EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
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Opinion

Title **Impact Assessment accompanying the proposal on the protection of workers from the risks related to exposure to electromagnetic fields at work (revision of Directive 2004/40/EC)**

(draft version of 2 August 2010)

(A) Context

In 2004 the Council and the European Parliament adopted directive 2004/40/EC on the protection of workers from the risks related to exposure to electromagnetic fields at work. Soon after the adoption it turned out that the directive could create major implementation problems and impede some essential medical procedures and related research in cutting edge medical applications. In addition, according to new scientific information some exposure limits in the directive at the time were set at a too conservative level. In response, the Commission reviewed the situation, and the European Parliament and the Council adopted a new directive amending directive 2004/40/EC to postpone its transposition deadline by 4 years: from April 2008 to April 2012.

(B) Overall assessment

The report needs significant improvement on several important points. First, it needs to strengthen the problem definition by analysing where and to what extent health risks resulting from electromagnetic fields are currently considered to be insufficiently addressed, back this claim with more robust evidence and clarify if market distortion is a problem that this initiative should address. Second, the report should discuss more thoroughly the compliance problems of SMEs with the risk assessment requirement imposed by the Framework Directive, and how they would be addressed. Third, the report needs to explain what the new exposure limit values are, provide evidence to demonstrate that they are safe for workers and give more detail on the additional measures (such as those referred to as "reinforced preventive measures") needed to implement the directive in sectors exempted from exposure limits. Finally, the report should explain more transparently how the presented costs were established, and describe how they will be distributed by Member State and by the size of the company.
Given the fundamental nature of these concerns, the Board requests DG EMPL to submit a new version of the IA report, on which it will issue a new opinion.

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(C) Main recommendations for improvements

(1) Strengthen the problem definition by analysing where and to what extent health risks are currently considered to be insufficiently addressed, and back this claim with factual evidence. First, the problem definition needs to analyse in which sectors/activities, Member States, and types of businesses (small/large) workers' exposure to electromagnetic fields currently exceeds the levels considered as safe. To the extent possible, this analysis should be complemented with factual evidence on the incidence and costs of damage to workers' health in order to distinguish between reported problems and objective science based problems. Second, the report should clarify further why the existing Framework Directive and product safety directives are insufficient to address the issue of workers' exposure to electromagnetic fields. Third, the problem definition should provide evidence for the claim that directive 2004/40/EC if implemented would cause unnecessary costs for the enterprises/patients and that its exposure limits are too conservative. Finally, the report should clarify if market distortions and additional costs for companies acting in more than one Member State are among the problems that this initiative should address. If that is the case, concrete evidence of those problems should be provided.

(2) Explain the compliance problems of SMEs with the risk assessment requirement imposed by the Framework Directive, and how they would be addressed. Given that SMEs face compliance problems with the requirement to carry out risk assessments imposed by the Framework Directive, the report should discuss the causes of those problems, why directive 2004/40/EC (option A) would not sufficiently address them and how the revised directive (option C1) would improve the situation (e.g. zoning approach, guidance). Given the concern of SME employers that the costs of risks assessments and measurement surveys required by directive 2004/40/EC may be disproportionate, the report should be clearer about how the costs of those requirements would differ under the proposed options.

(3) Explain what the new exposure limits values are, provide evidence to demonstrate that they are safe for workers and give more detail on the complementary measures needed to implement the directive in sectors exempted from the new limit values. DG Employment explained in the meeting with the Board that the evidence demonstrating the safety of new exposure limits will only become available in November 2010 and for this reason the report has not mentioned what limits are being proposed. The Board is of the opinion that the report should be updated with the above information. It should also explain which sectors/activities (apart from the magnetic resonance imaging) would be granted exemptions. It should elaborate on the scope, effectiveness and efficiency of additional measures which would need to be taken to implement the directive in sectors exempted from exposure limit values (for example what "transferring more competences to the local/national deciders", "reinforced preventive measures" or "higher responsibility transferred to safety inspectorates" mean in concrete terms). It should also explain why extending conditional exemptions to all sectors has not been considered as an option.

(4) Provide more transparency to how the presented costs were established, and explain how they will be distributed by Member State, by sector and by the size of the company. The report should explain more transparently how and on the basis of which assumptions the costs were established. For example, it is currently not clear why

the costs of options C1 (revised directive with partial exemptions) and C2 (revised exposure limits with full exemptions) are identical; why option E (repealing of directive 2004/40/EC) is more expensive than some of the other options (including the preferred option); or why most of the options (A, B, C1, C2, D2) would produce the same level of administrative burden. For each of the options, the report should distinguish between compliance costs and other impacts and clarify whether the cost figures provided are one-off or recurrent.

The report should discuss the magnitude of costs of the measures needed to implement option C1 as regards magnetic resonance imaging (for example, the costs of reinforced preventive measures or the additional costs for safety inspectorates).

Given that the baseline situation as regards workers' exposure to electromagnetic fields differs by Member State and by the size of the company, the report should explain how the costs of the preferred option will be distributed in those categories. Drawing on the information from annexes 3 and 4, the main report should also briefly explain to what extent different sectors would be affected by those costs.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

The report should undergo a thorough linguistic check. Page numbering should be provided. The relevant appendix of the preparatory study referenced in footnote 25 should be annexed to the report. A glossary of technical terms and abbreviations should be provided. Section 5.5 (survey based assessment) should be shortened to include only the conclusions from the stakeholders survey. The table in section 5.4 should be entitled compliance costs rather than "assessment costs".

(E) IAB scrutiny process	
Reference number	2010/EMPL/026
External expertise used	No
Date of IAB meeting	1 September 2010