

Norwegian regulatory framework – satellite

1. Introduction

The basic targets of the Norwegian regulatory framework for satellite services are to have a lightweight regulatory framework to promote development of competitive markets to benefit users of communication. Care has been taken to use general authorisations whenever the risk of interference is low and not to introduce any unnecessary regulation of satellite networks. A technology neutral approach, promotion of competition and encouraging efficient use and ensuring effective management of the radio spectrum are key words.

The regulatory framework has to consider relevant International law such as EU/EEA, WTO and ITU law. International law is somewhat incomplete regarding a potential concept of defining rights to orbit and radio spectrum (“property rights”). Anyway, the Norwegian regulatory framework is adjusted to seek the best possible protection of rights for undertakings.

Furthermore, because of obligations according to the Treaty concerning Spitsbergen (link: <http://www.lovdato.no/traktater/texte/tre-19200209-001.html#map0>), a specific regulatory framework applies to activities located at Svalbard/Spitsbergen. This framework is not a subject of this note.

General regulatory framework, such as competition rules, applies to undertakings establishing and operating satellites and earth stations, and to providers of electronic communications networks and services based on satellite technology. General regulatory framework is not a subject of this note.

Sector specific regulatory framework for electronic communication, the Electronic Communication Act (hereinafter the Act) contains the framework applicable to establishing activities including access to orbit, access to radio spectrum, establishment and operation of earth stations and providing networks and services.

2. Establishment and operation of earth stations

To enter into and to withdraw from the market are not regulated; freedom of establishment is the key word. Consequently, there is no requirement of licenses, concessions etc. regarding establishment and operation of earth stations in Norway.¹

Establishment and operation of earth stations requires e.g. radio equipment and access to radio spectrum for uplink. According to section 8-1 of the Act, radio equipment which are subject to the (procedural) rules of the R&TTE Directive (Directive 1999/5/EC), may be placed on the market, purchased and used in Norway. Consequently, no specific license or concession is required (except from Svalbard where a license is required). A spectrum right or a general authorisation to use radio spectrum is required.

Other questions, such as town and country planning objectives, are not subject to specific rules under the Act, and will therefore not be discussed in this note.

¹ Except from Svalbard where a license is required due to the Spitsbergen Treaty.

3. Access to orbit and radio spectrum

Access to the inputs radio spectrum and orbit may be regulated. The key to the regulatory framework of [chapter 6 of the Act](#) is assessing orbital slots and radio spectrum as (essential) inputs in the production of electronic communication networks and services.

3.1 Radio spectrum

According to [section 6-2 of the Act](#) authorisation is required to use radio spectrum. Basically the regulatory framework has two main approaches regarding the authorisation of use of radio spectrum: general authorisations (license exception) and individual authorisations (spectrum rights).

Spectrum rights are assigned to one specific undertaking. General authorisations are assigned to everyone (license exception).

Use of radio spectrum according to general authorisations does not require any explicit decisions from public authorities in Norway. Use of radio spectrum according to a spectrum right requires decision-making by authorities (the Norwegian Post and Telecommunications Authority regarding radio spectrum used for satellite technologies).

Conditions are attached to general authorisations and to spectrum rights. A clear and precise definition of rights to use radio spectrum constitute an essential condition for ensuring effective use of radio spectrum in a market based economic system (liberalised markets).² Generally speaking, conditions attached to general authorisations/spectrum rights consist of requirements aimed to define the boundary / borders between neighbouring authorisations / rights.

Therefore, the scope and aim of conditions attached to general authorisations / spectrum rights are to ensure effective use of spectrum (and avoid harmful interference). There is, in principle, no difference between conditions attached to general authorisations and to spectrum rights.

3.1.1 Spectrum rights

Spectrum rights, is assigned to one specific undertaking (or individual). A spectrum right gives this specific undertaking right to utilize the spectrum assigned (a “property right”). The use of spectrum shall, of course, comply with the conditions attached to the spectrum right. Spectrum rights signify requirement for application for and granting of a spectrum right.³

3.1.2 General authorisations

General authorisations are assigned to everyone. Everyone have the right to utilize the assigned radio spectrum. The use of spectrum shall, of course, comply with the conditions attached to the general authorisation. General authorisations signify that there is no

² The situation may be compared with all other requirements of property rights in market economies. Property rights are one of three essential ingredients of incentive systems supplied to undertakings and individuals in market economies (prices and profits are the two others).

³ As far as there are spectrum available, subject to the fact that the transmitting technology used does not create harmful interference and the use of spectrum are possible according to obligations to coordinate under the ITU procedures, a right will be granted.

requirement to apply for any spectrum right / concession etc. to use the radio spectrum covered by the general authorisations.

The Norwegian Post and Telecommunications Authority have issued a Regulation assigning general authorisations to use of radio spectrum. [Section 6 of the Regulation on Authorised Frequency Use](#) contains general authorisations to use of radio spectrum relevant for satellite services.

3.2 Orbit

According to [section 6-6 of the Act](#) the Norwegian Post and Telecommunications Authority shall accomplish registration of orbital slots in accordance with the relevant ITU Agreements (the Radio Regulations) if any undertaking established within the EEA area or in accordance with the relevant WTO/GATS Agreements so request. The Norwegian Post and Telecommunications Authority shall carry out their tasks in accordance with the principles of open, transparent, objective and non-discriminatory case handling.

Undertakings requesting the Norwegian Post and Telecommunications Authority to accomplish registration of orbit positions must contribute by providing all necessary information including necessary assistance in the preparations to ITU World Radio Conferences (WRC).

Furthermore, according to [paragraph 2 of section 6-7 of the Act](#), undertakings requesting the Norwegian Post and Telecommunications Authority to accomplish registration of orbital slots shall have insurance or guaranties covering potential liability for damages caused. Such insurance or guaranties shall be sufficient to cover potential liability in accordance with [the Convention on International Liability for Damage Caused by Space Objects](#) (link: <http://www.lovdato.no/traktater/texte/tre-19720329-001.html>).

According to [paragraph 1 of section 6-7 of the Act](#), the [Ministry of Transport and Communication](#) may require legal remedy from responsible undertakings for damages caused. It is legal remedy as a result of Norway's responsibilities according to the Convention on International Liability for Damage Caused by Space Objects which may be required.

3.3 Procedural rules

Generally, limitation of the number of spectrum rights requires the authorities to handle cases in accordance with [section 6-4 of the Act](#) (article 7 of the [Authorisation Directive](#)). Basically, if demand exceeds supply the procedures for allocation and assignment will be competitive procedures (auction). Selection criteria shall be objective, transparent, non-discriminatory and proportionate.

Supply of spectrum used for satellite technologies have until now been sufficient in Norway. Therefore, spectrum rights are assigned on a first come first served basis, and everyone applying for rights has been awarded spectrum rights.

There are no indications that the supply/demand situation will change within a timeframe of 1-3 years, and the Norwegian Post and Telecommunications Authority therefore, for the time being, have no plans of changing the first come first served approach to assigning spectrum rights for satellite technologies.

4. Concluding remarks

The NPT has published strategic objectives for its Spectrum Management functions. The main objectives for satellite services are listed below:

Main objectives

- Manage radio frequency resources in the geostationary orbit.
- Simplify assignment procedures for satellite communication authorisations (spectrum rights). Use general authorisations whenever the risk of interference is low.
- Give active contributions internationally in order to simplify satellite authorisation procedures in other countries.
- Accept authorisations through the CEPT "One Stop Shopping" procedure.
- Work for effective and fair distribution of frequencies between satellites based services and fixed services in international working groups.