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Report

drawn up on behalf of the Legal Affairs Committee

on the Proposal from the Commission of the European Communities to the Council (Doc. 69 /73) for a directive concerning the harmonization of legislation in Member States in respect of radio interference caused by sound and vision TV receivers

Rapporteur: Mr J.B. BROEKSZ

PE 34.175/fin.

By letter of 16 May 1973 the President of the Council of the European Communities requested the European Parliament, pursuant to Article 100 of the EEC Treaty, to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a directive concerning the harmonization of legislation in Member States in respect of radio interference caused by sound and vision TV receivers.

On 24 May 1973 the President of the European Parliament referred this proposal to the Legal Affairs Committee as the committee responsible and to the Committee on Economic and Monetary Affairs for its opinion.

On 18 June 1973 the Legal Affairs Committee appointed Mrs Nielsen rapporteur.

Following on the termination of Mrs Nielsen's membership of the European Parliament, Mr Broeksz was appointed rapporteur in her place on 11 January 1974.

The Legal Affairs Committee discussed the draft report on 11 January 1974 when it also adopted the following motion for a resolution and explanatory statement by 9 votes in favour and one abstention.

The following were present: Mr Schuijt, chairman; Mr Broeksz, rapporteur; Mr Bangemann, Mr D'Angelosante, Mr Héger, Mr Outers, Mr Pianta, Mr Rivierez, Mr Vermeylen and Mr Vernaschi.

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The Legal Affairs Committee hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a Directive concerning the harmonization of legislation in Member States in respect of radio interference caused by sound and vision TV receivers.

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council¹,
 - having been consulted by the Council pursuant to Article 100 of the EEC Treaty (Doc. 69/73),
 - having regard to the report of the Legal Affairs Committee and the opinion of the Committee on Economic and Monetary Affairs (Doc. 336/73)
1. Notes that the present proposal for a directive is the third in a series of four proposals on the harmonization of legislation in Member States in respect of radio interference caused by certain types of apparatus;
 2. Recalls that the European Parliament has already delivered its opinion² on the first two proposals in this series, which relate to radio interference caused by
 - domestic electrical appliances, portable power tools and similar devices, and
 - fluorescent lighting tubes;
 3. Regrets that the Commission did not include in its present proposal the amendments proposed by Parliament in the above mentioned opinions;
 4. Has learnt that the Industrial and Technical Policy Programme submitted by the Commission to the Council on 7 May 1963 contains a timetable setting new target dates for the approval of draft directives under Article 100 of the EEC Treaty;
 5. Welcomes this new Programme and hopes that the target dates it specifies will be closely observed by the Commission and Council;
 6. Expects to be consulted on this Programme at the earliest opportunity;

¹ OJ C 90, 26 October 1973, p.25

² OJ C 37, 4 June 1973, p.8

7. Notes that the standards contained in the Annex to the present proposal for a directive largely accord with the standards laid down by the CISPR¹;
8. Believes that this proposal for a directive, and others of the same kind, should take account of the interests not only of the producers and intermediaries involved, but also, to at least an equal extent of the consumer;
9. Recommends the Commission to submit to the Council, if and when possible, a proposal for the introduction of a European quality mark which must be sufficiently publicized in the Community;
10. Expresses its general approval of the Commission's proposal;
11. Urges the Commission to include the following amendments in its proposal, pursuant to Article 149, para. two of the EEC Treaty;
12. Instructs its President to forward this resolution and the report of its committee to the Council and Commission of the European Communities.

¹ Special International Committee on Radio Interference

Proposal for a Council Directive on the harmonization of legislation
in Member States in respect of radio interference caused by sound and
vision TV receivers.

Preamble and recitals unchanged

Articles 1 and 2 unchanged

Article 3

1. The conformity of the sound and vision television receivers with the requirements laid down in this directive and its Annex shall be certified by the producer or importer, on his own responsibility, in a statement to be included in the instructions for use, the guarantee document or on the equipment itself.
2. The use of marks or certificates issued by organisations, as notified by each Member State to the other Member States and to the Commission, shall render unnecessary the statement provided for in the preceding paragraph.

Article 3

1. unchanged
 2. unchanged
- 2(a). The statements and certificates referred to in this article shall be printed in the language or languages of the country in which the appliances are to be used, and where quality marks are not sufficiently familiar to the average, not specially well-informed customer, a clear indication of compliance with the standards laid down in the Directive shall be provided in the language or languages of the said country.

¹ OJ C 90, 26 October 1973, p.25

Article 3A

Member States shall ensure that
appliances put on the market are
subject, in every case, to random
testing, in order to determine
whether they meet the requirements
of the Directive.

Articles 4 to 9 unchanged

Annex unchanged

EXPLANATORY STATEMENTINTRODUCTION

1. This proposal for a directive is the third in a series of four proposals on radio interference to be submitted by the Commission to the Council.

The first two related to radio interference caused by:

- domestic electrical appliances, portable power tools and similar devices, and
- fluorescent lighting tubes (Doc. 133/72).

The European Parliament was also consulted on these two proposals. The corresponding resolution¹ was adopted on 7 May 1973 on the basis of a report drawn up on behalf of the Legal Affairs Committee by Mr Armengaud (Doc. 340/72).

The fourth and final proposal of the series has yet to be considered by the Council and will relate to radio interference caused by scientific equipment.

2. The main purpose of all these directives is to lay down maximum permissible limits for interference and methods of measuring the interference.

3. The principal legal consequences of such directives once they come into force are of two kinds:

- (a) the apparatus concerned may only be marketed if it complies with the regulations contained in the directive (i.e. 'total harmonization') (see Article 2);
- (b) the marketing of apparatus which does comply with the directive may not be restricted in any way by Member States for reasons connected with radio interference (see Article 4).

The products in question are thus guaranteed freedom of movement as commercial goods within the Community - at least in respect of their characteristics with regard to radio interference.

4. This proposed directive, like the others in the series, is based on Article 100 of the EEC Treaty.

5. The Committee has learned that the international standards drawn up by the CISPR² were taken into account in the formulation of the material standards contained in the Annex to the directive.

¹ OJ No. C 37, 4 June 1973, p.8

² Special International Committee on Radio Interference

OBSERVATIONS

In establishing its position your committee has based its views principally on the abovementioned report by Mr Armengaud (Doc. 340/72).

6. On 7 May 1973 the Commission submitted a Technological and Industrial Policy Programme to the Council in the form of a Memorandum¹. This Programme contains a timetable with a list of the draft directives to be adopted by the Council before specified dates.

According to this timetable the two proposals on radio interference caused by domestic appliances (and portable power tools) on the one hand and fluorescent lighting tubes on the other are to be adopted by 1 January 1974. The target date for the proposal for a directive on radio interference caused by scientific equipment is 1 January 1975.

Your committee has, however, observed that the present proposal for a directive is not mentioned at all in the timetable. The committee has been told by the Commission that this is due to an error. The timetable should therefore be revised to include this point as soon as possible. Meanwhile the Commission could state the target date it has set for the adoption of this proposal for a directive.

7. The Legal Affairs Committee welcomes this new Programme and hopes that the Commission and Council will keep closely to the deadlines it contains. The committee also expects the European Parliament to be consulted on the Programme at the earliest opportunity - as was the case for the General Programme of 28 May 1969² and its subsequent supplement³.

8. The text of Article 3 (2)a) and Article 3a proposed by the Legal Affairs Committee is taken directly from the Armengaud report on radio interference caused by domestic apparatus etc., and fluorescent lighting tubes.

During the debate in Parliament on the Armengaud report the Commission expressed the view that both proposed amendments went too far and that the decision whether or not to introduce these measures should be left to the Member States⁴. Your Committee did not find these observations convincing, for the following reasons:

- the purpose of Article 3(2)a) is to provide adequate information for the consumer. The text is self-explanatory and requires no further interpretation. Generally speaking, it is the view of the Legal Affairs Committee that directives of this nature which not only affect trade

¹ Bulletin of the European Communities, supplement 7/73

² OJ No C 108, 19 October 1968, p.39

³ OJ No C 112, 27 October 1972, p.8

⁴ Debates of the European Parliament, Sitting of 7 May 1973 (OJ No 162, p.20)

but also have a certain influence on customer behaviour - should take account of the interests not only of producers and middlemen but also, and at least to the same extent, of the consumer.

- with respect to Article 3a it should be noted that some Member States have much stricter control regulations than those proposed by the Commission¹. Your committee is in fact in favour of guaranteeing a certain minimum control of the apparatus in question in order to avoid barriers to trade.

9. Your committee wonders whether it might not be desirable in the long run to introduce a European quality mark to replace the statements, certificates and quality marks referred to in Article 3. If such a quality mark were given sufficient publicity it could provide the purchaser with relevant objective information on the acceptability of the apparatus. The Legal Affairs Committee requests the Commission to investigate ways and means of doing this and to submit a proposal to the Council on this subject if and when possible.

CONCLUSION

10. Generally speaking, the Legal Affairs Committee agrees with the contents of this proposal for a directive.

It nevertheless requests the Commission and Council to incorporate the amendments proposed above.

¹ Under Danish law every kind of appliance must be approved in respect of radio interference before being offered for sale (Law 201 of May 1963).

Opinion of the Committee on Economic and Monetary Affairs

Draftsman: Mr P.B. COUSTE

On 15 June 1973, the Committee on Economic and Monetary Affairs appointed Mr Cousté draftsman for the opinion.

On 30 November 1973, it discussed the draft opinion and adopted it unanimously.

The following were present: Mr Lange, chairman; Mr Notenboom, vice-chairman; Mr Cousté, draftsman of the opinion; Mr Artzinger, Mr Berthoin, Mr Burgbacher, Mr Harmegnies, Mr Leenhardt, Mr Scholten, Mr Starke, Mr Thornley and Mr Yeats.

1. The proposal for a directive under consideration has been drawn up pursuant to Article 100 of the Treaty concerning the harmonization of Member States' legal, statutory and administrative provisions which directly affect the establishment or functioning of the Common Market.

2. Comparative examination of Member States' legal, statutory and administrative provisions on radio interference showed many differences in the type of checks carried out, the permissible limits, the test equipment and methods employed and, finally, the types of sound and vision TV receiver appliances.

Harmonization of these laws is a matter of some priority which justifies its inclusion in the third phase of the general programme for the removal of technical barriers to trade, approved by the Council on 28 May 1969, and the submission to the Council on 26 July 1972 of the first two proposals in this sector, one relating to domestic electrical appliances and portable power tools and the other to fluorescent lighting tubes.

3. Attention should be drawn to the fact that the deadlines laid down for the general programme for the removal of technical barriers have not so far been met.

Given the importance of this matter, the Commission should do all it can to carry out this programme and, if necessary, increase the staff strength of the relevant services.

Another cause of delay in implementing the general programme for the removal of technical barriers to trade seems to be the slowness of the Council's procedure for approving the relevant proposals submitted to it by the European Commission.

It is therefore felt that the Council should make a greater effort to complete this procedure.

4. The programme for the removal of technical barriers is felt to be of primary importance especially in view of its relevance to the setting up a Common Market which is a necessary condition for the establishment and working of economic and monetary union. It is therefore felt that the Commission should carry out this programme 'in toto' rather than follow a line of action which involves taking at various times action confined to specific sectors.

5. It is felt that effective adjustment to technical progress can be guaranteed within the framework of the Committee provided for this purpose in the proposal for a directive relating to domestic electrical appliances and portable power tools.

6. The total harmonization method suggested in article 2 of this proposal for a directive is thought to be the most suitable for establishing an effective Common Market in this sector.

7. Attention is drawn to the fact that the Committee on Economic and Monetary Affairs was previously asked to report on similar questions whereas, in this instance, it has simply been requested to prepare an opinion for the Legal Affairs Committee.

Greater consistency in this matter would be desirable.