

## **Intellect's Position**

### **The future role of the CEPT / European Conference of Postal and Telecommunications Administrations.**

This Position Paper is Intellect UK's formal response to the 'CEPT Review of the CEPT' consultation, due date 20<sup>th</sup> March 2008. Intellect is the UK trade association for the IT, telecoms and electronics industries. Its members account for over 80% of these markets and include multinationals as well as early stage technology companies. These industries together generate around 10% of UK GDP and 15% of UK trade. For more information please go to [www.intellectuk.org](http://www.intellectuk.org)

## **Foreword**

The CEPT is consulting widely on its Future Role. In its 15<sup>th</sup> February 2008 consultation document it seems that this is not a mere idea for changes here and there but a willingness to consider what might be totally root and branch changes.

There are many aspects of the CEPT and the CERP (European Committee for Postal Regulation) that Intellect members have no particular view on. However, Intellect does very much welcome the opportunity to comment on this particular consultation topic and has consulted widely amongst its membership in order to achieve the consensus position described below.

## **The Consultation**

Intellect has organised its response along similar lines to the CEPT consultation document, namely with the key points identified at the start of our response text and the formal questions answered subsequently.

### **Intellect wishes to make the following key points:**

1. Intellect supports the argument made in the consultation that there is a need for reform of the CEPT (including the ECC)
2. Intellect acknowledges the technical expertise that exists in the CEPT/ERC, especially with the industry participation, which has successfully adopted technical harmonisation measures and decisions for spectrum use in Europe. In recent years these have increasingly been produced in response to Mandates from the EC and have needed to take into account the policy requirements of the European regulatory framework, such as technology and service neutrality, and other important policy goals. The guidance provided by the EC Mandates has been very beneficial in ensuring that the CEPT takes policy objectives and European regulatory objectives into account in its work, in order that higher level economic and societal goals can be pursued, in addition to technical objectives. In some cases there appears to have been a gap between the policy objectives developed at high level in the EC RSPG/RSC and the actions taken by the CEPT. One example was in the preparations for the ITU WRC-07 conference where the CEPT did not develop proposals to realise the digital dividend and

introduce mobile allocations in the broadcasting bands despite high level agreements between the Member States on this issue. Intellect believes it would be essential in the future to take into account economic and societal factors, including the need to facilitate innovation, in the decision making process and to ensure that the detailed technical work in the CEPT remains aligned to high level EC policies and to the regulatory framework. Under these conditions Intellect therefore considers that the EU should continue to rely on the valuable expertise provided by the CEPT.

3. Intellect recognises that there is increasing potential for overlap between RSC-drafted EU Decisions and ECC Decisions. The former are binding in nature, which allows harmonised spectrum availability across the 27 EU member states. However the adoption process is currently very long and does not cope with the technological and market development in due time. On the other hand, ECC Decisions are usually developed and adopted more quickly in response to the ongoing technological and market developments. They therefore enable a rapid take-off of the harmonised use of spectrum in a sufficient number of countries but, taking into account their voluntary nature, they do not guarantee a harmonised use across the 27 EU countries. Intellect therefore believes that it is necessary to review the decision making process within the CEPT and in particular to avoid any inconsistent overlap with RSC decisions. Under the 2007 Reform proposals Intellect notes that the current perceived overlap between the activities of the EU Commission and the ECC is much reduced.
4. It is noted that whilst there are many more countries within the CEPT grouping, not all are active in any real sense. The main actors (with one or two notable exceptions) are within the EU or EFTA and as such will be subject to or at least heavily influenced by EU measures. Thus, the point made in the consultation about the wider range of countries in the CEPT is only true at a superficial level. In reality, the EU is almost totally dominant. The point that this makes CEPT products easier to adapt if desired, is thus not really relevant since the EU measure will exist and over-rule it.
5. The desire to strengthen the economic and policy expertise arenas within the CEPT is noted. However, on a purely practical note Intellect suspects that whilst this would be most welcome, it wouldn't replace the policy and economic drives coming from the EU unless the level of competence achieved within the CEPT organisation was of such large magnitude that the EU chose to utilise the CEPT resources rather than the EU's own in-house capabilities. This implies a very significant increase of the CEPT's resources and is, Intellect suspects impractical. The other option is to have more representatives with economic backgrounds sent by the CEPT administrations to the relevant meetings.
6. Intellect very much welcomes the openness of the CEPT process to industry input and the possibility offered to industry to contribute to the consensus building process along with the Administrations.
7. Intellect proposes that the CEPT should focus on the essential roles that will remain valued in the future.

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## Detailed Questions

## **Question 1 - Assessment of strengths and weaknesses**

In general the conclusions presented in the consultation appear to be accurate. Intellect acknowledges the technical expertise that exists in the CEPT/ECC, especially with the industry participation, which has successfully adopted decisions for spectrum use in Europe.

In recent years these have increasingly been produced in response to Mandates from the EC and have needed to take into account the policy requirements of the European regulatory framework, such as technology and service neutrality, and other important policy goals. The guidance provided by the EC Mandates has been very beneficial in ensuring that the CEPT takes policy objectives and European regulatory objectives into account in its work, in order that higher level economic and societal goals can be pursued in addition to technical objectives.

In some cases there appears to have been a gap between the policy objectives developed at high level in the EC RSPG/RSC and the actions taken by the CEPT. One example has been in the preparations for the ITU WRC-07 conference, where the CEPT did not develop proposals to realise the digital dividend and introduce mobile allocations in the broadcasting bands despite high level agreements between the Member States on this issue. Intellect believes it would be essential in the future to take into account economic and societal factors, including the need to facilitate innovation, in the decision making process and to ensure that the detailed technical work in the CEPT remains aligned to high level EC policies and to the regulatory framework. Under these conditions Intellect therefore considers that the EU should keep relying on the valuable expertise provided by the CEPT.

## **Question 2 - Strengthen against weakness or build on strength?**

It would appear very difficult to remedy the acknowledged weaknesses in areas such as economic benefits and policy matters in a manner that would result in the CEPT becoming a significant influencer, without it making massive investments. In any event that would simply cause overlap with activity in progress in the EU or in the Member States themselves. Both of these entities will continue to consider these matters because they are duty-bound to do so irrespective of the role that the CEPT plays.

Therefore it would appear more profitable to concentrate on building on the strengths, hence continuing to provide value in the areas that others would find very difficult to match.

## **Question 3 - New Guidelines & ECPs/European Common Positions**

It is obvious that in order to be a strong voice at the ITU, a coherent and unified position is preferable. However, without changing the basic premise of the CEPT organisation to one of compulsion, it seems very difficult to see how to mandate adherence to CEPT positions.

Since ECPs are essentially multi-country proposals to ITU it seems reasonable that if the proposers wish to discuss their proposals only with their supporters then this should already be possible. In fact there seems no real harm in formalising the exclusion policy (where opposing administrations may not be invited to tactical CEPT coordination meetings) as one option to be used sparingly within the documented CEPT procedures for coordination at WRCs/World Radio Conferences.

## **Question 4 - The CEPT Candidates**

It is not clear exactly how this matter is of real importance as a separate subject in its own right. It is suggested that mandatory support for single agreed CEPT chairmanship candidates is merely an implementing tactic in the event that the issues underlying question 3 become resolved. Since it seems unlikely that CEPT will have powers to mandate administrations positions in the ITU, we see no reason

why administrations should be mandated to support a particular CEPT candidate (even though it would generally be desirable that they would do so).

### **Question 5 - Cyber-security and Internet Governance**

These are areas where the EU will certainly pursue policies it has itself derived so they will remain matters of high priority for the foreseeable future. Thus it may be that there is little chance that the CEPT will add much of value that is not also going to be overlapped and usurped by EU activity.

In conclusion, whilst the CEPT could obviously divert a lot of effort into these new areas, it is felt by Intellect to be unlikely that the resulting impact and influence would be perceived as being valuable.

### **Questions 6 & 7 - Economic Considerations**

These are the central questions. At present the 'Decisions' are often developed in a bottom-up fashion with sometimes almost no reference to the wider issues such as economic factors. Thus, were the CEPT to develop the capability to examine the latter factors underpinning a measure then integrate the economic considerations into the process, it might well be that the resulting outcomes would be better balanced and hence valued more highly.

However, any decision to do that would have to include the realisation that the CEPT bodies are unlikely to be the key influencers in economic debates. So to some extent, the work would be overlapped. Nevertheless, this may be a useful modification as the outcomes of the CEPT process may be perceived as being more relevant and fit for purpose were they to have undergone some economic analysis and consequential balancing during the course of their development.

### **Question 8 - Bottom-up or directed from high level?**

The derivation of regulatory proposals in a bottom-up fashion could be held to be the cause of the currently perceived low provided value which is the reason for the current review of the CEPT. It is thus natural that at least some increased measure of high level direction and enhanced engagement with the EU should be introduced.

### **Question 9 - Purpose of the CEPT conference**

Intellect has no strong preference.

### **Question 10 - Division of Competence CEPT/EU**

The 2007 Reform proposals are widely expected to have a significant impact on regulation in the EU. Whether or not a Market Authority comes into existence, it is clear that henceforward, some things will have to change. The CEPT will remain a key influencer in some areas, for example the supply of technical expertise for key areas such as the radio spectrum. The extent to which the CEPT continues to lead in this arena depends in no small measure on how well the current issues can be resolved.

The 2007 reform proposals appear to include the development of a strong EU-level spectrum capability. This is not really considered a rival to the experts in the CEPT, but instead something needed by the Commission in the pursuit of its policies.

In other areas, it is difficult to see the CEPT matching the EU in expertise for some time to come.

Therefore, at least for the short to mid term, it may be that a pragmatic approach would be that the CEPT should contribute to the regional process with technical expertise that will yield the greatest perceived value and hence status.

### **Question 11 - Engagement with industry**

Industry remains very grateful for the opportunity provided by the CEPT to participate in the development of regulation proposals. Intellect very much welcomes the openness of the CEPT process to industry input and the possibility offered to industry to contribute to the consensus building process along with the Administrations.

To make this industry engagement more effective it is proposed that the consultation process should be enhanced to cover more topics. Consultation enables a wider audience than that which might be able to attend actual meetings.

### **Question 12 - Cooperation with RCC**

Intellect has no specific comment on this.

### **Question 13 - Model I or II?**

Of these two options, a mixed model between the Model I and Model II approaches is the one supported by Intellect.

Intellect recognises that there is increasing potential for overlap between RSC Decisions and ECC Decisions. RSC Decisions are binding in nature, which allows harmonised spectrum availability across the 27 EU member states. However the adoption process is currently very long and does not cope with the technological and market development in due time. On the other hand, ECC Decisions are usually developed and adopted more quickly in response to the ongoing technological and market developments. Of course, there is no guarantee as to how widely the adopted ECC Decisions will actually be implemented by Administrations. Nevertheless, the latter Decisions therefore enable a rapid take off of the harmonised use of spectrum in a sufficient number of countries but, taking into account their voluntary nature, they do not guarantee a harmonised use across the 27 EU countries. Intellect therefore believes that is necessary to review the decision making process within the CEPT and in particular to avoid any inconsistent overlap with RSC decisions. Under the 2007 Reform proposals Intellect notes that the current perceived overlap between the activities of the EU Commission and the ECC is much reduced.

This is because the EU will increasingly become the focus for policy making amongst the Member States for matters of communal interest. This will also include economic and societal matters.

Whilst this in no way should be taken to prohibit efforts to improve the output of the CEPT in matters where there is acknowledged strength by the introduction of economic and societal balances, these efforts should not be taken to the extent that there is any expectation that the CEPT's work in these arenas overtakes and/or replaces work undertaken by the EU in accordance with its obligations.

Please note, Intellect specifically intends no implication within this Position Paper that Intellect favours RSC originated decisions versus ECC ones, nor vice versa.

### **Questions 14 to 18 - Structural considerations**

Intellect believes that the industry participation may be further enhanced and costs of participation reduced, if the structure of the CEPT groups could be kept as simple as possible in any re-organisation,



taking into account for example the trend towards convergence of applications. As part of this we strongly recommend reducing the number of groups that exist. This would make it more viable for the groups to be supported by industry.

**Questions 19 – Are there any other questions that should be asked? Which?**

Intellect feels that the 18 questions posed in this Review consultation have enabled opinions on all of the key issues of the day concerning the role of the CEPT, to be adequately formulated within this Intellect response document.

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(end of Intellect's 7-page response as submitted on 20<sup>th</sup> March 2008.  
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