

Brussels, 17 November 2010

Revision of the R&TTE-Directive comments on the first proposal by the Commission TCAM 31 (14) / (15)

Orgalime highly welcomes the possibility to comment on the first proposal on a revised R&TTE directive as presented in TCAM documents 31 (14) / (15). First of all, we would like to express our relief that the EU Commission has decided not to include a mandatory registration system into the proposal. This avoids enormous efforts for manufacturers represented by ORGALIME. However, there are 2 issues that remain of great concern to us:

- Inclusion of pure broadcast receivers into the R&TTE Directive
- Overlapping of requirements from simultaneously applying directives

We are pleased to provide you hereafter with some detailed explanations.

Inclusion of pure broadcast receivers into the R&TTE Directive

Orgalime has great concerns about bringing **pure broadcast receivers** under the scope of the R&TTE directive. The revision of the exclusion would have significant impact on European industry. We therefore suggest that a more detailed impact assessment shall be carried out before any modification of the scope is being made. The reasons for the concern are the following:

The extension of the scope would bring additional administrative and technical burden for manufacturers of such equipment which leads to higher costs without clear added value. This would impact for instance manufacturers of TV sets but also of small battery operated tuners.

A broad range of broadcast receivers is available which do not have any communication function. Especially for SMEs producing low cost broadcast receiving devices the additional administrative obligations of the R&TTE-D such as the creation of a new Declaration of Conformity, manuals incorporating the R&TTE compliance statement – for which a standard of covering spectrum efficiency of radio broadcast receivers is not in place yet - has a significant technical, administrative and in the end financial impact. This would ultimately affect end consumers as well.

Pure broadcast receivers are already regulated by various directives for example such as Directive 2006/95/EC (LVD), Directive 2001/95/EC (GPSD), Directive 2004/108/EC (EMCD). For broadcast receivers in car devices the Directive 2004/104/EC (AutomotiveD), Directive 2002/22/EC and Directive 2009/136/EC (Universal ServiceD) apply. Manufacturers already meet the requirements of a number of directives which proved to be sufficient. Problems with this equipment have not been reported.

Orgalime, the European Engineering Industries Association, speaks for 33 trade federations representing some 130,000 companies, mostly SMEs, 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.

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The main reasoning for the inclusion seems to be the anticipation of problems with the increasing coexistence of services in the same frequency bands. The conclusion is drawn that extending the scope would set the basis for the development of harmonized standards on receivers and thus solves the problem. With regard to the Digital Dividend the main problems of coexistence would presumably relate to (cable) CATV network connected devices that are operating in the same frequency range as LTE (Long Term Evolution) mobile equipment. Since CATV connected devices are not being covered by the R&TTE-D the coexistence problems can only be reasonably dealt with in a joint approach and effort of all actors concerned through the ongoing standardisation work. CENELEC holds workshops on the Digital Dividend. Within a joint working group of CENELEC and ETSI recommendations of changes to existing standards are being made. Results are expected in the near future. This joint approach in standardisation is the preferable solution.

Additionally, a legislative change would mean a European-only approach, while most harmonised standards are based on international standards and as such support globally operating European manufacturers.

Overlapping of requirements from simultaneously applying directives

We welcome the proposal to formulate in a more general way article 1 (2) of the R&TTED regarding the relationship between the Directive and medical devices directives. Building on that idea, we suggest inserting a general specificity clause in order to clarify the scope of different directives applying to the same product, with the following reasoning:

Already in the past some confusion came out from the fact that the R&TTED covers not only requirements on the effective use of frequency bands but safety and EMC aspects. When other directives that apply to the same product already regulate safety and EMC aspects, as is the case in the medical devices directives, it is not clear which conformity assessment procedure has to be applied for safety and EMC aspects. Additionally, in cases where both directives foresee the involvement of notified bodies it is not clear, which notified body shall assess what aspects.

The current wording of article 1 (2) states the simultaneous application of both directives without satisfactory solution. This is in particular relevant for products in the scope of the machinery directive (MD). Until now, a pragmatic solution could be found on a case by case basis. However, the multiplication of radio appliances into more and more product groups will make the situation increasingly complicated in the future. In addition, the introduction of safety aspects through the R&TTED, which for safety refers to the LVD, should not impact on the existing guidelines of the new Machinery Directive that have clarified the scope overlap between the MD and the LVD.

Orgalime therefore proposes to replace article 1 (2) and (3) of the R&TTED by the following article into the new R&TTED, which is based on article 3 machinery directive 2006/42/EG:

"Where for equipment, the requirements referred to in this article are wholly or partly covered more specifically by other Community Directives, this Directive shall not apply, or shall cease to apply, to that equipment in respect of such requirements from the date of implementation of those other Directives."

In article 3 (4) of TCAM 31 (15) a procedure was proposed to clarify situations as explained above. Such a procedure has not proved to be necessary under the machinery directive. Therefore, it should be analysed whether a specificity clause as proposed might not be sufficient. If such a procedure is chosen, it should be made sure that stakeholders are involved in the process. In this case Orgalime suggests to introduce a committee with stakeholder involvement into the directive similar to the consultation forum in the eco design directive (2009/125/EC; article 18).

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