

# SENATE OF THE REPUBLIC

----- 17TH LEGISLATURE -----

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No 113

## RESOLUTION OF THE EIGHTH STANDING COMMITTEE

(Public works, communications)

(Rapporteur: Mr Ranucci)

*approved at the session of 10 March 2016*

ON THE

**PROPOSAL FOR A DECISION OF THE EUROPEAN PARLIAMENT AND OF THE  
COUNCIL ON THE USE OF THE 470-790 MHZ FREQUENCY BAND IN THE  
UNION (COM(2016) 43 FINAL)**

*pursuant to Article 144(1) and (6) of the Rules of Procedure*

**Sent to the Prime Minister's Office on 15 March 2016**

## **C O N T E N T S**

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The Eighth Standing Committee (Public works, communications) of the Senate of the Republic, having examined, pursuant to Article 144 of the Rules of Procedure, EU document COM (2016) 43 final on the proposal for a Decision of the European Parliament and of the Council on the use of the 470-790 MHz frequency band in the union, which was submitted for our reasoned opinion as regards subsidiarity;

whereas:

the proposal under consideration provides for the repurposing for wireless broadband electronic communications services (WBB), by 30 June 2020, of the 700 MHz frequency band (694-790 MHz), which is currently used for digital terrestrial television (DTT), which would move to the lower band (470-694 MHz), in which the Member States would also be able to authorise downlink services;

following the switch to more spectrum-efficient digital television technologies, the 800 MHz band (790-862 MHz, or the 'digital dividend') was the first portion of the UHF broadcasting band (470-862 MHz) to be repurposed for wireless broadband services in the Union;

the 2014 'Lamy Report', requested by the European Commission in order to find a common position on the UHF band's future use, recommended repurposing the 700 MHz band for wireless broadband while sustaining the European audiovisual model by providing safeguards that terrestrial broadcasting would have spectrum access to the sub-700 MHz frequency band. The Commission's public consultation on the Lamy Report carried out in the first half of 2015 also found that there was support for coordinated Union action;

in parallel, the Radio Spectrum Policy Group (RSPG), established by Commission Decision 2002/622/EC of 26 July 2002 and made up of experts from the Member States and the European Commission, adopted an Opinion on 19 February 2015, which also supports a coordinated Union approach to providing wireless broadband in the 700 MHz frequency band, which it considered to be a limited but necessary contribution to the needs of mobile telecommunications networks (IMT), which are expected to grow more and more in the near future;

in that opinion, the RSPG recommends, in point 1, harmonised technical conditions and a common deadline for effective use of the 700 MHz band, but, in point 3, whilst recommending that Member States make the 700 MHz band available for WBB as soon as possible, nonetheless considers that the Member States should be able, for duly justified reasons and without the need for derogation, to delay that allocation for a further two years beyond 2020;

that margin of flexibility was not however taken up in the proposal

under consideration, Article 1(1) of which requires Member States to complete the transition by 30 June 2020, with no possibility of derogation;

given that:

whilst we can support the content of the proposal, it does not take proper account of the situation in individual Member States with regard to the use of the 700 MHz band, which often varies significantly from one country to another;

in the particular case of Italy, the situation is far more complicated than in other countries, in that the whole of the 700 MHz band is used for DTT and no fewer than six national channels are allocated space in that part of the spectrum due to the limited take-up of cable distribution, to satellite broadcasting being used only for pay TV, and to a lower level of penetration of IPTV than in other European countries. Moreover, the national channels were assigned rights in 2012 to use these frequencies, which expire only in 2032. Therefore, the transfer of this band to mobile communications services will not be able to take place until after the freeing up of frequencies by television broadcasters and will require a transition plan to be drawn up for the transfer of network operators to frequencies that will remain available for television broadcasting (VHF-III band and UHF sub-700 MHz);

that process would also, of necessity, require cross-border coordination of frequencies with neighbouring countries, which Article 1(2) of the proposal requires to be completed by 31 December 2017 in the case of EU Member States, whereas paragraph 3 allows for a derogation in the case of non-Union countries. However, from this point of view, too, the national situation is highly complex, given that Italy, due to its geographical position in the middle of the Mediterranean, suffers from significant interference: in Tuscany and Liguria from France; in the south of Sicily from Malta and from Tunisia, Libya and Algeria; and on the Adriatic from Slovenia, Croatia and Albania;

in this context, it is also worth recalling that, if one country were to be ready to use the 700 MHz band for mobile telephony, but another continued to broadcast television signals on the same frequency, interference from television broadcasts (transmitted by bigger, more powerful equipment) would easily smother telephone signals. In the case of Italy, this is exactly what would happen in Corsica and the Côte d'Azur if France, which is already well advanced in the transition, were to launch mobile telephony services in the 700 MHz band without prior coordination;

negotiations on cross-border coordination agreements are, however, difficult to complete, both because they are technically complex and because, in the past, Italy has often failed to comply with the requirements of international coordination and continued to cause interference, even after the transition to digital terrestrial broadcasting, in particular towards France, Slovenia, Croatia and Malta, causing the International Telecommunications Union (ITU) to ask, most recently at the 2015 World Radiocommunication Conference (WRC-15), that this situation be resolved as soon as possible by freeing up the disputed frequencies;

Italy is complying with the above-mentioned international requirements in that the disputed frequencies are being relinquished by the

television operators (often local broadcasters) who are using them, facilitated by a plan involving financial compensation and redistribution of the available frequencies. This is therefore a complex process, which adds to problems that already exist;

with the move of the 700 MHz band (corresponding to channels 49 to 60) to mobile networks, the number of UHF channels available to Italian television would fall from the current 40 to 28, which will have to be shared fairly with neighbouring countries. In the best case, Italy would therefore have only 14 free channels that it could manage autonomously and a further 14 to be used in coordination with other countries;

in order to compensate for the loss of twelve 700 MHz channels and to allow for the allocation of all the television broadcasts currently on the air to such a small number of frequencies, also taking account of the increasing transmission capacity requirements of new television technologies, Italy will have to transform the current digital terrestrial television system from the current DVB-T to DVB-T2 and possibly also adopt the HEVC (High Efficiency Video Coding) video compression system, technologies which allow more efficient use of the spectrum. For these reasons, this process will require sufficient time and will have to take place before, or at least in parallel with, the transition of the 700 MHz band, as it is instrumental to its completion;

broadcasters will also have to make technical adjustments and users will have to buy new television sets: on this subject, it is worth remembering that, in Italy, the only television sets allowed to be produced after 1 January 2016 and sold after 1 January 2017 are those configured for the DVB-T2 system. In order to avoid needlessly increasing the costs for television operators and the public (especially poorer people), the transition of broadcast media to the DVB-T2 system and to the sub-700 MHz band should take place simultaneously or in a coordinated fashion;

Whereas:

in this situation, Italian television operators do not consider the deadline of 30 June 2020 stipulated in the proposal for a decision under discussion for the completion of the transition to be realistic, and ask that the period be extended to 2022 to allow time for all the issues mentioned above (agreements on cross-border coordination, reallocation of frequencies, technical adjustments and transition to DVB-T2) to be addressed;

telecommunication operators, too, who are the natural recipients of the 700 MHz band frequencies freed up by television broadcasters, are pointing out the need to extend the deadline at least until 2022 to allow time for all the issues regarding frequencies that remain unresolved in Italy to be addressed beforehand, failing which the full and effective availability of the new spectrum resources would not be guaranteed, thus rendering the purchase of these and the corresponding investments uneconomic;

having looked at the explanations provided by the Government representative and the information sent by the Italian Regulatory Authority for Communications and by associations of television and

telecommunications operators:

having regard to the comments made at the advisory meeting of the 14th Committee;

given that the legal basis has been correctly identified as Article 114 TFEU, which provides for the use of the ordinary legislative procedure for the adoption of measures for the approximation of national legislation for the purpose of the functioning of the internal market;

hereby expresses, pursuant to Protocol (No 2) to the TFEU on the application of the principles of subsidiarity and proportionality:

a favourable opinion as to compliance with the principle of subsidiarity, since only through harmonisation measures at European level is it possible to pursue the objective of allocating the 700 MHz frequency band to wireless broadband electronic communications services (WBB) whilst avoiding divergences in national approaches and thus limiting cross-border interference;

a negative opinion as to compliance with the principle of proportionality, in that the requirement to complete the repurposing by the 2020 deadline with no scope for derogation seems excessively strict insofar as it does not make sufficient allowance for the specific circumstances of the television sector in individual Member States – which often differ significantly – thus creating an excessive and disproportionate burden for adaptation, which could be avoided by providing a greater margin of flexibility to achieve the stated objectives;

also expresses a favourable opinion on the substantive elements that are relevant in the context of political dialogue with the Union institutions, with the following comments:

we fully support the aim of bringing about a coordinated release, over the long term, of the 700 MHz band, from digital terrestrial broadcasting to wireless broadband electronic communications services (WBB), with the band below 700 MHz being reserved for television broadcasting;

however, we consider that it would be useful to insert into Article 1 of the proposed decision the possibility for Member States to delay the aforementioned transition process for a maximum of two years up to 2022, for duly justified reasons, as recommended by the Lamy Report and the opinion of the RSPG on a long-term strategy on the future use of the UHF band in the European Union, with the aim of better taking account of the circumstances of the different Member States, without prejudice to the principle that such a decision should not create any problems for the operation of electronic communication services (ECS) in neighbouring countries from 2020 onwards;

such flexibility is necessary and appropriate to the pursuit of the very objectives of the proposed decision, so as to allow operators to have sufficient broadcasting frequencies at fair and proportionate cost, both in the electronic communications sector (which is also linked to achieving the objectives of the Digital Agenda and the digital single market) and in the television broadcasting sector and national and local level (where the breadth

of supply is also a guarantee of pluralism and freedom of expression);

to this end, we recommend that the European institutions adopt all appropriate measures to facilitate the rapid conclusion of the necessary cross-border coordination agreements to resolve issues of interference, both between Member States and between the latter and non-EU countries;

with regard to Article 4(2) of the proposal, we consider it appropriate that the Member States should be able to assess on a case by case basis the possibility of using the 470-694 MHz frequency band for downlink services as well as for television services, based on market requirements and the portion of spectrum actually available;

we also point out that, with regard to the reallocation of television broadcasts to the band below 700 MHz, the proposed decision should also take into account forms of compensation for the cost to poorer people of purchasing new television equipment and for the investment costs incurred by broadcasters for the necessary technological adjustments, in accordance with the European Union's rules on state aid;

finally, we recommend that the Italian government, within its remit, should immediately start taking all necessary initiatives to involve all interested parties, both public and private, in order to draw up the national plan for the reallocation of frequencies by the deadline of 30 June 2017 set by the document under discussion.

This document is to be understood as guidance to the Government within the meaning of Article 7 of Law No 234 of 24 December 2012.

**OPINION OF THE 14TH STANDING COMMITTEE**  
(EUROPEAN UNION POLICIES)

(Rapporteur: MR COCIANCICH)

8 March 2016

The Committee, having examined the document referred to above,

whereas the proposal provides for the repurposing for wireless broadband electronic communications services (WBB), by 30 June 2020, of the 700 MHz frequency band (694-790 MHz), which is currently used for digital terrestrial television (DTT);

recalling that the switch to digital television technologies has made the use of the spectrum more efficient and that, in that context, the 800 MHz band (790-862 MHz, known as the 'digital dividend') was the first portion of the UHF broadcasting band (470-862 MHz) to be repurposed for wireless broadband services in the Union;

given that the Radio Spectrum Policy Group (RSPG), established by Commission Decision 2002/622/EC of 26 July 2002 and made up of experts from the Member States and the European Commission, adopted an Opinion on 19 February 2015, in which it states that mobile telecommunications networks' (IMT) need for frequencies will increase, by 2020, to a total of almost 2000 MHz and that, in that context, the 700 MHz frequency band represents a limited but necessary contribution to the needs of mobile telecommunications networks, especially for the provision of rural broadband and indoor coverage in urban areas, whilst the capacity increase in more densely populated urban areas will mainly be met in bands above 2 GHz;

given that in point 3 of the aforementioned opinion, the RSPG recommends that Member States make the 700 MHz band available for WBB as early as possible, but considers that Member States should be able to decide, for duly justified reasons, to delay the availability of the band by up to two years beyond 2020;



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states, for matters within its remit, that it does not object to the proposal, highlighting the following points:

the legal basis has been correctly identified as Article 114 TFEU, which provides for the use of the ordinary legislative procedure for the adoption of measures for the approximation of national legislation for the purpose of the functioning of the internal market;

the subsidiarity principle is fully respected as the objective of allocating the 700 MHz frequency band to wireless broadband electronic communications services (WBB) whilst avoiding divergences in national approaches and thus limiting cross-border interference can only be achieved by harmonisation measures at European level;

with regard to the proportionality principle, we consider that the requirement to complete the repurposing by the 2020 deadline is excessively strict, given that the licences issued for digital terrestrial broadcasting do not expire until 2032, that many licence holders must be reallocated below 694 MHz, and that it would be helpful to wait for wider dissemination of new technologies such as DVB-T2 and HEVC (High Efficiency Video Coding), which allow more efficient use of the spectrum;

with this in mind, we consider that it would be useful to insert into Article 1 of the proposed decision the possibility for Member States to delay, for a maximum of two years and for duly justified reasons, the repurposing for wireless broadband electronic communications services (WBB) of the 700 MHz frequency band.

