

ANACOM's contribution

Consultation “*Transforming the digital dividend opportunity into social benefits and economic growth in Europe*”

So that the digital dividend may reach its full potential, aware that decisions taken by Member States on the use of spectrum to be released will shape in the next few years the economy, the development of sectors of activity, as well as benefits for consumers, and considering that the highest impact resulting from this process could only be achieved if some coordination at European level is accomplished, the EC has launched this procedure to seek views from all actors involved.

First of all, we welcome this initiative and its timing, considering the relevance of the matter and the moment particularly critical. In such context, the proposals put forward in the consultation document proceed in a generally positive direction.

Without prejudice, a more detailed analysis and comments to aspects deemed to be relevant in the document are set out below.

Point 3

As regards the benefits of a common way forward on the digital dividend and underlying principles, indicated in point 3 of the consultation document, it should be noted, as a preliminary remark, that ICP - ANACOM itself launched, on 30/03/2009, a public consultation on the digital dividend¹, the final report of which² was approved on 29/07/2009. This public consultation covered issues such as the expected impact of using the digital dividend, its usage's coordination or harmonization at the European level, its sharing by the several services/applications, the possibility of adopting technological and service neutrality criteria and the procedures to release/allocate the spectrum that will become available, as well as their time schedules.

The consultation promoted by ICP - ANACOM shows an understanding that the digital dividend may represent an opportunity to strengthen competitiveness both at national and Community level, contributing also to the increase of new services and innovative solutions, associated to economies of scale, being intended as a relevant factor for the development of the information society. Within this context, and as benefits of a harmonized use of spectrum at Community level have been acknowledged - economies of scale at the level of network and terminal equipment; minimization of interference in the use of spectrum between countries (Community countries or other) and greater service interoperability/compatibility – it is deemed that the preparation of a coordinated European strategy as far as the use of the digital dividend is concerned should be endorsed, without prejudice to the pressing need to consider and cater for each Member State's specificities in this matter, preserving a balance between the intervention at national level and that which may be ensured at Community level.

Principles indicated in point 3 of EC's consultation document are thus deemed to be appropriate, namely that (i) an EU roadmap must offer sufficient flexibility to cope with national specificities, especially considering the different legacies and future needs with

¹ http://www.anacom.pt/streaming/doc_consulta_vfinal.pdf?contentId=886461&field=ATTACHED_FILE.

²

http://www.anacom.pt/streaming/relatorio_consulta_dividendo_digital.pdf?contentId=968530&field=ATTACHED_FILE

respect to terrestrial broadcasting, and (ii), as it involves choices fundamentally of a political nature, the EU roadmap should be endorsed by the European Parliament and by the Council, namely through the future multi-annual radio spectrum policy programme.

Point 4

Likewise, the main actions lines of the EU roadmap, pointed out in point 4 of the consultation document, are also generally in line with the conclusions of ICP – ANACOM’s consultation procedure on the matter, mentioned above. This Authority thus agrees in general terms with the establishment of principles supported on technological and service neutrality, enabling a more effective spectrum management and the introduction of new services and technologies that ensure a quality provision of services and technologies to a larger number of consumers.

Notwithstanding, some aspects which should be stressed and specific concerns which should be safeguarded concerning some of these measures have been pointed out below.

Point 4.1 of the consultation document, on the increase of effectiveness of standards on terrestrial television broadcasting, supports that (a) all DTT receivers sold after 1 January 2012 incorporate a compression standard that is at least as efficient as the H264/MPEG-4 AVC standard and that (b) all TV receivers are provided with a minimum level of resilience, so that they are able to resist interference.

Point 4.2 of the consultation document, on the increase of the size of the digital dividend, suggests (a) promoting collaboration between Member States in order to migrate to more efficiency standards, such as MPEG-4 or DVB-T2 and, (b) encouraging the deployment of Single Frequency Networks (SFNs), deemed to be more spectral efficient than Multiple Frequency Networks (MFNs) and (c) supporting research into “frequency agile” mobile communications systems.

Generally speaking, except for point 4.2c) and in part point 4.1b) which go beyond it, measures in the referred points 4.1 and 4.2 aim towards a growing increase of efficiency of digital terrestrial television systems, which is considered to be generally beneficial. It must be stressed that DTT in Portugal is based on the H.264/MPEG-4 AVC compression standard and on an SFN, except for the Autonomous Region of the Azores, this being a pioneer solution in the EU as far as these more efficient DTT systems are concerned, but one which also implies a considerable effort.

In this context, it is deemed that the general trend in the EU to establish a set of minimum requirements for television receivers (namely the proposal that all DTT receivers sold after 1 January 2012 incorporate a video compression standard that is at least as efficient as the H264/MPEG-4 AVC standard) is likely to be relevant, bringing about relevant economies of scale with positive consequences at the level of cost of equipment, thus enabling a quality boost without trying to minimize the associated financial impact.

Nevertheless, the decision to introduce these requirements, including the start of the implementation, must only be taken after economic and social factors supporting it³

³ It should be noted that as exclusive cable and satellite integrated receivers are not known (in these platforms, signal demodulation and possible decoding take place in an additional equipment), “DTT receivers” are deemed to mean, in practise, all integrated receivers on the market, thus the introduction of the referred minimum English version (non-official)

have been better evaluated, and in fact the market itself may spontaneously evolve in the direction which this measure aims to induce.

It should also be considered, at the very least, that operators involved and general population should not be subject to more expensive receivers, although higher quality ones, only for future benefits fundamentally of the operators of wireless broadband applications.

Point 4.3 of the consultation document suggests making the 790-862 MHz sub-band (hereinafter the 800 MHz sub-band) available for low/medium power electronic communications networks, under harmonised technical conditions, following the principle of technology and service neutrality.

First of all, it should be noted that there seems to be a contradiction between supporting, on the one hand, a higher degree of spectrum management flexibility, and on the other, intending to adopt a decision whereby harmonized technical conditions for the use of the referred sub-band are imposed.

Notwithstanding, the conclusions of the consultation on the digital dividend promoted by ICP – ANACOM² (particularly pages 45 and 46) should be stressed, being recognized a general trend for the allocation of the 800 MHz sub-band to mobile broadband applications, inclusively in Spain, which will naturally weight in Portugal's final decision on the matter. Although this decision has not been taken yet, it is expected, in the light of the current context, that it will make available the referred sub-band to broadband electronic communications services, according to WAPECS principles.

Any such decision will involve however a change of radioelectric channels currently used by DTT broadcasting in Portugal, with an impact on its ongoing implementation.

Consequently, without prejudice to acknowledging the benefits of a possible technical harmonization of the use of the 800 MHz sub-band in Europe, it is our opinion that a decision in this scope has to safeguard the necessary degree of flexibility to allow each Member State the time to adapt its situation to the measure established, particularly in situations – such as in Portugal – where there could be relevant impacts in the switchover, which must be concluded successfully so that all benefits of the digital dividend may be reaped.

Point 4.7 of the consultation document, on addressing future challenges, indicates relevant factors of uncertainty which must be considered, being worthy of note:

- the extent of consumer take-up of HDTV on the terrestrial platform in the future, compared to the take-up on other platforms;
- a higher growth of broadband wireless usage leading to a spectrum bottleneck;
- the emergence of new services which would require access to more spectrum below 1 GHz, for example PPDR systems.

The combination of these factors seems to imply, bottom line, the admission of a possible future release of the full digital dividend spectrum to other applications other than television (television distribution being performed in platforms such as cable or satellite, not the terrestrial one); this would however defraud the legitimate expectations of involved television operators, broadcasting operators and general population – even

requirements will affect all TV integrated receivers, including, for example, cable and satellite ones, for which such technical feature is unnecessary.

more so if they were in the meantime encouraged to make a significant effort towards increasing the efficiency of the digital terrestrial television broadcasting, as mentioned earlier – to be able to continue to benefit from part of the digital dividend spectrum in the long-term also, including in the scope of possible new television services. If this were the case, it would be senseless to impose the minimum efficiency requirements suggested in point 4.1.

In this scope, the fundamental role of the digital terrestrial television broadcasting in the provision of free-to-air television, including with regional or local scope, must be highlighted, as well as all expectations concerning mobile television, namely supported on DVB-H, for which spectrum allocation is also essential.

Nevertheless, the need for an appropriate monitoring of developments, namely at technological and service level, is acknowledged, given future needs to adapt the roadmap to be laid down, which however does not differ in substance from monitoring needs in other areas. It would be important all the same to explore the type of mechanism the Commission intends to implement for this monitoring task and for the review submitted every two to three years to the Parliament and Council.

Point 5

Point 5 of the consultation document, on actions deemed to be urgent in this scope, puts forwards the possibility of accelerating analogue switch-off by 1 January 2012, requesting Member States to confirm the switch-off date in national law in the respective territory.

As far as Portugal is concerned, Resolution of the Council of Ministers number 26/2009, published on 17 March, determined the switch-off of terrestrial analogue television broadcasting throughout national territory by 26 April 2012, which in itself entails an effort to conclude the transition within a three-year deadline.

Note that when this date was set, Community documents available at the time (namely Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on “*Accelerating the transition from analogue to digital broadcasting*” - COM(2005) 204 of 24 May⁴, as well as European Parliament Resolution on “*Accelerating the transition from analogue to digital broadcasting*”, of 16 November 2005, and Conclusions of the EU Council, of 1 December 2005) referred to “2012” as the deadline for completing analogue switch-off in the EU, having only the EC’s Communication made a reference to “*the beginning of 2012*” (a term which is rather vague).

There was thus no reference to a precise date or to an intention to set 1 January 2012 as the deadline. Moreover, in more recent documentation (such as the COCOM document of October 2008 “*Information from Member States on switchover to digital TV*”) the 2012 deadline was always presented as merely indicative, never associated to a concrete date.

The proposal put forward is even odder considering that several Member States have notified to the EC their transition plans which go beyond the date now indicated.

4

http://ec.europa.eu/information_society/policy/ecomm/doc/library/communications_reports/switchover/com_pt_final.pdf

In conclusion, given the positions taken above, ICP - ANACOM thus questions the legitimacy of setting 1 January 2012 as the deadline for switch-off, the format of a possible imposition of such a measure, as well as consequences which would arise to Member States from non-compliance, considering that, given the different contexts in the various Member States, it is vital that a degree of schedule flexibility should be safeguarded, which is in fact in line with point 3 of this consultation, the provisions of which were earlier highlighted and supported, as the need for flexibility to address national specificities is recognized.

Lastly, the switch-off schedule should be without prejudice to the provision of equipments that comply with design principles appropriate for citizens with special needs, as well as the supply of contents in the appropriate conditions.

Point 5 of the consultation document refers also the urgent need to take steps towards the opening of the 800 MHz sub-band for electronic communications services by adopting harmonised technical conditions of use, which includes the submission to the Radio Spectrum Committee of a draft EC decision on the technical harmonisation of the 790-862 MHz sub-band for regulatory opinion in autumn 2009, followed by a final adoption by the Commission at the beginning of 2010.

As mentioned above, although the benefits of a possible technical harmonization of the use of the 790-862 MHz sub-band in Europe have been acknowledged, we restate that a degree of flexibility that may address Member State specificities has to be safeguarded in a decision in this scope. Without prejudice, it is also recognized that Member States should avoid, as much as possible, taking measures to hinder this process, as the consultation document suggests.