



TO: [berec@ec.europa.eu](mailto:berec@ec.europa.eu)

RE: Draft 2011 BEREC Work Programme

5 November 2010

The European Satellite Operator's Association (ESOA), representing the satellite communications sector as part of the space industry,<sup>1</sup> and a major user of radio spectrum within the EU, is pleased to submit its views on the draft work programme 2011 of BEREC.

We would like to welcome the creation of BEREC as a formalised platform of national regulators under the new Electronic Communications Regulatory Framework ('Telecoms Package') bringing up new competencies and a central role in providing expertise and guidance on EU policy matters that are critical to our industry, in particular as regards the promotion of broadband and radio spectrum management priorities. As an industry stakeholder, we wish BEREC success in this new endeavour and we welcome the transparency and the fact that both a hearing and a consultation have been organised, inviting external views.

On spectrum matters, ESOA would very much encourage BEREC to rely on its close cooperation with RSPG to press for a fair treatment of all spectrum users, in light of their respective role to achieve the European Digital Agenda.

On the EU broadband policy, the coverage of all remote and sparsely populated areas in Europe is fundamental, and this highly depends on a mix of technology. ESOA would appreciate that BEREC contributes to defend the cause that no one technology is favoured over others to achieve the EU broadband goals (no discrimination).

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<sup>1</sup> **ESOA** is a non-profit European organisation established with the objective of serving and promoting the common interests of European satellite operators. The Association is the reference point for the European satellite operators industry and today represents the interests of 11 satellite operators who deliver information communication services across the globe. More information is available from: [www.esoa.net](http://www.esoa.net) ESOA members are: Astrium Services, Eurasiasat, Eutelsat, HellasSat, Hispasat, Inmarsat, Intelsat, SES, SES Sirius, Telenor Broadcasting Holding and Telespazio. Arianespace, Astrium Satellites, Avanti, International Space Brokers, Mansat, Newtec, Solaris Mobile, Thales and Willis are Supporting Members of ESOA

ESOA also believes that BEREC may help promoting the European space policy that is such a strategic and promising industry, especially for the development of global electronic communications within Europe but also between Europe and the rest of the world.

We have selected items on the proposed list which are critical for the satellite sector and comments on each of these can be found in the attachment to this letter.

ESOA and its members are reaching out to BEREC and are looking forward to a continued, fruitful dialogue and co-operation.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Aarti Holla-Maini', with a stylized flourish underneath.

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# Satellite Industry comments on selected BEREC 2011

## Draft Work Programme Items

### Introduction

Satellite companies use their satellites to deliver a full range of services including among others: broadcast and other program distribution; broadband; maritime; aeronautical; government and emergency communications; telecommunications and private data networks, mobile fleet / traffic management and telemedicine. In particular, satellite has been at the forefront of digital TV & high definition television (“HDTV”) development and should also be considered as one of the best platforms for the further growth of HDTV and the development of 3-D and interactive on demand digital services in Europe. Taking advantage of the high reliability of their infrastructure, European satellite operators have also long used their networks to connect Europe and the world during the most difficult man-made and natural disasters. Furthermore, satellite is the only available means of communications able to efficiently and immediately deliver broadband to all underserved or un-served areas of Europe.

The face of today’s world is changing as countries are increasingly confronted with disasters, safety and security concerns, economic pressure, environmental issues and social disparity. The EU 2020 strategy thus notes at its outset: “Europe faces a moment of transformation”, stressing the need for ‘an economy based on knowledge and innovation’ and ‘smart, sustainable, inclusive growth’ and flagging up energy and resource efficiency; connectivity for all; and a greener and more competitive economy.

We would like to draw the attention of BEREC that satellite communications can highly contribute to the achievement of these objectives in Europe. The top-level features that underpin this conviction are:

- Demonstrated sustainable innovation and growth for the whole space value chain through private investment with limited or no impact on the taxpayer’s money;
- Existing network of satellites already in place and soon to be launched capacity to enable immediate connectivity for the lowest overall targeted public investment;
- A network that is called upon globally at times of disaster due to its resilience;
- A technology that operates in outer space using solar energy over a period of around 15 years with electromagnetic signals arriving on earth measuring only a few Pico watts; and
- The robustness and reliability of a sector that has shown stability even through the economic crisis, based on essential services and long-term contracts.

In order to provide this contribution, satellite operators need to secure their access to radio spectrum. In the context of the discussions on the proposed Radio Spectrum Policy Program (RSPP), and as part of the implementation of the Telecoms Package at national level, satellite operators consider the following spectrum items of high priority for the sector:

- EU and NRAs to support harmonised spectrum across the EU for satellite services and the need to recognize, respect and defend ITU frequency allocations;
- EU and NRAs to refrain from changes to spectrum allocation / assignment practices which cause harmful interference to satellite services, degrade their 'technical quality of service' or which in effect remove ITU allocated satellite spectrum altogether.

## **Spectrum Policy Priorities**

ESOA is pleased to note that BEREC has strengthened its cooperation with RSPG. The EU spectrum policy is to be defined taking the utmost account of the RSPG opinions when setting up spectrum related priorities, be it for the EU internal market or for external relations.<sup>2</sup>

ESOA considers it critical that the EU has an opportunity to listen to all radiocommunications players carefully<sup>3</sup>, and indiscriminately, particularly in relation to the practical implementation of the neutrality principles, the promotion of flexibility in spectrum management and the definition of European priorities at international level. These are highly relevant and controversial subjects for the entire satellite industry sector if the protection of spectrum allocated to it by the ITU were to be compromised without giving due account to adequately protection against harmful interference or degrading of the quality of service.

ESOA would very much appreciate BEREC's assistance to help ensuring that full competition between communications platforms is guaranteed by taking due account of the potentially conflicting needs of spectrum users, ensuring a fair, non-discriminatory and proportionate approach. This is what 'Technology Neutrality' ought to really mean: that all radio platforms can deliver proper services under sound technical conditions, considering the technology specifics.

ESOA notes that in promoting the introduction of more flexibility in allocating frequency bands, the protection of existing and planned services (for emergency, information or broadband) has become even more critical. The satellite sector considers changes in the flexibility of spectrum allocation as of a sound nature *only if* this flexibility does not affect the quality of services to end-users. This is particularly

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<sup>2</sup> Commission Decision 2002/622/EC, as amended by Decision 2009/10029/EC, "Article 2 – Tasks: The Group shall assist and advise the Commission on radio spectrum policy issues, on coordination of policy approaches, on the preparation of multiannual radio spectrum policy programmes and, where appropriate, on harmonised conditions with regard to the availability and efficient use of radio spectrum necessary for the establishment and functioning of the internal market. Furthermore, the Group shall assist the Commission in proposing common policy objectives to the European Parliament and the Council, when necessary for ensuring the effective coordination of the interest of the European Union in international organisations competent in radio spectrum matters".

<sup>3</sup> In line with Article 5 of the Decision 2002/622/EC, as amended by Decision 2009/10029/EC.

crucial in the case of radio signals received on earth from the outer space that are highly susceptible to interference.<sup>4</sup>

What's at stake is the "proper functioning of electronic communications services" based on an adequate (technical) quality of services to end-users, an objective that is well enshrined in the Telecoms Package.<sup>5</sup> "Ensuring technical quality of service", as avoiding harmful interference or safeguarding efficient use of spectrum, is a limit to an excess of flexibility in spectrum management.<sup>6</sup> In our case, this means the success and stability of satellite services for end-users is inextricably linked to the ability of the satellite operator to use the spectrum free of damaging interference and without the risk that such spectrum may be taken away after the investment has been made because it's been opened to other wireless users without restrictions.

### **The role of Satellite in ensuring Broadband For All & in providing Tomorrow's Infrastructures**

The EC's Digital Agenda sets targets for basic broadband coverage for all European Union citizens by 2013 and fast broadband coverage at 30 MBps available by 2010, with at least half European households subscribing to broadband access at 100 Mbps. ESOA believes that the target of having 100 percent access to broadband by 2013 seems reachable in most European countries, as broadband coverage is often near 100 percent. In others, wireless broadband and satellite will help meet the objectives. What is going to be more difficult is reaching good FTTx coverage by 2020.

Indeed, satellite has a unique ability to contribute to the goal of bringing broadband service to all EU citizens. Moreover, satellite technology is able to also serve areas where terrestrial technologies are unable to offer any or adequate service, including rural and remote areas. The financial crisis has further called into question the ability of terrestrial providers to build-out their networks to include unserved and underserved areas. We believe that satellite offers a less expensive and quicker alternative for bringing broadband services to these unserved and underserved areas, as is evidenced with the numerous regions/ users already connected and being connected with either broadband product offerings or hybrid solutions (i.e., services using both terrestrial and satellite). Using existing privately funded satellite capacity, this solution is possible in the near-term without the funding of additional infrastructure to the exception of terminals.

ESOA submits indeed that an investment in satellite broadband terminals in rural, remote, underserved, and unserved areas will greatly reduce the overall cost of

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<sup>4</sup> ESOA believes that 'harmful interference' represents the ultimate stage where the radio signal is damaged or lost, and where the communications service associated to this signal is seriously degraded, obstructed or repeatedly interrupted. It is therefore critical to guarantee the highest level of service availability in ensuring that radiocommunications services are never subjected to harmful interference, i.e. even before this occurs.

<sup>5</sup> Recital 35 of the Better Regulation Directive 2009/140/EC.

<sup>6</sup> This is the meaning of Article 9.3(c) of the (amended) Framework Directive and Article 5 of the (amended) Authorisation Directive.

broadband for all and will lead to a substantial saving of taxpayers' money. In addition, the satellite contribution is two-fold:

- Providing ubiquitous availability of connection, however remote the location, and a 2Mb/s service to those who may have no service at all.
- Supplementing broadband terrestrial service in areas where terrestrial speeds are expected to be lower for years to come, noting at the same time the significant increases in speeds available via satellite from 2010 onwards.

Yet we are concerned because the size and scale of public support given today and foreseen for future investment into next generation fibre networks represents a phenomenal spend of taxpayers money into a single technology at the expense of balanced, parallel investment into other valid technology options that would promote competition and encourage more private investment. Given the public budgetary conditions in Europe, public subsidies must be used in the most efficient manner to serve the end-consumer and tax payer and remain technology neutral. Satellites have a role to play to help achieving the EU policies in a difficult economic time.

Therefore ESOA fully supports BEREC in its intention to evaluate and analyse the “different mechanisms/tools which can be used to promote broadband” including (public) funding of networks and state aid.

In fact, without subsidies, the satellite industry has been able to build, over years, one of the most efficient and state-of-the-art digital video, data broadcast and multicast infrastructures. ESOA would appreciate that BEREC helps ensuring that state aid does not distort existing and well-established markets, in particular the video distribution market. In linear video distribution, there is no market failure; and even if it were justified to recognize market failure in non-linear video distribution, state aid should not be used to favor specific technologies to the detriment of competition as this will eventually decrease the choice and quality of service for the end-user.

### **The importance of Space**

Space is definitely a strategic area, as now recognised in the Lisbon Treaty and emphasised during the hearings of candidate Commissioners.

In 2009, the turnover of the European space industry which includes several major global players – both satellite manufacturers and satellite operators – was of the order of € billion. The industry employs over 30,000 highly skilled engineers and technicians. Moreover, the industry enables further value creation from important industries like consumer electronics, telecommunications, broadcasting and audiovisual content production.

Satellite communications have an essential role to play in the EU Space Program, considering that it accounts for a vast majority of satellite manufacturing and launching - alongside earth observation and navigation. With the world's 4 leading satellite operators being EU companies, the EU has at its disposal the experience and strength of vibrant companies who are ready to work with the EU to bring change, growth and renewed vitality to the EU economy.

The space policy is considered one of the main Community policies of relevance for WRC-12, as largely and well recognised in the draft RSPP.<sup>7</sup> ESOA believes that BEREC could also support and promote space as a highly strategic policy area and develop a strong, positive positioning on the international scene of a European industry enabling the flourishing of a large scale European communications sector.

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<sup>7</sup> Article 7