



Transforming the digital dividend opportunity into social benefits and economic growth in Europe

The Association of Commercial Television in Europe (ACT) represents the interests of the commercial broadcasting sector in Europe with 28 member companies active in 34 European countries operating over 400 free-to-air and pay-tv channels and distributing several hundreds channels and new services.

The ACT welcomes the opportunity to comment on the European Commission Consultation document with regards to the digital dividend and notes the recently closed consultation of the Radio Policy Spectrum Group as a preliminary step for future EU actions to which we have submitted our response. An additional layer that we consider crucial for spectrum planning and management is the work being done at international level within CEPT and ITU.

With regards to the Commission Consultation document, we would like to make the following comments:

1. We are re-stating the position expressed in the response to the RSPG consultation¹ with regards to the **respect of the subsidiarity principle in spectrum management in Europe**. As concluded both in the CEPT Report B following the second Commission mandate on the digital dividend (Opinion of the RSC pursuant to Article 4.2 of Radio Spectrum Decision 676/2002/EC)² and the RSPG Position Paper on the Digital Dividend³, any harmonisation decisions for the use of 800 MHz sub-band should be made under non-mandatory conditions in line with the GE-06 Agreement. Member States should be able to decide on allocating spectrum taking into account national specificities (size and density of population, topology, existence of other distribution platforms, consumer demand etc). The international negotiations at ITU level provide clear and sufficient framework for spectrum planning and the added value of a far reaching Commission involvement is questionable.

This does not mean that we question the legitimacy of the ongoing work at EU and RSPG level. But we must be clear; the EU should only have a cooperative role and any roadmap must have enough flexibility to take into account

¹http://rspg.groups.eu.int/documents/consultations/comments_digitaldividend_090515_0630/090630_act_pcdd.pdf

²http://ec.europa.eu/information_society/policy/ecomm/radio_spectrum/document_storage/rsc/rsc23_public_docs/rscom08-06.pdf

³ RSPG09-271
http://rspg.groups.eu.int/documents/documents/meeting/rspg19/rspg09_271_draft_position_paper_digitaldividend.pdf

national discrepancies, the pace of introduction of new technologies and future developments of broadcasting services.

While harmonisation of technical conditions by the Commission has been recognised under the Radio Spectrum Decision, the ACT welcomes the fact that the Commission recognises the importance and necessity of consulting the European Parliament and the Council for the adoption of a future EU roadmap under the multi-annual radio policy spectrum programme, as foreseen in the reformed regulatory framework for electronic communications services.

Harmonised technical conditions play a crucial role in the effective management of spectrum but this should be done at EU level only where strictly necessary and Member States should be allowed to adopt complementary measures where necessary.

Sharing the broadcasting band with other types of service could result in unacceptable interference to broadcasting as well as to these other services. Otherwise the risk is that valuable spectrum frequencies are useful neither for broadcasting nor mobile services). Adequate safeguards – including guard bands - in relation to protection from risk of harmful interference must be provided for, before considering whether the bands used by broadcasters within the EU may become available for use under general authorisations.

In particular, within the UHF band, further technical studies will be needed to provide reliable options to counter the risk of potential interference between various services, notably cross-border.

2. The ACT welcomes the Commission's support for the provision of **high quality services to consumers in Europe** (point 4.1). We suggest however a cautious approach in relation to the choice of compression or transmission standards, which should remain a market driven process. The pace of migration towards more efficient spectrum compression or transmission standards will differ from one Member State to another, as such a process requires significant investments by industry and entails high costs for consumers as well.

In Member States where terrestrial networks are currently being upgraded, the mandation or threat of mandation of any one transmission standard . would hinder this process and would create additional costs for broadcasters, and should therefore be avoided at all costs.

3. While the importance of broadband coverage for EU citizens (cf. reference to the European Recovery Plan's target on p.1 of Consultation document) remains unquestioned, we support a more technology-neutral approach for defining and evaluating the necessary technical infrastructure. Both wireless services which use terrestrial spectrum as well as satellite services can bring broadband connectivity to rural areas. For the sake of efficient spectrum usage, it is therefore not feasible to limit the scope to a certain technology, i.e. terrestrial wireless services, in order to estimate the necessity to dedicate certain sub-bands to specific services while competing

services may offer the same benefit without implications on the digital dividend.

4. With regards to the **potential use of “white spaces”**, the ACT would like to recall the ongoing work by CEPT working group SE43 which has been mandated to conduct studies in order to assess the following: “*define technical and operational requirements for the operation of cognitive radio systems in the white spaces of the UHF broadcasting band (470-790 MHz) to ensure the protection of incumbent radio services/ systems and (ii) investigate the consequential amount of spectrum potentially available as “white space”.*”⁴ The Commission should not attempt to anticipate the results of these studies by the early adoption of a common position without a thorough technical investigation into the potential consequences on existing services.

While the use of white spaces may contribute to an efficient management of radio frequencies, this should not come at the expense of existing services. The risk of interference in the bands allocated to audiovisual services is high and therefore white spaces should not be used in these bands.

5. DTT is developing and consumers will demand HDTV services to be available also on the terrestrial network. It is therefore important that any frequency decision takes this issue into account and that enough bands are devoted to broadcast use. Notwithstanding the fact that providers of HD services on terrestrial platforms should be allowed to use the transmission standard of their preference, HDservices will require more bandwidth than SD services. Therefore, we do not believe that one can speak of a digital dividend in the transition to HD services. This is particularly relevant for countries with a very large geographical area and scarce population such as Finland and Greece where terrestrial distribution will remain the main method of distribution in the near to medium-term future.

It is also premature to consider a second sub-band as clearance costs are extremely high and this creates a level of legal and economical uncertainty for the broadcasting business which requires long term investments.

It is important not to hinder the transition to digital which is currently ongoing in a large number of Member States as this will enable spectrum users to meet consumers’ expectations by developing new services such as local channels, high definition and mobile TV as is the case in France, Germany, Czech Republic and other Member States.

Brussels, September 2009

⁴ CEPT: **Annex 4 to document SE43(09)10**, Working assumptions and roadmap for the SE43 studies, 9 June 2009