



EUROPEAN PARLIAMENT

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Committee on the Internal Market and Consumer Protection

2012/0283(COD)

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*****I**

DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council
on the harmonisation of the laws of the Member States relating to the making
available on the market of radio equipment
(COM(2012)0584 – C7-0333/2012 – 2012/0283(COD))

Committee on the Internal Market and Consumer Protection

Rapporteur: Barbara Weiler

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment

(COM(2012)0584 – C7-0333/2012 – 2012/0283(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2012)0584),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0333/2012),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 13 February 2013¹,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection (A7-0000/2013),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) Equipment which intentionally transmits radio waves in order to serve its purpose makes systematic use of radio spectrum. ***In order to ensure an efficient***

Amendment

(6) Equipment which intentionally transmits radio waves in order to serve its purpose makes systematic use of radio spectrum. ***Despite the fact that some***

¹ Not yet published in the Official Journal.

use of spectrum so as to avoid harmful interference, all such equipment should fall within the scope of this Directive, whether equipment is capable of communication or not.

products intentionally use magnetic or electric fields to serve their purpose, there is no communication from the transmitter and consequently such fields do not propagate as radio waves. Such equipment has very limited potential for localised interference and should therefore be excluded from the scope of this Directive.

Or. en

Justification

In accordance with the amendment to Article 2(1)(1) of the proposed Directive.

Amendment 2

Proposal for a directive Recital 7

Text proposed by the Commission

Amendment

(7) Experience has shown the difficulty of establishing whether some products fall within the scope of Directive 1999/5/EC. In particular, in respect of products resulting from technological progress and presenting difficulties of categorisation, it is necessary to identify categories of products which fall or not within the definition of radio equipment. In order to supplement or amend certain non-essential elements of this Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amendments of Annex II so as to adapt it to technical progress.

deleted

Or. en

Justification

In accordance with the amendment to Article 2(3) of the proposed Directive.

Amendment 3

**Proposal for a directive
Recital 9 a (new)**

Text proposed by the Commission

Amendment

(9a) This Directive should apply to all forms of supply, including distance selling.

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 4

**Proposal for a directive
Recital 12**

Text proposed by the Commission

Amendment

(12) Receiver capabilities of receive-only equipment are subject to the essential requirements of Directive 2004/108/EC in particular with regard to unwanted signals resulting from the efficient use of shared or adjacent frequency bands, and it is therefore not necessary to include such equipment within the scope of this Directive. ***deleted***

Or. en

Justification

In accordance with the amendment to Article 2(1)(1) of the proposed Directive.

Amendment 5

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) ***In some cases*** interworking via networks with other radio equipment and connection with interfaces of the appropriate type throughout the Union ***may be*** necessary. Interoperability between radio equipment and accessories such as chargers ***simplify*** use of radio equipment ***and reduce*** unnecessary waste.

Amendment

(13) Interworking via networks with other radio equipment and connection with interfaces of the appropriate type throughout the Union ***is necessary in some cases***. Interoperability between radio equipment and accessories such as chargers ***simplifies*** use of radio equipment, ***reduces*** unnecessary waste ***and costs***. ***A renewed effort to develop a common charger would therefore be highly desirable and consequently be beneficial in particular for consumers and other end-users.***

Or. en

Justification

Incompatibility of chargers for mobile phones is a major inconvenience for consumers and other end-users as well as a considerable environmental problem. A universal charger will therefore bring significant benefits - especially to the consumers.

Amendment 6

Proposal for a directive
Recital 20

Text proposed by the Commission

(20) A requirement to register in a central database radio equipment to be placed on the market may enhance the efficiency and effectiveness of market surveillance and therefore contribute to ensure a high level of compliance with the Directive. Such a requirement entails additional burden to economic operators and should therefore be introduced only for those categories of radio equipment where a high level of compliance has not been attained. In order to supplement or amend certain non-essential elements of this

Amendment

deleted

Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of identifying the relevant categories of radio equipment to be registered in a central database on the basis of information on compliance to be provided by Member States, and of specifying the information to be registered, the rules applicable for registration and affixation of the registration number.

Or. en

Justification

In accordance with the amendment to Article 5 of the proposed Directive.

Amendment 7

**Proposal for a directive
Recital 27 a (new)**

Text proposed by the Commission

Amendment

(27a) In order to facilitate communication between economic operators, market surveillance authorities and consumers, Member States should encourage economic operators to include a website address in addition to the postal address.

Or. en

Justification

In order to facilitate and streamline contacts between economic operators, consumers and market surveillance authorities it is essential to provide for alternatives to the postal address. The wording is also aligned with the NLF alignment package.

Amendment 8

Proposal for a directive
Recital 35 a (new)

Text proposed by the Commission

Amendment

(35a) When keeping the information required under this Directive for the identification of other economic operators, economic operators should not be required to update such information in respect of other economic operators who have either supplied them with radio equipment or to whom they have supplied radio equipment.

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 9

Proposal for a directive
Recital 37

Text proposed by the Commission

Amendment

(37) This Directive should be limited to the expression of essential requirements. In order to facilitate conformity assessment with those requirements it is necessary to provide for presumption of conformity for radio equipment which is in conformity with harmonised standards that are adopted in accordance with Regulation (EU) No [../.] ***[on European Standardisation]*** for the purpose of expressing detailed technical specifications of those requirements.

(37) This Directive should be limited to the expression of essential requirements. In order to facilitate conformity assessment with those requirements it is necessary to provide for presumption of conformity for radio equipment which is in conformity with harmonised standards that are adopted in accordance with Regulation (EU) No ***1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation¹*** for the purpose of expressing detailed technical specifications of those requirements.

¹ ***OJ L 316, 14.11.2012, p. 12***

Or. en

Justification

As the Regulation on European Standardisation has been published in the Official Journal it is necessary to reflect this change.

Amendment 10

**Proposal for a directive
Recital 38**

Text proposed by the Commission

(38) Regulation (EU) No [../..] [**on European Standardisation**] provides for a procedure for objections to harmonised standards where those standards do not entirely satisfy requirements of this Directive.

Amendment

(38) Regulation (EU) **No 1025/2012** provides for a procedure for objections to harmonised standards where those standards do not entirely satisfy **the** requirements of this Directive.

Or. en

Justification

As the Regulation on European Standardisation has been published in the Official Journal it is necessary to reflect this change.

Amendment 11

**Proposal for a directive
Recital 40 a (new)**

Text proposed by the Commission

Amendment

(40a) To ensure effective access to information for market surveillance purposes, the information required to identify all applicable Union acts should be available in a single EU declaration of conformity. In order to reduce the administrative burden on economic operators, that single EU declaration of conformity may be a dossier made up of relevant individual declarations of conformity.

Or. en

Justification

In line with Article 18(3) of the proposed Directive. Moreover, the wording is aligned with the NLF alignment package.

Amendment 12

Proposal for a directive

Recital 55

Text proposed by the Commission

(55) Directive 1999/5/EC already provides for a safeguard procedure which applies only in the event of disagreement between Member States over measures taken by a Member State. In order to increase transparency and to reduce processing time, it is necessary to improve the existing safeguard *clause* procedure, with a view to making it more efficient and drawing on the expertise available in Member States.

Amendment

(55) Directive 1999/5/EC already provides for a safeguard procedure which applies only in the event of disagreement between Member States over measures taken by a Member State. In order to increase transparency and to reduce processing time, it is necessary to improve the existing safeguard procedure, with a view to making it more efficient and drawing on the expertise available in Member States.

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 13

Proposal for a directive

Recital 56

Text proposed by the Commission

(56) The existing system should be supplemented by a procedure under which interested parties are informed of measures intended to be taken with regard to radio equipment presenting a risk to the health *and* safety of persons or to other aspects of public interest covered by the essential requirements in this Directive. It should also allow market surveillance authorities, in cooperation with the relevant economic

Amendment

(56) The existing system should be supplemented by a procedure under which interested parties are informed of measures intended to be taken with regard to radio equipment presenting a risk to the health *or* safety of persons or to other aspects of public interest covered by the essential requirements in this Directive. It should also allow market surveillance authorities, in cooperation with the relevant economic

operators, to act at an earlier stage in respect of such equipment.

operators, to act at an earlier stage in respect of such equipment.

Or. en

Justification

In order to ensure legal certainty it is necessary to specify that the relevant provisions are applicable in cases where radio equipment poses risk only to the health or only to the safety (i.e. not necessarily to both at the same time).

Amendment 14

Proposal for a directive Recital 60

Text proposed by the Commission

(60) The Member States should lay down rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and ensure that **they** are **implemented**. Those penalties should be effective, proportionate and dissuasive.

Amendment

(60) The Member States should lay down rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and ensure that **those rules** are **enforced**. Those penalties should be effective, proportionate and dissuasive.

Or. en

Justification

The term used should be aligned with the term used in Article 46 of the proposed Directive. The wording is also aligned with the NLF alignment package.

Amendment 15

Proposal for a directive Article 1 – paragraph 4

Text proposed by the Commission

4. Radio equipment falling within the scope of this Directive shall not be subject to Directive 2006/95/EC, except as set out in Article 3(1)(a) of this Directive.

Amendment

4. Radio equipment falling within the scope of this Directive shall not be subject to **Directive 2004/108/EC and** Directive 2006/95/EC, except as set out in **points (a) and (b) of** Article 3(1) of this Directive.

Justification

As Recital 9 of the proposed Directive provides that in order to avoid duplications of provisions, other than with regard to essential requirements, Directive 2004/108/EC should not apply to radio equipment, therefore this should be reflected in the respective Article.

Amendment 16**Proposal for a directive****Article 2 – paragraph 1 – point 1***Text proposed by the Commission*

(1) ‘radio equipment’ means a product which intentionally emits radio waves *in order to serve its purpose*, or a product which must be completed with an accessory, such as antenna, so as to emit radio waves *in order to serve its purpose*;

Amendment

(1) ‘radio equipment’ means a product which intentionally emits *or receives* radio waves *for communication*, or a product which must be completed with an accessory, such as antenna, so as to emit *or receive* radio waves *for communication*;

Or. en

Justification

A number of products that entail a very limited use of electromagnetic waves for the purpose other than communication are already present on the market without any systematic problems observed and are sufficiently regulated by e.g. LVD and EMCD therefore it is not proportionate to extend the scope of the proposed Directive to include such equipment. Moreover and considering that radio spectrum is a finite resource, it is important to guarantee its efficient usage, therefore the equipment capable of receiving radio waves should fall under the scope of proposed Directive.

Amendment 17**Proposal for a directive****Article 2 – paragraph 1 – point 5***Text proposed by the Commission*

(5) ‘harmful interference’ means harmful interference as defined in Directive 2002/21/EC of the European Parliament and of the Council;

Amendment

(5) ‘harmful interference’ means harmful interference as defined in *point (r) of Article 2 of* Directive 2002/21/EC of the European Parliament and of the Council;

Justification

An explicit reference has been added in order to ensure legal clarity.

Amendment 18
Proposal for a directive
Article 2 – paragraph 1 – point 7 a (new)

Text proposed by the Commission

Amendment

(7a) ‘putting into service’ means the first use of radio equipment within the Union by the end-user. Where the product is put into service at the workplace, the employer is to be considered as the end-user.

Justification

As the term “putting into service” is used throughout the text (e.g. Article 1(1), Article 7, Article 48 of the proposed Directive), it is appropriate to provide a definition thereof.

Amendment 19
Proposal for a directive
Article 2 – paragraph 1 – point 14

Text proposed by the Commission

Amendment

(14) ‘harmonised standard’ means harmonised standard as defined in Article 2(1)(c) of Regulation (EU) No [../..] [on European Standardisation];

(14) ‘harmonised standard’ means harmonised standard as defined in point (c) of point 1 of Article 2 of Regulation (EU) No 1025/2012;

Justification

As the Regulation on European Standardisation has been published in the Official Journal it is necessary to reflect this change.

Amendment 20

Proposal for a directive

Article 2 – paragraph 1 – point 15

Text proposed by the Commission

(15) ‘accreditation’ means accreditation as defined in Regulation (EC) No 765/2008;

Amendment

(15) ‘accreditation’ means accreditation as defined in **point 10 of Article 2 of** Regulation (EC) No 765/2008;

Or. en

Justification

An explicit reference has been added in order to ensure legal clarity.

Amendment 21

Proposal for a directive

Article 2 – paragraph 1 – point 16

Text proposed by the Commission

(16) ‘national accreditation body’ means national accreditation body as defined in Regulation (EC) No 765/2008;

Amendment

(16) ‘national accreditation body’ means national accreditation body as defined in **point 11 of Article 2 of** Regulation (EC) No 765/2008;

Or. en

Justification

An explicit reference has been added in order to ensure legal clarity.

Amendment 22

Proposal for a directive

Article 2 – paragraph 1 – point 17

Text proposed by the Commission

(17) ‘conformity assessment’ means the process demonstrating whether the essential requirements relating to radio

Amendment

(17) ‘conformity assessment’ means the process demonstrating whether the essential requirements **of this Directive**

equipment have been fulfilled;

relating to radio equipment have been fulfilled;

Or. en

Justification

In order to ensure legal clarity it is necessary to specify the exact essential requirements. The wording is also aligned with the NLF alignment package.

Amendment 23

**Proposal for a directive
Article 2 – paragraph 1 – point 19**

Text proposed by the Commission

(19) ‘recall’ means any measure aimed at achieving the return of radio equipment that has already been made available to the **user**;

Amendment

(19) ‘recall’ means any measure aimed at achieving the return of radio equipment that has already been made available to the **end-user**;

Or. en

Justification

The term is aligned with the term used in Decision No 768/2008 of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC.

**Amendment 24
Proposal for a directive
Article 2 – paragraph 2**

Text proposed by the Commission

2. For the purposes of point 1 of paragraph 1 of this Article, products listed under point 1 of Annex II shall be deemed to be radio equipment, and products listed under point 2 of Annex II shall not be deemed to be radio equipment.

Amendment

deleted

Or. en

Justification

As the amendment to Article 2(1)(1) of the proposed Directive entails a change with regard to the restriction of the definition of radio equipment to the equipment capable of communication, therefore Annex II of the proposed Directive has become obsolete. Consequently Article 2(2) would also become obsolete.

Amendment 25
Proposal for a directive
Article 2 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 45 modifying Annex II in order to adapt it to technical progress. **deleted**

Or. en

Justification

As the amendment to Article 2(1)(1) of the proposed Directive entails a change with regard to the restriction of the definition of radio equipment to the equipment capable of communication, therefore Annex II of the proposed Directive has become obsolete. Consequently Article 2(3) would also become obsolete.

Amendment 26
Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission

Amendment

2. Radio equipment shall be so constructed that ***its transmitted signals*** efficiently ***use*** the spectrum allocated to terrestrial/space radio communication and orbital resources so as to avoid harmful interference. Only radio equipment that can be operated in at least one Member State without infringing applicable requirements on the use of spectrum can comply with this requirement.

2. Radio equipment shall be so constructed that ***it*** efficiently ***uses*** the spectrum allocated to terrestrial/space radio communication and orbital resources so as to avoid harmful interference. Only radio equipment that can be operated in at least one Member State without infringing applicable requirements on the use of spectrum can comply with this requirement.

Or. en

Justification

As the amendment to Article 2(1)(1) of the proposed Directive entails a change with regard to the extension of the definition of radio equipment to the equipment capable to receive radio waves, therefore an appropriate change is necessary to Article 3(2) .

Amendment 27

Proposal for a directive Article 5

Text proposed by the Commission

Amendment

Article 5

deleted

Registration of radio equipment within some categories

1. As from [date - 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 Article 3 within a central system referred to in paragraph 3 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.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 45 specifying which categories of radio equipment are concerned by the requirement set out in the paragraph 1, taking into account information on the compliance of equipment provided by Member States in accordance with Article 47(1), the information to be registered, the operational rules for registration and the operational rules for affixation of the registration number on radio equipment.

3. The Commission shall make available a central system allowing manufacturers to register the required information.

Justification

The obligation to register radio equipment would result into disproportionate burden to legitimate economic operators, especially SMEs, whereas the benefits of such registration system have not been sufficiently demonstrated. Moreover, such system potentially raises confidentiality issues. Furthermore, the respective provisions on traceability as established in the proposed Directive appear to be a sufficient tool for efficient and effective market surveillance.

Amendment 28**Proposal for a directive****Article 6 – title***Text proposed by the Commission**Amendment****Placing*** on the market***Making available*** on the market

Or. en

Justification

In order to fully reflect to contents of Article 6 of the proposed Directive.

Amendment 29**Proposal for a directive****Article 9 – paragraph 1***Text proposed by the Commission**Amendment*

1. Member States shall not prohibit, restrict or impede, ***for reasons relating to those aspects covered by this Directive***, the ***placing*** on the market in their territory of radio equipment complying with this Directive.

1. Member States shall not prohibit, restrict or impede, the ***making available*** on the market in their territory of radio equipment complying with ***the requirements set out in*** this Directive.

Or. en

Justification

In order to ensure legal certainty.

Amendment 30

**Proposal for a directive
Article 9 – paragraph 2**

Text proposed by the Commission

2. At trade fairs, exhibitions, demonstrations and similar events, Member States shall not create any obstacles to the display of radio equipment which does not comply with this Directive, provided that a visible sign clearly indicates that such radio equipment may not be **marketed** or used until it has been made to comply.

Amendment

2. At trade fairs, exhibitions, demonstrations and similar events, Member States shall not create any obstacles to the display **and demonstration** of radio equipment which does not comply with **the requirements set out in** this Directive, provided that a visible sign clearly indicates that such radio equipment may not be **made available on the market, put into service** or used until it has been made to comply **with this Directive. Such display and demonstration may only take place provided that adequate measures to avoid electromagnetic disturbances and harmful interference with regard to the radio spectrum.**

Or. en

Justification

The wording is aligned with NLF alignment package.

Amendment 31

**Proposal for a directive
Article 10 – paragraph 4 – subparagraph 1**

Text proposed by the Commission

4. Manufacturers shall ensure that procedures are in place for series production to remain in conformity. Changes in radio equipment design or characteristics and changes in the

Amendment

4. Manufacturers shall ensure that procedures are in place for series production to remain in conformity **with this Directive**. Changes in radio equipment design or characteristics and changes in the

harmonised standards or in technical specifications by reference to which conformity of **apparatus** is declared shall be adequately taken into account.

harmonised standards or in **other** technical specifications by reference to which conformity of **radio equipment** is declared shall be adequately taken into account.

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 32

Proposal for a directive

Article 10 – paragraph 4 – subparagraph 2

Text proposed by the Commission

When deemed appropriate with regard to the risks presented by radio equipment, manufacturers shall carry out sample testing of radio equipment made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming radio equipment and radio equipment recalls, and shall keep distributors informed of any such monitoring.

Amendment

When deemed appropriate with regard to the risks presented by radio equipment, manufacturers shall, **to protect the health and safety of consumers, upon a duly justified request of the competent authorities**, carry out sample testing of radio equipment made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming radio equipment and radio equipment recalls, and shall keep distributors informed of any such monitoring.

Or. en

Justification

In order to avoid unnecessary burdens for the manufactures, especially the SMEs, the sample testing should be exercised only upon a due request of competent authorities. The wording is also aligned with the NLF alignment package.

Amendment 33

Proposal for a directive

Article 10 – paragraph 6

Text proposed by the Commission

6. Manufacturers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted ***on radio equipment*** or, ***where the size or nature of radio equipment does not allow it***, on its packaging, or in a document accompanying radio equipment. The address ***must*** indicate a single point at which the manufacturer can be contacted.

Amendment

6. Manufacturers shall indicate ***on radio equipment*** their name, registered trade name or registered trade mark and the ***postal*** address at which they can be contacted or, ***where that is not possible***, on its packaging, or in a document accompanying radio equipment. The address ***shall*** indicate a single point at which the manufacturer can be contacted. ***The contact details shall be in the language easily understood by end-users and market surveillance authorities.***

Or. en

Justification

The specifications of radio equipment has been replaced by a more general indication of "where that is not possible" in order to ensure that limitations not related to the size or nature of the radio equipment could also be taken into account. Moreover, in order to ensure effective use of the information provided, the appropriate language requirement has been introduced. The wording is also aligned with the NLF alignment package.

Amendment 34

Proposal for a directive

Article 10 – paragraph 7 – subparagraph 1

Text proposed by the Commission

7. Manufacturers shall ensure that radio equipment is accompanied by instructions and safety information in a language which can be easily understood by consumers and other users, as determined by the Member State concerned. Instructions shall include the information required to use radio equipment in accordance with its intended use. Such information shall include, where applicable, a description of accessories and/or components, including software, which allow the radio equipment to operate as intended.

Amendment

7. Manufacturers shall ensure that radio equipment is accompanied by instructions and safety information in a language which can be easily understood by consumers and other ***end-users***, as determined by the Member State concerned. Instructions shall include the information required to use radio equipment in accordance with its intended use. Such information shall include, where applicable, a description of accessories and/or components, including software, which allow the radio equipment to operate as intended.

Justification

In order to ensure consistency of the terms used throughout the text.

Amendment 35

Proposal for a directive

Article 10 – paragraph 7 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The instructions and safety information referred to in the first subparagraph, as well as any labelling, shall be clear, understandable and intelligible.

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 36

Proposal for a directive

Article 10 – paragraph 10

Text proposed by the Commission

Amendment

10. Manufacturers who consider or have reason to believe that radio equipment which they have placed on the market is not in conformity with this Directive shall immediately take the **necessary** corrective measures to bring that radio equipment into conformity, to withdraw it or recall it, if appropriate. Furthermore, where radio equipment presents a risk, manufacturers shall immediately inform the competent national authorities of the Member States in which they made radio equipment available to that effect, giving details, in particular, of the non-compliance and of

10. Manufacturers who consider or have reason to believe that radio equipment which they have placed on the market is not in conformity with this Directive shall immediately take the corrective measures **necessary** to bring that radio equipment into conformity, to withdraw it or recall it, if appropriate. Furthermore, where radio equipment presents a risk, manufacturers shall immediately inform the competent national authorities of the Member States in which they made radio equipment available **on the market** to that effect, giving details, in particular, of the non-

any corrective measures taken.

compliance and of any corrective measures taken.

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 37

**Proposal for a directive
Article 10 – paragraph 11**

Text proposed by the Commission

11. Manufacturers shall, further to a reasoned request from a competent national authority, provide it without delay with all the information and documentation necessary to demonstrate the conformity of radio equipment, in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by radio equipment which they have placed on the market.

Amendment

11. Manufacturers shall, further to a reasoned request from a competent national authority, provide it without delay with all the information and documentation ***in paper or electronic form*** necessary to demonstrate the conformity of radio equipment ***with this Directive***, in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by radio equipment which they have placed on the market.

Or. en

Justification

It is necessary to streamline the process of submission of documentation. The wording is also aligned with the NLF alignment package.

Amendment 38

**Proposal for a directive
Article 12 – paragraph 3**

Text proposed by the Commission

3. Importers shall indicate their name,

Amendment

3. Importers shall indicate ***on the radio***

registered trade name or registered trade mark and the address at which they can be contacted **on the radio equipment** or, where that is not possible, on its packaging or in a document accompanying the radio equipment. ***This includes cases where the size of radio equipment does not allow it, or where importers would have to open the packaging in order to indicate their name and address on radio equipment.***

equipment their name, registered trade name or registered trade mark and the ***postal*** address at which they can be contacted or, where that is not possible, on its packaging or in a document accompanying the radio equipment. ***The contact details shall be in the language easily understood by end-users and market surveillance authorities.***

Or. en

Justification

The specification of cases is superfluous as it is already covered by a more general indication of "where that is not possible". Moreover, in order to ensure effective use of the information provided, the appropriate language requirement has been introduced. The wording is also aligned with the NLF alignment package.

Amendment 39

Proposal for a directive Article 12 – paragraph 4

Text proposed by the Commission

4. Importers shall ensure that the radio equipment is accompanied by instructions and safety information in a language which can be easily understood by consumers and other users, as determined by the Member State concerned.

Amendment

4. Importers shall ensure that the radio equipment is accompanied by instructions and safety information in a language which can be easily understood by consumers and other ***end-users***, as determined by the Member State concerned. ***Such instructions and safety information, as well as any labelling, shall be clear, understandable and intelligible.***

Or. en

Justification

In order to ensure consistency of the terms used throughout the text, as well as to ensure consistency with obligations as established in the amendment to the first subparagraph of Article 10(7) of the proposed Directive.

Amendment 40

Proposal for a directive Article 12 – paragraph 6

Text proposed by the Commission

6. When deemed appropriate with regard to the risks presented by radio equipment, importers shall, to protect the health and safety of consumers, carry out sample testing of radio equipment made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming radio equipment and radio equipment recalls, and shall keep distributors informed of such monitoring.

Amendment

6. When deemed appropriate with regard to the risks presented by radio equipment, importers shall, to protect the health and safety of consumers, ***upon a duly justified request of the competent authorities*** carry out sample testing of radio equipment made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming radio equipment and radio equipment recalls, and shall keep distributors informed of ***any*** such monitoring.

Or. en

Justification

In order to avoid unnecessary burdens for the manufactures, especially SMEs, the sample testing should be exercised only upon a due request of competent authorities. The wording is also aligned with the NLF alignment package.

Amendment 41

Proposal for a directive Article 12 – paragraph 7

Text proposed by the Commission

7. Importers who consider or have reason to believe that radio equipment which they have placed on the market is not in conformity with this Directive shall immediately take the corrective measures necessary to bring that radio equipment into conformity, to withdraw it or recall it, if appropriate. Furthermore, where the radio equipment presents a risk, importers shall immediately inform the competent national authorities of the Member States in which they made the radio equipment

Amendment

7. Importers who consider or have reason to believe that radio equipment which they have placed on the market is not in conformity with this Directive shall immediately take the corrective measures necessary to bring that radio equipment into conformity, to withdraw it or recall it, if appropriate. Furthermore, where the radio equipment presents a risk, importers shall immediately inform the competent national authorities of the Member States in which they made the radio equipment

available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

available **on the market** to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 42

**Proposal for a directive
Article 12 – paragraph 9**

Text proposed by the Commission

9. Importers shall, further to a reasoned request from a competent national authority, provide it without delay with all the information and documentation necessary to demonstrate the conformity of radio equipment in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by the radio equipment which they have placed on the market.

Amendment

9. Importers shall, further to a reasoned request from a competent national authority, provide it without delay with all the information and documentation **in paper or electronic form** necessary to demonstrate the conformity of radio equipment **with this Directive**, in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by the radio equipment which they have placed on the market.

Or. en

Justification

It is necessary to streamline the process of submission of documentation. The wording is also aligned with the NLF alignment package.

Amendment 43

**Proposal for a directive
Article 13 – paragraph 2 – subparagraph 1**

Text proposed by the Commission

Before making radio equipment available on the market distributors shall verify that the radio equipment bears the **required** CE marking, that it is accompanied by the required documents and by instructions and safety information in a language which can be easily understood by consumers and other users in the Member State in which the radio equipment is to be made available on the market, and that the manufacturer and the importer have complied with the requirements set out in Article 10(5) to (9), and Article 12(3).

Amendment

Before making radio equipment available on the market distributors shall verify that the radio equipment bears the CE marking, that it is accompanied by the required documents and by instructions and safety information in a language which can be easily understood by consumers and other **end-users** in the Member State in which the radio equipment is to be made available on the market, and that the manufacturer and the importer have complied with the requirements set out in Article 10(5) to (9), and Article 12(3) **and (4)**.

Or. en

Justification

In order to ensure consistency of the terms used throughout the text.

Amendment 44

**Proposal for a directive
Article 13 – paragraph 4**

Text proposed by the Commission

4. Distributors who consider or have reason to believe that radio equipment which they have made available on the market is not in conformity with this Directive shall make sure that the corrective measures necessary to bring that radio equipment into conformity, to withdraw it or recall it, if appropriate, are taken. Furthermore, where radio equipment presents a risk, distributors shall immediately inform the competent national authorities of the Member States in which they made the radio equipment available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

Amendment

4. Distributors who consider or have reason to believe that radio equipment which they have made available on the market is not in conformity with this Directive shall make sure that the corrective measures necessary to bring that radio equipment into conformity, to withdraw it or recall it, if appropriate, are taken. Furthermore, where radio equipment presents a risk, distributors shall immediately inform the competent national authorities of the Member States in which they made the radio equipment available **on the market** to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

Justification

The wording is aligned with the NLF alignment package.

Amendment 45**Proposal for a directive
Article 13 – paragraph 5***Text proposed by the Commission*

5. Distributors shall, further to a reasoned request from a competent national authority, provide it without delay with all the information and documentation necessary to demonstrate the conformity of radio equipment. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by radio equipment which they have made available on the market.

Amendment

5. Distributors shall, further to a reasoned request from a competent national authority, provide it without delay with all the information and documentation ***in paper or electronic form*** necessary to demonstrate the conformity of radio equipment ***with this Directive, in a language which can be easily understood by that authority***. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by radio equipment which they have made available on the market.

Justification

It is necessary to streamline the process of submission of documentation as well as establish relevant language requirements. The wording is also aligned with the NLF alignment package.

Amendment 46**Proposal for a directive
Article 16 – paragraph 2***Text proposed by the Commission*

2. Where a harmonised standard satisfies the requirements which it covers and which are set out in Article 3 or Article

Amendment

deleted

27, the Commission shall publish the references of those standards in the Official Journal of the European Union.

Or. en

Justification

Covered by Standardisation Regulation.

Amendment 47

**Proposal for a directive
Article 17 – paragraph 1 – introductory part**

Text proposed by the Commission

Manufacturers ***may*** demonstrate compliance of radio equipment with the essential requirements ***identified*** in ***Articles 3(1)(a) and (b)*** using any of the following conformity assessment procedures:

Amendment

Manufacturers ***shall*** demonstrate compliance of radio equipment with the essential requirements ***set out*** in ***Article 3(1)*** using any of the following conformity assessment procedures:

Or. en

Justification

Manufactures should be obliged to demonstrate the compliance with all the relevant essential requirement using one of the conformity assessment procedures.

Amendment 48

**Proposal for a directive
Article 17 – paragraph 1 – point b**

Text proposed by the Commission

(b) EU-type examination followed by the conformity to type procedure set out in Annex IV;

Amendment

(b) EU-type examination followed by the conformity to type ***based on the internal production control*** procedure set out in Annex IV;

Or. en

Justification

In order to ensure legal clarity it is necessary to align the wording of Article 17(1)(b) of the proposed Directive with the wording of Annex IV of the proposed Directive.

Amendment 49

Proposal for a directive

Article 17 – paragraph 2 – introductory part

Text proposed by the Commission

Where in assessing the compliance of radio equipment with the essential requirements **identified** in Articles 3(2) and (3), the manufacturer has applied harmonised standards, the reference number of which has been published in the Official Journal of the European Union, he **may** use any of the following procedures:

Amendment

Where in assessing the compliance of radio equipment with the essential requirements **set out** in Articles 3(2) and (3), the manufacturer has applied harmonised standards, the reference number of which has been published in the Official Journal of the European Union, he **shall** use any of the following procedures:

Or. en

Justification

Manufactures should be obliged to demonstrate the compliance with all the relevant essential requirement using one of the conformity assessment procedures.

Amendment 50

Proposal for a directive

Article 17 – paragraph 2 – point b

Text proposed by the Commission

(b) EU-type examination followed by the conformity to type procedure set out in Annex IV;

Amendment

(b) EU-type examination followed by the conformity to type **based on the internal production control** procedure set out in Annex IV;

Or. en

Justification

In order to ensure legal clarity it is necessary to align the wording of Article 17(2)(b) of the

proposed Directive with the wording of Annex IV of the proposed Directive.

Amendment 51

Proposal for a directive

Article 17 – paragraph 3 – point a

Text proposed by the Commission

(a) EU-type examination followed by the conformity to type procedure set out in Annex IV;

Amendment

(a) EU-type examination followed by the conformity to type ***based on the internal production control*** procedure set out in Annex IV;

Or. en

Justification

In order to ensure legal clarity it is necessary to align the wording of Article 17(3)(a) of the proposed Directive with the wording of Annex IV of the proposed Directive.

Amendment 52

Proposal for a directive

Article 18 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The EU declaration of conformity shall have the model structure ***and*** shall contain the elements set out in Annex VII and shall be continuously updated. ***It shall be*** translated into the language or languages required by the Member State in which ***market*** the radio equipment is placed or made available.

Amendment

The EU declaration of conformity shall have the model structure, ***set out in Annex VII***, shall contain the elements set out in Annex VII and shall be continuously updated. ***Upon the request of the market surveillance authorities, the economic operator shall provide a copy of the EU declaration of conformity in paper or electronic form, and shall ensure that it is*** translated into the language or languages required by the Member State in which the radio equipment is placed or made available ***on the market***.

Or. en

Justification

Community acts such as the Low Voltage Directive (LVD) and Electromagnetic Compatibility Directive (EMC) require the manufacturer to provide the Declaration of Conformity (DoC) upon request of a national surveillance authority. A general translation requirement as in the current Proposal would be burdensome especially for small and medium sized enterprises without adding additional value.

Amendment 53

**Proposal for a directive
Article 18 – paragraph 4**

Text proposed by the Commission

4. By drawing up the EU declaration of conformity, the manufacturer shall assume responsibility for the compliance of radio equipment.

Amendment

4. By drawing up the EU declaration of conformity, the manufacturer shall assume responsibility for the compliance of radio equipment ***with the requirements laid down in this Directive.***

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 54

**Proposal for a directive
Article 20 – title**

Text proposed by the Commission

Rules and conditions for affixing the CE marking

Amendment

Rules and conditions for affixing the CE marking ***and identification number of the notified body***

Or. en

Justification

In order to fully reflect to contents of Article 20 of the proposed Directive it is necessary to extend the title.

Amendment 55

Proposal for a directive Article 20 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall build upon existing mechanisms to ensure correct application of the regime governing the CE marking and shall take appropriate action in the event of improper use of that marking.

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 56

Proposal for a directive Article 21 – paragraph 1

Text proposed by the Commission

Amendment

1. The technical documentation shall contain all relevant data or details of the means used by the manufacturer to ensure that radio equipment complies with the requirements set out in Article 3. It shall, at least, contain the ***documents*** listed in Annex VI.

1. The technical documentation shall contain all relevant data or details of the means used by the manufacturer to ensure that radio equipment complies with the requirements set out in Article 3. It shall, at least, contain the ***elements*** listed in Annex VI.

Or. en

Justification

In order to ensure legal clarity it is necessary to align the wording of Article 21(1) of the proposed Directive with the wording of Annex VI of the proposed Directive.

Amendment 57

Proposal for a directive
Article 26 – paragraph 7 – introductory part

Text proposed by the Commission

7. The personnel responsible for carrying out conformity assessment **activities** shall have the following:

Amendment

7. The personnel responsible for carrying out conformity assessment **tasks** shall have the following:

Or. en

Justification

In order to ensure the coherence of the terms used in Article 26 of the proposed Directive. The wording is also aligned with the NLF alignment package.

Amendment 58

Proposal for a directive
Article 26 – paragraph 8 – subparagraph 1

Text proposed by the Commission

8. The impartiality of the conformity assessment bodies, their top level management and of the **assessment** personnel shall be guaranteed.

Amendment

8. The impartiality of the conformity assessment bodies, their top level management and of the personnel **responsible for carrying out the conformity assessment tasks** shall be guaranteed.

Or. en

Justification

To ensure conformity of the terms used in Article 26 of the proposed Directive.

Amendment 59

Proposal for a directive
Article 26 – paragraph 8 – subparagraph 2

Text proposed by the Commission

The remuneration of the top level management and **assessment** personnel of

Amendment

The remuneration of the top level management and personnel **responsible for**

a conformity assessment body shall not depend on the number of assessments carried out or on the results of those assessments.

carrying out the conformity assessment tasks of a conformity assessment body shall not depend on the number of assessments carried out or on the results of those assessments.

Or. en

Justification

To ensure conformity of the terms used in Article 26 of the proposed Directive.

Amendment 60

**Proposal for a directive
Article 26 – paragraph 11**

Text proposed by the Commission

Conformity assessment bodies shall participate in, or ensure that their ***assessment*** personnel are informed of, the relevant standardisation activities, the regulatory activities in the area of radio equipment and frequency planning, and the activities of the notified body coordination group established under the relevant Union harmonisation legislation and apply as general guidance the administrative decisions and documents produced as a result of the work of that group.

Amendment

Conformity assessment bodies shall participate in, or ensure that their personnel ***responsible for carrying out the conformity assessment tasks*** are informed of, the relevant standardisation activities, the regulatory activities in the area of radio equipment and frequency planning, and the activities of the notified body coordination group established under the relevant Union harmonisation legislation and apply as general guidance the administrative decisions and documents produced as a result of the work of that group.

Or. en

Justification

To ensure conformity of the terms used in Article 26 of the proposed Directive.

Amendment 61

**Proposal for a directive
Article 29 – paragraph 2**

Text proposed by the Commission

Amendment

2. **That application** shall be accompanied by a description of the conformity assessment activities, the conformity assessment module or modules and categories of radio equipment for which that body claims to be competent, as well as by an accreditation certificate, where one exists, issued by a national accreditation body attesting that the conformity assessment body fulfils the requirements laid down in Article 26.

2. **The application for notification** shall be accompanied by a description of the conformity assessment activities, the conformity assessment module or modules and categories of radio equipment for which that body claims to be competent, as well as by an accreditation certificate, where one exists, issued by a national accreditation body attesting that the conformity assessment body fulfils the requirements laid down in Article 26.

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 62

Proposal for a directive

Article 31 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

The Commission shall make publicly available the list of the bodies notified under this Directive, including the identification numbers that have been **allocated** to them and the activities for which they have been notified.

The Commission shall make publicly available the list of the bodies notified under this Directive, including the identification numbers that have been **assigned** to them and the activities for which they have been notified.

Or. en

Justification

In order to ensure the coherence of the terms used in Article 31 of the proposed Directive. The wording is also aligned with the NLF alignment package.

Amendment 63

Proposal for a directive
Article 31 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The Commission shall ensure that **that** list is kept up to date.

Amendment

The Commission shall ensure that **the** list is kept up to date.

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 64

Proposal for a directive
Article 33 – paragraph 2

Text proposed by the Commission

2. The notifying Member State shall provide the Commission, on request, with all information relating to the basis for the notification or the maintenance of the competence of the body concerned.

Amendment

2. The notifying Member State shall provide the Commission, on request, with all information relating to the basis for the notification or the maintenance of the competence of the **notified** body concerned.

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 65

Proposal for a directive
Article 39 – title

Text proposed by the Commission

Union market surveillance and control of **products** entering the Union market

Amendment

Union market surveillance and control of **radio equipment** entering the Union market

Justification

It is necessary to align the title of the Article with its content.

Amendment 66

**Proposal for a directive
Article 39 – paragraph -1 (new)**

Text proposed by the Commission

Amendment

-1. Member States shall take all appropriate measures to ensure that radio equipment may be placed on the market only if, when properly stored and used for its intended purpose, it does not endanger the health and safety of persons.

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 67

**Proposal for a directive
Article 40 – paragraph 1 – subparagraph 1**

Text proposed by the Commission

Amendment

1. Where the market surveillance authorities of one Member State ***have taken action pursuant to Article 20 of Regulation (EC) No 765/2008, or where they*** have sufficient ***reason*** to believe that radio equipment covered by this Directive presents a risk to the health or safety of persons or to other aspects of public interest protection covered by this Directive, they shall carry out an evaluation in relation to the radio equipment concerned covering all the

1. Where the market surveillance authorities of one Member State have sufficient ***reasons*** to believe that radio equipment covered by this Directive presents a risk to the health or safety of persons or to other aspects of public interest protection covered by this Directive, they shall carry out an evaluation in relation to the radio equipment concerned covering all the ***relevant*** requirements laid down in this Directive. The relevant economic operators

requirements laid down in this Directive. The relevant economic operators shall cooperate as necessary with the market surveillance authorities.

shall cooperate as necessary with the market surveillance authorities **for that purpose**.

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 68

**Proposal for a directive
Article 40 – paragraph 1 – subparagraph 2**

Text proposed by the Commission

Where, in the course of **that** evaluation, the market surveillance authorities find that the radio equipment does not comply with the requirements laid down in this Directive, they shall without delay require the relevant economic operator to take all appropriate corrective **action** to bring the radio equipment into compliance with those requirements, to withdraw the radio equipment from the market, or to recall it within a reasonable period, commensurate with the nature of the risk, as they may prescribe.

Amendment

Where, in the course of **the** evaluation **referred to in the first subparagraph**, the market surveillance authorities find that the radio equipment does not comply with the requirements laid down in this Directive, they shall without delay require the relevant economic operator to take all appropriate corrective **actions** to bring the radio equipment into compliance with those requirements, to withdraw the radio equipment from the market, or to recall it within a reasonable period, commensurate with the nature of the risk, as they may prescribe.

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 69

**Proposal for a directive
Article 40 – paragraph 1 – subparagraph 4**

Text proposed by the Commission

Article 21 of Regulation (EC) No 765/2008 shall apply to the measures referred to in the second subparagraph.

Amendment

Article 21 of Regulation (EC) No 765/2008 shall apply to the measures referred to in the second subparagraph ***of this paragraph.***

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 70

Proposal for a directive

Article 40 – paragraph 5 – introductory part

Text proposed by the Commission

The information referred to in paragraph 4 shall include all available details, in particular the data necessary for the identification of the non-compliant radio equipment, the origin of radio equipment, the nature of the non-compliance alleged and the risk involved, the nature and duration of the national measures taken and the arguments put forward by the relevant economic operator. In particular, the market surveillance authorities shall indicate whether the non-compliance is due to any of the following:

Amendment

The information referred to in the ***second subparagraph of*** paragraph 4 shall include all available details, in particular the data necessary for the identification of the non-compliant radio equipment, the origin of radio equipment, the nature of the non-compliance alleged and the risk involved, the nature and duration of the national measures taken and the arguments put forward by the relevant economic operator. In particular, the market surveillance authorities shall indicate whether the non-compliance is due to any of the following:

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 71

Proposal for a directive

Article 40 – paragraph 6

Text proposed by the Commission

6. Member States other than the Member State initiating the procedure shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of radio equipment concerned, and, in the event of disagreement with the **notified** national measure, of their objections.

Amendment

6. Member States other than the Member State initiating the procedure **under this Article** shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of radio equipment concerned, and, in the event of disagreement with the **adopted** national measure, of their objections.

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 72

**Proposal for a directive
Article 40 – paragraph 7**

Text proposed by the Commission

7. Where, within **8** weeks of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified.

Amendment

7. Where, within **eight** weeks of receipt of the information referred to in **second subparagraph of** paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified.

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 73

Proposal for a directive
Article 40 – paragraph 8

Text proposed by the Commission

8. Member States shall ensure that appropriate restrictive measures are taken in respect of the *apparatus* concerned without delay.

Amendment

8. Member States shall ensure that appropriate restrictive measures, *such as withdrawal of the radio equipment from the market*, are taken in respect of the *radio equipment* concerned without delay.

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 74

Proposal for a directive
Article 41 – paragraph 2

Text proposed by the Commission

2. If the national measure is considered justified, all Member States shall take the measures necessary to ensure that the non-compliant radio equipment is withdrawn or recalled from their market, and shall inform the Commission accordingly. If the national measure is considered unjustified, the Member State concerned shall withdraw *the* measure.

Amendment

2. If the national measure is considered justified, all Member States shall take the measures necessary to ensure that the non-compliant radio equipment is withdrawn or recalled from their market, and shall inform the Commission accordingly. If the national measure is considered unjustified, the Member State concerned shall withdraw *that* measure.

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 75

Proposal for a directive
Article 41 – paragraph 3

Text proposed by the Commission

Amendment

3. Where the national measure is considered justified and the non-compliance of the radio equipment is attributed to shortcomings in the harmonised standards referred to in **Article 16** of this Directive, the Commission shall apply the procedure provided for in **Article [8] of Regulation (EU) No[...]** [on **European Standardisation**].

3. Where the national measure is considered justified and the non-compliance of the radio equipment is attributed to shortcomings in the harmonised standards referred to in **point (b) of Article 40(5)** of this Directive, the Commission shall apply the procedure provided for in **Article 11 of Regulation (EU) No 1025/2012**.

Or. en

Justification

As the Regulation on European Standardisation has been published in the Official Journal it is necessary to reflect this change.

Amendment 76

**Proposal for a directive
Article 42 – title**

Text proposed by the Commission

Amendment

Compliant radio equipment which presents a risk to health **and** safety

Compliant radio equipment which presents a risk to health **or** safety

Or. en

Justification

In order to ensure legal certainty it is necessary to specify that the relevant provisions are applicable in cases where radio equipment poses risk only to the health or only to the safety (i.e. not necessarily to both at the same time).

Amendment 77

**Proposal for a directive
Article 42 – paragraph 1**

Text proposed by the Commission

1. Where, having **performed** an evaluation under Article 40(1), a Member State finds that although radio equipment is in compliance with this Directive, it presents a risk to the health or safety of persons or to other aspects of public interest protection covered by this Directive it shall require the relevant economic operator to take all appropriate measures to ensure that the radio equipment concerned, when placed on the market, no longer presents that risk, to withdraw the radio equipment from the market or to recall it within a reasonable period, commensurate with the nature of the risk, as it may prescribe.

Amendment

1. Where, having **carried out** an evaluation under Article 40(1), a Member State finds that although radio equipment is in compliance with this Directive, it presents a risk to the health or safety of persons or to other aspects of public interest protection covered by this Directive it shall require the relevant economic operator to take all appropriate measures to ensure that the radio equipment concerned, when placed on the market, no longer presents that risk, to withdraw the radio equipment from the market or to recall it within a reasonable period, commensurate with the nature of the risk, as it may prescribe.

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 78

Proposal for a directive
Article 43 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the identification number of the notified body, where the conformity assessment procedure set out in Annex V is applied, has been affixed in violation of Article 20 or has not been affixed;

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 79

Proposal for a directive
Article 43 – paragraph 1 – point f

Text proposed by the Commission

(f) **product does not comply with the requirements set out** in Articles 10(5), (6) and 12(3);

Amendment

(f) **the information referred to** in Articles 10(5), (6) and 12(3) **is absent, false or incomplete**;

Or. en

Justification

In order to ensure legal certainty.

Amendment 80

Proposal for a directive
Article 43 – paragraph 1 – point g

Text proposed by the Commission

(g) information on intended use of radio equipment, EU declaration of conformity **and** usage restrictions as set out in Article 10(7), (8) and (9) does not accompany radio equipment;

Amendment

(g) information on intended use of radio equipment, EU declaration of conformity **or** usage restrictions as set out in Article 10(7), (8) and (9) does not accompany radio equipment;

Or. en

Justification

In order to ensure legal certainty it is necessary to specify that failure to comply with one of the requirements enables the Member State to require the relevant economic operator to put an end to the non-compliance.

Amendment 81

Proposal for a directive
Article 43 – paragraph 1 – point i

Text proposed by the Commission

(i) **non compliance with Article 5.**

Amendment

deleted

Justification

In accordance with the amendment to Article 5 of the proposed Directive.

Amendment 82

Proposal for a directive
Article 45 – paragraph 2

Text proposed by the Commission

2. The delegation of power referred to in Articles **2(3)**, 3(3), 4(2) **and 5(2)** shall be conferred for an indeterminate period of time from the [date of entry into force]

Amendment

2. The delegation of power referred to in Articles 3(3) **and** 4(2) shall be conferred for an indeterminate period of time from the [date of entry into force]

Justification

In accordance with the amendment to Article 2(3) and Article 5 of the proposed Directive.

Amendment 83

Proposal for a directive
Article 45 – paragraph 3

Text proposed by the Commission

3. The delegation of power referred to in Articles **2(3)**, 3(3), 4(2) **and 5(2)** may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment

3. The delegation of power referred to in Articles 3(3) and 4(2) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take **effect** the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Justification

In accordance with the amendment to Article 2(3) and Article 5 of the proposed Directive, as well as in order to ensure legal clarity.

Amendment 84

Proposal for a directive Article 45 – paragraph 5

Text proposed by the Commission

5. A delegated act adopted pursuant to Articles **2(3)**, 3(3), 4(2) **and 5(2)** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Amendment

5. A delegated act adopted pursuant to Articles 3(3) **and** 4(2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Or. en

Justification

In accordance with the amendment to Article 2(3) and Article 5 of the proposed Directive.

Amendment 85

Proposal for a directive Article 46 – paragraph 1

Text proposed by the Commission

Member States shall lay down rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are enforced.

Amendment

Member States shall lay down rules on penalties applicable to infringements **by economic operators** of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are enforced.
Such rules may include criminal penalties

for serious infringements.

Or. en

Justification

The wording is aligned with the NLF alignment package.

Amendment 86

**Proposal for a directive
Annex I – point 5 a (new)**

Text proposed by the Commission

Amendment

5a. Equipment specifically designed solely for the purposes of research and development that is only made available on a business-to-business basis.

Or. en

Justification

R&D equipment is an important product group as they ensure innovation and competitiveness in the EU. Recent reforms of the RoHS and WEEE Directives exempt such equipment from their scope of application. In order to avoid a significant degree of uncertainty among importers and distributors as to what electrical products are covered by a specific product directive, their scopes of application should be aligned.

Amendment 87

**Proposal for a directive
Annex II**

Text proposed by the Commission

Amendment

ANNEX II

deleted

***PRODUCTS FALLING WITHIN THE
DEFINITION OF RADIO EQUIPMENT***

1. For the purposes of this Directive the following products shall be deemed to be radio equipment:

(a) active antennas;

(b) jammers.

2. For the purposes of this Directive the following products shall not be deemed to be radio equipment:

(a) passive antennas;

(b) cochlear implants;

(c) microwave ovens.

Or. en

Justification

As the amendment to Article 2(1)(1) of the proposed Directive entails a change with regard to restriction of the definition of radio equipment to the equipment capable of communication, therefore Annex II of the proposed Directive has become obsolete.

EXPLANATORY STATEMENT

Background

This report brings modifications to the proposal of the European Commission to revise 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 conformity¹ (R&TTE Directive). The proposal is closely related to the implementation of the New Legislative Framework (NLF) adopted in 2008 as "the goods package".

The 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. The Directive entered into force in 1999 and has been crucial to achieving an internal market in this area. The Directive 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.

The number of mobile devices and wireless applications has grown enormously in recent years. This creates risks of interference between the various products. Therefore an efficient use of the radio spectrum is essential.

Existing provisions in the area of the proposal

The R&TTE Directive fully harmonises the placing on the EU market of the products falling within its scope. Only equipment complying with the requirements of the Directive may be placed on the market, and Member States may not introduce further restrictions addressing at national level the same requirements. Putting into service and use of radio equipment is subject to national regulation. When exercising this competence, Member States must comply with applicable EU law, in particular:

- The general framework for spectrum policy set out in the Radio Spectrum Policy Programme;
- General criteria laid down in Directive 2002/21/EC (Framework Directive) within the regulatory framework for electronic communications;
- Conditions for authorisations for the use of spectrum laid down in Directive 2002/20/EC (Authorisation Directive) within the regulatory framework for electronic communications;
- Implementing measures under Decision 676/2002/EC (Radio Spectrum Decision) harmonising the technical conditions for the use of certain spectrum bands in the EU and that are binding on all Member States. Examples of bands harmonised at EU

¹ OJ L 91, 7.4.1999, p. 10.

level include the bands for GSM, UMTS and shortrange devices;

- Consistency with the other policies and objectives of the Union.

Rapporteur's Position

Your rapporteur welcomes the proposal of the European Commission. However, she suggests to introduce a number of horizontal and vertical changes in order to avoid unnecessary administrative burden, which would particularly affect SMEs, while securing a very high level of consumer protection, the most efficient use of the radio spectrum, improving market surveillance, reaching a higher level of consistency with the New Legislative Framework and eliminating possible inconsistencies in the text which may otherwise create legal uncertainty.

Horizontal Issues

Your rapporteur identified several inconsistencies with the "Goods Package", which has already been discussed at European level. In order to align with these results and achieve a coherent legislative framework, your rapporteur suggests improvements of the wording.

Vertical Issues

Your rapporteur agrees with the general direction of the Proposal. Nevertheless, there are a number of issues specific to the Directive where changes are necessary in order to strike the right balance between effective market surveillance and avoidance of unnecessary administrative burden especially for SMEs.

- a) A number of products that entail a very limited use of electromagnetic waves for the purpose other than communication are already present on the market without any major reported problems and are sufficiently regulated by e.g. LVD and EMC Directives therefore it is not proportionate to extend the scope of the proposed regulation to include such devices.
- b) Moreover and considering that radio spectrum is a finite resource, it is important to guarantee its efficient usage, therefore the equipment capable of receiving radio waves should fall under the scope of proposed Directive.

Your rapporteur consequently considers important to change the definition of "radio equipment" accordingly.

- c) The obligation to register certain radio equipment in a central system would result into disproportionate burden to legitimate economic operators, especially SMEs, whereas the benefits of such registration system have not been sufficiently demonstrated. Moreover, such system potentially raises confidentiality issues. Furthermore, the respective provisions on traceability as established in the proposed Directive are a sufficient tool for efficient and effective market surveillance.
- d) Member States should encourage economic operators to include not only a postal address but in addition to that also a website address in order to facilitate the communication between economic operators, market surveillance authorities and

consumers.

Your rapporteur welcomes the fact that the Proposal highlights the benefits of interoperability between radio equipment and accessories such as chargers. However, there needs to be a renewed effort to introduce a common charger. This would simplify the use of radio equipment e.g. mobile phones, reduce waste and costs as well as will consequently be highly beneficial to consumers.