



EUROPEAN COMMISSION
IMPACT ASSESSMENT BOARD

Brussels, 02 July 2010
D(2010)

Opinion

Title **DG INFSO - Impact Assessment on: Proposal from the Commission to the European Parliament and the Council on the "Radio spectrum policy programme"**

(draft version of 3 June 2010)

(A) Context

The new electronic communications framework Directive 2009/104/EC foresees that the Commission may submit legislative proposals for establishing radio spectrum policy programmes (RSPP). The objective of such programmes should be to "set out the policy orientations and objectives for the strategic planning and harmonisation of the use of radio spectrum". This impact assessment accompanies a proposal for a first policy programme which will outline at a strategic level how the use of spectrum can contribute to some of the political objectives of the European Union from 2011 to 2015.

(B) Overall assessment

The impact assessment report provides a proportionate level of analysis which is appropriate given the strategic nature of the initiative it is accompanying. The Board underlines the importance of ensuring that the follow-up measures likely to have significant impacts are accompanied by separate impact assessments.

This report should be improved by strengthening the problem definition by clarifying the functioning of the current framework related to radio spectrum. It should identify the main affected stakeholders and explain their interests and use of spectrum. The link between two main problems identified in the report (sub-optimal use of spectrum and mismatch between demand and available spectrum resources) and the objectives should be made more explicit. The comparison of the options related to climate change should be improved, and should lead to a clear identification of the preferred option. The importance for the internal market of the issues covered by an extension of the RSPP beyond electronic communication services should be explained.

(C) Main recommendations for improvements

(1) Clarify the functioning of the current framework related to radio spectrum and

identify the main spectrum stakeholders. The report should strengthen the problem definition by making clear what radio spectrum principles are established in existing EU legislation and international agreements, what is the competence of Member States, and what is left to market forces. It should discuss further the potential drawbacks of an uncoordinated approach by Member States (p.11). The report should also identify the main stakeholders - including potential new entrants – what they need spectrum for, and what their specific interests are.

(2) Be more explicit about the link between the problems and objectives. The report needs to strengthen the explanation for the choice of the objectives which cover a broad range of issues from procedural aspects of spectrum management to current political priorities of the EU. It needs to make a direct link between these objectives and the two main problems which have been identified (suboptimal use of spectrum and mismatch between the demand and available spectrum resources). In particular, the link between the problems and the energy efficiency and climate change objectives should be made clearer (p.15).

(3) Improve the presentation and comparison of some options. The comparison of the options related to climate change should be improved, and should lead to a clear identification of the preferred option. The report should discuss further the feasibility of the target dates envisaged under the Digital Agenda options, and explain more clearly that for those issues which would be covered by an extension of the radio spectrum policy programme beyond electronic communication services the need to protect or promote the internal market is an essential aim.

(4) Indicate that future follow-up measures likely to have significant impacts will be subject to impact assessment analysis. For the further development of the strategy, the report needs to be clearer about the need for separate impact assessments for the follow-up measures likely to have significant economic, social and environmental impacts.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

The description of options should be separated from the assessment of their impacts. The main spectrum related concepts such as the flexibility principle or the technology and service neutrality principle, and technical terms such as cognitive radio technologies should be explained in a glossary. The report should indicate in greater detail for which elements the views of Member States (authorities) and stakeholders diverged most significantly. The report should indicate whether the public consultation on the radio spectrum policy programme respected the minimum consultation standards.

(E) IAB scrutiny process

Reference number	2010/INFSO/002 (CWP 2010 Annex II)
External expertise used	No
Date of Board Meeting	30 June 2010