

RADIO SOCIETY

of Great Britain

M Octavian Popescu
European Commission - DG Enterprise & Industry
Unit G4 - Mechanical, Electrical and Telecom Equipment
BREY 07/318, B-1040 Brussels

13 December 2010

Dear Mr Popescu,

I thought it might be helpful if I wrote to let you know of a few other aspects that I would like to cover at our meeting on Thursday.

My letter of 7th December identified a number of points of principle around the current position with PLAs, on which your clarification of the EU position would be helpful.. I would like to add to these the following, which relate to the position when a new Standard is agreed as a result of the CENELEC WG11/TC210 process.

- a) There is clear evidence that, should the emission limits in the current draft Standard be approved, there will be a number of cases of harmful interference to authorised radio communication services. Whilst the Commission will, no doubt, take the view that any new Standard brings a presumption of conformity with the Essential Requirements of the EMC Directive, this still leaves the question of the appropriateness of any action by national administrations to take action to limit harmful interference from PLA devices.

In this respect, I draw your attention to letters issued by the UK Radiocommunications Agency to a number of parties in March 2002, following extensive discussions with the Commission. A copy of one such letter is attached. The letter relates to the then proposed UK MPT 1570 regulations which would have permitted the UK administration to take action on harmful interference from PLT devices.

A check of the EU web site for Commission rulings confirms that nothing in essence has changed since that date. Please would you confirm that, should the UK Government consider introducing similar Regulations at some future time, the rulings which are clearly set out in the attached note, would still apply, and that subject to operating in accordance with the guidance set out by the Commission in 2002, such Regulations would be appropriate.



- b) There may well be devices that are brought to market which fail to meet any new Standard. It is a matter of regret that the use of the term “first placed on the market” can limit any action against those who market non-compliant devices. What view does the Commission take of the way such situations should be handled ?

- c) In the case of PLAs, it is the RSGB contention that EN55022 currently applies to such devices. I draw your attention to the scope of that Standard. As you will be aware there are devices on the market, which rely not on EN55022 but on the use of CISPR 189/CD and I257/CD, both of which are formally withdrawn by CISPR. What is the Commission’s view of the situation whereby manufacturers can bring to market devices which masquerade as conformant to standards that do not exist, and whose Technical Files rely on such standards ?

- d) When any new standard is brought into effect, there may be devices already on the market which fail to meet it. What actions does the Commission see appropriate in these cases:
 - i. On a generic basis ?
 - ii. On an individual case basis when harmful interference is caused ?

I hope you find it helpful to have advance notice of these points and I look forward to meeting you on Thursday.

I will be accompanied by Hilary Claytonsmith, an EMC Consultant for the RSGB and IARU and possibly, if his other business commitments permit, by David Lewis of the RSGB’s EMC Committee.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. F. Beattie', with a stylized flourish above the name.

Donald F Beattie

Copy of Radiocommunications Agency letter of March 2002

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Mr R Page-Jones

Radio Society of Great Britain

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Hutton

Our Ref: RB/L/103

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Date: 27 March 2002

Dear Mr Page-Jones

I am writing to bring you up to date with the position on the measures that the UK intends to put in place to handle interference to radio use from digital subscriber line (DSL), Power Line Technology (PLT) and Home LAN systems, should such interference occur.

On 9 November 2000 Patricia Hewitt, the then Minister for small business and e-commerce, announced a package of measures in relation to this issue. This package included the announcement of limits in the standard known as MPT 1570 which would be given statutory force through interference regulations made under section 10 of the Wireless Telegraphy Act 1949. It also includes the placing of an obligation on the operators of DSL and PLT systems to take all reasonable steps to remedy any interference caused. It is intended that this obligation will be in the form of a Telecommunications Act licence condition and OFTEL informally consulted on such a condition at the end of 2001.

The draft section 10 regulations and MPT 1570 were notified to the European Commission on 29 August 2001 in accordance with Directive 98/34 EC which concerns technical barriers to trade. My colleague Neil Marr wrote to interested parties on 24 August informing them of this and that if no comments were received from Member States or the Commission in 12 weeks, the regulations would be able to be placed before Parliament.

On 29 November the Commission delivered a detailed opinion on our notification. This is a standard procedure provided for under Directive 98/34 EC and it stays implementation of national measures, in this case the regulations, by a further 12 weeks. The detailed opinion essentially raised questions about the legal basis for our regulations. The Commission's view was that MPT 1570 should have been notified under Article 7.2 of the EMC Directive, 89/336/EEC. This procedure permits the use of national standards as a means to demonstrate compliance with the protection requirements of the Directive, where European harmonised standards do not exist. The UK position was that this would make MPT 1570 a compliance standard for the purpose of placing apparatus on the market or taking into service, which we did not consider practical in the case of existing cables used for DSL, PLT or home LAN purposes. Rather, we wished to use MPT 1570 for the purpose of determining whether interference, if it occurred, was undue.

After consideration and discussion with the Commission, it appeared that the different approaches could be solved by the UK notifying any action it took to enforce the MPT 1570 to the Commission under Article 6(1) of the EMC Directive. This permits Member states to take special measures in respect of EMC problems at specific sites. The mechanism within the UK for implementing MPT 1570 will remain through regulations made under section 10 of the Wireless Telegraphy Act. Notification under Article 6 of the EMC Directive will therefore not affect the enforcement procedures previously set out. Indeed, for completeness the UK has also offered to inform the Commission about any complaints of DSL, PLT or home LAN interference that it has solved under the proposed Telecommunications Act licence condition. That is, complaints that are resolved before they are considered under the section 10 procedures. The UK has now formally notified the Commission of its intent in this respect and the Commission in turn has signified its agreement.

For clarification, it must be stressed that notification of the use of section 10 procedures to the Commission will only be under the provisions for specific cases under Article 6 of the EMC Directive. The limits in MPT 1570 would not be notified as national standards to be used for the purpose of compliance with the protection requirements in the Directive.

In relation to the Commission's mandate to the ETSI/CENELEC Joint Working Group (JWG) to develop European standards, it would appear that there is still a lack of clarity from the Commission on whether the limits to be developed will be used as a compliance or interference standard. However, the issuing of the mandate in terms of producing harmonised standards for use under the EMC Directive effectively indicates a compliance standard. We have pointed out to the Commission the impracticality of using the limits as a compliance standard and the JWG has, independently, argued similarly.

While the UK now considers itself able to proceed with implementation of the regulations, a need has arisen to consider whether some relaxation of the limits below 150 kHz is possible. We will therefore be conducting a short, one month, consultation on this. It is not the intention, however, to revisit the limits between 150 kHz and 1.6 MHz at this time. Laying of the regulations in Parliament will thus await the outcome of this further consideration.

I hope this is helpful. If you have any questions on this you are welcome to contact myself at the above address or at colin.richards@ra.gsi.gov.uk or Neil Marr (020 7211 0461, neil.marr@ra.gsi.gov.uk).

Yours sincerely

C H RICHARDS