

**Amended proposal for a Decision of the European Parliament and of the Council on a Regulatory Framework for radio spectrum policy in the European Community <sup>(1)</sup>**

(2002/C 25 E/02)

(Text with EEA relevance)

COM(2001) 524 final — 2000/0187(COD)

*(Submitted by the Commission pursuant to Article 250(2) of the EC Treaty on 18 September 2001)*

**1. Background**

Transmission of the Proposal to the Council and the European Parliament (COM(2000) 407 — 2000/0187(COD)) in accordance with Article 175(1) of the Treaty

29 August 2000

Opinion of the Economic and Social Committee

24 January 2001

Opinion of the European Parliament — first reading

5 July 2001

**2. Objective of the Commission proposal**

The proposal establishes a policy and legal framework in the European Community in order to ensure co-ordination of policy approaches and, where appropriate, harmonised conditions with regard to the availability and efficient use of radio spectrum necessary for the establishment and functioning of the internal market in Community policy areas such as electronic communications, transport and research and development (R & D).

**3. Commission opinion on the amendments adopted by the Parliament**

3.1. *Amendments accepted by the Commission (1, 2, 4, 5, 6, 8, 17, 22, 23, 24, 25)*

Amendment 1, referring to Parliament's views on proposed next steps in radio spectrum policy following the 1998 Green Paper consultation.

Amendment 2 (in part) introducing stronger wording in relation to the definition and fulfilment of Community policy objectives with regard to radio spectrum.

Amendment 4 introducing a new Recital which calls upon the Member States to ensure that the allocation and assignment of radio spectrum is based on objective, transparent, non-discriminatory and proportionate criteria, taking democratic, social and cultural interests into account.

Amendment 5 on the need for Community co-ordination of positions agreed at national level with regard to radio spectrum policy issues.

Amendment 6 calling for transparency in consultation activities.

Amendment 8 calling for Community co-ordination on radio spectrum policy issues.

Amendment 17 adding safety and the (non)availability of communications means other than radio as factors to be taken into account in Community decision-making.

Amendment 22 was withdrawn at the EP Plenary.

Amendment 23 originally referred to mandates to the European Conference of Postal and Telecommunications administrations (CEPT) in areas which fall within its remit. However, the latter part of this sentence is suppressed in the adopted compromise amendment (i.e. merging the original amendments 19, 23 and 20), which, as such, is not acceptable.

Amendment 24 introducing a new paragraph calling for the consideration of regional aspects in radio spectrum policy making.

<sup>(1)</sup> OJ C 365 E, 19.12.2000, p. 256.

With regard to the public availability of information related to radio spectrum, amendment 25 details the text of the Article 7, and deletes the Annex to the original proposal.

*3.2. Amendments accepted in part or principle by the Commission (3, 7, 9, 11, 12, 13, 20)*

The Commission can accept in principle amendment 3 subject to the following rewording to be placed at the end of Recital 2: 'Radio spectrum policy in the Community should contribute to freedom of expression, subject to relevant national and international measures.'

With regard to the reporting to the European Parliament and the Council as regards the application of the Decision, the Commission can accept in principle amendment 7 in the understanding that both institutions will take formal positions on the activities pursued under the Decision.

The Commission can accept in principle the suggestion in amendment 9 that there is a need to establish priorities between military and civil use of radio spectrum but prefers the following rewording: 'There is a need to achieve an appropriate balance between the use of radio spectrum for, on the one hand, public order and public security purposes and defence, and, on the other hand, civil purposes. In view of this objective, all harmonisation initiatives based on the Decision have to take into account the possible impact on all user communities. The delegations of the Member States in the Radio Spectrum Committee should therefore present a nationally consolidated position on radio spectrum policy issues, arrived at through domestic consultation of all concerned parties, including those responsible for public security, public order and defence.'

The Commission can accept amendment 11 subject to the following rewording: 'In view of the general aims of harmonisation and more efficient use of spectrum in the Community and in Europe, the availability of such information needs to be harmonised at a European level in a user-friendly manner.'

With regard to the negotiations at World Radiocommunications Conferences, the Commission can accept in principle amendment 12 subject to the following rewording: 'The Commission participates in the work of the European Conference of Postal and Telecommunications administrations (CEPT), that prepares European proposals for such conferences, with the aim to ensure that the Community's interests are appropriately taken into account in the preparations and negotiations. This was achieved at the conferences of 1995, 1997 and 2000 and the existing mechanisms for co-operation will therefore be used in view of the forthcoming conference in 2003.'

The Commission can also accept the latter part of the same amendment subject to the following rewording: 'For such international negotiations, the Commission should inform the Council and the European Parliament whether Community policies are affected, in view of obtaining endorsement by Council on the Community policy objectives to be achieved and on the positions to be taken by the Member States at international level.'

The Commission can accept in principle the first part (paragraph a) of amendment 13 subject to the following rewording: 'In order to meet this aim, this Decision establishes procedures in order to: (a) facilitate policy-making with regard to the strategic planning and harmonisation of the use of radio spectrum in the Community taking into consideration inter alia economic, safety, health, public interest, freedom of expression, cultural, scientific, social and technical aspects of Community policies as well as the various interests of radio spectrum user communities with the aim of optimising the use of spectrum and of avoiding harmful interference.'

The Commission would have accepted amendment 20 in its original form since it referred to the use of an advisory committee procedure for the approval of mandates to the CEPT. However, the compromise amendment (merging the original amendments 19, 20 and 23) refers to the use of a regulatory procedure, which cannot be accepted (see section 3.3 below).

### 3.3. Amendments not accepted by the Commission (10, 14, 15, 16, 18, 19, 21)

Amendments 10 and 21 suggest that all decisions on harmonisation measures should be adopted under the Community legislative procedure, i.e. co-decision, whereas the Commission's proposal comprises the use of comitology procedures where necessary to implement agreed Community policies. These amendments also suggest that Parliament be given a veto on the results of mandates to the CEPT and on the measures taken in comitology, which would go against the inter-institutional agreement on comitology. These amendments are therefore not acceptable.

Amendments 14 and 15 suggest to modify internationally agreed and applicable definitions, which is not acceptable.

The Commission agrees with the principle that the Parliament should be informed about and, where appropriate, be involved in consultations on Community radio spectrum policy issues. However, amendment 16 on Parliaments involvement in the Senior Official Radio Spectrum Policy Group would be too far reaching and can therefore not be accepted.

Amendment 18 is not acceptable because it is incorrect in that the committee will not implement, but rather develop and adopt harmonisation measures, to be implemented by the Member States.

Although certain elements in amendments 20 and 23 could have been accepted in principle by the Commission, the adopted compromise amendment (merging the original amendments 19, 20 and 23) could not be accepted for the following reasons. The compromise amendment suggests that a Senior Official Radio Spectrum Policy Committee will be created, which is not the case. The amendment also suggests that the Commission shall always propose measures to the Parliament and to the Council, which is, however, only the case where such proposals would go beyond the adoption (in comitology) of technical implementing measures. The amendment further stipulates that the CEPT will always receive mandates in the development of technical implementing measures, which is, however, only the case in areas where the CEPT is competent, i.e. with regard to frequency allocation and information availability. The amendment is also not acceptable because it proposes to approve mandates by the committee in accordance with a regulatory procedure, which would mean a departure from current practice under Community legislation and which would be illogical, considering that a regulatory procedure is normally used to approve measures which the Member States need to implement.

### 3.4. Amended proposal

Having regard to Article 250, paragraph 2, of the EC Treaty, the Commission modifies its proposal as indicated above.

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