



Notification Number: 2012/76/UK

## The Electromagnetic Disturbance from Apparatus Regulations 2012

Date received : 06/02/2012

End of Standstill : Closed

### Message

Message 001

Communication from the Commission - SG(2012) D/5303

Directive 98/34/EC

Notificación - Oznámení - Notifikation - Notifizierung - Teavitamine - Γνωστοποίηση - Notification - Notification - Notifica - Pieteikums - Pranešimas - Bejelerítés - Notifika - Kennisgeving - Zawiadomienie - Notificação - Hlásenie-Obvestilo - Ilmoitus - Anmälan - Нотификация : 2012/0076/UK - Notificare.

No abre el plazo - Nezahtuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidėjimai nepradedami - Nem nyitja meg a késések - Ma' jiftaħ il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Nao inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - Не се предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 201200303.EN)

#### 1. Structured Information Line

MSG 001 IND 2012 0076 UK EN 06-02-2012 UK NOTIF

#### 2. Member State

UK

#### 3. Department Responsible

Department for Business, Innovation and Skills  
Knowledge and Innovation Group  
1 Victoria Street, London, SW1H 0ET.

Email: 9834@bis.gsi.gov.uk.

#### 3. Originating Department

The Office of Communications (Ofcom)  
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United Kingdom

#### **4. Notification Number**

2012/0076/UK - X00M

#### **5. Title**

The Electromagnetic Disturbance from Apparatus Regulations 2012

#### **6. Products Concerned**

Any finished appliance or combination of appliances made commercially available as a single functional unit, intended for the end user and liable to generate electromagnetic disturbance, or the performance of which is liable to be affected by such disturbance and which generates, or is designed to generate, or is liable to generate fortuitously, electromagnetic energy at frequencies not exceeding 3,000 gigahertz and includes—  
(a) components or sub-assemblies intended for incorporation into an apparatus by an end-user, which are liable to generate electromagnetic disturbance, or the performance of which is liable to be affected by such disturbance;  
(b) mobile installations defined as a combination of apparatus and, where applicable, other devices, intended to be moved and operated in a range of locations;

#### **7. Notification Under Another Act**

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#### **8. Main Content**

Ofcom is the independent regulator and competition authority for the UK communications industries, with responsibilities across television, radio, telecommunications and wireless communications services. One of our functions is to ensure that the users of the radio spectrum are protected from harmful interference.

Excessive electromagnetic disturbance may affect radio communications or other equipment. For this reason, manufacturers aim to keep electromagnetic disturbance under reasonable control reducing disturbance and enhancing immunity.

Electromagnetic compatibility ('EMC') is the engineering process which limits the natural electromagnetic fields produced by electrical equipment and enhancing immunity ensuring interoperability of equipment.

Directive 2004/108/EC (OJ No L390, 31.12.2004, p.27) (the "EMC Directive") aims to regulate the compatibility of equipment regarding EMC. The EMC Directive sets requirements which limit electromagnetic emissions of equipment first placed on the market or put into service to ensure that, when used as intended, such equipment does not disturb radio and telecommunication as well as other equipment.

Equipment in the United Kingdom is required to comply with the Electromagnetic Compatibility Regulations 2006 (S.I. 2006 No. 3418) (the "EMC Regulations") which implement the EMC Directive.

The EMC Regulations aim to ensure that the electromagnetic interference generated by electronic equipment does not exceed a level above which other equipment (including radio and telecoms equipment) cannot operate as intended (and that the equipment itself has an adequate level of immunity to electromagnetic interference).



The EMC Regulations set out a number of requirements (the “essential requirements”) with which apparatus must conform before it can be placed on the market or put into service in the UK. The essential requirements are set out in the EMC Directive.

Therefore EMC regime provides a set of rules for products first placed on the market or put into service, across the European Union to ensure the levels of electromagnetic interference are regulated. Ofcom has enforcement functions in relation to the management and protection of radio spectrum.

Ofcom may take enforcement action to prohibit the use of equipment which causes interference to radio communications, including bringing criminal prosecutions. This is set out in section 55 of the Wireless Telegraphy Act 2006 (“WTA”).

The operation of the enforcement provisions under section 55 are dependent on secondary legislation in the form of regulations which are made by Ofcom under section 54.

Regulations made under section 54 prescribe particular types of equipment and impose requirements in respect of the levels of electromagnetic disturbance emitted by that type of equipment.

The proposed regulations are designed to cover circumstances where electromagnetic disturbance is caused by equipment which has already been placed on the market or put into service and is in use.

Ofcom considers that there is a pressing need for it to be able to take enforcement action to address the risk of interference as a consequence of excessive electromagnetic disturbance which could compromise communications systems.

Equipment can radiate excessive electromagnetic disturbance for a number of reasons for example as a consequence of deterioration of electronic components over time or due to poor installation or maintenance.

Ofcom considers that is particularly important in respect of the upcoming London 2012 Olympic Games and Paralympic Games (the “Games”) so as to ensure the communications systems, which will be used for public safety (e.g. crowd control) are not at risk of being compromised by electromagnetic disturbance from any apparatus in at the vicinity of the Games venues (such as communications equipment, generators, lighting equipment etc.).

This issue is of particular concern in relation to the Games for the following reasons:

- there will be an exceptionally high concentration of radio devices operating in close proximity to the Games;
- there will be an exceptionally high density of devices which are known to be at risk of generating electromagnetic interference; and
- previous Olympic and Paralympic Games experienced electromagnetic interference difficulties. For example, electromagnetic interference was caused to aircraft navigation systems from lighting technology used in Vancouver.

Ofcom is the United Kingdom’s regulatory authority for electronic communications networks and services. In performing its duties, Ofcom must have regard (where relevant) to persons who wish to use the electromagnetic spectrum for wireless telegraphy and also have regard to the desirability of preventing crime and disorder.

There seems to Ofcom to be some pieces of apparatus which are not within the current regulatory ambit, and so we want to bring them within Ofcom regulation, so that we can prevent problems arising from the interference



caused.

Although there is secondary legislation currently in force and made under section 54 of the WTA, it only deals with limited types of apparatus, many of which are outdated and references out of date technical standards. The difficulty is that the secondary legislation has failed to keep pace with technical developments so that at present, Ofcom's freedom of action is limited and difficult in particular cases where certain equipment is put into use and in the particular circumstances of the use there is electromagnetic interference.

Consequently, at present, Ofcom is unable to take enforcement action in certain circumstances to stop the use of equipment causing interference. For example in a recent case a television aerial amplifier was found to be causing interference to a nearby airport radio communications. The owner of the equipment cooperated, however there are currently no enforcement powers available to compel cooperation.

It is in this context and for the reasons outlined above that Ofcom proposes to make new regulations under the WTA.

These regulations will regulate the use of equipment (referred to as apparatus in proposed regulations) causing interference to wireless radio communications. These new regulations make reference to requirements contained in the EMC Directive, but expand upon them for particular cases so as to create a regime which is expected to be proportionately flexible to deal with advancements in technology.

The proposed regulations are to be made by Ofcom under the power set out in section 54(1) of the WTA which states:

"OFCOM may make regulations prescribing the requirements to be complied with in the case of apparatus specified in the regulations, if the apparatus is to be used."

Equipment is defined in these regulations and then requirements are prescribed for that equipment. The prescribed requirements in the new regulations are requirements which Ofcom think fit for the purpose of ensuring the use of specified equipment does not cause undue electromagnetic interference.

The proposed new regulations will make provision for the following two requirements:

5.4.1 equipment used near the Games must not cause electromagnetic interference with wireless telegraphy used for public safety purposes (regardless of whether it exceeds a level of electromagnetic energy permissible under the essential requirements); and

5.4.2 equipment used within the United Kingdom, must not cause undue interfere with wireless telegraphy (this only applies to equipment exceeding a level of electromagnetic energy permissible under the essential requirements).

We believe the EMC Directive does not prevent the application of these measures. This is because the limitations in the first requirement of the new regulations follow the requirements set out in the exception provided by Article 4 (2) of the EMC Directive. Namely, the requirements that the measure is (a) to overcome an existing or predicted electromagnetic compatibility problem at a specific site and (b) taken for safety reasons to protect communications when used for safety purposes.

The second requirement follows the EMC Directive's requirements as it is limited to apparatus which, has a maximum intensity of electromagnetic energy which exceeds a level permissible under the essential requirements This requirement is designed to address circumstances not covered by the EMC Directive, namely where equipment which has been made available and is in use (after it has been placed on the market or put into service) and is causing electromagnetic interference above a level permitted under the essential requirements. This requirement is not time limited.



Equipment is referred to as “apparatus” in the proposed regulations. This definition has been based on the definition in the EMC Regulations. As section 54 (5) of the WTA limits the apparatus which may be specified in the proposed regulations to “apparatus which generates, or is designed to generate, or is liable to generate fortuitously, electromagnetic energy at frequencies not exceeding 3,000 gigahertz”, this limitation has been incorporated into the definition. So, the specified equipment is equipment which generates, or is designed to generate, or liable to generate, electromagnetic energy not exceeding 3,000 gigahertz.

Non-compliance with either of the two requirements in the proposed regulations is a ground for the giving of a notice prohibiting the use of the offending apparatus under section 55 of the WTA. The limited circumstances in which a notice can be served are set out in section 55(4)(a) and section 55(4)(b) of the WTA. The WTA contains an appeal procedure for persons served with a notice. In this way, the new regulations will provide Ofcom with adequate powers to protect wireless telegraphy from undue electromagnetic interference.

The approval of the Secretary of State is required for the making of these new regulations in accordance with section 54(7) of the WTA. They must also be notified to the European Commission and to other member states in accordance with the EMC Directive and/or the Technical Standards Directive. As a consequence of this notification, proposed to be made under the EMC Directive and/or Technical Standards Directive, the regulations cannot be made for a period of 3 months from the date of notification.

## **9. Brief Statement of Grounds**

Ofcom is the United Kingdom’s regulatory authority for electronic communications networks and services. At present, Ofcom is unable to take enforcement action in certain circumstances to stop the use of equipment causing interference to radio communications as a result of excessive levels of electromagnetic disturbance.

Ofcom considers that is particularly important in respect of the upcoming London 2012 Olympic Games and Paralympic Games (the “Games”) so as to ensure the communications systems, which will be used for public safety (e.g. crowd control) are not at risk of being compromised by electromagnetic disturbance from any apparatus in at the vicinity of the Games venues (such as communications equipment, generators, lighting equipment etc.).

Ofcom is seeking to implement national measures to overcome this gap in our enforcement powers.

## **10. Reference Documents - Basic Texts**

References of the Basic Texts: Draft of the "Electromagnetic Interference from Apparatus Regulations 2012" Explanatory document.

## **11. Invocation of the Emergency Procedure**

No

## **12. Grounds for the Emergency**

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## **13. Confidentiality**

No



**14. Fiscal measures**

No

**15. Impact assessment**

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**16. TBT and SPS aspects**

TBT aspect

No - The draft has no significant impact on international trade

SPS aspect

No - The draft has no significant impact on international trade

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