

Radio Spectrum

*The European regulatory framework for electronic communications aims at setting the conditions stimulating investments in connectivity. Starting with the **pro-investment regulatory framework in the Code** and further complemented by actions such as the **2020 Recommendation on Relevant Markets** and the **Connectivity Toolbox**, the Commission's recent legislative actions have been aimed at setting the right conditions for timely and more efficient network deployment, supporting operators in that respect.*

***Radio spectrum** plays a key enabling role in fulfilling the connectivity targets. This goes hand-in-hand with the swift and effective implementation of the Code together with the timely, coordinated and comprehensive implementation of the Connectivity Toolbox best practices. A coordinated EU approach to ensuring timely access to 5G spectrum under investment-friendly conditions is paramount for 5G deployment, which constitutes a fundamental pillar of socio-economic recovery during the post-crisis era.*

*The **Commission has been closely monitoring the progress** made by the Member States on the assignment of the three 5G pioneer bands. Overall, there has been good progress lately but some Member States have yet to award 5G pioneer spectrum. The issues that some Member States are still facing (delays from the pandemic, cross-border frequency coordination issues) are taken into account but any additional delays in spectrum awards may have negative effects on the recovery. Any delays at national level shall not affect the timely 5G awards planned in neighbouring Member States.*

*A broader issue in Europe is the **fragmentation of the national rules for spectrum awards**. While good progress has been achieved, the procedures and the conditions for spectrum use still widely differ among Member States. The fragmentation has **an effect on the European spectrum market**, which is visible e.g. in the spectrum coordination challenges when establishing cross-border use cases such as **5G transport corridors**.*

Main messages

- A **coordinated EU approach** to ensuring timely access to 5G spectrum, under investment-friendly conditions, is paramount for 5G deployment and constitutes a fundamental pillar of socio-economic recovery during the post-crisis era.
- The Commission has invited Member States lagging behind to take all necessary steps to ensure that any further delays are minimised and provide full spectrum availability for 5G deployment. Any national delays shall not affect the timely 5G awards planned in neighbouring Member States.
- Assessing the real cost of the fragmented spectrum market in the EU could help identifying win-win scenarios for all (in particular for the Member States that can play a central role in the – gradual – defragmentation of the spectrum awards market) based on increasing the overall Return on Investment of spectrum in Europe.

Defensives

What is the Commission's stand regarding the delays in 5G spectrum awards at national level?

- Some Member States announced the postponement of spectrum awards, due to the pandemic crisis, which inevitably resulted in delays in the implementation of the relevant provisions of the standing regulatory framework.
- The Commission was prepared to conditionally accept the application of 'force majeure' to such temporary delays, emphasising however that any delays may have negative effects on **the recovery**.

- The Commission will invoke, as appropriate, its enforcement power under the European Electronic Communications Code (EECC) (including an infringement procedure in justified cases) in order to limit delays in certain Member States in assigning 5G pioneer bands. The Commission examines spectrum licence conditions pursuant to the EECC and with a view to identifying any breach of EU telecoms law.
- In the coming months (still in 2022), nine Member States are about to proceed with the assignment of additional spectrum in the three 5G pioneer bands, which will considerably improve the spectrum availability.

Background

Connectivity Toolbox

Member States, in cooperation with the Commission and within a dedicated Special Group, developed and agreed on the Connectivity Toolbox on 25 March 2021, pursuant to the Commission Recommendation of 18 September 2020. The Toolbox delivers 39 best practices in the areas of

- reducing the cost and increasing the speed of deploying VHCN;
- ensuring a timely and investment-friendly access to 5G radio spectrum.

Regarding **access to 5G radio spectrum**, the Toolbox addresses the objectives of the Recommendation of providing financial incentives for investment upon spectrum auctions of 5G pioneer bands and minimising authorisation delays. Regarding **cost reduction** measures, the Toolbox sets out a number of critical measures on streamlining permit granting procedures, which are relevant to the still ongoing review of the Broadband Cost Reduction Directive. Their timely implementation is very important before new legislation comes into force within the next 2-3 years.

It is important that Member States fully commit to the implementation of the Toolbox. By 30 April 2021, Member states provided the Commission with their national roadmap for its implementation, which should

- present an initial assessment of usefulness of best practices to the national situation;
- reflect the expected plan regarding the implementation of the best practices; and
- provide an indicative timing and potential stakeholders for implementation. By 30 April 2022 Member States should report on the implementation of the Toolbox.

Current State of Play in 5G Awards

Three frequency bands have been identified at EU harmonised level as the 5G pioneer bands: 700 MHz, 3.6 GHz and 26 GHz frequency bands. Member States need to allow the use of the 5G pioneer spectrum in accordance with the strict deadlines set by UHF Decision (EU) 2017/899 and the EECC. The obligation to allow the use of the 700 MHz band was due by 30 June 2020, whereas for both the 3.6 GHz and 26 GHz bands the obligation was due by 31 December 2020.

As of 15 March 2022, 25 Member States have assigned at least one 5G pioneer band (totally or partially). On average, a volume of 68% of spectrum in the 700 MHz band, 75% in the 3.6 GHz band and 29% in the 26 GHz band, have been assigned to date, which constitutes an average volume (weighted by a factor of 1/3) of 57.3% of the total 5G pioneer spectrum.

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