



EUROPEAN COMMISSION

ENTERPRISE AND INDUSTRY DIRECTORATE-GENERAL

Chemicals, metals, mechanical, electrical and construction industries; Raw materials

**Mechanical, Electrical and Telecom Equipment**

Brussels, 3 May 2011

DG ENTR/G/4

# **Summary of the 2010 public consultation on the impact of options currently under consideration for the revision of the R&TTE Directive**

## **0. Introduction**

As part of the preparation of the review of the R&TTE Directive<sup>1</sup>, the Commission collected information in an extensive public consultation in 2007, in the 2009 Technopolis study "Impact assessment study on the option of a mandatory registration for placing radio equipment on the market which could be introduced in Directive 1995/5/EC<sup>2</sup>" and within the standing committee of the Directive (TCAM). The Commission launched a second public consultation in 2010 in order to collect additional information on the impact of some of the measures under consideration for the revision of the Directive and also to reach out to stakeholders who may not have been able to express their views on the issues and measures under consideration. This document presents an overview of the responses obtained.

The questionnaire was online between 16.07.2010 and 15.09.2010 and included 20 questions relative to the following issues:

- Compliance with the Directive
- Clarification of the Directive and reduction of administrative obligations
- Scope of the Directive in relation to specific legislation
- Other issues: accessibility of R&TTE products

---

<sup>1</sup> Radio and Telecommunications Terminal Equipment, Directive 1999/5/EC OJ L 91, 7.4.1999, p. 10–28

<sup>2</sup> [http://ec.europa.eu/enterprise/sectors/rtte/files/technop-ia-radio-finrep\\_en.pdf](http://ec.europa.eu/enterprise/sectors/rtte/files/technop-ia-radio-finrep_en.pdf)

A simplified version of the questionnaire was also available for SMEs and was distributed through the Commission SME Network, which resulted in the high level of participation of this category.

The results of the public consultation will be taken into account in the preparation of the impact assessment for the revision of the R&TTE Directive.

This document summarises some elements of the responses received. For the statistical analysis of the responses, please refer to [ANNEX I](#).

## 1. Identification and characterisation of the respondents

There was an important participation in this public consultation as the Commission received 122 replies with a significant contribution from economic operators (36 companies + 50 SMEs).

Participation of public authorities was more limited, owing to the fact that public authorities have other means to convey their views on the legislative to the Commission, in particular through their participation in TCAM (4 meetings in 2010).

## 2. Compliance with the Directive

Respondents expected from the **NLF alignment** a quite medium to strong impact on **compliance with the Directive** (71% in the categories 'some impact' or 'significant impact' in general comparing to 72% for SMEs). The measure is considered to entail a moderate increase of burden.

Respondents highlighted that the newly introduced provisions of the NLF especially obligations for importers and distributors, together with the introduction of traceability requirements will introduce a positive impact on surveillance activities and will consequently produce a significant improvement of compliance with the R&TTE Directive. It will also contribute to create a fair market environment for all economic operators.

Industry mentioned that the positive impact will depend on whether the NLF will be uniformly applied to all relevant Directives.

Some negative **effects on administrative burden** of the NLF alignment mentioned were the new requirements on traceability information, the possibility to ban compliant products presenting a risk to health and safety or the translation of the DoC and the technical documentation.

Concerning a possible mandatory **product registration** under the Directive, it was also expected that this system would have a medium to strong impact on compliance (65% in the categories 'some impact' or 'significant impact' in general comparing to 66% for SMEs) but entailing a strong increase of burden (66% in the categories 'some increase' or 'significant increase of administrative burden' in general comparing to 62% for SMEs). It is to be highlighted that on 12% of SMEs anticipate a 'significant increase' the overall value is 32%.

Some respondents mentioned that the obligation of a registration would allow Market Surveillance Authorities to easily comply with their new tasks under the NLF but some manufacturers were sceptical with regard to the possibilities of registration to counter criminal behaviour.

It was also said that a registration scheme would just add additional administrative burden by collating, uploading and updating product information without solving the original concern identified traceability and compliance since it does not prevent deliberate false registration. The issue of confidentiality of information uploaded in the registration database was also pointed out. Furthermore a registration scheme under the R&TTE Directive will only address one Directive while the NLF takes a more horizontal and harmonized approach and this would be critical for products falling under the scope of several Directives.

Respondents also highlighted that resources for market surveillance are an important key in order to achieve a higher compliance with the Directive.

### **3. Clarification of the Directive and reduction of administrative obligations**

There was a moderately positive perception of the **impact on clarity of the inclusion of all radio receivers within the scope of the Directive**. The perception was slightly more positive among SMEs (60% in the categories 'some clarification' or 'significant clarification') than among respondents in general (48%). It was highlighted by several respondents that the Commission should consider carefully consequences for broadcast receivers if this option should be applied.

The definition of **performance requirements for radio reception** was considered beneficial for the efficiency in the use of spectrum by many stakeholders, in particular by network operators and spectrum authorities. Industry in general did not consider that changing the scope of the Directive would bring any positive impact but only additional administrative and technical burden to manufacturers, which does not seem to be justified comparing to the limited potential added value. Industry also pointed out that during the last 15 years the application of the EMCD<sup>3</sup> and LVD for audio and TV broadcast receivers has been proven to be sufficient and appropriate as no problems have been reported. For cases where the performance of receivers might have an impact on the performance of transmitters, industry proposed the development of appropriate Harmonised Standards and compatibility studies which will be more appropriate as a modification of the essential requirements.

Regarding the possibility to **exclude indirectly connected terminal equipment**, the impact on clarity is moderately positive. For greater clarity, it was proposed that the Commission should consider removing fixed terminals from the scope of the Directive as a way to avoid having similar equipment under the R&TTE Directive and under the LVD and EMCD.

On the option to include the definitions of fixed and mobile **installations** and clarify the application of the R&TTE Directive to both cases there was a general moderately positive impact (48% in the categories 'some clarification' or 'significant clarification' in general

---

<sup>3</sup> Electromagnetic Compatibility Directive, Directive 2004/108/EC

comparing to 50% for SMEs). Several comments pointed to the difficulty to apply EU level legislation to the many specific cases which could be considered to be installations, to the difficulties of defining installations, and to overlaps with national legislation.

The possibility to **incorporate** agreements and clarifications agreed in TCAM and collected in **the Guide in the revised Directive** was welcomed in a very positive way (66% in the categories 'some clarification' or 'significant clarification' in general comparing to 52% for SMEs) as the Guide has been very useful for economic operators.

A positive impact on the reduction of administrative burden is also to be noted by the possible suppression of **notifications under Article 6.4**: 43 % of respondents consider a suppression of this requirement to bring in some or significant reduction of burden

There was a strong reservation on the suppression of Article 4.2 which obliges operators to **publish technical specifications of public interfaces** prior to provision of services, due to competition issues. It was mentioned that this obligation for operators should be mirrored with an obligation for terminal manufacturers, in particular with regard to creating a level playing field for software applications for terminals, and with regard to access to contents from terminals.

Finally the option to suppress the **obligation to affix the "Alert Sign"** on radio equipment for which Member States apply restrictions on the putting into service had a moderate positive impact in the reduction of burden (31% in the categories 'some reduction' or 'significant reduction of administrative burden' in general, 28% for SMEs). A number of respondents insisted that it is very important to alert user on restrictions to use of radio equipment.

Some respondents also referred to the necessity to revise the proportionality of current obligations for operators in Article 7.5 of the Directive in case of a situation of emergency.

## 4. Scope of the Directive in relation to specific legislation

The possible positive impact on simplification of excluding from the scope of the Directive radio equipment covered by other more specific EU legislations or by international treaties (e.g. equipment for Air Traffic Management or radars for inland waterways) was considered as non-significant by more than half of respondents in the 2010 public consultation (*30% no simplification, 16 % no simplification*). This view is even clearer among SME (*52% no simplification, 28 % no simplification*).

Some of the responses pointed to the stability of the current legal framework for equipment for Air Traffic Management and to the importance of managing all equipment liable to create harmful interference under the R&TTE Directive

## 5. Other issues

Regarding the accessibility of equipments for users with a disability, the general opinion was that there was no need to amend Article 3.3f of the Directive. Some associations mentioned the need to implement this Article with the enactment of relevant Commission Decisions, others were of the opinion that the R&TTE Directive was not the good legal instrument for this issue and that the Universal Service Directive was a more appropriate horizontal instrument to deal with this.

# Annex I

## 1. Identification and characterisation of the respondents (122 replies, **SME 50**)

Ø Role with regard to the Directive

§ public authority	13	>> 11%
§ economic operator	36	>> 30%
§ notified body	2	>> 2%
§ standardisation body	2	>> 2%
§ user	5	>> 4%
§ other	14	>> 11%
<b>§ SME</b>	<b>50</b>	<b>&gt;&gt; 41%</b>

Ø In which country is your entity located?

	Number of requested records (SME)	%	% SME
Austria	5+2 > 7	6%	10%
Belgium	0+4 =4	3%	
Bulgaria	0		
Cyprus	0+1 = 1	1%	
Czech Republic	0		
Denmark	0+1 = 1	1%	
Estonia	2+1 = 3	2%	4%
Finland	0		
France	2+3 =5	4%	4%
Germany	1+16 = 17	14%	2%
Greece	0		
Hungary	0		
Ireland	4		
Italy	3+4 = 7	6%	6%
Japan	9	7%	0
Latvia	0+1 = 1	1%	0
Lithuania	0		
Luxembourg	0		
Malta	0		

Netherlands	1+1 =2	2%	2%
Poland	14+1 = 15	12%	28%
Portugal	0		
Romania	0		
Slovakia	0		
Slovenia	4+1 = 5	5%	8%
Spain	5	5%	10%
Sweden	1+4 = 5	5%	2%
Switzerland	1	1%	
United Kingdom	2+9 = 11	9%	4%
Other:	10	8%	

Ø How many employees do you have?

§ Less than 10	23+7 = 30	>>25%	(46% <sup>4</sup> )
§ 10 to 49	15+3 = 18	>>15%	(30%)
§ 50 to 249	12+8 = 20	>>16%	(24%)
§ 250 or more	41	>>34%	

Ø How many R&TTE products do you manage?

§ Less than 10	24+3 = 27	>>22%	(48%)
§ 10 to 49	20+7 = 27	>>22%	(40%)
§ 50 or more	6+45 = 51	>>42%	(12%)

## 2. Compliance with the Directive

**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	11+4 = 15	>>12%	(22%)
§ some impact	30+23 = 53	>>43%	(60%)
§ significant impact	6+28 = 34	>>28%	(12%)

**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? (Not SME)

§ no or no significant impact	11	>>15%
§ some impact	17	>>24%
§ significant impact	26	>>36%

<sup>4</sup> Value between brackets corresponds to the result among SMEs

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

§ significant reduction of administrative burden	1+2 = 3	>>2% (2%)
§ some reduction of administrative burden	8+3 = 11	>>9% (16%)
§ no or no significant impact	15+4 = 19	>>16% (30%)
§ some increase of administrative burden	19+36 = 55	>>45% (38%)
§ significant increase of administrative burden	3+9 = 12	>>10% (6%)

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

**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	12+10 = 22	>>18%	(24%)
§ some impact	24+14 = 38	>>31%	(48%)
§ significant impact	9+33 = 42	>>34%	(18%)

**6** How would you assess the impact of an obligation of registration to achieving a more level-playing field for economic operators? (Not SME)

§ no or no significant impact	27	>>38%
§ some impact	11	>>15%
§ significant impact	16	>>22%

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

§ significant reduction of administrative burden	1+3 = 4	>>3% (2%)
§ some reduction of administrative burden	4+2 = 6	>>5% (8%)
§ no or no significant impact	10+1 = 11	>>9% (20%)
§ some increase of administrative burden	25+16 = 41	>>34% (50%)
§ significant increase of administrative burden	6+33 = 39	>>32% (12%)

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

### 3. Clarification of the Directive and reduction of administrative obligations

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

§ no or no significant impact	14+25 = 39	>>32%	(28%)
§ some clarification	23+12 = 35	>>29%	(46%)
§ significant clarification	7+16 = 23	>>19%	(14%)

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	4+7 = 11	>>9%	(8%)
§ no or no significant impact	14+22 = 36	>>30%	(28%)
§ some positive impact	20+15 = 35	>>29%	(40%)
§ significant positive impact	3+9 = 12	>>10%	(6%)

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

**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. (Not SME)

12 Would this modification clarify the scope of the Directive?

§ no or no significant impact	21	>>29%
§ some clarification	10	>>14%
§ significant clarification	21	>>29%

**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	17+13 = 30	>>25%	(34%)
§ some clarification	17+19 = 36	>>30%	(34%)

§ significant clarification 8+14 = 22 >>18% (16%)

#### 14 Do you expect other impacts?

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**<sup>5</sup>. 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 1+2 = 3 >>2% (2%)  
 § no or no significant impact 17+5 = 22 >>18% (34%)  
 § some clarification 21+24 = 45 >>37% (42%)  
 § significant clarification 5+30 = 35 >>29% (10%)

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 2+11 = 13 >>11% (4%)  
 § some reduction of administrative burden 14+25 = 39 >>32% (28%)  
 § no or no significant impact 18+6 = 24 >>20% (36%)  
 § some increase of administrative burden 7+2 = 9 >>7% (14%)  
 § significant increase of administrative burden 3+2 = 5 >>4% (6%)

**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?

§ significant negative impact 3+21 = 24 >>20% (6%)  
 § some negative impact 11+10 = 21 >>17% (22%)  
 § no or no significant impact 25+13 = 38 >>31% (50%)  
 § positive impact 5+2 = 7 >>6% (10%)

<sup>5</sup> [http://ec.europa.eu/enterprise/sectors/rtte/documents/index\\_en.htm#h2-guidance](http://ec.europa.eu/enterprise/sectors/rtte/documents/index_en.htm#h2-guidance)

**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	0+7 = 7	>>6%	(0%)
§ some reduction of administrative burden	14+17 = 31	>>25%	(28%)
§ no or no significant impact	26+15 = 41	>>34%	(52%)
§ some increase of administrative burden	3+6 = 9	>>7%	(6%)
§ significant increase of administrative burden	2+3 = 5	>>4%	(4%)

## 4. Scope of the Directive in relation to specific legislation

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	26+11 = 37	>>30%	(52%)
§ some simplification	14+5 = 19	>>16%	(28%)
§ significant simplification	0+2 = 2	>>2%	(0%)

**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	24+8 = 32	>>26%	(48%)
§ some simplification	12+6 = 18	>>15%	(24%)
§ significant simplification	1+3 = 4	>>3%	(2%)

## 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?

*Note: no statistical analysis applies for this qualitative question*