Ref: TCAM WG (15)03: minutes of TCAM WG 14

Draft minutes of the 14th meeting of the TCAM WG (Brussels)
31st May – 1st June 2018

Participants

European Commission:
Ms Barbara BONVISSUTO (Chairperson on day 1, DG GROW), Ms Birgit WEIDEL (Chairperson on day 2, DG GROW), Mr Nikos MICHAILIDIS (DG GROW), Mr Pier Francesco SAMMARTINO (DG GROW), Ms Dorota PAPIEWSKA (DG GROW), Mr Rüdiger MARTIN (DG CNECT), Mr KAUTZ Christoph (DG GROW).

Represented Organisations:
See List of Participants (CIRCABC)

Administrative Issues
The Chair opened the meeting by welcoming the participants and announcing the programme of the day.

1.1 Adoption of the Agenda
The agenda in Doc. TCAM WG (14)01r06 was approved, including under item 2.5 a point on the creation of the Expert Group on radio equipment, as requested by Italy.

1.2 Update of delegations
The Chair asked the participants to communicate to the Commission any update of the list of delegates in Doc. TCAM WG (14)02r01, if needed.

1.3 Minutes of TCAM WG 13
Italy suggested some changes to the minutes, which were agreed as in Doc. TCAM WG (14)03r01.

1.4 Follow-up of the Action Points in the Minutes of TCAM WG 13
The Commission Services followed up the 4 identified action points as below at the end of the minutes:

i. MS and other relevant stakeholders should report to the Commission their assessment on (i) the published MoU on the common charger and (ii) the scope and the content of a possible regulatory option, envisaged technical solutions and/or performance requirements and policy priorities.

Ref. Ares(2019)748406 - 08/02/2019
On this point the Commission Services reported that no documents were received in writing and invited MS and stakeholders to provide an opinion under the agenda point 2.

Stakeholders can provide comments to Doc. TCAM WG (13)05, 06 and 21 under well-justified reasons by 10th May 2018.

The Commission Services announced that some comments were received and, whenever possible, they were included in the new draft.

ETSI should provide a precise time plan for the adoption and delivery of the new versions of EN 301 908-2 and -13 with suitable OTA requirements.

The Commission Services announced that on 30th May they received the timeplan for EN 301 908-13 which was promptly made available in Doc. TCAM WG (14)15 and had been inserted under the documents of the agenda point 3.2.

CENELEC should provide an update as precise as possible on the harmonised standards in preparation for the RED.

The Commission Services announced that CENELEC had sent a new WP for the RED and the information therein was reported in the Annex II of Doc. TCAM WG (14)06r04.
2.2 Update on Article 3(3)

- Article 3(3)(a)
  The Commission Services recalled the publication of DigitalEurope’s MoU, explaining that it did not meet completely the Commission and European Parliament’s expectations. The Commission’s Services also recalled that they asked for the MS and stakeholders’ assessment of the MoU, yet they did not receive any. They also announced that, in order to have a thorough understanding of the problem, a study would be commissioned. This study would also serve as a basis of a potential Impact Assessment.
  ANEC pointed to some weakness of DigitalEurope’s MoU and supported the adoption of a delegated act pursuant Article 3(3)(a) and recalled the position papers/letters that had been addressed to the Commission. They also supported the enlargement of the scope of a possible delegated act to several electronic equipment, not only smartphones. Lithuania emphasised that some mobile phones are not smartphones and asked the reasons to limit the MoU to smartphones only. DigitalEurope replied to Lithuania mentioning that they invited non-smartphones manufacturers to sign the MoU, yet they refused to.
  The Commission Services fostered MS to consult all their relevant National Services and possible stakeholders and provide their position by the end of June 2018. They also announced that the study would take into account several factors (scope, safety, interoperability, performance, consumer convenience, environmental aspects, regulatory instruments, etc).
  Germany informed that internal discussions, not yet final, would point to a preference for a voluntary option but understood that the Commission has reservations on the final text of the MoU. They recommended to analyse whether the best option would be to use the available empowerment in Article 3(3)(a) or to consider another or adapt another legal instrument. The Commission confirmed that the aim of the study is to assess different options, including the regulatory one.

  ! Action point: MS to consult all their relevant National Services and possible stakeholders and provide their position on the Common Charger by the end of June 2018.
Also ANEC supported the adoption of delegated acts pursuant Articles 3(3)(e) and (f) of the RED. The Commission recalled that they proposed 3 initiatives: one under Article 3(3)(a), one under Article 3(3)(e) and (f), one under Article 3(3)(i) and 4. The date of possible adoption will be a result of the internal discussions, also considering the approaching end of the mandate of this Commission. The scope of the initiative on privacy and prevention of frauds was announced to be connected toys and smartwatches, without prejudice to an enlargement of the scope, which was requested by different stakeholders. The Commission Services asked also any stakeholder with additional comments or questions to be checked with the Commission’s Legal Service to communicate them to the Commission Services by 20th June 2018.

Action point: Any stakeholder with additional comments or questions to be checked with the Commission’s Legal Service to communicate them to the Commission Services by 20th June 2018.

• Article 3(3)(g) – Galileo

The Commission Services of DG GROW.J3 presented an update on the prospective delegated act on Article 3(3)(g), announcing that with respect to the last presented document, the present text had only been fine tuned. ANEC reported that some consumers with disabilities would like to have a “real-time and total conversation” requirement related to access to emergency services and asked whether this request was addressed in this delegated act. The Commission Services of DG GROW.J3 mentioned that they would look into this issue, noting however that under the RED this would probably fall under Article 3(3)(h) which was not the legal basis used for this delegated act.

ETSI asked whether the standardization can be carried out under the current standardization request M/536 and whether the Commission has specific requirements that would like to see in a prospective harmonised standard. The Commission Services of DG GROW.J3 pointed to the relevant recital. The Commission Services of DG GROW.C3 mentioned that they may be in contact at a later stage, e.g. when the delegated act is adopted providing guidance on what is expected from one or more possible harmonised standards.

Finland and Germany highlighted that making Wi-Fi mandatory in smartphones is a bit too restrictive and would like to have a more flexible wording also at the light of innovative products. The Commission Services of DG GROW.J3 mentioned that the issue was discussed internally and the Commission Services of DG CNECT fostered the inclusion of Wi-Fi technology only. Enlarging it to other technologies would make the obligation wider. In any case the Commission Services of DG GROW.J3 would look into this and undergo a second step of reflection. Lithuania recalled that the specific inclusion of Wi-Fi is due to indoor location, where Wi-Fi is the most dominant technology.

DigitalEurope asked how the connection between the mobile phone and the emergency service will be ensured. The Commission Services of DG GROW.J3 recalled that 14 MS have a technical solution in place.

• Articles 3(3)(i) and 4

The Commission Services provided a general overlook of the work of the Expert Group on Reconfigurable Radio Systems EG 03413 and recalled that the documents of the Expert Group E03413 had been made public. They also stressed that in the discussions of the Group several Experts, in particular MS, fostered a broad scope (i.e. almost all radio equipment) of the possible delegated acts. It was
also announced that the discussions in the group highlighted the existence of technical solutions for demonstrating compliance with the possible future essential requirements, when/if delegated acts would be adopted.

At the request of Lithuania, the Commission Services confirmed that, if and when the delegated acts under Article 3(3)(i) and 4 are activated, the compliance at the upload of new software would concern all the applicable essential requirements.

The Agenda point 3.1 was discussed before the Agenda point 2.3.

2.3 RED Guide and applicability of the RED

The Commission Services proposed a new draft RED Guide for endorsement, announcing that the received comments were included in TCAM WG (14)13 and 14. DigitalEurope and Orgalime objected the part of the guide related to the distribution of information documents in paper format for the purposes of Articles 10(8) and 10(10) and asked to include the possibility of distributing documents electronically. The Commission Services recalled previous discussions on the matter, also related to legal aspects of the Directive, and the position of the MS against this possibility.

It was therefore concluded that the current text would be kept. The new version of the RED Guide was consequently adopted.

2.4 Instructions and safety information

MWF presented document TCAM WG (14)09. France recalled that this document could be seen as a reaction to National Decrees, which received already MWF comments in its public consultation. The Commission Services recalled that in parallel there was an ongoing notification process from France to the Commission on this subject.

Orgalime provided the information that the EMF harmonised standards typically refer to the worst-case scenario. They also added that the imposition of reporting information on SAR under different configurations (as in the National Decrees) could only lead to additional costly test, because currently only the worst-case scenario is examined.

Lithuania questioned that SAR should be reported in the information to consumers according to Article 10(8) and the compliance with the harmonised standards, when applied, would suffice. DigitalEurope agreed with Lithuania and MWF adding that the CE marking is enough to ensure consumers about safety. France and the Commission Services asked the group whether they believed that the CE marking would be a sufficient indication for the purposes of the SAR or not. ANEC asked for the SAR information to be communicated to consumers, especially when products are intended for children. They would also welcome any additional safety information which could be provided to the consumers. ANEC also recalled that safety by design and safety information are two different concepts and CE marking is an indicator of safety by design, yet consumers should be informed, as also required by the law.

MWF recalled that their members made publicly available the EMF values on the MWF website. The main reason behind document TCAM WG (14)09 relates to possible discrepancies between the reported information in the instructions and the results of the tests of Market Surveillance Authorities, with risks of litigation. They also pointed to a key question, i.e. whether the SAR would be a relevant information to report to the consumers, as provided for in Article 10(8) of the RED. The Commission concluded that it would provide its assessment of the French measure under the relevant notification procedure.

2.5 Forthcoming Expert Group

At the request of Italy, the Commission Services informed the Group that the call would be launched shortly. The Commission Services also recalled the general rules for establishing and running Expert Groups.
3.1 State-of-play CENELEC

CENELEC presented an update of recent work, including the publication of a renewed Work Program (that the Commission summarised in Annex II of TCAM WG (14)06r04). 4 standards were announced to be awaiting the HAS consultant assessment. They also announced ongoing work on standards affected by the "80-80" rule or "performance criteria".

3.2 State-of-play ETSI

ETSI presented documents TCAM WG (14)08r02 and 15. The Commission Services presented documents TCAM WG (14)06 and 11. The Commission Services stressed that through the deployment of the HAS consultant, in parallel with the provided checklists, the Commission aimed to improve the quality and the efficiency of the review of standards and described the new procedures that they would follow on their side. Spain and Germany asked to have a feedback in the next meetings with respect to the work and the benefits of the consultant's scheme.

On the mapping of the receiver parameters, i.e. document TCAM WG (14)11, ETSI recalled the ongoing discussions with ECC SE21, which are expected to lead to a report in 2020. ETSI recommended the TCAM WG to get in touch with SE21 or to wait for the draft report in 2020. The Commission Services recalled that receiver parameters are requested by the law and the Commission's Services should be provided with the necessary information to understand which receiver parameters are needed for complying with the RED and to which extent they are coherent and justified across all ETSI standards. CEPT/ECC confirmed that SE21 was working on a report and a possible decision on receiver parameters. At the request of Orgalime on accessories, the Commission recalled and read the minutes of the previous TCAM WG meeting, mentioning that radio equipment, when it is placed on the market by means of harmonised standards, shall comply with the specifications of the harmonised standard. In other words, the harmonised standard cannot mandate the installation of accessories ex post in order to comply with its specifications. ETSI recalled that slide 7 of document TCAM WG (14)08r02 already took these discussions into account, generalising the outcomes of TCAM WG (13). At the request of MWF, the Commission Services answered that Article 7 is an obligation for Member States, not manufacturers. At the request of ETSI, the Commission Services recommended to inform the Technical Committees that harmonised standard should not mandate the installation of accessories after the placing on the market to comply with the specifications therein contained. In any case, the Commission Services recalled that a case-by-case analysis for specific standards might always be considered, although the general rule was clear and expected to be followed.

For equipment below 9 kHz CEPT gave an update on the developments from the spectrum regulators.

At the request of Applia, the Commission Services clarified that "intended use" has to be preferred to "intended use as defined by the manufacturers". This would be in line not only with the general RED framework but also with previous discussions under the LVD.

3.3 Summary report from the Commission

This point was treated in the previous two agenda points. No additional discussion took place.
The ADCO RED Technical Secretary of REDCA recalled a recent workshop on risk assessments, SAR and 5G which attracted a significant attendance from the stakeholders. The preparation of a Technical Guidance Notes on risk assessment and radio modules was announced. The latter was mentioned to be on hold until the approval and publication of the new RED Guide so to avoid conflicts. Also the update of four TGNs was announced. Switzerland asked REDCA to pay attention to the definition of “radio modules”, so to maximize the coherency with the Directive and avoid potential misunderstandings. REDCA reassured that this would be looked at.

The Commission Services provided the group with the link for accessing the publicly available documents of the EG RRS and confirmed that the changes asked by Italy to the minutes of the previous meeting would be uploaded shortly.

Prospective Meeting Calendar

• TCAM 49 + TCAM WG 15: 3rd – 4th December 2018

Closing of the Meeting

The Chairperson thanked the participants and the interpreters and closed the meeting.

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Summary of Action Points

COM to improve the mapping on cybersecurity according to the request of BEUC and NL.

MS to consult all their relevant National Services and possible stakeholders and provide their position on the Common Charger by the end of June 2018.

Any stakeholder with additional comments or questions to be checked with the Commission’s Legal Service to communicate them to the Commission Services by 20th June 2018.