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DSA follow-up statement on spectrum provisions of the European Electronic Communications Code

The Dynamic Spectrum Alliance (DSA) is calling on the Council of the European Union and European Parliament to **safeguard important provisions on the sharing and management of spectrum within the draft European Electronic Communications Code** (the Code), as the two EU institutions seek to reach a common position during “trilogue” negotiations, the final part of the legislative process.

The DSA [published a position paper](#) in June setting out views on a small number of critical provisions of the Code. The Alliance **strongly supports** the proposals which would empower spectrum managers to **reallocate unused or under-utilized spectrum** to ensure that spectrum is being put to best use, and to tackle spectrum hoarding. In amending the associated provisions (Articles 19(2) and 45(3)), the Parliament has sensibly broadened the ability of a regulator to restrict as well as withdraw spectrum rights. However, the rest of the Parliament’s amendments would make it much harder for spectrum authorities to repurpose spectrum, and we strongly support the Council’s approach in this area.

The draft Code also gives more prominence to **spectrum sharing** as a tool for making more efficient use of spectrum while protecting incumbents. Again, the **Parliament’s approach** (in Article 46(2) and Recital 113a) would weaken these significant provisions, **raising barriers to the sharing of spectrum**. Therefore, we **urge the legislators to lean towards the Council’s approach and to delete Recital 113a**.

The DSA is particularly **concerned about** the potential introduction of **minimum 25-year license terms, a period which would span multiple technology life-cycles**. Such long-term licenses will delay the use of new, and more efficient, technology when it becomes available. We applaud the Council’s intention to **delete Article 49(2)** but note that the Parliament would retain it.

The Parliament has tried to temper the provision with the possibility for licenses to be withdrawn after a mid-term review, but with conditions attached which would make it difficult to do so. Lengthy license terms inherently risk constraining competition and stifling innovation. They would also be damaging because they would greatly restrict the flexibility of national authorities to keep pace with the rapid advances of technology and evolving consumer demand.

As the legislators search for some consensus, the **DSA points towards a middle ground** which would avoid introducing legally-sanctioned and dangerously long license lengths, and would instead emphasize **flexible licensing policies**. One suggestion is that **licensees could be granted shorter term licenses of a few years but incentivized by extensions for meeting key targets**. These could include coverage, efficient use of spectrum and other measures of performance, which would provide the licensees who succeed in meeting these criteria with a greater level of predictability on which to invest.

The DSA will follow the closing stage of negotiations with interest. We are hopeful that the institutions will deliver a final version of the text which will fully equip and **empower national spectrum managers to manage spectrum in an optimally efficient way**, as this is vital for meeting the ever-increasing demand for wireless connectivity in Europe.