

Commission Decision of 20 December 2005 on the harmonisation of the 169,4-169,8125 MHz frequency band in the Community (notified under document number C(2005) 5003) (Text with EEA relevance) (2005/928/EC) (repealed)

COMMISSION DECISION

of 20 December 2005

on the harmonisation of the 169,4-169,8125 MHz frequency band in the Community  
(notified under document number C(2005) 5003)

(Text with EEA relevance)

(2005/928/EC) (repealed)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision)<sup>(1)</sup>, and in particular Article 4(3) thereof,

Whereas:

- (1) Council Directive 90/544/EEC of 9 October 1990 on the frequency bands designated for the coordinated introduction of pan-European land-based public radio paging in the Community (the ERMES Directive)<sup>(2)</sup> was repealed on 27 December 2005 by Directive 2005/82/EC of the European Parliament and of the Council<sup>(3)</sup>. That Directive required Member States to designate in the 169,4 to 169,8 MHz radio spectrum band four channels for the pan-European land-based public radio paging service (hereinafter referred to as 'ERMES') and to ensure that ERMES services occupy, as quickly as possible, the whole of the 169,4 to 169,8 MHz radio spectrum band according to commercial demand.
- (2) The use of the 169,4 to 169,8 MHz radio spectrum band for ERMES in the Community has decreased dramatically or even ceased altogether, with the result that this radio spectrum band is not being efficiently utilised by ERMES and could therefore be better used to fulfil other Community policy needs.
- (3) Pursuant to Article 4(2) of the Radio Spectrum Decision, the Commission issued on 7 July 2003 a mandate to the European Conference of Postal and Telecommunications Administrations (hereinafter referred as 'CEPT') to collect information on the current and future possible applications of the 169,4 to 169,8 MHz band, to identify a list of alternative options for the use of the radio spectrum band and in particular those which are not related only to traditional electronic communications. The CEPT was asked to evaluate, for each possible application, co-existence between various applications and the possibility of using alternative radio spectrum bands, in line with the principles

of the Framework Directive. The radio spectrum band, which is already partially harmonised, is appropriate for certain applications related to the establishment and functioning of the internal market in a number of Community policy areas, among which some are likely to benefit disabled people or assist justice and home affairs collaboration in the European Union.

- (4) Article 8(4) of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for the electronic communications networks and services (Framework Directive)<sup>(4)</sup> requires Member States to promote the interests of European Union citizens by inter alia addressing the needs of specific social groups, in particular hearing impaired persons and persons requiring urgent assistance.
- (5) Based on technical investigations and on collection of information, the CEPT confirmed that despite the adoption of Directive 90/544/EEC, the use of this radio spectrum band for ERMES has remained very limited and that the need for radio messaging or paging systems has changed in Europe as the functions thereof have been replaced by other technologies such as short messaging systems (SMS) over GSM.
- (6) The designation of parts of the 169,4 to 169,8 MHz radio spectrum band for ERMES should therefore be modified in the Community in order to ensure more efficient use of this radio spectrum band, while preserving its harmonised character.
- (7) As mandated, the CEPT has produced a new frequency plan and channel arrangement allowing six types of preferred applications to share the radio spectrum band from 169,4 up to 169,8125 MHz, in order to meet several Community policy needs. These needs include assistance through the use of hearing aids to persons suffering from hearing disability, for whom a harmonised radio spectrum band in the Community would improve travelling conditions between Member States and reduce equipment prices through economies of scale; the development of the internal market for social alarms, which allow elderly or disabled people to send alarm messages for assistance, asset tracking or tracing devices, which would assist in tracking and recovering stolen goods across the Community, meter reading systems used by water and electricity utility companies; and existing paging systems such as ERMES as well as private mobile radio systems (PMR) when employed for temporary use, to assist in the coverage of special temporary events for a period of a few days up to a few months.
- (8) The results of the mandate to the CEPT, which the Commission regards as satisfactory, should be made applicable in the Community and implemented by the Member States. The remaining ERMES and/or PMR authorisations which are not in conformity with the new frequency plan and channel arrangement should be allowed to remain unaffected until their expiry or until ERMES and/or PMR applications can be moved to the appropriate radio spectrum bands without excessive burden.
- (9) When allowing access to radio spectrum the least onerous authorisation system should be used, in accordance with Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive)<sup>(5)</sup>, including absence of individual rights of use.

- (10) Without prejudice to the fact that spectrum requirements of specific policies may require exclusive frequency designations, it is generally appropriate to propose as generic allocations as possible for radio spectrum bands so as to steer their usage only by defining specific usage constraints such as duty cycle or power levels, and to ensure through harmonised standards recognised under the Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity<sup>(6)</sup> that equipment operating in the allocated radio spectrum minimises use of the radio spectrum in a way to avoid harmful interference.
- (11) Coordination of channels in the high power part of the 169,4 – 169,8125 MHz band between neighbouring countries will be ensured by bi- or multilateral agreements.
- (12) In order to ensure effective use of the 169,4 to 169,8125 MHz band also in the longer term administrations should continue with studies that may increase efficiency, in particular the utilisation of the identified guard band.
- (13) The measures provided for in this Decision are in accordance with the opinion of the Radio Spectrum Committee.

HAS ADOPTED THIS DECISION:

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*Status: This is the original version (as it was originally adopted).*

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- (1) [OJ L 108, 24.4.2002, p. 1.](#)
- (2) [OJ L 310, 9.11.1990, p. 28.](#)
- (3) [OJ L 344, 27.12.2005, p. 38.](#)
- (4) [OJ L 108, 24.4.2002, p. 33.](#)
- (5) [OJ L 108, 24.4.2002, p. 21.](#)
- (6) [OJ L 91, 7.4.1999, p. 10.](#) Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council ([OJ L 284, 31.10.2003, p. 1.](#)).