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RADIO SPECTRUM COMMITTEE

Subject: Mandate to CEPT to Review Future Possible Applications for the Band 169.4-169.8 MHz in the light of Community policies (English version)

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Title

A mandate to CEPT in order to review the various possible harmonised applications for the band 169.4 to 169.8 MHz in the light of Community policies.

Purpose

To collect information on the current and future possible uses of the 169.4-169.8 MHz band; to identify a list of alternative options for the use of the band taking into account Community policies ; and to develop and propose technical and regulatory provisions for such applications.

Justification

Pursuant to Article 4 of the Radio Spectrum Decision¹, the Commission may issue mandates to the CEPT for the development of technical implementing measures with a view to ensuring harmonised conditions for the availability and efficient use of radio spectrum; such mandates shall set the task to be performed and the timetable therefor.

In most Member States, the use of the band 169.4 to 169.8 MHz (i.e. 16 channels – including 4 core channels) which was reserved by Directive 90/544/EEC² for European land-based public radio paging (ERMES) applications has severely diminished to such a point that in some Member States this band is not used at all for ERMES applications.

Therefore, there is a need to consider modifying the current allocation of such band to ERMES in the Community, while preserving the harmonised character of such use, in order to ensure a more efficient use of such radio spectrum. This could be subject to appropriate transition measures until expiry or termination of remaining licenses in the sixteen channels for current ERMES or other applications. Such re-allocation may require appropriate legislative action pursuant to Article 251 of the EC Treaty due to the need to modify or repeal Directive 90/544/EC.

For that purpose, the various possible alternative uses should be reviewed, taking into consideration relevant alternative Community policies.

Background

The new EU regulatory regime for electronic communications lays down certain rules as to radio spectrum allocation and assignment. Pursuant to Article 9 par. 1 of the

¹ Decision 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community, OJ L 108 of 24.4.2002, p.1.

² Council Directive of 9 October 1990 on the frequency bands designated for the co-ordinated introduction of pan-European land-based public radio paging in the Community, OJ L 310 of 9.11.1990, p. 28.

Framework Directive³, allocation and assignment of radio frequencies by national regulatory authorities must be based on objective, transparent, non-discriminatory and proportionate criteria. Moreover, pursuant to Article 8 of the same Directive, national regulatory authorities shall take the utmost account of the desirability of making regulations technologically neutral and shall promote competition in the provision of electronic communications networks and services by encouraging efficient use and ensuring the effective management of radio frequencies. Any measure should encourage the most efficient operation and greatest uptake of the band in order to optimise use of the scarce resource.

When reviewing the alternative possible allocations at European level, account should be taken of existing Community policy objectives and benefits arising from pan-European portability of use across national boundaries. In the case of the band 169.4 to 169.8 MHz, such policies may include not only traditional Information Society types of applications but also assistance for disabled people and judicial co-operation.

European Community regulation such as the Universal Service Directive⁴ specifically recognises the needs of disabled users⁵. This was also confirmed by the Vitoria Informal Council of Ministers in charge of telecommunications⁶ and by the eEurope 2005 action plan adopted by the European Council of 21-22 June 2002 in Seville⁷. Various applications in the ERMES band could benefit people with disabilities, such as for example Assistive Listening Devices (ALD). Considering that there are a variety of applications, a cross disability perspective should be taken.

Other potential uses of the ERMES bands could include stolen goods tracking systems in the framework of Community judicial co-operation in civil and criminal matters policy, as defined by Articles 29 et seq. of the EU Treaty.

It is possible that certain applications deserving priority may only fit in the ERMES band. However, even deserving applications may differ in their suitability to the band, considering co-existence with existing users, match with band characteristics, and adaptability to other bands. Therefore, when reviewing the possible alternative applications of the 169.4 to 169.8 MHz band, it is necessary for each possible application to evaluate co-existence issues and the possibility of using alternative bands, so as to

³ Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), OJ L 108, 24.4.2002, p.33.

⁴ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive).

⁵ Article 8 of the Framework Directive requires Member States to promote the interests of the citizens of the European Union by inter alia "addressing the needs of special social groups, in particular disabled users".

⁶ The Vitoria Informal Council of Ministers in charge of telecommunications stated that "accessibility to all kinds of electronic services provided by any means, including those based on broadband internet access, 3G mobile communications or digital TV should be ensured for people with disabilities and for older persons".

⁷ The eEurope 2005 action plan adopted by the European Council of 21-22 June 2002 in Sevilla underlined the importance of access for all citizens to online public services, TV and mobile phones in particular broad band access, spectrum policies and multi-platform content.

facilitate a decision by the responsible authorities as to the final choice of application in the ERMES band.

Order and Schedule

The CEPT is hereby mandated to

- (1) collect information on the existing use, including time scales, of the band 169.4 to 169.8 MHz from European Community Member States, accession countries and EEA Members- , as well as possible future spectrum usage of the same band within the European Community;
- (2) on that basis, identify possible future applications for the band 169.4 to 169.8 MHz that would benefit from the harmonised status of the band, taking into account coexistence with other existing services and gradual transition from remaining ERMES services, possible use of alternative bands and the need to optimise the use of radio spectrum; the possibilities of accommodating applications to implement European Community policies, such as assistance to persons with disabilities, in a cross disability perspective, or judicial co-operation should be investigated;
- (3) develop and propose a limited list of options for the operation of the applications identified under point 2 within the 169.4-169.8 MHz band, with an indication of preferences and justifications, as well as technical and regulatory provisions as appropriate;
- (4) present its results to the European Commission and the Radio Spectrum Committee by 15 February 2004 at the latest.

The result of this mandate can be made applicable in the European Community pursuant to Article 4 of the Radio Spectrum Decision.

In implementing this mandate, the CEPT shall, where relevant, take the utmost account of Community law applicable.

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