



EUROPEAN COMMISSION
ENTERPRISE DIRECTORATE-GENERAL

Conformity and standardisation, new approach, industries under new approach
Mechanical and electrical equipment (including telecom terminal equipment)

Brussels, 4 March, 2005
Ref: 07-28 EMC-AUTOMOTIVE
DG ENTR/G/3

Guidance in the EMC guide on the relation of the EMC and Automotive EMC Directive

Introduction

The Commission recently was confronted with a national safeguard on a product, which was approved under the 95/54/EC Directive but was interfering with radio services operating on frequencies in the 10-20 GHz range. The manufacturer subsequently challenged the sales ban against the product on the basis of his approval under the 95/54/EC Directive. He supported this argument by referring to the EMC guide, which led him to believe that he only required that type approval to market the product.

The safeguard was done under the R&TTE Directive (1999/5/EC) as the national authority considered that the device falls within its scope. Notwithstanding this case and other discussions on the relation of the EMC Directive and the specific automotive EMC Directive (95/54/EC) have led the Commission Services to conclude that the guidance contained in the EMC guide on the relation between these Directives requires to be reviewed.

Notably the quite generic statements that the EMC Directive doesn't apply for equipment within the scope of the automotive EMC Directive require being qualified.

Background

Directive 95/54/EEC is a specific Directive in the sense of article 2.2 of the EMC Directive. This article provides for the possibility for specific Directives to regulate EMC requirements for which then no conformity assessment under the EMC Directive would further be required:

2. *Insofar as protection requirements specified in this Directive are harmonized, in the case of certain apparatus, by specific Directives, this Directive shall not apply or shall cease to apply with regard to such apparatus or protection requirements upon the entry into force of those specific Directives.*

This provision has been interpreted in the EMC guide for equipment within the scope of Directive 95/54/EEC (see [annex](#)). The EMC guide seems to categorically exclude equipment within the scope of 95/54/EC from the EMC Directive.

Analysis

When comparing the phenomena regulated by both Directives it becomes apparent that

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harmonised standards under 89/336/EEC cover a wider range of phenomena than regulated by 95/54/EEC. The latter Directive limits itself to regulating radiated emissions below 1 GHz and for safety critical components regulates higher levels of immunity. This thus implies that it doesn't harmonise all the protection requirements specified in Directive 89/336/EEC, reason for which it is incorrect to argue that Directive 89/336/EEC doesn't apply to such products at all. A logical line of thought is that it only ceases to apply for the phenomena, which are regulated by the automotive EMC Directive and thus continues to apply for all other phenomena.

The guidance in the EMC guide therefore needs to be updated. The amended text in annex 2 is proposed

Conclusion

The opinion of delegations on the revised text is requested.

ANNEX 1: EXCERPT OF THE EMC GUIDE

15.3 Application of the EMC Directive to motor vehicles (95/54/EC)

The EMC protection and safety requirements applicable to motor vehicles are laid down by the Directive 95/54/EC, that amends the Directive 72/245/EEC concerning electromagnetic interference produced by spark ignition engines intended to be fitted into motor vehicles.

In recognition of *the need for more stringent safety standards for the electromagnetic compatibility of vehicles and related components*, the Member States and Industry agreed the establishment of specific EMC provisions, under the terms of Article 2.2 of the EMC Directive. Directive 95/54/EC, the so-called “Automotive EMC Directive” was therefore adopted, entering into force on 1 January 1996, as specific Directive with respect to 89/336/EEC.

Scope and application of the Automotive EMC Directive (95/54/EC)

- ? For *new types* of vehicles placed on the EEA market after 1/01/1996, *new types* of components and *new types* of separate technical units intended to be fitted into motor vehicles and placed on the EEA market after 1/01/1996, the specific Directive 95/54/EC *is mandatory*. These products must bear the 'e' marking that confers free movement throughout the EEA area.
- ? For *new* components and *new* separate technical units type-approved before 1/01/1996 within Directive 72/245/EEC, which continue of being placed on the EEA market and/or put into service after 1/01/1996, compliance with Directive 95/54/EC is optional until **1st October 2002**.

For those products, Directive 95/54/EC will become mandatory only on **1st October 2002**. In other words, Directive 95/54/EC has a certain degree of optionality for such items until 1 October 2002. The circumstances under which the EMC Directive *may* continue to apply to products in the vehicle sector, for which Directive 95/54/EC is optional, are described in more detail later on.

Specific case of in-car entertainment products

Entertainment products (e.g. radios, cassette and compact disc players), intended for fitment in vehicles, fall within the scope of Directive 95/54/EC and are governed by the substantive provisions therein.

With the aim of clarifying the applicability of both EMC Directive 89/336/EEC and the Automotive EMC Directive (95/54/EC amending 72/245/EEC), to in-car entertainment products intended to be incorporated into a motor vehicle, such as car radios, CD players, etc., during the period 1/1/96 to 1/10/2002, the Commission issued a communication setting out its interpretation of the application of Directive 95/54/EC. This interpretation is explained as follows:

1. *Directive 95/54/EC establishes more stringent and appropriate safety requirements for the electromagnetic compatibility for vehicles and their components than are found in the general Directive 89/336/EEC. Therefore Directive 95/54/EC, which entered into force on 1 January 1996, constitutes a specific Directive for the purposes of Article 2.2 of Directive 89/336/EEC.*
2. *Entertainment products (e.g. radios, cassette and compact disc players), intended for fitment in vehicles, fall within the scope of Directive 95/54/EC and are governed by the substantive provisions therein. For such products, for the purposes of European type approval, these provisions apply on an optional basis until 1 October 2002, as stated in Article 2.5 of the Directive. From that date the provisions of Directive 95/54/EC become mandatory.*
3. *During this optional phase of the Directive Member States may deny free circulation to such products, intended for fitment in vehicles and which comply with Directive 89/336/EEC, on duly motivated safety grounds, having respect to Article 30 and 36 of the EC Treaty.*
4. *Therefore, due to its more stringent provisions, only compliance with Directive 95/54/EC provides a guarantee of free circulation within the EEA with respect to the electromagnetic compatibility of products intended for fitment in vehicles.*
5. *Products which are intended for fitment in both vehicles and other applications (such as boats or caravans) may be CE-marked in respect of that other application but such marking does not confer free circulation for products intended for fitment in vehicles.*

ANNEX 2: PROPOSED MODIFICATIONS TO THE EMC GUIDE

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In recognition of *the need for more stringent safety standards for the electromagnetic compatibility of vehicles and related components*, the Member States and Industry agreed the establishment of some specific EMC provisions, under the terms of Article 2.2 of the EMC Directive. Directive 95/54/EC, the so-called “Automotive EMC Directive” was therefore adopted and entered into force on 1 January 1996, as specific Directive with respect to 89/336/EEC for certain EMC phenomena.

Scope and application of the Automotive EMC Directive (95/54/EC)

? ? For *new types* of vehicles placed on the EEA market after 1/01/1996, *new types* of components and *new types* of separate technical units intended to be fitted into motor vehicles and placed on the EEA market after 1/01/1996, the specific Directive 95/54/EC *is mandatory*. These products must bear the 'e' marking that confers free movement throughout the EEA area. For the phenomena it doesn't cover, Directive 89/336/EEC continues to apply, reason for which such products should also continue to carry the CE mark.

ARGUMENT: the above is not further relevant as it describes the period before 95/54/EEC became mandatory