Clarification on

DIRECTIVE 1999/5/EC
OF THE EUROPEAN PARLIAMENT AND THE COUNCIL
of 9 March 1999
ON RADIO EQUIPMENT AND
TELECOMMUNICATIONS TERMINAL EQUIPMENT
AND THE MUTUAL RECOGNITION OF THEIR CONFORMITY

The R&TTE Directive

(version 2008.03)
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For the hurried reader
As of 8 April 2000 the system for placing radio equipment and telecommunications terminal equipment on the European market has thoroughly been simplified.

The requirement to get prior approval was lifted and replaced by a system in which the manufacturer bears full responsibility for the conformity of his products. For certain radio equipment however, the (limited) intervention of a notified body is still needed. The user becomes responsible for the correct use of the apparatus. He has to take note of the information added to the product by the manufacturer and has to use the equipment according to its intended purpose and within any constraints indicated. Measures can be taken against the user if he fails to do so.

In principle all radio and terminal equipment can be placed on the market freely insofar as all provisions of this new R&TTE Directive are complied with. Only in exceptional cases and only when there are valid reasons, a Member State can take measures to limit free movement of certain radio equipment. Frequency planning remains a national competence thus still prohibiting the use of certain radio equipment in certain Member States.

The attention is drawn to the fact that this Directive does not change the licensing system. This is and will remain a national matter.

The R&TTE Directive can only be successful if:

- The manufacturers of apparatus
  - see to it that they only place apparatus on the market that conforms to all provisions of the Directive, this means
    - to comply with the essential requirements
    - to be in line with the other relevant provisions;
  - provide users with sufficient information on the intended purpose of the equipment (e.g. on any limitations on the use in certain Member States);
  - who place on the market radio equipment operating in frequency bands whose use is not harmonised, notify this to the Member States where they will place the equipment on the market.
- The network operators
  - publish accurate and adequate technical specifications of publicly available interfaces so as to enable manufacturers to design terminal equipment that can make use of all services provided through these interfaces.
- The Member State
  - ensures that only equipment is placed on the market in its territory that complies with all the provisions of the Directive (market surveillance);
  - makes known the national frequency plan in sufficient detail;
  - adequately treats the notifications of radio equipment received;
  - ensures that the other parties fulfil their obligations.
- The user
  - takes note of the information provided by the manufacturer;
  - uses the equipment only for its intended purpose.
Introduction

In the Official Journal of the European Communities of 7 April 1999 the “Directive 1999/5/EC of the European parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity”\(^1\) was published. This Directive is usually called the “R&TTE Directive”.

This European Directive replaced the approval system of both radio equipment (remote control, radio transmitters, walkie-talkies, …) and telecommunications terminal equipment (telephones, modems, PBXs, …).

However, the Directive does not apply to

- apparatus used solely for the activities pertaining to defence and State security,
- radio equipment used by radio amateurs that is not available commercially,
- receive only radio equipment intended to be used solely for the reception of sound and TV Broadcasting Services,
- certain maritime equipment (within the scope of Directive 96/98\(^2\)),
- certain equipment used in civil aviation (see Article 2 of Regulation (EEC) No 3922/91\(^3\)),
- certain equipment for air-traffic-management. (See Article 1 of Directive 93/65/EEC\(^4\)).

Following the repeal of directive 93/65/EEC by the interoperability Regulation (EC) No 552/2004\(^5\), this exclusion expired as from October 20\(^{th}\) 2005. The interoperability requirements for Air Traffic Management equipment are laid down in Regulation (EC) No 552/2004. This regulation complements the R&TTE directive.

The R&TTE directive changed considerably the way in which manufacturers of radio- en telecommunications terminal equipment are able to place their products on the European market.

The system offers more flexibility than the previous one. However, even more so than the previous system, the R&TTE system places liability for the conformity of the products with the manufacturer himself. Indeed, the manufacturer has to state for each product that it complies with all relevant provisions of the Directive (Declaration of Conformity\(^6\)). Manufacturers are no longer obliged to obtain a type approval certificate beforehand.

The correct functioning of the new Directive largely depends on the practical implementation of market surveillance. Industry too is aware of this and asks for adequate market surveillance.

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\(^1\) Official Journal of the European Communities L 091 of 07 April 1999 starting from p. 10
  Official Journal of the European Communities L 046 of 17 February 1997 starting from p. 25
\(^3\) Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation
  Official Journal of the European Communities L 373 of 31 December 1991 starting from p. 4
  Amended by Commission Regulation (EC) No 2176/96
  Official Journal of the European Communities L 291 of 14 November 1996 starting from p. 15
  Official Journal of the European Communities L 187 of 29 July 1993 starting from p. 52
  As last amended by Directive 97/15/EG of the Commission
  Official Journal of the European Communities L 095 of 10 April 1997 starting from p. 16
  Official Journal of the European Communities L 096 of 31 March 2004 starting from p. 26

\(^6\) Usually abbreviated as “DoC” – see also chapter “additional useful information”
The date of publication in the Official Journal of the European Communities – 7 April 1999 – was very important for the schedule imposed for the implementation of this Directive. The new legal provisions entered into force one year and one day after publication, namely on 8 April 2000. The provisions entered into force simultaneously in the entire European Union. Therefore the approval system remained applicable up to and including 7 April 2000 (obligation to obtain a type approval before that time). The date of publication was also important as to the transitional period. This period ran up to and including 7 April 2001. Important information in this respect can be found in the chapter “transitional period”.

The R&TTE Directive replaces both the Directive on telecommunications terminal equipment (98/13/EC7) and national regulation regarding radio equipment approval.

It should be stressed that this Directive in no way changes the obligation to hold, for certain radio equipment, a national licence. This remains a national competence.

7 Official Journal of the European Communities L 074 of 12 March 1998 starting from p. 1
The pre-R&TTE approval system (in force until 7 April 2000)

**Introduction**

As a tradition, access to the European market for radio and telecommunications terminal equipment was fragmented. This was caused by the diversity of national approval specifications in which, to a larger or lesser extent, national restrictions are incorporated. It can be assumed that under the old system prior approval was required for practically all telecommunications terminal equipment and radio equipment. This created additional costs and was of course time-consuming. Therefore some time elapsed between the availability of the product and the moment when all legal conditions have been met. Regulation was sometimes outrun by the rapid technological evolution, thereby making it impossible to approve products containing innovative technology (legal technical specification not yet available).

**Telecommunications terminal equipment**

As for telecommunications terminal equipment a European Directive entered into force in 1991 aiming at harmonising market access as much as possible. Directive 98/13/EC (co-ordinated text of Directives 91/263/EEC and 93/97/EEC) – the TTE Directive – provided for the use of mandatory standards harmonised at European level, called common technical regulations or CTRs. Since the development and the adoption of these CTRs was very time-consuming, the success of this approval Directive was for a long time limited to some equipment classes – ISDN, GSM, X.25, …. As a consequence the European market for telecommunications terminal equipment still remained largely fragmented, despite the fact that Directive 98/13/EC was already applicable since 1991. As the TTE Directive only concerned telecommunications terminal equipment, the situation for radio equipment was even less favourable.

**Radio equipment**

Radio equipment was always subjected to the national approval systems. These systems were not harmonised and sometimes differed considerably from country to country. Approval was mostly based on testing the equipment according to the requirements laid down in the specification or regulation. In Belgium the requirements were described in the Annexes to the Ministerial Decree of 19 October 1979 on private radio communications. The tests had to be performed in a recognised and accredited laboratory. Therefore it was possible that radio equipment intended to be used on the entire European market, had to be re-tested several times (divergent requirements per country) and also be submitted each time to the different national approval procedures. This process caused considerable delay and entailed high costs before the product could be distributed on the market – time to market!

Within CEPT and ETSI efforts were made to develop and promote the use of identical technical approval requirements. These efforts resulted in the drawing up of ERC decisions. As a first step a system of mutual recognition of test results was aimed at – thus making re-testing unnecessary. The next step was the mutual recognition of the approval based on the tests according to the applicable ETSI standard – the same standard in the various countries. Whereas mutual recognition of test results was very satisfactory, mutual recognition of approval was largely failing. After all, national legislation had to allow this system.

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8 Official Journal of the European Communities L 128 of 23 May 1991 starting from p. 1
9 Official Journal of the European Communities L 290 of 24 November 1993 starting from p. 1
10 Conférence des Administrations européennes des Postes et Télécommunications
11 European Telecommunications Standards Institute
12 European Radiocommunications Committee
Transitional period

Important information regarding the validity of the approvals granted and the measures to be taken for the introduction of the R&TTE system can be found in the chapter "transitional period". Especially manufacturers and equipment providers have to take account of the transitional provisions.
The R&TTE system (since 8 April 2000)

Introduction

The R&TTE Directive totally changed the philosophy followed for allowing radio and telecommunications terminal equipment on the European market. The hindrances experienced by manufacturers for placing their product on the European market are lifted to a large extent. The manufacturer bears full responsibility for the conformity of his product.

The system of prior product evaluation was replaced by a system in which the authorities are responsible for market surveillance, and where they have to trace non-conforming apparatus and withdraw it from the market or prohibit it. This task is considered to be absolutely necessary for the correct functioning of this Directive. This market surveillance is a national competence and is intended to make sure that only conforming apparatus is placed on the market. Efficient market surveillance also offers consumers a certain protection and prevents to some extent unfair competition.

The European Commission thinks that it primarily depends on the manufacturers whether the R&TTE Directive is a success or not. They need to take responsibility by submitting their products to an appropriate conformity assessment procedure and by placing only conforming apparatus on the market.

For apparatus to be allowed on the (European) market it not only has to meet a number of technical essential requirements, but other – more administrative – relevant provisions also have to be complied with (marking, declarations, notification, …).

Essential requirements

General points

The manufacturer, his authorised representative established in the European Community or in some cases the person responsible for placing R&TTE apparatus on the market has to guarantee that this equipment satisfies all applicable essential requirements. This principle is contained in numerous so-called “new approach Directives”.

The following essential requirements – Article 3(1) (a) and 3(1) (b) of the R&TTE Directive – are applicable to all apparatus:

a) the protection of the health and the safety of the user and any other person, including the objectives with respect to safety requirements contained in Directive 73/23/EEC13 – the low voltage Directive (LVD) –, but with no voltage limit applying;

b) the protection requirements with respect to electromagnetic compatibility contained in Directive 89/336/EEC14 – the EMC Directive

Remarks concerning the above-mentioned directives:

a) Directive 73/23/EEC has been in the past repeatedly substantially amended. This directive has therefore been repealed and replaced by Directive 2006/95/EG15. The

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new version came into force on 16 January 2007. As a matter of fact the old text has been codified. References made to the repealed directive shall be considered as references to the new directive and should be read in accordance with the correlation table in Annex VI of the new LVD directive.

b) Directive 89/336/EEC has been totally revised and replaced by Directive 2004/108/EC. The new version came into force on 20 July 2007. The provisions of the new directive have to be followed from that date on. References made to the repealed directive shall be considered as references to the new directive and should be read in accordance with the correlation table in Annex VII of the new EMC directive.

The following essential requirement – Article 3 (2) of the R&TTE Directive – is in addition applicable to radio equipment:

radio equipment shall be so constructed that it effectively uses the spectrum allocated to terrestrial/space radio communication and orbital resources so as to avoid harmful interference.

Moreover one or more of the additional essential requirements stated below – Article 3.3 of the R&TTE Directive – may be imposed for certain equipment classes. However, this is only done if the European Commission deems this to be necessary and decides by means of a procedure in TCAM that this apparatus shall be so constructed that:

(a) it interworks via networks with other apparatus and that it can be connected to interfaces of the appropriate type throughout the Community; and/or that
(b) it does not harm the network or its functioning nor misuse network resources, thereby causing an unacceptable degradation of service; and/or that
(c) it incorporates safeguards to ensure that the personal data and privacy of the user and of the subscriber are protected; and/or that
(d) it supports certain features ensuring avoidance of fraud; and/or that
(e) it supports certain features ensuring access to emergency services; and/or that
(f) it supports certain features in order to facilitate its use by users with a disability.

The European Commission and the Member States take only exceptionally an initiative to make the additional requirements of Article 3.3 compulsory. The European Commission is convinced that the market players will ensure that these requirements are satisfied on a voluntary basis.

Therefore, for the vast majority of telecommunications terminal equipment only the essential requirements laid down in Article 3 (1) (LVD & EMC) are applicable. As for radio equipment these are the requirements stated in Article 3 (1) and 3 (2).

Any decision about additional requirements based on article 3.3 is published in the OJEC if additional requirements based on article 3.3 are adopted, the date from which on these products have to comply with these additional requirements is also determined.

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17 Telecommunication Conformity Assessment and Market Surveillance Committee composed of representatives of the Member States and chaired by a representative of the Commission.

18 Official Journal of the European Communities
Commission Decisions on additional essential requirements

The decisions concerning the article 3.3 requirements can be consulted on:

France considered that it was necessary to appeal to article 18.3 of the directive in order to avoid unacceptable degradation of the voice telephony service on the network of France Telecom. Therefore, the Commission issued a Decision on this point. This Decision was published in OJEC L 135 of 8 June 2000. Its title is:


The main reason for this Decision was the fact that a certain percentage of the analogue telephone lines is not equipped to limit the power consumption of the equipment. Manufacturers of equipment intended to be connected to these lines must therefore take the necessary precautions. France Telecom promised to take measures in order to solve these problems within 30 months following 8 April 2000.

The attention was drawn to radio equipment intended to be used on ships but not falling within the scope of the maritime Directive. As a consequence the Commission has adopted some decisions concerning this equipment. The titles of these decisions are:

- Commission Decision 2000/637/EC of 22 September 2000 on the application of Article 3(3)(e) of Directive 1999/5/EC to radio equipment covered by the regional arrangement concerning the radiotelephone service on inland waterways (application date 21 October 2000);
- Commission Decision 2000/638/EC of 22 September 2000 on the application of Article 3(3)(e) of Directive 1999/5/EC to marine radio communication equipment intended to be fitted to seagoing non-SOLAS vessels and which is intended to participate in the global maritime distress and safety system (GMDSS) and not covered by Council Directive 96/98/EC on marine equipment (application date 21 October 2000) (decision has been amended – see below);

The scope of the second Decision was judged to be too limited and therefore it was found that the measure should be extended to a bigger category of equipment. That is why an adapted and replacing decision was adopted.

- Commission Decision 2004/71/EC of 4 September 2003 on essential requirements relating to marine radio communication equipment which is intended to be used on non-SOLAS vessels and to participate in the Global Maritime Distress and Safety System (GMDSS). Its date of application was set on 4 September 2004. Therefore, the former Decision also expires on 4 September 2004.

The first decision introduces the requirement that the special radio equipment falling in the scope of the decision (regional inland waterway agreement) must be equipped with an “automatic transmitter identification system (ATIS)” and that the emitted power on certain channels must not be higher than 1 Watt.

The second decision introduces the requirement that the special radio equipment falling in the scope of the decision must work correctly in “emergency situations”.

The attention was drawn to radio equipment intended to be used on ships but not falling within the scope of the maritime Directive.
The third decision applies to locator beacons intended to operate on 406 MHz with the Cospas-Sarsat system and which do not fall within the scope of Decision 2004/71/EC.

A supplementary Decision based on Article 3(3)(e) of the Directive applicable to certain radio equipment intended to be used on ships but not falling in the scope of the maritime Directive, was also adopted by TCAM. Its title is:

- Commission Decision 2003/213/EC of 25 March 2003 on the application of Article 3(3)(e) of Directive 1999/5/EC of the European Parliament and of the Council to radio equipment intended to be used on non-SOLAS vessels and which is intended to participate in the Automatic Identification System (AIS)

Radio equipment falling in the scope of this decision and placed on the market as of 28 March 2003 has to meet this additional essential requirement.

Because it is considered that a high level of safety can only be achieved if all equipment used on non-SOLAS vessels and corresponding land-stations participating in the AIS system functions correctly, it is necessary that the same requirements should apply to all AIS stations. This was the reason to adapt and replace the decision above with:


The new decision applied as from 26 July 2005.

Another Decision based on article 3(3)(e) of the Directive was adopted by TCAM. Its title is:


This Decision applies to equipment operating on 457 kHz and intended to locate persons submerged by snow following an avalanche.

**Other relevant provisions**

In order to be allowed on the market apparatus has to meet not only the essential requirements, but also comply with “other relevant provisions” (Article 6). Some of these additional provisions are rather of an administrative nature.

The R&TTE Directive imposes, inter alia, the following additional obligations on the manufacturer\(^\text{19}\):

- The application of one of the conformity procedures allowed (conformity assessment procedure) – see below.
- To draw up the DoC (Declaration of Conformity) and adding it to the product.
- Affixing the appropriate CE marking – see below.
- Mentioning the destination of the apparatus, so that the user can use the apparatus for its intended purpose. If necessary information should be given on the installation and maintenance (Article 6 (1) of the R&TTE Directive).
- Identification of the apparatus by means of type, batch and/or serial numbers and by the name of the manufacturer (Article 12 (4) of the R&TTE Directive).
- For radio equipment: the information regarding the intended purpose on the packaging and in the instructions for use shall be sufficient to identify where the equipment is intended to be used

\(^\text{19}\) In this context the word “manufacturer” means either the actual manufacturer, his authorised representative or in some case even the person responsible for placing the products on the market. Further on “manufacturer” is used in that sense. A separate explanation on the apportionment of responsibility between the parties is available.
• the marking on the apparatus shall alert the user to:
  - potential restrictions of use
  - potential requirements to hold a licence.

➢ Where telecommunications terminal equipment is concerned the information shall be sufficient to identify the public telecommunications networks to which the equipment is intended to be connected.

➢ The obligation to notify the Member State of the intention to place radio equipment on its national market using frequency bands whose use is not harmonised – the obligation of notification (Article 6.4 of the R&TTE directive).

• This notification shall be given no less than four weeks in advance of the start of placing on the market.

• A Member State may in certain cases prevent these products from being placed on its market.

• More information on this obligation is given in the section “notification of radio equipment”.

**Conformity assessment procedures**

Introduction – harmonised standard

The manufacturer is obliged to go through an adequate and permissible conformity assessment procedure – conformity procedures – to demonstrate the compliance of the apparatus with all the relevant (essential) requirements identified in the R&TTE Directive.

The conformity procedures are identical in all Member States of the EU. Equipment that conforms falls under the principle of “free movement of goods”. That is why specific procedures in one country or another are not permitted. Still, Member States may find it necessary to restrict or even prohibit the use of certain (radio) products on their territory. In that case the Member State concerned has to follow the adequate procedures laid down in the R&TTE Directive and notify the European Commission.

For certain conformity procedures reference is made to “harmonised standards”. In itself a harmonised standard is defined as “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”.

If the references to such a harmonised standard are published in the Official Journal of the European Communities, then this harmonised standard is granted special status. Where a manufacturer makes his products so that they comply with the requirements covered by such a harmonised standard, this application gives rise to a presumption of conformity with the essential requirements this harmonised standard refers to. Further on in the text the words “harmonised standard” mean “harmonised standard the references of which have been published in the Official Journal of the European Communities and which as a consequence give rise to a presumption of conformity with the essential requirements this harmonised standard refers to”.

Therefore the use of a harmonised standard offers the manufacturer important advantages.

Contrary to the provisions of the earlier TTE Directive, the harmonised standards that have been drawn up no longer are compulsory. The manufacturer is therefore allowed to deviate from the provisions of the harmonised standard. If the harmonised standard is not applied or if there is not any harmonised standard (yet), then the manufacturer has to put forward arguments by means of the technical file demonstrating that the essential requirements have
been met. These arguments can be disputed during inspection. The technical file has to be available for inspection purposes. The application of a harmonised standard has as a consequence important advantages. For radio transmitters an even heavier conformity procedure is imposed if the harmonised standards are not applied.

Telecommunications terminal equipment & radio receivers
For telecommunications terminal equipment not containing any radio transmitter and for radio receivers the manufacturer has the choice between the procedures described in any one of Annexes II, IV or V of the R&TTE Directive – see below.

Radio transmitters in case of application of harmonised standards
For radio transmitters constructed according to the applicable harmonised standards, the manufacturer has the choice between the procedures described in any one of Annexes III, IV or V of the R&TTE Directive – see below.

Radio transmitters without application of harmonised standards
For radio transmitters not constructed according to the applicable harmonised standards, the manufacturer has the choice between the procedures described in either of Annexes IV or V of the R&TTE Directive – see below.

Conformity procedures in relation to LVD & EMC
Although as of 8 April 2000 the provisions of the low voltage Directive (LVD) and of the EMC Directive no longer apply to R&TTE apparatus (the same requirements are taken over in the R&TTE Directive) the manufacturer has the choice, as for the essential requirements laid down in Article 3 (1), between the conformity procedures laid down in the LVD and EMC Directives as an alternative to the conformity procedures laid down in the R&TTE Directive. The possibility to use the conformity procedures laid down in the EMC directive as alternative cease to exist as from 20 July 2007. The new EMC directive does not offer that possibility. In consequence the conformity procedures from the R&TTE should be used for the EMC requirements.
It should also be stressed that the requirement stated in Article 3 (1) (a) also refers to the “health of the user and any other person” which surpasses the requirements laid down in the low voltage Directive. Moreover the voltage limits prescribed in the low voltage Directive no longer apply. This has to be taken into account when assessing the conformity.

Procedure laid down in Annex II – internal production control
This procedure is the lightest procedure that can be used for telecommunications terminal equipment not containing any radio transmitter and for radio receivers.

This procedure is sometimes (wrongfully) called “self-declaration”, since the manufacturer (only) has to draw up a written Declaration of Conformity (DoC).
It would be more correct to say that the manufacturer has to state and guarantee that his products meet all the requirements that apply to them. The products shall also conform to the technical documentation (see below).

The R&TTE Directive stipulates that the Declaration of Conformity (DoC) is added to each product.

The manufacturer has the obligation to compose technical documentation and, for a period ending at least 10 years after the last product has been manufactured, keep it at their disposal for inspection purposes. Based on the technical documentation it should be possible to verify whether the product conforms to the essential requirements.
According to Annex II of the R&TTE Directive this technical documentation has to cover the design, manufacture and operation of the product, and contain among other things:

- a list of the harmonised standards used, applied in full or in part, and descriptions and explanations of the solutions adopted to meet the essential requirements of the Directive where the harmonised standards that apply to them have not been applied or do not exist;
- test reports.

The manufacturer has to take all measures necessary in order that the manufacturing process ensures compliance of the manufactured products with the technical documentation referred to above and with the requirements of the R&TT Directive that apply to them.

**Procedure laid down in Annex III – Internal production control plus specific tests**

This procedure is the lightest procedure that can be used for radio transmitters for which the manufacturer applies harmonised standards.

This procedure contains the same requirements as Annex II (see above), plus what follows. Additionally the manufacturer has to carry out all essential radio tests or have them carried out. If the harmonised standard used does not give a definitive answer about the essential radio tests, a notified body has to be called in to determine them. The notified body must take due account of previous decisions made by notified bodies acting together.

The manufacturer has to declare that the essential radio tests have been carried out and that the apparatus complies with the essential requirements. If a notified body has intervened, its identification number has to be affixed during the manufacturing process - see below "marking".

TCAM 3 agreed that the essential radio test suites only may relate to requirements relating to article 3.2 of the Directive and that therefore notified bodies should not prescribe such test suites for article 3.1 or 3.3 requirements.

**Procedure laid down in Annex IV – technical construction file**

This procedure is the lightest procedure, which can be used for radio transmitters for which the manufacturer does not apply the harmonised standards or does not apply them in full.

This procedure contains the same requirements as Annex III (or Annex II for telecommunications terminal equipment and radio receivers) (see above) plus the following additional requirements:

- The technical documentation to which is referred in the “procedure of Annex II” – see above – together with the Declaration of Conformity to specific radio tests to which is referred in the “procedure of Annex III” – see above - has to form the technical construction file;
- The manufacturer has to present the file to one or more notified bodies;
- The notified body has to review the file and if it is considered that it has not been properly demonstrated that the essential requirements of the R&TT Directive have been met, the notified body may issue an opinion to the manufacturer. Such an opinion must be given within 4 weeks of receipt of the file by the notified body;
- The manufacturer has to keep the file for inspection for a period ending at least ten years after the last apparatus has been manufactured.
As the additional requirements show the manufacturer may, even after the (negative) opinion of the notified body, place the product on the market. The ultimate responsibility lies, as always, with the manufacturer. Obviously the onus of proof will be much more important in case of a dispute.

It has to be noted that this procedure also has to be applied to the requirements provided for in Article 3 (1) (a) for radio transmitters which are not covered by the low voltage Directive (outside the voltage limits) if a harmonised standard does not exist yet. A similar remark can be formulated for any requirements of Article 3 (3). The intention is, however, that the notified body only intervenes for "radio requirements".

**Procedure laid down in Annex V – full quality assurance**

This procedure can be applied to all R&TTE equipment.

This procedure can only be used by manufacturers operating an approved quality system for design, manufacture, final product inspection and testing. The manufacturer must be able to influence inter alia the design and manufacture. In this case, the term "manufacturer" has to be interpreted more strictly.

The assessment and the surveillance of the quality system have to be done by a notified body. The notified body has to assess in particular whether the quality control system ensures conformity of all products with the requirements of the R&TT Directive.

Also in this procedure of full quality assurance the manufacturer has to guarantee and state that the products concerned meet the requirements of the Directive that apply to them.

This procedure also foresees that the manufacturer has to keep available all relevant documentation concerning the said product and concerning the quality system for inspection for a period ending at least ten years after the last apparatus has been manufactured.

**Notification of radio equipment**

**Introduction**

The R&TTE Directive permits in principle free movement of all R&TTE apparatus. Therefore the general principle is that this apparatus may be used. In order to offer some protection to the user, all R&TTE apparatus has to be accompanied by sufficient information from the manufacturer on the intended purpose.

Because of the growing number of radio applications it becomes more important to use the radio spectrum more effectively and to ensure that harmful interference is avoided. The radio spectrum has to be considered as a scarce medium. The management of the radio spectrum is a national competence. Consequently - sometimes for historical reasons - not always the same frequencies are available in the different Member States. Certain radio equipment will have to use other frequencies according to the Member State or the geographical area within a Member State. In some cases it will not even be allowed to use certain frequencies. For other frequencies the use (kind of application – e.g. speech or data) may sometimes differ from Member State to Member State.

Therefore the manufacturers of radio equipment are obliged to indicate on the packaging and on the instructions for use for which Member States or geographical area within a Member State the equipment is intended to be used.
The problem only occurs in the case of radio equipment using frequency bands whose use is not harmonised throughout the Community. For such apparatus it was considered to be necessary to oblige the manufacturer to notify the national authority responsible in the relevant Member State for spectrum management of the intention to place such equipment on its national market. This procedure is called "obligation of notification". In Belgium this authority is BIPT.

Moreover, a special symbol is included in the CE marking of such equipment in order to draw the user’s attention to the fact that there may be restrictions on or conditions for its use. This information sign or “alert sign” has the following form. (see further on in the section “The CE marking”)

Obligation of notification
The obligation of notification implies that the manufacturer shall notify the national authority responsible in the relevant Member State for spectrum management - BIPT in Belgium - of the intention to place equipment on its national market.

This obligation applies only to radio equipment using frequency bands whose use is not harmonised throughout the Community.

This notification shall be given no less than four weeks in advance of the start of placing on the market. It is urgently advised to give the notification as early as possible.

The notification shall provide information about the radio features of the equipment (in particular frequency bands, channel spacing, type of modulation and RF-power). BIPT developed a standard form that could be used for notification in Belgium. This form can be found on the BIPT Website [http://www.bipt.be](http://www.bipt.be) chapter “Radio communication” item “Equipment” section “Radio notifications”


The Commission has tried to describe the term “frequency bands whose use is harmonised”.

It has been agreed that it is not necessary to notify the following radio equipment:

- receive only radio equipment;
- radio transmitters which can only transmit under control of a network;
- radio transmitters functioning in a frequency band which is assigned to the same radio interface in all member states and which consequently have the same parameters.

The attention is focussed to the fact that BIPT is of the opinion that all radio equipment that uses frequencies the use of which is not harmonised and which is sold on the Belgian market must be notified. This means equipment that is intended to be used in Belgium and also equipment that is not intended to be used in Belgium (conflicting with the Belgian frequency plan).

On the ERO website ([www.ero.dk/rtte](http://www.ero.dk/rtte)) the list of radio equipment using frequency bands whose use is not harmonised throughout the Community (Class 1 equipment) is published (and regularly updated). Radio equipment that meets the technical characteristics referred to in that list, does not have to be notified. The CE marking of Class 1 equipment does not include the “information sign” or the “alert sign”.

Consequences of a notification
The Member States are free to respond or not to the notifications received. BIPT however reacts each time, even if there are no objections.
If the national authority does not react within a period of four weeks, the manufacturer is free to place his radio equipment on the national market concerned. Obviously the radio equipment has to meet all the requirements of the R&TTE Directive (essential requirements and other relevant provisions). Fulfilling the notification obligation does not entail and definitely cannot be considered as obtaining the “approval” to place equipment on the market. The notification obligation is only one of the legal obligations to meet.

If the Member State has valid reasons, all appropriate measures can be taken, on the basis of Article 9 (1) or 9 (5) of the R&TTE Directive, to enforce the prohibition or restriction of the placing on its market. If necessary, the Member State can even impose measures to withdraw the product from its market. The European Commission always has to be informed of such measures. BIPT intends to use this possibility only exceptionally, if really necessary.

Conclusion
The manufacturer shall notify the radio equipment if it uses frequencies whose use is not harmonised. He has an interest in doing this as early as possible.

The Member State can, but is not compelled to react to a notification received. The failing of a reaction is not a guarantee that the apparatus may be used in that Member State.

The manufacturer always remains responsible for the conformity of his product with all the requirements of the R&TTE Directive.

The manufacturer has every reason to take into account the frequency plan of the Member State(s) concerned when designing its radio equipment in order to avoid unpleasant surprises following the notification. An important source of information regarding frequency plans is the EFIS website (ERO Frequency Information System), which can be consulted at www.efis.dk. The manufacturer decides under his own responsibility what frequencies an apparatus uses. Consequently, he has to verify if these frequencies are allowed for his application, if possible geographical restrictions apply for its use or if a license to use the equipment is required.

The CE marking
In order to indicate that R&TTE-apparatus meets all the (essential) requirements that apply to them the manufacturer must affix the appropriate CE marking.

The CE marking consists of:
- the basic CE marking: the initials “CE” in the known form \( \mathbb{C} \mathbb{E} \);
- the identification number of the notified body if a notified body intervenes during the conformity procedure;
- the equipment class identifier where such an identifier has been assigned to the radio equipment concerned.

The CE marking must be affixed to the product itself, to the packaging and to the accompanying documents. It must be visible, legible and indelible. The minimum height is 5 mm.

A consensus was reached during TCAM 4 on the classification of equipment. Telecommunications terminal equipment (non-radio) was not subdivided. Only an informal list which states certain subcategories is published on the web by the Commission. No equipment class identifier was attributed for telecommunications terminal equipment.
Radio equipment was subdivided in two major categories. An informal list with a further sub-classification is also published on the web by the Commission.

- A first category consists of all radio equipment that can be used without any restriction in the whole Community. No identifier was attributed to this category for the identification of the equipment category (= no supplementary marking).
- The second category consists of any other radio equipment, i.e. radio equipment for which there is some sort of restriction in the use. The packaging and the users manual must contain more information about this. The following graphic symbol was adopted as the sign for indicating the category: ⚠️ (“information sign” or “alert sign”). The exact graphic layout of the information sign has been laid down in “Commission Decision 2000/299/EC of 6 April 2000 establishing the initial classification of Radio Equipment and Telecommunications Terminal Equipment and associated Identifiers”. This decision has been published in the OJEC L97 of 19 April 2000.

The Commission publication on the classification of terminal equipment can be consulted at http://ec.europa.eu/enterprise/rtte/equip.htm. The indicative and non-exhaustive list of Class 1 radio equipment can be consulted on the ERO website (http://www.ero.dk/rtte).

Additional information concerning the marking is given in a separate explanatory document (see chapter “additional useful information”).

**Characteristics of the interfaces**

In order to guarantee the correct functioning of the R&TTE Directive it is necessary that the manufacturers of the apparatus are informed of the interface characteristics which are offered (networks) or which are permitted (radio). The Directive has also made provisions to that end.

**Radio interfaces**

It is extremely important for the manufacturers to be informed of the frequencies that are permitted for his applications. These data are essential to avoid harmful interference. The allowance or not of certain applications on certain frequencies is a national competence. This assignment is generally described as the frequency plan.

- The Member States should make their national frequency plans known in sufficient detail. These frequency plans are also of relevance in the framework of the notification procedure. The Belgian frequency plan and the radio-interfaces are available via http://www.bipt.be chapter “Radio communications” item “Frequencies”.

The existing national specifications form an important aid for the manufacturers.

The Commission also attaches great importance to the further harmonisation of the radio spectrum. A Radio Spectrum Decision[^20] has been issued with the aim to adopt technical implementing measures for the harmonisation of radio frequency allocation and for the availability of information.

A Radio Spectrum Committee (RSC), composed of representatives of the Member States and chaired by a representative of the Commission was set up.

The Commission adopts, after receiving the opinion of RSC, decisions concerning the harmonised use of the radio spectrum in the Community for specific radio equipment.


The Commission, in consultation with TCAM, defines the equivalence between national radio interfaces and distributes them in the appropriate equipment category. For that purpose the provisions based on the Radio spectrum Decision are also taken into account.

The indicative and non exhaustive list of radio equipment of “category 1” can be consulted on the ERO-website (http://www.ero.dk/rtte). This apparatus may be used in the whole Community without any restrictions. Of course this is only the case if radio equipment strictly complies with the technical features laid down in the published radio interface.

Useful to know;
Although the Commission takes the position that "receiver" parameters are not essential parameters and that consequently they do not have to be imposed, it is nevertheless useful to take these "voluntary" receiver parameters into consideration. The authorities responsible for the spectrum use well defined receiver parameters (sensitivity) to draw up the frequency plan. In case of dispute, the parameters from the accepted standards and specifications will be considered as "state of the art" and will constitute the basis to judge if a complaint is justified or not.

**Telecommunications terminal equipment**

Manufacturers can only manufacture telecommunications terminal equipment if they have knowledge of all interface characteristics that the operators of public telecommunications networks provide.

Member States shall ensure that operators publish accurate and adequate technical specifications of publicly provided interfaces and regularly publish any updated specifications. This shall happen before services provided through those interfaces are made publicly available.

The specifications shall be in sufficient detail to permit the design of telecommunications terminal equipment capable of utilising all services provided through this interface. Consequently this obligation does not only apply to operators with their own physical end-user interface, but also to any providers of certain services.

The operators have the obligation to see to it that the manufacturers can readily become acquainted with these interface specifications. This can be done for example by publishing these interface specifications on their website or by communicating a contact address.

Experience shows that it is sometimes difficult to obtain these interface specifications. The R&TTE Directive makes it a legal obligation that has to be met. The obligation applies also if the operator modifies certain features of its interface. Operators are legally bound to send a copy of their user-network-interfaces to BIPT. This must be done before this interface is available for the general public.

It must be clear that in the event of a dispute, the description of the interface known to BIPT will form the basis to determine the party responsible.

The Commission has drawn up a number of explanatory documents relating to interface descriptions. These explanations are (until further notice) only formulated in English. They are publicly available - see chapter “additional useful information” – and are first of all intended for the operators.
The user

The manufacturer has the obligation to only place equipment on the market that conforms to all the provisions of the R&TTE Directive.

The equipment however must be used according to its intended purpose. This is an obligation for the user. If he disregards this obligation, appropriate measures (prosecution, seizure, …) can be taken against him.

The users' attention is especially drawn to radio equipment using “frequency bands whose use is not yet harmonised”. The packaging, the instructions for use and eventually to a certain degree also the marking shall permit the potential buyer and the user to determine whether the apparatus may be used or not. The ultimate responsibility for the use lies with the user.

The attention is once more drawn to the fact that the system of prior licence remains unaltered. For certain radio equipment the user first has to be in possession of a licence issued by BIPT. More information on this subject can be obtained from BIPT.

When a user imports equipment directly (from outside the EU) he has to verify whether that equipment is legal. This applies in particular to equipment bought over the Internet. The customs services are authorised to inspect incoming shipments. If the equipment is found to be illegal, it is confiscated.

It may happen that, despite the provisions of the R&TTE Directive, problems occur with equipment since the R&TTE Directive only covers essential (security) requirements. The attention of the user is drawn to the fact that the manufacturer, in the broad sense of the word, is responsible for the correct functioning of his apparatus. The user should first of all turn to his supplier.

If the equipment placed on the market should appear not to conform to the provisions of the Directive, BIPT has the possibility to intervene. BIPT also carries out preventive market control within the scope of the R&TTE Directive.

Fairs, exhibitions and manifestations

Article 8 (2) of the R&TTE Directive lays down that the presentation on trade fairs, exhibitions, manifestations, … of equipment which does not meet this Directive is permitted as far as it is clearly indicated that such equipment may not be placed on the market or may not be used as long as it does not conform.
Transitional period

Article 18 of the R&TTE Directive lays down transitional measures. Especially Article 18 (2) is of direct importance for the placing on the market of equipment and has major consequences. The legal services of the Commission have studied the transitional provisions and have given the point of view below.

The provisions relating to the transitional period Article 18 (2): “Member States shall not impede the placing on the market and putting into service of apparatus which is in accordance with the provisions in Directive 98/13/EC or rules in force in their territory and was placed on the market for the first time before this Directive entered into force or at the latest two years after this Directive entered into force” have to be strictly interpreted. The placing on the market concerns each individual apparatus and not a certain type!

This results in:

- until 7 April 2000 equipment has to meet the pre-R&TTE regime;
- between 8 April 2000 and 7 April 2001 equipment may be placed on the market if:
  - it meets the requirements of the R&TTE regime, or
  - it meets the requirements of the pre-R&TTE regime on condition that:
    - the approval was granted before 8 April 2000 (both radio and terminal equipment) and
    - it was manufactured and placed on the market before 8 April 2001. This means that the transfer from production to distribution channel will take place on 7 April 2001 at the latest.
- as from 8 April 2001 only equipment meeting the R&TTE requirements may be manufactured and placed on the market. Equipment may not longer be manufactured according to the old procedure. This implies that all manuals, packaging, marking, conformity procedures followed must be adapted for manufactures as from 8 April 2001 at the latest.

Therefore, for terminal equipment it has to be clearly indicated for which interfaces the apparatus is intended. A notified body need not be consulted.

For radio equipment it is in some cases necessary to consult a notified body - see conformity procedures. The Commission assumes that the technical approval file will be accepted as technical construction file in the new procedure and that the switch will not involve additional problems. In order to meet the R&TTE requirements the obligation of notification also has to be fulfilled. It seems however illogical that a Member State should oppose the placing on the market (and the use) of an apparatus which was approved under the pre-R&TTE regime.

As general conclusion it can be stated that all certificates of approval expired on 8 April 2001.

Comment: the transitional measures only concern the “placing on the market”, not the use.
Additional useful information
Information on the R&TTE Directive can be found on the server of the European Commission
http://ec.europa.eu/enterprise/rtte/index_en.htm. This is “the” starting page to obtain further
relevant information on the R&TTE directive.
Information concerning other industrial sectors is available on:
http://ec.europa.eu/enterprise/index_en.htm section “Industry sectors”

The ERO Website http://www.ero.dk/ leads through the section “Topics/Projects”,
subdivision “EFIS” to the references of the websites with the national frequency plans.
These frequency plans contain key information for manufacturers of radio equipment. They
should be complied with!
Also on the website http://www.efis.dk (ERO Frequency Information System) information is
available.
At www.ero.dk/rtte the list of “Class 1” radio equipment can be consulted.

It is advisable to consult these sites regularly.

The clarification documents written by BIPT are grouped on the BIPT Website at:
http://www.bipt.be chapter “Radio communications” item “Equipment”
## Adaptation - contacts

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Observations and questions can be addressed to BIPT

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Text may be copied only with acknowledgement

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