



EUROPEAN PARLIAMENT

2009 - 2014

Committee on the Internal Market and Consumer Protection

2010/0252(COD)

14.2.2011

DRAFT OPINION

of the Committee on the Internal Market and Consumer Protection

for the Committee on Industry, Research and Energy

on the proposal for a decision of the European Parliament and of the Council
establishing the first radio spectrum policy programme
(COM(2010)0471 – C7-0269/2010 – 2010/0252(COD))

Rapporteur: Eija-Riitta Korhola

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SHORT JUSTIFICATION

1. The first Radio Spectrum Policy Programme (RSPP) is a significant step in ensuring the efficient and optimal use of this finite resource. Spectrum policy is at the heart of the Commission's flagship Digital Agenda for Europe and is crucial for the realisation of policy objectives found in the EU2020 strategy for smart, sustainable and inclusive growth and the programme is included among the 50 priority actions of the Single Market Act.
2. The RSPP aims for the creation of a competitive and vibrant European industry for the provision of wireless broadband services and equipment. The programme strives to establish an environment where pan-European services can flourish.
3. The allocation of spectrum, a public good, should pursue the best interests of the European citizens. Efficient and effective allocation of spectrum will provide more social, cultural and economic benefits, boost consumer choice, advance the long term competitiveness of European industries and contribute to the realisation of the digital internal market.
4. The use of spectrum for mobile broadband is bringing welfare gains for citizens and the data transmitted via mobile networks has boomed over the last years. This continues to be the case as the number of smartphones, tablet PC's, and dongles is still growing at an equally fast pace. Furthermore, mobile broadband plays an increasingly important role in the delivery and innovation of services in other fields such as healthcare, education, culture and public administration.
5. The harmonisation of frequencies will lower the costs of deploying mobile networks, lower the cost of mobile devices for consumers and boost competition and consumer choice. Furthermore, it will reduce harmful cross border interference and disturbance.
6. The efficient use of Spectrum can significantly help the universal access to electronic communications, in particular for citizens and businesses located in less favourite or remote areas, such as rural areas or islands.
7. Harmonising spectrum and enabling wireless broadband services to develop, provides new tools and opportunities to deliver cultural content. At the same time it is important to secure the existing opportunities for terrestrial broadcasting. The additional costs for clearing the band shall be compensated by Member States when necessary.
8. The RSPP has to put forward realistic but ambitious goals that enable European companies to compete on a stronger footing in the global market place. Without such ambitious targets the European Union risks falling behind. Furthermore, the release of the wireless spectrum from 790MHz – 862MHz (800Mhz) is vital in light of achieving the goals set out in the Digital Agenda for Europe, both in terms of fast internet access and reducing the digital divide. The release process should be carried out as soon as possible and not later than 2013. eGovernment, including the electronic conduction of public procurement procedures, should contribute to the deployment of broadband across the EU.

9. Long term strategic commitment, even beyond 2015 shall be required. It is important to offer regulatory certainty when such substantial investments are involved.

Concerning the proposal on RSPP, your rapporteur underlines the need to:

- a.) Create harmonised spectrum bands to encourage pan-European services, lower administrative burdens and further strengthen the internal market.
- b.) Emphasise the release of spectrum from 790 – 862MHz for mobile broadband by 2013.
- c.) Look into the further release of spectrum in the ‘second sub-band’ below 790MHz to cope with the continued growth in data traffic.
- d.) Promote frequencies used to provide more capacity, such as the 2.3 GHz,
- e.) Remember that it is crucial to get the RSPP adopted as soon as possible. A consensus oriented approach focussing on the key issues and primarily the need to get more frequencies for mobile services is vital.

From an internal market perspective, the aims spelt out above are the way forward in fostering sustainable growth and jobs in Europe. The mobile industry has historically been a catalyst for economic development for the wider community. We therefore need to create an environment which promotes investment, creates room for growth and positions Europe as the leader in global marketplace.

AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Industry, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a decision

Recital 1

Text proposed by the Commission

(1) Article 8a(3) of the Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) provides that the Commission may submit a

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legislative proposal to the European Parliament and Council for establishing multiannual radio spectrum policy programmes setting out policy orientations and objectives for the strategic planning and harmonisation of the use of spectrum in accordance with the directives applicable to electronic communications networks and services. These policy orientations and objectives should refer to the availability and efficient use of spectrum necessary for the establishment and functioning of the internal market. This Decision is without prejudice to existing EU law, in particular Directives 1999/5/EC and Directives 2002/20/EC and 2002/21/EC, as well as Decision No 676/2002/EC. It is also without prejudice to measures taken at national level, in compliance with EU law, to pursue general interest objectives, in particular relating to content regulation and audio-visual policy and to the right of Member States to organise and use their spectrum for public order and public security purposes and defence.

legislative proposal to the European Parliament and Council for establishing multiannual radio spectrum policy programmes setting out policy orientations and objectives for the strategic planning and harmonisation of the use of spectrum in accordance with the directives applicable to electronic communications networks and services. These policy orientations and objectives should refer to the availability and efficient use of spectrum necessary for the establishment and functioning of the internal market. ***The radio spectrum policy programme is included among the 50 priority actions of the Single Market Act.*** This Decision is without prejudice to existing EU law, in particular Directives 1999/5/EC and Directives 2002/20/EC and 2002/21/EC, as well as Decision No 676/2002/EC. It is also without prejudice to measures taken at national level, in compliance with EU law, to pursue general interest objectives, in particular relating to content regulation and audio-visual policy and to the right of Member States to organise and use their spectrum for public order and public security purposes and defence.

Or. en

Amendment 2

Proposal for a decision Recital 2

Text proposed by the Commission

(2) Spectrum is a key resource for essential sectors and services, including mobile, wireless broadband and satellite communications, television and radio broadcasting, transport, radiolocation, and applications such as alarm, remote controls, hearing aids, microphones, and medical equipment. It supports public

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services such as security and safety services, including civil protection, and scientific activities, such as meteorology, Earth observation, radio astronomy and space research. Regulatory measures on spectrum therefore have economic, safety, health, public interest, cultural, scientific, social, environmental and technical implications.

services such as security and safety services, including civil protection, and scientific activities, such as meteorology, Earth observation, radio astronomy and space research. ***An efficient use of the Spectrum also plays a role in the universal access to electronic communications, in particular for citizens and businesses located in less populated or remote areas, such as rural areas or islands.*** Regulatory measures on spectrum therefore have economic, safety, health, public interest, cultural, scientific, social, environmental and technical implications.

Or. en

Amendment 3

Proposal for a decision Recital 3

Text proposed by the Commission

(3) The strategic planning and harmonisation of spectrum use at Union level should enhance the single market for wireless electronic communications services and equipment as well as other Union policies requiring spectrum use, thus creating new opportunities for innovation and contributing to economic recovery and social integration across the Union, while at the same time respecting the important social, cultural and economic value of spectrum. To this end, the Union therefore needs a policy programme that covers the internal market in all Union policy areas involving the use of spectrum such as electronic communications, research and development, transport and energy.

Amendment

(3) The strategic planning and harmonisation of spectrum use at Union level should enhance the single market for wireless electronic communications services and equipment as well as other Union policies requiring spectrum use, thus creating new opportunities for innovation and contributing to economic recovery and social integration across the Union, while at the same time respecting the important social, cultural and economic value of spectrum. ***The harmonisation of spectrum use is also essential to ensure the quality of the services provided by electronic communications and to create economies of scale lowering both the cost of deploying mobile networks and the cost of mobile devices for consumers.*** To this end, the Union therefore needs a policy programme that covers the internal market in all Union policy areas involving the use of spectrum such as electronic

communications, research and development, transport and energy.

Or. en

Amendment 4

Proposal for a decision

Recital 4

Text proposed by the Commission

(4) This first programme should in particular support the Europe 2020 Strategy for smart, sustainable and inclusive growth given the huge potential of wireless services to promote an information-based economy, develop and assist sectors relying on information and communications technologies and overcome the digital divide. It is also a key action in the Digital Agenda for Europe⁴ which aims to deliver fast broadband internet in the future network-based knowledge economy, with an ambitious target for universal broadband coverage with speeds of at least 30 Mbps for all Europeans by 2020, thereby achieving the sustainable economic and social benefits of a digital single market. **It** should also support and promote other Union sectoral policies such as a sustainable environment and economic and social inclusion for all Union citizens. Given the importance of wireless applications for innovation, this programme is also a key initiative in support of Union policies on innovation.

Amendment

(4) This first programme should in particular support the Europe 2020 Strategy for smart, sustainable and inclusive growth given the huge potential of wireless services to promote an information-based economy, **encourage**, develop and assist sectors relying on information and communications technologies **such as e-commerce** and overcome the digital divide. It is also a key action in the Digital Agenda for Europe⁴ which aims to deliver fast broadband internet in the future network-based knowledge economy, with an ambitious target for universal broadband coverage with speeds of at least 30 Mbps for all Europeans by 2020, thereby achieving the sustainable economic and social benefits of a digital single market. **In particular, it promotes the development of new markets and new services for SMEs and the creation of new jobs. It also encourages competition and allows consumers to take advantage of greater choice and better prices for goods and services. eGovernment, including conducting electronic public procurement procedures electronically, should contribute to the deployment of broadband. The programme** should also support and promote other Union sectoral policies such as a sustainable environment and economic and social inclusion for all Union citizens, **in particular for disabled people and**

citizens living in remote areas. Given the importance of wireless applications for innovation, this programme is also a key initiative in support of Union policies on innovation.

Or. en

Amendment 5

Proposal for a decision Recital 10

Text proposed by the Commission

(10) Optimal and efficient spectrum use requires continuous monitoring of developments, and up-to-date transparent information on spectrum use throughout the Union. While Commission Decision 2007/344/EC on harmonised availability of information regarding spectrum use within the Community requires Member States to publish information on usage rights, a detailed inventory of existing spectrum use together with an effective review and assessment methodology are necessary in the Union to improve the efficiency of spectrum and radio equipment use, in particular between 300 MHz and **3 GHz**. This would help to identify inefficient technologies and usages in both the commercial and public sectors, as well as unused assignments and sharing opportunities, and to evaluate future consumer and business needs.

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Or. en

Amendment 6

Proposal for a decision

Recital 13

Text proposed by the Commission

(13) The 800 MHz band is optimal for the coverage of large areas by wireless broadband services. Building on the harmonisation of technical conditions under Decision 2010/267/EU, and on Commission Recommendation of 28 October 2009 calling for analogue broadcasting to be switched off by 1 January 2012, and given rapid national regulatory developments, this band should in principle be made available for electronic communications in the Union by 2013. In the longer term, additional spectrum below 790 MHz *could* also be envisaged, *depending on experience and the lack of spectrum in other bands adequate for coverage. Considering the capacity of the 800 MHz band to transmit over large areas, coverage obligations should be attached to rights.*

Amendment

(13) The 800 MHz band is optimal for the coverage of large areas by wireless broadband services. Building on the harmonisation of technical conditions under Decision 2010/267/EU, and on Commission Recommendation of 28 October 2009 calling for analogue broadcasting to be switched off by 1 January 2012, and given rapid national regulatory developments, this band should in principle be made available for electronic communications in the Union by 2013. In the longer term, additional spectrum below 790 MHz *should* also be envisaged *for the use of mobile services.*

Or. en

Amendment 7

Proposal for a decision

Recital 14

Text proposed by the Commission

(14) Since a common approach and economies of scale are key to developing broadband communications throughout the Union and preventing competition distortion and market fragmentation among Member States, certain authorisation and procedural conditions could be defined in concerted action among Member States and with the Commission. Conditions

Amendment

(14) Since a common approach and economies of scale are key to developing broadband communications throughout the Union and preventing competition distortion and market fragmentation among Member States, certain authorisation and procedural conditions could be defined in concerted action among Member States and with the Commission. Conditions

could include *coverage obligations*, *spectrum block size*, the timing of granting rights, *access to mobile virtual network operators (MVNOs)* and the duration of rights of use. Reflecting the importance of spectrum trading for increasing efficient use of spectrum and developing the internal market for wireless equipment and services, these conditions should apply to spectrum bands that are allocated to wireless communications, and for which rights of use may be transferred or leased.

could include the timing of granting rights and the duration of rights of use. Reflecting the importance of spectrum trading for increasing efficient use of spectrum and developing the internal market for wireless equipment and services, these conditions should apply to spectrum bands that are allocated to wireless communications, and for which rights of use may be transferred or leased.

Or. en

Amendment 8

Proposal for a decision

Article 2 – paragraph 1 – point a

Text proposed by the Commission

(a) encouraging efficient use of spectrum to best meet the increasing demand for use of frequencies;

Amendment

(a) encouraging efficient use of spectrum to best meet the increasing demand for use of frequencies, *to enhance the quality of services and to ensure universal access to electronic communications overcoming the current geographical differences;*

Or. en

Amendment 9

Proposal for a decision

Article 2 – paragraph 1 – point c

Text proposed by the Commission

(c) applying the *least onerous* authorisation system *possible in such a way as* to maximise flexibility and efficiency in spectrum usage;

Amendment

(c) applying the *most appropriate* authorisation system *that is the least onerous possible, in order* to maximise flexibility and efficiency in spectrum usage;

Amendment 10

Proposal for a decision

Article 3 – paragraph 1 – point a

Text proposed by the Commission

(a) make sufficient appropriate spectrum available in a timely manner to support Union policy objectives;

Amendment

(a) make sufficient appropriate spectrum available in a timely manner to support Union policy objectives ***and to promote the development of economic activities relying on electronic communications, such as e-commerce, in areas currently not served by broadband connections;***

Or. en

Amendment 11

Proposal for a decision

Article 4 – paragraph 1

Text proposed by the Commission

1. Member States shall adopt by 1 January 2013 authorisation and allocation measures appropriate for the development of broadband services, in conformity with Directive 2002/20/EC of the European Parliament and of the Council on the authorisation of electronic communications networks and services (Authorisation Directive), ***such as allowing relevant operators, where possible and on the basis of consultations in accordance with Article 11, direct or indirect access to contiguous blocks of spectrum of at least 10 MHz.***

Amendment

1. Member States shall adopt by 1 January 2013 authorisation and allocation measures appropriate for the development of broadband services, in conformity with Directive 2002/20/EC of the European Parliament and of the Council on the authorisation of electronic communications networks and services (Authorisation Directive).

Or. en

Amendment 12

Proposal for a decision Article 4 – paragraph 3

Text proposed by the Commission

3. Member States and the Commission shall cooperate to develop and harmonise standards for radio equipment and telecommunications terminals as well as for electric and electronic equipment and networks based where necessary upon standardisation mandates from the Commission to the relevant standardisation bodies

Amendment

3. Member States and the Commission shall cooperate to develop and harmonise standards for radio equipment and telecommunications terminals as well as for electric and electronic equipment and networks based where necessary upon standardisation mandates from the Commission to the relevant standardisation bodies. ***Special attention shall also be given to standards for equipment to be used by disabled people.***

Or. en

Amendment 13

Proposal for a decision Article 5 – paragraph 2 – introductory part

Text proposed by the Commission

2. In order to implement fully the obligations of paragraph 1, and in particular to ensure that competition is not distorted by any accumulation, transfer or modification of rights of use for radio frequencies, Member States ***may adopt inter alia*** the following measures, which are without prejudice to the application of competition rules:

Amendment

2. In order to implement fully the obligations of paragraph 1, and in particular to ensure that competition is not distorted by any accumulation, transfer or modification of rights of use for radio frequencies, Member States ***shall, when planning to assign spectrum, carefully examine whether the planned spectrum assignment, taking into account the existing spectrum assignments to the competing mobile operators, in their territory is likely to reduce or distort competition in the mobile markets concerned. Where the planned spectrum assignment taking into account existing***

spectrum assignments is likely to result in the reduction or distortion of competition, Member States shall address such reduction or distortion by adopting at least one of the following measures, which are without prejudice to the application of competition rules:

Or. en

Amendment 14

Proposal for a decision Article 6 – paragraph 3

Text proposed by the Commission

3. Member States shall, by 1 January 2013 make the 800 MHz band available for electronic communications services in line with the harmonised technical conditions laid down pursuant to the Decision No 676/2002/EC. In Member States where exceptional national or local circumstances would prevent the availability of the band, the Commission may authorise specific derogations until 2015. In accordance with Article 9 of Directive 2002/21/EC, the Commission, in cooperation with the Member States, shall ***keep under review the use of the spectrum below 1GHz and assess whether additional spectrum could be freed and made available for new applications.***

Amendment

3. Member States shall, by 1 January 2013 make the 800 MHz band available for electronic communications services in line with the harmonised technical conditions laid down ***in Decision 2010/267/EU,*** pursuant to the Decision No 676/2002/EC. In Member States where exceptional national or local circumstances would prevent the availability of the band, the Commission may authorise specific derogations until 2015. In accordance with Article 9 of Directive 2002/21/EC, the Commission, in cooperation with the Member States, shall ***in addition take action to promote a second Digital Dividend (698-790MHz) and consider the longer-term convergence of services for 470-698 MHz. New spectrum bands such as the 2.3 GHz band to be allocated for mobile services, primarily adding capacity, should also be envisaged.***

Or. en

Amendment 15

Proposal for a decision Article 6 – paragraph 4

Text proposed by the Commission

4. Member States, in cooperation with the Commission, shall ensure that the provision of access to broadband content and services using the 790-862 MHz (800MHz) band is encouraged in sparsely populated areas, ***in particular through coverage obligations***; in doing so, they shall examine ways and, where necessary, take appropriate measures to ensure that the freeing of the 800 MHz band does not adversely affect programme making and special events (PMSE) users.

Amendment

4. Member States, in cooperation with the Commission, shall ensure that the provision of access to broadband content and services using the 790-862 MHz (800MHz) band is encouraged in sparsely populated areas; in doing so, they shall examine ways and, where necessary, take appropriate measures to ensure that the freeing of the 800 MHz band does not adversely affect programme making and special events (PMSE) users.

Or. en

Amendment 16

Proposal for a decision Article 7 – paragraph - 1 (new)

Text proposed by the Commission

Amendment

-1. In cooperation with the Commission, Member States shall ensure sufficient spectrum availability for terrestrial broadcasting services.

Or. en

Amendment 17

Proposal for a decision Article 7 – paragraph 3

Text proposed by the Commission

3. ***If necessary***, the Commission shall ensure that sufficient spectrum is made available under harmonised conditions to support the development of safety services and the free circulation of related devices as well as the development of innovative interoperable solutions for public safety and protection, civil protection and disaster relief.

Amendment

3. The Commission shall ensure that sufficient spectrum is made available under harmonised conditions to support the development of safety services and the free circulation of related devices as well as the development of innovative interoperable solutions for public safety and protection, civil protection and disaster relief.

Or. en

Amendment 18

Proposal for a decision

Article 7 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Member States shall, in cooperation with the Commission, seek to find a minimum set of harmonised core bands for PMSEs in the Union, according to the Union's objectives to improve the integration of the internal market and access to culture.

Or. en

Amendment 19

Proposal for a decision

Article 8 – paragraph 1

Text proposed by the Commission

Amendment

1. The Commission, assisted by the Member States, which shall provide all appropriate information on spectrum use, shall create an inventory of existing spectrum use and of possible future needs

1. The Commission, assisted by the Member States, which shall provide all appropriate information on spectrum use, shall create an inventory of existing spectrum use and of possible future needs

for spectrum in the Union, *in particular* in the range from 300 MHz to **3 GHz**.

for *harmonised* spectrum in the Union. As *an initial step, such an inventory shall include frequencies* in the range from 300 MHz to **6 GHz**. *The inventory should also include a report of the measures taken by the Member States in order to implement decisions taken at EU level regarding the harmonisation and use of the specific frequency bands.*

Or. en

Amendment 20

Proposal for a decision Article 8 – paragraph 2

Text proposed by the Commission

2. The inventory referred to in paragraph (1) shall allow the assessment of the technical efficiency of existing spectrum uses and the identification of inefficient technologies and applications, unused or inefficiently used spectrum and spectrum sharing opportunities. It shall take into account future needs for spectrum based on consumers' and operators' demands, and of the possibility to meet such needs.

Amendment

2. The inventory referred to in paragraph (1) shall allow the assessment of the technical efficiency of existing spectrum uses and the identification of inefficient technologies and applications, unused or inefficiently used spectrum and spectrum sharing opportunities. It shall take into account future needs for spectrum based on consumers', *businesses'* and operators' demands, and of the possibility to meet such needs.

Or. en

Amendment 21

Proposal for a decision Article 9 – paragraph 4

Text proposed by the Commission

4. The Union shall *provide, upon request*, political and technical support *to Member States* in *their* bilateral negotiations with non-Union neighbouring countries

Amendment

4. The Union shall *assist the Member States with* political and technical support in bilateral *and multilateral* negotiations with non-Union neighbouring countries

including candidate and acceding countries, to resolve spectrum coordination issues that prevent Member States from implementing their obligations under Union law regarding spectrum policy and management. The Union shall also support efforts by third countries to implement spectrum management that is compatible with that of the Union, so as to safeguard Union spectrum policy objectives.

including candidate and acceding countries, to resolve spectrum coordination issues that prevent Member States from implementing their obligations under Union law regarding spectrum policy and management. The Union shall also support efforts by third countries to implement spectrum management that is compatible with that of the Union, so as to safeguard Union spectrum policy objectives.

Or. en