



EUROPEAN PARLIAMENT

2009 - 2014

Committee on the Internal Market and Consumer Protection

2010/0252(COD)

23.3.2011

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

PA_Legam

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

Amendment

(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 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.

services (Framework Directive) provides that the Commission may submit a 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 supports the goals and key actions outlined in the EU2020 Strategy and the Digital Agenda, and 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, **2002/19/EC**, 2002/20/EC, 2002/21/EC **and 2009/140/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.

Amendment 2

Proposal for a decision Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Spectrum is a publicly held good which can not be privately owned but which must be regulated by states in order to facilitate its usage by the means of licensed transmission rights or licence-

free usage rights.

Amendment 3

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 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.

Amendment

(2) Spectrum is a key **public** 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 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.

Amendment 4

Proposal for a decision

Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) A renewed economic and social approach with regards to the management, allocation and utilisation of the spectrum should be adopted, whereby particular focus is directed towards the formulation of regulation which ensures greater spectrum efficiency, better

frequency planning and safeguards against anti-competitive behaviour and the taking of anti-social measures with regards to the usage of the spectrum.

Amendment 5

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. ***In no circumstances should current spectrum rights holders' concerns about their possible entitlements delay the necessary reforms.***

Amendment 6

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 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.

Amendment 7

**Proposal for a decision
Recital 5**

Text proposed by the Commission

(5) The first programme should specify guiding principles and objectives up to 2015 for Member States and Union institutions, and set out specific implementation initiatives. While spectrum management is *still* largely a national competence, it should be exercised in compliance with existing Union law and allow for action to pursue Union policies.

Amendment

(5) The first programme should specify guiding principles and objectives up to 2015 for Member States and Union institutions, and set out specific implementation initiatives. While spectrum management is largely a national competence, it should be exercised in compliance with existing Union law and allow for action to pursue Union policies. ***Special national arrangements for spectrum use must be avoided, so as to prevent obstructive effects on European markets, although decisions to award usage rights should continue to be taken at national level and with regard to existing national business models.***

Amendment 8

**Proposal for a decision
Recital 8**

Text proposed by the Commission

(8) Spectrum rights trading combined with flexible usage conditions should substantially benefit economic growth. Therefore, bands where flexible use has already been introduced by Union law should be immediately made tradable pursuant to the Framework Directive. In addition, common principles for the format and content of such tradable rights ***as well as*** common measures to prevent accumulation of spectrum which may create dominant positions as well as undue failure to use acquired spectrum, would facilitate the coordinated introduction by all Member States of these measures and facilitate acquisition of such rights anywhere in the Union.

Amendment

(8) Spectrum rights trading combined with flexible usage conditions should substantially benefit economic growth. Therefore, bands where flexible use has already been introduced by Union law should be immediately made tradable pursuant to the Framework Directive. In addition, common principles for the format and content of such tradable rights, common measures to prevent accumulation of spectrum which may create dominant positions as well as undue failure to use acquired spectrum ***and common standards for the removal of these licensed rights*** would facilitate the coordinated introduction by all Member States of these measures and facilitate acquisition of such rights anywhere in the Union.

Amendment 9

Proposal for a decision Recital 9

Text proposed by the Commission

(9) As underlined in the Digital Agenda for Europe, wireless broadband is an important means to boost competition, consumer choice and access in rural and other areas where deployment of wired broadband is difficult or economically unviable. However, spectrum management may affect competition by changing the role and power of market players, for example if existing users receive undue competitive advantages. Limited spectrum access, in particular when appropriate spectrum becomes scarcer, can create a barrier to entry for new services or applications and hamper innovation and competition. Acquisition of new usage rights, including through spectrum trading or other transactions between users, and the introduction of new flexible criteria for spectrum use can have an impact on the existing competitive situation. Member States should therefore take appropriate ex ante or ex post regulatory measures (such as action to amend existing rights, to prohibit certain acquisitions of spectrum rights, to impose conditions on spectrum hoarding and efficient use such as those referred to in Article 9 paragraph 7 of the Framework Directive, to limit the amount of spectrum for each operator, or to avoid excessive accumulation of spectrum) to avoid distortions of competition in line with the principles underpinning Article 5(6) of Directive 2002/20/EC (the "Authorisation" Directive) and Article 1(2) of Directive 87/372/EEC (the "GSM" Directive).

Amendment

(9) As underlined in the Digital Agenda for Europe, wireless broadband is an important means to boost competition, consumer choice and access in rural and other areas where deployment of wired broadband is difficult or economically unviable. However, spectrum management may affect competition by changing the role and power of market players, for example if existing users receive undue competitive advantages. ***Award conditions should be framed so as to permit a level playing field in competition with regard to coverage and not hinder newcomers from entering the market. New technologies, likewise, should not be disadvantaged simply because they are made available on the market at a later date.*** Limited spectrum access, in particular when appropriate spectrum becomes scarcer, can create a barrier to entry for new services or applications and hamper innovation and competition. Acquisition of new usage rights, including through spectrum trading or other transactions between users, and the introduction of new flexible criteria for spectrum use can have an impact on the existing competitive situation. Member States should therefore take appropriate ex ante or ex post regulatory measures (such as action to amend existing rights, to prohibit certain acquisitions of spectrum rights, to impose conditions on spectrum hoarding and efficient use such as those referred to in Article 9 paragraph 7 of the Framework Directive, to limit the amount of spectrum for each operator, or to avoid excessive accumulation of spectrum) to avoid distortions of competition in line with the principles underpinning Article 5(6) of Directive 2002/20/EC (the

"Authorisation" Directive) and Article 1(2) of Directive 87/372/EEC (the "GSM" Directive).

Amendment 10

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.

Amendment

(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 **6 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. ***To complement this, 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 the use of the specific frequency bands.***

Amendment 11

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 cases of exceptional local circumstances, the Commission may authorise specific derogations until 2015, in reaction to duly justified requests by Member states.*** In the longer term, additional spectrum *in the UHF band should* also be envisaged, *on the basis of the inventory of existing spectrum use and the possible future needs for spectrum in the Union*, depending on *actual market demands, social and cultural objectives*, experience and the lack of spectrum in other bands adequate for coverage. ***In addition, rapid implementation of the "GSM" Directive, in accordance with the principles of competition, is of key importance.***

Amendment 12

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

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.

concerted action among Member States and with the Commission. Conditions could include the timing of granting rights, the duration of rights of use *and the conditions by which rights can be withdrawn or transferred*. 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.

Amendment 13

Proposal for a decision Recital 24

Text proposed by the Commission

(24) The Commission should report to the European Parliament and the Council on the results achieved under this Decision, as well as on planned future actions.

Amendment

(24) The Commission should report to the European Parliament and the Council *at regular intervals* on the results achieved under this Decision, as well as on planned future actions.

Amendment 14

Proposal for a decision Recital 25 a (new)

Text proposed by the Commission

Amendment

(25a) Nothing in this Decision is intended to detract from the protection afforded to economic operators by the Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated

facilities, and 2002/20/EC on the authorisation of electronic communications networks and services¹.

¹ *OJ L 337, 18.12.2009, p. 37.*

Amendment 15

Proposal for a decision

Article 1 – title

Text proposed by the Commission

Amendment

Aim

Aim *and scope*

Amendment 16

Proposal for a decision

Article 1 – paragraph 1

Text proposed by the Commission

Amendment

This Decision establishes a radio spectrum policy programme for the strategic planning and harmonisation of the use of spectrum to ensure the functioning of the internal market.

1. This Decision establishes a radio spectrum policy programme for the strategic planning and harmonisation of the use of spectrum to ensure the functioning of the internal market.

Amendment 17

Proposal for a decision

Article 1 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. This Decision shall be without prejudice to Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic

communications networks and associated facilities, and 2002/20/EC on the authorisation of electronic communications networks and services.

¹OJ L 337, 18.12.2009, p. 37.

Amendment 18

Proposal for a decision

Article 1 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. This Decision is without prejudice to existing EU law and to measures taken at national level, in compliance with EU law, to pursue general interest objectives, and in particular relating to content regulation and audiovisual policy and to the right of Member States to organise and use their spectrum for public order and public security purposes and defence.

Amendment 19

Proposal for a decision

Article 2 – point a

Text proposed by the Commission

Amendment

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

(a) encouraging efficient use of spectrum to meet the increasing demand for use of frequencies ***as effectively as possible and across the board, to enhance the quality of services and to ensure universal access to electronic communications overcoming the current geographical differences, while at the same time respecting the important social, cultural and economic value of spectrum. This shall be achieved whilst ensuring a level playing field and non-discriminatory competition, and safeguarding national specificities in relation to business models;***

Amendment 20

Proposal for a decision Article 2 – 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 non-discriminatory* authorisation system *that is the least onerous* possible, *in order* to maximise flexibility and efficiency in spectrum usage;

Amendment 21

Proposal for a decision Article 2 – point d

Text proposed by the Commission

(d) guaranteeing the functioning of the internal market, in particular by ensuring effective competition.

Amendment

(d) guaranteeing the functioning of the internal market, in particular by ensuring effective competition *and efficient coordination of spectrum harmonisation and standardisation*.

Amendment 22

Proposal for a decision Article 3 – 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 mannerto support Union policy objectives, *in particular the prioritisation in broadband provision, notably through effective implementation of the "GSM" Directive, also to promote the development of economic activities relying on electronic communications, such as e-commerce, in areas currently not served by broadband connections. This must be achieved whilst*

guaranteeing competition and taking into account important general interest objectives, such as cultural diversity and media pluralism, as well as the interests of various radio spectrum users;

Amendment 23

Proposal for a decision Article 3 – point d

Text proposed by the Commission

(d) maintain and develop effective competition, in particular in electronic communication services, by preventing ex ante, or remedying ex post, excessive accumulation of radio frequencies by certain economic operators which results in significant harm to competition;

Amendment

(d) maintain and develop effective competition, in particular in electronic communication services, by preventing ex ante, or remedying ex post, excessive accumulation of radio frequencies by certain economic operators which results in significant harm to competition ***by means of withdrawal of frequency rights or other measures;***

Amendment 24

Proposal for a decision Article 3 – point g a (new)

Text proposed by the Commission

Amendment

(ga) in defining those areas of the spectrum which should be made open for use without licensed rights and/or reserved to scientific research;

Amendment 25

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

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), *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 26

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 27

Proposal for a decision Article 4 – paragraph 4

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).

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, without, however, depriving them of the right to use non-standardised equipment if that is their preference. Efficient coordination of spectrum harmonisation and standardisation will be particularly important in this regard so that consumers can use appliances that depend on radio spectrum without restriction and throughout the internal market.*

Text proposed by the Commission

4. Member States shall ensure that selection conditions and procedures promote investment and efficient use of spectrum.

Amendment

4. Member States shall ensure that selection conditions and procedures promote investment and efficient use of spectrum ***as a public good.***

Amendment 28

Proposal for a decision

Article 4 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. The measures provided for in paragraph 1 shall be taken in addition to the opening of the 900 MHz band in the near future, in line with the amended "GSM" Directive and in such a manner as to promote competition. Such measures must be taken in a non-discriminatory manner and may not distort competition to the advantage of operators already dominant in the market.

Amendment 29

Proposal for a decision

Article 5 – paragraph 2 – introductory part

Text proposed by the Commission

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 ***may adopt inter alia*** the following measures, which are without prejudice to the application of competition rules:

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:

Amendment 30

Proposal for a decision

Article 5 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) Member States may take steps to achieve a more even spectrum allocation between economic operators by reserving spectrum for new entrants to a frequency band or group of bands with similar characteristics or by reserving spectrum for unlicensed usage in those bands;

Amendment 31

Proposal for a decision

Article 5 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall ensure that authorisation and selection procedures avoid delays and promote effective competition.

3. Member States shall ensure that authorisation and selection procedures avoid delays ***and discrimination*** and promote effective competition.

Amendment 32

Proposal for a decision

Article 5 – paragraph 3 a (new)

3a. Where Member States wish to adopt any such measures as are referred to in paragraph 2, they shall do so by imposing conditions pursuant to Article 6 of the Authorisation Directive, in conformity with the procedures for the imposition or variation of such conditions on the rights of use for radio frequencies laid down in Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and 2002/20/EC on the authorisation of electronic communications networks and services¹.

¹ OJ L 337, 18.12.2009, p. 37.

Justification

The aim of the amendment is to align the text with the telecoms regulatory framework. In particular, it is not clear whether this Decision (art 5.2) is proposing new powers for NRAs or whether the remedies and safeguards are those which derive from existing legislation. In particular, NRAs should not be able to circumvent the market review process (including Article 7, Framework Directive) and impose access obligations where they previously could not.

Amendment 33

**Proposal for a decision
Article 6 – paragraph 3**

3. Member States shall, by 1 January 2013 make the 800 MHz band available for electronic communications services in line

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.

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 keep under review the use of the **UHF band (i.e. spectrum between 300 MHz and 3 GHz)** and assess whether additional spectrum could be freed and made available for new applications. ***In particular, a second Digital Dividend shall be considered in the longer term.***

Amendment 34

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.

Amendment 35

Proposal for a decision Article 6 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The Member States, in cooperation with the Commission, shall take the necessary technical and regulatory measures to prevent harmful interference between mobile services and broadcasting and PMSE users. The Member States shall make sufficient funds available in good time to cover the migration costs associated with the freeing of the 800 MHz band and the measures to protect against interference.

Amendment 36

Proposal for a decision Article 6 – paragraph 6

Text proposed by the Commission

Amendment

6. If necessary, the Commission shall ensure the availability of additional spectrum bands for the provision of harmonised satellite services for broadband access that will cover the whole territory of the Union including the most remote areas with a broadband offering enabling Internet access ***at a comparable price to terrestrial offerings.***

6. If necessary, the Commission shall ensure the availability of additional spectrum bands for the provision of harmonised satellite services for broadband access that will cover the whole territory of the Union including the most remote areas with a broadband offering enabling Internet access.

Justification

We believe that it is outside the scope of this Decision for the Commission to ensure the availability of harmonised satellite services for broadband access “offering enabling Internet access at a comparable price to terrestrial offerings” and that the S-Band spectrum licensed at a European level in 2009 fulfils the requirements for harmonised satellite services for broadband access.

Amendment 37

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

Text proposed by the Commission

Amendment

-1. In order to support the further development of innovative audiovisual media and other services to European citizens, taking into account the economic and social benefits of a digital single market, Member States shall, in cooperation with the Commission, ensure sufficient spectrum availability for satellite and terrestrial provision of such services.

Justification

Not only terrestrial broadcasting needs sufficient spectrum to fulfil general interest objectives, but satellites also need sufficient spectrum to continue pioneer and deploy innovative technologies that promote advanced digital services, including new audiovisual services of high quality, such as HDTV or 3DTV. It is important to take a comprehensive approach to spectrum use, promoting all technologies to bring economic and social benefits to citizens and businesses, and thereby contribute to a fully functioning digital single market.

Amendment 38

Proposal for a decision Article 7 – paragraph 3

Text proposed by the Commission

Amendment

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.

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.

Amendment 39

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. These harmonised bands shall be on 1GHz or higher frequencies.

Justification

Touring artists and groups are currently facing problems as wireless microphones have been given different frequencies not only in different Member States but also between different towns and regions. PMSEs do not need large covering areas and therefore frequencies above 1GHz would be ideal.

Amendment 40

Proposal for a decision

Article 7 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4b. Member States and the Commission shall ensure spectrum availability for RFID and other Internet of Things (IOT) wireless communication technologies and shall work towards standardisation of spectrum allocation for IOT communication across Member States.

Amendment 41

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 shall 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.*

Amendment 42

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, *on the basis of clearly defined and transparent criteria and methods*, 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.

Amendment 43

Proposal for a decision Article 8 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Where possible, the Commission shall also include in the inventory referred to in paragraph 1 information on spectrum use by third partner states neighbouring a Member State that could have a direct or indirect effect on spectrum use within the

Amendment 44

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 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.

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.

PROCEDURE

Title	Radio spectrum policy
References	COM(2010)0471 – C7-0270/2010 – 2010/0252(COD)
Committee responsible	ITRE
Opinion by Date announced in plenary	IMCO 23.9.2010
Rapporteur Date appointed	Eija-Riitta Korhola 13.10.2010
Date adopted	22.3.2011
Result of final vote	+: 34 –: 1 0: 0
Members present for the final vote	Pablo Arias Echeverría, Adam Bielan, Cristian Silviu Buşoi, Lara Comi, Anna Maria Corazza Bildt, António Fernando Correia De Campos, Jürgen Creutzmann, Christian Engström, Evelyne Gebhardt, Iliana Ivanova, Sandra Kalniete, Eija-Riitta Korhola, Edvard Kožušník, Toine Manders, Gianni Pittella, Mitro Repo, Zuzana Roithová, Heide Rühle, Matteo Salvini, Christel Schaldemose, Andreas Schwab, Catherine Stihler, Kyriacos Triantaphyllides, Bernadette Vergnaud, Barbara Weiler
Substitute(s) present for the final vote	Damien Abad, Simon Busuttil, Cornelis de Jong, Ashley Fox, Constance Le Grip, Pier Antonio Panzeri, Antonyia Parvanova, Sylvana Rapti, Amalia Sartori
Substitute(s) under Rule 187(2) present for the final vote	Michael Gahler