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## **RADIO SPECTRUM POLICY GROUP**

**Subject: Chairman's Report of RSPG#5, 19 November 2004**

**RSPG #5**  
**Brussels, 19 November 2004**

Summary

**1. Introduction to RSPG#5**

Mr. Abild Andersen, Chairman of the Radio Spectrum Policy Group (RSPG) and Director General of the Danish National IT and Telecom Agency, opened the meeting by making reference to the fruitful and convivial RSPG workshop which took place on the previous day<sup>1</sup> to welcome the representatives of new Member States as full members of the Group. As the term of Chairman Abild Andersen came to an end with the fifth plenary meeting of the RSPG, two nominations took place: **the current Vice-Chairman, Mr. Mike Goddard, Director for Spectrum Policy at Ofcom (UK), was confirmed as new Chairman of RSPG** for a period of one year ending at RSPG#8 (November 2005). **Mr. Mathias Kurth, President of the German RegTP, was elected by unanimity as Vice-Chairman.** Following a “troika” system, the new Vice Chairman, Mr. Kurth, will become automatically the Chairman of the RSPG at the end of the one-year term of Mr. Goddard, and **the outgoing Chairman, Mr. Abild Andersen, was appointed Vice-Chairman** to serve for an additional period of one year. Mr. Goddard took over the chairing of RSPG#5 from Mr. Abild Andersen.

The Commission representative in the RSPG<sup>2</sup>, Mr. Peter Zangl, Deputy Director General of the Information Society Directorate-General, expressed his gratitude to the outgoing chairman for his leadership and vision and his historical role as first Chairman of the Group. He also welcomed Mr. Goddard’s accession to chairmanship, as well as the election of Mr. Kurth.

**2. RSPG Opinion on the secondary trading of rights to use radio spectrum**

*Presentation of the draft Opinion*

The Group was first given a short summary of the main aspects of the proposal for an RSPG Opinion by the chairman of the working group in charge of its preparation, Mr. G. Broesterhuizen, Deputy Director General Telecommunications and Postal Affairs (Dutch Ministry of Economic Affairs). **RSPG members welcomed the proposal and congratulated warmly Mr. Broesterhuizen and his group** for the quality of the results achieved.

*Adoption of the Opinion*

The Group discussed several of the recommendations contained in the Opinion, including the expected impact of secondary trading on **competition aspects**, the issue of

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<sup>1</sup> RSPG workshop for Representatives of new Member States, Brussels, 18 November 2004.

<sup>2</sup> Mr. P. Zangl was replacing the permanent Commission representative in the RSPG, Mr. Fabio Colasanti, Director General of DG Information Society.

the **degree of commonalities** which would be **desirable on EU level to introduce spectrum trading**, and the **interrelation** between **simple trading of usage rights** (i.e. without change of use) and the **introduction of more flexible usage rights**. **The Opinion was unanimously adopted** with a minor amendment to the subgroup's proposal.

The Commission representative in the RSPG, Mr. Peter Zangl, welcomed the adoption of the Opinion as a **positive step**. He acknowledged that the opinion signals clearly that Member States see secondary trading positively but want to be able to go ahead with its implementation **at different speeds** depending on national conditions. He further noted that the Opinion focuses on the simple trading of spectrum usage rights and defers any final position on flexibility in change of use. However, **“flexibility”** was identified in the study contracted by the Commission earlier this year as a **core element** in realising the benefits of a more **dynamic spectrum management** paradigm. With support of the Group, Mr. Zangl further suggested to make a reference to this Opinion in the ongoing debate on flexibility taking place in the context of the work regarding spectrum for WAPECS<sup>3</sup>.

RSPG members proposed to publish the **full text of the Opinion**<sup>4</sup>, including the annexes (available on the RSPG web site).

#### Next step

The Group felt that the conclusions of the Opinion will need to be reassessed, and possibly challenged, in the light of the **practical experience arising** in the coming months **from the real-size roll-out of secondary trading in several Members States**. It was therefore agreed to **involve the RSPG on a periodic basis** to take stock of progress and reassess the need for additional guidance. This approach was particularly supported by several Member States who stressed the **need to proceed cautiously** and on a **step-by-step** basis. This progressive implementation and regular dialogue should also reduce the risk for unnecessary fragmentation of approaches between Member States. The Commission welcomed the continued involvement of the RSPG on this matter as it complies with the Commission's “a priori” preference for a voluntary approach rather than a legislative one. The Commission also noted that there is an interest in **examining how tradeable and flexible property rights could be structured** in order to allow for a common basis **ensuring compatibility between Member States' approaches**.

### **3. RSPG Opinion on the spectrum implications of the switchover to digital broadcasting**

#### Presentation of the draft Opinion

The Group was presented an outline of the draft proposal for an Opinion by the chairperson of the working group in charge of its preparation, Mrs. Mariannne Treschow, acting Director General of Post & Telestyrelsen (Sweden). **RSPG members welcomed the proposal and congratulated Mrs. Treschow and her group**, as well as the initial chairman Mr. Billinger, for the realistic and balanced outcome of the work.

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<sup>3</sup> WAPECS : Wireless Access Platform for Electronic Communications Services.

<sup>4</sup> Document RSPG04-54 available at [http://rspg.groups.eu.int/documents/meeting\\_documents/index\\_en.htm](http://rspg.groups.eu.int/documents/meeting_documents/index_en.htm)

### Adoption of the Opinion

In the discussions leading to the adoption, the Chairman noted that **spectrum aspects** are only **a part of the overall issue of digital switchover**. There is therefore a complex interaction between spectrum-related and other aspects of digital switchover which are going **well beyond the remit of the Group**. In this context, he congratulated Administrations for having managed to reach a consensus on the main principles and key strategic approach to be followed. The Chairman also noted that no adverse comments were received from RSPG members during the internal consultation period.

The most frequent comments expressed by delegations during the debate leading to the adoption of the Opinion revolved around the following aspects:

- the consensus which was reached is **realistic** taking into account the **high political nature** of the topic;
- it is widely accepted that, in the likely case of a spectrum dividend, **a flexible approach** should be used concerning the **reallocation process**, including the possibility to reassign spectrum to **services not related to broadcasting**;
- the potential benefits resulting from **harmonising the usage of parts of the spectrum dividend at EU level** was recalled, while Member States confirmed that they should be allowed to use the spectrum dividend according to national needs;
- the ITU<sup>5</sup> **Regional Radio Conference (RRC-06)** is an important element of the switchover process and Member States and the Commission should ensure that **common policy objectives** are properly taken into account in the negotiations;
- there is a general preference of Administrations for **technology neutrality** insofar as possible. This should include the use of “spectrum masks” to define interference restrictions;
- the current Opinion is a good **starting point** but is not sufficient to finalise positions leading to concrete conclusions affecting national implementations.

The Commission supported the proposed Opinion. The Commission found however that the Opinion **only marginally emphasises** the fact that the **digital switchover process creates a unique opportunity to generate a substantial amount of free spectrum available for potential harmonized use**. The Commission recognised that Member States should keep ample autonomy to reallocate most of the spectrum dividend but pointed out to Administrations that generating a “partially harmonized” dividend may have a **negligible incremental cost** while potentially offering **tremendous added value**. The Commission called for further guidance from the Group on this point in the future.

**The Opinion was unanimously adopted** with a minor amendment to the draft submitted by the subgroup. RSPG members proposed to publish the **full text of the Opinion**<sup>6</sup>, including the annexes (available on the RSPG web site).

### Next step

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<sup>5</sup> International Telecommunications Union.

<sup>6</sup> Document RSPG04-55 available at

[http://rspg.groups.eu.int/documents/meeting\\_documents/index\\_en.htm](http://rspg.groups.eu.int/documents/meeting_documents/index_en.htm)

The Group supported the Chairman's proposal to put "digital switchover" again on the agenda of RSPG#7 (June 2005) with the aim of reviewing **the status of preparation of RRC-06 within the CEPT** and preparing **political guidance** by the end of 2005.

The **Commission indicated its intention to take into account the RSPG Opinion in two forthcoming Communications** to the Council and the Parliament, namely:

- the planned **Second Communication on digital switchover**. This will reinforce further the message from RSPG;
- in a "**framing**" **Communication in the context of RRC-06** (which is tentatively planned for late 2005). This Communication should lay out the policy objectives resulting from the requirements of the various Community policies and on which EU common positions for the negotiations in RRC-06 should be based.

#### **4. Proposal for strengthening further the future working of RSPG**

##### *Presentation of a Proposal by the outgoing Chairman (Mr. J. Abild Andersen)*

At RSPG#4, Mr. Abild Andersen had proposed to elaborate on his initial suggestions on how to improve the RSPG working and future strategy. Following consultation of several members in the process of developing these ideas, he prepared a paper<sup>7</sup> summarising his recommendations for discussion.

Following a presentation of this paper, **the Group welcomed the initiative of the Chairman and agreed with the principles developed in the proposal**, in particular the criteria to be used for the identification of future subjects to be addressed by the Group. It was however underlined that the RSPG should avoid extensive discussions about the selection criteria themselves and rather turn these principles into practice, starting with the revised work programme and priorities for 2005. It was recognised that while the Group should aim at making its deliveries fully available, policy discussions between delegations preceding formally adopted Opinions should remain confidential in order to allow for a genuine debate to occur and to allow for some degree of constructive "trial and error" behaviour within the Group. It was also suggested that the process of external consultation should be enhanced, possibly by putting draft Opinions out for public consultation before final adoption by the RSPG.

The importance of **building national consensus upstream of the RSPG process** was underlined by several delegations and by the Commission. Some members also stressed the virtuous "two-way street" effect induced by the dynamics of the RSPG working: on one hand, RSPG's debates require - as mentioned previously - to consolidate positions on a national level and, on the other hand, the resulting RSPG's common positions can have in turn a positive impact on national policy development and in some case influence national political decision processes.

##### *Discussion on the way forward*

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<sup>7</sup> Document RSPG04-56 available at [http://rspg.groups.eu.int/documents/meeting\\_documents/index\\_en.htm](http://rspg.groups.eu.int/documents/meeting_documents/index_en.htm)

The Group agreed on a proposal by the Chairman **to hold a debate on the revision of the RSPG Work Programme at RSPG#6** (February 2005). In order to prepare for such a debate, the Chairman requested Administrations to communicate in writing to the RSPG secretariat **by 15 January 2005** their two or three **main priorities for 2005**.

Upon request of one of the delegations, the Commission agreed to provide information to the Group at RSPG#6 on its internal mechanisms to ensure the coordination of horizontal and sectoral EU policies in the field of radio spectrum management.

**5. Progress of the request for RSPG Opinion on a co-ordinated EU spectrum policy approach regarding spectrum for Wireless Access Platforms for Electronic Communications Services (WAPECS)**

Following an initial presentation at RSPG#3 (February 2004), the Commission submitted a formal Request for Opinion on this subject which was adopted at RSPG#4 (June 2004). At this time, the Group endorsed the chairman's proposal to appoint one of its members as "rapporteur", Ms. Isolde Goggin, Chair of the Irish Commission for Communications Regulation, with the mission, in consultation with other members, to analyse the implications of the Request for Opinion, identify the scope of work, and propose a working structure. In view of RSGP#5, **Ms. Goggin developed her proposal<sup>8</sup> with the assistance of a drafting group. This proposal includes the scope of work (with a definition of WAPECS), a work plan and a draft questionnaire to be used for an information gathering exercise involving national frequency management.**

**The Group welcomed the proposal made by Ms. Goggin** and expressed a general satisfaction with the approach, in particular the fact that the expected scope of work takes a broad perspective, addressing the topic in a fairly generic and consistent manner. It was further stressed that the resulting common vision and reference framework should be elaborated on a "blue sky" basis. However, there was a clear understanding in the Group that the **legacy aspects will be of crucial importance** to ensure the feasibility of the future transition from the current situation to the common framework. The issue of legacy and transition should therefore require a separate - and significant - effort.

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<sup>8</sup> Document RSPG04-57 available at [http://rspg.groups.eu.int/documents/meeting\\_documents/index\\_en.htm](http://rspg.groups.eu.int/documents/meeting_documents/index_en.htm)

In view of concerns about the proposed schedule of work, and a number of comments on the draft definition of WAPECS, it was agreed that the work programme be modified to allow time for further discussion. The RSPG proposed that a meeting of the drafting group be arranged, preferably in December, to review the definition and questionnaire. The proposed scope of the work on WAPECS, with one amendment, and the revised work programme, were agreed by the RSPG. The agreed revised milestones are as follows:

### Key milestones

Time period	Action/activity
23 February 2005 (RSPG#6)	Approval by the RSPG of the questionnaire to National Regulatory Authorities on “spectrum for WAPECS”, including a definition/description of the WAPECS concept.
Mid April 2005	Deadline for the responses from National Regulatory Authorities to the “spectrum for WAPECS” questionnaire.
16 June 2005 (RSPG#7)	Submission of a first draft version of the proposed Opinion for discussion within RSPG, and endorsement to begin a public consultation.
July-Sept 2005	Public consultation on the draft Opinion.
16 November 2005 (RSPG#8)	Final adoption of the Opinion.

## 6. RSPG Opinion on WRC-03 follow-up and WRC-07 preparation: progress of work

### *Status and background*

Following the Commission’s Request for Opinion to identify Community policy objectives and priorities for WRC-07, the RSPG decided earlier to task the Secretariat to undertake a **public consultation** on this subject, **as a kick-off phase**. The text of the consultation together with a background document exploring the relationship between EC policies and WRC-07 issues was presented and agreed at RSPG#3<sup>9</sup>. At RSPG#4, the RSPG decided to extend **this consultation until October 2005** since a large majority of responses received came from a single sector and was therefore not sufficiently balanced. The RSPG Secretariat gave a brief report on the final outcome of the consultation<sup>10</sup>.

### *Discussion and next steps*

The Commission noted that **other regions** of the world were **more advanced in the process of preparation of WRC-07**, namely the U.S.<sup>11</sup> and asked the RSPG to get involved timely in the preparation as to allow the policy priorities to drive the technical

<sup>9</sup> Document RSPG04-33 Rev.1 available at [http://rspg.groups.eu.int/documents/meeting\\_documents/index\\_en.htm](http://rspg.groups.eu.int/documents/meeting_documents/index_en.htm)

<sup>10</sup> Document RSPG04-58 available at [http://rspg.groups.eu.int/documents/meeting\\_documents/index\\_en.htm](http://rspg.groups.eu.int/documents/meeting_documents/index_en.htm)

<sup>11</sup> On November 15, the FCC issued a Notice seeking comments on preliminary views adopted last week by the Advisory Committee for the 2007 World Radiocommunication Conference (notably on Agenda item 1.9 - IMT-2000 and 2.5 GHz sharing issues). It also is seeking comments on a preliminary view forwarded by the National Telecommunications and Information Administration on Oct. 28 concerning Agenda item 20 (protection of the Earth exploration-satellite service from unwanted emissions of active services).

planning process. The Chairman invited the Commission to submit an updated paper on WRC-07 issues to RSPG#6 in order to consider the implications for the 2005 RSPG work programme.

**A joint workshop with CEPT is tentatively scheduled for March 11, 2005.** The results of this workshop, together with an analysis of the public consultation responses, will be used by the RSPG secretariat to draft document on general EC policy goals for WRC-07 making the link notably to items retained for the RSPG work programme. This document is to be discussed in RSPG#7 to develop a draft Opinion. Once RSPG adopts its Opinion, it will be forwarded to CEPT, to provide timely policy guidance in the development of technical/regulatory positions included in the European Common Proposals. The Commission will also use the RSPG's advice when preparing a **Communication to Council and Parliament on WRC-07 objectives**, tentatively scheduled for early 2006.

#### **7. Report on Commission activities in radio spectrum policy since the RSPG meeting of 13 February 2004**

Prior to the meeting, the Group was provided with a document highlighting the main Commission activities in radio spectrum policy since RSPG#4<sup>12</sup>. This agenda item was informative only. It was complemented by a short verbal report from the Commission to inform the Group about additional developments which occurred since the publication of the document in reference. The Chairman expressed his appreciation that the report reflects the fact that Radio Spectrum Committee is working in full gear with already seven Mandates in progress. He also welcomed the fact that the **European telecom Council in December will take officially note - in form of "Conclusions" - of the recommendations of the first Commission Report on Spectrum Policy**, which includes a substantial section dedicated to the working of the RSPG.

#### **8. Next meetings**

The Chairman concluded the meeting by confirming the three main agenda items of substance for the next meeting, namely **the revision of the RSPG work programme and the priorities for 2005, the work on the RSPG Opinion regarding spectrum for WAPECS and the discussion of the strategic policy elements regarding the RSPG Opinion for the preparation of WRC-07.**

The next RSPG meeting (RSPG#6) is scheduled to take place on **23 February 2005** in Brussels.

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<sup>12</sup> Document RSPG04-59 available at [http://rspg.groups.eu.int/documents/meeting\\_documents/index\\_en.htm](http://rspg.groups.eu.int/documents/meeting_documents/index_en.htm)