
Brussels, 15 September 2010

Revision of the R&TTE Directive (1999/5/EC) - Answer to the public consultation

http://ec.europa.eu/enterprise/sectors/rtte/public-consultation/index_en.htm

Orgalime welcomes the opportunity to provide its views on the alignment of the R&TTE Directive 1999/5/EC with the New Legislative Framework (NLF), Decision 768/2008/EC mainly.

1. General comments

Orgalime greatly appreciates the Commission's efforts to develop a potentially effective legal framework to harmonise the conditions for placing products on the Community market.

Traceability needs indeed to be improved with flexibility and at the least administrative cost. Nevertheless, it has to be acknowledged that without effective enforcement, traceability measures are pointless. In our view, Decision 768/2008/EC already requires both a clear identification of products made available on the market with "*type, batch or serial number or other element*"¹, and a clear identification of economic operators with "*their name, registered trade name or registered trade mark and the address*"². These requirements aim at ensuring traceability and at facilitating "*market surveillance authorities' task of tracing economic operators who made non-compliant products available on the market*"³.

Therefore, we call on the Commission to maintain consistency when aligning the R&TTED with the New Legislative Framework.

In particular, we call on the Commission to reconsider its plan for introducing an unnecessary register of products/manufacturers.

2. Detailed answer to the online questionnaire

See filled form in annex.

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¹ Decision 768-2008-EC - Article R3 alinea 5

² Decision 768-2008-EC - Article R3 alinea 6 and R7

³ Decision 768-2008-EC - Whereas (28)

Orgalime, the European Engineering Industries Association, speaks for 33 trade federations representing some 130,000 companies in the mechanical, electrical, electronic, metalworking & metal articles industries of 22 European countries. The industry employs some 10.6 million people in the EU and in 2009 accounted for some €1,427 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.

www.Orgalime.org

Public consultation on the impact of options currently under consideration for the revision of the R&TTE Directive

<http://ec.europa.eu/yourvoice/ipm/forms/dispatch?form=RTTE>

The R&TTE Directive 1999/5/EC (hereafter ‘the Directive’) establishes a framework for the placing on the market, free movement and putting into service in the European Union of radio equipment and telecommunications terminal equipment. Products falling within the scope of the Directive are usually covered by NACE code of activity 32, ‘Manufacture of radio, television and communication equipment and apparatus’.

The Directive has been instrumental in the completion of the internal market for radio equipment, replacing many different national type-approval schemes and introducing a light-touch regulatory regime facilitating innovation and competition.

Feedback from the relevant stakeholders including the 2007 public consultation and the standing committee of the Directive (TCAM) has allowed to identify some difficulties in the operation of the Directive in view to achieve its desired effects. The most important of them are outlined in the Second Progress Report on the Operation of Directive. Possible remedies are being considered in an Impact Assessment in the context of a future revision of the Directive, for which a Commission proposal is for end 2010 envisaged.

The present consultation is intending:

- to collect additional information on the expected impact of some of the measures currently under consideration;
- to reach out to stakeholders who may not have been able to express their views on the currently considered measures, in particular SMEs

1. Identification and characterisation of the respondents

Identification (compulsory) between 1 and 50 characters)

- | | | |
|--|---|--|
| <input type="checkbox"/> public authority | <input type="checkbox"/> standardisation body | <input checked="" type="checkbox"/> Other |
| <input type="checkbox"/> economic operator | <input type="checkbox"/> user | |
| <input type="checkbox"/> notified body | | |

Sector of activity (optional) (between 1 and 50 characters)

Orgalime represent the European engineering industry throughout its 22 national trade association members across 33 European countries

In which country is your entity located? (optional) (between 1 and 50 characters)

Orgalime, the European engineering industries association.

Interest register N° [20210641335-88](https://ec.europa.eu/yourvoice/ipm/forms/dispatch?form=RTTE)

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How many employees do you have? (optional) **NOT APPLICABLE**

- Less than 10
- 10 to 49
- 50 to 249
- 250 or more

How many R&TTE products do you manage? (optional) **NOT APPLICABLE**

- Less than 10
- 10 to 49
- 50 or more

2. Compliance with the Directive

Section not addressed to public authorities

1 How would you assess the impact of an alignment of the Directive to the NLF on compliance in your sector of activity? (optional)

- no or no significant impact
- some impact
- significant impact**

Additional detailed comments (optional) (between 1 and 250 characters)

To ensure a high compliance rate, the NLF provisions (REG 765/2008 + DEC 768/2008) need to ensure an enhanced traceability whilst clearly defining the obligations of each economic operator and should be implemented consistently and effectively.

2 How would you assess the impact of an alignment of the Directive to the NLF to achieving a more level-playing field for economic operators? (optional)

- no or no significant impact
- some impact
- significant impact**

Additional detailed comments (optional) (between 1 and 250 characters)

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3 How would you assess the impact of an alignment of the Directive to the NLF on administrative burden? (optional)

- significant reduction of administrative burden
- some reduction of administrative burden
- no or no significant impact
- some increase of administrative burden**
- significant increase of administrative burden

Additional detailed comments (optional) (between 1 and 250 characters)

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4 Do you foresee that an alignment of the Directive to the NLF may have other significant impacts? (optional) (between 1 and 250 characters)

The alignment with NLF provisions may cause legal uncertainties (e.g. "where that is not possible", "reasoned request" or translation requirements). Nevertheless these areas of concern could be addressed horizontally to the benefit of the R&TTED.

5 How would you assess the impact of such an obligation of registration on compliance in your sector of activity? (optional)

- no or no significant impact
- some impact**
- significant impact

Additional detailed comments (optional) (between 1 and 250 characters)

Mandatory registration should be avoided: it adds costs without stimulating compliance. Negative impacts can be expected in the form of further distortion of the "level playing field" (see next question).

6 How would you assess the impact of an obligation of registration to achieving a more level-playing field for economic operators? (optional)

- no or no significant impact**
- some impact
- significant impact

Additional detailed comments (optional) (between 1 and 250 characters)

If market surveillance is not likely to be more effective, registration or any such obligation adds costs to lawful economic operators only. The level-playing field worsens as much as the pricing gap between lawful and unlawful products widens.

7 How would you assess the impact of an obligation of registration on administrative burden? (optional)

- significant reduction of administrative burden
- some reduction of administrative burden
- no or no significant impact
- some increase of administrative burden
- significant increase of administrative burden**

Additional detailed comments (optional) (between 1 and 250 characters)

To meet the obligation of registration, a new database system should be set-up and managed daily without clear benefits. Compared to other administrative obligations from the NLF, an obligation of registration leads to significantly higher burden.

8 Do you foresee that such an obligation of registration may create other significant impacts (e.g. confidentiality issues)? (optional) (between 1 and 250 characters)

Confidentiality is another area of major concern. Besides, discrepancies with the LVD and EMCDD could be expected as the R&TTED expands to ever larger numbers of electrical products in new applications for e.g. smart houses, grids, and vehicles.

3. Clarification of the Directive and reduction of administrative obligations

The scope of the Directive excludes some terminals, and includes equipment for which the provisions of the Directive are not specifically adapted.

Fixed and radio telecommunication terminal equipment falls within the scope of the Directive. Annex I.4 excludes receive-only radio equipment used for sound and TV broadcasting, but the same equipment, if able to transmit for instance through the Internet, **would fall within the scope** of the Directive.

The revision of the Directive could propose to include all radio receivers within the scope of application

9 Would the inclusion of all radio receivers clarify the scope of the Directive? (optional)

- no or no significant impact**
- some clarification
- significant clarification

Additional detailed comments (optional) (between 1 and 250 characters)

In our view the scope of the directive regarding radio receivers is sufficiently clear and problems have not been reported. Before adding new requirements to another group of products the problem to be addressed should be thoroughly analysed.

The revision of the Directive could also propose to modify or clarify current essential requirements so as to explicitly include among them the **performance of radio receivers**.

10 Would such a modification significantly contribute to an efficient use of the spectrum? (optional)

- negative impact
- no or no significant impact
- some positive impact**
- significant positive impact

Additional detailed comments (optional) (between 1 and 250 characters)

Due to the increasing demand for applications (and for the associated operational reliability), different services/applications will have more often to share the same bandwidth of the radio spectrum.

11 Do you expect other impacts, in particular regarding specific market segments of receivers? (optional) (between 1 and 250 characters)

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Terminal equipment, as defined in the Directive, may include many different appliances such as household or office equipment communicating with the Internet directly or indirectly through a public telecommunications network. The revision of the Directive could propose to include in the scope of the Directive only those terminals directly connected to public telecommunication networks, excluding for example household equipment making part of a home network indirectly connected to the Internet.

12 Would this modification clarify the scope of the Directive? (optional)

- no or no significant impact
- some clarification**
- significant clarification

Additional detailed comments (optional) (between 1 and 250 characters)

Should the meaning of “*directly or indirectly connected*” not be clarified, the modification will not improve the current situation that depends upon the location of the NTP, which is a national matter, hence a source of possible discrepancies.

Installations are not specifically mentioned in the Directive, but fall within its scope of application. The revision of the Directive could include the definitions of fixed and mobile installations (as per article 2 of the EMC Directive 2004/108/EC), and clarify the application of the R&TTE Directive to both cases (as per article 13 of EMC Directive 2004/108/EC).

13 Would this constitute a significant contribution to clarify the obligations of manufacturers and installers in these particular cases? (optional)

- no or no significant impact
- some clarification
- significant clarification

14 Do you expect other impacts? (optional) (between 1 and 250 characters)

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Member States and the Commission have agreed in TCAM, the standing Committee of the Directive, on a common approach to many issues arisen in the operation of the Directive. Most of them have been collected in the Guide^[1]. The revised Directive could incorporate those agreements and clarifications which are appropriate for a stable legal text.

15 Do you think this will contribute to clarify the obligations and rights embedded in the Directive? (optional)

- negative impact on clarity
- no or no significant impact
- some clarification
- significant clarification**

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Additional detailed comments (optional) (between 1 and 250 characters)

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The Directive contains a number of **administrative provisions** that create administrative efforts.

Article 6.4 obliges to notify prior to its placing in the market radio equipment using non-harmonised bands.

16 Do you expect a significant impact on administrative burden through the suppression of this requirement? (optional)

- significant reduction of administrative burden
- some reduction of administrative burden**
- no or no significant impact
- some increase of administrative burden
- significant increase of administrative burden

Additional detailed comments (optional) (between 1 and 250 characters)

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Article 4.2 obliges operators to publish technical specifications of public interfaces prior to provision of services through those interfaces

17 Do you expect a significant impact on competition in the provision of terminal equipment through the suppression of this requirement? (optional)

- significant negative impact**
- some negative impact
- no or no significant impact
- positive impact

Article 6.3 obliges manufacturers to provide information to the user on possible restrictions to use in different Member States. **Article 4.1** and Commission Decision 2000/299/EC oblige manufacturers to affix the 'Alert Sign' on radio equipment for which Member States apply restrictions on the putting into service.

18 Provided that the user manual provides sufficient information on the areas for intended use of the equipment and possible restrictions, do you expect a significant impact from suppressing the obligation to affix the 'Alert Sign'? (optional)

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- significant reduction of administrative burden
- some reduction of administrative burden**
- no or no significant impact
- some increase of administrative burden
- significant increase of administrative burden

Please detail (optional) (between 1 and 250 characters)

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4. Scope of the Directive in relation to specific legislation

Section not addressed to public authorities

Some specific pieces of radio equipment are an integral part of systems also covered by other security and safety EU legislation or by international treaties. This is especially the case with **maritime and aeronautic safety systems**.

Since the entry into force of the Interoperability Regulation 552/2004 repealing Council Directive 93/65/EEC, **ground based radio equipment for Air Traffic Management** falls within the scope of the R&TTE Directive. A revision of the R&TTE Directive could exclude equipment covered by Regulation 216/2008 (*as amended*) for ATM equipment.

19 Would this exclusion simplify regulatory obligations for such equipment? (optional)

- no or no significant impact
- some simplification
- significant simplification

Additional detailed comments (optional) (between 1 and 250 characters)

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Radars for inland waterways fall within the scope of the R&TTE Directive. The same equipment is also covered by Directive 2006/87/EC laying down technical requirements for inland waterway vessels, which may partially overlap with the essential requirements in the R&TTE Directive. A revision of the Directive could give primacy to the latter piece of legislation in case it addressed some requirements in a more specific way than the R&TTE Directive, i.e. the specific legislation would prevail as a *lex specialis*.

20 Would such a *lex specialis* provision simplify regulatory obligations for such equipment? (optional)

- no or no significant impact
- some simplification
- significant simplification

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Additional detailed comments (optional) (between 1 and 250 characters)

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5. Other issues

Article 3.3.f of the Directive allows the Commission to require certain products within the scope of the Directive to support certain features in order to facilitate their use by users with a disability. This provision has not been used.

21 Do you think this provision needs to be amended in order to make it more supportive of accessibility? Please detail (optional) (between 1 and 250 characters)

NO. Any change to promote further accessibility would lead to additional costs and burdens for products where it is not applicable, such as for B2B products. Furthermore, all forms of disability cannot be addressed in a single technical solution.

Other issues

22 Please use this space to convey any other comment in relation to the possible revision of the Directive (optional) (between 1 and 250 characters)

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SUBMIT



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