

# Procedure file

Basic information			
COD - Ordinary legislative procedure (ex-codecision procedure) Decision		2010/0252(COD)	
Radio spectrum policy programme		Procedure completed	
Subject			
3.30.04 Radiocommunications, broadcasting			
3.30.05 Electronic and mobile communications, personal communications			
3.30.25 International information networks and society, internet			
3.50.04 Innovation			
3.50.08 New technologies; biotechnology			
3.50.20 Scientific and technological cooperation and agreements			
Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>ITRE</b> Industry, Research and Energy	PPE <a href="#">HÖKMARK Gunnar</a>	20/10/2010
	Former committee responsible		
	<b>ITRE</b> Industry, Research and Energy	PPE <a href="#">HÖKMARK Gunnar</a>	20/10/2010
	Former committee for opinion		
	<b>ECON</b> Economic and Monetary Affairs	The committee decided not to give an opinion.	
	<b>ENVI</b> Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
	<b>IMCO</b> Internal Market and Consumer Protection		13/10/2010
		PPE <a href="#">KORHOLA Eija-Riitta</a>	
	<b>REGI</b> Regional Development	The committee decided not to give an opinion.	
	<b>CULT</b> Culture and Education		19/10/2010
		S&D <a href="#">KAMMEREVERT Petra</a>	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">3134</a>	12/12/2011
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">3093</a>	27/05/2011
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">3052</a>	02/12/2010
European Commission	Commission DG	Commissioner	
	<a href="#">Communications Networks, Content and Technology</a>	KROES Neelie	

Key events			
20/09/2010	Legislative proposal published	<a href="#">COM(2010)0471</a>	Summary
23/09/2010	Committee referral announced in Parliament, 1st reading		
02/12/2010	Debate in Council	<a href="#">3052</a>	Summary
12/04/2011	Vote in committee, 1st reading		Summary
15/04/2011	Committee report tabled for plenary, 1st reading	<a href="#">A7-0151/2011</a>	
09/05/2011	Debate in Parliament		
11/05/2011	Results of vote in Parliament		
11/05/2011	Decision by Parliament, 1st reading	<a href="#">T7-0220/2011</a>	Summary
27/05/2011	Debate in Council	<a href="#">3093</a>	Summary
13/12/2011	Council position published	<a href="#">16226/1/2011</a>	Summary
19/01/2012	Committee referral announced in Parliament, 2nd reading		
25/01/2012	Vote in committee, 2nd reading		
27/01/2012	Committee recommendation tabled for plenary, 2nd reading	<a href="#">A7-0019/2012</a>	Summary
14/02/2012	Debate in Parliament		
15/02/2012	Decision by Parliament, 2nd reading	<a href="#">T7-0043/2012</a>	Summary
14/03/2012	Final act signed		
14/03/2012	End of procedure in Parliament		
21/03/2012	Final act published in Official Journal		

Technical information	
Procedure reference	2010/0252(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Decision
Legal basis	Treaty on the Functioning of the EU TFEU 114-p1
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	ITRE/7/07663

Documentation gateway					
Legislative proposal		<a href="#">COM(2010)0471</a>	20/09/2010	EC	Summary
Document attached to the procedure		<a href="#">SEC(2010)1034</a>	20/09/2010	EC	
Document attached to the procedure		<a href="#">SEC(2010)1035</a>	20/09/2010	EC	

Committee draft report		<a href="#">PE454.746</a>	10/02/2011	EP	
Economic and Social Committee: opinion, report		<a href="#">CES0362/2011</a>	16/02/2011	ESC	
Amendments tabled in committee		<a href="#">PE460.615</a>	14/03/2011	EP	
Amendments tabled in committee		<a href="#">PE460.855</a>	14/03/2011	EP	
Committee opinion	<b>CULT</b>	<a href="#">PE454.499</a>	15/03/2011	EP	
Committee opinion	<b>IMCO</b>	<a href="#">PE458.565</a>	23/03/2011	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A7-0151/2011</a>	15/04/2011	EP	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T7-0220/2011</a>	11/05/2011	EP	Summary
Commission response to text adopted in plenary		<a href="#">SP(2011)5858</a>	30/06/2011	EC	
Council statement on its position		<a href="#">17651/2011</a>	06/12/2011	CSL	
Council position		<a href="#">16226/1/2011</a>	13/12/2011	CSL	Summary
Commission communication on Council's position		<a href="#">COM(2012)0003</a>	12/01/2012	EC	Summary
Committee recommendation tabled for plenary, 2nd reading		<a href="#">A7-0019/2012</a>	27/01/2012	EP	Summary
Text adopted by Parliament, 2nd reading		<a href="#">T7-0043/2012</a>	15/02/2012	EP	Summary
Draft final act		<a href="#">00010/2012/LEX</a>	14/03/2012	CSL	
Follow-up document		COM(2014)0228	22/04/2014	EC	Summary
Follow-up document		<a href="#">COM(2014)0536</a>	01/09/2014	EC	Summary

#### Additional information

National parliaments	<a href="#">IPEX</a>
European Commission	<a href="#">EUR-Lex</a>

#### Final act

[Decision 2012/243](#)  
[OJ L 081 21.03.2012, p. 0007](#) Summary

## Radio spectrum policy programme

**PURPOSE:** to establish a radio spectrum policy programme for the strategic planning and harmonisation of the use of spectrum to ensure the functioning of the internal market.

**PROPOSED ACT:** Decision of the European Parliament and of the Council.

**BACKGROUND:** Framework Directive 2002/21/EC as amended by Directive 2009/140/EC invites the Commission to present a legislative proposal to the European Parliament and Council to establish a multiannual Radio Spectrum Policy Programme (RSPP) setting out policy orientations and objectives for the strategic planning and harmonisation of the use of spectrum, taking utmost account of the opinion of the Radio Spectrum Policy Group (RSPG).

Spectrum is essential for the digital society, fast wireless services, economic recovery, growth, high-quality jobs and long-term EU competitiveness.

Spectrum policy initiatives are also key to the Digital Agenda for Europe and to the Europe 2020 strategy.

**IMPACT ASSESSMENT:** the impact assessment identifies options and assesses whether EU intervention would add value compared to national or regional action. It identifies the strategic direction necessary for spectrum policy at EU level. It highlights the need for a global EU spectrum policy approach given the impact of spectrum on a number of sectors with varying degrees of EU competence.

**LEGAL BASE:** Article 114 of the Treaty on the Functioning of the European Union.

**CONTENT:** the proposed programme sets out policy orientations and objectives for the strategic planning and harmonisation of spectrum use in order to achieve the internal market. It supports the Europe 2020 Strategy and the Digital Agenda for Europe and promotes other EU policies concerned with spectrum. It will ensure the application of principles and define policy orientations for all aspects of spectrum policy with an EU dimension. The programme sets concrete priority initiatives for enhanced coordination, flexibility, and availability of spectrum for wireless broadband communications and other specific EU policies; it requires an inventory of existing uses and emerging spectrum. It identifies improvements to safeguard EU interests in international negotiations, and to assist Member States in bilateral negotiations, and calls for improved cooperation between technical bodies. The proposal requires the Commission to report by 2015.

## Radio spectrum policy programme

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In a public session, the Council discussed, on the basis of questions prepared by the Presidency a proposal for a decision establishing the first radio spectrum policy programme (RSPP).

The Presidency presented a progress report to ministers, with the aim of informing them on the work done so far and of identifying political issues in this proposal on which future work under the Hungarian Presidency should focus.

Ministers generally welcomed the Commission proposal acknowledging that radio spectrum could make an important contribution to the digital society, fast wireless services, economic recovery, growth, high-quality jobs and long-term EU competitiveness.

Provisions on wireless broadband were identified as the main and most urgent elements of the proposal, although deadlines for making spectrum available were considered by some delegations as being too ambitious.

Some reservations were expressed regarding proposed actions in the area of spectrum management such as imposing coverage obligations or other rights of use conditions, which should be subject to national specific circumstances.

The proposed inventory of spectrum use received broad support. At the same time, ministers warned about the duplication of efforts, costs, the confidentiality of information and called on the Commission to build on existing initiatives in this area. In particular ministers from Member States with borders with non-EU countries called for EU support to coordinate spectrum usage.

At this stage in the negotiations on the RSPP proposal in the Working Party on Telecommunications and Information Society, the main fundamental questions that require a common view from the Council include the following:

- Objectives of the RSPP proposal: what are the main objectives of the RSPP proposal. Is it to facilitate the timely roll-out of wireless broadband or is it also to urge the Member States to manage their spectrum more efficiently, supplemented by further actions and increased coordination at EU level?
- Legal basis and scope of the proposal: the regulatory framework for ECS is based on Article 114 TFEU but is this also appropriate for other sectors using spectrum, such as R&D and transport? Is there a need to also co-ordinate spectrum availability for other internal market services, as is currently being done for ECS services? Should and could there be a role for the EU in respect of spectrum harmonisation for public security purposes?
- Spectrum for wireless broadband: taking into account that certain Member States face difficulties in opening up the 800 MHz band for wireless broadband because of national (security or defence) situations or because of cross-border frequency co-ordination problems with third countries, would it be feasible to agree on a common EU date for implementation?
- Spectrum management issues: is there a justified need for further changes to the current spectrum management practices at this stage pending the transposition of the new regulatory framework for ECS by May 2011?

## Radio spectrum policy programme

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The Committee on Industry, Research and Energy adopted the report drafted by Gunnar HÖKMARK (EPP, SE) on the proposal for a decision of the European Parliament and of the Council establishing the first radio spectrum policy programme.

**Aim and scope:** the report stipulates that this Decision establishes a multi-annual radio spectrum policy programme for the strategic planning and harmonisation of the use of spectrum to ensure the functioning of the internal market. It covers the internal market in all Union policy areas involving the use of spectrum such as, but not limited to, electronic communications, research, development and innovation, transport, energy and audio-visual policy.

**General regulatory principles:** Members have specified the general regulatory principles which should be applied throughout the Union, notably:

- encouraging efficient use of spectrum to best meet the increasing demand for use of frequencies, reflecting the important social, cultural and economic value of spectrum;
- applying the most appropriate, non-discriminatory and least onerous authorisation system possible in such a way as to maximise flexibility and efficiency in spectrum usage;
- guaranteeing the development of the internal market and digital services by ensuring effective competition, a pan-European level playing field and by promoting the emergence of future pan-European services;
- promoting innovation;
- taking full account of the relevant Union law on human health of electromagnetic field emissions when defining the technical conditions of the use of spectrum;
- promoting technology and services neutrality in the use of the spectrum.

For electronic communications, Members consider that specific principles should apply, in accordance with Articles 8a, 9 and 9b of Directive 2002/21/EC and with Decision 676/2002/EC.

Policy objectives: policy objectives to be implemented by Member States and the Commission include the following:

- make sufficient and appropriate spectrum allocated for mobile data traffic, amounting to at least 1200 MHz by 2015;
- bridge the digital divide and realise the objectives of the Digital Agenda, ensuring that all Union citizens have access to broadband, not less than 30 Mbps by 2020 and making it possible for the Union to have the highest possible broadband speed and capacity;
- enable the Union to take the lead in wireless electronic communication broadband services by opening up sufficient additional spectrum in the most cost-efficient bands for these services to be widely available;
- secure opportunities for both the commercial sector as well as public services by means of increased mobile broadband capacities;
- reduce the fragmentation and fully exploit the potential of the internal market in order to establish a pan-European level playing field in order to foster economic growth and economies of scope and scale at Union level;
- ensuring the accessibility of new consumer products and technologies so as to secure consumer endorsement for the transition to digital technology and efficient use of the digital dividend;
- reduce the Union's carbon footprint by enhancing the technical efficiency of wireless communication networks and applications.

Competition: the report calls on the Member States, prior to a planned spectrum assignment, to carefully examine whether the assignment is likely to distort or reduce competition in the mobile markets concerned, taking into account existing spectrum rights held by relevant market operators. If the spectrum assignment is likely to distort or reduce competition, Member States shall adopt the most appropriate measures to promote effective competition. Member States may reserve a certain part of a spectrum band or group of bands to be assigned to new entrants.

Member States shall ensure that authorisation and selection procedures avoid delays, are non-discriminatory and promote effective competition by preventing any potential anti-competitive outcomes, for the benefit of EU citizens and consumers.

Spectrum for wireless broadband communications: Member States shall, by 1 January 2013 make the 800 MHz band available for electronic communications services. Only in exceptional cases duly justified for technical and historical reasons, the Commission may authorise specific derogations until the end of 2015 in response to a duly motivated application from the Member State concerned. If cross-border frequency coordination problems with one or more third countries further prevent the availability of the band, the Commission may authorise exceptional annual derogations until such obstacles are removed.

In addition, the Commission shall continuously monitor the capacity requirements for wireless broadband services and, in cooperation with Member States, assess, no later than 1 January 2015, the need for action to harmonise additional spectrum bands, such as the 700 MHz band (694-790 MHz).

Spectrum needs for other wireless communication policies: in order to support the further development of innovative audiovisual media and other services to European citizens, taking into account the economic and social benefits of a digital single market, Member States, in cooperation with the Commission, shall ensure sufficient spectrum availability for satellite and terrestrial provision of such services.

Spectrum needs for specific Union policies: Members consider that it is necessary to seek to find a minimum set of harmonised core bands for programme making and special events (PMSE) in the Union, according to the Union's objectives to improve the integration of the internal market and access to culture. These harmonised bands shall be of the frequency 1GHz or higher.

## Radio spectrum policy programme

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The European Parliament adopted by 615 votes to 26, with 16 abstentions, a legislative resolution on the proposal for a decision of the European Parliament and of the Council establishing the first radio spectrum policy programme.

It adopted its position at first reading under the ordinary legislative procedure. The amendments amend the Commission proposal as follows:

Aim and scope: the resolution stipulates that this Decision establishes a multi-annual radio spectrum policy programme for the strategic planning and harmonisation of the use of spectrum to ensure the functioning of the internal market. It covers the internal market in all Union policy areas involving the use of spectrum such as, but not limited to, electronic communications, research, development and innovation, transport, energy and audio-visual policy.

General regulatory principles: Parliament has specified the general regulatory principles which should be applied throughout the Union, notably:

- encouraging efficient use of spectrum to best meet the increasing demand for use of frequencies, reflecting the important social, cultural and economic value of spectrum;
- applying the most appropriate, non-discriminatory and least onerous authorisation system possible in such a way as to maximise flexibility and efficiency in spectrum usage;
- guaranteeing the development of the internal market and digital services by ensuring effective competition, a pan-European level playing field and by promoting the emergence of future pan-European services;
- promoting innovation;
- taking full account of the relevant Union law on human health of electromagnetic field emissions when defining the technical conditions of the use of spectrum;
- promoting technology and services neutrality in the use of the spectrum.

For electronic communications, Members consider that specific principles should apply, in accordance with Articles 8a, 9 and 9b of Directive 2002/21/EC and with Decision 676/2002/EC.

Policy objectives: policy objectives to be implemented by Member States and the Commission include the following:

- make sufficient and appropriate spectrum allocated for mobile data traffic, amounting to at least 1200 MHz by 2015 to best meet the increasing demand for mobile data traffic, thereby allowing the development of commercial and public services, while taking into account important general interest objectives such as cultural diversity and media pluralism;

- bridge the digital divide and realise the objectives of the Digital Agenda, ensuring that all Union citizens have access to broadband, not less than 30 Mbps by 2020 and making it possible for the Union to have the highest possible broadband speed and capacity;
- enable the Union to take the lead in wireless electronic communication broadband services by opening up sufficient additional spectrum in the most cost-efficient bands for these services to be widely available;
- secure opportunities for both the commercial sector as well as public services by means of increased mobile broadband capacities;
- reduce the fragmentation and fully exploit the potential of the internal market in order to establish a pan-European level playing field in order to foster economic growth and economies of scope and scale at Union level;
- ensuring the accessibility of new consumer products and technologies so as to secure consumer endorsement for the transition to digital technology and efficient use of the digital dividend;
- reduce the Union's carbon footprint by enhancing the technical efficiency of wireless communication networks and applications.

Increasing efficiency and flexibility: Member States shall foster, in cooperation with the Commission, the collective use of spectrum as well as shared and unlicensed use of spectrum. They shall also foster current and new technologies such as geolocation databases and cognitive radio to develop for example in white spaces following a proper impact assessment. That impact assessment shall be issued within twelve months of the entry into force of this Decision.

Special attention shall also be given to standards for equipment to be used by disabled people, without, however, depriving them of the right to use non-standardised equipment if that is their preference. Efficient coordination of spectrum harmonisation and standardisation will be particularly important in this regard so that consumers can use appliances that depend on radio spectrum without restriction and throughout the internal market.

The measures that Member States are to adopt shall be taken in addition to the opening of the 900 MHz band in the near future, in line with the "GSM" Directive and in such a manner as to promote competition. Such measures shall be taken in a non-discriminatory manner and may not distort competition to the advantage of operators already dominant in the market.

Competition: the resolution calls on the Member States, prior to a planned spectrum assignment, to carefully examine whether the assignment is likely to distort or reduce competition in the mobile markets concerned, taking into account existing spectrum rights held by relevant market operators. If the spectrum assignment is likely to distort or reduce competition, Member States shall adopt the most appropriate measures to promote effective competition. Member States may reserve a certain part of a spectrum band or group of bands to be assigned to new entrants.

Member States shall ensure that authorisation and selection procedures avoid delays, are non-discriminatory and promote effective competition by preventing any potential anti-competitive outcomes, for the benefit of EU citizens and consumers.

Spectrum for wireless broadband communications: Member States shall, by 1 January 2013 make the 800 MHz band available for electronic communications services. Only in exceptional cases duly justified for technical and historical reasons, the Commission may authorise specific derogations until the end of 2015 in response to a duly motivated application from the Member State concerned. If cross-border frequency coordination problems with one or more third countries further prevent the availability of the band, the Commission may authorise exceptional annual derogations until such obstacles are removed.

The Commission is invited to take action, in cooperation with Member States, at the appropriate levels to achieve further harmonisation and a more efficient use of the 1.5 GHz band (1452-1492 MHz) and the 2.3 GHz band (2300-2400 MHz) for wireless broadband services. In addition, the Commission shall continuously monitor the capacity requirements for wireless broadband services and, in cooperation with Member States, assess, no later than 1 January 2015, the need for action to harmonise additional spectrum bands, such as the 700 MHz band (694-790 MHz).

Spectrum needs for other wireless communication policies: in order to support the further development of innovative audiovisual media and other services to European citizens, taking into account the economic and social benefits of a digital single market, Member States, in cooperation with the Commission, shall ensure sufficient spectrum availability for satellite and terrestrial provision of such services.

Spectrum needs for specific Union policies: the Commission shall ensure that sufficient spectrum is made available under harmonised conditions and in harmonised bands for public protection and disaster relief (PPDR) and to take actions to support the development of safety services and the free circulation of related devices as well as the development of innovative interoperable solutions for PPDR. To ensure the efficient use of spectrum, the Commission shall examine the possibility of PPDR using military frequencies.

Members consider that it is necessary to seek to find a minimum set of harmonised core bands for programme making and special events (PMSE) in the Union, according to the Union's objectives to improve the integration of the internal market and access to culture. These harmonised bands shall be of the frequency 1GHz or higher.

## Radio spectrum policy programme

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In a public session, the Council took note of the Presidency's progress on a proposal for a decision establishing the first radio spectrum policy programme (RSPP).

The Presidency presented a progress report (see Council doc. [10295/11](#)) to ministers, with the aim of informing them on the progress made during the Hungarian Presidency. It identifies the main areas where the Council has reached a high level of agreement and points out that there are a number of issues where an agreement in principle exists but which are likely to be discussed further, both within the Council as well as in the forthcoming negotiations with the European Parliament, which adopted its first reading at the beginning of May 2011.

The work of the Council's preparatory bodies focused in particular on the following issues:

- aim and scope;
- general regulatory principles and policy objectives;
- enhanced efficiency and flexibility;
- competition;
- spectrum for wireless broadband;
- spectrum needs for specific EU policies;

- the radio spectrum inventory;

The work on this file will continue under the Polish Presidency.

## Radio spectrum policy programme

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The Council adopted its position at first reading with a view to the adoption of a Decision of the European Parliament and of the Council establishing the first radio spectrum policy programme.

The European Parliament expressed broad support for the Commission proposal and adopted 87 amendments to it. The Council could broadly agree with the spirit of these amendments and has taken extensive account of them when drawing up its position at first reading.

The proposal was subject to five informal trialogues with the European Parliament.

During the trialogues, the co-legislators focussed their discussions on the legislative provisions dealing with:

- **The availability of spectrum for wireless data traffic:** the Council met the Parliament's request for a quantitative target to be identified by 2015. In general, however, it was agreed that the radio spectrum policy programme should not refer to specific frequency bands or specific amounts of frequencies possibly needed for one or the other application, as this would pre-empt the outcome of the investigations to be carried out in the context of the spectrum inventory.
- **The question whether the scope of the competition article should go beyond electronic communications services and also cover other EU policy areas depending on radio spectrum:** as no concrete examples were available, which could clarify where potential competition problems could arise between electronic communications services and other EU policies relying on radio spectrum, such as research, technological development and space, transport, energy and audio-visual, the Council limited the scope of the competition article to electronic communications services.
- **How best to establish an inventory of spectrum use:** as neither the Commission's original proposal on the spectrum inventory nor Parliament's amendments to it were considered by the Council as appropriate proposals, the Council re-drafted the relevant legislative provisions.
- **The issue of spectrum in international and bilateral negotiations:** rather than supporting the new elements proposed by the Commission and the Parliament in this regard, the Council preferred to recall in the radio spectrum policy programme the already established principles, which apply to international spectrum negotiations.

## Radio spectrum policy programme

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The position of the Council at first reading is the result of a compromise reached after informal negotiations between the Council, the European Parliament and the Commission which culminated at the informal trilogue meeting of 24 October 2011, and which was confirmed by an exchange of letters between co-legislators.

This compromise includes:

- a clear commitment to complete the authorisation process for already harmonised spectrum, including the 800 MHz band, by 1/1/2013;
- a strong inventory mechanism based on Commission implementing measures as well as clear deadlines for adopting those measures;
- an explicit target to identify at least 1200 MHz of spectrum by 2015 based on the inventory, for wireless broadband communications;
- a commitment to examine the need for further spectrum for wireless broadband based on capacity requirements;
- the means to guarantee competition in the use of spectrum in particular for electronic communications services;
- the development of policy initiatives on collective and shared use of spectrum;
- a provision to enhance EU coordination in international spectrum negotiations;
- a commitment to develop policy initiatives on the spectrum requirements of other internal market sectors and EU policies, including energy saving, Earth observation and monitoring, public safety and protection, wireless microphones and the Internet of Things.

Therefore, the Commission can accept the Council's position as it reflects the compromise reached and calls for similar adoption without amendment by Parliament in the shortest time possible considering the importance of the matter, the close deadlines set in the draft decision and the need for swift implementation thereof.

The Commission also made three statements for the minutes of the Council meeting of 13 December 2011 which explain the Commission's view on certain specific provisions:

- the Commission notes that Article 9.2 requires the Commission to take utmost account of the views of the Radio Spectrum Policy Group (RSPG) before adopting implementing acts in relation to the inventory.
- on Article 10.1 regarding international negotiations;
- on the procedure of adoption of implementing acts for Art. 13.2.

## Radio spectrum policy programme

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The Committee on Industry, Research and Energy adopted the recommendation for second reading contained in the report by Gunnar HOKMARK (EPP, SE) that the European Parliament approves unamended the Council's position at first reading with a view to the adoption of a decision of the European Parliament and of the Council establishing a multi-annual radio spectrum policy programme.

The Council's common position, adopted on 13 December 2011 and officially transmitted to the European Parliament on 19 January 2012, is based on the agreement reached on 24 October 2011 between the European Parliament and the Council.

The main results agreed upon are as follows:

- the freeing up of the 800 MHz frequency band for wireless broadband internet services in all Member States by 1 January 2013;
- speeding up the development of mobile broadband of at least 30 Mbps by 2020 for all EU citizens, bridging therefore the digital dividend and contributing to the objectives of the Digital Agenda for Europe;
- allocating at least 1200 MHz of spectrum to mobile data traffic by 2015;
- the creation of an inventory with a very large scope of the existing use of spectrum from 400MHz to 6 GHz to create a flexible and coordinated European spectrum policy;
- the Commission shall assess and report by no later than 1 January 2015 whether there is a need for action to harmonise additional spectrum bands;
- the Commission shall, in cooperation with Member States, assess the justification and feasibility of extending the allocations of unlicensed spectrum for wireless access systems, including radio local area networks to open up for more use of for example WiFi;
- the Union shall, upon request, assist Member States with legal, political and technical support to resolve spectrum coordination issues with Union neighbouring countries, including candidate and acceding countries.

The Decision shall enter into force on the 20th day following that of its publication in the Official Journal of the European Union. Member States shall apply the policy orientations and objectives set out in this Decision by 1 July 2015 unless otherwise specified.

By 31 December 2015, the Commission shall conduct a review of the application of this Decision. Furthermore, the Commission shall report to the European Parliament and the Council on the activities developed and the measures adopted pursuant to this Decision.

## Radio spectrum policy programme

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The European Parliament adopted, at second reading under the ordinary legislative procedure, a legislative resolution on the Council position at first reading with a view to the adoption of a decision of the European Parliament and of the Council establishing a multi-annual radio spectrum policy programme.

## Radio spectrum policy programme

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**PURPOSE:** to establish a radio spectrum policy programme for the strategic planning and harmonisation of the use of spectrum to ensure the functioning of the internal market.

**LEGISLATIVE ACT:** Decision No 243/2012/EU of the European Parliament and of the Council establishing a multiannual radio spectrum policy programme.

**CONTENT:** this Decision establishes a multiannual radio spectrum policy programme for the strategic planning and harmonisation of the use of spectrum to ensure the functioning of the internal market in the Union policy areas involving the use of spectrum, such as electronic communications, research, technological development and space, transport, energy and audiovisual policies.

**Policy objectives of the new Programme:** in order to focus on the priorities of this Decision, Member States and the Commission shall cooperate to support and achieve the following policy objectives:

- encourage efficient management and use of spectrum to best meet the increasing demand for use of frequencies reflecting the important social, cultural and economic value of spectrum;
- seek to allocate sufficient and appropriate spectrum in a timely manner to support Union policy objectives and to best meet the increasing demand for wireless data traffic, thereby allowing the development of commercial and public services, while taking into account important general interest objectives such as cultural diversity and media pluralism; to that end, every effort should be made to identify, based on the inventory, at least 1 200 MHz of suitable spectrum by 2015. That figure includes spectrum already in use;
- bridge the digital divide and contribute to the objectives of the [Digital Agenda for Europe](#), fostering access to broadband at a speed of not less than 30 Mbps by 2020 for all Union citizens and making it possible for the Union to have the highest possible broadband speed and capacity;
- enable the Union to take the lead in wireless electronic communication broadband services by freeing up sufficient spectrum in cost-efficient bands for those services to be widely available;
- secure opportunities for both the commercial as well as public sectors by means of increased mobile broadband capacities;
- promote innovation and investment through enhanced flexibility in the use of spectrum, through a consistent application across the Union of the principles of technology and service neutrality between the technological solutions that may be adopted and through adequate regulatory predictability of the Regulation;
- maintain and develop effective competition, in particular in electronic communication services;
- reduce the fragmentation and fully exploit the potential of the internal market in order to foster economic growth and economies of scale at EU level.

Member States, in cooperation with the Commission, shall, where appropriate, foster the collective use of spectrum as well as shared use of spectrum.

By 1 January 2013, Member States shall carry out the authorisation process in order to allow the use of the 800 MHz band for electronic communications services. The Commission shall grant specific derogations until 31 December 2015 for Member States in which exceptional national or local circumstances or cross-border frequency coordination problems would prevent the availability of the band, acting upon a duly substantiated application from the Member State concerned.

The Decision stipulates that an inventory of existing uses of spectrum, for both commercial and public purposes shall be established.

**Reporting and review:** by 10 April 2014, the Commission shall report to the European Parliament and the Council on the activities developed and the measures adopted. By 31 December 2015, the Commission shall conduct a review of the application of this Decision.

**ENTRY INTO FORCE:** 10.04.2012. Member States shall apply the policy orientations and objectives set out in this Decision by 1 July 2015 unless otherwise specified herein.

## Radio spectrum policy programme

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This report presented by the Commission responds to the requirements laid down in Article 15 of Decision 243/2012/EU establishing a multiannual radio spectrum policy programme (the RSPP) and Decision 676/2002/EC on a regulatory framework for radio spectrum policy in the European Community (the Radio Spectrum Decision). It merges these obligations into one concise report and focuses on the implementation of the Radio Spectrum Policy Programme.

Pursuant to the Radio Spectrum Decision and the RSPP, the Commission adopted implementing decisions supporting specific EU Policy areas. The specific EU policy areas include:

- [Digital Agenda for Europe](#): harmonisation of spectrum for wireless broadband as well as for short-range devices to facilitate "internet of things" applications;
- [Single European Sky](#): harmonisation of spectrum for mobile communications on board aircrafts;
- Maritime and Land Transport: harmonisation of spectrum use for, among others, intelligent transport systems including electronic tolling systems and automotive short-range radars.

The RSPP has contributed to a more efficient use of spectrum by:

- promoting spectrum sharing approaches e.g. by setting the goal of 1200 MHz for wireless broadband,
- initiating the process of the spectrum inventory which will be a tool to enable the Commission and Member States to define more fact-based policy.

In terms of concrete measures on the shared use of spectrum the Commission is aiding innovation by harmonising frequency bands that are subject to general authorisations (unlicensed spectrum) or individual rights of use (licensed shared access), as well as requesting related standards to the European Standards Organisations.

The programme has, however, shown limitations:

Differences in the conditions and authorisation procedures: the RSPP has shown limitations due to the general character of some of the regulatory principles it established, which need to be more precise for effective implementation. While each Member State continues to set the authorisation conditions and procedures for spectrum, the large differences in these conditions and procedures contribute to the fragmentation of the internal market with a negative impact on integration of networks across borders, on available handset capabilities and to other disadvantages for consumers.

The mere exchange of information and best practices based on the general principles and conditions of the current framework does not appear to be sufficient to remove these barriers to the single market. Legal certainty on well-established common principles and criteria that are applied by Member States in a coordinated way throughout the Union appear to be the minimum necessary.

Delays in assigning the 800 MHz band: these delays demonstrate the need for more nimble and flexible mechanisms for the harmonised timing of assignments throughout the Union or for categories of Member States based on the characteristics of the wireless broadband market, and for the harmonised duration of spectrum usage rights. In this regard, it is important to ensure the efficient and timely assignment of existing harmonised spectrum in order to accrue the potential socio-economic benefits through digital services provided over wireless broadband networks.

More specific provisions are urgently needed in such areas. To address these shortcomings, the Commission has proposed concrete legislative measures as part of the [Connected Continent](#) package. These establish: (i) a set of common spectrum authorisation principles and criteria; (ii) a formal time-limited mechanism for peer review of national plans with a view to ensure best practice.

Furthermore, legal certainty on common timing and duration of spectrum assignments for wireless broadband will be beneficial to operators in their business case evaluations and in their cross-border strategies and will allow them to have more predictable access to spectrum and conditions for investment.

To ensure that radio spectrum policy effectively contributes to EU policies, the Commission insists that there is a need to step up the coordination efforts being made under the strategic guidance of the RSPP and the successful technical implementation through the Radio Spectrum Decision, by strengthening the coordination of authorisations within Europe. A final report on the first RSPP and progress towards the targets set is planned for the end of 2015.

The Radio Spectrum Decision: the report notes that this Decision has proven successful in making available harmonised spectrum resources for strategic sectors in the internal market and is a positive example of cooperation with the Member States. Furthermore, the RSPP represents an important strategic framework for implementing Union spectrum policy using the mechanisms established by the RSD.

## Radio spectrum policy programme

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The Commission presents a report on the Radio Spectrum Inventory.

The EU spectrum inventory - created as part of the radio spectrum policy programme- aims to allow identification of frequency bands where efficiency of existing spectrum use could be improved in order to accommodate spectrum demand in support of Union policies, to promote innovation and to enhance competition.

The report highlights the progress made and difficulties encountered in implementing the spectrum inventory. It analyses technology trends, and future needs regarding spectrum and examines whether there is a need for additional frequency bands to be harmonised for wireless broadband.

In spite of the difficulties encountered in collecting data, the initial inventory analysis has provided significant insights into the situation with regard to spectrum availability and use in the EU. These are as follows.

Analysis of supply and demand: a number of frequency bands which are currently not used or are substantially under-utilised in most Member

States have been identified, though there may be variations across Member States. The analysis of technology trends, future needs and demand for spectrum suggests that many of the different types of applications, categorised in 14 application groupings are and will be in need of more spectrum. The report suggests a quantitative assessment of the short, medium and long-term growth in demand that can be expected for each grouping.

On the basis of the preliminary results the report notes that unused spectrum in the 400 MHz-6GHz range is rare but there are examples. On the demand side, future spectrum usage is expected to increase significantly for many applications over the next 10 years. This situation makes re-assignment increasingly difficult and costly.

The Commission considers that a sustainable way to satisfy spectrum demand in the medium and long term is to invest more time and resources in identifying and developing more sophisticated spectrum sharing concepts as detailed below, subject to the protection of effective competition:

- licensed Shared Access (LSA) assignment;
- geographical spectrum sharing with devices linked to geo-location databases (once available); and
- making more effective use of existing networks and spectrum assignments through densification, increase in spectrum re-use, and spectrum sharing between operators.

Based on the inventory analysis performed by the Commission and more detailed supply and demand information, the report sets out certain aspects as inventory output: (i) wireless broadband spectrum; (ii) additional harmonised frequency bands for wireless broadband; (iii) sharing of radar bands; (iv) wireless microphones; (v) satellite communications; (vi) short range devices.

Data collection: it is also apparent that some of the data, collection of which was envisaged will remain unavailable for the foreseeable future in some Member States which do not themselves collect this data and which consider it impossible to increase their data availability. The Commission will continue to cooperate with the Member States both in collecting data that are already available at Member State level and in obtaining additional data on a targeted basis. In particular frequency bands relevant to the implementation of the RSPP will be targeted.

In addition, the Commission will seek relevant data from Member States that request derogations from harmonisation measures on the basis of particular national situations. The data analysis tool will be complemented through other sources, e.g. through studies, inputs from RSPG or direct information from spectrum users.

The Commission will continue to build up the inventory with the aim of fulfilling its main purpose achieving more efficient use of spectrum. The importance of evidence-based spectrum policy-making remains high on the agenda as demands for more spectrum from many sectors have been documented in the report. Discussions will continue with the Radio Spectrum Committee members on how to pursue the collection of data for the inventory.