.
5. The Chair of the working group must report to the Group before the next meeting of the Group.
6. The reports of the working groups shall comprise a list of organisations and individuals which have contributed to the work, as well as of all documents considered.

Article 14

Consultation

1. In line with Article 5 of the RSPG Decision, the Group may publish documents for public consultation to assist it in its work. Comments received in response to consultation documents shall normally be published, unless contributors have requested confidentiality in which case they shall be accessible by the members only.
2. The Group may decide to meet, or mandate representatives to meet, interested parties to discuss matters of common interest. As appropriate, the Chairperson represents the Group at such a meeting or nominates representatives to do so, assisted in all cases by the secretariat.
3. Public hearings may be organised by the Group.

Article 15

Correspondence

1. External correspondence addressed to the Group as a whole should be sent to the secretariat for the attention of the Chairperson of the Group. The secretariat shall transmit to the Chairperson who shall decide on the follow-up.
2. Correspondence for members of the Group shall be sent directly, if possible by e-mail, to the person designated for this purpose by that Member State. All documents for a meeting of the Group shall also be made available to its members and observers via secured web-site access.

Article 16

Expenses

1. For the meetings of the Group, the reimbursement of travel expenses by the Commission is limited to one person per Member State delegation. Travel expenses of observers and experts described by Article 12 shall not be reimbursed by the Commission, nor expenses involved where the Group, its Chairperson or his representatives meet interested parties, as mentioned in Article (14) 2.
2. The costs involved in the organisation of meetings of the Group shall be covered by the Commission in so far as such meetings take place in Brussels. For meetings of the Group held outside Brussels in the European Union, only travel expenses shall be covered by the Commission.
3. The Commission may order external studies to support the work of the Group. In this case, the Commission shall have the right to decide on the need for the study, shall cover the costs involved and shall be responsible for the management of such studies.
4. The costs involved in the establishment and maintenance of the Group's web-site, as referred to in Article 17 (4), shall be covered by the Commission.

Article 17

Transparency and Access to Documents

1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001⁵ regarding public access to European Parliament, Council and Commission documents applies to documents held by the Group.
2. The Commission shall be responsible for the handling of requests for access to documents held by the Group and for making such documents directly accessible to the public in electronic form in accordance with Article 12 of Regulation (EC) 1049/2001 insofar as this is possible.
3. The group's deliberations are confidential. In agreement with the Commission, the group may decide to open its deliberations to the public. Documents produced by the Group shall be made public upon approval by the Group.
4. The secretariat of the Group shall ensure the publicity and access to the documents made public, and may maintain a publicly accessible dedicated web-site in order to ensure transparency of the activities of the Group.
5. The consultation of external independent experts by the Group or its working groups shall be subject to a declaration of the absence of interests that might be considered prejudicial to their independence, which shall be made public.

⁵ OJ L 145 of 31.5.2001, p. 43. See also: Commission Decision of 5 December 2001 amending its rules of procedure (notified under document number C(2001)3714) (2001/937/EC, ECSC, Euratom), OJ L 345 of 29.12.2001, p. 94.

6. Activities, membership and documents relating thereto shall be recorded as appropriate in the public Register of Expert Groups set up and managed by the Commission.

Article 18

Protection of Personal Data

All processing of personal data for the purposes of these rules of procedure shall be in accordance with Regulation (EC) No45/2001⁶.

Article 19

Amendment of the Rules of Procedure

The Group may amend its rules of procedure upon a proposal from the Commission, by consensus or, in the absence of consensus, by a two-third majority vote, one vote being expressed per Member State, subject to the approval of the Commission.

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⁶ Regulation (EC)45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p.1)