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Brief introduction to the ministry of Industry, Tourism and Trade as the ministerial body in Spain responsible for telecommunications in general, and for every subject related to radio communications.

### **Regulation of Radiocommunications services**

The allocation and management of radio spectrum is administered by national administrations, as radio spectrum remains principally the responsibility of Member States, which manages spectrum at national level and are responsible for international coordination. But spectrum authorities must work within the harmonised framework established at international and european level.

Global allocations of radio spectrum are agreed at the ITU WRCs. Outcomes of WRCs have Treaty status. The Radio Regulations, Edition of 2008, contains the complete texts of the Radio Regulations as adopted by the World Radiocommunication Conferences.

EU radio spectrum policy aims to coordinate spectrum management approaches across the Union with the main objective of supporting the internal market for wireless services and to foster innovation. The Radio Spectrum Decision is the main instrument for the coordination of spectrum management in Europe.

EU regulations addressing the availability and efficient use of radio spectrum:

- Directives on Electronic Communications Networks and Services (concerning the use of radio spectrum for providing EC services, rights of use are granted on the basis of these Directives.
- Radio Spectrum Decision (coordination of policy approaches with regard to the availability and efficient use of radio spectrum.
- Equipment regulation (RTTE and EMC Directives) (Regulate the requirements that equipments must comply in order to be placed on the market and be used).

## **Review of the regulatory framework for electronic communications networks and services**

The main objective of the reform of spectrum management is to introduce more flexibility, removing unnecessary restrictions on spectrum use and facilitating the access to spectrum usage rights.

There is a common agreement (Commission, European Parliament, Council, Member States, ...) on the need to introduce greater flexibility in the use of spectrum, and that the introduction of higher flexibility will be beneficial for the whole Europe. But the debate is focused on the appropriate degree of flexibility and on the way these principles should be introduced and the deadline necessary for doing that.

### **Current situation in Spain**

In Spain, the General Telecommunications law (Law 32/2003, of 3rd November 2003), establishes that radio spectrum is a public domain good, which management, planning and control corresponds to the State. Royal Decree 863/2008, of 23th of May, approves the regulation of development of the General Telecommunications Law, with regard to the use of the radio spectrum. Other important pieces of the regulation are the National Table of Frequency Allocations, and the Radio and Television Technical Plans.

The new regulation on radio spectrum management that was enacted in May 2008 was adopted with the aim of fostering innovation and investment. In the development of this regulation, that must allow a more effective and efficient management of radio spectrum, the trends established in the proposal of a new regulative framework on the electronic communications under debate at that moment in the European Union were taken into account. Access to spectrum resources is facilitated through secondary trading, and a more flexible use of frequencies is possible through the introduction of technological and service neutrality. Spanish legislation initially allows transfer of spectrum rights of use in a limited frequency bands only, and the Ministry has the capability of adding new frequency bands. The objective is to allow a smooth transition from current situation that prevents an undue distortion of competition.

### **Introduction of higher flexibility**

- Introducing a higher flexibility by means of the technology and service neutrality principle, and promoting secondary trading will be beneficial. However it is important that the regulatory process maintain confidence and ensure clarity and certainty, and it is essential that existing rights holders have a secure basis to maintain and develop new services, and that technical regulations for new services guarantee an adequate protection of existing services.
- Technological and service neutrality as well as secondary trading should be introduced in a gradual way in the agreed frequency bands. The introduction of these principles are not an objective in itself, but rather a means to reach the goal of an efficient management of radio spectrum.
- Introduction of secondary trading, should be initially focused on the frequency bands which present minimum risks and where more potential benefits are expected Spectrum trading can be expected to promote competition and will facilitate faster spectrum access for innovators and new players and for existing operators the opportunity to sell unused or underused spectrum. However, the introduction of secondary trading does raise concerns that relates to anti-competitive behaviour, spectrum hoarding, spectrum fragmentation and interference control.
- Radio spectrum is essential for the provision of electronic communications services and limiting access to radio spectrum resources can make impossible the entry of new operators in the market. When sufficient spectrum resources are available there are not spectrum related competition problems.
- With the aim to ensure the efficient use of radio spectrum and avoid competition distortion as a result of the accumulation of rights of usage, it is considered necessary the previous authorisation of the spectrum authority for the transfer of certain rights of use.