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Assessment and administration capacity building for the harmonisation with the New Approach directives

INFORMATION LEAFLET

to the implementation of

DIRECTIVE

1999/5/EC

on

R&TTE

Radio equipment and Telecommunications Terminal Equipment and the mutual recognition of their conformity

What is the R&TTE Directive?

Its formal title is Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity.

Member States are required to allow apparatus to be placed on the market and put into service for its intended purpose where the relevant requirements of the directive have been met. They may restrict the putting into service only for reasons related to effective and appropriate use of the radio spectrum, avoidance of harmful interference, or matters relating to public health. Member States are also required by the directive to ensure that operators of public telecommunications networks do not refuse to connect terminal equipment that complies with the applicable essential requirements of the directive. The directive does not change national licensing regimes, which continue to provide the authority (where required) to use radio equipment.

The directive applies in the European Economic Area (EEA) which consists of the Member States of the European Union, plus Iceland, Liechtenstein and Norway.

A directive is an instruction to each Member State to create a law to implement its requirements. Each country implements legislation within its own structures, and it follows that the laws are not identical between states. The legal requirements in Cyprus will be those of the national legislation.

What does it require?

Essential requirements applicable to all apparatus

- the protection of the health and safety of the user and any other person, including the objectives with respect to the safety requirements contained in Directive 73/23/EEC (the Low Voltage Directive) but with no voltage limit applying
- the protection requirements with respect to electromagnetic compatibility contained in Directive 89/336/EEC (the EMC Directive)

Manufacturers of mobile phones, other portable wireless devices and base stations should also take into account the latest thinking on public health, including Recommendation 1999/519/EC of the Council and European Parliament.

In addition to the above, radio equipment shall be so constructed that it effectively uses the spectrum allocated to terrestrial/space radiocommunication and orbital resources, so as to avoid harmful interference. This aspect covers such parameters as effective radiated power of the fundamental, frequency error, emission bandwidth, adjacent channel power, frequency stability and spurious emissions.

The Commission has stated that it intends to apply other essential requirements only when shown to be necessary. Most types of equipment will have no requirements other than those above. However, the Commission may require that other requirements be met. For the present, only equipment required to access safety services (maritime, inland waterway and avalanche beacons) will be subject to essential requirements under Article 3(3)e (access to emergency services).

NOTIFICATION

For radio equipment using frequency bands that are not harmonised throughout the Community, additional requirements apply. The manufacturer, or person responsible for placing the apparatus on the market, is required to notify the national authority for spectrum management in the country concerned of their intention to place the apparatus on its national market, at least four weeks before they so do. The notification must include details of the radio characteristics of the equipment (including frequency bands, channel spacing, type of modulation and rf power) and the identification number of the notified body that has been involved.

Receive-only radio devices and those which can transmit only under the control of a network, are excluded from this requirement.

Notification requirements vary from country to country. It is not, therefore, possible to describe the requirements that will apply in Cyprus.

Which products are covered?

The directive applies to apparatus that is either radio equipment or telecommunications terminal equipment, or both, except where specifically excluded.

The directive applies to the manufacturer, and in some cases to the manufacturer's authorised representative, as described below. The manufacturer has sole and ultimate responsibility for the conformity of his product, although he may in certain circumstances transfer some responsibility to his authorised representative.

EXCLUSIONS

The following equipment is excluded:

- radio equipment used by radio amateurs, unless the equipment is available commercially
- kits of components to be assembled by radio amateurs and commercial equipment modified by and for the use of radio amateurs
- marine equipment within the scope of Directive 96/98/EC. This deals with Safety of Life at Sea (SOLAS) equipment on vessels above a certain tonnage
- cabling and wiring, but not antennas
- equipment that can receive but not transmit, used solely for the reception of sound and TV broadcasting services
- products, appliances and components for civil aviation, within the meaning of Article 2 of Council Regulation No. 3922/91
- air-traffic management equipment and systems within the meaning of Article 1 of Directive 93/65/EEC
- apparatus used exclusively for activities in connection with public and state security, including defence, and criminal law, but apparatus used additionally for other purposes comes within the scope of the directive

INTERACTIONS WITH OTHER DIRECTIVES

MEDICAL DEVICES AND ACTIVE IMPLANTABLE MEDICAL DEVICES

Apparatus that incorporates, either as an integral part or an accessory, a medical device within the scope of Directive 93/42/EEC or an active implantable medical device within the scope of Directive 90/385/EEC, must meet the requirements of the R&TTE Directive in addition to the product directive.

MOTOR VEHICLES

Apparatus that is also a component or separate technical unit of a vehicle or a two- or three-wheeled motor vehicle is also governed by the requirements of the R&TTE Directive.

PLACING APPARATUS ON THE MARKET

In some national legislation, the term "supply" is used to describe this point but the terms may be considered to be equivalent. This is the point at which the apparatus passed from the manufacturing stage to the market. It may be represented by a physical handover, or as a change of ownership. This does not include:

- display in catalogues, or at trade fairs or exhibitions (but a notice should be provided to indicate that it is not yet compliant with the directive)
- apparatus constructed for the manufacturer's own use
- transferring the apparatus to an authorised representative

SOME IMPORTANT DEFINITIONS

MANUFACTURER

The manufacturer is the legal entity responsible for the design and construction of the apparatus with a view to placing it on the market on his own behalf. The manufacturer may subcontract some of these functions without losing his status as the manufacturer. Anyone altering apparatus significantly, and placing it on the market, is also deemed to be a manufacturer for the purpose of the directive.

AUTHORISED REPRESENTATIVE

An authorised representative may be appointed expressly by a manufacturer to act on behalf of the manufacturer is certain circumstances. If an authorised representative is appointed, he must be based in the EEA. If so appointed, the authorised representative may, at the request of the manufacturer, sign the declaration of conformity and affix the CE mark. If the manufacturer is based outside the EEA, the authorised representative may hold documentation and evidence of conformity in the EEA. If he takes on these responsibilities, he may be subject to enforcement action in a case where apparatus is non-compliant.

IMPORTER

An importer places apparatus (from a manufacturer based outside the EEA) onto the EEA market. The importer should keep the declaration of conformity and supporting evidence, or must be able to obtain it from the manufacturer promptly in the case of a request by the enforcement authorities. An importer cannot sign a declaration of conformity, nor affix the CE mark.

TELECOMMUNICATIONS TERMINAL EQUIPMENT

A product enabling communication or a relevant component thereof which is intended to be connected directly or indirectly by any means whatsoever to interfaces of public telecommunications networks. Public networks are those used wholly or partly for the provision of publicly available telecommunications services.

RADIO EQUIPMENT

A product, or relevant component thereof, capable of communication by means of emission and/or reception of radio waves (of frequencies from 9 kHz to 3000 GHz which propagate in space without artificial guide) utilising the spectrum allocated to terrestrial/space radiocommunication.

CLASSES OF EQUIPMENT

The directive requires member states to notify regulated network interfaces to the Commission, in order that their specifications may be published. The Commission has established the equivalence of interfaces and established a series of equipment class identifiers.

All that may be placed on the market and put into service without restrictions throughout the Community constitute a class, referred to as “Class 1”. No equipment identifier is assigned to this class. Equipment for which restrictions on placing on the market and/or putting into service exist is designated “Class 2”.

The Commission has published a list of subclasses on its website at

www.europa.eu.int/comm/enterprise/rtte

CONFORMITY ASSESSMENT

Apparatus meeting the requirements of the relevant harmonised standards whose references have been published in the Official Journal are presumed to be in compliance with the essential requirements. For many products, more than one standard will be required.

The directive describes four procedures for conformity assessment, one of which must be used to demonstrate compliance with all the relevant essential requirements. These are described in Annexes II, III, IV and V of the directive.

As an alternative for compliance with the essential requirements in respect of Safety and EMC, the procedures in 73/23/EEC and 89/336/EEC may be used respectively for those aspects, for apparatus within the scope of those directives.

SELECTION OF ROUTES TO COMPLIANCE

For telecommunications terminal equipment that does not make use of the spectrum allocated to terrestrial/space radio communications, and for the receiving parts of radio equipment, the manufacturer may use the procedures of Annexes II, IV or V.

For radio equipment not within the scope of the above paragraph, the manufacturer may choose from Annexes III, IV or V where relevant harmonised standards have been applied in full, or Annexes IV or V where harmonised standards have not been applied, or have been applied only in part. The requirements of these annexes are described below.

ANNEX II - INTERNAL PRODUCTION CONTROL

The manufacturer must establish technical documentation that enables the conformity of the product with the essential requirements to be assessed. This must cover the design, manufacture and operation of the product.

The manufacturer must take all measures necessary to ensure that the apparatus complies with the documentation and with the requirements of the directive. They, or their authorised representative, must keep a copy of the declaration of conformity with the technical documentation.

ANNEX III - INTERNAL PRODUCTION CONTROL

The requirements of Annex II apply, along with the following.

For each type of apparatus, all essential radio test suites must be carried out by the manufacturer, or on his behalf. The essential test suites may be described in the harmonised standards. Where they are not, they must be identified by a Notified Body chosen by the manufacturer.

ANNEX IV - TECHNICAL CONSTRUCTION FILE

The requirements of Annexes II and III apply, along with the following.

The technical documentation described in Annex II, and the declaration of conformity to the specific radio test suites described in Annex III, form a technical construction file, which must be presented to a Notified Body for review. The file may be presented to more than one body, provided each is informed of the others who have received a copy of the file.

The Notified Body reviews the file, and if not satisfied that it demonstrates that the essential requirements have been met, must inform any other Notified Bodies involved, and may also inform the manufacturer, their authorised representative or the organisation responsible for placing the apparatus on the market. The opinion must be delivered within four weeks of receipt of the file.

On receipt of the opinion, or at the end of the four-week period, the apparatus may be placed on the market.

The manufacturer, their authorised representative or the organisation responsible for placing the apparatus on the market, must keep the file for not less than ten years after last apparatus has been manufactured.

ANNEX V - FULL QUALITY ASSURANCE

The manufacturer must operate an approved quality system for design, manufacture and final product inspection and testing, subject to surveillance by a Notified Body at “reasonable” intervals and, possibly, unexpected visits. The annex contains details of the processes involved. The Notified Body must assess whether the system ensures the conformity of the products, and the manufacturer must undertake to fulfil the requirements of the system.

It is important to note that whatever route is chosen, the manufacturer has the responsibility to ensure that their product complies. Notified Bodies only issue opinions, and have no power to prohibit the placing on the market of any product, even under the TCF route.

DECLARATION OF CONFORMITY

Whichever route to compliance is chosen, when the manufacturer is satisfied that the apparatus meets the requirements of the directive, he draws up a declaration of conformity. The directive requires that the manufacturer holds this declaration at the disposal of the competent authority for ten years following the placing of the last apparatus on the market. “Competent authorities” are the regulatory bodies in each Member State.

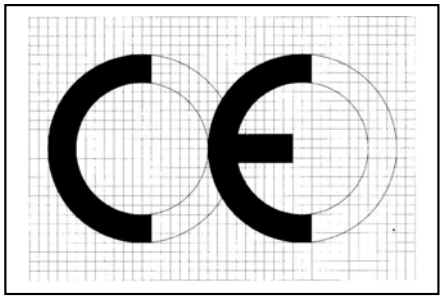
The declaration of conformity is drawn up by the manufacturer, or if he so chooses, his authorised representative. The manufacturer does not have to be based in the EEA, and the declaration is valid wherever it is drawn up. If the manufacturer is not based in the EEA and does not appoint an authorised representative within the EEA, the obligation to keep the declaration of conformity falls on the person who places the apparatus on the EEA market. Such persons will need (for their own benefit) to ensure that they hold this document. The declaration of conformity must be written in one of the official languages of the EEA.

If the apparatus is also covered by other directives then one declaration of conformity is sufficient provided all the information required by each directive is included. Equally, one declaration of conformity may be produced for each directive. A copy of the declaration of conformity must accompany every product.

CE MARKING

All apparatus covered by the directive must bear the CE mark. The mark indicates that the apparatus meets the requirements of all applicable directives, and has the form:

The grid in the diagram on the right is to show the relative dimensions and is not part of the marking. The “CE” may be any size providing the proportions are maintained but must not be shorter than 5 mm in height.

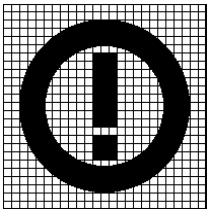


The CE mark must be applied to the apparatus, or if that is not possible, in descending order of priority to the packaging, instructions for use, or guarantee certificate. It is appropriate, but not mandatory, to apply the CE mark to the packaging as well as the apparatus. This allows the mark to be seen without opening the packaging, and will facilitate the free movement of goods. The mark must be affixed visibly, legibly and indelibly.

No other markings or inscriptions may be affixed that are likely to mislead third parties as to the significance of the CE mark.

In addition to the CE mark, the apparatus must carry the following information, prominently displayed:

- for telecommunications terminal equipment, identification of the interfaces of public telecommunications networks to which it is intended to be connected.
- for radio equipment, the equipment class identifier must be included where an identifier has been assigned. The user is also required to be alerted to potential restrictions on use or requirements for authorisation of use in certain member states.



Class 2 products must be identified by the so-called “alert” symbol, shown below. It consists of an exclamation mark inside a circle, and signifies that the frequency band that the apparatus employs is not harmonised throughout the Community and/or that potential restrictions on the use of the apparatus exist in one or more member states. It is placed on the product in addition to the CE marking. If the alert symbol is required, it must have the same height as the initials “CE”.

Again, the grid is shown to show the relative dimensions and is not part of the mark. Where the procedures of Annex III, IV or V have been used, the marking must be

accompanied by the identification number of the Notified Body that has been employed in the process. It should be noted, however, that where a harmonised standard specifies the test suites to be employed, a Notified Body is not required. The Commission has accepted that in such cases it is not possible for the manufacturer to include such a reference in the marking.

All apparatus must be identified by the manufacturer by means of type, batch and/or serial numbers, and by the name of the manufacturer or the organisation responsible for placing the apparatus on the market.

INFORMATION REQUIREMENTS

The manufacturer, or the person responsible for placing the apparatus on the market, must provide information for the user on the intended use of the apparatus, together with the declaration of conformity to the essential requirements.

For radio equipment, this information must also include geographical restrictions on use (by country or area) which must be identified on the packaging and in the instructions for use, and the equipment class identifier, and where appropriate that the apparatus uses frequency bands which are not harmonised throughout the Community, and therefore that authorisation for use in certain member states may be required. For telecommunications terminal equipment, there must be sufficient information to identify the interfaces of public networks to which it is intended to be connected.

ENFORCEMENT

Enforcement is a national responsibility. No specific techniques for enforcement, or penalties, are given in the directive. Each Member State uses the organisations and institutions that it has already in place to carry out these duties. Within a Member State if is often the case that different authorities are responsible for different directives, or even in some cases for different aspects or product ranges within the same directive. In some Member states, the enforcement is a national responsibility whereas in others, it is carried out at local level.

It will therefore be necessary to consult the Cyprus legislation to understand the local requirements and penalties. The level of penalty varies from country to country.

RESPONSIBILITIES OF TELECOMMUNICATIONS NETWORKS OPERATORS

Operators of public telecommunications networks must publish and make readily available adequate technical specifications of all interfaces offered. Radio interfaces that are subject to regulation by member states are regulated by the national authorities, and details of these will be found on their websites.

Operators of public telecommunications networks cannot prohibit on the technical grounds the connection of apparatus that meets the essential requirements, to appropriate interfaces. They are however allowed to disconnect apparatus or withdraw it from service if apparatus causes interference, harm or serious damage to a network or its functioning, even though the apparatus is declared to be compliant with the directive. In addition, in cases of emergency, they may disconnect apparatus if protection of the network so requires, provided that the user is offered an alternative solution without delay and without cost to the user.

The purpose of the interface specifications is to allow the design of terminal equipment which functions satisfactorily. Although the functional aspects are not covered by the essential requirements of the R&TTE Directive, the responsibility for ensuring correct functional interworking rests with the manufacturer of the terminal equipment (assuming the interface specification is correct).

SUMMARY OF THE RESPONSIBILITIES OF A MANUFACTURER

In summary, the manufacturer has the responsibility to:

- understand the performance of the apparatus
- perform an analysis to determine the need for compliance

- design and construct (or to have designed and constructed) apparatus which meets the requirements of the directive
- carry out. or have carried out, the conformity assessment
- issue a declaration of conformity for the apparatus, which is signed and dated
- place the CE mark on each apparatus
- create and supply instructions for use and the other information required
- retain documentation for ten years after the last apparatus is sold

The manufacturer may appoint an authorised representative to act on his behalf for some of these responsibilities. Possible responsibilities are to:

- arrange the testing of the apparatus
- deal with the approval bodies
- draw up and sign the declaration of conformity
- hold the documentation

In the areas agreed contractually between the manufacturer and the authorised representative, the authorised representative takes over the responsibilities of the manufacturer.

CYPRUS COMPETENT AUTHORITY

In Cyprus the Ministry of Communication and Works is responsible for enforcement of the R&TTE related regulation; (Further details on enforcement and penalties are available at Cyprus Contact point at the

Ministry of Communication and Works
Department Electronic Communication

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RELATED CYPRUS REGULATION

General requirements and stipulation are layed down in the Cyprus Framework Law 30(1)2002 (published 5.4.2002) and its amendment **Framework Law** (Amend.) **29(1)2003** (published 28.3.2003). The Framework Law represents the legal basis for the Cyprus Regulations addressing respective Directives.

The Cyprus Regulation addressing the R&TTE directive is **Part IV** of the **Radio Communication Law N.146(I)/2002** published 26.7.2002 and the Radio Communications (Radio Equipment) Regulation of 2003 - **78/2003** published 31.01.2003 as far as radio equipment is concerned.

FURTHER INFORMATION

Further information and links to all relevant European websites are available at

http://www.cys.mcit.gov.cy under the button named: **NEW APPROACH**

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