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DG INFSO/B4/RSPG Secretariat

RSPG05-89

Commission inter-service coordination on Radio Spectrum Policy

1. INTRODUCTION

At RSPG #6, some representatives requested the Secretariat to explain the means employed by the Commission to ensure that the various policy interests related to radio spectrum issues are duly taken into account in activities pursued under this policy.

Radio spectrum policy in the EU is not carried out by the Commission independently of other policy areas. Indeed, the main objectives of this policy are to support the requirements for access to radio spectrum required in the context of all existing EU policies and initiatives to balance conflicting requirements, where required, as well as to support the implementation of overall EU objectives (competition, trade, single market).

In order to have an effective spectrum policy, it is important therefore for the unit in charge of spectrum policy to study all relevant EU policies, and to discuss and explain spectrum issues with all Commission services concerned. In addition, it is the duty of the unit to match those policy requirements with on-going or future spectrum harmonisation work in Europe and/or globally.

2. METHODS OF CONSULTATION

There are mainly two ways to link spectrum regulation and policy-development with the general Community legal framework and with other EU policies:

- the formal process of interservice consultation
- on-going service-level information exchanges.

This document addresses the RSPG request by briefly explaining these two activities in relationship to radio spectrum policy. It also suggests possible future de-briefing actions by the Secretariat to the RSPG.

2.1. Interservice consultation (ISC)

This is a formal process codified in the Commission's Rules of Procedure. In order to clarify what this process entails, some extracts of the official ISC Procedural Guide are cited **in the annex**. Essentially, all documents which need to be formally adopted by the Commission have to undergo a successful interservice consultation. In the radio spectrum domain, this applies to Communications to the European Parliament and Council, but also to technical implementing measures (Commission Decisions) under the Radio Spectrum Decision.

The systematic application of the well-tested Commission ISC procedures ensures in principle that all EU sectorial policies and legal competences are duly considered in spectrum regulation and policy-making. Despite its formal nature, this systematic process of harmonisation of spectrum in the EU via Commission Decisions and in compliance with other EU legislation should bring an added value with respect to corresponding CEPT activities by embracing a wider set of considerations.

2.2. On-going service-level information exchanges

Before an ISC on a particular document takes place, the main issues addressed in the document have generally been presented to all relevant Commission services in a more informal manner, and discussed with the services often several times via interservice groups and bilateral contacts.

The Commission has created a standing group of spectrum correspondents for this purpose, called the **Spectrum Interservice Group (SIG)**. The SIG, composed of approximately 50 officials from 15 different directorates general, meets regularly on pending issues, though only interested officials are invited (so-called "restricted" meetings). It also holds a plenary meeting once a year, in order to have a more general presentation and exchange of views on Spectrum Policy.

All important documents discussed in the Radio Spectrum Policy Group and in the Radio Spectrum Committee, as well as early drafts of Commission documents, such as Communications, are also disseminated systematically to the spectrum correspondents of the SIG,. The correspondents are encouraged to ensure they are the officials handling Interservice Consultations on behalf of their directorates general.

The Commission service responsible for spectrum policy also participates in a number of other Commission groups and activities relevant to its mission. For instance, it attends regularly meetings of the Space Coordination Group and of the Galileo Signal Task Force, as well as concertation meetings of research projects in the IST programme.

Finally, bilateral discussions take place whenever necessary with other Commission constituencies. Particularly close working relationships are maintained with the Commission services responsible for the electronic communications regulatory framework, for radio equipment authorisations, and for legal guidance for this type of regulation.

3. CONCLUSIONS AND WAY FORWARD

The Commission service responsible for radio spectrum aims to ensure that all policy interests and legal requirements are duly taken into account in its activities. Results to

date are considered good, though there may always be individual cases where coordination may have been better, or should have taken place earlier in the process, often in areas without well established links with radio spectrum issues. RSPG members are invited to inform the Secretariat of any EU initiatives, in particular of a legal nature, that would come to their knowledge and for which the spectrum coordination would not have been initiated as required, or where the link to radio spectrum policy is not apparent.

The Commission is open to suggestions from the RSPG on what additional information the Group may wish to receive regularly on EU policies and initiatives, in order to carry out its duties more effectively. A possibility could be to de-brief each meeting on EU policy developments of potential significance for spectrum management, in a similar way that RSC activities and spectrum-related studies and workshops are already presented in RSPG (doc. RSPG05-88). Non-confidential information on internal Commission spectrum coordination activities could also be made available, as long as it is relevant from a general strategic viewpoint.

The group is invited to briefly discuss this point and to agree whether additional information is required from the Secretariat (if any).

Annex: Extracts from the Commission Interservice Consultation Procedural Guide

The following are relevant sections of this guide provided to give the RSPG a better understanding of the internal Commission consultation process. This is an internal Commission document given to RSPG for information only. Not all the text of the guide is included, and this annex cannot be seen as a comprehensive nor legally valid presentation of Commission rules on this subject.

INTERSERVICE COORDINATION AND CONSULTATION

Quality **interservice coordination** is essential to achieve the political aims set by the Commission and make sure that Commission action is effective and its policies consistent. It also ensures the degree of transparency which is needed in preparing all Commission decisions and proposals and is the hallmark of sound interdepartmental cooperation. It must take place as early as possible to ensure that the interservice consultation procedure and the subsequent decision-making processes can run smoothly.

The Commission's rules of procedure¹ attach great importance to this internal coordination and Article 21 requires departments to collaborate closely in preparing and implementing decisions. This rule applies at all stages, from conception to the presentation of the proposal to the Commission.

Interservice consultation is initiated by the lead department when a proposal, usually due to be adopted by the Commission, has reached a sufficiently advanced stage within the service, possibly in cooperation with other services which have been involved from the outset. It is therefore a stage in interservice coordination in the course of which the lead department seeks the formal opinion of all the directorates-general and services with a legitimate interest in the contents of the proposal.

In order to facilitate interservice consultations on complex or sensitive dossiers, lead departments are advised to set up suitable and effective arrangements for coordination before initiating the consultations (mainly by organising interdepartmental meetings or establishing bilateral contacts with the services affected most).

Time limits

The lead department sets a **minimum time limit** of **10 working days** or **15 working days** if the main body of the text (minus annexes) is longer than 20 pages. In order to simplify matters and cut down the time spent on the procedure, it is strongly recommended that this rule (maximum 20 pages) is complied with when a proposal is being drawn up.

Selection of DGs for consultation

The lead department must take care to identify clearly which departments are really affected by the texts in question. The point of such **targeting** is to strike a proper **balance between transparency** (all departments which may be affected must be consulted) and **efficiency** (untargeted dissemination slows the procedure down and may

¹ [C\(2000\) 3614](#) – Official Journal L 308 of 8 December 2000.

detract from the quality of the texts). In practice, should a department repeatedly receive documents which do not concern it, it should inform the lead department so that future consultations can be better targeted.

Depending on the circumstances, certain departments have to be consulted by the lead department (see Article 21 of the Rules of Procedure). The **SJ** has to be consulted in all cases, while the **SG** and **DGs ADMIN, BUDG, FC and OLAF** have to be consulted where they are specifically affected.

- **SJ**: compulsory consultation on all draft legal acts and on all documents which may have legal repercussions; the opinion of the Legal Service is not required for the exercise of subdelegations and delegations concerning standard instruments where its agreement has already been secured (repetitive instruments).
- **SG**: compulsory consultation on all matters of political importance which feature in the Commission's annual work programme, relate to institutional issues (subsidiarity, proportionality or comitology, etc.) and/or are subject to impact analysis.

Meaning of the various types of replies

To ease management of the consultation procedure, it is important to standardise the various possible replies for all services. Here are the **meanings of the five types of possible reply**:

- **No observations**: means that the service consulted has no specific comments;
- **Approved**: expresses agreement of the service consulted on the documents provided;
- **Approved subject to comments being taken into account/Approved subject to amendments being taken into account**:

these two favourable, but qualified, replies both mean that the service consulted approves only on condition that the comments or amendments proposed are actually taken into account by the drafting service. The two types of reply have the same procedural impact, the difference being in the precision and form of the amendments called for;

- **Unfavourable opinion**: this expresses an **unequivocal negative opinion** on substantive grounds which make the dossier unacceptable in its current state by the service consulted;
- A **suspended opinion** is intended to **freeze the consultation process for technical reasons** (such as insufficient time or non-availability of essential information) and must be duly substantiated. The lead department must then make the necessary amendments to resolve the problem raised by the service consulted to enable it to deliver a second opinion on the substance of the matter which will be entered in CIS-Net. The time for the consultation process must also be modified to enable the service concerned to enter the second opinion before the consultation is closed and the other services consulted to reconsider their position if necessary in the light of the amendments.

CLOSING OF THE CONSULTATION AND SEEKING A CONSENSUS

It is up to the lead department to close the procedure once the consultation period is over. It is also up to the lead department to decide whether to accept replies which have been submitted late without any advance warning (the application allows late replies to be incorporated after closure): this will depend on how far advanced the procedure is.

Once the consultation has been closed, the drafting department revises the texts, trying to **incorporate as faithfully as possible the comments and amendments requested** by all the directorates-general and services consulted in order to achieve as wide a consensus as possible. If it feels unable to incorporate certain comments, it must take care to inform the services concerned by, say, a note showing which amendments have been accepted and explaining why others have not. The services consulted can also check that their comments have been incorporated, since the lead department makes available the revised text following the consultation (see 2.4 below).

In any event, it is essential in the case of written, "*habilitation*" and delegation procedures that the lead department makes quite sure that the approval of the services concerned has been obtained.

If, after revision, the amendments appear to change the substance of the initial proposal and there are doubts as to whether some services would still give their approval, the consultation must be relaunched or extended by a minimum of three working days and all the services concerned duly informed.

In the event of a dispute between the lead department and a department which is being consulted, the Secretariat General may be asked to arbitrate.