

# Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) <a href="#">1997/0149(COD)</a> Directive</p>	Procedure completed
<p>Radio equipment and telecommunication terminal equipment and mutual recognition of their conformity</p> <p>Repealing Directive 98/13/EC <a href="#">1995/0309(COD)</a> Repealed by <a href="#">2012/0283(COD)</a> Amended by <a href="#">2013/0048(COD)</a></p> <p>Subject 2.10.03 Standardisation, EC/EU standards and trade mark, certification, compliance 3.30.03 Telecommunications, data transmission, telephone 3.30.04 Radiocommunications, broadcasting</p>	

Key players			
European Parliament	Former committee responsible		
	<b>ECON</b> Economic and Monetary Affairs, Industrial Policy	PSE <a href="#">READ Imelda Mary</a>	18/06/1997
	<b>ECON</b> Economic and Monetary Affairs, Industrial Policy	PSE <a href="#">READ Imelda Mary</a>	18/06/1997
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">General Affairs</a>	<a href="#">2158</a>	25/01/1999
	<a href="#">Competitiveness (Internal Market, Industry, Research and Space)</a>	<a href="#">2149</a>	07/12/1998
	Fisheries	<a href="#">2105</a>	08/06/1998
	Telecommunications	<a href="#">2071</a>	26/02/1998
	Telecommunications	<a href="#">2054</a>	01/12/1997

Key events			
04/06/1997	Legislative proposal published	COM(1997)0257	Summary
25/06/1997	Committee referral announced in Parliament, 1st reading		
01/12/1997	Debate in Council	<a href="#">2054</a>	
21/01/1998	Vote in committee, 1st reading		Summary
21/01/1998	Committee report tabled for plenary, 1st reading	<a href="#">A4-0023/1998</a>	

28/01/1998	Debate in Parliament		Summary
29/01/1998	Decision by Parliament, 1st reading	T4-0051/1998	Summary
26/03/1998	Modified legislative proposal published	COM(1998)0176	Summary
08/06/1998	Council position published	<a href="#">06507/1/1998</a>	Summary
18/06/1998	Committee referral announced in Parliament, 2nd reading		
23/09/1998	Vote in committee, 2nd reading		Summary
23/09/1998	Committee recommendation tabled for plenary, 2nd reading	<a href="#">A4-0337/1998</a>	
06/10/1998	Debate in Parliament		
06/10/1998	Decision by Parliament, 2nd reading	T4-0541/1998	Summary
07/12/1998	Parliament's amendments rejected by Council		
08/12/1998	Formal meeting of Conciliation Committee		
08/12/1998	Final decision by Conciliation Committee		Summary
13/01/1999	Joint text approved by Conciliation Committee co-chairs	<a href="#">3635/1998</a>	
25/01/1999	Decision by Council, 3rd reading		
02/02/1999	Report tabled for plenary, 3rd reading	<a href="#">A4-0055/1999</a>	
09/02/1999	Debate in Parliament		
10/02/1999	Decision by Parliament, 3rd reading	T4-0091/1999	Summary
09/03/1999	Final act signed		
09/03/1999	End of procedure in Parliament		
07/04/1999	Final act published in Official Journal		

## Technical information

Procedure reference	1997/0149(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Repealing Directive 98/13/EC <a href="#">1995/0309(COD)</a> Repealed by <a href="#">2012/0283(COD)</a> Amended by <a href="#">2013/0048(COD)</a>
Legal basis	EC before Amsterdam E 100A
Stage reached in procedure	Procedure completed
Committee dossier	CODE/4/10618

## Documentation gateway

Legislative proposal	<a href="#">COM(1997)0257</a> <a href="#">OJ C 248 14.08.1997, p. 0004</a>	04/06/1997	EC	Summary
Economic and Social Committee: opinion, report	<a href="#">CES1377/1997</a> <a href="#">OJ C 073 09.03.1998, p. 0010</a>	10/12/1997	ESC	Summary
Committee report tabled for plenary, 1st reading/single reading	<a href="#">A4-0023/1998</a> <a href="#">OJ C 056 23.02.1998, p. 0003</a>	21/01/1998	EP	
Text adopted by Parliament, 1st reading/single reading	T4-0051/1998 <a href="#">OJ C 056 23.02.1998, p. 0012-0027</a>	29/01/1998	EP	Summary
Modified legislative proposal	COM(1998)0176 <a href="#">OJ C 141 06.05.1998, p. 0009</a>	26/03/1998	EC	Summary
Council position	<a href="#">06507/1/1998</a> <a href="#">OJ C 227 20.07.1998, p. 0037</a>	08/06/1998	CSL	Summary
Commission communication on Council's position	SEC(1998)1037	16/06/1998	EC	Summary
Committee recommendation tabled for plenary, 2nd reading	<a href="#">A4-0337/1998</a> <a href="#">OJ C 328 26.10.1998, p. 0006</a>	23/09/1998	EP	
Text adopted by Parliament, 2nd reading	T4-0541/1998 <a href="#">OJ C 328 26.10.1998, p. 0016-0032</a>	06/10/1998	EP	Summary
Commission opinion on Parliament's position at 2nd reading	COM(1998)0692	15/12/1998	EC	Summary
Joint text approved by Conciliation Committee co-chairs	<a href="#">3635/1998</a>	13/01/1999	CSL/EP	
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading	<a href="#">A4-0055/1999</a> <a href="#">OJ C 150 28.05.1999, p. 0006</a>	02/02/1999	EP	
Text adopted by Parliament, 3rd reading	T4-0091/1999 <a href="#">OJ C 150 28.05.1999, p. 0153-0165</a>	10/02/1999	EP	Summary
Follow-up document	<a href="#">COM(2004)0288</a>	22/04/2004	EC	Summary
Follow-up document	<a href="#">C(2009)3200</a>	12/05/2009	EC	
Follow-up document	<a href="#">SEC(2009)0585</a>	12/05/2009	EC	
Follow-up document	<a href="#">COM(2010)0043</a>	09/02/2010	EC	Summary

#### Additional information

European Commission

[EUR-Lex](#)

#### Final act

[Directive 1999/5](#)  
[OJ L 091 07.04.1999, p. 0010](#) Summary

## Radio equipment and telecommunication terminal equipment and mutual recognition of their conformity

OBJECTIVE: the purpose of the proposal for a Directive is to establish a Community legislative framework for the placing on the market, free circulation and putting into service of connected telecommunications equipment which complies with essential requirements. SUBSTANCE:

the proposal represents a significant step forward in the legislative framework necessary to support a genuinely competitive multi-vendor Community market for connected telecommunications equipment. The proposed Directive replaces two Directives (91/263/EEC on telecommunications terminal equipment and 93/97/EEC on satellite earth station equipment) and simplifies two other Directives (93/68/EEC on conformity marking and 89/336/EEC on electromagnetic compatibility). It supplements horizontal Community legislation and is fully aligned with the Global Approach to testing and certification. As regards manufacturers' liability, provisions equivalent to those contained in Directive 85/374/EEC on liability for defective products are incorporated in order to cover telecommunications requirements so that the regulatory regime can be complemented by a balanced and harmonized surveillance regime. The major elements of the new Directive are: - enlargement of the scope of equipment covered by the inclusion of radio equipment; - a set of new definitions making the Directive future-proof by taking into account the liberalization of infrastructures and competition between operators; - a development of the concept of telecommunications-specific essential requirements to take into account technological trends; - a flexible decision-making process whereby future network infrastructures and systems can readily be covered; - a simplified conformity assessment regime based upon the principle of manufacturer's declarations. ?

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The Committee supports in principle the major elements of the proposed directive. However, there are some areas of concern. The exclusion of equipment intended for exclusive public security use should apply for all equipment, not only for radio. This should be stated at the beginning of the directive, rather than in the definitions. Possibly the wording of the proposed Telecommunications Data Protection Directive could provide a model. The scope of radio equipment covered by the directive should exclude radio equipment used by radio amateurs receive-only radio equipment capable of radio reception solely of Broadcasting Services. The essential requirement for effective use of the radio frequency spectrum should be a general essential requirement, applicable to all radio equipment. To avoid confusion, the different requirements for radio and other kinds of equipment should be identified more clearly in the text. The proposed directive should clarify that consumers are protected through horizontal legislation for aspects of products that fall outside the essential requirements. This is important because the proposed directive has a lighter interpretation of essential requirements than was used in Directives 91/263/EEC and 93/97/EEC. In the opinion of the Committee, the possibility of removal of all products from the market under the safeguard provisions of the directive is an adequate force compelling suppliers to ensure that CTE meets all applicable essential requirements, and that the simplified access to the market is not abused. No further provisions on liability for non-compliance are needed.

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Placing radio and telecommunications equipment on the market is presently subject to approval by a telecommunications authority or assessment body in the Member States. Although in 1991, a mutual recognition principle was introduced through Directive 91/263/EEC, it failed to reach its full potential because of restrictive implementation in national laws. At the same time the telecommunications market has changed dramatically over the last few years, with lots of new products with relatively short life-cycles - usually below 3 years. As current assessment and approval procedures not infrequently last up to 18 months, the Commission has put forward a proposal for a more flexible regime based upon manufacturer's self-testing and unilateral declarations of conformity : which is what applies to other technologically similar devices such as TV sets, audio equipment or computers, subject to general safety requirements as well as specific requirements on electro-magnetic compatibility to avoid radio interferences. The proposal covers not only telecommunications equipment (wired or wireless) but also all kinds of radio-wave equipment whether they are used for telecommunications, broadcasting or remote control of appliances. The proposal sets out a definition of the equipment concerned and of the essential requirements to be safeguarded as well as the procedure for ensuring compliance by the manufacturer of the equipment with the essential requirements. Finally, the absence or limitation of prior type-approval does not prevent Member States from exercising their responsibility in surveillance and preservation of public interest, for example by withdrawing faulty products from the market. Reporting for the Committee, rapporteur Imelda READ (PES, UK) broadly welcomes the approach chosen by the Commission. The Committee does however propose a number of amendments to overcome certain shortcomings of the proposal, In particular, the Committee seeks to strengthen the essential requirements that equipment covered by the directive must meet. The amendments seek, inter alia, to ensure that failures or disturbances caused by inadequate connections or non-compliant equipment are traceable without difficulty and have limited consequences for the users or the networks. Also, the Committee wants to ensure that the equipment is designed with the needs of disabled users in mind. ?

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Replying to the rapporteur who wanted to replace the existing national regulations with a uniform and simplified licensing procedure, Commissioner Bangemann said that he preferred to leave manufacturers room for manoeuvre rather than impose mandatory standards. However, as regards radio equipment, he acknowledged the lack of harmonisation but considered that it was primarily up to the Member States to harmonise their systems. He also agreed that the use of telecommunications by disabled people should be improved but considered that it was primarily up to manufacturers to make new equipment available. As for liability, he added that this was shared by both manufacturers and importers. The Commissioner accepted 9 of the 23 amendments: namely Nos 1, 2, 3, 4, 5, 9, 12, 17 and 18. He also partially accepted Amendments Nos 8, 10, 13, 14, 15, 16, 20, 21, 22 and 23. However, he rejected Amendments Nos 6, 7, 11 and 19.

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In adopting the report by Mrs Imelda Mary READ (PSE, UK), the European Parliament largely approved the Commission proposal. However, it did adopt a number of amendments designed to make good certain lacunae in the proposal and particularly to render more stringent the basic requirements with which equipment must comply. The amendments particularly seek to make it possible to ascertain without difficulty the source of failures or disturbances caused by inadequate connections or non-compliant equipment and to ensure that the consequences are limited for users or networks. Parliament particularly wishes to ensure that equipment, or its use, does not compromise the health and safety of users or of anyone else, and that it is so designed as to take account of the needs of disabled users. Parliament considers that if a telecommunications operator shows that equipment which has been declared compliant with the Directive causes damage to his network or is not being used properly, the surveillance authority may authorize him to refuse to connect the equipment to his network. Parliament also stipulates that if a Member State ascertains that equipment within the scope of the Directive does not comply with its requirements, it should take all appropriate and proportionate measures in its territory to obviate the consequences of non-compliance, for example by authorizing operators to refuse to connect the equipment to their networks, by withdrawing the equipment from the market and by prohibiting its placing on the market or restricting its free movement. It calls on the Commission to keep a register of the cases notified by the Member States. ?

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The Commission's amended proposal takes account, in full or in part, of 16 of the 19 amendments adopted by the European Parliament at first reading. The Commission accepted the amendments which: - reinforce the importance of maximising the classes of equipment covered by the Directive; - clarify the procedures on dealing with radio equipment; - introduce a consultation mechanism where equipment considered non-compliant with the Directive is withdrawn from the market; - introduce possibilities for network operators to disconnect equipment in special circumstances. The Commission did not, however, accept amendments seeking: - limitation of coverage of putting into service of equipment not operating in harmonized frequency bands; - usage of harmonized standards; - the keeping in place of existing directives (with very detailed requirements and conformity assessment procedures) for products originating from countries not providing reciprocal access for products from the Community. ?

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The common position incorporates, in whole or in part, 5 of the 19 amendments adopted by the European Parliament at first reading. The main changes to the Commission proposal concern the following points: a) Radio equipment: while maintaining the objective of ensuring free movement for such equipment, the common position includes a number of provisions intended to prevent radio equipment operating in frequency bands not yet harmonised throughout Community territory from causing harmful interference when used: - inclusion of a safeguard clause enabling Member States to prohibit on their markets radio equipment which has caused or is likely to cause interference; - an obligation on the person responsible for placing on the market equipment operating in as yet unharmonised frequency bands to inform the national authority responsible for spectrum management in the Member State concerned of his intention of marketing such equipment; - stricter conformity assessment for unharmonised radio equipment; - information for users on any restrictions on the geographical area of use of radio equipment; b) Committee assisting the Commission: the common position provides for a dual procedure: - an advisory procedure applicable to the following questions: the interpretation and publication of harmonised standards; the date of application of the essential requirements specific to certain categories of equipment; safeguard measures taken by Member States to remedy shortcomings in harmonised standards; - a type III(a) regulatory procedure for setting the essential requirements specific to certain categories of equipment and establishing the equivalence between interfaces notified by the Member States; c) The manufacturer's liability in the event of non-conformity: the Council considers that the Directive does not need to include any provision harmonising legislation on the manufacturer's liability in the Community; d) Scope of the new rules: the common position includes a specific list, annexed to the Directive, of equipment not to be subject to the new rules (e.g. equipment used exclusively by radio amateurs). The common position expressly excludes equipment exclusively used for activities concerning public security, defence, State security and the activities of the State in areas of criminal law; e) Information to users and marking: the Council has extended the obligations for manufacturers to inform users of the purpose for which equipment is to be used. The information is to be indicated both on the equipment (marking) and on its packaging; f) Reciprocity with third countries: the common position includes provisions to ensure that Community enterprises can enjoy similar treatment in third countries to that which those countries' enterprises will enjoy under the new Directive. ?

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The Commission considers the common position of the Council acceptable. The compromise secured does not damage the initial objectives of the Commission. The Council has in particular: - introduced safeguards permitting Member States to take certain measures to prevent the placing on the market and putting into service of radio equipment and telecommunications terminal equipment; - stepped up requirements regarding telecommunications terminal equipment; - clarified the role of harmonised standards; - rendered more stringent the conformity assessment procedures, while retaining the principle of the manufacturer's declaration. The Commission hopes that the compromises arrived at will be applied in a pragmatic and balanced manner. It regrets the Council's decision to opt for a type IIIa committee procedure in a Directive pursuant to Article 100a. ?

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Placing radio and telecommunications equipment on the market is presently subject to approval by a telecommunications authority or

assessment body in the Member States. Although in 1991, a mutual recognition principle was introduced through Directive 91/263/EEC, it failed to reach its full potential because of restrictive implementation in national laws. At the same time the telecommunications market has changed dramatically over the last few years, with lots of new products with relatively short life-cycles - usually below 3 years. As current assessment and approval procedures not unfrequently last up to 18 months, the Commission has put forward a proposal for a more flexible regime based upon manufacturer's self-testing and unilateral declarations of conformity : which is what applies to other technologically similar devices such as TV sets, audio equipment or computers, subject to general safety requirements as well as specific requirements on electro-magnetic compatibility to avoid radio interferences. At first reading Parliament adopted the proposal subject to 19 amendments, more than half of which are wholly or partly included in the Council's Common Position. Council accepted inter alia amendments calling for equipment is designed with the needs of disabled users in mind. In her recommendation for second reading Mel Read (PES, UK) proposes 18 amendments to the Council text. Some of these are amendments from first reading not accepted by Council, others to take into account changes introduced by Council. In particular, the Committee calls for measures to facilitate free movement of equipment by clearly stating the Member States may not prohibit, restrict or impede the use of equipment complying with the Directive. The Committee also calls for further exceptions from the rules as regards equipment used by radio amateurs. ?

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In adopting the recommendation for second reading by Mrs Imelda READ (PSE, UK), the European Parliament proposed 15 amendments. While some of them merely reinstated amendments already adopted at first reading, others took account of amendments made by the Council in the common position. Parliament called, in particular, for the adoption of measures to facilitate free movement of equipment. It was important to lay down that Member States were not permitted to prohibit or restrict the placing on the market and putting into service in their territory of apparatus which met the criteria laid down in the Directive. Moreover, at trade fairs, exhibitions, demonstrations, etc., Member States must not create any obstacles to the showing of apparatus which did not comply with the Directive, on condition that a visible sign clearly indicated that such apparatus could not be marketed or put into service until it had been made to comply. Parliament called for the adoption of specific measures concerning equipment used by radio amateurs. It stressed the importance of protecting the health and safety of users or any other persons, which were essential requirements applicable to all equipment.?

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The EP and Council Delegations to the Conciliation Committee reached agreement on the directive on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity. Council incorporated the most important EP amendments in its common position and rapporteur Mel READ (PES, UK) will now recommend that the House adopt the common position. The EP Delegation was chaired by Vice-President Renzo IMBENI (PES, I). Placing radio and telecommunications equipment on the market is currently subject to approval by a telecommunications authority or assessment body in the Member States. In 1991, a mutual recognition principle was introduced by Directive 91/263 but failed to achieve maximum impact because of the restrictive way in which it was implemented in Member States' national laws. At the same time, the telecom market has changed dramatically over the last few years, with the arrival of many new products with relatively short life-cycles. The Commission originally put forward a proposal for a more flexible regime based on self-testing by manufacturers and unilateral declarations of conformity. This approach is already used for other technologically similar devices such as TV sets, audio equipment and computers. In her recommendation for second reading, the rapporteur proposed 18 amendments to the Council text, of which many were accepted by Council, including those on telecommunications terminal equipment and harm to the network. The EP Delegation accepted a Council text which strengthens the position of consumers in cases where operators have to disconnect apparatus to protect the network. Council also finally agreed to an amendment on safeguard clauses. Council's own proposal for a new recital to clarify the conditions for displaying telecom apparatus which does not comply with the directive at trade fairs was also accepted.

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The Commission accepts in full 14 of the 15 amendments adopted by the European Parliament at Second Reading. These relate, in particular, to the following areas: - imposing requirements relating to the prevention of non-physical harm to networks only after a Decision of the Commission; - giving operators the right to disconnect terminals without delay; - rendering the decision process, where Member States invoke safeguards, more transparent.?

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At third reading under codecision procedure, the European Parliament voted to approve the joint text approved by the Conciliation Committee for the European Parliament and Council Directive relating to radio equipment and telecommunications terminal equipment and the mutual recognition of the conformity of equipment, together with the relevant declaration. The rapporteur was Imelda Mary Read (PSE,UK).?

## Radio equipment and telecommunication terminal equipment and mutual recognition of their conformity

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**PURPOSE:** to establish a Community regulatory framework for the placing on the market, free movement and putting into service in the Community of radio equipment and telecommunications terminal equipment. **COMMUNITY MEASURE:** Directive 1999/3/EC of the European Parliament and of the Council on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity. **CONTENT:** the directive represents an important step in establishing the necessary legislative framework to support a truly competitive Community market in telecommunications terminal equipment. The new regulation establishes an exact list, annexed to the directive, of equipment not covered by the directive (eg. radio equipment used by radio amateurs). The directive also excludes apparatus exclusively used for activities concerning public security, defence, State security and the activities of the State in the area of criminal law. Member States are required to ensure that apparatus is placed on the market only if it complies with the appropriate essential requirements laid down in the directive. They will also ensure that the manufacturer or the person responsible for placing the apparatus on the market provides information for the user on the intended use of the apparatus, together with the declaration of conformity to the essential requirements. The directive prescribes measures intended to prevent radio equipment, using frequency bands whose use is not harmonised throughout the Community, from causing harmful interference when used: - the person responsible for placing the equipment on the market is required to notify the national authority responsible for spectrum management in the relevant Member State of the intention to place the equipment on its national market; - a safeguard article allows Member States to prohibit the placing on its market of radio equipment, causing or likely to cause interference; - radio equipment which isn't harmonised is to be subject to stricter monitoring of its conformity; - users are to be informed of possible restrictions on the use of radio equipment in certain geographical areas. The Commission will be assisted by a committee (the telecommunications conformity assessment and market surveillance committee (TCAM)). Two committee procedures are envisaged: - an advisory committee procedure to be consulted on the following matters: interpretation and publication of harmonised standards; the date of application of essential requirements for apparatus within certain equipment classes or apparatus of particular types; safeguard measures taken by Member States in order to address a lack of harmonised standards; - a regulatory committee procedure type IIIA responsible for laying down specific essential requirements for certain equipment classes as well as the establishment of notified interfaces by the Member States. The Commission will examine the implementation of the directive and will submit a report to the European Parliament and the Council no later than 07/10/2000 and then every third year thereafter. **ENTRY INTO FORCE:** 07/04/1999. **DEADLINE FOR TRANSPOSITION:** 07/04/2000.?

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Directive 1999/5/EC ("the R&TTE Directive") set out new rules for ensuring the internal market of Radio Equipment and Telecommunications Terminal Equipment. It replaced Directive 98/13/EC and over 1000 national approval regulations. This is the first progress report on the Directive. The report discusses the operation of the Directive, its effectiveness, particularly with regard to questions on radio spectrum, and international aspects of the Directive. The report concludes that the policy set by the Directive needs to be continued, and a number of actions are proposed: As regards the Directive itself, a limited revision of its provisions should be pursued, addressing, inter alia, the following issues: - Create possibilities for rendering implementing details and interpretations of the Directive legally binding through a comitology procedure; - Reconsider the use of Article 3.3 Decisions for "safety of life" purposes and consider their inclusion in sector specific regulations; - Scope: coverage of aeronautical equipment, radio equipment not used for radio communication; - Review the provisions on the handling of non-compliant products, so as to ensure effective market surveillance but avoiding where possible the need for Commission opinions; - Rationalise requirements for user information and marking arising under this Directive and other New Approach Directives (particularly the Low Voltage and EMC Directives) so as to arrive at obligations which are proportional to the objective; consider how to make relevant information accessible to all types of users, in particular the disabled, where relevant; - Review the provisions obliging operators to publish the characteristics of their networks and consider whether certain provisions should be removed for smaller operators; - Consider whether terminal equipment that is not radio equipment should be removed from the Directive and thus only be covered by the EMC and Low Voltage Directive. In so doing, attention would need to be paid to the existence of dominant players, the possible reintroduction of national regulations and bundling of equipment with network services and the need for stability for manufacturers; - Consider how to ensure a coherent legal framework for avoiding harmful interference from radio and other equipment; - Ensure coherence of the Directive, its provisions and terminology with the Electronic Communications framework; - Consider the application of art 3(3) f to include accessibility requirements for certain types of terminals. This is particularly important for emergency equipment where accessibility should be guaranteed. Discussions should be launched with the Member States to clarify the borderline between equipment and networks for issues related to accessibility and to undertake joint actions to foster solutions at European level. As regards the management of the Directive a number of actions are proposed: - the co-operation between notified bodies (R&TTE Compliance Association) and the national spectrum regulators should be improved so as to ensure that the guidance on innovative products is not contentious; - The Commission should study the compatibility of technical provisions of local planning regulations for base stations with the Directive. As regards spectrum harmonisation and management: - Migrate more equipment from Class 2 (subject to national restrictions) to Class 1 (use anywhere in the Community). The Spectrum Decision should be used to arrive at more harmonised spectrum, especially for consumer products and short-range devices; - Launch discussions with Member States in the context of the Radio Spectrum Decision on streamlining the decision-making process for frequency allocations for emerging applications, including the creation of possibilities for experimentation in the EU so as to arrive at a more permissive environment, which fosters competitiveness of EU industry; - Discuss in the same context the policy benefits of lowering access barriers to spectrum and on the potential for new technological developments to reduce the need for individual licences and rigid segmentation of the spectrum. Finally, on the question of international trade, the report feels that, given the level of deregulation existing and the substantial resources required for managing MRAs, the real added value of such arrangements for EU manufacturers and certification interests is questionable. The Commission is studying more effective ways to address market access problems for EU manufacturers.?

## Radio equipment and telecommunication terminal equipment and mutual recognition of their conformity

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The Commission presents its second progress report on the operation of Directive 1999/5/EC on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity. 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. This report draws attention to some difficulties in the operation of the Directive. Possible remedies will be addressed in a comprehensive Impact Assessment in the context of a future revision of the Directive, for which a Commission proposal is scheduled for end 2010.

In its assessment, the Commission states that the Directive has been instrumental in the completion of the internal market for radio equipment, replacing thousands of national type-approval schemes and introducing a light touch regulatory regime facilitating innovation and competition. Overall, the regulatory framework set up by the Directive has allowed to achieve its intended goals, i.e. a high level of protection of health and safety for users, the electromagnetic compatibility (EMC) for telecommunication terminals and radio equipment as well as the avoidance of harmful interference.

Regarding use of spectrum, in spite of the limited technical compliance observed in some types of products, there is no evidence of an increase of levels of harmful interference. This may suggest that standards may be too stringent, and that a review of the technical approach in this area may allow a more intense and efficient use of spectrum.

There are two main issues that merit a more in-depth investigation: market entrance for innovative radio technologies due to the existing process for putting in place the necessary regulatory decisions concerning spectrum use and harmonised standards, and the traceability of the manufacturer or the person responsible for placing products on the market.

The report also states that the scope of the Directive needs to be reviewed. For instance, the radio and TV receivers which are not able to transmit by radio or cable do not fall within the scope of the Directive, while those which are able to transmit signals do.

Traceability of defective products is an issue of concern: market surveillance authorities (MSA) can often not identify the manufacturer or the person responsible for placing a product on the market, especially for smaller market players. Strong, often costly effort is spent on finding manufacturers or importers, preventing a more efficient allocation of the limited resources of MSAs. In consultation, a compulsory on-line registration of either the manufacturers or their products and/or an adaptation of the Directive to the New Legal Framework (NLF) have been suggested to improve traceability.

The Directive provides for a safeguard measure (Article 9) such as a 'sales ban'. The existing procedure allows for national measures only with a notification to the Commission. This procedure has been considered as too lengthy since it can usually not be completed before the end of the life cycle of the non-compliant product. The Radio Spectrum Policy Group recommended investigating the possibility of an extension of a national safeguard clause to the whole of the EU market, where appropriate.

The Directive and the general framework for competitiveness and innovation in this area: since its entry into force the Directive has been instrumental in consolidating the Internal Market for products within its scope. The framework works well for placing on the market equipment using established technologies, and also facilitates their evolution, in particular through the timely revision of harmonised standards. The Directive appears to be less suited to allow the placing on the market of products based on fundamentally new radio technologies not yet covered by harmonised standards. In the absence of harmonised standards, the manufacturer has to consult a Notified Body for placing a product on the market. In its Opinion on 'Streamlining the regulatory environment for the use of spectrum?', the RSPG noted 'that stakeholders (notified bodies, manufacturers?) seem unable to establish, with any certainty, the conformity of radio equipment with the essential requirements of the R&TTE Directive where a harmonised standard has not been applied or does not exist.' Regulators also tend to submit innovative radio products to conservative usage constraints within the bands that are allowed. Furthermore, outside the scope of the Directive, but strongly linked to the introduction of innovative radio technologies, is the issue that innovations may not sufficiently fit within existing spectrum allocations and are therefore legally prevented from being used. Member States do offer the possibility of experimental rights of use which can support the development of innovative technologies at national level. When moving from the research and development phase to commercial deployment, the lack

of harmonised standards allowing to place innovative products on the market in compliance with legal requirements, and availability of suitable spectrum allocations and associated conditions of use may create legal uncertainty and thus can deter potential investors in technology. However increased flexibility for spectrum use as introduced by the 2009 review of the electronic communications regulatory framework may offer a solution to this issue. Due to these challenges related to a complex, and somewhat inflexible regulatory environment, companies may choose to move their pilot-tests, pre-commercial and initial commercial deployment to other trading areas, such as the United States of America. This prevents innovation in radio technologies in Europe from reaching its full potential.