



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
D(2011)

07 FEB. 2011

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)

(Resubmitted draft version of 6 January 2011)

(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 adoption it became clear 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

While the report has been improved to some extent on the basis of the Board's recommendations, it still requires further work on the following issues. Firstly, the report should further strengthen the problem definition by analysing where and to what extent health risks resulting from electromagnetic fields are currently considered to be inappropriately addressed. Secondly, when discussing compliance problems with regard to the required risk assessment and how those would be addressed, the report should better distinguish between the situation of SMEs and larger companies. Thirdly, it should provide evidence to demonstrate that the proposed exposure limits are safe for workers. Finally, the report should further clarify the assumptions used for the calculation of costs and explain how those costs would be distributed by Member State and by the size of the company.

(C) Main recommendations for improvements

(1) Further strengthen the problem definition. The problem definition still needs to be improved by discussing how the level of protection differs by Member State, by size of

company and by sector, and by providing available evidence on the incidence of damage to workers' health. The problem definition should also present evidence for the claim that directive 2004/40/EC, if implemented, would cause unnecessary costs for enterprises/patients (this could be done by drawing on the existing information in section 5.2) and that its exposure limits are too conservative.

(2) Better distinguish between the situation of SMEs and larger companies when discussing compliance problems. While the report has elaborated on the compliance problems with the risk assessment, and how those would be addressed, it should better distinguish between the situation of SMEs and larger companies. The report should also better compare the cost of risk assessment in the preferred option with option A (directive 2004/40/EC) and in particular option E (repealing of directive 2004/40/EC). The report should explain why a cost reduction would not apparently be achieved for such activities as electricity generation, surgical diathermy, RF sealers or broadcasting (see Annex 4). It should also explain why it assumes that the preferred option as applied to the area of induction heating and electric welding would be less costly than option A despite the fact that as the report says "in practice it may be cheaper to use an external expert and the costs will be as option A" (see Annex 4).

(3) Provide evidence to demonstrate that the new exposure limits are safe for workers. The report now better presents the proposed exposure limitation system, and elaborates on the measures which would need to be taken to implement the directive in the sectors partially exempted. However, it should still provide evidence to demonstrate that these new limits are safe for workers, e.g. by referring to the recommendation of the International Commission on Non-Ionizing Radiation Protection.

(4) Further clarify the assumptions used for the calculation of costs, and explain how they will be distributed by Member State and by company size. Although the revised report is now more transparent about costs, it should make clearer the key uncertainties associated with the estimates of overall compliance costs under different options. It should explain why it assumes there would be compliance costs if a case study shows that the industry is already effectively protecting their workers (see for example the first case study, Annex 4). It should also discuss – as requested in the first Board opinion - how the costs of the preferred option will be distributed by Member State and whether small companies would be affected disproportionately. The report should also explain whether the preferred option would entail some additional costs for safety inspectorates.

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 preparatory study ("Ficetti report") referenced repeatedly in the IA report should be published on the internet or annexed to the report. The full results of the stakeholder consultation should be presented in the annex or made available on-line.

(E) IAB scrutiny process	
Reference number	2010/EMPL/026
External expertise used	No
Date of IAB meeting	Written procedure The present opinion concerns a resubmitted draft IA report. The first opinion was issued on 3 September 2010.