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## **RADIO SPECTRUM POLICY GROUP**

**Subject: Chairman's Report of RSPG#27, 29 February 2012**

**RSPG #27**  
**Brussels, 29 February 2012**

Chairman's Report

**(1) Introduction to RSPG#27**

The **new Chairman Mr Roberto Viola, Secretary General of AGCOM** (Italy), assisted by **Mr Gilles Brégant, Director General of ANFR** (Agence Nationale des Fréquences, France), in his capacity of Vice-Chairman of RSPG, opened the meeting.

The agenda<sup>1</sup> was adopted with one modification (addition of an intervention requested by ECC/ECO under agenda item 4 in order to present the latest developments regarding the EFIS data base). The Commission was represented by **Mrs Megan Richards, acting Deputy Director General INSFO** (who succeeded Mr Peltomäkki who recently became Deputy Director General of the Directorate General Enterprise and Industry). Mrs Richards was assisted by Mr Ruprecht Niepold, Advisor to the Director General INFSO.

In anticipation of possible difficulties in transport caused by social actions (EU action day called by ETUC), the Chairman proposed to cancel the stakeholders briefing (initially planned immediately after the plenary meeting) and to replace it by a recorded message. The video debriefing can be seen at <http://rspg.ec.europa.eu> by selecting "video address" in the "what's new" section.

**(2) Debrief WRC-12**

**Mr Steve Bond, the Co-Chair of the CEPT Conference Preparatory Group (CPG)** for the ITU World Radio Conference 2012 (WRC-12), gave an overview of the main results of the conference that ended on 17 February 2012. Mr Bond started by expressing satisfaction for the very useful role that CEPT played again at the Conference as the technical coordinator to assist not only the EU Member States but also the non-EU Members of CEPT. According to Mr Bond, the strong support of ECPs (European Common Positions) was instrumental in ensuring a strong leadership by CEPT members on most, if not all, the topics. Most ECPs enjoyed the support of more than 40 states. From the CEPT viewpoint, the overall result of WRC-12 is in line with CEPT's main objectives as reflected in the ECPs, and are also in line with the key EU interests as set by the Commission prior to the Conference. He further indicated that the proposal by African and Arab states to co-allocate the 700 MHz band to mobile communications was not expected to have such a broad support. He reported that WRC12 agreed for this allocation to be effective from WRC-15 onwards, subject to the completion of the appropriate technical studies. However, this result does not impose a particular approach to the EU at the moment. In particular, there is also a general agenda item agreed for WRC-15 to identify more spectrum for mobile broadband, which is not specific to particular frequency bands, in line with the EU

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<sup>1</sup> Document RSPG12-402 rev2. This document, as well as all subsequently quoted RSGP documents, are available on the public RSPG website at [http://rspg.ec.europa.eu/ref\\_doc/index\\_en.htm](http://rspg.ec.europa.eu/ref_doc/index_en.htm).

position backed by the Commission to examine all options before focusing on specific bands.

Among the other important topics, Mr Bond mentioned that the results regarding the new allocation at 5GHz for Unmanned Aircraft Systems were satisfactory since the so-called "package deal" also makes provision to develop a sub-band for an uplink to address future Galileo needs in the 2.5 GHz band, which the Conference eventually supported. One of the difficult topics concerned the access to the L-Band from aeronautical systems but a solution was found and endorsed by Administrations. By and large, the results in the area of scientific use are good (e.g. protection of earth observation in 80 and 90 GHz).

More information is available in the CEPT Report which was produced by CEPT for the purpose of this meeting <sup>2</sup>.

**The Chairman** thanked Mr Bond and congratulated the CEPT for the good results. Mr Viola also confirmed that discussions around the 700 MHz in political circles are quickly gaining momentum. The matter has also quickly attracted the attention at the level of CEOs in the mobile sector. It was for example one of the hot topics at the World Mobile Conference in Barcelona earlier in the week.

**The Commission representative** echoed the positive words of the Chairman regarding the good performance of the CEPT coordination at the Conference. The Commission followed the conference activities in Geneva and appreciated the good exchange of information that was achieved through the cooperation with the CEPT. The Commission further indicated that it needs to "digest" the result of the Conference and is planning to issue a public staff paper in a few weeks. The Commission welcomes the identification of more spectrum for wireless broadband use. However, the Commission would prefer a thorough and systematic review of all possibilities between 400 MHz and 6 GHz in the context of the spectrum inventory as specified in the Radio Spectrum Policy Programme which is now agreed with the European Parliament and the Council<sup>3</sup>.

**A Member State representative** stressed that several Member States are in the process of re-farming the UHF spectrum to free up the 800 MHz band, and that it would therefore be important that any uncertainty regarding the 700 MHz band be resolved as quickly as possible.

**The Chairman** concluded by announcing that he will schedule a strategic debate on the 700MHz issue at the next plenary meeting on 6 June 2012. Mr Viola suggested that on this occasion, Member States indicate possibly with a written contribution their initial views on the 700 MHz. The debate would help to form a common view and thereby minimising the risk of fragmentation in the internal market. **The Commission** expressed support for this proposal.

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<sup>2</sup> Document "CEPT Report on WRC-12 Outcome".

<sup>3</sup> Final signature of the RSPP planned by end March 2012.

### (3) Adoption of the RSPG Work Programme 2012

On behalf of the Chairman, **Mr Mauro Martino** (AGCOM, Italy), presented the outcome of the public consultation that took place on the draft Work Programme from 20 January to 8 February<sup>4</sup> and the revised version submitted for final adoption. Besides presenting minor modifications resulting from the public consultation, Mr Martino proposed that the final version of the Work Programme should include a clear link between the outcome of WRC-12 and the proposed work streams leading to an Opinion on wireless broadband and Reports on cross-border coordination. Mr Martino reminded the Group that, in the new proposed approach, the Work Programme is meant to provide a flexible framework, extending beyond 2012, which depicts lines of activities. In this context, more specific requirements for the work will be developed with the respective "Requests for Opinion" or "Requests for Report". The use of these formal "Requests", prepared by the Commission, in cooperation with RSPG, was abandoned a few years ago to reduce "red tape" but has now been re-established having the advantages of specifying clearly the expectations of both the Commission and the RSPG and of increasing transparency with external constituencies.

**The RSPG** welcomed the revised proposal. Some RSPG Members stressed the importance of ensuring an appropriate linkage between the different activities proposed in the Work Programme (e.g. between wireless broadband, sectoral demands, cross-border coordination and the preparation of WRC-15), requiring a close coordination. Several Members also stressed that the preparation of WRC-15 should start early in order to ensure continuity and contributing to a solid EU coordination. An RSPG Member regretted the low number of external contributions during the public consultation and suggested that the RSPG should ensure better publicity to the preparation process of the Work Programme in the future. One Member State also pointed at the need to distinguish the ongoing inventory process with the activity of the groups. The CEPT also noted that it is up to the EU to make key decisions to be supported at WRC conference and not to the ITU to overly influence EU strategic choices. Finally, an RSPG Member expressed the need to focus on no more than 3 or 4 activities and avoid creating an excessive workload for Member States.

**The Work Programme<sup>5</sup> was then adopted** with the modifications proposed.

The meeting proceeded by discussing priorities and attribution of responsibilities with regards to activities identified as having priority:

- **Wireless broadband (WP item 1):** A preliminary draft Request for an Opinion on "Defining a Roadmap for the Strategic Assessment of the Future Demand for Spectrum for Wireless Broadband", was introduced by Mr. Mauro Martino and discussed based on a tabled draft. After discussion, it was deemed that this topic was one of the most important at the moment, and it was decided to collect written comments from the Member States over the next couple of weeks. **Mr. Jim Connolly** (ComReg, Ireland) was indicated as potentially leader of this activity having signalled to the Chairman his availability. The Commission will prepare a new draft in cooperation with the Chairman and Mr Connolly, taking into account

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<sup>4</sup> RSPG12-412

<sup>5</sup> RSPG12-401

the comments from RSPG. The revised Request should then be circulated to the RSPG.

- **EU assistance in bilateral cross-border spectrum coordination (WP item 6):** **Mr Eric Fournier, ANFR (FR)**, was indicated as possibly leading this activity (Mr Fournier was not able to attend this meeting but had already indicated availability to the Chairman prior to the meeting). The Rapporteur will be asked to prepare a draft Request for a Report in collaboration with the Chairman to be cleared with the Commission. This Request for a Report should then be submitted to the RSPG at the latest at the next plenary meeting in June.
- **Regarding the previous two work items** the Chairman called for other potential candidatures as Rapporteur, in order to definitely proceed to the appointment, to be expressed within the usual 2-week time.
- **A call for candidates to be a Rapporteur** for three other activities was issued: for the Report on sectoral demand, the first Opinion in preparation of WRC-15 and the Report on improved regulations in interference management. The two first activities could be also initiated before the next plenary RSPG meeting while the third one can possibly start after the June meeting. The formal "Requests" regarding the three activities should be finalised in due time and submitted possibly at RSPG#28 on 6 June 2012. It is to be noted that the activity on sectoral demand should consider all potential sectors having a legitimate additional demand but focus in a first instance on those with the most urgent needs. The Rapporteurs that will be appointed should prepare a draft proposal for the scope and objectives, the organisation of the work including a time table. This proposal will be made in collaboration with the Chairman and coordinated by the Commission who will have the final responsibility.

#### **(4) RSPG Opinion on the review of spectrum use**

##### *Adoption of the Opinion*

The Rapporteur in charge of this activity, **Mr Jim Connolly** (ComReg, Ireland), presented the proposed modifications to the final text of the RSPG Opinion, following the public consultation that took place between 21 November 2011 and 10 January 2012. The detailed results of the public consultation were summarised in a separate meeting document<sup>6</sup>.

The revised Opinion was welcomed by the Group. **A few Members** made comments regarding the potential role of the existing EFIS data base in the context of the forthcoming inventory of spectrum. Some interventions stressed the importance of re-using the existing infrastructure and EFIS as much as possible. Others expressed concerns that EFIS could become too complex and possibly not fulfil the requirements. **The Commission representative** reminded that the RSPP clearly specifies the various responsibilities for the spectrum inventory. In the development of the methodology, the Commission will take full account of the view of the RSPG as well as the need to minimise the administrative burden on Member States and reduce costs. The Commission also underlined that costs should be seen in the perspective of the

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<sup>6</sup> RSPG12-411

expected long term value of the inventory as a permanent mechanism to assist the Commission and Member States in conducting a more efficient spectrum policy.

Since this Opinion was to be adopted before the final signature of the RSPP planned for mid March, **the Chairman** informed the Group that he had enquired with the Commission about the legal validity of such a early adoption, considering that this Opinions should serve as the official input from the RSPG on the spectrum inventory, as specified in the Article 9.2 of the RSPP. **The Commission** confirmed that account given that the RSPP has already been approved by both the European Parliament and the Council, so the Opinion can effectively constitute the legal view of the RSPG in that context. There was therefore no need to postpone adoption. **The RSPG** agreed with this approach.

**The Opinion<sup>7</sup> was adopted at unanimity.**

*Presentation of the status of the Commission study in preparation of the spectrum inventory*

On behalf of the Consultants in charge of the study, **Mr Scott Marcus** (WIK Consult) made a presentation of the current state of advancement of the project and highlighted some of the intermediate conclusions<sup>8</sup>. Mr Marcus made clear that the study was only a preparatory step towards the inventory and not yet the actual inventory itself. In this context, all aspects are still open for discussion.

**RSPG Members** raised questions to the consultant, mainly regarding the expected methodology to assess "efficiency", the potential use of EFIS, the issue of assessing actual usage of spectrum versus assignment data, the relationship between the data collection function and the actual analysis function, the relationship between the result of the study, the pilot inventory and the RSC role. The Consultant expressed the view that one of the clear findings at this stage is that "efficiency of use" can not be assessed on an absolute basis across all bands and across all applications. Efficiency can only be estimated on a relative basis between similar applications in similar bands. Mr Marcus also explained that EFIS could have a central role in the data collection process for the inventory. However, other sources of data will also be needed, in particular to characterise the actual use the spectrum.

**The Chairman** thanked Mr Marcus and expressed the view that the presentation did clarify several important issues related to the future inventory.

*Short communication on the EFIS data base*

**Mr Marc Thomas, Director of ECO**, made a short intervention to inform the RSPG about the recent efforts by ECC to adapt the existing European Frequency Information System (EFIS) data base to new requirements and also hopefully to anticipate future needs in the context of the spectrum inventory. Mr Thomas further clarified that it was not the intention, nor the role, of EFIS to perform the analysis of efficiency of use but rather to collect some of the data and allow for flexible search queries to be applied. Mr Thomas provided explanatory slides on the state and evolution of EFIS (a

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<sup>7</sup> RSP12-408 Rev1

<sup>8</sup> The slides of the presentation are available at the same web address as the other meeting documents. Document titled "Presentation by WIK Consult on Inventory and Review of spectrum use".

presentation at the meeting had to be cancelled due to time constraints) which will be available on the public RSPG web site as part of the meeting documents<sup>9</sup>.

**(5) Adoption of the joint RSPG-BEREC Report on Economic & social value of spectrum**

The **Rapporteur, Mr Thomas Heutmann** (BnetzA, Germany) reported on the latest developments and the finalisation of this joint Report. The same joint Report was already approved by BEREC at its meeting in Vienna on 23-24 April 2012. The Rapporteur suggested to introduce a few minor editorial amendments concerning some reported national facts and invited Member States to send any required update to the annex on national data within a short time frame.

**The Representative of Bulgaria** indicated that the national data regarding Bulgaria will be communicated shortly and another Member signalled the possible need to an editorial change in a sentence.

**The Chairman** praised the joint group for the significant work accomplished, and underlined in particular the value that the national information represents as a source of preliminary information for any Member State preparing award procedures, and in particular spectrum auctions. At the same time, the Chairman regretted that the work could not address other spectrum bands and in particular bands with specific social value.

**The Commission representative** thanked the working group for the work done. The Commission noted that the work was limited to cover bands used electronic communications services (WAPECS bands) and mentioned that the Commission may consider additional work on the analysis of social value in general at an appropriate point in time.

**The Report<sup>10</sup> was approved at unanimity.** It will be published subject to the national updates and linking with BEREC.

**(6) Process for EU assistance in bilateral negotiations with third countries and between EU countries on the review of spectrum use.**

On behalf of the Rapporteur for this work stream (Mr Eric Fournier, ANFR, France) who could not participate in this meeting, **Mr Jean-Yves Montfort** (ANFR, France) presented the outcome of the public consultation that took place from 21 November 2011 to 10 January 2012<sup>11</sup> and the latest adjustments to the final draft of the proposed RSPG Opinion. He reminded the Group that the proposed Opinion includes distinct procedures to address two cases in which spectrum coordination negotiations could be supported by the RSPG, namely:

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<sup>9</sup> Document titled: "Presentation of the ECO Frequency Information System update".

<sup>10</sup> Document RSPG12-410

<sup>11</sup> RSPG12-313

- Bilateral negotiations with third countries, and
- Bilateral negotiations between EU countries.

Mr Montfort emphasised that the mechanisms proposed in this Opinion do not replace the procedures already in force. Therefore they do not substitute to the provisions of the RSPP on international negotiations (Art. 10.2) with which the RSPG proposal is fully in line.

The **Chairman, Mr. Viola**, welcomed the Opinion that he qualified of "landmark Opinion" as the proposed approach has the potential to transform the way cross-border coordination is performed in the EU.

The **Commission Representative** also welcomed the work done. The Commission requested a few changes to the final draft Opinion in order to align the text legally with the relevant provision in the RSPP (this was also requested by a Member State) as well as to ensure full compatibility with EU law regarding the definition of "third countries". In this context, the Commission informed the RSPG that an accession country could not be formally considered as a Member State. This means that, for the purpose of spectrum coordination, and from a formal viewpoint, accession countries would be part of the mechanism applicable to "third countries". The Commission however regretted this limitation and indicated its intention to apply some flexibility if there would be a concrete case of coordination involving an accession country. To that purpose, the Commission made the following declaration: *"Considering the particular case of acceding countries, between the date of signing and the date of entry into force of the relevant accession treaty, the Commission is ready to consider a request that it may receive from an acceding country with a view to propose to the Group to examine the difficulties that country faces in cross-border coordination with a EU Member State. During the Group meeting, the Commission would then report on the difficulties of the acceding country and ask for RSPG to examine the matter. RSPG may decide to respond positively to this request and set up relevant actions to propose a workable solution."*

**The Chairman** also regretted that Croatia, as an accession country, could not be explicitly allowed to call for the application of the intra-EU mechanism until reaching the status of full EU Member in July 2013. He supported the proposal of the Commission to apply flexibility. Mr Viola further indicated that he would write directly to the Croatian administration stating that he would consider the requests from an acceding country as they were coming from any other Member State and, without prejudicing the decision of the Group, advise RSPG to respond positively to these possible requests.

**The RSPG** discussed the results of the public consultation and welcomed the revised Opinion. Further changes requested by Administrations during the meeting were also incorporated. Two Member States asked some more time for checking the last modifications internally<sup>12</sup>.

**The RSPG adopted the Opinion** on EU assistance on bilateral spectrum coordination issues<sup>13</sup>

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<sup>12</sup> After the meeting those Member States indicated they were satisfied with the new text.

<sup>13</sup> RSPG12-409



The **Chairman** commended once again the Rapporteur and the working group for the significant achievement regarding this topic.

**(7) Report on Commission activities in radio spectrum policy**

The Commission reported briefly on the latest developments. This information was also made available to the RSPG in the form of a written report<sup>14</sup>.

**(8) Administrative/organisational matters**

Following a proposal by the **Chairman**, the **RSPG approved the list of documents** eligible for **public access**.

The **next RSPG meeting** (RSPG#28) is scheduled to take place in Brussels on Wednesday **6 June 2012**.

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<sup>14</sup> RSPG12-406