Cable Europe contribution to European Commission Public Consultation/Call for Input in preparation for the Radio Spectrum Policy Programme

9 April 2010

Introduction

The importance of spectrum in the discussion of Europe's economic recovery is fundamental to European connectivity. Keep Europe connected and continue to build on this and we can imagine progress. Without connectivity, business stops.
As a matter of introduction to our views, we call on the European Commission to give the issue of LTE interference a prominent position in the upcoming radio spectrum policy programme. We also encourage the European Commission to urge Member States to consider the following spectrum related actions:

1. Include a protection clause in the spectrum auctions rulings and /or to set up a fund with the proceedings of the auction

2. Pro-actively engage in assessing the impact for all devices affected by interference in the Digital Dividend sub-band (all consumer equipment with tuners / receivers, special events equipment and other concerned devices)

3. Properly manage the flexible use of spectrum to reduce the risk of LTE interference (not restricted to the 800 MHz band)

Holistic approach

Cable Europe agrees that radio spectrum policy is not only a matter of strategic importance for the European Union but forms the foundation for the information networks vital to the European economy. Seeking to put forward a Digital Agenda without a spectrum policy that allows for innovation in existing services while providing margin for new services would fall short of more far-reaching goals of growth and regeneration at a time where it is needed most for Europe.

We call on the European Commission to not only aspire to a holistic approach but to also carefully consider the impact of changes for the entire set of communities who rely on the smooth functioning of networks across the European spectrum horizon. We made our views more explicitly at the recent Spectrum Summit of March 22-23rd.

Coexistence and efficiency

Evolutions in European spectrum policy represent opportunity for all. The cable industry, in particular, is growing and will continue to invest at high levels in its networks. As our networks evolve, we will keep innovating where our services are concerned. Whether it be more interactive services or wireless broadband provision, the cable industry will need wireless spectrum to achieve the kind of innovation that has underscored our role as an alternative provider to industry incumbents. Markets where cable is present in the EU tend to show higher penetration levels. Broadband penetration in active Cable markets is not only significantly higher than in DSL-dominated countries (+30% in Western Europe, +50% in CEE countries); high penetration rates are also reached much faster.

Cable Europe would like to underscore the importance of infrastructure based competition and the benefits it brings to the EU. Coexistence of different service providers who are able to compete fairly will help to drive greater efficiency where spectrum use is concerned. A precondition for maintaining and building upon our current status as an alternative provider is the efficient use by all of spectrum and the important goal of coexistence of spectrum use with existing fixed and other services in the marketplace in order to maximise the amount of potential services to be offered and encourage innovation. **Providing services that hinder existing services is a form of inefficiency that will need to be addressed appropriately at both EU and member state level** in any successful spectrum policy programme.

The significant problems caused by LTE interference that have been identified and discussed at high level by EU and national decision makers point to a trend of interference from new spectrum use to existing services. These problems also make clear that **effective EMC guidelines and spectrum policy are becoming increasingly interdependent**. The spectrum policy programme should take this into account by intertwining EMC policy and radio spectrum policy.

Impact assessments, managing change

Any future policy framework that seeks to continue work on a truly single market will need to be future-proof and include EU mechanisms to manage any problems, foreseen or otherwise. The need for adequately thorough impact assessments at both EU and member state level will help to reduce the risk of difficulties in managing the great changes that will help propel Europe’s economy to compete on an international scale.

Spectrum’s role in Europe’s economic recovery should not be underestimated. Those interested in acquiring licenses to use it will do so with the goal of growth in mind. Conversely, those who have limited access or inhibited use of spectrum will have their prospects for growth placed at significant risk in a time where recovery is an agenda topping aim.

Cable Europe regrets that the issues for consideration in the public consultation do not actually address making spectrum work for a wide array of economic actors. We observe that while large pieces of spectrum are set to be distributed, the EU should work on an ambitious radio spectrum policy programme with a strong conceptual framework that energizes existing users of spectrum and provides opportunities for new entities to benefit from spectrum use in different capacities.

Economic recovery and growth

The importance of coherent spectrum policy is enormous given the collective will to push high speed broadband further across Europe but we reiterate here the need for thorough impact assessments to ensure that the growth is sustainable rather than hindering any existing services. Cable Europe’s members have over 20 million broadband consumers and our goal of growing this number is in line with the EU agenda to ensure there is broadband for all. **Thorough impact assessments** will help to reduce risks and maximise the attractiveness of joining the race to roll out faster broadband to Europeans. [**Q1, Q2**]

As regards already allocated spectrum **we do not find that there is sufficient reason to seek minimum amounts of spectrum to be assigned by a specified date** given the need to properly assess national considerations and circumstances in the marketplace, including the significant problems caused by LTE interference issues that have been identified and discussed at high level by EU and national decision makers. [**Q3**]

The provision of wireless broadband services is important but further action by the EU to ensure the complete transition to low/medium power use of the 800MHz band should be prescribed only in the case of a market failure. National coverage obligations should not be attached to these spectrum usage rights in order for smaller companies and competitors to enter the market. The condition of coverage obligations in this important market could amount to a market entry barrier. Usage of the digital dividend frequencies for mobile services in rural areas only could be positive since this, together with other actions, could help to limit the interference problems in urban areas. [**Q4**]

Social inclusion, Services for citizens

There is significant discussion of how broadband services should contribute to the digital divide. The way in which wired, terrestrial wireless and satellite services can best contribute to addressing Europe's digital divide is by being given the best opportunity for true infrastructure based competition. Also, **the EU should adopt a technology neutral approach**.

Specific targets of broadband are set in EU2020 but many different providers in the market can provide similar services and as such should be encouraged to compete. It is not a recommended approach to allocate specific frequencies to a specific technology on the idea that rural areas are inadequately served. While bridging any digital divide in Europe is absolutely crucial, it would be a significant disadvantage for the greater European recovery to push industrial policy at the expense of Europe's forward looking and market driven policies. [**Q5**]

Ensuring that citizens get high quality and easy access to broadcasting content will be best handled by letting market forces do their job. If providers offer easy to access and high quality content, the customers will come.

The broadcasting content offered by various distribution platforms is offered in a fierce competitive television market throughout most of Europe. The competition has increased in the last few years by inter alia transition from analogue to digital terrestrial networks, increased capacity in satellite systems and deployment of new and/or upgraded broadband (IP-TV through fibre and coax) platforms. To ensure advanced, easy and affordable access to a wide choice of high-quality broadcasting content, it is important that the EU refrains from regulating NGA networks and tv-distribution platforms that by market driven deployment and constant upgrading contribute to a functioning competition that will increase the high-quality and affordable broadcasting content offered to consumers. Otherwise the investments in new tv-content and high speed networks will be reduced or even be in risk of stopping.

Platforms across Europe are indeed competing and investing in networks has emerged as a competitive instrument as higher quality networks allow new and better services including HD, 3D, VOD and in turn attract new customers. One third of the cable industry's subscriber base is using a digital product. Allowing the remaining two thirds of customers to benefit from a higher quality digital experience requires continued access to spectrum and an investment friendly environment that reduces any avoidable risk of existing services being able to exist with new ones.

Any policy to encourage further access to high quality content should not cannibalize existing service provisions built upon significant investments in Europe's competing infrastructures. [**Q6**]

Effective coordination at international level and negotiations with third countries

The European institutions and the European Commission in particular are in an ideal role to coordinate a singular and streamlined negotiation stance at WRCs. However, if the EU is to truly represent its constituents at the World Radio Conference, it should be sure to consult widely – and represent widely. A point was made on numerous occasions at the recent Spectrum Summit that changes in spectrum policy should not produce victims or any parties who would be left at a significant disadvantage. Coordination with the WRC must take into account mitigation techniques that allow for better coexistence of existing and new services. [**Q13**]

Refarming and competition

Flexibility in the use of spectrum makes good business sense if it can enable the promotion of true innovation rather than stifling it. In the case of allowing new services in spectrum already being used, it is vital to have appropriate mechanisms that will best manage the delicate balance of coexistence for existing as well as new services. In the case of potential widespread LTE interference with a multitude of existing services in the 800MHz band, **there needs to be EU-wide discussion on a potential state fund** based on proceeds from spectrum auctions to be set up to manage the costs that will be incurred by the 'polluting' actor. Such a fund would require wide-ranging consultation to ensure that member states as well as the service providers in the various markets are treated fairly. [**Q15**]

Smaller players should be allowed and encouraged to enter the market whenever possible. Future policy needs to consider how to ensure that smaller amounts of spectrum are available for new entrant type players/activity. Without such a consideration, equal access to spectrum regardless to size will not be possible and could prove damaging to the competitiveness of the ICT market. [**Q16**]

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About Cable Europe

Cable Europe is a trade association that groups all leading broadband cable TV operators and their national associations throughout Europe. The aim of Cable Europe is to promote and defend the industry's policies and business interests at European and international levels, and to foster cooperation among its members. The European cable TV industry services more than 94 million broadband, TV and telephony subscriptions throughout the EU 27.

The European Cable industry serves about 72m households and generates a turnover of €17.5bn. With ongoing high level investments into European networks, the European Cable industry has evolved as a key interlocutor in the debate on the future of the European entertainment and communication markets.

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