

Brussels, 03 June 2013

EP IMCO Rapporteur's report on the Radio Equipment Directive 2012/0283(COD)

1. INTRODUCTION

Orgalime welcomes Ms Weiler's Report on the Commission's proposal for the revision of the Radio and Telecommunications' Terminal Directive (RTT&ED 1999/5/EC). This report to the European Parliament's Internal Market and Consumer Committee (IMCO) improves significantly the Commission's proposal.

Therefore, we urge the European Parliament and Council to endorse the Rapporteur's suggestions for amendments and in particular to:

- **keep 'communication' as the discriminatory criterion for the definition of "radio equipment"**. Thereby, equipment which entails a limited use of magnetic or electric fields would stay out of the Directive's scope and continue to be successfully regulated by Electromagnetic Compatibility Directive (EMCD) and Low Voltage Directive (LVD). (amendments 1, 16, 26).
- **preserve the scope's clarification in relation with EMCD and LVD** (amendment 15).
- **limit the Commission's power to define which products fall under the Directive's scope through implementing acts**. Thereby, economic operators and market surveillance authorities will enjoy greater legal stability (amendments 2, 24, 25).
- **keep the removal of a possible product register**. A register – even limited to certain products' categories – is an ineffective market surveillance tool. It entails administrative burden for legitimate market operators and confidentiality issues (amendment 6, 27, 81).
- **keep the alignment of the Directive both with Decision 768/2008/EC and the latest developments in the "NLF Alignment Package" and Regulation EU 1025/2012 on European Standardisation** (amendments 3, 9, 10, 14, 17, 19, 20, 21, 22, 30, 31, 36, 37, 41, 44, 53, 55, 56, 57, 61, 62, 63, 64, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 77, 78, 85). In particular, several provisions which diminish unnecessary cost for economic operators should be preserved (amendments 8, 11, 32, 40, 52).

Besides, we suggest few other amendments, which in our view would further improve clarity across the Directive's text, in line with the Rapporteur's intentions.

Orgalime, the European Engineering Industries Association, speaks for 38 trade federations representing some 130,000 companies in the mechanical, electrical, electronic, metalworking & metal articles industries of 23 European countries. The industry employs some 10.3 million people in the EU and in 2012 accounted for some €1,840 billion of annual output. The industry not only represents some 28% of the output of manufactured products but also a third of the manufactured exports of the European Union.

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2. BROADCAST RECEIVERS SHOULD BE EXCLUDED FROM THE DIRECTIVE'S SCOPE

The Rapporteur suggests a definition of “radio equipment” which rightly brings back pure receivers into the scope.

However, broadcast receivers, which are pure receivers, are so far not regulated by RTT&E D (Annex I, point 4). Nevertheless, they are sufficiently covered by EMCD and LVD as experience from the current directive shows. Therefore we suggest re-introducing the current exclusion of broadcast receivers in Annex I of RED, as a consequence of the new definition of “radio equipment” proposed by the Rapporteur.

Without such an adjustment, manufacturers of broadcast receivers would need to adjust their conformity assessment procedures with substantive technical changes. Additionally, as long as harmonised standards are not listed under the RED in the official Journal of the EU manufacturers would need to involve a notified body to support their conformity assessment. This would entail a significant cost to comply with additional formal requirements, without added value with respect to the protection of the radio spectrum.

3. THE SCOPE OF THE DIRECTIVE SHOULD BE FURTHER CLARIFIED

It should be clarified further that **RED does not apply where, for radio equipment, the essential requirements referred to in Article 3 are wholly or partly covered more specifically by other EU directives.**

Amendment 15 clarifies the relation of RED with EMCD and LVD. Nevertheless, the text should recall the principle of “*lex specialis*”, with a similar formulation as in the Machinery Directive (2006/42, Art. 3) in order to clarify RED’s relation with other directives that regulate partially the placing of the market or radio equipment, such as the directive on equipment and protective systems intended for use in potentially explosive atmospheres (ATEX), the Machinery Directive (MD) or the Directive on Medical Devices (MDD)).

Thereby, the manufacturer would easily decide on which conformity assessment procedure to apply and, where relevant, which notified body to address.

4. UNECESSARY TRANSLATION REQUIREMENTS SHOULD BE REMOVED

Any documentation – besides safety information - should be translated only “*into a language which can be easily understood*” by the relevant market surveillance authority (as requested in Article 10 paragraph 11).

Therefore we suggest deleting article 21 paragraph 5 as the translation requirements for the technical file are sufficiently covered in Article 10 paragraph 11.

Otherwise, legitimate manufacturers would spend valuable resources on translating detailed documents, such as diagrams and circuits, in the very short allocated timeframe of 30 days, despite the fact that market surveillance authorities most probably can understand them in the document’s original language.

Moreover, such a requirement would upset the current practice, whereby technical reports and third-party certificates are usually directly produced in well-understood languages by manufacturers and market surveillance authorities, with the internationally used terminology for the construction of radio equipment.

5. LABELLING AND INSTRUCTIONS SHOULD BE DESIGNED FOR THE END-USER

We suggest complementing Ms Weiler’s proposal of amendment n°35 with an explanation ensuring that instructions, safety information and labelling will be clear and understandable to the product’s end-users. Manufacturers would, thereby, be requested to adapt the product’s instructions and labelling according to the designated end-users, be them trained professionals or consumers.

6. PRODUCTS SHOULD BE IDENTIFIED BY A TYPE, BATCH OR SERIAL NUMBER IN THE DECLARATION OF CONFORMITY

Orgalime calls on the European legislator for changes to Annex VII, so that Declarations of Conformity (DoC) issued under the RED, would include ***the type, batch, serial number or any other element allowing for the identification of the products covered by the DoC*** instead of a “unique identification number for each product covered”.

Such an amendment would align the RED with the “NLF Alignment Package”: it would enable manufacturers to establish a single system for drafting and filing DoCs with the requirements of all relevant Union harmonisation legislation applicable to the radio equipment.

Otherwise, manufacturers would have to **issue a unique DoC for each product, whilst currently a single DoC may apply to variations of the same product**, in shape, colour or functionalities. In other words, the current wording brings substantial and unjustified change to the common practice and does not follow the legislative developments of the “NLF Alignment Package”.

7. DECLARATIONS OF CONFORMITY DO NOT NEED TO SYSTEMATICALLY ACCOMPANY THE PRODUCT

We thank the Rapporteur to pursue rightly for aligning RED with the “NLF Alignment Package” by asking manufacturers to provide a copy of the DoC only “*upon the request of the market surveillance authorities*” in paper or electronic form (amendment 52).

To achieve this goal in full, article 10 paragraph 8 should be deleted, because it would oblige manufacturers to accompany the placing of the radio equipment on the market with a DoC.

Manufacturers would be relieved, thereby, from one more unnecessary administrative burden, as the DoC provides neither useful information to consumers and end-users, nor additional traceability elements to market surveillance authorities.

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