

ELEVENTH AIR NAVIGATION CONFERENCE

Montreal, 22 September to 3 October 2003

**Agenda Item 5 Review of the outcome of the ITU World Radio Conference (2003)
: (WRC-2003) and its impact on aeronautical electromagnetic spectrum
utilization**

RADIO SPECTRUM POLICY IN THE EUROPEAN UNION

(Presented by the European Commission)

SUMMARY

The European Commission is implementing an active European Union role in spectrum policy via the Radio Spectrum Decision, a measure adopted by the European Parliament and the Council of the European Union. The objective of this decision is to support EU policies and initiatives (such as the Single European Sky programme), to provide a platform to foster an appropriate balance at EU level between conflicting interests for the radio spectrum resource, and to promote an efficient use of this resource. As a major user of spectrum, aviation will be affected by EU activities in this area.

1. INTRODUCTION

1.1 An increasing number of European Union (EU)-wide policies rely critically on the use of radio spectrum. Examples are the Single European Sky initiative, satellite navigation systems such as Galileo, coordination of civil protection and disaster relief at EU level, audiovisual policy and the *eEurope* actions to implement the Information Society throughout Europe, with wireless communications offering a key access platform.

1.2 Besides sectorial policies, a certain number of horizontal EU policies are affected by the conditions under which radio frequencies become available or are used in the European Union. Competition policy objectives are closely interrelated with radio spectrum access conditions, as frequencies constitute for many services and applications an essential infrastructure element. Another key policy for the Commission is to ensure the functioning of the EU internal market, for which the rules governing the circulation, usage and placing on the market of radio equipment are a determining factor.

1.3 The increased use of radio spectrum in combination to legacy issues has led to frequencies becoming a scarce resource in Europe as well as in other industrialised societies. The timely availability of radio spectrum, fair access conditions, and a balance between different uses (such as between commercial and non-commercial users or between competing user communities) are therefore legitimate policy objectives, as are promoting the efficient use of spectrum and the introduction of innovative wireless systems and technologies. The modernisation of spectrum management practices in the European Union needs also to be supported, while avoiding the negative repercussions which uncoordinated national initiatives may bring in this respect.

1.4 Radio spectrum policy has historically fallen under the EU Member States' national responsibility, though the technical work needed to harmonise spectrum and conditions of usage has usually been carried out on a voluntary basis in CEPT, an organisation comprising forty-six European countries. In order to realise the underlying EU policy objectives, an additional EU dimension has been defined to complement the on-going radio spectrum management activities nationally and in the CEPT.

2. THE RADIO SPECTRUM DECISION

2.1 A new EU Radio Spectrum Policy framework has been established with the Radio Spectrum Decision (676/2002/EC) which entered into force on 24 April 2002. The Commission's preparations for this Decision began several years ago, starting with a wide public consultation following the publication by the Commission of a Green Paper in 1998, the findings of which finally led to the proposal of the Decision in summer 2000. Over the next eighteen months, this proposal was negotiated by Council and the European Parliament and resulted in the Decision being approved.

2.2 The main purpose of the new policy framework is to ensure the availability of radio spectrum to support EU policies, to offer the necessary legal certainty on spectrum usage throughout the EU, to improve the transparency of radio spectrum usage and to consolidate EU position in the international radio spectrum co-ordination process, notably in the WRC.

2.3 Concerning *policy cooperation and coordination*, a Radio Spectrum Policy Group has been set up, where high-level national representatives will be able to debate and advise the Commission on the most important issues related to spectrum needs and coordination. The group was created by a Commission Decision in July 2002 and has met for the first time in January 2003. The European Parliament, CEPT and ETSI will be associated to the RSPG as permanent observers. Other spectrum user communities will also be involved in the work.

2.4 With regards to *technical harmonisation* of the use of spectrum in the EU, Member States and the European Commission are now working together in a Radio Spectrum Committee which first met in October 2002. The Commission will cooperate closely with CEPT by giving it mandates to develop "technical implementation measures" to harmonise spectrum for EU policy uses. In order to increase the legal certainty of these activities, such measures will, following agreement by the Radio Spectrum Committee, be codified by specific Commission Decisions and thereby become applicable for all the Member States of the EU.

2.5 *Transparency of and information on spectrum use* in the Member States is also included in the Decision, through information gathering and obligations to publish spectrum tables and other relevant information. The main task will consist in aggregating this information to make it available in a common format

for all Member States by developing a common database accessible to all interested parties. The last aspect of the Decision addresses the promotion of European interests in international negotiations with third countries and international organisations relating to spectrum use, such as WRC or other fora.

3. RADIO SPECTRUM POLICY RELATED TO THE EXISTING REGULATORY FRAMEWORK IN THE EUROPEAN UNION

3.1 The Spectrum Decision must be seen in the context of other EU legal provisions. Together with the Spectrum Decision, the European Parliament and Council adopted in 2002 five new Directives that constitute the new *regulatory framework for the electronic communications sector*. This sector is one of the most active users of radio spectrum. However, the framework deals with all aspects of regulation — including scarce resources such as spectrum — in this one sector, whereas the Spectrum Decision focuses on spectrum issues *only* but covers *all* sectors — among them the communications sector.

3.2 This type of relationship is expected to develop also in other sectors, for which the Spectrum Decision will constitute the reference frame for spectrum matters, to complement sector-specific regulation. For instance, part of the Single European Sky regulatory “package”, currently being negotiated by the European institutions, is a regulation on the interoperability of the European Air Traffic Management network, which is expected to state that due account should be taken of the need to ensure efficient use and harmonisation of spectrum, and protection from harmful radio interference for the aviation sector. The Spectrum Decision framework will assist in addressing these issues.

3.3 Other EU legal provisions of relevance both to spectrum and to the aviation equipment sector is the *R&TTE Directive (99/5/EC)*, which imposes legal obligations to ensure safety, electromagnetic compatibility, non-interference and effective use of spectrum on all radio devices, the *JAR Regulation (3922/91/EC)*, and the *93/65/EC Directive* for air traffic control radio equipment. In order to verify conformity with the Directive’s requirements, specifications are established by European Standardisation Organisations upon mandates issued by the Commission. By adhering to these specifications equipment manufacturers are offered a simplified procedure of compliance declaration, from which the right to circulate, operate and place on the market within the European Union is derived. Issues pertaining to the R&TTE Directive will also be addressed with reference to the overall EU spectrum policy. Regarding air traffic control, the recently created European Aviation Safety Agency (EASA) will be responsible for the certification of all on-board equipment.

4. THE EUROPEAN UNION’S INVOLVEMENT IN THE WORLD RADIOCOMMUNICATION CONFERENCE

4.1 For the WRC, the Spectrum Decision confirms the current practice where the CEPT co-ordinates the technical negotiations for Europe while the Commission gives political support by identifying those issues where decisions need to be compliant with relevant EU policies. This approach has taken place for WRC-03, with a Commission Communication (COM(2003) 183) submitted to the Council and the European Parliament on the EU policy objectives for the conference. In response, Conclusions on WRC-03 have been adopted by Council on May 26, 2003, providing an EU political context for the technical negotiations.

5. EUROPEAN UNION SPECTRUM POLICY AND AVIATION

5.1 The aviation sector has been identified by the Commission as an important area of policy development in the European Union, framed within the Single European Sky programme. The objectives of this policy as they relate to spectrum, notably the provision of sufficient and regulated frequencies to enhance safety in aeronautical operation, are therefore to be supported by the EU spectrum policy. The Commission participates to relevant Eurocontrol spectrum meetings, while this organisation is able to contribute to issues affecting air transport within the EU spectrum framework, thus ensuring adequate consultation between the Commission and Eurocontrol concerning the spectrum requirements of civil aviation. Commission services responsible for aviation policy are members of an internal Spectrum Interservice Group, where an adequate balance between the spectrum requirements of different EU policies is explored.

6. CONCLUSION

6.1 The new EU spectrum policy offers a framework to combine policy objectives with the technical expertise needed to ensure an adequate management of spectrum resources in the European Union, with the objective to lead to a more coherent policy approach to this issue. The Spectrum Decision introduces a comparatively fast decision mechanism in the EU for technical spectrum harmonisation measures, so that legal certainty is increased. It also allows a debate at political level to take place in the EU concerning more fundamental issues affecting future overall spectrum management, such as the impact of introducing new technologies in all spectrum-using sectors or of implementing spectrum market mechanisms (notably auctions and secondary trading) in some of them.

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