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**\*\*\*I**

## **REPORT**

on the proposal for a decision of the European Parliament and of the Council  
on a regulatory framework for radio spectrum policy in the European  
Community  
(COM(2000) 407 – C5-0449/2000 – 2000/0187(COD))

Committee on Industry, External Trade, Research and Energy

Rapporteur: Angelika Niebler

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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## PROCEDURAL PAGE

By letter of 29 August 2000 the Commission submitted to Parliament, pursuant to Article 251(2) and Article 95 of the EC Treaty, the proposal for a European Parliament and Council decision on a regulatory framework for radio spectrum policy in the European Community (COM(2000) 407 - 2000/0187 (COD)).

At the sitting of 20 September 2000 the President of Parliament announced that she had referred this proposal to the Committee on Industry, External Trade, Research and Energy as the committee responsible and the Committee on Budgets, the Committee on Employment and Social Affairs, the Committee on Regional Policy, Transport and Tourism and the Committee on Culture, Youth, Education, the Media and Sport for their opinions (C5-0449/2000).

The Committee on Industry, External Trade, Research and Energy had appointed Angelika Niebler rapporteur at its meeting of 13 September 2000.

It considered the Commission proposal and draft report at its meeting(s) of 7 November 2000, 10 April, 29 May and 20 June 2001.

At the last meeting it adopted the draft legislative resolution with 1 abstentions.

Before the beginning of the vote, Mr Christian Foldberg Røvsing announced that he had interests in this field and consequently would not take part in it.

The following were present for the vote: Carlos Westendorp y Cabeza, chairman/acting chairman; Renato Brunetta, and Peter Michael Mombaur vice-chairmen; Angelika Niebler, rapporteur; Konstantinos Alyssandrakis, Ward Beysen (for Astrid Thors), Guido Bodrato, Massimo Carraro, Gérard Caudron, Giles Bryan Chichester, Nicholas Clegg, Dorette Corbey (for Harlem Désir), Willy C.E.H. De Clercq, Francesco Fiori (for Alejo Vidal-Quadras Roca), Christos Folias, Jacqueline Foster (for Concepció Ferrer), Pat the Cope Gallagher, Neena Gill (for Glyn Ford), Norbert Glante, Lisbeth Grönfeldt Bergman (for Marjo Matikainen-Kallström), Michel Hansenne, Malcolm Harbour (for Roger Helmer), Hans Karlsson, Bashir Khanbhai (for Konrad K. Schwaiger), Helmut Kuhne (for Rolf Linkohr), Bernd Lange (for Erika Mann), Werner Langen, Caroline Lucas, Eryl Margaret McNally, Nelly Maes, Elizabeth Montfort, Giuseppe Nisticò (for Umberto Scapagnini), Reino Paasilinna, Yves Piétrasanta, Elly Plooij-van Gorsel, John Purvis, Godelieve Quisthoudt-Rowohl, Imelda Mary Read, Mechtild Rothe, Christian Foldberg Røvsing, Paul Rübig, Ilka Schröder, Esko Olavi Seppänen, Helle Thorning-Schmidt (for Myrsini Zorba), Claude Turmes (for Nuala Ahern), Jaime Valdivielso de Cué, W.G. van Velzen, Dominique Vlasto, Anders Wijkman, Olga Zrihen Zaari .

The opinions of the Committee on Regional Policy, Transport and Tourism and the Committee on Culture, Youth, Education, the Media and Sport are attached; the Committee on Budgets and the Committee on Employment and Social Affairs decided on 12 October and 25 October 2000 respectively not to deliver opinions.

The report was tabled on 21 June 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant

part-session.

## LEGISLATIVE PROPOSAL

### Proposal for a decision of the European Parliament and of the Council n on a regulatory framework for radio spectrum policy in the European Community (COM(2000) 407 – C5-0449/2000 – 2000/0187(COD))

The proposal is amended as follows:

Text proposed by the Commission <sup>1</sup>	Amendments by Parliament
(Amendment 1) Recital 1	
<p>(1) On 10 November 1999 the Commission presented a Communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions proposing the next steps in radio spectrum policy on the basis of the results of the Public Consultation on the Green Paper on Radio Spectrum Policy in the context of European Community policies such as telecommunications, broadcasting, transport and R&amp;D. This Communication <b>received the support of</b> the European Parliament in a Resolution of 18 May 2000. <b><i>It underlined the need for action at Community level to achieve a harmonised and balanced approach on the use of radio spectrum in the Community in order to fulfil internal market principles and to protect Community interests at international level.</i></b></p>	<p>(1) On 10 November 1999 the Commission presented a Communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions proposing the next steps in radio spectrum policy on the basis of the results of the Public Consultation on the Green Paper on Radio Spectrum Policy in the context of European Community policies such as telecommunications, broadcasting, transport and R&amp;D. This Communication <b>was welcomed by</b> the European Parliament in a Resolution of 18 May 2000. <b><i>It emphasised that a certain degree of further harmonisation of Community policy on the radio spectrum could be desirable in particular for pan-European services and applications, and that it was necessary to ensure that Member States transposed in a binding way decisions drawn up by the European Conference of Postal and Telecommunications Administrations (CEPT).</i></b></p>

#### *Justification*

*The degree to which the European Parliament has declared itself in favour of action at Community level should be noted.*

#### (Amendment 2) Recital 2

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<sup>1</sup> OJ C 365, 19.12.2000, p. 256.

(2) *Where necessary*, policy principles on the use of radio spectrum *need to* be defined at Community level with a view to meeting Community policy objectives, in particular in the areas of communications, broadcasting, transport, research which all require, to various extents, the use of radio spectrum, *while maintaining a high standard of citizen's health*. On the basis of these principles, the use of radio spectrum should be coordinated and harmonised at Community level, *where necessary* to fulfill *these* Community objectives. Community coordination and harmonisation may also help achieving harmonisation and coordination of the use of the spectrum at global level in certain cases. At the same time, appropriate technical support can be provided at national level.

(2) Policy principles on the use of radio spectrum *should* be defined at Community level with a view to meeting Community policy objectives, in particular in the areas of communications, broadcasting, transport, research which all require, to various extents, the use of radio spectrum. On the basis of these principles, the use of radio spectrum should be coordinated and, *where appropriate*, harmonised at Community level, *in order* to fulfill Community *policy* objectives *efficiently*. Community coordination and harmonisation may also help *in* achieving harmonisation and coordination of the use of the spectrum at global level in certain cases. At the same time, appropriate technical support can be provided at national level.

#### *Justification*

*Imperative terms such as 'need to' should be avoided in recitals, articles being the appropriate instrument for the laying down of binding provisions by the legislature.*

*It is unnecessary to include a reference to protecting citizens' health at this point. The purpose of the recital is to set out the grounds for dealing with radio spectrum policy matters at Community level with a view to implementing Community policy in the areas of communications, broadcasting, transport and research.*

(Amendment 3)  
Recital 2a (new)

***(2a) Radio spectrum policy in the European Community must guarantee the right to freedom of expression, including freedom of opinion and freedom to obtain and disseminate information and ideas without interference by the public authorities and irrespective of borders, together with the freedom and plurality of the media.***

*Justification*

*EU framework legislation regarding radio spectrum policy must guarantee freedom of expression and free access to the means of obtaining and disseminating information without discrimination, together with the freedom and plurality of the media.*

(Amendment 4)  
Recital 3a (new)

***Member States shall ensure the effective management of radio spectrum for electronic communication services in their territory. They shall ensure that the allocation and assignment of radio spectrum by national regulatory authorities is based on objective, transparent, non-discriminatory and proportionate criteria, taking into account the democratic, social and cultural interests linked to the use of their frequencies.***

*Justification:*

*Member States must take the democratic, social and cultural interests of European citizens into account when allocating frequencies. Objective and transparent criteria must be applied.*

(Amendment 5)  
Recital 4

(4) In order to define general policy objectives regarding the use of spectrum, an appropriate consultative body should be created which will gather together, under the chairmanship of the Member State holding the Presidency of the Council, senior Member States representatives responsible for the various sectors using or affected by the use of radio spectrum, such as communications, broadcasting, audio-visual, transport, research and development as well as of security policy, military defence and police sectors, which may be indirectly affected. This group should provide guidance to the Commission, both on its own initiative and at the request of the Commission, on the need for harmonisation of the use of radio spectrum

(4) In order to define general policy objectives regarding the use of spectrum, an appropriate consultative body should be created which will gather together, under the chairmanship of the Member State holding the Presidency of the Council, senior Member States representatives responsible for the various sectors using or affected by the use of radio spectrum, such as communications, broadcasting, audio-visual, transport, research and development as well as of security policy, military defence and police sectors, which may be indirectly affected. This group should provide guidance to the Commission, both on its own initiative and at the request of the Commission, on the need for harmonisation of the use of radio spectrum



in the general context of Community policy and on regulatory and other issues related to the use of radio spectrum which impact on Community policies, including, for example, methods for granting rights to use spectrum, information availability, availability of spectrum, refarming, relocation, valuation and efficient use of radio spectrum as well as protection of human health. For that purpose, each national delegation should have a ***coordinated view of*** all policy aspects affecting spectrum use in its Member State in relation with the issues to be discussed in the group.

in the general context of Community policy and on regulatory and other issues related to the use of radio spectrum which impact on Community policies, including, for example, methods for granting rights to use spectrum, information availability, availability of spectrum, refarming, relocation, valuation and efficient use of radio spectrum as well as protection of human health. For that purpose, each national delegation should have a ***position agreed at national level on*** all policy aspects affecting spectrum use in its Member State in relation with the issues to be discussed in the group.

### *Justification*

*The purpose of the Senior Official Group is to enable the Member States to exchange views on radio spectrum policies agreed at national level and to reach agreement in respect of such policies. To that end, it is necessary that representatives sent by the Member States should represent all groups using radio spectrum in the Member State (translator's note: part of the amendment does not affect the English version).*

### (Amendment 6) Recital 5

(5) The group will take into account the views of the industry and of all users involved, both commercial and non-commercial, as well as of other interested parties on technological, market and regulatory developments which may affect the use of radio spectrum. Spectrum users should be free to provide all input they believe is necessary. The group may decide to hear representatives of the spectrum users communities at group meetings where necessary to illustrate the situation in a particular sector.

(5) The group will take into account the views of the industry and of all users involved, both commercial and non-commercial, as well as of other interested parties on technological, market and regulatory developments which may affect the use of radio spectrum. Spectrum users should be free to provide all input they believe is necessary. The group may decide to hear representatives of the spectrum users communities at group meetings where necessary to illustrate the situation in a particular sector. ***The activities of the group shall be made sufficiently transparent to allow all spectrum users to be able to comment and participate in due time.***

*Justification*

*It is imperative that users of frequencies are well aware of the future developments on spectrum policy which will affect spectrum use within the EU, and have a chance to share their views before the Community has adopted a political line.*

(Amendment 7)  
Recital 6

(6) The Commission should report on a regular basis to the European Parliament and the Council on the results achieved under this Decision, on policy objectives for radio spectrum in the Community as well as on planned future actions. ***This will allow for the provision of the appropriate political support for the policy objectives.***

(6) The Commission should report on a regular basis to the European Parliament and the Council on the results achieved under this Decision, on policy objectives for radio spectrum in the Community as well as on planned future actions.

*Justification*

*An obligation to report does not in itself automatically mean political legitimisation. Greater involvement by the European Parliament in the evolution of future radio spectrum policy at Community level is needed (see amendment 9 to Article 3(3)).*

(Amendment 8)  
Recital 7

(7) Radio spectrum technical management includes the harmonisation and allocation of radio spectrum. Such harmonisation should reflect the requirements of general policy principles identified at Community level. Coordinated introduction in the Community of systems using radio spectrum is dependent on the various national approaches to assignment and licensing including with regard to spectrum pricing and license fees. These issues should therefore be discussed and where appropriate be harmonised at Community level.

(7) Radio spectrum technical management includes the harmonisation and allocation of radio spectrum. Such harmonisation should reflect the requirements of general policy principles identified at Community level. Coordinated introduction in the Community of systems using radio spectrum is dependent on the various national approaches to assignment and licensing including with regard to spectrum pricing and license fees. These issues should therefore be discussed, ***coordinated*** and where appropriate be harmonised at Community level.

*Justification:*

*The primary objective of the legal framework to be established should be to coordinate spectrum policy more effectively at Community level. Harmonisation should be confined to cases where it is absolutely necessary.*

(Amendment 9)  
Recital 7a (new)

***(7a) Proposals regarding the establishment of clear priorities between, on the one hand, military and, on the other, civilian use of radio spectrum are needed. Member States are called upon to ensure transparency concerning the way in which such prioritisation is applied. In order to achieve efficient, effective use of radio spectrum in the European Union, EU Member States, in collaboration with the Commission, the European Parliament and the High Representative for the Common Foreign and Security Policy, should explore ways of initiating a discussion on harmonisation of the military use of radio spectrum and on how such use can be incorporated into general radio spectrum use.***

*Justification*

*Radio spectrum is a scarce resource for which there is heavy demand. A sensible balance needs to be achieved between civilian and military use of radio spectrum in the European Union. In seeking to achieve such a balance, it is very important that there should be consultation involving bodies concerned, and in particular the Commission, the European Parliament, EU Member States which are also members of NATO, and the High Representative for the Common Foreign and Security Policy.*

(Amendment 10)  
Recital 8

(8) The Community approach should also benefit from cooperation with radio spectrum experts from national authorities responsible for radio spectrum management. The experience of mandating procedures gained in specific sectors, for example as a result of the application of

(8) The Community approach should also benefit from cooperation with radio spectrum experts from national authorities responsible for radio spectrum management. The experience of mandating procedures gained in specific sectors, for example as a result of the application of

Decision No 710/97/EC of the European Parliament and of the Council of 24 March 1997 on a coordinated authorisation approach in the field of satellite personal-communication services in the Community (the S-PCS Decision) as amended by Decision No 1215/2000/EC and Decision No 128/1999/EC of the European Parliament and of the Council of 14 December 1998 on the coordinated introduction of a third generation mobile and wireless communications system (UMTS) in the Community (the UMTS Decision), a permanent, stable and uniform framework at Community level to ensure harmonised availability of radio spectrum use and to provide adequate legal certainty. Harmonisation measures should be adopted as a result of mandates to national experts acting in appropriate spectrum management bodies including the European Conference of Postal and Telecommunications administration (CEPT). Where necessary, the Commission should, be able to make the results of such mandates compulsory for Member States, and where the results of such mandates are not acceptable, to propose appropriate alternative action. This will in particular provide for the harmonisation of frequency spectrum necessary for the implementation of Directive ..../EC of the European Parliament and Council [on the authorisation of electronic communications networks and services].

Decision No 710/97/EC of the European Parliament and of the Council of 24 March 1997 on a coordinated authorisation approach in the field of satellite personal-communication services in the Community (the S-PCS Decision) as amended by Decision No 1215/2000/EC and Decision No 128/1999/EC of the European Parliament and of the Council of 14 December 1998 on the coordinated introduction of a third generation mobile and wireless communications system (UMTS) in the Community (the UMTS Decision), ***has shown that it may be appropriate to create*** a permanent, stable and uniform framework at Community level to ensure harmonised availability of radio spectrum use ***for Community activities dependent on radio spectrum*** and to provide adequate legal certainty. ***Decisions on*** harmonisation measures should be adopted ***under the Community legislative procedure. In the case that technical implementation measures are needed to implement harmonisation measures, the Commission should be authorised to grant mandates to*** spectrum management bodies, ***in particular*** the European Conference of Postal and Telecommunications administration (CEPT), ***in which experts from the Member States are involved. Such mandates should relate to solving technical problems in respect of radio spectrum arising in connection with the implementation of radio spectrum policy in the Community.*** The Commission should, ***where necessary***, be able to make the results of such mandates compulsory for Member States, and where the results of such mandates are not acceptable, to propose appropriate alternative action. This will in particular provide for the harmonisation of frequency spectrum necessary for the implementation of Directive ..../EC of the European Parliament and Council [on the authorisation of electronic communications networks and services]. ***In order to ensure***

*that political control is maintained in such cases, the President of the European Parliament may by simple letter require the Commission to report to its Committee on Industry, External Trade, Research and Energy on specific issues or by way of a periodic report; the European Parliament may amend or revoke the results of mandates within 90 days of such report being submitted, if there are reasons to suggest that the envisaged measure goes beyond technical implementation.*

*Justification*

*It is very important that more expertise be developed within the European Commission (notably by increasing the staff in charge of spectrum matters) to give it the means of improving its coordination with the CEPT.*

Or. en

(Amendment 11)  
Recital 9, final sentence

In view of the general purpose of **harmonising** spectrum use in the Community and in Europe, such information needs to be aggregated at a European level in a user-friendly manner.

In view of the general purpose of **more efficient** spectrum use in the Community and in Europe, such information needs to be aggregated at a European level in a user-friendly manner.

*Justification*

*See explanatory statement of report.*

(Amendment 12)  
Recital 13

(13) Implementation of Community policies may require coordination of radio spectrum use, in particular the provision of communications services including Community-wide roaming facilities.

(13) Implementation of Community policies may require coordination of radio spectrum use, in particular the provision of communications services including Community-wide roaming facilities.

Moreover, certain types of spectrum use entail a geographical coverage which goes beyond the borders of a Member State and allow for transborder services without requiring the movement of persons, such as satellite communications services. It is therefore necessary that the Community be adequately represented in the activities of all relevant international organisations and conferences related to radio spectrum management matters, such as within the International Telecommunications Union and its World Radiocommunications Conferences. In international negotiations, Member States and the Community should develop a common action and closely cooperate during the whole negotiations process so as to safeguard the unity of the international representation of the Community. As a consequence, Member States should support the request by the Community *in view of involvement* in such negotiations, based in particular on the procedures which had been agreed in the Council conclusions of 3 February 1992 for the World Administrative Radio Conference and as confirmed by the Council conclusions of 22 September 1997 and 2 May 2000. For such international negotiations, the Commission *sets out the* objectives to be achieved in the context of Community policies, in view of obtaining endorsement *by Council* on the positions *to* be taken by Member States at international level. Member States accompany any act of acceptance of any agreement or regulation within international fora in charge of or concerned with spectrum management by a joint declaration stating that they will apply such agreement or regulation in accordance with their obligations under the Treaty.

Moreover, certain types of spectrum use entail a geographical coverage which goes beyond the borders of a Member State and allow for transborder services without requiring the movement of persons, such as satellite communications services. It is therefore necessary that the Community be adequately represented in the activities of all relevant international organisations and conferences related to radio spectrum management matters, such as within the International Telecommunications Union and its World Radiocommunications Conferences. ***It is noted that the existing preparation and negotiation mechanisms for ITU World Radiocommunication Conferences through voluntary co-operation within CEPT have generated excellent results and that the Community's interests have been taken into account in the preparations.*** In international negotiations, Member States and the Community should develop a common action and closely cooperate during the whole negotiations process so as to safeguard the unity of the international representation of the Community. As a consequence, Member States should support the request by the Community *to be involved* in such negotiations, based in particular on the procedures which had been agreed in the Council conclusions of 3 February 1992 for the World Administrative Radio Conference and as confirmed by the Council conclusions of 22 September 1997 and 2 May 2000. For such international negotiations, the Commission ***proposes to the Council, after consulting Parliament,*** objectives to be achieved in the context of Community policies, in view of obtaining endorsement on the positions ***which should*** be taken by Member States at international level. Member States accompany any act of acceptance of any agreement or regulation within international fora in charge of or concerned with spectrum management by a joint declaration stating that they will apply such agreement or regulation in accordance

with their obligations under the Treaty.

### *Justification*

*European Community positions in relation to radio spectrum policy at international level should basically be adopted by the political bodies.*

#### (Amendment 13)

##### Article 1

###### Aim

The aim of this Decision is to:

a) create a policy framework to address the strategic planning and harmonisation of the use of radio spectrum in the Community taking into consideration in particular economic, health, public policy, cultural, scientific, social and technical aspects of Community policies as well as the various interests of radio spectrum users communities with the aim of optimising the use of spectrum and of avoiding harmful interference.

b) establish a procedural framework to ensure the effective implementation of radio spectrum policy in the Community, and in particular establish a general methodology for harmonisation of the use of radio spectrum.

(c) ensure the coordinated and timely provision of information on radio spectrum use and availability in the Community;

(d) safeguard Community interests in

###### Aim

The aim of this Decision is to:

a) create a policy framework to address the strategic planning, ***coordination*** and ***where necessary*** harmonisation of the use of radio spectrum in ***areas involving*** Community ***activities dependant on radio spectrum*** taking into consideration in particular ***safety***, economic, health, public policy, cultural, scientific, social and technical aspects of Community policies as well as the various interests of radio spectrum users communities with the aim of optimising the use of spectrum and of avoiding harmful interference.

b) establish a procedural framework to ensure the effective implementation of radio spectrum policy in the Community, and in particular establish a general methodology for harmonisation of the use of radio spectrum. ***All technical implementing measures pursuant to this decision will be adopted in accordance with the procedures set out in Articles 5 and 6, whilst all legislative proposals must be made by the Commission in accordance with the codecision procedure, so ensuring proper political accountability.***

(c) ensure the coordinated and timely provision of information on radio spectrum use and availability in the Community;

(d) safeguard Community interests in

international negotiations where radio spectrum use affects Community policies.

This decision is without prejudice to the specific rules adopted by Member States or the Community governing the content of audio-visual programmes intended for the general public, to the provisions of Directive 1999/5/EC and to the right of Member States to organise their radio spectrum for public order and public security purposes.

international negotiations where radio spectrum use affects Community policies.

This decision is without prejudice to the specific rules adopted by Member States or the Community governing the content of audio-visual programmes intended for the general public, to the provisions of Directive 1999/5/EC and to the right of Member States ***to determine radio spectrum policy themselves, where Community activities dependent on radio spectrum are not affected, and*** to organise their radio spectrum for public order and public security purposes.

***The present decision safeguards the right to freedom of expression, which includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers, as well as the freedom and pluralism of the media.***

#### *Justification*

*It should be made clear that the European Community will help shape radio spectrum policy in future only in areas in which it has its own interests.*

(Amendment 14)  
Article 2, point b)

b) “Allocation of a radio frequency band” means the entry of a radio frequency band in a table of radio frequency allocations for the purpose of its use by one or more types of services under specified conditions.

b) “Allocation of a radio frequency band” means the entry of a ***specific*** radio frequency band in a table of radio frequency allocations for the purpose of its use by one or more types of ***activities depending on the use of radio spectrum*** under specified conditions.

#### *Justification*

*This amendment is aimed at bringing these definitions completely into line with ITU definitions.*

(Amendment 15)  
Article 2, point c)



“Assignment of a radio frequency” means the authorisation given by an authority to use a radio frequency under specified conditions.

“Assignment of a radio frequency” means the authorisation given by an authority *or administration* to use a radio frequency under specified conditions.

*Justification*

*This taken account of the diversity of structures in Member States.*

(Amendment 16)

Article 3

Senior Official Radio Spectrum Policy Group

With a view to the strategic planning and harmonisation of use of radio spectrum in the Community, the Commission shall be assisted by a consultative group to be called the Senior Official Radio Spectrum Policy Group.

The Group shall be composed of senior representatives from the Member States and a representative of the Commission, and shall meet at least twice a year under the chairmanship of the representative of the Member State holding the Council Presidency. The Group's secretariat shall be provided by the Commission.

The Group shall consult, as it may deem appropriate, representatives from the various sectors of activities and citizen representatives affected by or requiring the use of radio spectrum in the Community

Senior Official Radio Spectrum Policy Group

With a view to the strategic planning and harmonisation of use of radio spectrum in the Community, the Commission shall be assisted by a consultative group to be called the Senior Official Radio Spectrum Policy Group.

The Group shall be composed of senior representatives from the Member States and a representative of the Commission, and shall meet at least twice a year under the chairmanship of the representative of the Member State holding the Council Presidency. The Group's secretariat shall be provided by the Commission.

***The Commission shall forward to Parliament the agendas for the respective forthcoming meetings, decisions adopted, results of votes and minutes of previous meetings, as well as the list of participants. Parliament shall be authorised to send to meetings of the Group three observers, who shall report to Parliament on an ongoing basis on the work in progress.***

The Group shall consult, as it may deem appropriate, representatives from the various sectors of activities and citizen representatives affected by or requiring the use of radio spectrum in the Community

and in the rest of Europe.

and in the rest of Europe.

*Justification*

*The European Parliament should always be informed directly of all measures to coordinate and harmonise radio spectrum use at Community level initiated by the Commission after consulting the Group and developed by the CEPT.*

(Amendment 17)  
Article 4, point b)

(b) review current needs and anticipate future needs for radio spectrum for commercial as well as non-commercial applications in the Community, based in particular on strategic, economic, technological, political, health, social and cultural aspects of radio spectrum use, in view of the fulfilment of Community policy objectives; advise the Commission on strategic planning of radio spectrum use, and where necessary, balance the various requirements for radio spectrum of different users;

(b) review current needs and anticipate future needs for radio spectrum for commercial as well as non-commercial applications in the Community, based in particular on strategic, economic, technological, **safety**, political, health, social and cultural aspects of radio spectrum use, in view of the fulfilment of Community policy objectives; advise the Commission on strategic planning of radio spectrum use, and where necessary, balance the various requirements for radio spectrum of different users, **giving sufficient attention to those activities which have no other means available for communication than the use of radio;**

*Justification:*

*The transport sector, in particular the maritime and aeronautical community, is entirely dependent on radio communications. The operational aspects of maritime and aeronautical communications may be considered in the context of the economic aspects of Community policy, but at least as significant an issue as safety. The direct economic consequences of safety communications are difficult to identify and may therefore not always receive sufficient attention. It is important to give particular attention to the maritime and aeronautical safety aspects and to mention them separately in the Decision*

(Amendment 18)  
Article 5, paragraph 1

1. The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission (“the

**1. To implement harmonisation measures,** the Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the

Radio Spectrum Committee”).

representative of the Commission (“the Radio Spectrum Committee”).

### *Justification*

*The Radio Committee made up of national experts working in camera shall not duplicate, at Community level, a technical work on radio spectrum which is being undertaken at CEPT level for more than 40 European countries. Its role is only to empower the Commission for the right implementation of this decision on spectrum policy.*

### (Amendment 19) Article 6,

#### Harmonisation measures

1. Where appropriate, and taking into account *where possible* the advice of the Senior Official Radio Spectrum Policy **Group**, the Commission shall propose measures to harmonise the use of the radio spectrum, assignment methods, conditions for such use, as well as the availability of information related to the use of radio spectrum.

2. For these purposes, the Commission shall give mandates to the CEPT, setting out the tasks to be performed and the timetable therefor. The Commission shall act in accordance with the procedure

#### Harmonisation measures

1. ***With a view to further harmonisation of radio spectrum policy at Community level in areas involving Community policies dependent on radio spectrum***, and taking into account the advice of the Senior Official Radio Spectrum Policy **Committee**, the Commission shall propose ***to the European Parliament and the Council, where appropriate***, measures to harmonise the use of the radio spectrum, assignment methods, conditions for such use, as well as the availability of information related to the use of radio spectrum.

***1a. In order to meet the aims of this Decision as defined in Article 1 b) of this Decision, the Commission shall propose appropriate technical implementing measures with a view to ensuring harmonised conditions for the availability and efficient use of radio spectrum***, as well as the availability of information related to the use of radio spectrum ***in accordance with the following paragraphs 2 to 4a***

2. For the purposes ***set out in paragraph 1a***, the Commission shall give mandates to the CEPT, setting out the tasks to be performed and the timetable therefor. The Commission shall act in accordance with

referred to in Article 5(2).

3. On the basis of the work completed pursuant to paragraph 2, the Commission shall decide whether the results of the mandate are acceptable and, if so, may decide to make such results mandatory for the Member States, which shall implement them *in* a deadline to be determined. These Decisions shall be published in the Official Journal of the European Communities. For the purpose of this paragraph, the Commission shall act in accordance with the procedure referred to in Article 5(3).

4. Notwithstanding paragraph 3, if the Commission or any Member State considers that the work done on the basis of a mandate granted pursuant to paragraph 2 is not progressing satisfactorily having regard to the set timetable or if the results of the mandate are not acceptable, the Commission may adopt measures to achieve the objectives of the mandate, acting in accordance with the procedure referred to in Article 5(3).

the procedure referred to in Article 5(3).

3. On the basis of the work completed pursuant to paragraph 2, the Commission shall decide whether the results of the mandate are acceptable and, if so, may decide to make such results mandatory for the Member States, which shall implement them *within* a deadline to be determined. These Decisions shall be published in the Official Journal of the European Communities. For the purpose of this paragraph, the Commission shall act in accordance with the procedure referred to in Article 5(3).

4. Notwithstanding paragraph 3, if the Commission or any Member State considers that the work done on the basis of a mandate granted pursuant to paragraph 2 is not progressing satisfactorily having regard to the set timetable or if the results of the mandate are not acceptable, the Commission may adopt measures to achieve the objectives of the mandate, acting in accordance with the procedure referred to in Article 5(3).

***4a. The President of the European Parliament may by simple letter require the Commission to report to its Committee on Industry, External Trade, Research and Energy on the adoption of technical implementation measures as referred to in paragraph 1a. The European Parliament may amend or revoke the results of mandates within 90 days of such report being submitted, if there are reasons to suggest that the envisaged measure goes beyond technical implementation***

#### *Justification*

As a rule, it is the task of political bodies, and in particular of the elected representatives of the people, to take decisions on a subject of such importance to society and the economy as radio spectrum policy. In particular, decisions on measures to harmonise the use of radio spectrum, assignment methods, conditions for such use, as well as the availability of information related to the use of radio spectrum should not, as a rule, be made by the

administration. It is desirable that the Commission should already act when giving mandates to the CEPT under the regulatory procedure (Article 5, Council Decision of 28 June 1999 (1999/378/EC)), in order to enable Parliament to deliver an opinion to the Council and to take appropriate account of the position of the Member States thanks to the greater involvement of the Council under the regulatory procedure.

## DRAFT LEGISLATIVE RESOLUTION

### **European Parliament legislative resolution on the proposal for a European Parliament and Council decision on a regulatory framework for radio spectrum policy in the European Community (COM(2000) 407 – C5-0449/2000 – 2000/0187(COD))**

#### **(Codecision procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2000) 407<sup>1</sup>),
  - having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0449/2000),
  - having regard to Rule 67 of its Rules of Procedure,
  - having regard to the report of the Committee on Industry, External Trade, Research and Energy and the opinions of the Committee on Regional Policy, Transport and Tourism and the Committee on Culture, Youth, Education, the Media and Sport (A5-0232/2001),
1. Approves the Commission proposal as amended;
  2. Asks to be consulted again should the Commission intend to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and Commission.

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<sup>1</sup> OJ C 365, 19.12.2000, p. 256

## **EXPLANATORY STATEMENT**

### **1. Introduction**

A huge expansion in use of radio spectrum is causing it to become an increasingly scarce and valuable economic resource and a decisive factor as regards employment. Allocation of sections of the spectrum for types of use such as communications, broadcasting, transport, police, military and earth observation purposes is becoming more and more complex. Strategic decisions have to be taken in order to balance the needs of commercial users and non-commercial users. In order to enable radio spectrum to be used efficiently, without interference occurring, it is important that spectrum management is coordinated at supranational level. In Europe this is done by the European Conference of Postal and Telecommunications Administrations (CEPT). At worldwide level states reach agreements within the framework of World Radiocommunications Conferences.

For the European Community, radio spectrum is a vital resource from the point of view of the implementation of various policy objectives in the areas of telecommunications, broadcasting, transport and research and development. Due account must be taken of Community interests, in particular in respect of pan-European services dependent on radio spectrum, in decisions on distribution of spectrum: at worldwide level at World Radiocommunications Conferences, and within Europe in connection with the adoption and implementation of decisions by the European Conference of Postal and Telecommunications Administrations (CEPT).

As long ago as 1993, the Commission submitted a proposal to the Council for a decision on the coordination of radio spectrum use in the Community. However, the proposal was not adopted, as no necessity was identified for a Community radio spectrum policy.

### **2. The Public Consultation on the Green Paper on radio spectrum policy**

At the end of 1998, within the context of the Green Paper, the Commission instituted a public debate on the issue of whether current radio spectrum policy in Europe took account as effectively as possible of Community policy objectives, or whether improvements could be made. The main question posed was to what extent, and in what form, the European Community should have greater scope to shape future radio spectrum policy in Europe.

The majority of groups concerned with this issue, in particular spectrum user groups, took the view that it was desirable the position of the European Community as regards radio spectrum matters be strengthened somewhat.

The main point made by the vast majority of radio spectrum users from all the Member States was, however, that spectrum management at national level and European coordination of decisions relating to radio spectrum within the CEPT was functioning satisfactorily, and that no fundamental changes should be made to these arrangements. The majority were therefore sceptical concerning the extensive transfer of decision-making powers to the Community. There was recognition of the need to give the Community a greater share in decisions in areas in which Community policies are directly affected by decisions on radio spectrum.

### **3. Parliament's resolution on radio spectrum policy in the Community**

The European Parliament has considered very carefully the views expressed by sectors of industry and society and by administrations. With a view to strengthening the European Community's influence as regards radio spectrum policy, it has proposed three changes. Firstly, European institutions should have greater representation at World Radiocommunications Conferences. Such conferences are increasingly acquiring the character of trade negotiations conducted in a spirit of conflicting interests. It is essential, above all, to be able to counter the clear, united stance presented by the USA with harmonised positions on the part of EU Member States where European interests are concerned. Such positions must be able to be presented in a united way, and, if necessary, adapted in a flexible manner in the light of the progress of the negotiations.

Secondly, the Community should be able to exert political influence over the CEPT, in order to ensure that due account is taken of Community interests in radio spectrum policy.

Thirdly, the Commission should be able to call on Member States to release radio spectrum necessary for the pan-European services and applications decided on by the Council and Parliament in a timely and smooth manner.

#### **4. The granting of UMTS licences**

In the meantime, the assignment of radio frequencies in a specific area, namely the granting of UMTS licences in the Member States, has attracted a great deal of attention. The different methods for granting such licences (auctioning of frequencies, beauty contest, or a combination of methods) are having an adverse impact in terms of uniformity of conditions of competition in the internal market for communications services and networks.

The problem is attributable to the fact that the European legislature has not laid down a uniform method for granting rights to UMTS frequencies, either in general provisions or in the UMTS decision. Consequently, Member States have been free to adopt in their legislation or in practice any of the various methods of granting licences.

It should not be inferred from the above that the Commission should lay down such methods in future, but it is the task of European policy to concern itself with the question of whether, in connection with future Community activities dependent on radio spectrum, there should be uniform methods for granting licences.

On the basis of the experience accumulated, the Commission is now called upon to consider, in each case, the form in which licensing methods in connection with Community activities dependent on radio spectrum could be coordinated or harmonised, and to submit suitable proposals to the Parliament and Council.

#### **5. The Commission proposal for a decision on a regulatory framework for radio spectrum policy in the European Community**

The proposal for a decision on a regulatory framework for radio spectrum policy in the European Community presented by the Commission is basically to be welcomed with a view to implementing these objectives. However, on two points – contrary to the opinions of those taking part in the public consultation and the opinion delivered by Parliament - the



Commission goes further than is necessary to that end.

Firstly, it is proposing the wholesale transfer of decision-making powers from the political level (Council and Parliament) to the administrative level (Commission): Article 6 provides for the Commission, 'taking into account where possible the advice of the Senior Official Radio Spectrum Policy Group' (i.e. the expert body composed of representatives from the Member States), to give mandates to the CEPT to define radio spectrum policy, and states that it may make the results mandatory for Member States.

Secondly, Article 6 empowers the Commission to decide on all radio spectrum policy matters independently and not subject to restrictions, without being required to take account of powers evolved on the part of the Member States. In particular, the Commission proposal is not confined to harmonisation of areas of radio spectrum policy where Community interests are affected.

We cannot give our support to these two aspects of the proposal. It must, as a rule, be the task of political bodies, and in particular of the elected representatives of the people, to take decisions on a subject of such importance to society and the economy as radio spectrum policy. In particular, decisions on measures to harmonise the use of radio spectrum, assignment methods, conditions for such use, as well as the availability of information related to the use of radio spectrum should not, as a rule, be made by the administration. It is only by way of an exception, if it is apparent that a legislative procedure would take too long and it would not be possible to adopt a decision in due time, that the Commission, as the administrative authority, should be allowed to decide. In this connection, we would expressly draw attention to the parallel with the regulatory framework for the internal market in financial services. The group of experts headed by Alexandre Lamfalussy took the view that the European Parliament should, in this area, only play a part in the adoption of framework directives with decisions on other provisions governing the financial markets being taken by the Commission. Parliament did not accept this, and called for a right at least to veto or review individual Commission regulations. Its position received the support even of the trade associations, which argued that Parliament's democratic rights should not be undermined and that speed should not be at the expense of soundness.

5 December 2000

## **OPINION OF THE COMMITTEE ON REGIONAL POLICY, TRANSPORT AND TOURISM**

for the Committee on Industry, External Trade, Research and Energy

on the proposal for a European Parliament and Council decision on a regulatory framework for radio spectrum policy in the European Community (COM(2000) 407 – C5-0449/2000 – 2000/0187(COD))

Draftsman: Samuli Pohjamo

### **PROCEDURE**

The Committee on Regional Policy, Transport and Tourism appointed Samuli Pohjamo draftsman at its meeting of 11 October 2000.

It considered the draft opinion at its meetings of 21 November and of 5 December 2000. At the last meeting it adopted the following amendments unanimously.

The following were present for the vote: Konstantinos Hatzidakis chairman; Rijk van Dam vice-chairman; Helmuth Markov, vice-chairman; Emmanouil Mastorakis, vice-chairman; Samuli Pohjamo, draftsman; Sir Robert Atkins, Emmanouil Bakopoulos, Carlos Bautista Ojeda (for Reinhold Messner pursuant to Rule 153(2)), Rolf Berend, Theodoros J.J. Bouwman, Philip Charles Bradbourn, Martin Callanan, Felipe Camisón Asensio, Alejandro Cercas Alonso (for Gilles Savary pursuant to Rule 153(2)), Luigi Cesaro, Carmen Cerdeira Morterero, Francis F.M. Decourrière, Proinsias De Rossa (for Joaquim Vairinhos pursuant to Rule 153(2)), Garrelt Duin, Alain Esclopé, Harald Ettl (for Demetrio Volcic pursuant to Rule 153(2)), Jacqueline Foster (for Giorgio Lisi), Mathieu J.H. Grosch, Catherine Guy-Quint (for Mark Francis Watts pursuant to Rule 153(2)), Ewa Hedkvist Petersen, Mary Honeyball, Juan de Dios Izquierdo Collado, Georg Jarzembowski, Karsten Knolle (for Francesco Musotto), Dieter-Lebrecht Koch, Sérgio Marques, Hans-Peter Martin (for Juan Ojeda Sanz), Erik Meijer, Rosa Miguélez Ramos, James Nicholson (for Carlos Ripoll i Martínez Bedoya), Josu Ortuondo Larrea, Karla M.H. Peijs, Wilhelm Ernst Piecyk, Reinhard Rack, Isidoro Sánchez García, Agnes Schierhuber (for Dana Rosemary Scallon), Brian Simpson, Renate Sommer, Per Stenmarck (for Ingo Schmitt), Dirk Sterckx, Ulrich Stockmann, Margie Sudre, Ioannis Theonas (for Alonso José Puerta) and Johan Van Hecke (for Ari Vatanen).

## SHORT JUSTIFICATION

### Introduction

This is the third in a recent series of communications from the Commission on radio spectrum policy. In December 1998 the Commission published a Green Paper on "a radio spectrum policy in the context of the European Community policies such as broadcasting, transport and research and development." In December 1999 this was followed by the Communication " the Next Steps in Radio spectrum Policy" which was based on the results of the public consultation on the Green Paper.

### Earlier Consideration by the Committee

The Regional Policy, Transport and Tourism Committee adopted an opinion on the Communication in March 2000 prepared by its Draftsman, Mr Emmanouil Bakapoulos. The opinion outlined the importance to the transport sector and to each mode of adequate access to the radio spectrum for basic operational needs and above all for safety of life considerations. For the transport sector the issues are : recognition of the importance to it of strategic planning of radio spectrum use; the need for harmonisation of allocation; the inappropriateness of pricing as an allocation device for services in the public interest; and the need for the transport sector's needs to be taken into account in the various decisional and institutional frameworks. In its report (A5-0122/2000 final) the Industry Committee echoed these concerns and , inter alia, urged "Member States , the Commission and the Council to seek a balance between the interests of commercial and non-commercial frequency users and, in doing so, to take sufficient account of the public interest."

### Background to the draft Decision

The Commission now proposes a draft decision on a regulatory framework for radio spectrum policy in the EC. Harmonisation of radio spectrum use occurs at a global level through the International Telecommunication Union (ITU) and its World Radiocommunications Conferences(WRC). Spectrum management at European regional level is undertaken within the European of Postal and Telecommunications (CEPT) which has 43 member countries. One principal aim of the draft Decision is to establish a framework to allow the Commission to give mandates to the CEPT on the Community's behalf in order that Community interests at European regional level and at global level are advanced.

### Advice to the Commission and formation of the mandates to the CEPT

Two new entities are proposed to help the Commission to do this. These are a Senior Official Radio Spectrum Policy Group and a "Radio Spectrum Committee". The Radio Spectrum Policy Group will be composed of senior representatives of the Member States and a representative of the Commission. It will monitor the use of and access to the radio spectrum and review current and anticipated future needs for commercial and non-commercial use. It will also assess the need for common proposals to be developed in view of international negotiations.

The "Radio Spectrum Committee" is also composed of representatives of the Member States and a representative of the Commission. In fact the role and powers of this Committee and indeed of the Policy Group are determined by the Council Decision of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. (OJ L 184): the "Radio Spectrum Committee will be a Regulatory Committee which will vote on Commission proposals with votes weighted as they would be in Council. The Policy Group will be an advisory Committee with the right to give an opinion on Commission proposals. The Commission must "take the utmost account" of this opinion

### **Availability of frequency information**

The Commission proposes a number of measures to improve the availability of information concerning frequency usage in Member Countries. The proper availability of information is the key element to strategic investment and regulatory decisions; therefore the objectives of the Commission are strongly supported. In order for users to gain the best advantage from the publicity, the published information shall contain all the data that is necessary for the utilisation of this information.

It is noted that the structure and content of frequency allocation tables and the possibility of obtaining frequency assignment information are two separate complex radiotechnical issues. Therefore this opinion proposes that the Decision defines the general outline of the availability of information. The necessary technical details should be designed through a mandate described in Article 1 (1) under the surveillance of the Radio Spectrum Committee.

### **Conclusion**

Radio spectrum harmonisation requires cooperation and agreement which extends beyond the European Union's boundaries in Europe. The forum for achieving this is the CEPT. Harmonisation measures will be adopted as a result of a mandate to national experts acting in that spectrum management body and sometimes global bodies.

The Commission will receive an opinion, of which it must take "the utmost account" from the advisory Committee, the Senior Official Radio Spectrum Policy Group on what that mandate should be.

After the CEPT has come to decision on an aspect of radio spectrum harmonisation the Commission must submit a draft of the measures to be taken by the Member States to implement the decision to the Regulatory Committee, "the Radio Spectrum Committee" composed of Member States' representatives. If a majority by weighted voting for the proposal is not obtained, the matter is referred to the Council. Only if the Parliament in a resolution adopts the position that the implementing powers are being exceeded and the Council opposes the proposal by qualified majority is the Commission obliged to submit an amended proposal to Council; re-submit its proposal; or present a legislative proposal.

This procedure, which has of course been used in other areas, ensures that Member States concerns are fully addressed before mandatory measures to achieve harmonisation are adopted.

As described in the Commission's Proposal for a Decision on a regulatory framework for radio spectrum policy they do not overtly address the concerns expressed by the Regional Policy, Transport and Tourism Committee's in its Opinion on the Commission's previous Communication on radio spectrum policy following the public consultation exercise.

Nothing is indicated which deals with:

- the perceived dominance of communication interests within the institutional framework for radio spectrum co-ordination,
- the need to ensure a prior claim on radio spectrum resources of public safety and public interest use in the transport sector,
- adequate representation of the transport sector on the Senior Official Spectrum Policy Group ( previously described as "Radio spectrum Policy Expert Group").

The amendments proposed below are intended to deal with these remarks; to ensure frequency allocation information is published and to entrench cooperation within the CEPT.

## AMENDMENTS

The Committee on Regional Policy, Transport and Tourism calls on the Committee on Industry, External Trade, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission	Amendments by Parliament
(11) The Mobile Directive was <i>at</i> the origin of the adoption of a first set of measures by CEPT such as European Radiocommunications Committee Decision (ERC/DEC/(97)01) on the publication of national tables of radio spectrum allocations. It is necessary to ensure that CEPT solutions reflect the needs of Community policy and are given the appropriate legal basis so as to be implemented in the Community. For that purpose, specific measures have to be adopted in the Community <b><i>both on procedure and substance.</i></b>	(Amendment 1) Recital 11 (11) The Mobile Directive was the origin of the adoption of a first set of measures by CEPT such as ERC Decision (ERC/DEC/(97)01) on the publication of national tables of radio spectrum allocations. It is necessary to ensure <b><i>through an appropriate mandate given to it</i></b> that CEPT solutions reflect the needs of Community policy and are given the appropriate legal basis so as to be implemented in the Community. For that purpose, specific measures <b><i>to implement the results of the CEPT work</i></b> have to be adopted in the Community <b><i>when necessary.</i></b>

*Justification:*

*Deletion of the word 'at' seems to make the first sentence more understandable. Other*

(Amendment 2)

Recital 13

(13) Implementation of Community policies may require co-ordination of radio spectrum use, in particular the provision of communications services including Community-wide roaming facilities. Moreover, certain types of spectrum use entail a geographical coverage which goes beyond the borders of a Member State and allow for transborder services without requiring the movement of persons, such as satellite communications services. It is therefore necessary that the Community be adequately represented in the activities of all relevant international organisations and conferences related to radio spectrum management matters, such as within the International Telecommunications Union and its World Radiocommunications Conferences. In international negotiations, Member States and the Community should develop a common action and closely cooperate during the whole negotiations process so as to safeguard the unity of the international representation of the Community. As a consequence, Member States should support the request by the Community in view of involvement in such negotiations, based in particular on the procedures which had been agreed in the Council conclusions of 3 February 1992 for the World Administrative Radio Conference and as confirmed by the Council conclusions of 22 September 1997 and 2 May 2000. For such international negotiations, the Commission sets out the objectives to be achieved in the context of Community policies, in view of obtaining endorsement by Council on the positions to be taken by Member States at international level. Member States accompany any act of acceptance of any agreement or regulation within international fora in charge of or concerned with spectrum management by a

(13) Implementation of Community policies may require co-ordination of radio spectrum use, in particular the provision of communications services including Community-wide roaming facilities. Moreover, certain types of spectrum use entail a geographical coverage which goes beyond the borders of a Member State and allow for transborder services without requiring the movement of persons, such as satellite communications services. It is therefore necessary that the Community be adequately represented in the activities of all relevant international organisations and conferences related to radio spectrum management matters, such as within the International Telecommunications Union and its World Radiocommunications Conferences. ***It is noted that the existing preparation and negotiation mechanisms for ITU World Radiocommunication Conferences through voluntary co-operation within CEPT have generated excellent results and that the Community's interests have been taken into account in the preparations.*** In international negotiations, Member States and the Community should develop a common action and closely cooperate during the whole negotiations process so as to safeguard the unity of the international representation of the Community. As a consequence, Member States should support the request by the Community in view of involvement in such negotiations, based in particular on the procedures which had been agreed in the Council conclusions of 3 February 1992 for the World Administrative Radio Conference and as confirmed by the Council conclusions of 22 September 1997 and 2 May 2000. For such international negotiations, the Commission sets out the objectives to be achieved in the context of

joint declaration stating that they will apply such agreement or regulation in accordance with their obligations under the Treaty.

Community policies, in view of obtaining endorsement by Council on the positions to be taken by Member States at international level. Member States accompany any act of acceptance of any agreement or regulation within international fora in charge of or concerned with spectrum management by a joint declaration stating that they will apply such agreement or regulation in accordance with their obligations under the Treaty.

*Justification:*

*The change is intended to emphasize the fact that current preparation and negotiation mechanisms for ITU World Radiocommunication Conferences have produced good results. The CEPT with its 43 member countries represents a significant power in the ITU. It is beneficial for EU to have active participation of countries from the whole area of Europe in the preparation process and in the negotiations in order to gain wider support for the European Common Proposals*

(Amendment 3)

Article 1 (a)

(a) create a policy framework to address the strategic planning and harmonisation of the use of radio spectrum in the Community taking into consideration in particular economic, health, public policy, cultural, scientific, social and technical aspects of Community policies as well as the various interests of radio spectrum users communities with the aim of optimising the use of spectrum and of avoiding harmful interference;

(a) create a policy framework to address the strategic planning and harmonisation of the use of radio spectrum in the Community taking into consideration in particular economic, health, public policy, **safety**, cultural, scientific, social and technical aspects of Community policies as well as the various interests of radio spectrum users communities with the aim of optimising the use of spectrum and of avoiding harmful interference;

*Justification:*

*The transport sector, in particular the maritime and aeronautical community, is entirely dependent on radio communications. The operational aspects of maritime and aeronautical communications may be considered in the context of the economic aspects of Community policy, but at least as significant an issue as safety. The direct economic consequences of safety communications are difficult to identify and may therefore not always receive sufficient attention. It is important to give particular attention to the maritime and aeronautical safety aspects and to mention them separately in the Decision*

(Amendment 4)

Article 4, first subparagraph

The Senior Official Radio Spectrum Policy Group shall contribute to the formulation, preparation and implementation of a radio spectrum policy by delivering opinions to the Commission either at the Commission's request or on its own initiative, and shall contribute to the preparation of the Commission's report referred to in Article 11.

The Senior Official Radio Spectrum Policy Group shall contribute to the formulation, preparation and implementation of a radio spectrum policy by delivering opinions to the Commission either at the Commission's request or on its own initiative, and shall contribute to the preparation of the Commission's report referred to in Article 11. ***The group shall be so composed as to reflect the full range of interests in the allocation of radio frequencies including the transport sector and public safety issues***

*Justification:*

*Given its role in formulating policy the Senior Official Radio Spectrum Policy Group must be able to take a comprehensive view of radio spectrum allocation needs.*

(Amendment 5)

Article 4 (b)

(b) review current needs and anticipate future needs for radio spectrum for commercial as well as non-commercial applications in the Community, based in particular on strategic, economic, technological, political, health, social and cultural aspects of radio spectrum use, in view of the fulfilment of Community policy objectives; advise the Commission on strategic planning of radio spectrum use, and where necessary, balance the various requirements for radio spectrum of different users;

(b) review current needs and anticipate future needs for radio spectrum for commercial as well as non-commercial applications in the Community, based in particular on strategic, economic, technological, ***safety***, political, health, social and cultural aspects of radio spectrum use, in view of the fulfilment of Community policy objectives; advise the Commission on strategic planning of radio spectrum use, and where necessary, balance the various requirements for radio spectrum of different users, ***giving sufficient attention to those activities which have no other means available for communication than the use of radio;***

*Justification:*

*See justification for amendment 3, Article 1*

(Amendment 6)

Article 4 (g) (new)

..

***(g) consider the regional aspects of radio***



***spectrum use to ensure that the different circumstances that prevail in different parts of the Union are taken into account.***

*Justification:*

*The differences in population densities and geographical conditions as well as transport, business and industry need to be taken into account when the use of spectrum is harmonised.*

(Amendment 7)

Article 7, first subparagraph

Member States shall publish without delay the information ***as defined in the Annex to this Decision*** and shall keep this information up-to-date.

Member States shall publish without delay the information ***concerning frequency allocations*** and shall keep this information up-to-date. ***Published information shall contain all the data that is necessary for the effective utilisation of this information. Member States shall cooperate with CEPT in the creation of the plans for publishing the European wide frequency allocation tables and frequency assignments.***

*Justification:*

*The publication of frequency information is important and needs to be supported. Real advantage from the publication can be gained only if published information contains all the data that is necessary for the effective utilisation of this information.*

*The Annex of the draft Decision does not fulfil this requirement. The list in the Annex is too general and evidently mixes two different actions: the allocation of frequencies to different purposes and the assignment of frequencies to users. These two issues are so different that they should not be considered in the same list. There should be separate clauses for frequency allocation and frequency assignment information.*

*The definition of the structure and information content of frequency allocation tables is a detailed and technically complex issue. It requires radiotechnical competence that seems to be most readily available within the CEPT. It is recognised that Article 6 requires the Commission to propose measures for the availability of information and that for this purpose the Commission shall give mandates to the CEPT. This possibility should be used instead of trying to define the information in the Annex.*

(Amendment 8)

Article 7, third subparagraph (new)

***Member States shall on request deliver information concerning any specified frequency assignment that has not been***

*Justification:*

*The addition is intended to establish a regime for the availability of frequency assignment information*

(Amendment 9)

Article 8 (3)

(3) The Commission shall report regularly on the results of the application of paragraphs (1) and (2) to the European Parliament and the Council and may propose measures with the aim of securing the implementation of the principles and objectives of this Decision, ***where appropriate***. Whenever necessary, common positions shall be agreed to ensure Community coordination among Member States.

(3) The Commission shall report regularly on the results of the application of paragraphs (1) and (2) to the European Parliament and the Council may propose measures with the aim of securing the implementation of the principles and objectives of this Decision, ***giving due account to the work of the CEPT in the preparation of ITU World Radiocommunication Conferences***. Whenever necessary, common positions shall be agreed to ensure Community coordination among Member States.

*Justification:*

*The change is intended to emphasize the fact that current preparation and negotiation mechanisms for ITU World Radiocommunication Conferences have produced good results. The CEPT with its 43 member countries represents a significant power in the ITU. It is beneficial for EU to have active participation of countries from the whole area of Europe in the preparation process and in the negotiations in order to gain wider support for the European Common Proposals. Additional Community measures in addition to those of the CEPT should be used only in cases of absolute necessity. (See also Whereas 14.)*

(Amendment 10)

Annex

***Pursuant to Article 9, and without prejudice to notification obligations under Directives 1999/5/EC and 98/34/EC, the following information shall be published:***

***Delete***

***1. Information regarding frequency allocation and assignment includes the following:***  
***– existing allocations and assignments of radio spectrum as well as conditions for the use of radio spectrum, including***

*where practicable, operating power, emission and any other technical constraints;*

*- plans for changes to existing allocations for the next two years at least, including relocation plans and review date of allocation;*

*- locations and geographical coverage linked to allocation plans;*

*- service actually operated, if different from allocated, and effective use of spectrum;*

*- reserved bands for new services;*

*2. Without prejudice to the provisions of specific legislation relating to communications networks and services,, publication shall include procedures for granting rights to use spectrum , and planned changes to spectrum use conditions. These shall include all types of obligations, charges and financial costs related to the use of radio spectrum, including administrative charges, usage fees and procedures for assignment of spectrum (including auctions).*

*Justification:*

*See explanations under Article 7.*

10 January 2001

## **AVIS OF THE COMMITTEE ON CULTURE, YOUTH, EDUCATION, THE MEDIA AND SPORT**

for the Committee on Industry, External Trade, Research and Energy

on the proposal for a decision of the European Parliament and of the Council on a regulatory framework for radio spectrum policy in the European Community  
(COM(2000) 407 – C5-0449/2000 – 2000/0187(COD))

Draftsman: Karin Junker

### **PROCEDURE**

The Committee on Culture, Youth, Education, the Media and Sport appointed Karin Junker draftsman at its meeting of 10 October 2000.

It considered the draft opinion at its meetings of 4 and 5 December 2000, 8 and 9 January 2001.

At the latter meeting it adopted the following amendments unanimously.

The following were present for the vote Vasco Graça Moura, acting chairman; Ulpu Iivari, vice-chairman; Karin Junker draftsman; Ole Andreasen, Pedro Aparicio Sánchez, Christine de Veyrac, Robert J.E. Evans (for Phillip Whitehead), Geneviève Fraise, Cristina Gutiérrez Cortines (for Mónica Ridruejo), Ruth Hieronymi, Lucio Manisco, Jens Dyhr Okking, Barbara O'Toole, Doris Pack, Roy James Perry, Christa Prets, Dana Rosemary Scallon (for Christopher Heaton-Harris), Peter Sichrovsky, Kathleen Van Brempt, Luckas Vander Taelen, Gianni Vattimo (for Valter Vetroni) and Eurig Wynand .

## SHORT JUSTIFICATION

### *A new regulatory framework for radio spectrum policy in the European Community*

#### Introduction

The Commission itself states that the proposal for a decision of the European Parliament and of the Council on a regulatory framework for radio spectrum policy in the European Community is not part of a package of eight proposals submitted by the Commission with the purpose of creating a new framework for the regulation of electronic communications networks and services, but it must nonetheless be seen in this context. The previous regulatory framework, comprising 28 different items of legislation, is simplified and clarified as a result. There is a danger that the division of the regulatory framework into a framework directive and provisions on individual aspects may make it impossible to see the wood for the trees. Throughout the consultation procedure, therefore, it must be ensured that, from the point of view of the Committee on Culture, Youth, Education, the Media and Sport, the final result is consistently coherent decision-making, which will require appropriate cross-references, for example, as the interests of the Committee on Culture, Youth, Education, the Media and Sport cannot be reduced to any particular component of the 'telecom package'.

#### The position of the European Parliament to date

In a resolution of 18 May 2000, the European Parliament essentially endorsed the Commission communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions of 10 November 1999 on the next steps in radio spectrum policy, as it was based on the results of the public hearing on the Green Paper on Radio Spectrum Policy in the context of European Community policies such as telecommunications, broadcasting, transport and R&D. This communication drew attention to the need for a balanced approach to the use of the radio spectrum in the Community in order to be able to take account of the Community principles of the internal market and uphold the interests of the Community at international level. The proposal which the Commission has now submitted concerning a regulatory framework for radio spectrum policy in the European Community also refers to it, but when it comes to assessing the results of the public hearing, the views of the Commission differ from those of other participants. Whereas the Commission concluded that there was a need for far-reaching harmonisation, this is disputed by Member States and broadcasters. Legislation must strike a balance between harmonisation and coordination.

#### Radio spectrum use is also subject to political principles

No one disputes the need for separate provisions governing the technical infrastructure for the distribution of communications services and laying down requirements regarding the content distributed. Yet legislation on aspects of radio spectrum policy which are apparently purely technical cannot disregard the fact that infrastructure and content are linked in ways which have implications, *inter alia*, for radio spectrum policy. The use of the radio spectrum cannot be viewed in isolation from political principles.

For practical purposes this means that, particularly in the fields of communications, radio,

transport, R&D and other public interests, an appropriate and adequate transmission capacity must be reserved for the dissemination of a wide range of content addressed to the general public. In principle this applies both at Community level and at national, regional and local level.

Taking account of these principles, harmonisation and/or coordination of the use of radio spectrum are worthwhile as means of attaining Community objectives, and will help to ensure worldwide coordination of spectrum use.

#### Cultural efficiency must be taken into account

However, radio spectrum policy must not only be based on technical parameters. Besides economic interests, it must also take account of political, cultural and social interests, individual rights, consumer protection issues and health aspects. This means that it is important to make it clear that the Commission's stated objective of 'efficient' use of radio spectrum must not be one-sidedly equated with economic efficiency. Political, social and cultural efficiency must also be taken as criteria, since here as elsewhere the market will not provide for all requirements, yet final consumers have a right of access to all available products even if they may only be of interest to a minority. This particularly applies to radio services and audiovisual services, which are an expression of cultural diversity, diversity of opinion and pluralism and an important factor in democratic opinion formation. The fact that radio spectrum is a scarce resource does not justify overemphasising economic efficiency either.

Thus it is unquestionably necessary to reject the Commission's proposal for the creation of an option for trading in the assignment of frequencies and the resale of rights of use (spectrum pricings) and the creation of a secondary market. The European Parliament already made this clear in its resolution on the communication from the Commission on the 1999 communications review ('Towards a new framework for electronic communications infrastructure and associated services - the 1999 communications review' (COM(1999) 539 – C5-0141/2000 – 2000/2085(COS)). It is stated there that auctions of parts of the frequency spectrum would be liable to increase consumer prices and prevent the introduction of new services. This would precisely counteract efforts to promote cultural diversity.

The open, competition-based market for electronic communications networks and services which the Commission seeks to create can in principle be endorsed, but must not squeeze out services addressed to the general public which enhance diversity of opinion.

#### Freedom of broadcasting requires the availability of appropriate frequencies

In general the digitisation of radio and TV broadcasting is creating the necessary precondition for convergence between information technology (which is already digital) and communications technology. It provides the infrastructure basis for the introduction onto the market of new, digital products and services, in the fields both of traditional broadcasting and of new multimedia services, and opens up markets for new digital uses, including Internet use, and for a wide variety of innovative processes. Digitisation must extend to the whole infrastructure for radio transmission, covering distribution by cable, satellite and terrestrial means. Only in this way can the requisite capacities and frequencies for radio programmes and new multimedia services be made available within a reasonable period.

Most users still receive radio and TV programmes in analogue form at present, but digital broadcasting (satellite, broadband cable, DAB) and Internet services are gaining increasing shares of the market, and frequencies for digital terrestrial broadcasting are in particularly short supply. It is therefore essential for all participants in the market to coordinate their action closely, inter alia in order to avoid leaving developments to the free play of market forces, instead preserving the Member States' sovereignty in respect of broadcasting, so that cultural and media-policy aspects are not sidelined.

In this connection the rapporteur strongly believes that frequency administrations have a duty to provide guarantees to broadcasters, for example, and that this aspect must take precedence over efficient use of frequencies.

It follows from frequency administrations' duty to provide guarantees to broadcasters that the aim of efficient use of frequencies is limited by the requirement to avoid jeopardising freedom of broadcasting. In order not to hamper the future development of broadcasting, it is necessary to guarantee the promotion of freedom of broadcasting by means of the guaranteed provision of sufficient frequencies. In the rapporteur's view, this means that radio frequencies must not be auctioned.

Radio spectrum is unquestionably a scarce resource. It is therefore essential to provide for priority for broadcasting in order to ensure that the latter – including in new and different forms – is not squeezed out by other services which may be more lucrative. This must particularly apply to networks which were established for the sole purpose of distributing broadcast programmes or which are indispensable for the purpose of their distribution (terrestrial broadcasting networks and broadband cable networks). Accordingly, the legal framework must allow the adoption of national provisions which assign broadcasting a privileged or special position, inter alia in the light of the fact that during the transitional phase more frequencies will be needed for digitisation. This makes 'must-carry rules' an essential part of European rules, and there must be no time limit on them, since transmission capacity adequate for all forms of service and to cater for all wishes is not likely to become available in the foreseeable future. The Member States' sovereignty with regard to broadcasting (in Germany for example, that of the Länder) is unaffected by this; public-service broadcasting is still governed by the Protocol to the Amsterdam Treaty.

#### Excessive harmonisation should be rejected

Experience of the fields of Satellite Personal Communications Services (S-PCS) and the Universal Mobile Telecommunications System (UMTS) as regards harmonisation of radio spectrum for these communications systems by the European Conference of Postal and Telecommunications Administrations (CEPT) and worldwide harmonisation of spectrum use by the International Telecommunication Union (ITU – 189 member countries) and its World Radiocommunications Conferences (WRC) cannot be cited in justification of comprehensive harmonisation at European level in so far as the impact on the dissemination of content is concerned. Falling equipment costs thanks to economies of scale and international roaming are not at all inimical to the political objectives for the dissemination of specific content corresponding to Community policy.

In many respects the Commission's desire for harmonisation overshoots the mark. However

justifiable it may seem to seek to implement Community policies efficiently by harmonising cross-border activities, the 'necessary restrictions' which the Commission proposes that Member States should be allowed to impose must not be confined to public order and public security purposes. Where conflicts of interest arise between sectors, it should not be left solely to the Commission to weigh them up against each other. Member States must be able to take independent decisions about the priorities where conflicts of interest arise, in accordance with their political, social, historical and cultural traditions and objectives.

It is not only with regard to harmonisation that the Commission proposal is not clear enough: the same is true with regard to the proposed bodies. No specific preconditions for harmonisation measures are mentioned, nor is clear information given about the composition, working methods and powers of the proposed 'Senior Official Radio Spectrum Policy Group' and the 'Radio Spectrum Committee' which it is proposed, in addition, to set up, both comprising representatives of Member States.

#### A 'Senior Official Radio Spectrum Policy Committee' is sufficient

A 'Senior Official Group' which does not have any binding powers seems superfluous, particularly as it is not to be identified with the group of experts proposed by the Commission in its communication on the next steps in radio spectrum policy (COM(1999) 538).

In order to avoid duplication of effort and in the interests of clear decision-making structures, the rapporteur therefore advocates setting up only a 'Senior Official Radio Spectrum Policy Committee', which should consult all participants in the market and other parties concerned at least once a year in order to keep abreast of technical developments and the situation on the market, as well as other interests. In addition to experts from the Member States, it should comprise, for example, representatives of public and private broadcasting, service and content providers, network operators (cable, satellite, terrestrial distribution channels), the appliance industry, consumers' associations and scientific institutes, as well as of trade, the security services, the military, civil aviation and maritime, rail and road transport. If necessary, the committee should also concern itself with specific questions and hold meetings of the parties concerned in order to resolve doubtful issues.

A 'Senior Official Radio Spectrum Policy Committee' comprising representatives of Member States, chaired by the Commission, which prepares decisions in accordance with the customary committee rules, would be quite sufficient.

It should report regularly to the European Parliament.

#### Concluding assessment

The general verdict must be that, in the rapporteur's view, there is no need to abandon the coordination of radio spectrum at European and Member State level which has hitherto proved satisfactory. The regulatory framework for radio spectrum policy should permit greater coordination of the use of radio spectrum in the Community, while confining harmonisation to fields where it is essential for the purpose of implementing Community policies. From the point of view of the committee responsible for culture and the media, therefore, it is desirable to adopt and take account of substantive provisions on the use, allocation and administration of radio spectrum. An obligation should also be laid down in the



regulatory framework for decisions on the allocation and use of radio spectrum to bear in mind the public interest in diversity of opinion and cultural diversity: broadcasting, especially public-service broadcasting, has a major role to play here.

## AMENDMENTS

The Committee on Culture, Youth, Education, the Media and Sport calls on the Committee on Industry, External Trade, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission<sup>1</sup>

Amendments by Parliament

### (Amendment 1)

#### Recital 2

(2) Where necessary, policy principles on the use of radio spectrum need to be defined at Community level with a view to meeting Community policy objectives, in particular in the areas of communications, broadcasting, transport, research which all require, to various extents, the use of radio spectrum, while maintaining a high standard of citizen's health. On the basis of these principles, the use of radio spectrum should be coordinated and harmonised at Community level, where necessary to fulfil these Community objectives. Community coordination and harmonisation may also help achieving harmonisation and coordination of the use of the spectrum at global level in certain cases. At the same time, appropriate technical support can be provided at national level.

(2) Where necessary, policy principles on the use of radio spectrum need to be defined at Community level with a view to meeting Community policy objectives, in particular in the areas of communications, broadcasting, transport, research which all require, to various extents, the use of radio spectrum, while maintaining a high standard of citizen's health ***and ensuring adequate and appropriate provision of capacity for the transmission of a wide range of content addressed to the general public***. On the basis of these principles, the use of radio spectrum should be coordinated and harmonised at Community level, where necessary to fulfil these Community objectives. Community coordination and harmonisation may also help achieving harmonisation and coordination of the use of the spectrum at global level in certain cases. At the same time, appropriate technical support can be provided at national level.

#### *Justification:*

*Radio spectrum is a scarce resource. In establishing a technical legal framework for spectrum policy, the use of the spectrum cannot be considered in isolation from political principles. Particular account must accordingly be taken of the public interest by making it possible to reserve an appropriate and adequate transmission capacity for the dissemination of a wide*

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<sup>1</sup> OJ C .

*range of content addressed to the general public.*

(Amendment 2)

Recital 3

(3) Spectrum policy cannot be based only on technical parameters but also needs to take into account economic, political, cultural, health and social considerations. Moreover, the ever increasing scarcity of available radio spectrum may increase the sources of conflicts between the various groups of radio spectrum users in sectors such as communications, broadcasting, transport, law enforcement, military and the scientific community. Therefore, spectrum policy should take into account all sectors and balance the respective needs. This Decision should not affect the right of Member States to impose restrictions necessary for public order and public security purposes.

(3) Spectrum policy cannot be based only on technical parameters but also needs to take into account economic, political, cultural, health and social considerations. Moreover, the ever increasing scarcity of available radio spectrum may increase the sources of conflicts between the various groups of radio spectrum users in sectors such as communications, broadcasting, transport, law enforcement, military and the scientific community. Therefore, spectrum policy should take into account all sectors and balance the respective needs. This Decision should not affect the right of Member States to impose restrictions necessary ***in the public interest and*** for public order and public security purposes.

*Justification:*

*The 'necessary restrictions' which the Commission proposes that Member States should be allowed to impose must not be confined to public order and public security purposes. Where conflicts of interest arise, Member States must be able to take independent decisions about restrictions in the public interest, in accordance with their political, social, historical and cultural traditions and objectives*(Amendment 3)

Recital 3a (new)

***Member States shall ensure the effective management of radio spectrum for electronic communication services in their territory. They shall ensure that the allocation and assignment of radio spectrum by national regulatory authorities is based on objective, transparent, non-discriminatory and proportionate criteria, taking into account the democratic, social and cultural interests linked to the use of their frequencies.***

*Justification:*

*Member States must take the democratic, social and cultural interests of European citizens*

*into account when allocating frequencies. Objective and transparent criteria must be applied.*

(Amendment 4)

Recital 4

(4) In order to define general policy objectives regarding the use of spectrum, ***an appropriate consultative body*** should be created which will gather together, under the chairmanship of the ***Member State holding the Presidency of the Council***, senior Member States representatives responsible for the various sectors using or affected by the use of radio spectrum, such as communications, broadcasting, audio-visual, transport, research and development as well as of security policy, military defence and police sectors, which may be indirectly affected. ***This group*** should provide guidance to the Commission, both on its own initiative and at the request of the Commission, on the need for harmonisation of the use of radio spectrum in the general context of Community policy and on regulatory and other issues related to the use of radio spectrum which impact on Community policies, including, for example, methods for granting rights to use spectrum, information availability, availability of spectrum, refarming, relocation, valuation and efficient use of radio spectrum as well as protection of human health. For that purpose, each national delegation should have a coordinated view of all policy aspects affecting spectrum use in its Member State in relation with the issues to be discussed in the group.

(4) In order to define general policy objectives regarding the use of spectrum, ***a Senior Official Radio Spectrum Policy Committee*** should be created which will gather together, under the chairmanship of the ***Commission***, senior Member States representatives responsible for the various sectors using or affected by the use of radio spectrum, such as communications, broadcasting, audio-visual, transport, research and development as well as of security policy, military defence and police sectors, which may be indirectly affected. ***The Committee*** should provide guidance to the Commission, both on its own initiative and at the request of the Commission, on the need for ***coordination and, if required***, harmonisation of the use of radio spectrum in the general context of Community policy and on regulatory and other issues related to the use of radio spectrum which impact on Community policies, including, for example, methods for granting rights to use spectrum, information availability, availability of spectrum, refarming, relocation, valuation and efficient use of radio spectrum as well as protection of human health. For that purpose, each national delegation should have a coordinated view of all policy aspects affecting spectrum use in its Member State in relation with the issues to be discussed in the group.

*Justification:*

*The establishment of two groups, both consisting of representatives of the Member States and whose mutual relationship is unclear, and, moreover, without any binding powers being assigned to the senior official group, is undesirable. A spectrum committee comprising representatives from the Member States, chaired by the Commission, to act in accordance with the customary committee rules, is sufficient and, from the point of view of the European Parliament, preferable. Wherever the text refers to the group, it should therefore be*

*amended accordingly. The Commission's proposal for far-reaching harmonisation of spectrum use in the context of Community policy overshoots its goal. Rather, a balanced relationship between harmonisation and coordination is preferable, with coordination the primary aim, while harmonisation is confined to cases where it proves absolutely necessary.*

(Amendment 5)

Recital 5

(5) The **group** will **take into account the views of** the industry and **of** all users involved, both commercial and non-commercial, as well as **of** other interested parties on technological, market and regulatory developments which may affect the use of radio spectrum. Spectrum users should be free to provide all input they believe is necessary. The **group** may decide to hear representatives of **the** spectrum users communities at group meetings where necessary to illustrate the situation in a particular sector.

(5) The **Senior Official Spectrum Policy Committee** will **consult** the industry and all users involved, both commercial and non-commercial, as well as other interested parties on technological, market, **cultural** and regulatory developments **by means of a forum meeting at least once a year, will take into account the views expressed there** which may affect the use of radio spectrum **and publish the results**. Spectrum users should be free to provide all input they believe is necessary. The **Committee** may decide to hear representatives of **certain** spectrum users communities at group meetings where necessary to illustrate the situation in a particular sector, **in which case it shall ensure that all who are affected by a particular problem can make their views known in order to help resolve controversies objectively**.

*Justification:*

*The committee should consult all users involved, both commercial and non-commercial, as well as other interested parties, on technological, market, legal and cultural developments by means of a forum meeting at least once a year, and take into account the views expressed there in order to gain a comprehensive overview of the multiplicity of interests associated with radio spectrum policy. Particular account should be taken of cultural interests in order to make it clear that efficient management of radio spectrum does not only involve market and legal aspects. The results should be published. In order to prevent the body from confining itself to consulting representatives of particular sectors at its regular meetings and to ensure genuinely balanced representation of interests, it would be appropriate to ensure on each occasion that all who are affected by a particular problem can make their views known.*

(Amendment 6)

Recital 7

(7) Radio spectrum technical management includes the harmonisation and allocation of radio spectrum. Such harmonisation should reflect the requirements of general policy principles identified at Community level. Coordinated introduction in the Community of systems using radio spectrum is dependent on the various national approaches to assignment and licensing including with regard to spectrum pricing and license fees. These issues should therefore be discussed and where appropriate be harmonised at Community level.

(7) Radio spectrum technical management includes the harmonisation and allocation of radio spectrum. Such harmonisation should reflect the requirements of general policy principles identified at Community level. Coordinated introduction in the Community of systems using radio spectrum is dependent on the various national approaches to assignment and licensing including with regard to spectrum pricing and license fees. These issues should therefore be discussed, ***coordinated*** and where appropriate be harmonised at Community level.

*Justification:*

*The primary objective of the legal framework to be established should be to coordinate spectrum policy more effectively at Community level. Harmonisation should be confined to cases where it is absolutely necessary.*

(Amendment 7)

Recital 8

(8) The Community approach should also benefit from cooperation with radio spectrum experts from national authorities responsible for radio spectrum management. Building on the experience of mandating procedures gained in specific sectors, for example as a result of the application of Decision No 710/97/EC of the European Parliament and of the Council of 24 March 1997 on a coordinated authorisation approach in the field of satellite personal-communication services in the Community<sup>1</sup> (the S-PCS Decision) as amended by Decision No 1215/2000/EC<sup>2</sup> and Decision No 128/1999/EC of the European Parliament and of the Council of 14 December 1998 on the coordinated introduction of a third generation mobile and wireless

(8) The Community approach should also benefit from cooperation with radio spectrum experts from national authorities responsible for radio spectrum management. Building on the experience of mandating procedures gained in specific sectors, for example as a result of the application of Decision No 710/97/EC of the European Parliament and of the Council of 24 March 1997 on a coordinated authorisation approach in the field of satellite personal-communication services in the Community<sup>3</sup> (the S-PCS Decision) as amended by Decision No 1215/2000/EC<sup>4</sup> and Decision No 128/1999/EC of the European Parliament and of the Council of 14 December 1998 on the coordinated introduction of a third generation mobile and wireless

<sup>1</sup> OJ L 105, 23.4.1997, p. 4.

<sup>2</sup> OJ L 139, 10.6.2000, p. 1.

<sup>3</sup> OJ L 105, 23.4.1997, p. 4.

<sup>4</sup> OJ L 139, 10.6.2000, p. 1.

communications system (UMTS) in the Community<sup>1</sup> (the UMTS Decision), a permanent, stable and uniform framework **needs to be created** at Community level to ensure harmonised availability of radio spectrum use and to provide adequate legal certainty. Harmonisation measures should be adopted as a result of mandates to national experts acting in appropriate spectrum management bodies including the European Conference of Postal and Telecommunications administration (CEPT). **Where necessary, the Commission should be able to make the results of such mandates compulsory for Member States, and where the results of such mandates are not acceptable, to take appropriate alternative action.** This will in particular provide for the harmonisation of frequency spectrum necessary for the implementation of Directive .../.../EC of the European Parliament and Council Directive [on the authorisation of electronic communications networks and services]<sup>2</sup>.

communications system (UMTS) in the Community<sup>3</sup> (the UMTS Decision), a permanent, stable and uniform framework **would be advantageous** at Community level to ensure **greater coordination and, if necessary**, harmonised availability of radio spectrum use and to provide adequate legal certainty. Harmonisation measures should be adopted as a result of mandates to national experts acting in appropriate spectrum management bodies including the European Conference of Postal and Telecommunications administration (CEPT). **If it proves necessary, the procedure referred to in Article 5 should be applied.** This will in particular provide for the **coordination and** harmonisation of frequency spectrum necessary for the implementation of Directive .../.../EC of the European Parliament and Council Directive [on the authorisation of electronic communications networks and services]<sup>4</sup>.

*Justification:*

*Far-reaching harmonisation of radio spectrum use – as opposed to greater coordination at Community level – is not required at present. The regulatory procedure is preferable to the advisory procedure, as it will give the European Parliament the right to inform the Council of its views on the Commission proposal and to require reports to be submitted.*

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<sup>1</sup> OJ L 17, 22.1.1999, p. 1.

<sup>2</sup> OJ L

<sup>3</sup> OJ L 17, 22.1.1999, p. 1.

<sup>4</sup> OJ L

(Amendment 8)

Recital 9

(9) Appropriate information on present and future planning, allocation and assignment of radio spectrum, as well as conditions for access to and use of the whole radio spectrum are essential elements for investments and policy making. So are technological developments which will give rise to new spectrum allocation and management techniques and frequency assignment methods. Development of long term strategic aspects require proper understanding of the implications of how technology evolves. Such information should therefore be made accessible in the Community, without prejudice to confidential business and personal information protection under Directive 97/66/EC of the European Parliament and of the Council of 15 December 1997 concerning the processing of personal data and the protection of privacy in the telecommunications sector<sup>1</sup>. The implementation of a cross-sectoral spectrum policy makes the availability of information on the whole radio spectrum necessary. In view of the general purpose of **harmonising** spectrum use in the Community and in Europe, such information needs to be aggregated at a European level in a user-friendly manner.

(9) Appropriate information on present and future planning, allocation and assignment of radio spectrum, as well as conditions for access to and use of the whole radio spectrum are essential elements for investments and policy making. So are technological developments which will give rise to new spectrum allocation and management techniques and frequency assignment methods. Development of long term strategic aspects require proper understanding of the implications of how technology evolves. Such information should therefore be made accessible in the Community, without prejudice to confidential business and personal information protection under Directive 97/66/EC of the European Parliament and of the Council of 15 December 1997 concerning the processing of personal data and the protection of privacy in the telecommunications sector<sup>2</sup>. The implementation of a cross-sectoral spectrum policy makes the availability of information on the whole radio spectrum necessary. In view of the general purpose of **coordinating** spectrum use in the Community and in Europe, such information needs to be aggregated at a European level in a user-friendly manner.

*Justification:*

*The primary objective of the legal framework to be established should be to coordinate spectrum policy more effectively at Community level rather than to attain far-reaching harmonisation.*

(Amendment 9)

Article 1(a)

(a) create a policy framework to address the strategic planning and harmonisation of the use of radio spectrum in the Community taking into consideration in

(a) create a policy framework to address the **more precise** strategic planning **of coordination** and, **where necessary**, harmonisation of the use of radio spectrum

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<sup>1</sup> OJ L 24, 30. 1.1998, p. 1.

<sup>2</sup> OJ L 24, 30. 1.1998, p. 1.



particular economic, health, public policy, cultural, scientific, social and technical aspects of Community policies as well as the various interests of radio spectrum users communities with the aim of optimising the use of spectrum and of avoiding harmful interference;

in the Community taking into consideration in particular economic, health, public policy, cultural, scientific, social and technical aspects of Community policies as well as the various interests of radio spectrum users communities with the aim of optimising the use of spectrum and of avoiding harmful interference;

*Justification:*

*Far-reaching harmonisation, as proposed by the Commission, overshoots the target. Rather, the purpose of the new legal framework for radio spectrum policy should be more precise strategic planning of coordination at Community level, while harmonisation should be confined to cases where it is absolutely necessary.*

(Amendment 10)

Article 1(b)

(b) establish a procedural framework to ensure the effective implementation of radio spectrum policy in the Community, and in particular establish a general methodology for harmonisation of the use of radio spectrum;

(b) establish a procedural framework to ensure the effective implementation of radio spectrum policy in the Community, and in particular establish a general methodology for ***coordination and, if necessary***, harmonisation of the use of radio spectrum;

*Justification:*

*Far-reaching harmonisation, as proposed by the Commission, overshoots the target. Rather, the purpose of the new legal framework for radio spectrum policy should be more precise strategic planning of coordination at Community level, while harmonisation should be confined to cases where it is absolutely necessary.*

(Amendment 11)

Article 1, last paragraph

This Decision is without prejudice to the specific rules adopted by Member States or the Community governing the content of audio-visual **programmes** intended for the general public, to the provisions of Directive 1999/5/EC and to the right of Member States to organise their radio spectrum for public order and public security purposes.

This Decision is without prejudice to the specific rules adopted by Member States or the Community governing the content of audio-visual **services** intended for the general public **and the respective conditions for their permits**, to the provisions of Directive 1999/5/EC and to the right of Member States to organise their radio spectrum for public order and public security purposes. **In particular, the Decision is without prejudice to Member States' provisions governing privileged access to the radio spectrum for certain services in the public interest and Member States' must-carry rules.**

*Justification:*

*The Amsterdam Protocol on the system of public broadcasting in the Member States remains fully applicable. In order not to hamper the future development of the content of audiovisual services, including therefore new types of radio service, the legal framework must allow scope for national provision to be made for their special position. In particular, Member States' provisions concerning privileged access to the radio spectrum for certain services in the public interest, and Member States' must-carry rules, must not be jeopardised.*

(Amendment 12)

Article 3

***With a view to the strategic planning and harmonisation of use of radio spectrum in the Community, the Commission shall be assisted by a consultative group to be called the Senior Official Radio Spectrum Policy Group.***

***The Group shall be composed of senior representatives from the Member States and a representative of the Commission, and shall meet at least twice a year under the chairmanship of the representative of the Member State holding the Council Presidency. The Group's secretariat shall be provided by the Commission.***

***The Group shall consult, as it may deem appropriate, representatives from the various sectors of activities and citizen representatives affected by or requiring the use of radio spectrum in the***

***Deleted.***

***Community and in the rest of Europe.***

*Justification:*

*The establishment of two groups, both consisting of representatives of the Member States and whose mutual relationship is unclear, and, moreover, without any binding powers being assigned to the senior official group, is undesirable. A Senior Official Radio Spectrum Policy Committee comprising representatives from the Member States, chaired by the Commission, to act in accordance with the customary commitology rules, is sufficient and, from the point of view of the European Parliament, preferable.*

(Amendment 13)

Article 4

*Function of the Senior Official Radio  
Spectrum Policy **Group***

The Senior Official Radio Spectrum Policy **Group** shall contribute to the formulation, preparation and implementation of a radio spectrum policy by delivering opinions to the Commission either at the Commission's request or on its own initiative, and shall contribute to the preparation of the Commission's report referred to in Article 11.

The **Group** shall in particular:

- (a) monitor the evolution of the use of and access to radio spectrum in the Community as well as at national, regional, and global levels;
- (b) review current needs and anticipate future needs for radio spectrum for commercial as well as non-commercial applications in the Community, based in particular on strategic, economic, technological, political, health, social and cultural aspects of radio spectrum use, in view of the fulfilment of Community policy objectives; advise the Commission on strategic planning of radio spectrum use, and where necessary, balance the various requirements for radio spectrum of different users;

*Function of the Senior Official Radio  
Spectrum Policy **Committee***

The Senior Official Radio Spectrum Policy **Committee** shall contribute to the formulation, preparation and implementation of a radio spectrum policy by delivering opinions to the Commission either at the Commission's request or on its own initiative, and shall contribute to the preparation of the Commission's report referred to in Article 11.

The **Committee** shall in particular:

- (a) monitor the evolution of the use of and access to radio spectrum in the Community as well as at national, regional, and global levels;
- (b) review current needs and anticipate future needs for radio spectrum for commercial as well as non-commercial applications in the Community, based in particular on strategic, economic, technological, political, health, social and cultural aspects of radio spectrum use, in view of the fulfilment of Community policy objectives; advise the Commission on strategic planning of radio spectrum use, and where necessary, balance the various requirements for radio spectrum of different users;

***(b)a (new) consult, for this purpose, the industry and all users involved, both commercial and non-commercial, as well as other interested parties, on technological, market, cultural and regulatory developments by means of a forum meeting at least once a year, take into account the views expressed and publish the results;***

***(b)b (new) may, if necessary, decide to hear representatives of certain spectrum user communities at its meetings in order where necessary to discuss the situation in a particular sector, in which case it***

***shall ensure that all who are affected by a particular problem can make their views known in order to help resolve controversies objectively;***

(c) advise the Commission on regulatory, international, technical, economic and political developments affecting the use of spectrum, as well as on the need for harmonisation measures at Community level for radio spectrum use to implement Community policies;

(d) assess the need for European common proposals to be developed in view of international negotiations;

(e) assist in the preparation of the Commission annual report on the developments impacting on existing and future use of radio spectrum in the Community;

(f) encourage the exchange of information among Member States on the evolution of the use of radio spectrum in the Community.

(c) advise the Commission on regulatory, international, technical, economic and political developments affecting the use of spectrum, as well as on the need for ***coordination or, if appropriate,*** harmonisation measures at Community level for radio spectrum use to implement Community policies;

(d) assess the need for European common proposals to be developed in view of international negotiations;

(e) assist in the preparation of the Commission annual report on the developments impacting on existing and future use of radio spectrum in the Community;

(f) encourage the exchange of information among Member States on the evolution of the use of radio spectrum in the Community.

*Justification:*

*Far-reaching harmonisation, as proposed by the Commission, overshoots the target. Rather, the purpose of the new legal framework for radio spectrum policy should be more precise strategic planning of coordination at Community level, while harmonisation should be confined to cases where it is absolutely necessary. The function and remit of the Committee must accord with this objective.*

*Once a year, the Committee should consult all users of the radio spectrum involved, both commercial and non-commercial, as well as other interested parties, on technological, market, cultural and regulatory developments by means of a forum, and take into account the views expressed there, in order to gain a comprehensive overview of the multiplicity of interests associated with radio spectrum policy.*

*Particular account should be taken of cultural interests in order to make it clear that efficient management of radio spectrum does not only involve market and legal aspects. The results should be published. In order to prevent the body from confining itself to consulting representatives of particular sectors at its regular meetings and to ensure genuinely balanced representation of interests, it would be appropriate to ensure on each occasion that all who are affected by a particular problem can make their views known.*

(Amendment 14)

Article 5(1)

1. **The Commission shall be assisted by a** committee composed of representatives of the Member States and chaired by **the** representative of the Commission ("**the Radio Spectrum Committee**").

1. **The** committee **shall be** composed of representatives of the Member States and chaired by **a** representative of the Commission.

*Justification:*

*This amendment renders the text consistent with the previous amendments which are necessary because of the deletion of the references to a Senior Official Radio Spectrum Policy Group.*

(Amendment 15)

Article 6(1) and (2)

1. Where appropriate, and taking into account **where possible** the advice of the Senior Official Radio Spectrum Policy **Group**, the Commission shall propose measures to harmonise the use of radio spectrum, assignment methods, conditions for such use, as well as the availability of information related to the use of radio spectrum.

2. For these purposes, the Commission shall give mandates to the CEPT, setting out the tasks to be performed and the timetable therefor. The Commission shall act in accordance with the procedure referred to in Article 5(2).

1. Where appropriate, and taking into account the advice of the Senior Official Radio Spectrum Policy **Committee**, the Commission shall propose measures to harmonise the use of radio spectrum, assignment methods, conditions for such use, as well as the availability of information related to the use of radio spectrum.

2. For these purposes, the Commission shall give mandates to the CEPT, setting out the tasks to be performed and the timetable therefor. The Commission shall act in accordance with the procedure referred to in Article 5(3).

*Justification:*

*It is desirable that the Commission should already act when giving mandates to the CEPT under the regulatory procedure (Article 5, Council Decision of 28 June 1999 (1999/378/EC)), in order to enable Parliament to deliver an opinion to the Council and to take appropriate account of the position of the Member States thanks to the greater involvement of the Council under the regulatory procedure.*