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Information Society and Media Directorate-General

Communications Services: Policy and Regulatory Framework  
**Radio Spectrum Policy Group**  
**RSPG Secretariat**

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### **REPORT OF THE RECENT PUBLIC CONSULTATION REGARDING THE REVIEW OF THE R&TTE DIRECTIVE**

#### **1. PURPOSE OF THIS PAPER**

From 31st July to 30th September 2007 DG Enterprise and Industry launched a public consultation on the regulatory environment for radio and telecommunications terminal equipment in the European Union. It aimed at providing information to the Commission services for the Second Progress Report to the European Parliament and Council on the operation of Directive 199/5/EC on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (R&TTE Directive)<sup>1</sup>.

There were 55 respondents mainly manufacturers and national administrations. This paper focuses on questions particularly relevant for spectrum management. It must be noted that it is sometimes difficult to draw conclusions from the answers to the questionnaire, in particular when only a small number of respondents answer a specific question.

The results of the public consultation represent useful background information for the development of the RSPG Opinion on "Streamlining the regulatory environment for the use of spectrum".

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<sup>1</sup> All answers to the questionnaires were made available to Member States at the 24<sup>th</sup> meeting of TCAM Committee in October 2007.

## 2. MAIN RESULTS OF THE PUBLIC CONSULTATION ON THE REGULATORY ENVIRONMENT FOR RADIO AND TELECOMMUNICATIONS TERMINAL EQUIPMENT IN THE EUROPEAN UNION

The main tendencies appearing in the public consultation may be synthesized as follows:

### 2.1. Innovation and harmonisation

The majority of respondents consider that **radio regulations in the EU are not sufficiently harmonised for an effective single market**. The respondents clearly pointed out that **the implementation of the Directive between Member States and the use of the radio frequency spectrum have not been sufficiently harmonised**. There are also non-regulatory barriers that lead to fragmentation of the market (cultural, distribution channels, etc.). Moreover, **the use of the frequency spectrum is not sufficiently flexible to foster innovation**. It is expected that **spectrum harmonisation** (notable through implementing measures under the RSD) **will simplify the operation of the Directive**.

**Overall the EU market is considered attractive and conducive to innovation of radio technologies**. The slow agreement from Member States for spectrum use and the low number of radio spectrum harmonisation Decisions, the CEPT/ECC consensus based regime and the notification procedure under the R&TTE Directive are identified as the main bottlenecks to introduce new technologies. Divergence of EU requirements with those of other economies.

Mixed views are expressed on the fact that innovation is being delayed by the difference of EU requirements with those of other economies. Some of the examples mentioned where innovation was delayed are micro-FM transmitters, UWB, RLAN or WLAN (WiFi 802.11, WIMAX).

### 2.2. Flexibility of spectrum use versus internal market for equipment

A small majority of respondents seem to consider that tensions exist between flexibilising spectrum use and a single market for products. However comments expressed show that the crucial terms, such as harmonisation and flexibility, are not used by all respondents with the same meaning. For some respondents, this is a false question as in some cases market forces ensure a single market, whereas in others this is ensured by regulatory actions. Several respondents indicate that one way forward is the introduction of flexibility in a harmonised way in Europe.

### 2.3. Fostering efficient use of the spectrum by promoting polite techniques

A system should be designed that grants more advantageous conditions of use for equipment that implements advanced techniques to avoid interference. However some respondents point out the difficulty to define legally "polite techniques" as well as the need to define more precisely what the more advantageous conditions would be. The benefits of polite techniques seem overall more obvious for licence-exempt products than for licensed spectrum use.

#### **2.4. Others (scope of the Directive and alignment with the electronic communications framework)**

Regarding **benign equipment** (i.e. equipment unable to cause harmful interference), the majority of respondents believe that it should be excluded from the scope of the Directive. Some respondents suggest that "benign equipment" stay in the scope of the Directive, but that administrative requirements could be lighter below a certain level of emission.

There is a tendency to say that the Directive should not contain specific provisions for dealing with **cumulative effects**, but it is difficult to draw a firm conclusion due to the limited number of responses.

There is a need to align **terminology** of the Directive with related Community legislation such as the electronic communications package.