

**CEPT/ECTRA**

**ECTRA/DEC(97)02-E**  
**First publication**

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**CEPT - European Conference of Postal and Telecommunications Administrations**  
**ECTRA - European Committee for Telecommunications Regulatory Affairs**

**CEPT / ECTRA Decision of 03 July 1997**

**on harmonisation of authorisation conditions and co-ordination of  
procedures in the field of Satellite Personal Communications Services  
(S-PCS) in Europe, operating within the bands 1610-1626.5 MHz,  
2483.5-2500 MHz, 1980-2010 MHz and 2170-2200 MHz**

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As Chairman of the European Committee for Telecommunications Regulatory Affairs (ECTRA), I hereby confirm that this decision was adopted on 3 July 1997 at the XXIIIrd ECTRA Plenary Meeting.

A call for commitment was launched on 17 July 1997 and, as of 23 October 1997, I have received commitments in writing from the following CEPT member countries to implement the terms of this decision:

Belgium  
Croatia  
France  
Germany  
Netherlands  
Norway  
Spain  
Sweden  
Switzerland  
United Kingdom

A second publication updating the list of CEPT members who have committed themselves to implementation will occur after the XXIVth ECTRA Plenary Meeting (03-04.12.1997), but not later than six months after this first publication.

Frédéric Riehl  
ECTRA Chairman  
23.10.1997

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### **CEPT / ECTRA Decision of 03 July 1997**

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**(ECTRA/DEC(97)02)**

The European Conference of Postal and Telecommunications  
Administrations,

#### **CONSIDERING**

- 1) that S-PCS systems will provide either global or regional coverage,
- 2) that a co-ordinated procedure for authorisations, as well as harmonised conditions for authorisations, will benefit users, satellite network operators, service providers, manufacturers and administrations,
- 3) that the European Parliament and Council Decision 710/97 on a co-ordinated authorisation approach in the field of S-PCS in the European Union (EU) has been adopted,
- 4) that the granting of authorisations is the sovereign right of states, i.e. the responsibility of National Regulatory Authorities (NRAs), and that NRAs may require individual licenses for such authorisations,

## TAKING INTO ACCOUNT

- 1) the time schedule laid down in the EU Decision, see Considering 3, for the implementation of S-PCS,
- 2) that during WARC-92 the frequency bands 1610-1626.5 MHz, 2483.5-2500 MHz, 1980-2010 MHz and 2170-2200 MHz were allocated for the provision of mobile satellite services, within which S-PCS will be provided,
- 3) that, with regard to S-PCS mobile earth stations (MESs) operating within the bands identified, see Taking Into Account 2, the ERC has developed Decisions including, inter alia:
  - i) ERC Decision, ERC/DEC(97)03, on the harmonised use of spectrum for satellite personal communications services (S-PCS) operating within the bands 1610-1626.5 MHz, 2483.5-2500 MHz, 1980-2010 MHz and 2170-2200 MHz, hereafter referred to as ERCD-1.
  - ii) ERC Decision, ERC/DEC(97)05, on free circulation, use and licensing of mobile earth stations of satellite personal communications services, hereafter referred to as ERCD-2.
- 4) that each S-PCS system identified should use harmonised frequency assignments within Europe,
- 5) that, within the EU, account must be taken of Directive 97/13/EC on a common framework for general authorisations and individual licenses in the field of telecommunications services and Directive 91/263/EC on terminal equipment, including the mutual recognition of their conformity, modified by Directive 93/97/EC on satellite earth station equipment,

## DECIDES

- 1) that this Decision shall not prejudice the obligation of the EEA member states to act in accordance with applicable Community law or CEPT members to act in accordance with their national legislation,
- 2) that in this Decision, the term authorisation shall mean legal or administrative measure regarding public telecommunications networks or services to grant
  - access to frequency spectrum for the use by the Mobile Earth Stations (MESs) of S-PCS systems;
  - licensing and free circulation of MESs within the CEPT;
  - service provision of S-PCS;
  - installation of gateway stations and interconnection to public networks,
- 3) that the granting of authorisations, if required by individual CEPT Members, shall be assessed and decided upon, in a co-ordinated way, in accordance with the scheme illustrated in Annex 1,
- 4) that the conditions that may be attached to the authorisations referred to in Decides 2 above shall be limited to those given in Annex 2,
- 5) that ECTRA and ERC will, in order to assist NRAs in applying procedures described in Annex 1, institute a Milestone Review Committee (MRC), as described in Annex 4 of this Decision as well as in Annex 3 of ERCD-1, primarily to examine whether the milestone criteria, as defined in Annex 3, are met by the applicants,
- 6) that the MRC will be composed of officials from those administrations which are signatories to this Decision or which have committed themselves to implement the companion ERC Decision, ERCD-1,
- 7) that in granting the authorisations referred to in Decides 2 above, NRAs shall take into consideration the recommendations made by the Milestone Review Committee,
- 8) that when granting the authorisations referred to in Decides 2 above, NRAs must take care to satisfy Decides 5 in the companion Decision ERCD-1, hence, adjustments in frequency assignments might take place before 1 January 2001,
- 9) that necessary measures of legal and administrative nature, for offering authorisations, should be implemented within a time schedule compatible with the technical and commercial needs of S-PCS which are planning to become operational before 1 January 2001,
- 10) that the authorisation shall be granted within the time schedule compatible with the technical and commercial need of S-PCS under consideration,

- 11) that ECTRA will review this Decision at least every two years, if necessary, taking into consideration modification of companion Decisions,
- 12) that this Decision shall enter into force on 01.10.1997,
- 13) that CEPT Member Administrations shall communicate the national measures implementing this Decision to the ECTRA Chairman and the ETO when the Decision is nationally implemented.

## **ANNEX 1 S-PCS authorisation scheme**

It is expected that the authorisation may be initiated in the following way:

An entity (later referred to as an “Applicant”), acting within the national law of an administration, seeking authorisation within that administration or a number of administrations, submits an application to the administration.

The consideration of authorisation of S-PCS by an administration should take the following approach:

- 1) To initiate the process, as stated above, the Applicant will submit an application to an administration. The application should include two parts:
  - a) information about the applicant and its project including where appropriate, information showing that the applicant has been duly authorised by the relevant satellite operator, whose system is being monitored against the milestone process described in Annex 4 of this Decision as well as Annex 3 of ERCD-1, and including the following items:
    - The reference to the ITU Weekly Circular Special Section for the “Advance Publication of Information” of the S-PCS system,
    - an undertaking to comply with the milestones procedure,
    - a plan describing how the applicant intends to fulfil milestones,
  - b) specific national parts including national requirements.
- 2) The administration will then examine the application to ensure that it complies with the national law as well as the requirements placed by this Decision as well as ERCD-1 and ERCD-2, if implemented. An application failing to meet requirements set by one or more of the following; the national law, this Decision, ERCD-1 and ERCD-2, if implemented, should be rejected by the administration. An explanation of the rejection should be returned to the applicant.
- 3) The administration will then forward the elements of the application which it judges relevant, to the MRC, if the application is relevant with respect to Decides 2.
- 4) The MRC will re-examine the application to ensure that it complies with this Decision as well as ERCD-1 and ERCD-2. If the MRC considers that the application fails to comply then it will advise all administrations of this by providing a complete explanation. The administration which submitted the application may offer comments on the MRC findings and if necessary re-submit the application.

- 5) The applications considered successful at the stage 4) above will be further considered by MRC for the compliance with the milestones. The MRC will make further recommendations, as necessary, to the administrations on the achievement, or likely achievement, of the individual milestones. It is expected that these recommendations would assist administrations in determining the application submitted for authorisation and granting authorisation where necessary.
- 6) The administration will, as necessary and if appropriate, assess whether to grant an authorisation taking into account the recommendations of the MRC.  
In general, the authorisation may be offered at any stage in the process.
- 7) The administration may reconsider existing authorisations on the basis of failure to meet the milestone requirements, thereby taking into account the view of the MRC.
- 8) When an applicant completes all the milestones, the MRC will notify the administration and, if necessary, the administration will confirm any authorisations.
- 9) In cases where individual licenses are required, the administration which has submitted the application to MRC shall inform applicants of their decision no later than 4 months after receiving the application.



## **ANNEX 2                    Conditions that may be attached to authorisations**

Any conditions which are attached to authorisations are to be based on justification and the principles of equality, transparency and proportionality.

The conditions which may be attached by EU members of CEPT should be consistent with those which may be specified in accordance with relevant EU legislation as transposed and implemented nationally.

1- For EU member states any conditions which are attached to authorisations must be consistent with the competition rules of the EU.

2- Conditions which may be attached to all authorisations, where justified and subject to the principle of proportionality:

2-1-        Conditions intended to ensure compliance with relevant essential requirements, as defined by EU legislation, in particular Directive 97/13/EC

2-2-        Conditions linked to the provision of information reasonably required for the verification of compliance with applicable conditions and for statistical purposes

2-3-        Conditions intended to prevent anti-competitive behaviour in telecommunications markets, including measures to ensure that tariffs are non-discriminatory and do not distort competition

2-4-        Conditions relating to the effective and efficient use of numbering capacity

3- Specific conditions which may be attached to general authorisations, see Directive 97/13/EC for definitions, for the provision of publicly available telecommunications services and of public telecommunications networks that are required for the provision of such services, where justified and subject to the principle of proportionality:

3-1-        Conditions relating to the protection of users and subscribers, in relation particularly to:

- the prior approval of the national regulatory authority of the standard subscriber contract,

- the provision of detailed and accurate billing,

- the provision of a procedure for the settlement of disputes,

- publication and adequate notice of any change in access conditions, including tariffs, quality and the availability of services.

3-2- Financial contribution to the provision of universal service. For EEA member states this must be in accordance with Community law.

3-3- Communication of customer-database information necessary for the provision of universal directory information

3-4- Provision of emergency services

3-5- Special arrangements for disabled people

3-6- Conditions relating to the interconnection of networks and the interoperability of services. For EEA member states these must be in accordance with the interconnection directive and obligations under Community law.

4- Specific conditions which may be attached to individual licenses, see Directive 97/13/EC for definitions, where justified and subject to the principle of proportionality:

4-1- Specific conditions linked to the allocation of numbering rights (compliance with national numbering schemes)

4-2- Specific conditions linked to the effective use and efficient management of radio frequencies

4-3- Specific environmental and specific town and country planning requirements, including conditions linked to the granting of access to public or private land and conditions linked to collocation and facility sharing

4-4- Maximum duration, which shall not be unreasonably short, in particular in order to ensure the efficient use of radio frequencies or number or to grant access to public or private land, without prejudice to other provisions concerning the withdrawal or the suspension of licenses

4-5- Provision of universal service obligations. For EEA member states these must be in accordance with the interconnection directive and directive 95/62/EC of the European Parliament and of the Council of 13. December 1995 on the application of the principle of open network provision (ONP) to voice telephony.

4-6- Conditions applied to operators having significant market power, intended to guarantee interconnection or the control of significant market power. For EEA member states these must be as notified under the interconnection directive.

4-7- Conditions concerning ownership. For EU member states these must comply with Community law and the Community's commitments vis-à-vis third countries

4-8- Requirements relating to the quality, availability and permanence of service or network, including the financial, managerial and technical competencies of the applicant and conditions setting a minimum period of operation and including, where appropriate, mandatory provision of publicly available telecommunications services and public telecommunications networks. For EEA member states these must be in accordance with Community law.

4-9- Specific conditions relating to the provision of leased lines. For EEA member states these must be in accordance with Council directive 92/44/EEC of 5. June 1992 on the application of open network provision to leased lines

In accordance with the EU Council and Parliament Directive 97/13/EC on Licensing which concerns Member States, the above list of conditions is without prejudice to:

- any other legal conditions which are not specific to the telecommunications sector
- measures taken by Member states in accordance with public interest requirements recognised by the EU Treaty, in particular Articles 36 and 56, specifically in relation to public morality, public security, including the investigation of criminal activities, and public policy

## **ANNEX 3 Milestones**

Milestones for the introduction of S-PCS within the bands 1610 - 1626.5 MHz, 2483.5 - 2500 MHz, 1980 - 2010 MHz and 2170 - 2200 MHz

### **INTRODUCTION**

The milestones to be applied by the Milestone Review Committee (MRC) are listed below.

A satellite network operator may be represented by different service providers in different countries.

### **MILESTONES**

#### **1. Submission of ITU Advance Publication and Co-ordination Documents**

The satellite network operator should provide clear evidence that the administration responsible for an S-PCS system has submitted ITU RR Appendix 4 'Advance Publication Information to Be Furnished for a Satellite Network' and ITU RR Appendix 3 'Notices Relating to Space Radiocommunications and Radio Astronomy Stations'.

#### **2. Satellite manufacturing**

The satellite network operator should provide clear evidence of a binding agreement for the manufacture of its satellites. The document should identify the construction milestones leading to the completion of manufacture of satellites required for the commercial service provision. The document should be signed by the satellite network operator and the satellite manufacturing company and should be available for inspection by the MRC. If they are the same, a commitment should also be provided by the satellite network operator.

#### **3. Completion of the Critical Design Review**

The Critical Design Review is the stage in the spacecraft implementation process at which the design and development phase ends and the manufacturing phase starts.

The satellite network operator should provide clear evidence of the completion of the Critical Design Review in accordance with the construction milestones indicated in the satellite manufacturing. The declaration, signed by the satellite manufacturing company and indicating the date of the completion of the Critical Design Review, should be available for inspection by the MRC.

4. Satellite launch agreement

The satellite network operator should provide clear evidence of a binding agreement to launch the minimum number of satellites required to provide a continuous service within the CEPT. The document should identify the launch dates and launch services and the indemnity contract. The document should be signed by the satellite network operator and the satellite launching companies and should be available for inspection by the MRC.

5. Gateway earth stations

The satellite network operator should provide clear evidence of a binding agreement for the construction and installation of gateway Earth stations that will be used to provide S-PCS within the CEPT. This document should be available for inspection by the MRC.

6. Launch of satellites

(a) The satellite network operator should make available for inspection by the MRC documents confirming the first successful satellite launch and in-orbit deployment.

(b) The satellite network operator of an NGSO system should also provide periodic evidence of subsequent launches and successful in-orbit deployment of satellites in the constellation.

Provision of documentation relating to (a) shall constitute compliance with this milestone.

7. Frequency coordination

The satellite network operator should submit to the MRC documents relating to the successful frequency coordination of the system pursuant to the relevant provisions of the Radio Regulations. However, a system which demonstrates compliance with milestones 1 to 6 inclusive is not obliged to demonstrate at this stage completion of successful frequency coordination with those S-PCS systems which fail to comply adequately and reasonably with milestones 1 to 6 inclusive.

8. Provision of satellite service within CEPT

Before 1 January 2001 the satellite network operator shall notify the MRC that it has launched, and has available for the provision of service, the number of satellites it previously identified under milestone 4 as necessary to provide continuous commercial service, and that it shall be providing commercial service within the CEPT using the frequency bands identified in the Table 2 of Annex 1 to the companion Decision ERCD-1.

## **ANNEX 4 Milestone Review Committee**

### 1. Terms of reference

The Milestone Review Committee (MRC) shall

- 1.1 monitor the compliance with the milestones by applicants, in a transparent and non-discriminatory manner, and in accordance with the procedures established in Section 2;
- 1.2 seek information as necessary from the applicants, on the compliance with the milestones;
- 1.3 make recommendations to administrations, ERC and ECTRA, upon examination of applications, on the compliance with milestones by S-PCS systems, and appropriate methods of handling of any difficulties arising, in order to assist administrations in offering authorisations;
- 1.4 make any modification and inclusion of new S-PCS systems, proposed by CEPT administrations, that are intended to be brought into operation before 1 January 2001 and that meet the initial criteria given in Note 1 to Table 2 of Annex 1 to ERCD-1, to the list of candidate systems in Table 2 of Annex 1 to ERCD-1;
- 1.5 establish a co-ordinated procedure within the CEPT, involving a number of administrations, for the monitoring of the spectrum utilised by S-PCS systems for the systems that have been implemented up to 1 January 2001, and make recommendations to administrations, ERC and ECTRA as necessary;
- 1.6 report on a regular basis to administrations, ERC and ECTRA on whether scarcity of frequency spectrum is likely to represent, at some point in time, a constraint on the number of S-PCS which can be provided within CEPT in the relevant bands, and propose the necessary measures to overcome any difficulties;
- 1.7 identify, as far as possible, any additional requirements of administrations which should be met by applicants and on which further information should be provided in the applications; this would allow it to prepare a standard format for the application form to be completed by applicants.

### 2. Working procedures

#### 2.1 Monitoring the compliance with the milestones

Annex 3 of this Decision as well as Annex 2 of ERCD-1 identifies the milestones relating to the introduction of S-PCS systems. The successful compliance with these milestones by the network operators concerned would allow CEPT administrations to decide on the assignment of frequencies to mobile Earth stations of the S-PCS systems. It would also allow administrations to

make certain decisions on the authorisations. The monitoring of compliance shall be carried out in accordance with the following procedure:

2.1.1 If a milestone or several milestones are achieved at the date stated by the applicant (“milestone date”), the MRC shall inform, in a timely manner, the ERC, ECTRA and the relevant administrations.

2.1.2 If a milestone is not achieved at the milestone date, the MRC shall communicate with the applicant seeking an explanation for the non-compliance within four weeks. The MRC shall send copies of the correspondence to the Chairmen of the ERC and ECTRA and the relevant administration.

2.1.3 When the MRC has received a response from the applicant, it will seek information from the applicant about a new date for this milestone and confirmation or adjustments of the dates for the following milestones. The response and dates, possibly revised, will be brought to the attention of relevant administrations.

2.1.4 In the event that:

either the four-week period expires without appropriate response from the relevant party,

or the MRC concludes that the explanation provided is not sufficient reason for failing to achieve the milestone date,

then the MRC shall advise the administrations of the treatment of the application noting that MRC advice should lead to the establishment of a co-ordinated position with the CEPT.

## 2.2 Monitoring of spectrum usage

The MRC shall establish a co-ordinated procedure within the CEPT, involving a number of administrations, for the monitoring of the spectrum utilised by all the satellites of S-PCS systems for the systems that have been implemented up to 1 January 2001. The MRC shall compare the spectrum utilised by the systems against the “minimum band” and “minimum requirements” identified in the Table 2 of Annex 1 of ERCD-1 and make recommendations to administrations on adjustments necessary to this Table. These adjustments may be to expand or to reduce the minimum requirements given in this Table. However, in making these recommendations, the MRC shall take due account of frequency compatibility within the S-PCS systems and with other radio services.

## 2.3 Monitoring of availability of frequencies

Taking into account the information made available to the MRC by the applicants and the results of the examination on compliance with milestones and monitoring of spectrum usage, as well as any frequency co-ordination efforts between operators, the MRC will assess whether and when scarcity of frequency spectrum is likely to become a problem.

### 3. Confidentiality

It is anticipated that the applicants seeking authorisation would offer confidential information relating to implementation of a S-PCS system and relating to its commercial operations either directly or indirectly to the MRC. The confidentiality of information provided by an applicant will be treated as such by the MRC. Pursuant to this, administrations will take all practical steps to limit the circulation of confidential material to those who need to see it.