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DER LANDESMEDIENANSTALTEN

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THE STATE MEDIA AUTHORITIES

CONFERENCE DES DIRECTEURS
DES INSTANCES DE REGULATION
DES MEDIAS DES LÄNDER

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Reply to the Call for Input in Preparation of the Radio Spectrum Policy Programme

The Directors' Conference of the German Regulatory Authorities for Private Broadcasting (DLM) welcomes the opportunity to reply to the Commission's Public Consultation in preparation of the Radio Spectrum Policy Programme (RSPP).

DLM has been actively involved in the digitisation of the German TV market and is currently carrying out a number of pilot projects to use UHF frequencies from the digital dividend in different rural areas (Baden Württemberg, Brandenburg, Bayern, Hessen, Niedersachsen, Nordrhein-Westfalen, Thüringen, Sachsen). The important role DTT plays for media pluralism and democracy as it constitutes the only independent transmission infrastructure, and the goal to achieve 100% coverage with high speed internet in order to provide access are of major concern to the German Media Regulators. DLM therefore likes to contribute actively to the discussion process preceding the legislative proposal of the first RSPP and thereby focus on the questions which relate to the above mentioned issues (questions 1, 4, 5, 6, 17).

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Question 1: Achieving fast and affordable broadband access for citizens and business

DLM agrees with Commissioner Kroes that good networks and broad coverage with high speed internet are preconditions for getting Europe back on track for economic recovery and growth. A sustainable and transparent coordinated broadband strategy needs to define the minimum transmission capacity for fast Internet in the first place. **The RSPP should lay down that broadband for all is defined as access to a minimum bandwidth of 50%Mbps.**

In order to achieve this goal, it is not appropriate to reduce the question of 100% broadband roll out to the use of the digital dividend, as the Commission's consultation in Question 1 seems to indicate. As already underlined during the spectrum summit by honoured Members of Parliament, sustainable coordinated spectrum policy needs to consider the whole picture. The current experience in Germany has shown that mobile broadband via spectrum can be a short term intermediate solution to deliver internet access to underserved areas. In the long term, however, it will only rarely be suited to offer an economically (requirement to roll out a dense network of new and costly transmitters) and ecologically ("electro-smog" due to the increased number of new transmitters) long term solution for delivering **fast** internet access for all. Given the constraints of wireless transmission and considering the available capacities of cable-based networks using the precious UHF spectrum for the roll out of the internet is not the only and optimum long term solution to close the digital divide and to foster economic growth. The RSPP should therefore provide sufficient flexibility for Member States and companies to decide on or eventually promote a technology mix of different infrastructures including cable, high fiber networks, satellite and spectrum depending on which will be able to offer sustainable access to the internet in terms of sufficient bandwidth at affordable prices for the consumer.

In conclusion, DLM - for the reasons mentioned above and on the basis of its current experiences in Germany - doubts that the use of digital dividend will be the most appropriate infrastructure to boost a sustainable and economically viable roll out of fast and affordable internet for all. Spectrum-supported mobile broadband is still an emerging technology and has not been tested by the market. However, with the re-allocations already planned in some Member States in the 800 MHz sub-band a sufficient amount of spectrum will be made available to offer options for new market developments and business models. **In order to make sure that the scarce spectrum is used efficiently, its allocation and the performance of the companies who use these frequencies should be made subject to a**

regular monitoring and control in terms efficiency according to Art. 9 (1) of the Better Regulation Directive. In particular, no further coordination of the scarce UHF spectrum below 790 Mhz should be envisaged before an reliable evaluation of the outcome of these results is possible.

Question 4: Further action to ensure the complete transition of the 790 -860 MHz sub-band to low/medium power use / Need for obligations attached to the spectrum usage rights

The transition of the 790 -860 MHz sub-band to low/medium power use will have a negative impact on the provision and reception of broadcasting services in adjacent spectrum sub-bands. First pilot projects in Germany have shown that these interferences will be important and that the minimum harmonisation proposed by the draft CEPT reports (Draft ECC Report LTE TG 4 (10) 329 Annex 03) will not be sufficient to avoid these interferences in all Member States due to different preconditions in these countries. Transition will also cause migration and allocation costs for the former user of these frequencies, namely for broadcasters.

If the European legislator opts for a EU-wide release of the 800 MHz sub-band for other than broadcasting services, the most important framework conditions accompanying this release should apply throughout the EU to ensure a level playing field for all companies. **The RSPP should include the obligation for Member States to ensure that migration the costs and the responsibility to avoid interference with broadcasting or other existing services in adjacent bands will be imposed on those who cause those costs, that is the new users of the 800 MHz spectrum rights.**

Question 5: Bridging the digital divide

As already mentioned under Question 1, only 100% broadband coverage with sufficient high transmission capacity of minimum 50 Mbps can close the digital divide and make Digital Europe a reality. It is necessary to define in the RSPP “broadband for all” in these terms of minimum speed and coverage.

Broadband access can be delivered via a variety of different - fixed and mobile - infrastructures, like cable, high fibre networks, satellite and spectrum. The RSPP should provide sufficient flexibility for Member to decide on and eventually promote a

technology mix of the different infrastructures to fit the different conditions encountered in different areas and to ensure a fast internet access with sufficient bandwidth for everyone.

Question 6: Access to content

One of DLM's main tasks is to ensure content diversity and pluralism of expression so that radio and television broadcasting can fulfil its function in a democratic and pluralistic society as a medium for, and a factor in, forming public and private opinion. DTT plays an essential role in achieving this goal. It provides universal coverage of broad and diverse broadcasting content at affordable prices to consumers. At the same time it ensures infrastructure competition with the competing cable and satellite infrastructures and has thereby a price controlling effect for the benefit of consumers.

DLM attaches high importance to the legal rules of the revised Telecom Package as the determining basis for a first RSPP. **In accordance with - in particular - the rules set out under Art. 9 ff. of the Better Regulation Directive and with Article 1 (4) of the Spectrum Decision, the RSPP should enshrine the important role that the UHF spectrum, in particular the sub-band below 790 MHz, plays as a public good to execute Member States' audiovisual media policies. Furthermore, it should be made clear that the use of the 800 MHz band for new services should first be tested by reality, that is by the markets before any further coordination of spectrum management below 790 MHz is envisaged.**

Question 17: Spectrum trading

According to Article 9b (3) of the Better Regulation Directive, spectrum trading does not apply to frequencies which are used for broadcasting.