

Vorstandsinformation (012)

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DARC erreicht durch Politiker zusammen mit Eurocom Korrektur des funkschädlichen Richtlinienentwurfes zur elektromagnetischen Verträglichkeit

Der in internationalen Verträgen mit der ITU bisher vereinbarte Funkschutz sollte nach dem Willen der europäischen Kommission in Brüssel, Direktorat Enterprises, deutlich zurückgenommen werden. Nach deren Ansicht stellt er ein Hemmnis für Wirtschaft und freien Warenhandel dar. Erkennbar ist diese funkfeindliche Politik, die Amateurfunk teilweise total wirtschaftlichen Interessen unterordnet, am Beispiel der Förderung von PLC. Diese Politik gegen den Funk als einmalige Ressource gefährdet den freien, unkontrollierbaren Zugang zur Information. Bereits durch die geplante Neudefinition des Störungsbegriffs wäre Funk im Störfall auf die gleiche Stufe mit beliebiger Handelsware gestellt worden. Deren EMV-Normen wären im Interesse der Industrie das Maß bei allen Beeinflussungsfällen geworden. Weiterhin versucht u.a. die Kommission darin einmal mehr, die bisher bestehende Funkhoheit der einzelnen EU-Länder bzw. die darauf beruhende Handlungsfreiheit der nationalen Behörden einzuschränken zugunsten von EG-Recht.

Nachdem erkennbar war, dass technische Eingaben und Argumentationen zuallererst gegen die Richtlinie und ergänzend dazu gegen PLC weder in DL noch in Brüssel fruchteten, war klar, dass fortan die Öffentlichkeit und vor allem die Politiker in die Problematik - Verlust des Funkschutzes - eingebunden werden mussten. Eine erste Gelegenheit dazu organisierte der OV 49 Werl (OM Kurt, DL8DMA) mit einer ANTI-PLC-Veranstaltung im September 2003, an der neben Bundestagsabgeordneten Borchers (FDP), Müller (Grüne) auch die Mitglieder des Europa-Parlaments MdEP Dr. Liese (CDU) und Kuhne (SPD) sowie der Eurocom-Vorsitzende G. Bertels und der DARC-Vorstand teilnahmen. In der Folge wurden den Politikern ergänzende Informationen und schließlich konkrete, vom Stab Politik des DARC erarbeitete, Textänderungen zur EMV-Richtlinie übergeben und von diesen beim zuständigen Ausschuss ITRE eingereicht. Zwei der wichtigsten Vorschläge wurden nun vom Ausschuss in den Entwurf der Richtlinie übernommen.

Der Erfolg kann aus dem beigefügten Schreiben des MdEP Kuhne abgelesen werden.

Nach den ursprünglichen Vorstellungen der Kommission sollte der von der Öffentlichkeit kaum beachtete Entwurf der neuen EMV-Richtlinie im Februar 2004 verabschiedet sein. Dadurch wäre das bisher in Deutschland geltende EMV-Gesetz geändert worden. Ohne Eingaben hätte die Richtlinie, auch ohne Abstimmung des Europäischen Parlaments, allein mit der Zustimmung des ITRE-Ausschusses bereits in Kraft treten können! In diesem späten Stadium, nach bereits erfolgter Abstimmung durch die nationalen Verwaltungen, konnten wir durch ein offenes Ohr der Politiker und deren Einsatz den Gang der Richtlinie beeinflussen und wichtige Änderungen zugunsten des Funkschutzes in den Text der Richtlinie einbringen. Nun wird das Europa-Parlament voraussichtlich im Herbst darüber entscheiden.

Bis dahin ist vorgesehen, insbesondere im Zusammenhang mit der in DL im Juni stattfindenden Europawahl, weitere Politiker über das Problem zu informieren und für den Schutz des Funks und insbesondere des Amateurfunks zu aktivieren. Wir rufen dazu auf, nach dem Vorbild des Politikergesprächs in Werl ihre zuständigen Europa-Abgeordneten ebenfalls zu aktivieren. Der Stab Politik-Kontakte hält entsprechende unterstützende Informationen bereit.

Ergänzend werden wir weiter versuchen, auch andere europäische Amateurfunkverbände dahingehend zu informieren bzw. aktivieren.

Brief des MdEP in PDF als Anhang
Eurocom-Newsletter in PDF als Anhang



Helmut Kuhne

Mitglied des Europäischen Parlaments

Herrn
Kurt Meerkötter
Benditstrasse 32

59457 Werl

25.02.2004

Richtlinienentwurf zur elektromagnetischen Verträglichkeit
hier: Abstimmungsergebnis im Industrieausschuss vom 24.02.2004

Lieber Kurt,

ich komme zurück auf die sehr informative Veranstaltung, die vom örtlichen Club der Funkamateure und eurem Dachverband im Jahre 2003 in Werl durchgeführt wurde, um politisch Verantwortlichen die Beeinträchtigung des Amateurfunks durch PLC-Vorrichtungen vor Augen zu führen. Insbesondere Europaabgeordnete, in diesem Fall Herr Liese und ich, haben die Möglichkeit, eine unvertretbare rechtliche Begünstigung von PLC gegenüber dem Amateurfunk zu verhindern, weil das in Rede stehende Gesetzeswerk, die Richtlinie über elektromagnetische Verträglichkeit, auf europäischer Ebene beschlossen wird. Das europäische Parlament ist dabei Gesetzgeber.

Herr Liese und ich haben uns in den vergangenen Monaten in bezug auf das Vorgehen untereinander und mit Herrn Bertels abgestimmt und teilweise gleichlautende, teilweise unterschiedliche sich ergänzende Anträge gestellt.

Soeben wurde die Abstimmung im Ausschuss beendet - und ich kann Dir positive Ergebnisse vermelden:

Das wichtigste: die beiden Definitionen, die Herr Bertels unbedingt verankert wissen wollte, sind beide in den Text aufgenommen worden. Danach kann eine "elektromagnetische Störung" ein elektromagnetisches Rauschen, ein unerwünschtes Signal oder eine Veränderung des Ausbreitungsmediums selbst sein. Als "elektromagnetische Umgebung" gilt die Gesamtheit aller elektromagnetischen Erscheinungen, die an einem bestimmten Ort festgestellt werden können. Für mich als technischen Laien bedeutet dies, dass PLC-Vorrichtungen juristisch zur elektromagnetischen Umgebung gehören und dass von ihnen im juristischen Sinne Störungen ausgehen können.

In zwei Kompromissanträgen des Berichterstatters (das ist im Ausschuss der/diejenige Abgeordnete, der/die für die Abfassung des Beschlussvorschlages zuständig ist) wurde darüber hinaus festgehalten

- dass die Mitgliedstaaten verantwortlich sind,
- dass u. a. Funkamateure-Dienste, die mit der ITU-Funk-Regulierung übereinstimmen, elektrische Geräte sowie Telekommunikationsnetze gegen elektromagnetische Störungen geschützt werden,
- dass die Richtlinie die Mitgliedstaaten nicht daran hindert, an einem bestimmten Ort Maßnahmen zur Überwindung existierender oder vorhergesagter elektromagnetischer Kompatibilitätsprobleme zu ergreifen.

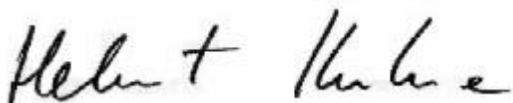
Als technischer Laie sehe ich darin die Ermächtigung zur Überprüfung von Geräten, die Störungen verursachen könnten und die Möglichkeit, an konkreten Orten - etwa im Falle der Beeinträchtigung des Amateurfunks durch eine PLC-Vorrichtung - Maßnahmen zu ergreifen.

Ein weiterer Änderungsantrag von mir wurde bei Stimmengleichheit abgelehnt. Ebenso fand ein weiterer Antrag von Herrn Liese keine Mehrheit. Diese waren nach meiner Einschätzung allerdings eher von sekundärer Bedeutung.

ich hoffe, Ihr könnt mit dem erzielten Ergebnis - das allerdings erst noch durchs Plenum muss (ich sehe allerdings keine Gefahr für das Erreichte) - zufrieden sein.

Da an diesem Punkt Herr Liese und ich zusammen gearbeitet haben, werde ich von mir aus keine Presseerklärung herausgeben und den Erfolg an meine Fahne heften. Ich überlasse es Dir und Deinen Mit-Funkern, ob Ihr selbst eine Pressemitteilung veröffentlicht, in der Ihr noch einmal auf die Zusammenarbeit mit Europaabgeordneten und die erzielten Ergebnisse verweist.

Mit freundlichen Grüßen



Helmut Kuhne



International Amateur Radio Union - Region 1

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EUROCOM Newsletter

04.03.2004

ITRE Committee adopts amendments to New EMC Directive

1. Reminder

The EUROCOM Newsletter of 23.09.2003 reviewed the revision of EMC Directive 89/336/EEC which has been going on since several years.

Our efforts for the protection of the radio spectrum users and specially of the amateur radio service were highlighted:

- exemption of amateur radio homebuilt equipment, including kits
- meeting in Werl, Germany with MEP's where EMC and PLC issues were presented
- steps undertaken to force a debate in the ITRE parliamentary committee
- EUROCOM amendments to the text of the new EMC Directive

2. Amendments adopted

In the last few months we have continuously worked together with several MEP to submit amendments to ITRE. As a result, ITRE chairman Berenguer Fuster finally accepted a public debate on these amendments.

The vote took place last week and several amendments we had drafted have been accepted:

- Article 2, paragraph 1, (e)
"Electromagnetic disturbance" means any electromagnetic phenomenon which may degrade the performance of equipment. An electromagnetic disturbance may be electromagnetic noise, an unwanted signal or a change in the propagation medium itself;
- Article 2, paragraph 1, point (f a) (new)
"Safety purposes" means the purposes of safeguarding human life or property;
- Article 2, paragraph 1, point (g a) (new)
"Electromagnetic environment" means the whole of all electromagnetic phenomena observable in a given location.

Moreover, an amendment had been submitted stating that radiobroadcast must be protected against electromagnetic disturbance. We asked MEPs Peter Liese and Helmut Kuhne to insist that the radio amateur service deserves the same protection.

The original amendment introducing the broadcast protection into the text of the Directive was rejected, but a statement was added to Recital 2 of the Directive and the protection of the amateur radio service was included:

- Recital 2
Member States are responsible for ensuring that radio-communications, including radiobroadcast reception and the amateur radio service operating in accordance

with ITU radio regulations, electrical supply and telecommunications networks, as well as equipment thereto, are protected against electromagnetic disturbance.

Last but not least, the amendment in favour of amateur radio homebuilt equipment has been maintained:

- Article 1, paragraph 2, point (c)
*radio equipment **used** by radio amateurs within the meaning defined in the Radio Regulations adopted in the framework of the Constitution and Convention of the International Telecommunication Union, **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 are not regarded as commercially available equipment.***

3. Submission to the Plenary of the European Parliament

The amendments adopted by ITRE are presently submitted to the EU Parliament.

It is expected that the Plenary of the EU Parliament will vote on the amendments next Tuesday.

Although further amendments can still be presented in plenary session, this scenario is rather unlikely.

Once the amendments are adopted by the EU Parliament, they will be submitted to the European Commission which will finalize the text of the new EMC Directive. Further changes are still possible.

4. Thanks

Several MEPs accepted to submit amendments we drafted and to defend these texts during the debate in the ITRE parliamentary committee.

We are very grateful to:

- MEP Fernando Fernandez-Martin
- MEP Dr. Peter Liese
- MEP Helmut Kuhne

Other MEP's also supported our proposals.

Many thanks to all.

Several members of the EMC working groups within Region 1 gave us input for drafting amendments. Some of their suggestions are now underway to be incorporated into European law.

73

Gaston Bertels, ON4WF
EUROCOM WG Chairman

Annex: 1

EUROPEAN PARLIAMENT

1999



2004

Session document

FINAL
A5-0113/2004

25 February 2004

*****I** **REPORT**

on the proposal for a European Parliament and Council directive on the approximation of the laws of the Member States relating to electromagnetic compatibility
(COM(2002) 759 – C5-0634/2002 – 2002/0306(COD))

Committee on Industry, External Trade, Research and Energy

Rapporteur: Luis Berenguer Fuster

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 23 December 2002 the Commission submitted to Parliament, pursuant to Article 251(2) of the EC Treaty, the proposal for a European Parliament and Council directive on the approximation of the laws of the Member States relating to electromagnetic compatibility (COM(2002) 759 – 2002/0306(COD)).

At the sitting of 29 January 2003 the President of Parliament announced that he had referred the proposal to the Committee on Industry, External Trade, Research and Energy as the committee responsible and the Committee on Legal Affairs and the Internal Market for its opinion (C5-0634/2002).

The Committee on Industry, External Trade, Research and Energy appointed Luis Berenguer Fuster rapporteur at its meeting of 24 April 2003.

It considered the Commission proposal and the draft report at its meetings of 26 November 2003, 17, 18, 23 and 24 February 2004.

At the last meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Luis Berenguer Fuster (chairman and rapporteur), Peter Michael Mombaur (vice-chairman), Gordon J. Adam (for Gary Titley), María del Pilar Ayuso González (for Jaime Valdivielso de Cué), Ward Beysen (for Gian Paolo Gobbo), Guido Bodrato, David Robert Bowe (for Norbert Glante), Gérard Caudron, Giles Bryan Chichester, Nicholas Clegg, Dorette Corbey (for Harlem Désir), Concepció Ferrer, Francesco Fiori (for Umberto Scapagnini), Jacqueline Foster (for Sir Robert Atkins), Cristina García-Orcoyen Tormo (for Angelika Niebler), Neena Gill (for Myrsini Zorba), Alfred Gomolka (for Elizabeth Montfort), Michel Hansenne, Hedwig Keppelhoff-Wiechert (for Werner Langen pursuant to Rule 153(2)), Bashir Khanbhai, Dimitrios Koulourianos (for Konstantinos Alyssandrakis), Helmut Kuhne (for Massimo Carraro), Rolf Linkohr, Eryl Margaret McNally, Erika Mann, Marjo Matikainen-Kallström, Ana Miranda de Lage, Giuseppe Nisticò (for W.G. van Velzen), Reino Paasilinna, Samuli Pohjamo (for Willy C.E.H. De Clercq), Godelieve Quisthoudt-Rowohl, Bernhard Rapkay (for Mechtild Rothe), Imelda Mary Read, Christian Foldberg Rovsing, Paul Rübig, Herman Schmid (for Marianne Eriksson pursuant to Rule 153(2)), Konrad K. Schwaiger, Esko Olavi Seppänen, Geoffrey Van Orden (for Paolo Pastorelli pursuant to Rule 153(2)), Alejo Vidal-Quadras Roca.

The Committee on Legal Affairs and the Internal Market decided on 20 February 2003 not to deliver an opinion.

The report was tabled on 25 February 2004.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a European Parliament and Council directive on the approximation of the laws of the Member States relating to electromagnetic compatibility (COM(2002) 759 – C5-0634/2002 – 2002/0306(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2002) 759)¹,
 - having regard to Article 251(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0634/2002),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, External Trade, Research and Energy (A5-0113/2004),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1
Recital 2

(2) Member States are responsible for ensuring that radio-communications, electrical supply and telecommunications networks, as well as equipment connected thereto, are protected against electromagnetic disturbance.

(2) Member States are responsible for ensuring that radio-communications, ***including radiobroadcast reception and the amateur radio service operating in accordance with ITU radio regulations***, electrical supply and telecommunications networks, as well as equipment connected thereto, are protected against electromagnetic disturbance.

Amendment 2

¹ Not yet published in OJ.

Recital 11

(11) Where this Directive regulates apparatus, it should refer to finished apparatus commercially available for the first time on the Community market. Certain components or sub-assemblies should, under certain conditions, be considered to be apparatus if they are made available to the end-user. ***Ready-made connecting devices, although incapable of generating electromagnetic disturbance in isolation, may generate or transmit electromagnetic disturbance when connected to an apparatus and should therefore be considered to be apparatus for the purposes of this Directive.***

(11) Where this Directive regulates apparatus, it should refer to finished apparatus commercially available for the first time on the Community market. Certain components or sub-assemblies should, under certain conditions, be considered to be apparatus if they are made available to the end-user.

Amendment 3 Recital 13

(13) It is in the interest of the functioning of the internal market to have standards for the electromagnetic compatibility of equipment which have been harmonised at Community level; once the reference to such a standard has been published in the Official Journal of the European ***Communities***, compliance with it should raise a presumption of conformity with the relevant essential requirements, although other means of demonstrating such conformity should be permitted.

(13) ***Harmonised standards give expression to the generally acknowledged state of the art as regarding electromagnetic compatibility matters in the European Union.*** It is ***thus*** in the interest of the functioning of the internal market to have standards for the electromagnetic compatibility of equipment which have been harmonised at Community level; once the reference to such a standard has been published in the Official Journal of the European ***Union***, compliance with it should raise a presumption of conformity with the relevant essential requirements, although other means of demonstrating such conformity should be permitted. ***Compliance with a harmonised standard means conformity with its provisions and demonstration thereof by the methods the harmonised standard describes or refers to.***

Amendment 4 Recital 20

(20) It is not pertinent to carry out the conformity assessment of apparatus placed on the market for incorporation into a given fixed installation, and otherwise not commercially available, in isolation from the fixed installation into which it is to be incorporated. Such apparatus should therefore be exempted from the conformity assessment procedures normally applicable to apparatus. However, such apparatus should not be permitted to compromise the conformity of the fixed installation into which it is incorporated.

(20) It is not pertinent to carry out the conformity assessment of apparatus placed on the market for incorporation into a given fixed installation, and otherwise not commercially available, in isolation from the fixed installation into which it is to be incorporated. Such apparatus should therefore be exempted from the conformity assessment procedures normally applicable to apparatus. However, such apparatus should not be permitted to compromise the conformity of the fixed installation into which it is incorporated. ***Should an apparatus be incorporated into more than one identical fixed installations, identifying the EMC characteristics of these installations should be sufficient to ensure exemption from the conformity assessment procedure.***

Amendment 5
Article 1, paragraph 1

1. This Directive regulates the electromagnetic compatibility of equipment. It aims to ensure the functioning of the internal market by requiring equipment to comply with an adequate level of electromagnetic compatibility.

1. This Directive regulates the electromagnetic compatibility of equipment. It aims to ensure the functioning of the internal market by requiring equipment to comply with an adequate level of electromagnetic compatibility. ***This Directive applies to equipment, as defined in Article 2.***

Amendment 6
Article 1, paragraph 2, point (b)

(b) aircraft and equipment intended to be fitted into aircraft;

(b) ***aeronautical products, parts and appliances as referred to in Regulation (EC) No. 1592/2002;***

Amendment 7
Article 1, paragraph 2, point (c)

(c) radio equipment ***which is not commercially available, including kits of***

(c) radio equipment ***used*** by radio amateurs within the meaning defined in the Radio

components to be assembled by radio amateurs, within the meaning defined in the Radio Regulations adopted in the framework of the Constitution and Convention of the International Telecommunication Union, *as well as* commercial equipment modified by and for the use of *such* radio amateurs.

Regulations adopted in the framework of the Constitution and Convention of the International Telecommunication Union, *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 *are not regarded as commercially available equipment.*

Amendment 8

Article 1, paragraph 3, point (a)

(a) it is incapable of generating electromagnetic emissions which exceed a level allowing radio and telecommunication equipment and other equipment to operate as intended; and

(a) it is incapable of generating *or contributing to* electromagnetic emissions which exceed a level allowing radio and telecommunication equipment and other equipment to operate as intended; and

Amendment 9

Article 1, paragraph 4

4. *This Directive shall not apply to equipment or requirements in so far as the requirements laid down in this Directive are harmonised by more specific Community legislation.*

4. *Where, for an equipment referred to in paragraph 1, the requirements referred to in Annex I are wholly or partly laid down more specifically by other Community Directives, this Directive shall not apply, or cease to apply, to that equipment in respect of such requirements from the date of implementation of those Directives.*

Amendment 10

Article 2, paragraph 1, point (e)

(e) "Electromagnetic disturbance" means any electromagnetic phenomenon which may degrade the performance of equipment;

(e) "Electromagnetic disturbance" means any electromagnetic phenomenon which may degrade the performance of equipment. *An electromagnetic disturbance may be electromagnetic noise, an unwanted signal or a change in the propagation medium itself;*

Justification

The International Electrotechnic Committee (IEC) has defined the concept of "electromagnetic disturbance" (IEC50, International Electrotechnic Vocabulary (IEV), Chapter 161: Electromagnetic compatibility, 2.1.6).

This definition has been included in the current Council Directive 89/336/EEC of May 1989 on the approximation of the laws of the Member States relating to electromagnetic compatibility. See 89/336/EEC Article 1, 2). This definition shall be maintained in the new Directive to guarantee the correct interpretation of the concept.

Amendment 11

Article 2, paragraph 1, point (f a) (new)

(fa) "Safety purposes" means the purposes of safeguarding human life or property;

Amendment 12

Article 2, paragraph 1, point g)

(g) "Harmonised standard" means a technical specification adopted by a recognised standards body under a mandate from the Commission in conformity with the procedures laid down in Directive 98/34/EC for the purpose of establishing a European requirement, compliance with which is not compulsory. ***deleted***

Amendment 13

Article 2, paragraph 1, point (g a) (new)

(ga) "Electromagnetic environment" means the whole of all electromagnetic phenomena observable in a given location.

Justification

The International Electrotechnic Committee (IEC) has defined the concept of "electromagnetic environment" (IEC50, International Electrotechnic Vocabulary (IEV), Chapter 161: Electromagnetic compatibility, 2.1.5). This definition, which distinguishes the concept of "electromagnetic environment" from the concept of "place, location", is important for the correct interpretation of the electromagnetic compatibility concept itself.

Amendment 14
Article 2, paragraph 2, point (b)

(b) "ready-made connecting devices" intended for connection to an apparatus by an end user for the transmission of signals, which are placed on the market separately from such apparatus, and which are liable to generate or transmit electromagnetic disturbance when connected to it. ***deleted***

Amendment 15
Article 2, paragraph 2, point (a a) (new)

aa) "mobile installations" defined as a combination of apparatus and, where applicable, other devices, intended to be moved and operated in a range of locations.

Amendment 16
Article 4, Title

Free *circulation* of equipment

Free *movement* of equipment

Amendment 17
Article 4, paragraph 2

2. The requirements of this Directive shall not prevent the application in any Member State of special measures, concerning the putting into service or use of equipment, ***which have been taken in respect of a specific site*** in order to overcome an existing or predicted electromagnetic compatibility problem, ***or*** for safety ***purposes*** to protect the public telecommunications networks or receiving or transmitting stations used. Member States shall notify those measures ***in accordance with the procedure laid down in*** Directive 98/34/EC.

2. The requirements of this Directive shall not prevent the application in any Member State of ***the following*** special measures concerning the putting into service or use of equipment

(a) measures in order to overcome an existing or predicted electromagnetic compatibility problem ***at a specific site***

(b) measures taken for safety ***reasons*** to protect the public telecommunications networks or receiving or transmitting stations ***when used for safety purposes in well-defined spectrum situations.***

Without prejudice to Directive 98/34/EC,

as amended by Directive 98/48/EC, Member States shall notify these measures to the Commission and to the other Member States.

Those special measures which have been accepted will be published by the Commission in the Official Journal of the European Union.

Amendment 18
Article 4, paragraph 3

3. Member States shall not create any obstacles to the display at trade fairs, exhibitions, demonstrations or similar events of equipment which does not comply with this Directive provided that a visible sign clearly indicates that such equipment may not be placed on the market *or* put into service until it has been brought into conformity with this Directive.

3. Member States shall not create any obstacles to the display *and/or* demonstration at trade fairs, exhibitions or similar events of equipment which does not comply with this Directive, provided that a visible sign clearly indicates that such equipment may not be placed on the market *and/or* put into service until it has been brought into conformity with this Directive. ***Demonstration may only take place provided that adequate measures are taken to avoid electromagnetic disturbances.***

Amendment 19
Article 6, paragraph 1

1. The compliance of equipment with the relevant harmonised standards whose references have been published in the Official Journal of the European Communities shall raise a presumption, on the part of the Member States, of conformity with the essential requirements referred to in Annex I to which such standards relate.

1. "Harmonised standard" means a technical specification adopted by a recognised European standardisation body under a mandate from the Commission in conformity with the procedures laid down in Directive 98/34/EC for the purpose of establishing a European requirement. Compliance with a "harmonised standard" is not compulsory.

Amendment 20
Article 6, paragraph 2

2. The modalities for the application of

2. The compliance of equipment with the

harmonised standards are set out in Annex V.

relevant harmonised standards whose references have been published in the Official Journal of the European Union shall raise a presumption, on the part of the Member States, of conformity with the essential requirements referred to in Annex I to which such standards relate. This presumption of conformity is limited to the scope of the harmonised standard(s) applied and the relevant essential requirements covered by such harmonised standard(s).

Amendment 21

Article 6, paragraph 4, point (c)

(c) to maintain the reference in the publication referred to in paragraph 1;

(c) to maintain the reference in the publication referred to in paragraph 2;

Amendment 22

Article 6, paragraph 4, point (d)

(d) to withdraw the reference from the publication referred to in paragraph 1.

(d) to withdraw the reference from the publication referred to in paragraph 2.

Amendment 23

Article 8 a (new)

Article 8 a

Other marks and information

1. Each apparatus shall be identified in terms of type, batch, serial number or any other information allowing for the identification of the apparatus;

2. Each apparatus shall be accompanied by the name and address of the manufacturer and, if he is not established within the Community, the name and address of his authorised representative or of the person established within the Community responsible for placing the apparatus on the Community market;

3. The manufacturer shall provide information on any specific precautions that have to be taken when the apparatus is assembled, installed, maintained or used, in order to ensure that, when put into service, the apparatus is in conformity with the protection requirements set out in Annex I(1);

4. Apparatus for which compliance with the protection requirements is not ensured in residential areas shall be accompanied by a clear indication of this restriction of use, where appropriate also on the packaging.

5. The information required to enable use in accordance with the intended purpose of the apparatus must be contained in the instructions accompanying the apparatus.

Amendment 24
Article 9, paragraph 4

4. Where the measure referred to in paragraph 1 is attributed to a shortcoming in harmonised standards, the Commission, after consulting the parties, shall, if the Member State concerned intends to uphold the measure, bring the matter before the Committee and initiate the procedure laid down in *Article 6(3)*.

4. Where the measure referred to in paragraph 1 is attributed to a shortcoming in harmonised standards, the Commission, after consulting the parties, shall, if the Member State concerned intends to uphold the measure, bring the matter before the Committee and initiate the procedure laid down in *Articles 6(3) and 6(4)*.

Amendment 25
Article 9, paragraph 5

5. Where the non-compliant apparatus *is accompanied by the report* referred to in *Article 7(2)*, the Member State concerned shall take appropriate action in respect of the author of *that report*, and shall inform the Commission and the other Member States accordingly.

5. Where the non-compliant apparatus *has been subject to the conformity assessment procedure* referred to in *Annex I ter*, the Member State concerned shall take appropriate action in respect of the author of *the statement referred to in Annex I ter (3)*, and shall inform the Commission and the other Member States accordingly.

Amendment 26
Article 11, paragraph 1 and 2

1. Member States shall *designate* the bodies *competent to draw up the reports referred to in Article 7(2) and shall notify them (notified bodies) to the Commission and to the other Member States.*

Such notification shall state whether the bodies are *competent* for all apparatus covered by this Directive *or whether their responsibility* is limited to certain specific aspects.

2. Member States shall apply the criteria *listed* in Annex IV *for the assessment of notified* bodies.

1. Member States shall *notify* the *Commission of the* bodies *which they have designated to carry out the tasks referred to in the Annex I ter.* Member States shall apply the criteria *laid down in the Annex IV in determining the* bodies *to be designated.*

Such notification shall state whether the bodies are *designated to carry out the tasks referred to in the previous paragraph* for all apparatus covered by this Directive *and/or the essential requirements referred to in the Annex I or whether their scope of designation* is limited to certain specific aspects *and/or category of apparatus.*

Amendment 27
Article 11, paragraph 3

3. Bodies which comply with the assessment criteria fixed by the relevant harmonised standards shall be presumed to comply with the criteria set out in Annex IV covered by such harmonised standards. The Commission shall publish in the Official Journal of the European *Communities* the references of these standards.

2. Bodies which comply with the assessment criteria fixed by the relevant harmonised standards shall be presumed to comply with the criteria set out in Annex IV covered by such harmonised standards. The Commission shall publish in the Official Journal of the European *Union* the references of these standards.

Justification

Paragraph 3 of Article 11 in the Commission text has become paragraph 2 of Article 11 in the Parliament's amendment.

Amendment 28
Article 11, paragraph 4

4. The Commission shall publish in the

3. The Commission shall publish in the

Official Journal of the European **Communities** a list of notified bodies. The Commission shall ensure that the list is kept up to date.

Official Journal of the European **Union** a list of notified bodies. The Commission shall ensure that the list is kept up to date.

Justification

Paragraph 4 of Article 11 in the Commission text has become paragraph 3 of Article 11 in the Parliament's amendment.

Amendment 29
Article 11, paragraph 5

5. If a Member State finds that a notified body no longer meets the criteria listed in Annex IV, it shall inform the Commission and the other Member States accordingly. The Commission shall withdraw the reference to that body from the list referred to in paragraph 4.

4. If a Member State finds that a notified body no longer meets the criteria listed in Annex IV, it shall inform the Commission and the other Member States accordingly. The Commission shall withdraw the reference to that body from the list referred to in paragraph 3.

Justification

Paragraph 5 of Article 11 in the Commission text has become paragraph 4 of Article 11 in the Parliament's amendment.

Amendment 30
Article 12, paragraph 1

1. Apparatus which has been placed on the market and which may be incorporated into a fixed installation is subject to all relevant provisions for apparatus set out in this Directive.

However, the provisions of Articles 5, 7 and 8 shall not be compulsory in the case of apparatus which is **specifically designed** for incorporation into a given fixed installation and is otherwise not commercially available. In such cases, the accompanying documentation shall **name the site of** the fixed installation and

1. Apparatus which has been placed on the market and which may be incorporated into a fixed installation is subject to all relevant provisions for apparatus set out in this Directive.

However, the provisions of Articles 5, 7, 8 and **8a** shall not be compulsory in the case of apparatus which is **intended** for incorporation into a given fixed installation and is otherwise not commercially available. In such cases, the accompanying documentation shall **identify** the fixed installation and **its EMC characteristics**

indicate the precautions to be taken for the incorporation of the apparatus into the fixed installation in order not to compromise the conformity of the specified installation. It shall furthermore include the information referred to in **Point 4(a) and (b) of Annex I**.

and indicate the precautions to be taken for the incorporation of the apparatus into the fixed installation in order not to compromise the conformity of the specified installation. It shall furthermore include the information referred to in **Articles 8a (1) and 8a (2)**.

Amendment 31
Article 16

This Directive shall enter into force on the twentieth day after its publication in the Official Journal of the European **Communities**.

This Directive shall enter into force on the twentieth day after its publication in the Official Journal of the European **Union**.

Amendment 32
Annex I, paragraph 3.6

**3. SPECIFIC REQUIREMENTS FOR
FIXED INSTALLATIONS**

**6. Installation and intended use of
components:**

A fixed installation shall be installed applying good engineering **practice** and respecting the information on the intended use of its components, with a view to meeting the protection requirements set out in Point 1.

**1a. SPECIFIC REQUIREMENTS FOR
FIXED INSTALLATIONS**

Installation and intended use of
components:

A fixed installation shall be installed applying good engineering **practices** and respecting the information on the intended use of its components, with a view to meeting the protection requirements set out in Point 1. **These good engineering practices shall be documented and the documentation shall be held by the responsible person(s) at the disposal of the relevant national authorities for inspection purposes as long as the fixed installation is in operation.**

Justification

Paragraph 3.6 of Annex I in the Commission text has become paragraph 1a (new) of Annex I in Parliament's amendment.

Amendment 33

2. SPECIFIC REQUIREMENTS FOR APPARATUS *deleted*

2. Electromagnetic compatibility assessment:

The manufacturer shall perform an electromagnetic compatibility assessment of the apparatus, based on the relevant phenomena, with a view to meeting the protection requirements set out in Point 1.

The electromagnetic compatibility assessment shall take into account all normal intended operating conditions.

In cases where the apparatus can take different configurations, the electromagnetic compatibility assessment shall confirm that the apparatus meets the protection requirements set out in Point 1 in all possible configurations identified by the manufacturer as representative of normal use in its intended application.

3. External devices:

All apparatus shall meet the protection requirements referred to in Point 1 without external devices such as filtering or shielding, unless those devices, including the necessary instructions for use, are placed on the market together with the apparatus as a functional unit.

This provision shall not apply to apparatus designed and intended for installation by a person technically competent in the field of electromagnetic compatibility. In such cases external devices need not be placed on the market together with the apparatus, provided that those devices are commercially available and their required electromagnetic compatibility characteristics are sufficiently described in the instructions for use of the apparatus;

Connecting devices, such as plugs or cables, which have to fulfil specific requirements for the compliance of the

apparatus with the protection requirements set out in Point 1, need not to be placed on the market together with the apparatus if they are commercially available and their required properties are sufficiently described in the instructions for use of the apparatus.

4. Information requirements:

(a) Each apparatus shall be identified in terms of type, batch, serial number or any other information allowing for the identification of the apparatus;

(b) Each apparatus shall be accompanied by the name and address of the manufacturer and, if he is not established within the Community, the name and address of his authorised representative or the person established within the Community responsible for placing the apparatus on the Community market;

(c) The manufacturer shall provide information on any specific precautions that have to be taken when the apparatus is assembled, installed, maintained or used, in order to ensure that, when put into service, the apparatus is in conformity with the protection requirements set out in Point 1;

(d) Apparatus for which compliance with the protection requirements is not ensured in residential areas shall be accompanied by a clear indication of this restriction of use.

5. Ready-made connecting devices:

(a) The requirements for apparatus set out in Points 2, 3, 4(c) and (d) shall not apply to ready-made connecting devices;

(b) Ready-made connecting devices shall be designed and manufactured in such a way that, when connected to the apparatus for which they are intended, following any specific precautions as described below, compliance with the protection requirements set out in Point 1 is ensured;

(c) Ready-made connecting devices shall be accompanied by an indication of the technical characteristics of the apparatus to which they are intended to be connected, and information on any specific precautions that need to be taken regarding the connection to such apparatus with a view to meeting the protection requirements set out in Point 1.

Amendment 34
Annex I bis (new)

**Conformity Assessment procedure
referred to in Article 7 (internal
production control)**

- 1. The manufacturer shall perform an electromagnetic compatibility assessment of the apparatus, based on the relevant phenomena, with a view to meeting the protection requirements set out in **Annex I, point 1. The correct application of all the relevant harmonised standards whose references have been published in the Official Journal of the European Union shall be equivalent to the carrying out of the electromagnetic compatibility assessment.*****
- 2. The electromagnetic compatibility assessment shall take into account all normal intended operating conditions. In cases where the apparatus can take different configurations, the electromagnetic compatibility assessment shall confirm that the apparatus meets the protection requirements set out in **Annex I, Point 1** in all possible configurations identified by the manufacturer as representative of its intended **use.*****
- 3. The manufacturer shall draw up technical documentation set out in **Annex II** which provides evidence of the conformity of the apparatus with the essential requirements of this Directive.***
- 4. The manufacturer or his authorised representative in the Community shall***

representative in the Community shall hold the technical documentation at the disposal of the competent authorities for a period of at least ten years after the date on which such apparatus was last manufactured.

5. The compliance of apparatus with all relevant essential requirements shall be attested by an EC declaration of conformity issued by the manufacturer or his authorised representative established within the Community.

6. The manufacturer or his authorised representative in the Community shall hold the EC declaration of conformity at the disposal of the competent authorities for a period of at least ten years after the date on which such apparatus was last manufactured.

7. If neither the manufacturer nor his authorised representative is established within the Community, the obligation to hold the EC declaration of conformity and the technical documentation at the disposal of the competent authorities shall be the responsibility of the person who places the apparatus on the Community market.

8. The manufacturer must take all measures necessary in order that the manufacturing process ensures compliance of the manufactured products with the technical documentation referred to in point 3 and with the provisions of the directive that apply to them.

9. The technical documentation and the EC declaration of conformity shall be drawn up in accordance with the provisions set out in Annex II.

Justification

Paragraph 2.2 of Annex I in the Commission text have become paragraphs 1 and 2 of Annex I bis in Parliament's amendment.

**Conformity Assessment procedure
referred to in Article 7**

- 1. This procedure consists of applying the Annex I bis, completed as follows:***
- 2. The manufacturer or his authorised representative established within the Community shall present the technical documentation to the notified body referred to in article 11 and request the notified body for an assessment. The manufacturer or his authorised representative established within the Community shall specify to the notified body which aspects of the essential requirements have to be assessed by the notified body.***
- 3. The notified body shall review the technical documentation and assess whether the technical documentation properly demonstrates that the requirements of the Directive he shall assess have been met. If the compliance of the apparatus is confirmed, the notified body shall issue a statement to the manufacturer or his authorised representative established within the Community confirming the compliance of the apparatus. The statement of the notified body is limited to those aspects of the essential requirements which have been assessed by the notified body.***
- 4. The manufacturer shall add the statement of the notified body to the technical documentation.***

1. TECHNICAL DOCUMENTATION

The technical documentation must enable the conformity of the apparatus with the essential requirements to be assessed. It

1. TECHNICAL DOCUMENTATION

The technical documentation must enable the conformity of the apparatus with the essential requirements to be assessed. It

must cover the design and manufacture of the apparatus, in particular:

- a general description of the apparatus;
- **a report** of compliance with the harmonised standards, if any, applied in full or in part;
- where the manufacturer has not applied harmonised standards, or has applied them only in part, a description and explanation of the steps taken to meet the essential requirements of the Directive, including a description of the electromagnetic compatibility assessment set out in Annex I, results of design calculations made, examinations carried out, test reports, etc.;
- **on a voluntary basis, the manufacturer may include in the technical documentation a report from a notified body confirming the conformity of the apparatus with the relevant essential requirements set out in Annex I.**

2. EC DECLARATION OF CONFORMITY

The EC declaration of conformity must contain, at least, the following:

- reference to this Directive;
- identification of the apparatus to which it refers, as set out in **Point 4(a) of Annex I**;
- name and address of the manufacturer and, where applicable, the name and address of his authorised representative within the Community;
- dated reference to the specifications under which conformity is declared to ensure the conformity of the apparatus with the provisions of this Directive;
- date **and place of issue** of the declaration;
- identification and signature of the person empowered to bind the manufacturer or his authorised representative.

must cover the design and manufacture of the apparatus, in particular:

- a general description of the apparatus;
- **evidence** of compliance with the harmonised standards, if any, applied in full or in part;
- where the manufacturer has not applied harmonised standards, or has applied them only in part, a description and explanation of the steps taken to meet the essential requirements of the Directive, including a description of the electromagnetic compatibility assessment set out in Annex I, results of design calculations made, examinations carried out, test reports, etc..
- **statement from the notified body, where procedure referred to in Annex I ter has been followed.**

2. EC DECLARATION OF CONFORMITY

The EC declaration of conformity must contain, at least, the following:

- reference to this Directive;
- identification of the apparatus to which it refers, as set out in **article 8a(1)**;
- name and address of the manufacturer and, where applicable, the name and address of his authorised representative within the Community;
- dated reference to the specifications under which conformity is declared to ensure the conformity of the apparatus with the provisions of this Directive;
- date of the declaration;
- identification and signature of the person empowered to bind the manufacturer or his authorised representative.

Amendment 37
Annex III, paragraph 5

However, where one or more of those Directives allow the manufacturer, during a transitional period, to choose which arrangements to apply, the CE marking shall indicate conformity only with the Directives applied by the manufacturer. In this case, particulars of the Directives applied, as published in the Official Journal of the European **Community**, must be given in the documents, notices or instructions required by the Directives and accompanying such apparatus.

However, where one or more of those Directives allow the manufacturer, during a transitional period, to choose which arrangements to apply, the CE marking shall indicate conformity only with the Directives applied by the manufacturer. In this case, particulars of the Directives applied, as published in the Official Journal of the European **Union**, must be given in the documents, notices or instructions required by the Directives and accompanying such apparatus.

Amendment 38
Annex V

1. The correct application of all the relevant harmonised standards whose references have been published in the Official Journal of the European Communities shall be equivalent to the carrying out of the electromagnetic compatibility assessment referred to in Point 2 of Annex I.

deleted

2. Compliance with a harmonised standard means conformity with its provisions (e.g. limits) and demonstration thereof by the methods the harmonised standard describes or refers to.

3. Presumption of conformity via application of harmonised standard(s) is limited to the scope of the harmonised standard(s) applied and the relevant essential requirements covered by such harmonised standard(s).

4. Harmonised standards are to be selected and used in accordance with the provisions of the relevant standardisation documents. The reference to those documents shall be published in the Official Journal of the European

Communities.

Justification

Annex V in the Commission text has been deleted.