

Radio equipment: harmonisation of the laws of the Member States relating to the making available on the market

2012/0283(COD) - 17/10/2012 - Legislative proposal

PURPOSE: to establish a regulatory framework for the making available on the market and putting into service in the Union of radio equipment.

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: Directive 1999/5/EC on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity ((R&TTE Directive), establishes a framework for the placing on the market, free movement and putting into service in the EU of radio equipment and telecommunications terminal equipment. It includes essential requirements for the protection of health and safety, of electromagnetic compatibility and for the avoidance of harmful interference. These requirements are translated into technical requirements within non-mandatory harmonised standards, as in other New Approach legislation. Whilst a fundamental revision of the Directive is not necessary, experience in the operation of the Directive has highlighted a number of issues to be addressed, principally regarding compliance and clarification.

IMPACT ASSESSMENT: the proposal is accompanied by an [impact assessment](#). Overall, there is a high level of consensus and support for aligning the Directive with the New Legislative Framework package and for clarifying and simplifying the Directive. Opinions are more divided on the possible introduction of a requirement to register products prior to their placing on the market, and on some measures for administrative simplification

LEGAL BASIS: Article 114 of the Treaty on the Functioning of the European Union.

CONTENT : the main objectives of the proposal are:

- to improve the level of compliance with the requirements in the Directive, and to increase the confidence of all stakeholders in the regulatory framework;
- to clarify and simplify the Directive, including some limited adaptations of scope, so as to facilitate its application and eliminate unnecessary burden for economic operators and public authorities.

The proposed revision also allows better integration of the Directive with other related EU Legislation, particularly Decision No 676/2002/EC (the Radio Spectrum Decision).

The initiative is consistent with the New Legislative Framework package approved in 2008, comprised of: (i) Regulation No (EC) 765/2008 on accreditation and market surveillance and (ii) of Decision No (EC)768/2008 establishing a common framework for the marketing of products, which provides that its provisions are to be used when legislation is drafted or revised.

The most significant elements of the proposal for a revision of the Directive are the following:

Alignment with Decision 768/2008/EC on a common framework for the marketing of products, including:

- the definitions set out in chapter R1 of Decision 768/2008/EC;
- the obligations of economic operators set out in chapter R2 of Decision 768/2008/EC;
- three modules for conformity assessment set out in Annex II of Decision 768/2008/EC;
- the obligations for the notification of conformity assessment bodies set out in chapter R4 of Decision 768/2008/EC;
- the simplified safeguard procedures set out in chapter R5 of Decision 768/2008/EC.

New definition of radio equipment: this demarcates the modified scope of the Directive, and includes all and only equipment, which intentionally transmits signals using radio spectrum, whether for the purpose of communication or other. The essential requirement has been correspondingly adapted and only refers to transmitted signals.

Other main provisions: the text sets out the following requirements:

- radio equipment should be able to interoperate with accessories such as chargers;
- software-defined radio equipment should ensure that only compliant combinations of software and hardware come together;
- measures may be adopted to ensure that this regulatory requirement creates no barriers to competition in the market for third-party software;
- four years after the date of entry into force of the Directive, manufacturers shall register radio equipment types within categories of equipment affected by a low level of compliance with the essential requirements set out in the text within a central system prior to radio equipment within those categories being placed on the market. The Commission shall allocate to each registered type a registration number, which manufacturers shall affix on radio equipment placed on the market;
- the proposal clarifies the relation between the R&TTE Directive and EU and national legislation on the use of radio spectrum.

Simplification and reduction of administrative obligations: the Commission points out the following:

- the new definition of radio equipment establishes a clear demarcation of scope with Directive 2004/108/EC (the EMC Directive);
- pure receivers and fixed-line terminals cease to fall within the scope of the Directive, falling instead within the scope of Directive 2004/108/EC and Directive 2006/95/EC, or depending on their voltage falling within the scope of Directive 2004/108/EC and Directive 2001/95/EC and this entails some reduction of administrative obligations.

The following provisions are removed from the text:

- the requirement to notify the placing on the market of equipment using frequency bands which are not EU-wide harmonised;
- the obligation to affix an equipment class identifier on the product;
- the requirement to affix CE marking on user instructions.
- requirements supporting competition in the market for terminals. Similar requirements are in force under Directive 2008/63/EC.

BUDGETARY IMPLICATIONS: the proposal is compatible with the current multiannual financial framework: all measures or actions included in the proposed directive are consistent and compatible with the current and the next multiannual financial framework (2014 to 2020) as proposed by the Commission.

The proposal includes the possibility of requiring registration of certain categories of radio equipment prior to their placing on the market. Were this possibility to come into effect, a database should be put in place and administered by the Commission. The estimation of costs available includes an initial investment of EUR 300 000 and an annual maintenance cost of EUR 30 000.

DELEGATED ACTS: in order to supplement or amend certain non-essential elements of the Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union will be delegated to the Commission in the following areas: i) adaptation to technical progress of Annex II listing some equipment falling or not within the definition of radio equipment; ii) additional essential requirements; iii) provision of information on the compliance of software-defined radio equipment; and iv) requirement to register radio equipment within some categories.