

FREQUENTLY ASKED QUESTIONS (FAQs)
on
**The Radio Equipment and Telecommunications Terminal Equipment
Regulations 2000 [SI 2000 No. 730]**
as amended by
**The Radio Equipment and Telecommunications Terminal Equipment
(Amendment) Regulations 2003 [SI 2003 No. 1903].**

Version 1.3

This document aims to provide helpful advice to network operators, manufacturers, distributors and consumers affected by the RTTE Regulations, but it has no legal status, and is not an interpretation of the Regulations in any sense. People who need a more detailed understanding of the regulations should consult a legal expert. Some parts of this document refer to the "Guide to the Implementation of Directives based on the New Approach and Global Approach" (EC Doc. Certif. 98/1), sometimes known as the "Blue Guide", which contains advice but is not legally binding.

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1 Scope of the Regulations

1.1 When did the original Regulations come into force?

The original regulations came into force on 8 April 2000 and transposed into UK law Directive 99/5/EC of the European Parliament and of the Council on radio equipment ("RE") and telecommunications terminal equipment ("TTE") and the mutual recognition of their conformity). They removed the earlier UK arrangements for type approval of radio and telecommunications equipment.

1.2 Why have the Regulations been amended?

The Radio Equipment and Telecommunications Terminal Equipment (Amendment) Regulations 2003 [SI 2003 No. 1903] came into effect on 25 July 2003. The amendment deals mostly with the consequences of European Directives concerning the framework for electronic communication networks and systems implemented in the UK as part of the Communications Act 2003 (see http://www.oftel.gov.uk/ind_info/licensing/index.htm). This affects those parts of the regulations which place obligations on network operators concerning the right to connect (Regulation 7) and publication of information (Regulation 13). These were previously imposed by licence conditions (deleted Regulation 17) and are now handled (Regulation 18(5)) using powers in the Communications Act.

These changes affect the legal mechanisms of the Regulations rather than the substance of their effect. Other changes aim at clarification and are dealt with in the respective answers below.

A further amendment will deal with changes in duties and enforcement responsibilities following the transfer of operational responsibilities to Ofcom expected in December 2003.

1.3 Have national type approvals throughout Europe come to an end?

For equipment within the scope of the Directive, **YES!** All the technical regulations in different EU countries and the EEA are replaced by the "essential requirements" of the Directive, and manufacturers take full responsibility that their products meet these requirements. There are no more "approvals", "authorisations" or "permissions" required before product can be placed on the market. Even the Directive's procedures for notification (Article 6.4) or for lodging a technical construction file with a notified body (Annex IV) do not prevent the manufacturer going ahead with placing his product on the market (although he might be very foolish if he ignored any comments he received from a national spectrum authority or a notified body).

1.4 So what equipment is within the scope of the Regulations?

All radio equipment and telecommunications terminal equipment (collectively called "apparatus" in Article 2(a) of the Directive) is within the scope, with certain exceptions identified in the Directive. Some apparatus, for example a mobile telephone, is both RE and TTE.

1.5 What does "radio equipment" mean in UK law?

Radio equipment is defined (Article 2(c) and (d)) as "a product, or relevant component thereof, capable of communication by means of the emission and/or reception of radio waves utilising the spectrum allocated to terrestrial/space radiocommunication", where "radio waves" means "electromagnetic waves of frequencies from 9kHz to 3000GHz, propagated in space without artificial guide." So this would cover all kinds of radio systems, including private mobile radio systems, broadcast transmitters, GSM base stations and handsets, microwave systems in private or public networks, and electromagnetic loop induction systems (above 9kHz), for example.

This definition has been used directly in defining the scope of the UK regulations (subject to the exceptions, of course) so that there are no differences between what is covered in UK and in other parts of the EU.

In the UK, the Wireless Telegraphy Acts remain in force, and cover the use of all radio equipment whether it is within the scope of the RTTE Directive or not. For any wireless telegraphy apparatus not covered by the RTTE Directive, type approval rules remain in force. The definition of "wireless telegraphy" in UK has a long history, and is slightly broader than the scope of the RTTE Regulations. The WT Acts are the basis for the UK regime of licensing of wireless telegraphy (radio) transmissions, and this licensing regime remains in

force (including the possibility for licence-exempt equipment), but with reference to equipment meeting the relevant UK Radio Interface Requirement, rather than needing approval.

1.6 So what radio equipment is excluded from the Regulations?

The Directive has a list of excluded equipment in Annex I.

- Radio equipment used by radio amateurs (as defined by ITU) is excluded, and so does not have to meet essential requirements under the RTTE Directive. This is because radio amateurs are experts and it is a condition of their licence (under the WT Act in UK) that they will not cause interference to others. Kits of components sold for assembly by radio amateurs are not regarded as "commercially available" - ie they are not sold to the general public - so they do not have to meet the provisions of the RTTE Directive. Commercial equipment modified by radio amateurs for their own use (or for the use of another amateur) is not subject to the essential requirements of the RTTE Directive. However, if a radio amateur was to build or modify an equipment and then offer it for sale to the general public he would become the "manufacturer" of that equipment, and would be responsible for meeting all the provisions of the RTTE Directive, just like the manufacturer of any "commercially available" radio equipment.
- Receive only radio equipment intended to be used solely for the reception of sound and TV broadcasting services is excluded. This equipment is "commercially available", but it was considered that the European market for this equipment is already sufficiently liberalised under the EMC and Low Voltage Directives, therefore the regime of these directives will continue to apply for this kind of equipment. Since the equipment is excluded, it seems logical that kits of components would also be excluded, and, even if commercially available, they would fall under the other regime. However, if the kit, or the receiver itself, is "intended" by the manufacturer to receive transmissions other than sound and TV broadcasting, the provisions of the RTTE Directive would apply. The way in which the kit is advertised might be considered indicative of the manufacturer's intentions, not just the statements in the user instructions. Sound and TV receivers, or set top boxes, that have other communication functions, like a built-in modem for interactive games or control of programmes, would fall under the RTTE Directive in respect of those aspects, but could continue to claim exemption for the receiver aspects, at the manufacturer's choice. In practice, there would be no need to claim exclusion, because there are no requirements placed on such receivers under the RTTE Directive other than those that would have applied under the EMC and Low Voltage Directives, but the RTTE Directive explicitly recognises the manufacturer's choice in such a case (Article 10.2)
- Certain kinds of marine equipment are excluded because they are covered by Directive 96/98/EC. This basically covers Safety of Life at Sea (SOLAS) equipment on vessels above a certain tonnage. Radio equipment on smaller vessels falls under the RTTE Directive. Additional essential requirements have been imposed on such marine radio equipment used for safety purposes. (See under "essential requirements")
- Radio equipment (including components) falling under Council Regulation (EC) No. 3922/91 on harmonisation in the field of civil aviation is excluded. Air traffic management equipment and systems falling under Directive 93/65/EC are excluded. In both these cases, the existing regime, including type approvals under Article 10.5 of the EMC Directive in some cases, will continue to apply.
- Cabling and wiring is excluded from the scope of the RTTE Directive, but this should not be interpreted to mean that radio antennae are excluded. The antenna is an integral part of the radio equipment characteristics "when it is properly installed and maintained and used for its intended purpose" (Article 6.1). So (i) equipment with integral antennae must meet the essential requirements as sold,

(ii) antennae sold separately must have clear instructions on their intended purpose and installation, and (iii) systems brought together on site must meet the essential requirements when installed, under the responsibility of the "manufacturer" of the system (determination of who is responsible may depend on conditions of the contracts covering the sale and installation of the system).

As well as the list in Annex I, the Directive (Article 1.5) specifically excludes "apparatus exclusively used for activities concerning public security, defence, State security (including the economic well-being of the State in the case of activities pertaining to State security matters) and the activities of the State in the area of criminal law". Regulation 3(4) transposes this into UK law. The key word here is "exclusively". Equipment that is commercially available must meet the RTTE Directive. Equipment that is not sold to the general public, but only for the special activities outlined above, is not subject to the RTTE Directive (but may still be subject to the WT Act in UK).

1.7 Are there any other special constraints on radio equipment?

Yes. Under Articles 1.2 and 1.3, certain kinds of equipment are recognised as falling under more than one Directive. These are (i) medical devices under Directive 93/42/EEC, (ii) active implantable medical devices under Directive 90/385/EEC, (iii) components or separate technical units of vehicles under Directive 72/245/EEC or of two or three-wheeled vehicles under Directive 92/61/EEC. Regulations 3(2) and 3(3) transpose these categories into those recognised in UK law. In all these cases, the "apparatus" must conform to the RTTE Directive without prejudice to the application of the other Directive involved. This means, for example, that a medical device that is sold with an integral communications capability must meet the medical directive regarding its medical functions, and the RTTE Directive regarding its communications functions, and must fulfil the appropriate procedures and markings required under both directives. If the communications element is sold as a separate product, the instructions for use must ensure that the essential requirements of the RTTE Directive will still be met when the product is incorporated into the medical device. In this respect, the medical device becomes an "accessory" of the radio equipment. Similar logic holds in the case of vehicles.

1.8 What does "telecommunications terminal equipment" mean in UK law?

Telecommunications terminal equipment is defined (Article 2(b)) as "a product enabling communication or a relevant component thereof which is intended to be connected directly or indirectly by any means whatsoever to interfaces of public telecommunications networks (that is to say, telecommunications networks used wholly or partly for the provision of publicly available telecommunications services)". This definition has been used directly in the UK Regulations (subject to the exceptions identified in the Directive, of course) so that there are no differences between what is covered in UK and in other parts of the EU.

1.9 So what telecommunications terminal equipment is excluded from the Regulations?

As explained above (see 1.6) the Directive has a list of excluded equipment in Annex I.

- Amateur radio equipment is excluded, but TTE does not fall under this category, because no public network is involved in the communication.
- Receive only radio equipment intended to be used solely for the reception of sound and TV broadcasting services is excluded, but TTE does not fall under this category, because no public network is involved in the communication. If the radio equipment has additional functions involving communication via a public network the exclusion does not apply, and the equipment falls under the RTTE Directive.
- Certain kinds of marine equipment are excluded, and other kinds of marine equipment have additional essential requirements applied, but TTE does not fall under this category, because no public network is involved in the communication. If equipment on board a vessel communicates directly with a public network, for

example if a cellular mobile handset is used from on board a vessel, the exclusion does not apply, and the equipment falls under the RTTE Directive.

- Equipments used in the field of civil aviation and which fall under Council Regulation (EEC) No.3922/91, and air traffic management equipment and systems falling under Directive 93/65/EC, are excluded. Suppliers of such equipment may need to refer to DTI for individual guidance if this category of equipment is connected to a public network. It may be necessary to determine what parts of an installation are covered by the "aviation" exclusions, and what parts (if any) constitute TTE under the RTTE Directive.
- Cabling and wiring are excluded from the scope of the RTTE Directive, but this should not be interpreted to mean that cabling or wiring within a TTE installation is freed from the essential requirements of safety and EMC.

As for radio equipment, as well as the list in Annex I, there is an exclusion for equipment "exclusively" used for certain activities of the State. Equipment that is not sold to the general public, but only for these special activities, is not subject to the RTTE Directive. (See 1.6 above).

1.10 Are there any other special constraints on telecommunications terminal equipment?

Yes. As for radio equipment (see 1.7 above) certain kinds of equipment are recognised as falling under more than one directive, and must meet the requirements of both directives. For example, if a modem is used to connect medical equipment to a public network, (i) the medical equipment must meet both directives if the modem is an integral part of the medical product, or (ii) if the modem is a separate product, the instructions for use must ensure that the essential requirements of the RTTE Directive will still be met when the product is incorporated into the medical equipment - the medical device becomes an "accessory" of the modem in this respect.

But there is more to it than this. The definition of TTE contains its own constraints.

1.11 What is special about the definition of TTE?

There are three elements of the definition that merit attention:

- "enabling communication".
- "connected directly or indirectly"
- "to public telecommunications networks"

The phrase "enabling communication" was a last-minute addition clarifying the type of equipment indirectly connected to the public network that would fall under the RTTE Directive. Under the previous Directives 91/263/EEC and 98/13/EC, the definition of "terminal equipment" that is indirectly connected to the network included the phrase "to interwork", and the essential requirements for terminal equipment included "interworking of terminal equipment with public telecommunications network equipment for the purpose of establishing, modifying, charging for, holding and clearing real or virtual connections".

This had led, over the years, to an understanding that only those aspects of indirectly connected equipment that are involved with call control would fall under the (old) directive. The great bulk of IT equipment, which might be connected to a LAN, which itself might be connected to the public network at a single point, was excluded from the type approval regime under the old directive, and only the gateway between the LAN and the public network needed approval, the remaining IT equipment being sold simply under the EMC and Low Voltage Directives.

It was not the intention of the RTTE Directive to widen the scope of "telecommunications terminal equipment" so as to include equipment that previously was not subject to type

approval. Rather, the intention was to reduce the requirements for equipment that previously was type approved.

The UK application of the RTTE Directive assumes that the historic background outlined above is brought forward through the phrase "enabling communication", and that non-radio equipment that was not previously type approved can continue to be sold and used under the LVD and EMC Directive, rather than being considered under the scope of the RTTED.

It is nowadays the case that a public network might be connected to an established private LAN network. In this case, the new gateway "enables communication" with the LAN (rather than vice versa). There is no need for the existing LAN terminals to be changed (they already meet the EMC and LVD requirements). There is no logical reason for new LAN terminals to meet different requirements from before *for the purpose of being connected as additions to the LAN*, therefore they can continue to be sold *for that purpose* under the EMC and LVD regime. However, if a terminal supplier intended his product to be capable of connection directly to the public network as well as being a LAN device, this application would fall under the RTTED, and the supplier should declare the product as conforming both to the EMC/LVD regime and to the RTTE regime. Fortunately, the essential requirements under the RTTED Article 3.1 are the same as under the EMC/LVD regime, so only one technical file, probably based on one set of standards, should satisfy the requirements of both regimes. [Note that for Radio LANs the technical file would also have to show conformity with Article 3.2 requirements].

1.12 What about test equipment?

Under the old regime there was also an understanding that test equipment connected directly to a public network interface did not need type approval unless it actively set up and released calls as part of its testing functions. The UK application of the RTTE Directive assumes this still applies, and test equipment is not considered TTE unless it actively sets up and releases calls. Test equipment, for example a signal generator, that produces frequencies in the radio spectrum but which is not designed or intended to be used for radio communication is not considered to be RE. It would be a misuse of such equipment to convert it into a radio transmitter, and the person so doing would be liable for any action taken in the light of the transmitter causing harmful interference to others, for example.

2 Definitions

2.1 Are the definitions of RE and TTE straightforward?

These definitions are very important because they define the broad scope of the Directive, subject to the exclusions given elsewhere in the Directive itself. This is covered in questions 1.4 to 1.11.

2.2 What is a "relevant component"?

This refers to the part of a product that performs the communications function, if this is not the whole function of the product. A good example is a bought-in modem that is integrated into a medical device (see questions 1.7 and 1.10). If the medical device is placed on the market, the CE marking on the medical device means (amongst other things) that the relevant component (the modem) meets the requirements of the RTTE Directive *when used in that medical device* (Article 6.1). The responsibility to meet the essential requirements may lie with the medical device manufacturer (if he has chosen a modem and incorporated it in his product under his own responsibility) or with the modem supplier (if it is a condition of the contract for purchasing the modem that it meets the essential requirements *in situ*). Or, perhaps more usually, the responsibilities may be shared between the medical device

manufacturer and the modem supplier in the sense that each depends on the professional competence of the other.

In the case of medical devices, the Directive seems to regard the medical device as an accessory to the modem, as far as the communications functions are concerned (Article 1.2). However, if the modem is part of the medical device when sold, that device must meet the RTTE Directive and be marked accordingly (as well as any other marking obligations). This would clearly be the case if the medical device included a radio communications component using non-harmonised frequencies - the alert symbol must be visible to the end-user, and hence must be shown on and in the documentation for the medical device.

When the modem, or other relevant component, goes directly from the modem supplier to the final product supplier solely for incorporation in the final product, the modem can be regarded as not placed on the Community market, and does not have to be CE marked or meet the other procedural requirements of the RTTE Directive. This is recognised in the UK Regulations 6 (1)(d).

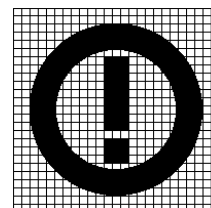
2.3 Where do I find definitions of "placing on the market", "putting into service" and "frequency bands whose use is not harmonised throughout the Community"?

The first two terms are not specific to the radio and telecoms sector. An explanation is given in the Guide to the Implementation of Directives based on the New Approach and Global Approach, but this must be read with caution, because the RTTE Directive has some provisions that are sector-specific and do not follow the New Approach. See parts 6 and 7 of these FAQs for more information. The last term has been discussed and clarified by TCAM - see part 6 regarding Article 6.4 notifications.

2.4 Where are "equipment classes" and "equipment class indicators" defined?

At a meeting of TCAM on 16/17 December 1999, the Commission and Member State representatives agreed provisional classifications of apparatus falling under the RTTE Directive. This has been formalised in a Commission Decision published in the OJ on 6 April 2000. The indicative list of subclasses can be found on the Commission's website (<http://www.europa.eu.int/comm/enterprise/rtte/listeq.htm>) or the European Radiocommunications Office (ERO) website (<http://www.ero.dk/rtte>).

Apparatus in Class 1 can be placed on the market and put into service without restrictions, and does not require an equipment class identifier. Apparatus in Class 2 must carry the "alert" equipment class identifier (an exclamation mark within a circle).



Class 1 covers:

- Terminal equipment attached to fixed networks
- Non-transmitting radio equipment
- Radio equipment that only transmits under the control of a network (including GSM handsets, TETS terminals, Land mobile earth stations in 1.5/1.6GHz bands or in the Ku band or at low data rate in the 1.5/1.6 GHz bands, Tetra end-user equipment (non-DMO), and Satellite personal earth stations in the 1.6/2.4GHz bands or in the 1.9/2.1 GHz bands)

- Radio transmitters technically harmonised in the Community for which Member States do not constrain the putting into service (eg DECT equipment).
(see the Commission or ERO website cited above for more detail on class 1)

Class 2 covers other radio equipment, as follows:

Class 2.0	Other (ie. equipment, not identified below, that cannot be freely moved and put into service throughout the whole Community)
Class 2.1	VSATs in the C-band
Class 2.2	VSATs in the Ku-band
Class 2.3	Satellite News Gathering earth stations in the Ku-band
Class 2.4	TETRA Direct Mode of Operation
Class 2.5	TETRAPOL
Class 2.6	Private Mobile Radio
Class 2.7	Short Range Devices
Class 2.8	Microwave links
Class 2.9	Fixed radio links
Class 2.10	Broadcast transmitters
Class 2.11	Maritime radio equipment
Class 2.12	Infrastructure equipment (eg. base stations)
Class 2.13	Radio equipment, operating in amateur radio bands

Note that the class lists above are indicative not definitive.

3 Essential Requirements

3.1 Are the requirements for health and safety different from before?

The safety requirements of the Low Voltage Directive (73/23/EEC), with no voltage limit applying, are taken forward as essential requirement 3.1(a) of the RTTE Directive.

The introduction of the word "health" into Article 3.1(a) broadens the requirement, and is said to be applicable to all apparatus. However, the area of health causing concern during the discussions on the Directive text was that of radio frequency exposure associated with mobile phones, other portable wireless devices and base stations. Suppliers of such equipment should take account of the latest thinking on public health, including Recommendation 1999/519/EC of the Council and European Parliament (OJ L199, 30 July 1999).

3.2 Are the requirements for EMC different from before?

The protection requirements of Article 4 and Annex III of the EMC Directive are taken forward as essential requirement 3.1(b) of the RTTE Directive. For equipment previously covered by the EMC Directive, the conformity procedures of either the EMC or the RTTE Directives can be used, at the manufacturer's choice. (He may choose to declare conformity under both directives, for example if he feels his product may be regarded as falling under either directive depending on its various applications).

3.3 How will I know when additional requirements are decided under Article 3.3?

The Commission cannot make a Decision on additional requirements without consulting TCAM. If this happens, DTI will ensure that warning of the Decision, including any available draft text, is given on the DTI website. DTI will also consult representatives of industry or other affected parties through DTI's normal advisory committee (TAPC), and will take these views into account when stating the UK's position at TCAM. If TCAM supports the Commission's proposal it will be adopted - otherwise, a resolution process is started through the Council of Ministers, at which UK is also represented.

When a decision is made under Article 3.3, it is published in the *Official Journal*, and Article 6.2 allows that there may be date given when it takes effect, and a "reasonable period" allowed during which time equipment to the earlier requirements can continue to be sold. The requirements of the decision, and the applicable dates, apply automatically in UK, through regulation 4(4).

Decisions have been made concerning:

- *radio equipment intended to be used on non -SOLAS vessels and which is intended to participate in the Automatic Identification System (AIS);*
- *avalanche beacons;*
- *radio equipment covered by the regional arrangements concerning the radiotelephone service on inland waterways; and*
- *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.*

An amendment to the decision for GMDSS equipment is under consideration but otherwise no further decisions are currently envisaged. This means that the potential requirements for interworking via the network in justified cases, and for prevention of harm to the network, have been left to experience the impact of market forces. There is an obligation on the Commission to monitor the operation of the Directive, and to safeguard the interests of the consumer concerning harm to the network or its functioning that causes an unacceptable degradation of service - for example unacceptable voice quality. If this were to occur, the Commission could propose further essential requirements under Article 3.3. However, if manufacturers continue to supply terminals that work correctly, and are suitable for their purpose, it might not be necessary for there to be any further measures under Article 3.3.

4 Notification and publication of interface specifications

4.1 What interface details have to be published?

Article 2 of the Directive says an "Interface" can be a network termination point (NTP) or a radio air interface (or both). Two routes for provision of information on interfaces are recognised in Article 4:

- Art. 4.1: interfaces regulated by Member States; these have to be formally notified to the Commission by the Member State concerned.
- Art. 4.2: interfaces offered by PTOs; the details on these must be published by the PTO concerned

Historically, there may be some overlap of these categories, but basically the second category covers all publicly available telecom network interfaces, whether wire, radio, or optical, while the first category covers all radio interfaces.

4.2 Where can I find the information on radio interfaces?

In the UK, information on radio spectrum allocations will be available via the DTI and RA websites. Specific radio Interface Requirements documents provide the link between the Directive and the licensing/exemption of radio equipment under the WT Act. Interface Requirements do not identify specific MPT or ETSI standards to be met. They are limited to a high level description of spectrum use (identifying operational frequency range, channel spacing, output power, where appropriate a technology to be used, and the relevant licensing regime). They may also give information on further parameter values that have been assumed as the basis of spectrum planning for the UK, and which suppliers would therefore wish to follow.

Radio equipment that has been designed to operate in conformity with the notified Interface Requirements and complies with the essential requirements is allowed to be put into service provided that the user has obtained an appropriate authorisation to use the spectrum.

For other countries, it is hoped that the information on radio interfaces can be found through a series of linked websites. The DTI site provides a link to the Commission site, which has links to all available national sites giving spectrum allocation information and the relevant interface specifications where there is no harmonised standard applicable. The specifications may have to be obtained by application to the country concerned.

4.3 How much detail will be given about radio interfaces?

TCAM endorses the views that notifications under article 4.1 are limited to:

1. Radio service or services within this band including the status of the service(s) in the sense of the International Radio Regulations
2. Licensing regime
3. Reference standard or other specification assumed to be fulfilled in frequency planning and defining the equipment type
4. Channel spacing and designation of emission if not defined in the standard or other specification mentioned above
5. Maximum transmit power limit if not defined in the standard or other specification
6. Duty cycle or channel access protocol if not defined in the standard or other specification mentioned above
7. Duplex direction if applicable
8. Possible need for an operator's certificate
9. Any planned or foreseen changes in the above items
10. Space for remarks

Suppliers who encounter more onerous requirements (for example, specifications which go beyond essential requirements or on environmental characteristics, or on quality matters) and who wish to avoid confrontation with market surveillance authorities in the countries concerned might be advised to meet the requested requirements but to press the Commission for the requirements to be aligned with the RTTED. The Commission has the right to review the radio interface specifications notified by Member States, and although TCAM could, if requested, assist the Commission in defining the limits of Article 3.2 requirements, in practice there are limited resources and such procedures are slow.

4.4 Where will the information on public networks be published?

Network operators can choose in what manner they publish the interface details, but DTI and Oftel have urged that this be done in UK through a series of linked websites. It is intended that there should be a central, web-based, register of operators, with links out to individual operators' websites where the specifications will be posted.

General information on the application of the Directive can be found on the Commission's site, from which links lead to each Member State site, then to network operators' sites, and thus to the interface detail, or how to obtain it. See <http://www.europa.eu.int/comm/enterprise/rtte/weblinks.htm>. This distributed arrangement has the merit that each piece of information is obtained from a single authentic source under the direct responsibility of the information provider, and there is no need for a centralised record, which could easily get out of step with the true information. It is also easy to implement nationally, and able to grow flexibly - those countries that don't have such an arrangement initially can join in later, and hopefully network operators will compete with each other in having the most informative sites.

4.5 How much detail will be given for public network interfaces?

The Directive obliges public network operators to publish accurate and adequate technical specifications of the types of interface they offer before services are made publicly available through those interfaces.

Oftel has issued "OFTEL / NICC Guidelines for Interface Publication" : see http://www.oftel.gov.uk/ind_info/interfaces/index.htm.

The amount of detail to be provided in the interface specifications is a compromise. It must meet the reasonable needs of the terminal designer, but it cannot be open-ended. ETSI has produced guidelines for the following interfaces:

ETSI EG 201 838	<i>Guidelines for describing radio access interfaces</i>
ETSI TR 101 730	<i>Guidelines for describing analogue line interfaces</i>
ETSI TR 101 731	<i>Guidelines for describing digital line interfaces</i>
ETSI TR 101 845	<i>RF Interfaces applied by Fixed Service Systems including Fixed Wireless Access (FWA)</i>
ETSI TR 101 857	<i>Guidelines for describing CATV network interfaces used to provide telecommunications services</i>

If terminal designers need more information than is proposed by ETSI (for example, regarding the safety status of the network), and if such parameters are included in the Oftel Guidance, this will take precedence in UK over the ETSI documentation.

It is of course in the operators' interest to give detailed information on their interfaces, so that terminals will properly interwork with and via their networks and their customers will be satisfied. If terminals don't work well on certain networks, customers will of course complain, but they might choose to migrate to other networks on which their terminals do work! This is also an argument for network operators to continue to support the harmonisation efforts that have taken place over the last ten to fifteen years, particularly in the achievement of an almost universal PSTN access requirement in CTR21. Whilst networks are not obliged to conform to specific standards, it is certainly in the operators' interest, as well as the terminal suppliers', to establish the largest possible marketplace for goods and services.

4.6 How long in advance of new service offerings will the details be published?

The UK Regulations follow the Directive in not explicitly specifying the timespan between publication and the service becoming available. As the Commission Guidance recognises, given the complexity of the factors in play, "a single period of advance publication will not be appropriate". A maximum period of 12 months between publication and provision of service has been set by TCAM, but the actual advance period for any particular interface could be as low as zero. The UK Regulations allow the Director General of Oftel to rule on an appropriate publication timing case by case, taking account of competition law, the Guidelines, and other relevant factors, to balance the needs of the competitive terminal marketplace with those of network service innovation.

4.7 What about equivalence between networks, and Equipment Class Identifiers?

Although the Commission Guidance gives a rough classification of public network types, it is not clear what, if any, value this has. There are small but significant differences between networks of the same general type (eg ISDN), even within one country. Manufacturers can obtain the information on the interfaces from the different PTOs (or protest if it is not available!), and decide for which networks or countries their products are suitable. Provided they meet the essential requirements of Article 3.1, and Article 3.2 for TTE that is also radio equipment, the products have the right to be sold and connected to the network, even if they cannot make use of all the features offered by the network (although this must be made clear

to the user at the point of sale, or the product may be returned as unfit for the implied purpose).

Regarding the Equipment Class Identifier, TCAM decided not to pursue a detailed categorisation. The only mark required on products is the "alert" symbol on certain radio products (see Q2.4 above).

5 Harmonised standards

5.1 What exactly is meant by a harmonised standard?

To be usable for the purposes of Article 5.1 of the Directive, a standard must be "mandated" (ie. ordered) by the Commission specifically for use with this Directive. It must be produced by a recognised European standards body (ETSI, CEN, or CENELEC). And its reference number must be published in the *Official Journal* as applicable under this Directive. When all these things are done, the standard gives a "presumption of conformity" to the essential requirements of the Directive. This means that a manufacturer whose technical documentation shows he meets the standard will not have to produce any further justification that he meets the essential requirements. If he chooses a non-standard way to meet the essential requirements, he would have to justify his approach in some detail in his technical documentation under Annex II, III, or IV. Whichever approach is taken, the technical documentation might have to be given to appropriate authorities if the product is found to cause problems. Regulation 5(2)(a) transposes the presumption of conformity into UK law.

5.2 How do I find out what harmonised standard references have been published?

The Commission website gives a summary list of titles and references to harmonised standards in relation to radio equipment and telecommunications terminal equipment at: <http://www.europa.eu.int/comm/enterprise/newapproach/standardization/harmstds/reflist/radiotte.html>
A copy of the most recent list published in the OJ can also be downloaded from that page.

5.3 What should I do if the harmonised standard I want to use has not yet had its reference published?

If the contents of the standard are agreed, and it is planned to be referenced, but this has not yet happened, the manufacturer may still be able to use it as the basis of his conformity to the essential requirements of Article 3.1. He does this under his own responsibility, and would need to justify it in his technical documentation under Annex II, III, or IV. (for example if the standard has already been agreed at ISO level, and is in the process of transposition into a European standard there might be a good justification for using it as early as possible).

If the standard is intended for use under Article 3.2, the manufacturer will need to refer to a notified body to determine the essential radio test suites and to assess the technical construction file (Annex IV). It might be possible to find a notified body that would support the manufacturer in using the standard as the basis of conformity, even though its reference is not yet published.

5.4 Will the harmonised standards for radio include the essential test suites?

ETSI has recognised that manufacturers will have more control over their conformity procedures if the test suites are defined in the harmonised standards. Annex III allows the manufacturer to avoid referring to a notified body in this case. TCAM has agreed that the obligation to affix the notified body's identification number onto the product is waived in this case, because no notified body involvement is necessary. ETSI has included this guidance in its internal Guide to producing harmonised standards for application under the RTTED (ETSI EG 201 399).

5.5 Is there anything special about the provisions to review harmonised standards?

The provisions of Article 5.2, 5.3 and 9.4 allow for standards to be reviewed if they don't properly match the essential requirements of the Directive. This is a normal provision of New Approach directives. However, under this directive the Commission has additional powers, after consultation of TCAM, to "interpret" the standards, or give conditions under which they can be used. These powers were provided to give the possibility of rapid remedial action in the case where a standard is found to be imperfect in some vital respect, but to amend or up-issue the standard would take a much greater time than the market could tolerate.

5.6 What if there are no harmonised standards that apply for my product?

Where there are no harmonised standards, there can be no "presumption of conformity" (see 5.1). This may affect the choice of conformity assessment procedure (see section 10). The technical construction file route (Annex IV) is the simplest that can be achieved to meet Article 3.2 in such cases. This requires involvement of a notified body (Q11.1), who must advise the supplier what are the essential radio test suites to be applied. They must not add to the tests required under any previous type approval regime or go beyond the principles of "essential requirements"..

6 Placing on the market

6.1 What is "the market"?

The Directive establishes a single European market for RE and TTE throughout the European Economic Area. The Agreement on the European Economic Area is established between the European Community and the three EFTA states, Iceland, Liechtenstein and Norway. This Agreement extends the Single Market to these states, and the "Blue Guide" on the New Approach applies throughout this area.

6.2 What does "placing on the market" mean and why is it important?

According to the Blue Guide, placing on the market is the initial action of making a product available for the first time on the Single Market with a view to distribution or use within the Single Market. Making available can be either for payment or free of charge, and refers to apparatus that is transferred from the stage of manufacture.

Placing on the market includes apparatus transferred from a manufacturer to a wholesaler, even if the apparatus has not been physically moved. It includes apparatus imported into the EEA. It includes apparatus transferred directly to the final consumer or user. Transfer includes sale, loan, hire, leasing and gift.

Apparatus offered for sale through a catalogue or electronic commerce is not considered placed on the market until it is actually made available for the first time within the EEA.

Where apparatus does not exist in its final form until installed on the customer's site, the body responsible for the installation might be considered the "manufacturer" of the apparatus, particularly if it is responsible for bringing together sub-components from various suppliers (which might include re-used equipment). The sub-components might be considered to be placed on the market when they are transferred from the component supplier to the installation body, and the apparatus might be considered to be placed on the market when it is transferred from the installer to the end user. (But see the warning below, and in case of doubt seek legal advice for your specific circumstances).

Placing on the market does **not** include second-hand apparatus (except where it is imported into the EEA for the first time). It does **not** include apparatus transferred from a third country to the manufacturer's authorised representative within the EEA who will take responsibility for

its conformity. It does **not** include products transferred to a manufacturer for further processing, such as product modifications, integration, or branding (unless the product is CE marked). It does **not** include products intended for export, or imported into the EEA for the purpose of re-export to a country outside the EEA.

Placing on the market does **not** include display at trade fairs, exhibitions or demonstrations (but there must be a notice that the product cannot be placed on the market or taken into service until it complies with the Directive). Regulation 6 identifies most of these exceptions.

It is important to know exactly when apparatus is considered to be placed on the market because the apparatus must be in conformity with the Directive at that time (or be capable of being in conformity if it is properly assembled or installed). The outline given above should not be taken as legally binding - in case of doubt, seek legal advice for your specific circumstances.

6.3 What if the essential requirements change - how long can I continue to manufacture to the earlier requirements?

If there is a Commission Decision introducing new requirements under Article 3.3 (see Q3.3 above), a "reasonable period" will be allowed during which time equipment to the earlier requirements can be placed on the market. Such equipment "first" placed on the market before the end of the period - ie. transferred from the manufacturer to another party in the distribution chain - can continue through the distribution chain to the end customer, and can be taken into service.

6.4 What documentation and marking has to accompany the product when it is placed on the market?

According to Article 6.3 and regulation 5(2)(b),(d) and (e), the information to be prominently displayed on or accompanying the apparatus is:

- information for the user on the intended use of the apparatus, together with the declaration of conformity to the essential requirements
- for radio equipment, sufficient information to identify the Member State or geographical area where it is intended to be used, and the alert symbol if appropriate
- for TTE, sufficient information to identify the interfaces of public networks to which it is intended to be connected.

According to Article 12 and regulation 10, the apparatus must be marked with:

- The CE Marking, which includes the reference numbers of all notified bodies used and the alert symbol (ECI) where relevant

According to Article 12.4, and regulation 10(3):

- the type identification of the apparatus,
- the batch and/or serial number assigned to the apparatus, and
- the name of the manufacturer or person responsible for placing it on the market

are needed to identify the apparatus.

6.5 Are there any special requirements regarding the declaration of conformity?

The Directive does not explicitly impose any special requirements. However, Annex II sections 1 and 5 refer to a written declaration of conformity held by the manufacturer together with the technical documentation for the product. Article 6.3 refers to "the" declaration of conformity being provided to the user, and this is seen by the authorities of several Member States as implying a copy of the formal declaration held in the manufacturer's files. They further take the view that this DoC should follow the recommendations in the Blue Guide, section 5.4, and should follow the criteria of EN 45014.

Some Member States are less formal, but require the DoC to be in their national language.

As of 1 June 2000, the situation is therefore as follows:

There is ONE Declaration of Conformity. It is held by the manufacturer with the technical file for the product. The standard EN45014 is an accepted model for the DoC, referred to in the Blue Guide, therefore manufacturers would seem to have no good reason not to use this model. The DoC is signed ("or equivalent") by the manufacturer, and is expected to be in the language used by the manufacturer (and understood by the signatory). A COPY of the DoC (in its original language) must accompany every product. Several Member States also require a simple declaration of conformity as information for the user in the language of the country in which the product is sold.

6.6 What radio equipment needs to be notified under Article 6.4 ?

TCAM agreed the definition below for equipment that needs to be notified under Article 6.4 of the RTTE Directive.

Notification under Article 6 (4) of directive 99/5/EC is required for equipment covered by the following definition: Radio equipment which uses frequency bands whose use is not harmonised throughout the Community. This is considered to be all radio equipment except those:

- *which do not transmit; or*
- *which can only transmit under the control of a network; or*
- *which use a frequency band which is allocated to the same radio interface in every Member State in the following way:*
 - a) *there is a common frequency allocation; and*
 - b) *within this allocation, the allotment and/or assignment of radio frequencies or radio frequency channels follows a common plan or arrangement; and*
 - c) *the equipment satisfies common parameters (e.g. frequency, power, duty cycle, bandwidth, etc.).*

Notification of radio equipment which uses frequency bands whose use is not harmonised throughout the Community should be made to relevant Member States, i.e. Member States upon whose market it is intended to place the equipment but where the equipment is not complying with the national frequency use.

NOTE that this interpretation is not accepted by all countries. Austria and Belgium require all "non-harmonised" equipment to be notified to their authorities. Legal advisors to the UK DTI consider that the definition of "relevant Member State" in the last paragraph should omit the last 12 words to be consistent with the Directive - hence all radio equipment not exempted through the "bullets" above and intended to be placed on the market in the UK should be notified to the Radiocommunications Agency (see Q6.8 below) **unless** it is fully compliant with the relevant UK radio interface requirements..

6.7 What should the notification include?

The information to be notified should include all items on the following list if the notification is to be considered complete and proper:

- *Clear identification and means of contacting (address...) of the notifying party*
- *Equipment Identification;*
- *The intended use/purpose of the equipment**
- *Where appropriate, the consulted notified body/bodies*
- *Frequency bands*
- *Reference standard or other specification assumed to be complied with in frequency planning and defining the equipment type*
- *Type of modulation*
- *Channel spacing and designation of emission if not defined in the standard or other specification mentioned above*
- *Maximum transmit power limit if not defined in the standard or other specification mentioned above*
- *Duty cycle or channel access protocol if not defined in the standard or other specification mentioned above*
- *Duplex direction if applicable*

- *Type of antenna*
- *Space for remarks*

* Most Member States consider that the information on intended use of the equipment should include a statement of the countries where it is or is not intended for use, although the Directive does not specifically say so.

6.8 To whom should the notification be given?

In UK, the notification must be made to the Radiocommunications Agency, in accordance with regulation 12. See document RA368 on the RA website (www.radio.gov.uk) for further guidance on the notification procedure, and a pro-forma that may be used. Information on the relevant authority in other countries can be found via the Commission website. The notification must be given to each country in which the product is to be sold. Manufacturers are advised that they, rather than the distributor, might be considered liable for giving this notification even if the product is sold in a country which the manufacturer had not originally anticipated - one solution in such a case would be to notify all countries in the EEA of the possibility of sales at some future time. Although the directive requires notification to be at least four weeks in advance of sales, there is no constraint on how much earlier the notification can be given. To avoid unnecessary delay, manufacturers could notify equipment in parallel to having a TCF analysed by a notified body. Manufacturers who are concerned that their forward sales strategy would become too visible through early notification can insist that the information is provided to national authorities in confidence, and only for the purposes of Article 6.4.

7 Putting into service and right to connect

7.1 What does "putting into service" mean?

According to the Blue Guide, section 2.3.2, putting into service of an apparatus, whether RE or TTE, "takes place at the moment of its first use within the EEA by the end-user". Member States may not prohibit, restrict or impede the putting into service of products that meet the provisions of the applicable directives, except that Article 7.2 allows the continuation of licensing regimes ("authorisations for the provision of the service concerned"), and of restrictions on the grounds of effective and appropriate use of the radio spectrum, avoidance of harmful interference, or matters relating to public health. In UK, the licensing and safeguard regimes will continue under the provisions of the WT Act.

7.2 What does "right to connect" mean?

"Right to connect" is a term that is not explicitly defined, but it covers the provision of Article 7.3 and regulation 7 that public network operators must not refuse to connect TTE to appropriate interfaces of their networks on technical grounds if the TTE meets the essential requirements of the directive Article 3. (Note that incorrect or missing marking, labelling, or product documentation is not itself a reason to refuse connection - there may be non-technical -ie. commercial - reasons why connection of a TTE may be refused to individual users).

The "right" to connect is subject to the caveats in Articles 7.4 and 7.5 (regulations 7(2) and 7(3)). These can take effect if the TTE "causes serious damage to a network, or harmful radio interference or harm to the network or its functioning", or if, in an emergency "the protection of the network requires the equipment to be disconnected without delay". These provisions are phrased to give safeguards against situations of real need, without allowing spurious exploitation of the directive to block innovative terminals - ie. the possibility of harm might not be sufficient reason to refuse connection unless the TTE was of a type or design that was known to cause problems in practice.

7.3 In what circumstances would an emergency disconnection be subject to the user being offered an alternative solution without delay and without cost to the user?

It all depends on what kind of emergency it is! The phrase in Article 7.5 and regulation 7(2)(d) was introduced to prevent spurious exploitation of the user, for example by a network operator claiming that a certain terminal must be disconnected immediately, but an alternative terminal supplied by himself at great extra cost, would be quite acceptable. But this would most probably not be considered an emergency in UK law.

Some network operators might alternatively be concerned that an unscrupulous individual could obtain a terminal that meets the essential requirements, but causes harm to the network, and could then ask that it be replaced by the operator with a properly functioning terminal, at no cost to the user. In UK, this would not be considered an emergency either - instead it would be a straightforward case of justified disconnection under Article 7.4 (regulation 7(2)).

DTI and Ofcom will make arrangements with network operators to ensure the simple and effective operation of the safeguards under Article 7.4 whenever it is necessary to use them. Because of this, it seems most unlikely that Article 7.5 (regulation 7(3)) will ever need to be used in UK.

8 Free movement of apparatus

8.1 Why do we need Article 8.1?

To some extent, this appears to repeat the rights and safeguards given elsewhere, namely in Articles 6.1, 6.4, 7.1, 7.2, and 9.5. It could be regarded as a useful drawing together of these provisions, and a clarification that free movement includes the case where equipment is sold in one country and put into service in another.

8.2 What about free movement of radio equipment under CEPT arrangements?

Various ERC Decisions have given free movement for certain kinds of radio equipment amongst the CEPT countries that had implemented those Decisions. Within the EEA, these arrangements are superseded by the RTTED procedures. However, EEA manufacturers may wish to take advantage of these Decisions when exporting radio equipment to CEPT countries outside the EEA, and the ECC (formerly ERC) is addressing this issue. Further information can be obtained from the Radiocommunications Agency.

8.3 What is a "demonstration" of equipment?

Article 8.2 specifically allows non-CE marked equipment to be exhibited and demonstrated, provided clear warning is given that the equipment may not be marketed or put into service until it complies with the directive (see Q6.2 above). For the avoidance of doubt, the inclusion of an "etc." in Article 8.2 is taken to show that there is a variety of circumstances to which this Article might apply, and in UK this could include demonstrations on customer's premises, or customer acceptance trials.

As the equipment is not CE marked, there is no presumption (under Article 7.1) that it can be put into service. It is therefore a matter for the discretion of the Radiocommunications Agency whether the demonstration can include the switching on of a radio transmitter. The switching on of radio equipment for demonstration and trial purposes in UK will be subject to WT Act licences. These would normally be either short-term use licences or test and development licences. It is a matter for the discretion of the relevant network operator whether the equipment can be connected to a public network and put into service.

8.4 Is there anything special about the provisions of Article 8.3?

This article contains standard provisions of all New Approach directives, principally confirming that the CE marking on an apparatus confirms that it meets the requirements of all applicable directives.

9 Safeguards

9.1 Does Article 9.1 mean that the authorities in one country can prohibit apparatus from sale throughout the Single Market?

Each Member State is responsible for measures taken within its own territory. It does this when it "ascertains" that apparatus does not comply with the Directive. This may be based on its own market surveillance, complaints from users, operators, or suppliers, or advice received from other Member States about events in their territories. However, the term "ascertain" implies definite knowledge about the apparatus' non-compliance, and the prohibition or other restraint will therefore not be applied in UK without evidence of such non-compliance. When such restrictions are applied, the Commission must be informed and TCAM must be consulted. If the restrictions are not justified, the Commission can ask the Member State to withdraw them.

9.2 Is there anything special about the safeguards in Article 9?

Article 9.2, 9.3, 9.4, 9.6, and 9.7 are straightforward provisions of New Approach directives, based on harmonised standards, to correct any shortcoming in the standards. As noted in Q5.5 above, however, this directive gives special powers to the Commission to "interpret" harmonised standards, or to place conditions on their use.

Article 9.5 is a special provision that allows Member States to ban radio equipment that would cause interference in their territory. A Member State has the authority to prohibit the placing on the market or to withdraw equipment from its market if it considers the equipment has caused or is likely to cause harmful interference. However, the Commission has advised TCAM (in document TCAM4(99)40) that the safeguards of the Directive should be applied with discretion and proportionality, and that, in its opinion, Member States are unlikely to need to introduce measures under Article 9.5. In particular, Article 9.5 should not be applied simply in response to a notification under Article 6.4 - if a banning order is made it must be carefully considered and justified to the Commission, and if necessary, at TCAM. For further information on the situation in UK, refer to the RA website.

10 Conformity assessment procedures

10.1 Why are there so many alternative procedures?

This was intended to help manufacturers choose the most appropriate assessment system for their circumstances. For example, a supplier who has Full Quality Assurance systems in operation can use Annex V for whatever product he makes, whilst a supplier who does not have FQA can use the simplest procedure available according to the kind of product. Regulation 9 even allows a mix-and-match approach, where different paths might be used to assess conformity with the different essential requirements.

During discussions on the Directive, it was decided (Article 10.3) that non-radio TTE and radio receivers could be assessed under the supplier's own responsibility (Annex II).

Radio equipment designed to meet harmonised standards can also be assessed under the supplier's own responsibility if the necessary radio test suite is identified in the standard or by a notified body (Annex III) - note that the notified body only identifies the test suite, it does

not assess the product, and in identifying the tests, it must not be out of step with the consensus view of notified bodies as a whole.

Only in the case where radio transmitting equipment is produced without the benefit of harmonised standards in support is it necessary to refer to a notified body for an opinion on the conformity of the product (Annex IV). Even here, the Directive is more liberal than the previous approvals regime, because the supplier can approach several notified bodies, and is not bound to accept the assessment of one or all of them (although it might be very foolish to place products on the market against the advice of a notified body). See also Q5.6 above.

10.2 If I go to a notified body for an assessment under Annex IV, can it demand to assess the essential requirements of Article 3.1 as well as Article 3.2?

The manufacturer chooses which NB he contracts with to assess his technical construction file. If the service he requests is an assessment against Article 3.2 there is no obligation or duty on the NB to assess the product against Article 3.1. However, when similar situations have occurred in UK in the past, the line has been taken that although the NB should not go out of its way to assess the product for safety or EMC, it would be in dereliction of its duty not to comment on any product defects in those areas that it noticed whilst performing its other tasks.

TCAM concluded that Annex IV applies when manufacturers can't or don't use harmonised standards to demonstrate conformity to Articles 3.1 or 3.3. Alternatively, manufacturers can request a NB assessment under Annex IV for Articles 3.1 or 3.3 if they so choose.

10.3 How exactly would I show conformity using the EMC and LVD procedures?

The provisions of Article 10.2 and regulation 9(2) were introduced because some equipment previously under the EMC and LVD procedures may now fall under the scope of the RTTE Directive, and it was considered important that previous evidence of conformity should still be valid under the new directive. However, the text of the Article makes this conformity route available for manufacturers of other apparatus, at their choice.

Article 10.2 only applies to equipment within the scope of the EMC and LV Directives. Basically this phrase was intended to recognise that there is a lower voltage limit in the LVD but not in the RTTED, and therefore not all apparatus falling under the RTTED can take advantage of Article 10.2 (ie. only apparatus within the limits of the LVD can use Article 10.2 for safety conformity).

Article 20.2 and 20.3 state that the provisions of the EMC Directive, and of the LVD, shall not apply to apparatus falling within the scope of the RTTED, except for the essential requirements and the conformity assessment procedure. Article 3.1 brings forward the "objectives with respect to safety requirements" and the "protection requirements with respect to electromagnetic compatibility" from the LVD and EMC Directive, and makes them part of the essential requirements under the RTTED.

Therefore, it is possible to meet the safety and EMC requirements of the RTTED by using the standards and conformity methods of the LVD and the EMC Directive. This means that a manufacturer could, for relevant products, make a declaration of conformity to the RTTED based on declarations of conformity to the LVD and the EMC Directive (following Annex III, section B of the LVD and Annex I of the EMC Directive). This dual declaration, that a product meets the requirements of the LVD and EMC Directives as well as of the RTTED, might prove valuable to manufacturers of certain products or in certain markets or, as an interim measure, if the scope of the RTTED is not completely clear regarding their product.

This possibility is at the choice of the manufacturer. If he prefers to make a simple declaration that his product conforms to the RTTED there is no obligation to make declarations under the EMC and LVD as well.

Regarding the applicable harmonised standards, the Commission has decided to publish in the Official Journal the references of relevant standards that have been used under the LVD and EMC Directives, so that they can also be used to show conformity with the RTTE Directive.

11 Notified bodies and Surveillance Authorities

11.1 Where is there a list of notified bodies?

The Commission publishes lists of all EU NBs in the Official Journal, together with their identification numbers, and also puts this information on their website. The list includes conformity assessment bodies recognised as notified bodies under Mutual Recognition Agreements with third countries (see Q16.1) and PECA agreements with candidate member states.

Not all NBs will cover all Annexes of the Directive, or all aspects of apparatus falling under the RTTED, because of its broad scope. However, it is expected that at least some of the UK NBs will be able to offer manufacturers assessment services under Annex IV for other countries, as well as the UK. Manufacturers can consult any NB in the EEA, and are not obliged to use a NB in the country where the product is to be sold. The DTI will ensure there is a co-ordinated approach amongst UK NBs, with consistent assessments. In appointing NBs, DTI will assess their fairness and impartiality, their technical competence and the availability of relevant facilities, and their professional secrecy with regard to all information gained in the course of their duties.

The R&TTE Compliance Association is the recognised grouping of notified bodies under the Directive. It has a very open membership including test laboratories and industry (Information via the "Contact us" form at www.rtteca.com).

11.2 What if there is no notified body competent to deal with my product, or with the requirements of the country I want to sell it in?

It is a principle of Community law that citizens cannot be deprived of their rights simply because the relevant arrangements have not (yet) been implemented. Therefore, if there is no competent notified body within the Community, manufacturers can take on the necessary functions under their own responsibilities.

11.3 Is there a list of surveillance authorities?

In UK, surveillance will be the responsibility of the Radiocommunications Agency for matters under Article 3.2, and for local area Trading Standards Officers (COSLA in Scotland, LACOTS in other parts of the UK). Contact details will be on the DTI website. The Commission will publish lists of all EU surveillance authorities in the Official Journal, and will also put this information on their website.

11.4 What are "the surveillance tasks related to the operation of the RTTED"?

This phrase is used in Article 11.2. Market surveillance is dealt with by each Member State in its own manner, as it is a matter of "subsidiarity". However, section 8 of the Blue Guide gives general guidance on market surveillance. It is a part of ensuring that the Directive works properly in each country, so that citizens throughout Europe get the same benefits from the Directive. See Q19.1.

12 CE marking

12.1 Remind me what the CE marking includes?

See Q6.4 for what's included, and Q2.4 for the alert sign.

12.2 Why are the UK marking and labelling orders revoked?

Regulation 1(2) revokes all orders relating to UK approvals procedures, including the marking and labelling orders. The transitional arrangements of Article 18 and regulation 8 have expired and national "approval" markings are no longer permitted.

12.3 What about products marked under the TTE Directive 98/13/EC?

All transitional arrangements have expired and marking must be applied in full accordance with the RTTED..

13 Constitution of TCAM

13.1 Who sits at TCAM?

The members of the committee are representatives of the Member States but there are a number of observers allowed to be present, such as: representatives of the remaining EEA countries, of countries that are candidates to join the EU, of ETSI, and of bodies affected by the TCAM proceedings including the European Radiocommunications Office (ERO), European Information & Communications Technology Industry Association (EICTA), European Telecommunication Services Association (ETSA), CENELEC, ETSI and R&TTE CA. From time to time, the Commission invites comments from relevant observers, if this can assist the discussions.

14 TCAM Advisory decisions

14.1 What issues are considered "Advisory"?

Choice of harmonised standards or shortcomings in them (Article 5). Date of application of new essential requirements under Article 3.3, and the length of the "reasonable period" for which equipment can continue to be placed on the market against the earlier requirements (Article 6.2). An opinion on whether a Member State has acted correctly in authorising a network operator to disconnect apparatus or withdraw it from service (Article 7.4). Shortcomings in harmonised standards following a Member State action to restrict free circulation of a product for this reason (Article 9.4). An opinion on the choice of equipment class identifier (Annex VII(5)). Guidelines that might be produced by the Commission regarding the application of the Directive, particularly on surveillance tasks (Article 14.2).

In all these cases, the Commission must consult TCAM and "take the utmost account" of its opinion, although it is not absolutely bound to follow that opinion.

15 TCAM Regulatory decisions

15.1 What issues are considered "Regulatory"?

Decisions on additional essential requirements to be adopted under Article 3.3 (as opposed to the timing of such requirements). Decisions on the equivalence of notified interfaces, and on equipment class identifiers (Article 4.1).

In these cases, the Commission proposals are adopted if the nationally weighted voting in TCAM is in their favour. Otherwise, the issues are raised to the higher level of the Council of Ministers. The UK is represented at both TCAM and the Council of Ministers.

16 Third countries

16.1 What does the Directive provide for regarding third countries?

As in other New Approach directives, Article 16 provides a basis for the Commission, acting on behalf of the EU, to propose negotiations with other countries to correct discrepancies or barriers noticed in trading relationships. The Directive is not itself a basis for trade with third countries. Within the EEA this is by virtue of a specific international agreement (the Agreement on the European Economic Area), and an extension to include the RTTE amongst the recognised legal instruments. For some other third countries there are Mutual Recognition Agreements (MRAs), such as those with the United States of America, Canada, Australia and New Zealand, Switzerland and Japan which all have annexes relating to RTTE. For the candidate EU member states there are the Protocols to the Europe Agreement (PECAs) but none of these is currently active in the area of RTTE.

For agreements on free movement of radio equipment within CEPT, see Q 8.2.

17 Review and reporting on the operation of the RTTE Directive

17.1 Is there anything special about Article 17?

It is normal for New Approach directives to include provisions for review of the operation of each directive. Article 17 goes a little further than usual in spelling out areas that were felt to be of particular concern during the drafting of the Directive, and on which the Commission is specifically required to report. The Commission made a draft review available to TCAM for consultation early in 2003.

18 Transitional provisions

18.1 Do transitional arrangements allow approvals under earlier regimes to continue for a certain period?

No. All transitional provisions have expired. From 8 April 2001, all items of apparatus placed on the market must meet the requirements of the RTTE Directive in all respects.

18.2 What additional requirements might be introduced under Article 18.3?

France used this Article with regard to loop currents in certain subscriber lines. However, this arrangement has now expired and there are no others.

19 Enforcement (a plain man's guide)

19.1 What will be the enforcement arrangements in UK?

Regulations 18 to 22 identify the appropriate procedures to be taken by enforcement authorities in the respective parts of the UK, the offences and possible penalties related to breach of the Regulations, the admission of the defence of due diligence, and the liability of persons other than the principal offender. Regulation 23 ensures that other relevant measures, such as consumer protection legislation, will apply to apparatus in addition to the Regulations. The requirements for licensing or licence exemption of radio services under the Wireless Telegraphy Act 1949 continue to apply.

In UK, the responsibility for surveillance will lie with the Radiocommunications Agency for matters under Article 3.2. This will include all aspects of emission and interference, and the continuing activities of the Radio Investigatory Service. The responsibility for other aspects of

surveillance will be delegated to local area Trading Standards Officers (COSLA in Scotland, LACOTS in other parts of the UK). Contact details will be on the DTI website.

The approach taken towards surveillance by each country is a matter of national responsibility under EU "subsidiarity" arrangements. In the UK, it has been found that a "complaints-driven" approach supported by occasional random investigations is both cost-effective and efficient in dealing with the levels of offences that have been found to occur in our territory. This approach is entirely consistent with the advice in the Blue Guide.

20 Other issues

20.1 Feedback from you

The DTI is very keen that the Directive should work properly. If you still have any questions that are not answered here or elsewhere on the DTI, Oftel, RA or Commission websites, please let us know. If we can answer your question we will. If the answer is dependent on factors outside our control we will say so, and will push for answers from the Commission or via TCAM if this is appropriate. If your question is of general interest, we will update our sites to cover it.

20.2 Differences in national implementations

We are also interested if there are any different national interpretations of the Directive, or any difficulties you encounter with other countries' implementations or rules. If you have problems please let us know, and again we will push for answers or explanations from the Commission or via TCAM if appropriate.

So far, we are aware of the following differences in various countries:

- In Austria and Belgium, the TCAM relaxations on what must be notified under Article 6.4 are not accepted, and all "non-harmonised" radio equipment must be notified (see Q6.6)
- In Sweden, the national authorities have indicated that they will always waive the period of advance notification of network operators' interfaces under Article 4.2. This means that there will be no advanced information on new interfaces in Sweden.

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