

Spectrum Department

2016-2018 Market Surveillance Action Plan

1 Legal basis

According to Section 1 of the Ordinance (2007:951) with instructions for the Swedish Post and Telecom Authority, the Authority (PTS) is the managing authority with overall responsibility for the areas of post and electronic communication. The PTS's duties include carrying out surveillance of radio and telecommunications terminal equipment. The Authority must ensure that equipment of this type that is placed on the Swedish market fulfils the EU and Swedish legal provisions in force. If equipment causes disturbance or damage, PTS surveillance will result in the equipment being withdrawn from the market.

The PTS carries out market surveillance in accordance with the Act (2000:121) on radio and telecommunications terminal equipment and regulations drafted pursuant to the Act. The Act implements Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (the R&TTE Directive). The key functional requirements falling within the PTS's area of responsibility may be found in Articles 3(1)(b) (electromagnetic compatibility), 3(2) (spectrum functions) and 3(3) (special decisions by the Commission) of the R&TTE Directive.

According to the Ordinance (2000:124) on radio and telecommunications terminal equipment, the PTS also has the task of issuing regulations. The regulations in force in this area are PTS Regulations (PTSFS 2004:7, amended by PTSFS 2004:9 and PTSFS 2011:13) on requirements, etc. for radio and telecommunications terminal equipment.

The R&TTE Directive will be replaced by Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation

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of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC (the RE Directive). The Directive will be transposed into Swedish law by a new act, a new ordinance and new regulations on radio equipment. The legislative package will enter into force on 13 June 2016. The RE Directive contains a transitional provision which permits radio equipment complying with the R&TTE Directive to be placed on the market until 12 June 2017. The key functional requirements falling within the PTS's area of responsibility are set out in Articles 3(1)(b) (electromagnetic compatibility), 3(2) (spectrum functions) and 3(3) (delegated acts) of the RE Directive. The RE Directive is in line with Decision 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC and contains specific requirements for all economic operators in the supply chain and market surveillance rules.

Additional provisions on market surveillance and CE marking follow from Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93.

2 Cooperation with constraints

2.1 National cooperation

In order to facilitate cooperation and the exchange of experience with other market surveillance authorities, the PTS participates in the Market Surveillance Council coordinated by SWEDAC (the Swedish Board for Accreditation and Conformity Assessment), in the Market Surveillance Council's Forum for customs-related issues and in the Swedish National Board of Trade's Forum for technical rules (FTR). There is also cooperation with the Swedish Transport Agency (*Transportstyrelsen*) (ground-based radio for aviation communication and navigation equipment and ship radio for commercial and pleasure navigation), trade organisations such as the Association of Swedish Engineering Industries (*Teknikföretagen*), the Swedish Association of Communication and Electronics Companies (SKEF), and internet businesses such as Tradera and Blocket.

The R&TTE Directive contains special provisions concerning health and safety requirements for users under Directive 2006/95/EC of the European Parliament and of the Council of 12 December 2006 on the harmonisation of the laws of the Member States relating to electrical equipment designed for use within certain voltage limits (the Low-Voltage Directive), as amended by Directive 2014/35/EU. The Swedish National Electrical Safety Board (*Elsäkerhetsverket*) is responsible for this Directive. Electrical and electronic equipment that is not radio equipment is subject to the rules on electromagnetic

compatibility laid down in Directive 2004/108/EC of the European Parliament and of the Council of 15 December 2004 on the approximation of the laws of the Member States relating to electromagnetic compatibility and repealing Directive 89/336/EEC, as amended by Directive 2014/30/EU. The National Electrical Safety Board is responsible for this Directive too. The PTS liaises on an ongoing basis with the National Electrical Safety Board to exchange information and experience with regard to demarcation problems and the division of responsibility. The PTS also participates in the National Electrical Safety Board's consultative group on electromagnetic compatibility.

2.2 International cooperation

The PTS actively participates in international work on increasing the harmonisation and effectiveness of market surveillance. The Authority participates in the Telecommunication Conformity Assessment and Market Surveillance Committee (TCAM) and the Group for cooperation on conformity assessments and market surveillance in the telecommunications sector, which is called Administrative Cooperation (R&TTE ADCO). The Group will continue its work under the RE Directive and, as of June 2016, will change its name to ADCO RED.

Through its cooperation with ADCO, the PTS has participated in establishing a European network for reporting any instances of non-compliance that are found in radio and telecommunications terminal equipment. The network gives the PTS the opportunity to disseminate information and experience about its market surveillance to other countries that are involved in this collaboration, thus reducing duplicated work, among other things. In order to formalise the exchange of information, the European Commission set up a database for this purpose, ICSMS (the internet-supported Information and Communication System for pan-European Market Surveillance), which the market surveillance authorities are obliged to use in accordance with Article 23 of Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 laying down the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93.

According to an agreement between the Directors-General of the Nordic market surveillance authorities, there must also be consultation and cooperation with the authorities of the neighbouring Nordic countries. This cooperation is managed by means of annual meetings with these parties.

3 Market surveillance plan

3.1 Intelligence - a basis for selecting products

Every year, the PTS orders or purchases a number of pieces of radio and telecommunications terminal equipment to undergo checks for compliance with administrative requirements and key (technical) functional requirements.

The PTS's market surveillance is both planned and incident-driven. Planned surveillance includes supervisory visits to operators that place radio and telecommunications terminal equipment on the Swedish market. Such supervision may also be carried out after a tip-off from the general public. Market surveillance does not, however, include advance surveillance, i.e. no inspections are carried out on the equipment at the assembly or manufacturing stage. Neither does it include follow-up inspections once the equipment has been taken into use.

As a basis for selecting equipment, the PTS carries out a risk assessment based on experience of equipment categories and origin.

In the first instance, the PTS selects equipment for administrative checks according to the following criteria:

- equipment intended for consumer and mass markets;
- equipment according to annual criteria (e.g. certain product categories);
- equipment that has been found to cause disturbance.

Following an administrative check, some of the equipment usually undergoes technical testing. The PTS considers the following criteria when selecting items for testing:

- indications of technical or administrative failings in relation to the equipment;
- equipment intended for consumer and mass markets and having a short, intensive sales cycle;
- equipment from regions with a high fault rate in previous testing;
- new applications or equipment categories for low-power transmitters in frequency bands placed close to systems that are sensitive to disturbance;
- testing in accordance with the relevant international selection criteria.

The PTS regularly obtains information about the radio and telecommunications terminal equipment available on the market by visiting shops, trade fairs, exhibitions and businesses. It also monitors advertisements in the mass media

and offers on the internet. The PTS also receives reports of suspected equipment-related failings from the general public and industry representatives, and holds regular dialogue with market operators through preparatory meetings, for example under the auspices of the TCAM.

3.2 Analysis of market structures

Radio equipment includes all radio transmitters and receivers, with the exception of equipment used exclusively for activities affecting public safety, defence and national security or state activities in the area of criminal law. The products covered by market surveillance are nearly always consumer products.

Radio and telecommunications terminal equipment must satisfy what are known as the key functional requirements from a technical perspective. The equipment must go through a special procedure (conformity assessment) to ensure that it satisfies the key functional requirements. All equipment that is placed on the Swedish market, i.e. equipment held by manufacturers, importers and distributors, may be subject to market surveillance by the PTS. Among other things, equipment must be CE marked and the manufacturer, or whoever is responsible for placing the equipment on the market, is required to provide clear information about how the equipment is intended to be used. There must also be a written statement to the effect that the equipment satisfies the requirements of the Directive, which is known as a declaration of conformity. Users include both businesses and the general public, and the PTS does not distinguish between users. Radio equipment that does not satisfy the key functional requirements may cause serious disturbance to other radio communication.

3.3 Goals of market surveillance by the PTS

The PTS's goal is for all radio and telecommunications terminal equipment on the Swedish market to satisfy the requirements of the R&TTE Directive or the RE Directive¹.

Through active market surveillance, the PTS will promote:

- communication that is reasonably free of disturbance;
- healthy competition;
- increased consumer confidence;
- information concerning the laws in force and current practices.

¹ During the transitional period (13 June 2016 to 12 June 2017) equipment may be made available on the market under the R&TTE Directive or the RE Directive, as stipulated in Article 48 of the RE Directive.

The PTS will continuously monitor standardisation work and product development in order to identify at an early stage whether there are any measures it needs to take.

The PTS will assist other Member States to the greatest extent possible with measures where radio and telecommunications terminal equipment is placed on the common market in Sweden for the first time.

3.4 Surveillance methods

3.4.1 Proactive market surveillance

The PTS continuously orders or purchases equipment from the market, usually from importers and distributors.

The PTS also carries out market surveillance in conjunction with coordinated European market surveillance campaigns under the auspices of R&TTE ADCO/ADCO RED.

3.4.2 Reactive market surveillance

The PTS carries out regular surveillance on the basis of reports by the general public, other authorities, rival businesses and trade organisations. Reports of interfering products are also followed up.

3.5 Follow-up

The actual surveillance is followed up by dealing with individual cases. Following the surveillance, the PTS communicates the test results and any other shortcomings to the manufacturer or importer. In most cases, any administrative or technical failings are rectified voluntarily, or alternatively the equipment may be withdrawn from the market. It is rare that the PTS needs to take out an injunction to withdraw a product from the market or issue a decision prohibiting sales. It carries out follow-up to ensure that remedial measures have been taken.

The PTS compiles annual statistics on the previous year's activities. It also carries out continuous assessments and evaluations based on reports of technical non-conformity and shortcomings.

3.6 Evaluation methods

The supply of radio and telecommunications terminal equipment is very extensive in terms of type, category and the number of products. The PTS therefore carries out market surveillance according to experience-based selection criteria. By constantly providing information to industry players, it raises awareness of the consequences of failure to comply with the legislation in force. It also publishes the necessary information on its website. With regard to

information concerning the regulations in force, the PTS prioritises smaller operators in the market.

3.7 Reporting

The PTS regularly compiles statistics based on its market surveillance. The results are used for internal reports, among other things, and are explained in its annual report; they are also reported to the Market Surveillance Council, the Ministry of Finance (Consumer Affairs Unit) and the Ministry for Foreign Affairs (Department for the EU Internal Market and the Promotion of Sweden and Swedish Trade).

The PTS provides other authorities and trade bodies with compiled statistics upon request. It also reports in a similar way to R&TTE ADCO/ADCO RED, which collect statistics on European authorities' annual results.

2016 Market surveillance plan for radio and telecommunications terminal equipment

1.1 Aims of market surveillance

Surveillance in the area of radio and telecommunications terminal equipment is carried out in the form of market surveillance and aims to ensure that all equipment on the Swedish market satisfies the requirements of the R&TTE Directive or (as of 13 June 2016) the RE Directive. Through its market surveillance work, the PTS works to achieve communication that is reasonably free of disturbance, healthy competition and increased consumer confidence.

1.2 Strategy

The majority of market surveillance carried out by the PTS is proactive, but market surveillance can also be reactive or in the form of a project. Reactive market surveillance is based on tip-offs about non-compliant equipment and equipment that has caused disturbance.

1.3 Targets

The volume targets for market surveillance by the PTS in 2016 are:

- approximately 70 products inspected (administrative and/or technical inspections);
- approximately five planned visits to trade fairs.

1.4 Distribution

40 % (approximately 28 items) comprise short-range equipment, e.g.:
wireless audio/video equipment, radio control equipment, telemetry equipment, active RFID, RLANs and radio-controlled toys;

35 % (approximately 25 items) comprise equipment with high RF output power, e.g.:
land mobile radio (hunting radio and construction radio), PMR446, VHF/UH maritime radio, amateur radio, radio modems, emergency transmitters, repeaters and radar;

20 % (approximately 14 items) comprise telephones and accessories, e.g.:
mobile telephones (smart phones and tablets), cordless telephones, USB, 3G and 4G modems;

5 % (approximately 3 items) comprise other equipment, e.g.:
new products.

1.5 International cooperation

In 2016, a joint market surveillance campaign will be carried out on radio-controlled toys as part of the cooperation under the auspices of R&TTE ADCO/ADCO RED.

The PTS also participates in the Nordic cooperation group for market surveillance of radio equipment; Finland will host the next meeting in April 2016.

1.6 Customs cooperation

In the autumn of 2016, the PTS will host a meeting with the Market Surveillance Council's forum for customs-related issues.

1.7 Information initiatives

The PTS sees a need for increased information initiatives targeted at associations and businesses to help them adapt to the new rules on radio equipment laid down in the RE Directive. The information initiatives will take the form of information posted on the internet (on the PTS website, among others), articles, seminars and information brochures.