



ORGALIME POSITION PAPER ON FUTURE OF THE CE MARKING: From Marking Significance to Market Confidence

Brussels, 23 March 2006

Commenting on draft CERTIF 2005-11 on the role and significance of the CE marking
of 08/09/2005

Summary

Orgalime believes that the New Approach has been instrumental in the success of the EU internal market with its key benefits: free movement of products, safe everywhere in Europe. We expect to keep the CE marking as a symbol of declaration of conformity to the New Approach legislation thereby concluding a whole process of risk assessment and internal production controls. Therefore:

Orgalime supports an enforced and informed use of the CE marking by all market operators including the Importers into the EU. We would welcome any efforts of the European Union and Member States to set up the appropriate legislative and administrative framework with corresponding means of enforcement in this respect.

Awareness on the meaning and significance of the CE marking must be improved and shared by all market operators including importers and retailers, in particular by launching information campaigns at both national and European level.

Market surveillance must be improved in order to fight free riders that do not respect the significance of the CE marking when placing non-compliant products on the EU market. This would be the best way to reinforce the confidence in the whole New Approach system and decrease the number of non-compliant products to an acceptable level for society and thereby strengthening users' confidence in the internal market, while at the same time enhance the competitiveness of EU manufacturers.

Eight years after the set-up of the New Approach to technical harmonisation, the CE marking was introduced as a facilitation tool, both for the free circulation of goods and for *ex-post* market controls. It is of particular relevance for the European market of engineering goods.

1. CE MARKING: A GOOD ADMINISTRATIVE TOOL

According to Council Decision 93/465/EEC of 22 July 1993¹, the CE marking is the symbol of conformity of a product to EU "total harmonisation" legislation and a tool to help the 28 EEA member countries in their collective duty "*to ensure that products placed on the market conform to the requirements as expressed in the provisions of the directives, in particular with regard to the health and safety of users and consumers*".

¹ **93/465/EEC**: Council Decision of 22 July 1993 concerning the modules for the various phases of the conformity assessment procedures and the rules for the affixing and use of the CE conformity marking, which are intended to be used in the technical harmonization directives – *Official Journal L 220*, 30/08/1993 P. 0023 – 0039. Cf. in particular the last *whereas*: "*the aim of the CE marking is to symbolize the conformity of a product with the levels of protection of collective interests imposed by the total harmonization directives and to indicate that the economic operator has undergone all the evaluation procedures laid down by Community law in respect of his product*" (cf. last *whereas*)

Cf.: <http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31993D0465:EN:HTML>

The European engineering industry is familiar with the CE marking and wants to keep it as a symbol of declaration of conformity to the New Approach legislation, thereby concluding the whole process of risk assessment and internal production control.

- ➔ The CE marking as **an internal market free-trade symbol**. The concept of the CE marking is of interest to all economic operators, because it is seen as the key to free movement of goods: once the CE marking is affixed, the product is declared “fit for use” anywhere in the EU.
- ➔ As a result of its extensive use, the CE marking has also *de facto* become **a global marketing trademark** facilitating sales in the EU and sometimes even on third country markets.

2. CE MARKING: A SYMBOL FOR USE BY MARKET OPERATORS AND AUTHORITIES FIRST

The meaning of the CE marking is understood by both manufacturers and authorities, while its meaning and significance could appear cryptic to the average consumer or even reseller. As it is affixed to many consumer products, the CE marking has become a familiar symbol to consumers, even if it often appears cryptic to them: Many products that are covered by “total harmonisation directives”, but not by New Approach directives, do not – and should not – bear the CE marking, such as vehicles, cosmetics or chemical substances, or such as childcare equipment and other consumer products which fall under the revised general product safety directive (GPSD).

For the European industry, consumer confidence in the product compliance with all EU requirements is paramount. The presence of the CE marking symbol on the product could enhance the consumer’s confidence, provided that he feels it effectively reflects that the product is ready for safe use and respect legal requirements. In Orgalime view, there are 2 pre-requisites to provide support to consumer confidence:

1. Market operators throughout the supply chain must ensure that the CE-marked product has been intended and manufactured for use in the EU;
2. There is efficient market surveillance in order to fight any fraudulent use of the CE marking.

3. HOW NOT TO UNDERMINE THE SIGNIFICANCE OF THE CE MARKING?

In the draft CERTIF 2005-11 on the role and significance of the CE marking, the European Commission envisaged several policy options to remedy the current situation.

- ➔ **Orgalime does not support abolishing the CE marking**, as suggested in one policy option, for the reasons stated above.
- ➔ **The CE marking symbolises a declaration of conformity, not an approval mark. Turning the CE marking into a mark with systematic third party certification would induce a disproportionate cost for economic operators without any guarantee for consumers.** Orgalime would like to stress in particular –as stated in our position paper on “effective market surveillance” of 9/10/2005²–, that consumer confidence could not be achieved in the long run through a generalised and mandatory 3rd-party certification

² Orgalime position: [9/10/2005 - Towards Comprehensive and Efficient Market Surveillance](#)

scheme, as a means of pre-market control. Experience shows that, in the face of weak market surveillance, third-party certification marks are as easily copied or misused as the CE marking is misused by free-riders who do not respect today's rules³. For the vast majority of the machinery and electrical industry, **mandatory** third party certification would increase costs, reduce profit margins due to a prolonged time-to-market period, and therefore have a significant negative impact on the competitiveness of companies without corresponding added value for users. Even countries that have introduced a mandatory conformity certification scheme, such as China with the CCC, are faced with rogue trading which fakes the approval mark⁴.

- ➔ **For the same reasons there is no point in creating a “gold-plated” CE marking** for all third-party certified products. As said in the Certif 2005-11 such “gold-plated” CE-marking would risk distorting the objective of the New Approach.

For those products where no mandatory third party certification is required, manufacturer's self-declaration has been considered proportionate to the risk. For such products, the CE-marking has the same meaning and value as for those products where third party certification is required.

4. HOW TO IMPROVE THE SIGNIFICANCE OF THE CE MARKING?

- ➔ **There is an urgent need to clarify and strengthen the meaning of the CE marking**, by means of an interpretative document. Information campaigns would be best targeted at importers, retailers, consumer and professional organisations, because they are the best channels to convey the message to end-users.
- ➔ **The CE marking should have the same meaning for all market operators.** Next to the manufacturer, or his authorised representative established within the Community, the Importer into the EU should be liable for ensuring that the CE marking affixed on the product corresponds to evidence that the product has been designed and manufactured according to the EU requirements.
- ➔ **Market surveillance must be improved:** Member States with the support of the European Commission must reinforce the confidence in the whole New Approach system, which is not possible as long as rogue operators do not respect the significance of the CE marking when they place non-compliant products on the EU market.

³ Although market surveillance performs rather well in Finland, compared to other EU countries, a TUKES Publication 9/2002 on the Market Surveillance of Electrical Equipment in Finland identified that : *“The lack of confidence in certification marks makes the operations of importers difficult. According to many interviews, especially the TÜV-certificate carries very little trustworthiness. The statistics for 1999-2001 show that 25 % of notifications were directed towards products having certification mark(s). Of all the notifications having the mark, 69 % had the GS-mark and 50 % had the TÜV-mark.”* Source: http://www.tukes.fi/julkaisut/9_2002.pdf

⁴ According to Strix, a European manufacturer of kettles controls that is co-operating with Chinese authorities in the fight against counterfeiting, the Chinese authority AQSIQ have published a report of a nationwide investigation on safety of electric kettles, which states that almost a third of the kettles found on the Chinese market are not compliant with the CCC requirements. Source: <http://www.strix.com/worldnews.htm>.