

Public consultation on the impact of options currently under consideration for the revision of the R&TTE Directive

Introduction

The R&TTE Directive 1999/5/EC (hereafter ‘the Directive’)¹ establishes a framework for the placing on the market, free movement and putting into service in the European Union of radio equipment and telecommunications terminal equipment. Products falling within the scope of the Directive are usually covered by NACE code of activity 32, ‘Manufacture of radio, television and communication equipment and apparatus’.

The Directive has been instrumental in the completion of the internal market for radio equipment, replacing many different national type-approval schemes and introducing a light-touch regulatory regime facilitating innovation and competition. Overall, the regulatory framework set up by the Directive has allowed to achieve its intended goals, i.e. a high level of protection of health and safety for users, the electromagnetic compatibility (EMC) for telecommunication terminals and radio equipment as well as the avoidance of harmful interference.

Feedback from the relevant stakeholders including the 2007 public consultation and the standing committee of the Directive (TCAM) has allowed to identify some difficulties in the operation of the Directive in view to achieve its desired effects. The most important of them are outlined in the Second Progress Report on the Operation of Directive². Possible remedies are being considered in an Impact Assessment in the context of a future revision of the Directive, for which a Commission proposal is for end 2010 envisaged.

The present public consultation is intending:

- to collect additional information on the impact of some of the measures currently under consideration;
- to reach out to stakeholders who may not have been able to express their views, in particular SMES

In order to focus the consultation on additional information, issues on which the relevant stakeholders have already transmitted their views are avoided, and some categories of stakeholders are invited to reply to a subset of the questionnaire. Stakeholders are requested to select for response only those questions assessing impacts which directly concern them, there is no obligation to respond to all questions or to a subset.

¹ OJ L 91, 7.4.1999, p. 10–28

² COM(2010)43
http://ec.europa.eu/enterprise/sectors/rtte/documents/legislation/review/index_en.htm#h2-second-progress-report-rtte

1. Identification and characterisation of the respondents

0. Identification and characterisation

- Identification
- Role with regard to the Directive
 - public authority
 - economic operator
 - notified body
 - standardisation body
 - user
 - other
- Sector of activity
- In which country is your entity located?
- How many employees do you have?
 - Less than 10
 - 10 to 49
 - 50 to 249
 - 250 or more
- How many R&TTE products do you manage?
 - Less than 10
 - 10 to 49
 - 50 or more

2. Compliance with the Directive

Section not addressed to public authorities

Low levels of compliance with the essential requirements and the administrative requirements of the Directive has been identified as a major issue to be addressed, in particular in some product areas. A number of importers and manufacturers are not aware of the Directive or deliberately ignore it. **Traceability of defective products** is an issue of concern: market surveillance authorities can often not identify the manufacturer or the person responsible for placing a product on the market, especially for smaller market players. Strong, often costly effort is spent on finding manufacturers or importers, preventing a more efficient allocation of the limited resources of Market Surveillance Authorities (MSAs).

This problem could be addressed by **aligning the Directive to the provisions in Decision 768/2008 (NLF, New Legislative Framework for marketing of products³)** designed to tackle this problem, which for the purpose of this questionnaire consist of the following measures:

- *Introduction of obligations for importers and distributors: Both actors must check that products bear the CE marking, are accompanied by the required documents and carry the name of the manufacturer and the importer (if relevant). Importers must furthermore check that the manufacturer outside the EU has applied the correct conformity assessment procedure and establish a link to the manufacturer that allows him to obtain the technical documentation, when it is requested by authorities. They must carry out sample tests on products which they have supplied, when this is appropriate in the light of the risks presented by a product to the health and safety of consumers. If necessary, they must also keep a register of complaints, non-conforming products and product recalls and keep distributors informed about such monitoring (Articles R4 and R5 in Annex 1 of Decision 768/2008).*
- *Additional manufacturer obligations: In addition to the obligations that the current legislation already foresees for manufacturers they must provide instructions and safety information in the language easily understood by consumers and end-users. Furthermore they are subject to the same obligations on sample testing and product monitoring as importers (Article R3 in Annex 1 of Decision 768/2008).*
- *Introduction of traceability requirements: New obligations are introduced for all economic operators to ensure traceability of products throughout the whole distribution chain. Manufacturers and importers must put their name and address on the product or, where this is not possible, on the packaging or an accompanying document. Furthermore every economic operator must be able to inform the authorities from whom he purchased a product and to whom he supplied it. This obligation does not include sales to end-users (Article R7 in Annex 1 of Decision 768/2008).*
- *Reorganisation of safeguard clause procedure (market surveillance): The safeguard clause procedure has been reorganised and streamlined. The new procedure ensures that the relevant enforcement authorities are informed about dangerous products and that equivalent action is taken against that product in all Member States (Articles R31-33 in Annex 1 of Decision 768/2008).*

1 How would you assess the impact of an alignment of the Directive to the NLF on compliance in your sector of activity?

- no or no significant impact
- some impact
- significant impact

Additional detailed comments

³ http://ec.europa.eu/enterprise/policies/single-market-goods/regulatory-policies-common-rules-for-products/new-legislative-framework/index_en.htm

2 How would you assess the impact of an alignment of the Directive to the NLF to achieving a more level-playing field for economic operators?

- no or no significant impact
- some impact
- significant impact

Additional detailed comments

3 How would you assess the impact of an alignment of the Directive to the NLF on administrative burden?

- significant reduction of administrative burden
- some reduction of administrative burden
- no or no significant impact
- some increase of administrative burden
- significant increase of administrative burden

Additional detailed comments

4 Do you foresee that an alignment of the Directive to the NLF may have other significant impacts?

Detailed comments

The problem of non-compliance could also be addressed by introducing **an obligation for manufacturers to register their products on a EU-wide system** prior to their placing on the market. The system could work as follows

* *The manufacturer registers, and is allocated a unique manufacturer identifier (mID)*

* *The manufacturer assigns himself a unique product identifier (pID) to each particular product. This may be performed well in advance of placing a product in the market, so that the manufacturer has details of both mID and pID prior to product development if necessary.*

* *The manufacturer assesses the conformity of his product, and affixes the product identifier (mID+pID) to his product*

* *The manufacturer uploads in a central registration system the following information:*

1. *Unique product identifier + complementary information allowing identification including pictures*
2. *Contact point information specific to the product (if applicable)*
3. *Declaration of Conformity*

4. *Technical information of the product (as per current article 6.4 of the Directive) or, at the choice of the manufacturer, a link to a web-page of the manufacturer giving access online to MSAs to the same information*

Note: The other elements of the technical documentation do not need to be made available online. The manufacturer (or other economic operators down the supply chain) would have to provide them on request from the MSAs as required by the NLF.

5 How would you assess the impact of such an obligation of registration on compliance in your sector of activity?

- no or no significant impact
- some impact
- significant impact

Additional detailed comments

6 How would you assess the impact of an obligation of registration to achieving a more level-playing field for economic operators?

- no or no significant impact
- some impact
- significant impact

Additional detailed comments

7 How would you assess the impact of an obligation of registration on administrative burden?

- significant reduction of administrative burden
- some reduction of administrative burden
- no or no significant impact
- some increase of administrative burden
- significant increase of administrative burden

Additional detailed comments

8 Do you foresee that such an obligation of registration may create other significant impacts (e.g. confidentiality issues)?

Detailed comments

3. Clarification of the Directive and reduction of administrative obligations

The scope of the Directive excludes some terminals, and includes equipment for which the provisions of the Directive are not specifically adapted.

Fixed and radio telecommunication terminal equipment falls within the scope of the

Directive. Annex I.4 excludes receive-only radio equipment used for sound and TV broadcasting, but the same equipment, if able to transmit for instance through the Internet, would fall within the scope of the Directive.

The revision of the Directive could propose to include **all radio receivers** within the scope of application

9 Would the inclusion of all radio receivers clarify the scope of the Directive?

- no or no significant impact
- some clarification
- significant clarification

Additional detailed comments

The revision of the Directive could also propose to modify or clarify current essential requirements so as to explicitly include among them the **performance of radio receivers**.

10 Would such a modification significantly contribute to an efficient use of the spectrum?

- negative impact
- no or no significant impact
- some positive impact
- significant positive impact

Additional detailed comments

11 Do you expect other impacts, in particular regarding specific market segments of receivers?

Detailed comments

Terminal equipment, as defined in the Directive, may include many different appliances such as household or office equipment communicating with the Internet directly or indirectly through a public telecommunications network. The revision of the Directive could propose to include in the scope of the Directive only those terminals directly connected to public telecommunication networks, excluding for example household equipment making part of a home network indirectly connected to the Internet.

12 Would this modification clarify the scope of the Directive?

- no or no significant impact
- some clarification
- significant clarification

Additional detailed comments

Installations are not specifically mentioned in the Directive, but fall within its scope of application. The revision of the Directive could include the definitions of fixed and mobile installations (as per article 2 of the EMC Directive 2004/108/EC), and clarify the application of the R&TTE Directive to both cases (as per article 13 of EMC Directive

2004/108/EC).

13 Would this constitute a significant contribution to clarify the obligations of manufacturers and installers in these particular cases?

- no or no significant impact
- some clarification
- significant clarification

14 Do you expect other impacts?

Additional detailed comments

Member States and the Commission have agreed in TCAM, the standing Committee of the Directive, on a **common approach to many issues arisen in the operation of the Directive**. Most of them have been collected in the **Guide**⁴. The revised Directive could incorporate those agreements and clarifications which are appropriate for a stable legal text.

15 Do you think this will contribute to clarify the obligations and rights embedded in the Directive?

- negative impact on clarity
- no or no significant impact
- some clarification
- significant clarification

Additional detailed comments

The Directive contains a number of **administrative provisions** that create administrative efforts.

Article 6.4 obliges to notify prior to its placing in the market radio equipment using non-harmonised bands.

16 Do you expect a significant impact on administrative burden through the suppression of this requirement?

- significant reduction of administrative burden
- some reduction of administrative burden
- no or no significant impact
- some increase of administrative burden
- significant increase of administrative burden

Additional detailed comments

Article 4.2 obliges operators to publish technical specifications of public interfaces prior to provision of services through those interfaces

17 Do you expect a significant impact on competition in the provision of terminal equipment through the suppression of this requirement?

⁴ http://ec.europa.eu/enterprise/sectors/rte/documents/index_en.htm#h2-guidance

- significant negative impact
- some negative impact
- no or no significant impact
- positive impact

Article 6.3 obliges manufacturers to provide information to the user on possible restrictions to use in different Member States. **Article 4.1** and Commission Decision 2000/299/EC oblige manufacturers to affix the ‘**Alert Sign**’ on radio equipment for which Member States apply restrictions on the putting into service.

18 Provided that the user manual provides sufficient information on the areas for intended use of the equipment and possible restrictions, do you expect a significant impact from suppressing the obligation to affix the ‘Alert Sign’? Please detail

- significant reduction of administrative burden
- some reduction of administrative burden
- no or no significant impact
- some increase of administrative burden
- significant increase of administrative burden

4. Scope of the Directive in relation to specific legislation

Section not addressed to public authorities

Some specific pieces of radio equipment are an integral part of systems also covered by other security and safety EU legislation or by international treaties. This is especially the case with **maritime and aeronautic safety systems**.

Since the entry into force of the Interoperability Regulation 552/2004 repealing Council Directive 93/65/EEC, **ground based radio equipment for Air Traffic Management** falls within the scope of the R&TTE Directive. A revision of the R&TTE Directive could exclude equipment covered by Regulation 216/2008 (*as amended*) for ATM equipment.

19 Would this exclusion simplify regulatory obligations for such equipment

- no or no significant impact
- some simplification
- significant simplification

Additional detailed comments

Radars for inland waterways fall within the scope of the R&TTE Directive. The same equipment is also covered by Directive 2006/87/EC laying down technical requirements for inland waterway vessels, which may partially overlap with the essential requirements

in the R&TTE Directive. A revision of the Directive could give primacy to the latter piece of legislation in case it addressed some requirements in a more specific way than the R&TTE Directive, i.e. the specific legislation would prevail as a *lex specialis*.

20 Would such a *lex specialis* provision simplify regulatory obligations for such equipment?

- no or no significant impact
- some simplification
- significant simplification

Additional detailed comments

5. Other issues

Accessibility of R&TTE products

Article 3.3.f of the Directive allows the Commission to require certain products within the scope of the Directive to support certain features in order to facilitate their use by users with a disability. This provision has not been used.

21 Do you think this provision needs to be amended in order to make it more supportive of accessibility? Please detail

Other issues

22 Please use this space to convey any other comment in relation to the possible revision of the Directive