International Air Transport Association

800 Victoria Square

P.O. Box 113

Montreal, Quebec

Canada H4Z 1M1

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European Commission DG XIII A1

Attn: Mr. R. Niepold

200 rue de la Loi, BU 31 2/52

B-1047 Brusssels

Belgium

Dear Mr Niepold:

IATA, on behalf of its 260 members, applauds the initiative taken by the European commission to address the need to revisit the spectrum policy within the European community. The present pan-European policy appears to be a patchwork of national policies resulting in an incoherent strategic spectrum planning. Incoherence in particular affects those industries requiring access to spectrum as an integral part of its business. In view of the long lead-time required for transport services to establish a new infrastructure, a long-term spectrum strategy coherent with the pan-European transport strategy is essential to provide the assurance of access to adequate spectrum.

For aviation to maintain its role as a catalyst for global economic growth it is important that it conduct its business efficiently and safely, therefore, it has to rely to a large extent on the States to sustain the required conditions. One important condition is to provide sufficient radio spectrum and protection against harmful interference.

Prior to addressing key questions, I would like to provide some aviation aspects regarding the factors for change as mentioned in the green paper:

a. The convergence of different services using radio spectrum:

Aviation has traditionally provided its mobile communication and navigation needs through its own dedicated networks, not because it considers this to be its business, but because there were no services available to satisfy aeronautical requirements. Meanwhile, outside aviation, the telecommunication and navigation industries have been developed to such an extent, that aviation is increasingly evaluating how to

apply these modern technologies to its own operations and to what extent the services can be shared with non-aviation users. The potential sharing of costs with other users can provide aviation, not only large benefits in reduction of its present communication and navigation costs, but also gain significant spectrum efficiency. Therefore, aviation would like to converge to the maximum its service with other services, however, to at least maintain its present level of safety it is necessary that aviation be assured that all requirements are met before the service can be operationally introduced. In light of this, it came as a surprise to aviation that States at the WRC 97 decided that frequency sharing of the AMS(R)S with a generic MSS was possible without any safety case or proven feasibility.

b.The globalisation of services:

The airline's service to the travelling public is by definition a global service and requires that communication, navigation and surveillance functions are globally harmonised. Aviation has profited from this harmonisation since World War II through the United Nation established role for ICAO, resulting in the global industry it is today. Telecommunication services are becoming increasingly global and the providers increasingly international. To enable this globalisation to continue, it is important for a regional spectrum policy to distinguish between global, regional and national allocated spectrum.

c.Competition in spectrum access:

Aviation has not increased its demand for spectrum since WARC 1972 and accommodated its growth during the last two decades fully within the allocated bands, through increased spectrum efficiency and tighter global harmonisation. Aviation anticipates that it can accommodate further growth within the presently allocated bands and probably after all its services have been rationalised, reduce its present spectrum demand. Aviation does not expect to compete in spectrum access with emerging services looking for new business opportunities. However, aviation fears the tendency of reducing the protection margins against interference from mobile communication services competition for spectrum access. Fierce competition between providers to capture the potential market will lead to a trade off between costs and spectrum hygiene with the potential risk of polluting the aviation allocated spectrum.

A competition in spectrum access can only be fair between those industries selling communication and navigation services on a commercial basis. To the industries for which access to spectrum is not a business opportunity but a pre-requisite to provide other services to the public, it is essential that a balance be made between new market opportunities and general public interest. Within this balance, IATA would reject any compromise between safety of transportation and other market opportunities.

d.Decisions on radio spectrum and wide ranging impact on the relative strength of the market players:

As other industries (including aviation) are becoming increasingly reliant on mobile communication and developments in the telecommunication industry, and if decisions on radio spectrum are made based solely on the commercial exploitation of radio spectrum, their relative strength would diminish. This could have a dramatic effect on the profitability of these industries.

The success of the telecommunication industry can be contributed to the growth of other industries and in particular the increased mobility provided by the transport

industry which assisted in creating the present market for mobile communication. Meanwhile mobile communication services and the transport industry are competing for access to spectrum. The dichotomy between the interest of the communication industry and the transport industry indicates the importance of a well-balanced decision on spectrum allocation. Not providing the right balance could easily affect European companies' ability to compete on a global scale.

From the aviation perspective, we provide our comments to your key questions:

1. Strategic planning of the use of radio frequencies:

a. Does the strategic planning of the use of radio spectrum respond to the needs of commercial and non-commercial uses, particularly in the areas of mobile and personal communications, broadcasting, transport, and R&D?

Changes in the air transport infrastructure have to be carefully planned to ensure a safe and global harmonised transition. To facilitate these changes, ICAO established a long term plan on a global and regional level (i.e. the new CNS/ATM infrastructure, adopted by all ICAO members in 1990, is planned to be globally implemented by the year 2010). To realise these plans, aviation obtained access to specific bands which was challenged by the European consolidated CEPT position at the last WRC 97. The fact that the challenge came from the European States was remarkable in light of the pan-European strategy to solve the present air transport congestion.

This example illustrates that strategic planning based on a national radio spectrum policy can not satisfy the need for those users operating on a regional and/or global platform. Strategic planning for use of radio spectrum, which responds to aviation needs has to consider global and regional strategic planning by the appropriate bodies in the air transport industry.

b. What information on radio spectrum allocation, radio spectrum assignment, and licensing should be publicly available to industry and policy makers? Where should this information be collected and how should it be presented to the European Community?

The optimum place for collection of the information should be where the co-ordination and harmonisation has to take place. In this respect a distinction between global, regional and national allocated and assigned spectrum should be made.

c. Should re-farming and substitution policies form part of the strategic planning of radio spectrum for pan-European services? What could be the modalities for this (e.g. actors to be involved, timing), and to what extent is a common community approach required, for instance with regard to the phasing-out of analogue broadcasting and analogue mobile telephone services?

Re-farming will provide inherent frequency inefficiencies, as it will involve a transition, which depending of the nature of the industry can take several decades. As an example, aviation, due to its global nature, the heterogeneity of the parties involved and the need to assure a safe product for the users, has a transition plan towards a new infrastructure over a 20 year time frame. Lacking such a transition plan would cause a major disruption in the air transport services.

1. Harmonisation of radio spectrum allocation:

a.Are specific community measures necessary to ensure radio spectrum
   availability for pan-European applications in the areas of
   telecommunications, broadcasting, transport, and R&D, or should criteria
   be established which would determine when radio spectrum harmonisation
   is required?

Aviation needs no specific community measures for the harmonisation of radio
spectrum as it already occurs at a global level through ICAO. Considering the
efficiency achieved with this global harmonisation, the community might consider
taking measures to improve the European harmonisation with United Nations
organisations such as WMO and ICAO.

(b) Where and on the basis of what criteria should priorities be set and
arbitration take place where radio spectrum requirements for Community
policies on telecommunications, broadcasting, transport, and R&D are in
conflict? How can it be ensured that commercial and public interests are
defined and appropriately balanced in this process?

It is anticipated that the shortage of spectrum is a given, hence, clear and
transparent criteria are essential to minimise investment risk. Depending on the
allocated spectrum these criteria and possible arbitration should take place on a
global, regional and national level. It will be difficult to measure the public interest in
economic terms, nevertheless, the States in their responsibility for the safety of life
have to ensure that it will be adequately presented in the criteria and arbitration. Is
should be noted that the users in general are not a party in the spectrum allocation
process.

(c) Can the implementation of radio spectrum harmonisation measures,
necessary for the provision of pan-European services, be left to voluntary
decisions by Member States or is there a need for legal obligation in that
respect? Should the European Community collect and publish relevant
information in both cases?

This issue is not directly relevant to aviation as a binding contract exists between
ICAO States to attest to a safe and efficient global air transport system. Although
States are autonomous in their national airspace, they have the treaty obligation to
notify ICAO of differences within this contract.

1.Radio Spectrum assignment and licensing:

a.Where there are differences in Member States in regards radio spectrum
   availability for pan-European services, what is the overall impact on
   competition?

No comment.

(b) Is there a need to agree in the European Community on which radio
spectrum assignment mechanism leads to the most efficient use of radio
spectrum for the different types of services?

Assignment mechanisms of the allotted spectrum are most effective within the
industry concerned.

(c) What is the impact on pan-European services of diverging national
mechanisms to assign radio spectrum, which mechanism is most suitable to

support pan-European services, and to what extent is a community approach required in this regard?

Diverging national mechanisms can only lead to spectrum inefficiency and encourages trade barriers.

b.What is the impact of charges and fees, including relocation costs, associated with the use of radio spectrum on the development of services and on the competitive situation?

Levying charges for those industries using the spectrum to conduct their business will increase service costs, which potentially could lead to inflation or reduced public spending. For this reason aircraft radio licensing is traditionally based on the administration costs incurred.

(e) Should the awarding of radio spectrum be separated from the granting of service authorisations or licences? What would be the impact of creating a secondary market for radio spectrum for the provision of similar or different services, and which safeguards are needed in this regard?

No comment.

1.Radio equipment and standards:

a.Is there a need to improve the link between the elaboration of standards and the harmonisation of radio spectrum allocation for pan-European services in the areas of telecommunications, broadcasting, transport, and R&D?

Aviation has an elaborated standardisation industry comprising of organisations such as ICAO, EUROCAE, RTCA and AEEC, which are all interrelated to globally harmonise the aeronautical radio spectrum allocation. It provides protection against harmful interference from operation within and between aeronautical allocated bands. For aviation it is essential that any elaboration of standards within Europe be harmonised with the global radio spectrum allocation for air transport services.

(b) Which practical arrangements are needed to ensure that the full potential of community policy on radio equipment is supported by appropriate action at the level of radio spectrum management?

The equipment installed in aircraft might be manufactured outside Europe, however, it has been approved under multinational agreements to ensure global interoperability and global access to the equipment. Specific community policy on aircraft radio equipment could reduce European manufacturers to compete and increase the costs for European carriers.

1.The institutional framework for radio spectrum co-ordination:

(a) In view of the need to have a predictable environment in the European community for the use of radio spectrum, is the framework for the co-ordination of radio spectrum sufficiently open, transparent, and legally certain? Is it clear where and on the basis of which principles the need for radio spectrum harmonisation or for community positions is established?

IATA being confronted with the European position at WRC 97 is of opinion that

there is a strong need to have a predictable environment for the use of radio spectrum not only for Europe but globally. The recent opening by CEPT for user participation is noted, however, considering the high technical nature of CEPT activities a co-ordination solely through CEPT is not satisfactory. For an open, transparent and legally certain community radio spectrum policy it is important that political, economic and technical decisions are transparent and made at the appropriate level.

(b) Is the establishment of a prior community agreement necessary to achieve radio spectrum harmonisation or is it sufficient to co-ordinate the positions of the Member States in CEPT on an ad hoc and technical basis?

A prior political community agreement is essential to ensure a harmonised spectrum policy to reduce the investment risk associated with the access to spectrum and to protect the interest of the present users.

(c) In which fora should Community positions be developed where needed in discussions on radio spectrum between the European community and its trading partners?

Considering the increasing economic and political importance of radio spectrum community positions should be developed on a pan-European level. Within the development of these positions it is of paramount importance that the established agreements in world organisations such as WTO, WMO and ICAO are included.

(d) Should procedures be introduced to ensure that the Member States support CEPT positions for ITU/WRC, particularly in view of the need to uphold community interests in the international arena?

A common European position at the ITU/WRC is of interest to the community considering the influence of the member States at these conferences. However, it can only be successful if the European position is carried by the majority of the States and established in an open and transparent process ensuring that the interests of all parties concerned has been appropriately weighted.

In closing my comments, I would like to emphasise the need for aviation to have adequate spectrum allocated to conduct its business as mentioned in Annex I of the green paper. Within this spectrum allocation aviation has always been given special protection against interference. This protection, is not a luxury but an integral part of aviation to ensure a safe mode of transport to the public.

IATA on behalf of its members and the travelling public, trust that irrespective of the outcome of the consultation process, the safety aspect will be appropriately addressed.

Sincerely Yours

Karel Ledeboer

Senior Director Organisation and Infrastructure