

Final Regulatory Impact Assessment (RIA)

1. Title of Proposal

Regulatory impact assessment on the UK implementation of Directive 2004/104/EC, (amending Council Directive 72/245/EEC), on the radio interference (Electromagnetic Compatibility or EMC) of motor vehicles and motor vehicle parts.

2. Purpose and intended effect of measure

(i) The objective

To simplify the regulatory regime for electronic devices and radio transmitters fitted to vehicles so that double testing to two different sets of European requirements is avoided and so that the responsibilities of the motor industry and the radio communications industry are clear. At the same time to review the existing regulatory regime dating from 1995 and adapt it to reflect technical developments. There has been an increase in the number and complexity of electronic devices fitted in vehicles and so there may be new safety concerns arising that need to be addressed, perhaps by revising the existing test methods.

The new Directive has now been agreed and so the task now is to extend the existing UK regulations "The 1998 Motor Vehicles (EC Type Approval) Regulations" to incorporate the latest EMC (Electromagnetic Compatibility) Directive 2004/104/EC and allow approvals to 2004/104/EC to be issued by the UK approval authorities (VCA).

(ii) The background

The existing EMC Directive has two main aims, broadly speaking: to ensure that vehicles and electrical or electronic vehicle parts –

- (1) are not emitting excessive electromagnetic waves (that would interfere with radio and television broadcasts), and
- (2) are not affected, to a degree that would affect road safety, by radio or TV broadcasts or any other similar electromagnetic waves.

EC Commission and EC Member states since 1995 have received many representations from associations representing manufacturers of electronic equipment who are concerned about "double testing". For certain electronic devices it is necessary to obtain certification to two sets of requirements – e-marking under the Automotive EMC Directive, and CE marking under the General EMC (89/336/EEC) or RTTE (Radio and Telecommunications Terminal Equipment: 99/5/EC) Directives. There is also considerable disagreement between the motor industry on one side and the radio communications and consumer electronics industries on the other side, as to their respective responsibilities to ensure road safety.

Also since 1995 there has been a considerable increase in the number of electronic components in vehicles. Such components control not only comfort, information and entertainment devices but also certain safety relevant functions. At the same time there has been international standardisation of EMC test requirements under the International Standardisation Organisation (ISO) and the International Special Committee on Radio Interference (CISPR).

In light of this it was thought necessary to revise the existing Directive for Automotive EMC. After 2 years of negotiations the Directive was agreed and it is now necessary to implement it in national law.

(iii) Risk assessment

Risk addressed by policy

The main risk is that technical innovation is compromised and there is a cost burden on industry increased by the need to obtain approval to two different regulatory regimes. There is also a risk that the motor industry and the communications/consumer electronics industry are unclear about their responsibilities, leading in the worst case to incidents and accidents on the road.

There is a risk that new electronic technology may adversely affect safety if adequate testing does not take place and if it is not catered for properly during vehicle design.

3. Options

Option 1: Do nothing.

The UK participated fully in discussions leading up to the agreement of the Directive. If it now failed to implement the Directive, the progress made in negotiations to improve the Directive would be lost. In addition, infraction proceedings would be likely as the UK would be in breach of Community law. The UK would also be exposed to potentially significant damages claims by anyone who could show that they had suffered loss as a result of non-compliance with the provisions of the Directive.

Option 2: Implement the Directive to the minimum as required by European law.

The Directive has been voted on so it now falls to the UK to implement the Directive. The UK must amend legislation in order to be able to issue type approvals for newly designed vehicles, and ultimately to require that new passenger cars are type approved to the new Directive. The Directive does allow the UK the option of going beyond the minimum in the Directive and mandating compliance for trucks and buses but general UK policy is not to "gold plate" Directives unless there is a strong case to do so.

4. Benefits

Clearly there are no benefits from Option 1 as it maintains the status quo.

Economic

Option 2. There is expected to be a small economic benefit from implementing the new Directive. However it is impossible to quantify this. The main benefit will be from the reduction in "double testing" due to the simplification of the regulatory regime for EMC components. There may also be some benefits in the form of lower costs for installation of radio transmitters, for example those used by taxicabs. This would be as a result of the vehicle manufacturer being required to make freely available, information to allow the safe installation of radio transmitters in the aftermarket.

Environmental

There is expected to be nil environmental benefits from implementing the new Directive.

Social

The social benefits from implementing the Directive should be an increase in road safety. However it is impossible to quantify this. There are very few road accidents that are caused by EMC or interference problems, but if the existing Directive was not upgraded and clarified it is possible that the risk of accidents would increase.

5. Costs

The costs from Option 1 are likely to be fines against the UK Government if the Commission of the EC asks for infraction proceedings, and potentially significant damages claims.

Economic

Option 2. There are expected to be limited economic costs from implementing the new Directive. However it is impossible to quantify this. There will be some small cost from compelling new products to meet the slightly higher standards of the new Directive. However the Directive is being phased in over a number of years and initially only newly designed products will be required to meet the new Directive. Existing products can continue to be sold until 2009. Also, in many cases, products in the market place (particularly from the larger manufacturers) already meet the slightly higher standards in the new Directive so the products will not need to be re-engineered to carry on being sold beyond 2009. Moreover, industry has been fully involved at all stages of the drafting of the new Directive and overall are content for it to be introduced.

Environmental

There are expected to be nil environmental costs from implementing the new Directive.

Social

There are expected to be nil social costs from implementing the new Directive.

6. Equity and Fairness

The requirements apply to all in-scope vehicles and components throughout the EU. The proposed measures will impact equally across the whole of the industry.

The policy has been examined for Race relevance and a Race Impact Assessment is not necessary.

7. Consultation with small business: the Small Firms' Impact Test

There are no small businesses engaged in the manufacture of vehicles because this activity is so capital intensive. There are some small businesses involved in the manufacture of electronic components. The simplification of the regulatory regime for EMC and the new information to be provided by vehicle manufacturers will be of particular benefit to small business and so the new Directive represents a positive benefit for them.

8. Competition Assessment

The affected markets are that for vehicles and that for electronic components. Both markets are highly competitive and the introduction of the Directive will not negatively affect this in any way. The new Directive in fact should improve competition in one area. Requiring manufacturers to make available information on mounting transmitters safely in vehicles in the aftermarket, will improve competition by allowing companies other than the vehicle manufacturer to mount transmitters in the vehicle.

9. Enforcement and Sanctions

How will the proposal be enforced?

As regards vehicles, the new Directive is self-enforcing. A passenger car cannot be licensed and registered without a European type approval certificate. When the manufacturer applies for the type approval, the vehicle will be required by the approval authority to undergo testing to the new Directive. If the vehicle does not comply to the Directive the certificate will not be issued and the vehicle cannot be licensed, registered or sold.

For components sold in the aftermarket, enforcement will take place at the point of sale.

Who will enforce this legislation?

The DVLA inspect type approval certificates when a vehicle is registered so effectively they will enforce it on vehicles. Local authority Trading Standards officers carry out enforcement on components at the point of sale.

Will the legislation impose criminal sanctions for non-compliance?

No new offence will be created by implementing this Directive. The legislation is, to a large extent, self-enforcing. If someone were to obtain a vehicle

without the correct EMC type approval they would not be able to license or register it. If such a vehicle were used or kept on the road, then under s29 of the Vehicle Excise and Registration Act 1994, the driver or owner would be committing a criminal offence.

10. Monitoring and Review

There will be no formal monitoring or review of the Directive in the UK, although on an informal basis the Department will of course listen to comments from stakeholders and feed them back to the European Commission where relevant. The European Commission will be reviewing the new Directive after a transition period of 4 years.

11. Consultation

i) Within Government

Within Government, the DTI, the Home Office, ODPM Fire Inspectorate and the Radiocommunications Agency (now OFCOM) were consulted. The DTI/RA and the DfT were not always in agreement as to the shape that the Directive should take, but the final Directive was a compromise acceptable to both sides.

ii) Public Consultation

During the European negotiations, the Department set up a working group of stakeholders, who were informed of the progress of meetings in Brussels. Regular meetings of this group were held and the Department aimed to forge a consensus UK view. The group included representatives of UK EMC test houses (e.g. MIRA), vehicle and component manufacturers (SMMT, Ford/Land Rover, Visteon), representatives of electronics manufacturers (EICTA, Intellect, Nokia, Motorola), and representatives of the Radiocommunications Agency (now OFCOM). All major consultees accept the new Directive as a fair compromise and are comfortable with it, although inevitably - because it is a compromise - many parties are not completely content and some parties would have preferred their own views to have been followed, at the expense of another party's.

12. Summary and Recommendation

Bearing in mind that non-implementation is not really a practical proposition, would waste all the negotiation work over the last two years and lead to uncertainty and complaints from electronics and vehicle manufacturers, the only reasonable way forward is to implement the Directive to the minimum extent required by European law. This will allow manufacturers to take advantage of the simplification of the regulatory regime and the benefits of reduced double testing for electronic components. Implementation of the requirement for the vehicle manufacturer to provide instructions for the safe installation of radio transmitters should improve the situation for aftermarket radio installers.

Summary costs and benefits table

Options	Total benefit per annum: economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1. Do Nothing	No appreciable benefits	Likely infraction proceedings. Potentially significant damages claims.
2. Implement the Directive	Reduction in costs to industry due to removing "double-testing" and requiring vehicle manufacturers to make installation instructions available. Potential improvement to road safety.	Possibly minor costs to component manufacturers as a result of higher specification.

Recommendation – Option 2. This will ensure we meet our obligations under EU law and implement a Directive which simplifies the requirements, reduces double testing and ensures road safety is maintained. The UK approval authority VCA will be able to issue type approvals to new passenger cars.

13. Declaration

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

Signed

Date

Minister's name, title, department

Contact point:
Mike Lowe (020 7944 2066)
TTS6
Zone 2/02 Great Minster House
76 Marsham Street
LONDON SW1P 4DR