



Brussels, **XXX**
[...](2017) **XXX** draft

COMMISSION IMPLEMENTING DECISION

of XXX

**amending Decision 2006/771/EC on harmonisation of the radio spectrum for use by
short-range devices and repealing Decision 2006/804/EC**

(Text with EEA relevance)

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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)¹, and in particular Article 4(3) thereof,

Whereas:

- (1) Commission Decision 2006/771/EC² harmonises the technical conditions for use of spectrum for a wide variety of short-range devices, including applications such as alarms, local communications equipment, door openers, medical implants and intelligent transport systems. Short-range devices are typically mass-market and/or portable products which can easily be taken and used across borders; differences in spectrum access conditions therefore prevent their free movement, increase their production costs and create risks of harmful interference with other radio applications and services. A regulatory framework for short-range devices supports innovation for a wide range of applications.
- (2) Decision No 243/2012/EU of the European Parliament and of the Council³ requires Member States, in cooperation with the Commission, where appropriate, to foster the collective use of spectrum as well as shared use of spectrum in order to enhance efficiency and flexibility, and to seek to ensure spectrum availability for radio-frequency identification (RFID) and the 'Internet of Things' (IoT).
- (3) Due to the growing importance of short-range devices for the economy, and in view of rapid changes in technology and societal demands, new applications for short-range devices may emerge. Such applications will require regular updates of harmonized technical conditions for spectrum use.
- (4) On 5 July 2006, the Commission issued a permanent mandate to the European Conference of Postal and Telecommunications Administrations (CEPT), pursuant to Article 4(2) of Decision No 676/2002/EC, to update the Annex to Decision 2006/771/EC in response to technological and market developments in the area of short-range devices.

¹ OJ L 108, 24.4.2002, p. 1.

² OJ L 312, 11.11.2006, p. 66.

³ Decision No 243/2012/EU of the European Parliament and of the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme (OJ L 81, 21.3.2012, p. 7).

- (5) Commission Decisions 2008/432/EC⁴, 2009/381/EC⁵ and 2010/368/EU⁶ and Commission Implementing Decisions 2011/829/EU⁷ and 2013/752/EC⁸ already amended the harmonised technical conditions for short-range devices laid down in Decision 2006/771/EC by replacing its Annex.
- (6) In its July 2016 report⁹, submitted in response to the above-mentioned mandate, the CEPT informed the Commission of the results of the requested examination of the ‘type of short-range device’ and the ‘other usage restrictions’ categories in the Annex to Decision 2006/771/EC and advised the Commission to amend a number of technical aspects in that Annex.
- (7) The results of the CEPT analysis show that short-range devices operating on a non-exclusive and shared basis need, on the one hand, legal certainty regarding the possibility of using spectrum on a shared basis, which can be achieved through predictable technical conditions for the shared use of harmonised bands which ensure reliable and efficient use of those bands. These short-range devices also need, on the other hand, sufficient flexibility to allow for a wide variety of applications, in order to maximise the benefits of wireless innovation in the Union. It is therefore necessary to harmonise defined technical usage conditions to prevent harmful interference and to ensure as much flexibility as possible, while fostering reliable and efficient use of frequency bands by short-range devices.
- (8) The scope of the categories as defined in the Annex should give users predictability as regards other short-range devices that are allowed to use the same frequency band on a non-exclusive and shared basis. Consequently manufacturers should ensure that short-range devices effectively avoid harmful interference with other short-range devices. Equipment operating within the conditions set out in this Decision should also comply with Directive 2014/53/EU of the European Parliament and of the Council¹⁰.
- (9) In the specific frequency bands covered by this Decision, the combination of the categorisation of short-range devices and the identification of the technical usage conditions (frequency band, transmit power limit/field strength limit/power density limit, additional parameters and other usage restrictions) applicable to such categories establishes a predictable harmonised sharing environment allowing short-range devices to share the use of spectrum with each other on a non-exclusive basis, regardless of the purpose of such use.
- (10) In order to safeguard the legal certainty and the predictability of such harmonised sharing environments, the use of harmonised bands either by short-range devices which are not part of a harmonised category or under less restrictive technical parameters should only be allowed to the extent that the relevant sharing environment is not compromised.
- (11) On 2 July 2014, in the document ‘Timeframe and guidance to CEPT for the sixth update of the SRD Decision’ (RSCOM 13-78rev2), the Commission called on the

⁴ OJ L 151, 11.6.2008, p. 49.

⁵ OJ L 119, 14.5.2009, p. 32.

⁶ OJ L 166, 1.7.2010, p. 33.

⁷ OJ L 329, 13.12.2011, p. 10.

⁸ OJ L 334, 13.12.2013, p. 17.

⁹ CEPT Report 59, RSCOM 16-24.

¹⁰ Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC (OJ L 153, 22.5.2014, p. 62).

CEPT to consider merging other existing Decisions pertaining to short-range devices into Decision 2006/771/EC. In its July 2016 report¹¹, the CEPT revised the technical parameters for RFID devices and recommended that the Commission repeal Decision 2006/804/EC and include the revised parameters for RFID within this Decision.

- (12) In an addendum to its July 2016 report¹², submitted in March 2017 in response to the above-mentioned mandate, the CEPT informed the Commission of further possibilities for an approach to technical harmonisation of radio spectrum for use by short-range devices in the 870-876 MHz and 915-921 MHz bands also taking into account new opportunities in the 863-868 MHz band already harmonised for short-range devices. These possibilities apply mainly to new types of machine-to-machine (M2M) /IoT applications in short-range device networks which can benefit from economies of scale as a result of harmonisation at Union level.
- (13) The results of CEPT's work on the Addendum show that the new opportunities in the 862-868 MHz band are fully in line with the harmonised sharing environments established by Decision 2006/771/EC and its updates and should therefore be included in its Annex. The 870-876 MHz and 915-921 MHz bands should not be included in the Annex to that Decision, owing to the need for greater flexibility in implementation.
- (14) On the basis of the overall results of the CEPT's work, the regulatory conditions for short-range devices can be streamlined, e.g., by merging two Decisions pertaining to short-range devices and by improving technical conditions. The updating of harmonised spectrum access conditions for short-range devices should help to achieve the objective set by Decision No 243/2012/EU to foster the collective use of spectrum in the internal market by given categories of short-range devices.
- (15) The Annex to Decision 2006/771/EC should therefore be amended, and Decision 2006/804/EC should be repealed accordingly.
- (16) The measures provided for in this Decision are in accordance with the opinion of the Radio Spectrum Committee,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 2006/771/EC is replaced by the text in the Annex to this Decision.

Article 2

Decision 2006/804/EC is repealed with effect from 1 January 2018.

Article 3

Member States shall report to the Commission on the implementation of this Decision by 2 May 2018 at the latest.

¹¹ CEPT Report 59, RSCOM 16-24.

¹² Addendum to CEPT Report 59, RSCOM 17-07.

Article 4

This Decision is addressed to the Member States.

Done at Brussels,

For the Commission
Andrus Ansip
Vice-President