

4th November 2020

The Low Power Radio Association (LPRA) exists to represent the interests of the Short Range Devices (SRD) industry. SRD's are used in a wide range of professional and consumer applications as diverse as remote controls for home automation and car key fobs, wireless smoke alarms, RFID tags, medical telemetry and remote environmental monitoring/control systems.

The LPRA is a trade association formally established as a Company Limited by Guarantee. It is managed by an annually elected council and administered by a professional secretariat. To enable individual members to focus attention on their areas of specific interest, the LPRA is organised into industry sectors.

The LPRA is delighted to make the following comments to DG GROW on its proposals for an update to the Blue Guide. We believe that the deadline for comments may have been the 31<sup>st</sup> October, but hope that these comments can be taken into account in your deliberations.

The LPRA has become aware of proposals to make changes to the Blue Guide that could have wide-ranging implications for the products that our members place on the European market. Having engaged with an earlier consultation on this document at the end of 2019, we are surprised that the significant changes that are now proposed have not been publicised more widely. Nevertheless, we would like to submit the comments below on behalf of our members.

As a wider commentary, we observe that the nature of the changes fall into broadly three categories:

- 1) The adoption of the 2019 market surveillance regulation
- 2) The departure of the UK from the EU ("Brexit")
- 3) The Commission's interpretation of a number of CJEU judgements, e.g. Elliott, Anstar

For 1) we recognise the usefulness of this update

For 2) we feel that, given the status of negotiations between the EU and the UK, it is premature to record these arrangements in a document that is not frequently updated, and these should be removed from section 2.8.5. until after the negotiations have concluded.

For 3) we feel that the Commission has been overzealous in its interpretation of some CJEU judgements. We respectfully feel that, given the recent legal position issued by the German Government, some of the proposed changes in section 4.2, although well-meaning, are premature and so this section of the guide should ***not*** be updated as part of this cycle.

We also feel that, before these changes are made, they should be published more widely to industry and the general public.

In addition, we have further detailed comments set out in the following table :

Location in document	Proposal	Comment
Section 4.6.1.4.	The CE marking must be affixed visibly, legibly and indelibly to the product. Stickers and other removable options would not respect the indelibility requirement.	The use of suitable stickers is widely adopted and so this change is unwarranted. Better, would be to define the technical meaning of 'removable' and 'indelibility' and apply that to all means of marking.
Section 1.7, para 1	'...whether the defect was intended by the producer or whether he was negligent...'	We cannot imagine a producer will ever <b>intend</b> to include a defect, and so this should be clarified.
Section 4.2.6, final para	'The Commission may of course also withdraw from the OJEU any reference to a standard which does not comply with relevant essential requirements thus repealing its initial decision'	We presume this means that subsequently, somehow, the standard is found wanting and so it is withdrawn, and so would make the changes below.  'The Commission may also withdraw from the OJEU any reference to a standard which, subsequently, is found not to comply with relevant essential requirements thus repealing its initial decision'

Yours sincerely



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