

COMMISSION DECISION

of 16 May 2007

on harmonised availability of information regarding spectrum use within the Community

(notified under document number C(2007) 2085)

(Text with EEA relevance)

(2007/344/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) ⁽¹⁾, and in particular Article 4(3) thereof,

Whereas:

- (1) Decision No 676/2002/EC (Radio Spectrum Decision) requires Member States to ensure that their national radio frequency allocation table and information on rights, conditions, procedures, charges and fees concerning the use of radio spectrum, shall be published if relevant in order to meet the aim set out in Article 1 of that Decision. They shall keep this information up to date and shall take measures to develop appropriate databases in order to make such information available to the public, where applicable in accordance with the relevant harmonisation measures taken under Article 4 of that Decision.
- (2) A study undertaken on behalf of the Commission ⁽²⁾ found that, despite previous efforts, information on the use of spectrum is still made publicly available by Member States with a varying amount of detail, in different formats and with differences in ease of access and updating intervals. Such differences may have an effect on doing business, on planning investments and on decision-making in the context of an internal market for products and services, as well as manufacturing. Information on spectrum usage conditions can further facilitate the participation of small and medium-sized enterprises (SME) and indirectly support the sustainable growth of the electronic communications industry in general.
- (3) The availability of appropriate information is essential in the context of better regulation, since the removal of

unnecessary restrictive measures and the introduction of trading of rights to use frequencies require clear, reliable and up-to-date information regarding the actual use.

- (4) A single information point would ensure an easy access and user-friendly presentation of spectrum information throughout the Community. To be efficient, such information should be presented in a harmonised format with the same content for all Member States and it should be transferable from national databases using modern automatic upload facilities that avoid the need for additional human resources to feed the single information point with national data.
- (5) There is substantial agreement by Member States and industry participants for using the system set up by the European Radiocommunications Office (ERO) ⁽³⁾. The ERO Frequency Information System (EFIS) is publicly available on the Internet and allows the search for and comparison of official spectrum information within Europe, if such information is uploaded by national administrations. That system should be used by all Member States.
- (6) The Commission issued a Mandate dated 8 December 2005 to the CEPT on the use of EFIS for publication and access to spectrum information within the Community. CEPT presented the final results of this mandate, which demonstrate the feasibility to use EFIS as a common information portal in the European Community, in accordance with the objectives contained in the mandate. The Radio Spectrum Committee accepted the final report of the CEPT on 5 October 2006 and confirmed the objectives listed in the Mandate. The results of the mandate should be made applicable in the Community.
- (7) A European spectrum information portal should not replace national spectrum databases but be a complementary portal that adds value through the provision of a single information point with search and compare facilities at the European level, based on information provided in accordance with a common format and level detail.

⁽¹⁾ OJ L 108, 24.4.2002, p. 1.

⁽²⁾ Study on information on the allocation, availability and use of radio spectrum in the Community, IDATE, February 2005.

⁽³⁾ ERO is an international organisation established through the Convention for the Establishment of the European Radio Communications Office signed at The Hague on 23 June 1993.

- (8) Efforts to harmonise the presentation of radio interface specifications have been undertaken by the Telecommunications Conformity Assessment and Market Surveillance Committee (TCAM) established by Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity ⁽¹⁾ (R & TTE Directive). These conditions are relevant to Article 5 of the Radio Spectrum Decision and are regarded as important public information, which should be made available by all Member States.
- (9) The provision of information regarding rights of use may require a particular effort by Members States, but it is also of high importance for a transparent and effective market based-spectrum policy. Member States may need extra time to fulfil the requirements of making available this type of information.
- (10) Easy access to the information should be guaranteed to all interested parties, subject to compliance with Community rules on business confidentiality in particular to the provisions of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) ⁽²⁾.
- (11) This Decision should be implemented and applied in full compliance with the principles and requirements relating to the protection of personal data in accordance with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and the free movement of such data ⁽³⁾ and in accordance with Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) ⁽⁴⁾.
- (12) The effectiveness of EFIS for Member States and the public should be reviewed from time to time to ensure that the objectives listed in the mandate are being implemented effectively.
- (13) The measures provided for in this Decision are in accordance with the opinion of the Radio Spectrum Committee,

HAS ADOPTED THIS DECISION:

Article 1

The purpose of this Decision is to harmonise the availability of information on the use of radio spectrum in the Community through a common information point and by the harmonisation of the format and content of such information.

Article 2

Member States shall use the ERO Frequency Information System (EFIS) set up by the European Radiocommunications Office (ERO) as a common access point, in order to make comparable information regarding the use of spectrum in each Member State available to the public via the Internet.

Article 3

1. Member States shall provide to EFIS the following information regarding the use of radio spectrum on their territory:

(a) for each frequency band individually:

- Service Allocations as defined by the Radio Regulations of the International Telecommunications Union (ITU),
- applications using the choice of terms available in EFIS,
- Radio Interface Specifications according to the format in Annex I,
- Individual Rights of Use in accordance with Annex II;

(b) for use of radio spectrum in general:

- national contact point capable of answering inquiries from the public related to finding national spectrum information not included in the European spectrum information portal as well as information on procedures and conditions applicable to any envisaged national assignment process for rights of use,
- if available, national spectrum policy and strategy in the form of a report.

⁽¹⁾ OJ L 91, 7.4.1999, p. 10. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

⁽²⁾ OJ L 108, 24.4.2002, p. 33.

⁽³⁾ OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003.

⁽⁴⁾ OJ L 201, 31.7.2002, p. 37. Directive as amended by Directive 2006/24/EC (OJ L 105, 13.4.2006, p. 54).

2. Member States shall update the information referred to in paragraph 1 at least once a year until 1 January 2010 and twice per year thereafter. This shall be executed either through manual entry of data via the Internet or through automatic uploading facilities using a specified format for data exchange.

Article 4

Member States shall inform the Commission if they consider that EFIS is no longer able to provide the technical capacity, integrity and reliability to justify its use as a common information point.

Article 5

This Decision shall enter into force on 1 January 2008.

The provision of information on Individual Rights of Use shall apply from 1 January 2010.

Article 6

This Decision is addressed to the Member States.

Done at Brussels, 16 May 2007.

For the Commission

Viviane REDING

Member of the Commission

ANNEX I

Format for Radio Interface Specifications

Member States shall provide either by reference to the relevant standard or descriptive text and any comments as necessary, regarding the following parameters:

1. channelling;
 2. modulation/occupied bandwidth;
 3. direction/separation;
 4. transmit power/power density;
 5. channel access and occupation rules;
 6. authorisation regime;
 7. additional essential requirements according to Article 3(3) of Directive 1999/5/EC;
 8. frequency planning assumptions.
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ANNEX II

Format for Information on Rights of Use

Information on Rights of Use may be limited to frequency bands used for the provision of electronic communications services, which are tradable in accordance with Article 9.3 of Directive 2002/21/EC or which are granted through competitive or comparative selection procedures pursuant to Directive 2002/20/EC.

For relevant frequency bands Member States shall provide in accordance with the requirements of Directive 95/46/EC and Directive 2002/58/EC and Community and national rules on business confidentiality, the following information:

1. the identity of the radio frequency right holder;
 2. the expiry date of the right or, in the case where there is none, the expected duration;
 3. the geographic validity of the right by at least providing the information whether the right is local (i.e. one station), regional or nation-wide;
 4. an indication of whether or not the right is tradable.
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