Letter from: Mr Jacek Silski, President of the Management Board, Polish Chamber of Digital Broadcasting (*Polska Izba Radiodyfuzji Cyfrowej*), Poznań, Poland

To: Mr Andrzej Halicki, Minister for Administration and Digitalisation, Warsaw, Poland

Date: 16 March 2015

Subject: Position of the Polish Chamber of Digital Broadcasting on the 'Report on the future use of the UHF band (470-790 MHz)'.

Ref.: 06/03/2015

The Polish Chamber of Digital Broadcasting welcomes the initiative by the Ministry of Administration and Digitalisation to conduct national consultations on the future use of frequencies in the UHF band. In the light of the decisions taken by the World Radiocommunication Conference 2012 (WRC-12) and the ongoing discussions at European level, this issue is crucial for the future of the television market in Poland. We therefore hope that the position set out below will be fully taken into account by your Ministry and that it will prove useful in shaping Poland's position within the EU, at the WRC-15 and at other fora dealing with the UHF band now and in future.

Our detailed position is set out below.

In our view, the entire UHF spectrum band, and thus **the 470-694 MHz and 694-790 MHz sub-bands, should continue to be allocated only to broadcasting** on a primary basis.

Digital terrestrial television is, and will continue to be, the main form across Europe of linear content distribution. At present no reliable studies or research corroborate the notion that, within the next 15 years, i.e. by 2030, digital terrestrial television will disappear or be replaced by any non-broadcast system of signal distribution.

This view is confirmed by a series of studies, including those drawn up by the EBU and the ITU. This stems primarily from the fact that, in both cost and spectrum terms, digital terrestrial television is the most efficient platform for the mass distribution of content.

Digital terrestrial television is indispensable as an instrument for implementing public policy, as it is a vital medium for creating and delivering social, economic and cultural benefits. In order for these aims to be achieved, however, the television sector must have room to innovate and develop. Such aims, including **media pluralism, stem directly from EU rules**. Unlike service-neutral broadband access technologies, digital terrestrial television pursues objectives in fields such as education and culture set for it by European and domestic regulators. The fact that terrestrial television is available to everyone free-to-air means that it plays an important role in levelling out social inequalities in access to the above-mentioned content and its dissemination.

In our view, therefore, it is essential for the television sector to be afforded regulatory and commercial certainty and the chance to pursue secure investment and development within the foreseeable future. **Changing the allocation of the 700 MHz band or of a lower portion of the UHF band would strongly undermine this regulatory certainty, particularly given**

that, in Poland, only 18 months have passed since the analogue signal was switched off and the full changeover to DVB-T took place.

A further argument for retaining the current allocation of the UHF band is that it is used by PMSE (Programme Making and Special Events) equipment. The UHF band, including the 700 MHz band, is crucial for ensuring that such equipment, which is vital for producing content, works properly, thereby meeting the growing demands of users, content creators and equipment producers. According to the Lamy Report, an alternative frequency band for wireless microphones and similar equipment has not yet been found. Any decisions regarding the timetable for freeing up this band for other services should be taken only after another frequency band has been found for such equipment, bearing in mind that **PMSE equipment has already been excluded from the 800 MW band, exposing some operators to high equipment replacement costs. The State budget might face a series of compensation claims if operators have to replace their PMSE equipment once again.**

In our opinion, any change to the allocation of the television band will entail significant outlay on structural changes to television networks, replacement of equipment (e.g. PMSE), implementation of new compression and broadcasting standards (e.g. DVB-T2) and replacement of equipment by users (be they individual or collective). In the event of any unilateral decision to change the allocation of the UHF band, such costs should be fully compensated, without the television sector being placed in a weaker competitive position vis-à-vis other content suppliers. Funds for this purpose should be earmarked and ring-fenced before any decision is taken to free up the 700 MHz band or any other frequencies in the UHF band. As experience with the digitalisation of terrestrial television in Poland has shown, the provisions currently in force do not allow State aid of this type. Crucially, such funding would require the Member States to take measures that have the characteristics of State aid. Depending on these measures' form and how they are rolled out, they would have to be approved for the individual Member States by the European Commission. Funding for this purpose cannot be conditional on the uncertain effects of the forthcoming auction for frequencies that have been freed up.

In our opinion, moreover, there is no need either now or in the medium term to further increase the quantity of frequencies below 1 GHz made available to mobile network operators. An auction is currently under way for 60 MHz of frequencies in the 800 MHz band. This represents a significant share of spectrum allowing mobile operators to effectively ensure that the country is covered by high-efficiency technologies such as LTE or LTE-Advanced. Any discussions on making available additional frequency bands below 1 GHz should begin only after full development of such networks has been made possible. **In our opinion, the role of the Government and the Regulator should be to support high-efficiency solutions in mobile networks, e.g. use of the most modern radio technologies (LTE-A) or efficient use of the radio spectrum by operators, e.g. through the creation of a common network. The Ministry of Administration and Digitalisation should also promote such solutions on the international and European stage whenever issues linked to the future of the UHF band are being discussed.**

In addition, we believe that, in Poland, the technical conditions for use of the 700 MHz (and UHF) bands represent another argument against changing their allocation. At present, no agreed conditions for use of the 700 MHz band are in place that, on the one hand, guarantee protection for existing radio services and, on the other, ensure the smooth functioning of IMT networks. These conditions will be determined only in the future, while their practical application is conditional upon a series of variables, including the sovereign decisions taken

by countries both inside and outside the EU. Legally speaking, it will not be possible in Poland for the band currently used by digital television to be made available for IMT systems before 2023 (frequency reservation decisions have been taken and contracts signed under the provisions of the Public Procurement Act and other legislation). In addition, as it is also necessary to agree on arrangements with neighbouring countries, a further three years (2026) have to be added, since that is the period for which the band has been made available e.g. in the Czech Republic.

In our view, given that several of Poland's neighbouring countries state that they wish to continue to use the 700 MHz band for digital terrestrial television, as well as continuing to make use of radionavigation for aviation, **any practical change in the use of this band in Poland would come with a significant risk of creating harmful interference and would be contrary to the principles of efficient use of the radio spectrum enshrined in EU law**. In addition, the annex drawn up some time ago by the Radio Spectrum Policy Group to report RSPG13-511 showed that there are a large number of frequencies that could potentially be allocated to IMT systems. As a rule some of these frequencies are currently not used at all or used very inefficiently. Therefore, if there is a sudden need to find additional frequencies for telecommunications systems, it will be possible to use those areas of the spectrum.

To sum up this opinion, we are of the view that **both at present and in the medium term (at least until 2030), 320 MHz of the UHF band (the entire band from 470 to 790 MHz) must definitively be kept available for the purposes of terrestrial television in Poland**.