

RCD ADCO REPORT

Introduction

1. The 20th Recreational Craft Directive Administrative Cooperation Working Group meeting was held in Prague on the 29 – 30 April 2009. The EBA was represented by Stuart Carruthers.

2. The Administrative Co-operation Working Group under the Recreational Craft Directive is composed of representatives of Member States market surveillance authorities, Industry (ICOMIA) and the user (EBA). This Group was established to pursue the following objectives:

- exchange information between Member States' authorities concerning the national market surveillance mechanisms;
- increase the efficiency of surveillance;
- minimise the effect of different surveillance practices;
- reduce the overlapping of national surveillance operations;
- spread good surveillance practices and techniques throughout the Community;
- exchange views and solve practical problems.

Principles of market surveillance

3. Market surveillance is an essential tool for the enforcement of New Approach directives. The purpose of market surveillance is to ensure that the provisions of applicable directives are complied with across the Community. Citizens are entitled to an equivalent level of protection throughout the single market, regardless of the origin of the product. Further, market surveillance is important for the interest of economic operators, because it helps to eliminate unfair competition.

4. Member States must nominate or establish authorities to be responsible for market surveillance. These authorities need to have the necessary resources and powers for their surveillance activities, ensure technical competence and professional integrity of their personnel, and act in an independent and non-discriminatory way respecting the principle of proportionality.

5. Notified bodies are excluded from the responsibility of market surveillance activities to avoid conflicts of interest. Notified Bodies meet under the auspices of the Recreational Sectoral Group which is reported on separately.

Market surveillance activities

6. Market surveillance involves two main stages:

- national surveillance authorities shall monitor that products placed on the market comply with the provisions of the applicable national legislation transposing the New Approach directives;
- subsequently, when necessary, they shall take action to establish conformity.

7. Although market surveillance operations cannot take place during the design and product stages, efficient enforcement usually requires that surveillance authorities act in collaboration with manufacturers and suppliers in order to prevent the placing on the market of non-compliant products. The objective of monitoring products placed on the market is to verify that they comply with applicable directives at the moment when placed on the market and, if relevant, when put into service.

8. The EC declaration of conformity and the technical documentation provide the surveillance authority with necessary information about the product. The EBA role is to represent the experience of the user over a vast range of products and to draw attention to equipment and craft that it suspects do not conform or are being imported without proper Post Construction Assessment or where it is suspected that the documentation has been faked.

Points of note from the meeting

9. **RCD 'wish list'**. A great deal of the first day was devoted to finalising the 'Wish list' of the forthcoming amendment to the RCD in line with the new legal framework. Most of the topics concerned Pillar 3 - Short-list of current RCD provisions eligible for possible amendment pursuant to suggestions tabled by and discussed with stakeholders (wish-list) – and to ensure that definitions and certain technical provisions concerning partly built craft, PWC and multihulls were fully understood. This was important as the Commission now has to prepare the amending directive for submission to EU parliament.

10. **Post Construction Assessment for Personal Water Craft**. In February 2009, the International Marine Environmental Protection Committee (a sub group of ICOMIA) were asked to provide advice to Notified bodies through the Recreational Sectoral Group on certain parameters that need to be fulfilled for PWC to demonstrate *equivalent* compliance to the RCD under the mechanism of PCA. The Paris ADCO meeting confirmed that PCA requires an *individual* assessment and no type approval methods can be employed. IMEC is aware that some PCA being carried out at present on PWC do not meet this stipulation. The planned revision of the RCD also makes clear that this is to be an individual assessment.

The IMEC PWC Task Force met recently to consider the request. Its views on the criteria that must be met to demonstrate *equivalent* conformity as shown below:

- a. Construction. It must be certified against *all* of the following US SAE standards otherwise a full construction assessment must be made in accordance with EN ISO 13590:2004:

J2566 : Personal Watercraft--Display of Persons Capacity Information

J2034 : Personal Watercraft Ventilation Systems

J1973 : Personal Watercraft--Flotation

J2120 : Personal Watercraft--Electrical Systems

J2046 : Personal Watercraft Fuel Systems

J2608 : Off Throttle Steering Capabilities of Personal Watercraft

J2882 : Top Speed Measurement of Personal Watercraft

- b. Sound. For each unit that will be offered for a PCA, the Notified Body subjecting the unit to a PCA must carry out an *individual* sound test in accordance with the harmonised standard. This is a consequence of non-EU models having no sound assessment and in particular for US models, the PWC may have been modified from their manufacturer's specification, a common practise. Thus sharing of sound test results between notified bodies will not provide an individual assessment since it provides no certainty that the specific PWC will meet the sound emissions' limit.
- c. Exhaust Emissions. US specification craft which have engines certified under either CARB 3 Star or EPA 2010 Rules may be assessed as demonstrating *equivalent* conformity. All EPA rules earlier than and including EPA 2006 and CARB One and Two Star are less stringent than current and future RCD limits and may not be used to grant equivalent conformity. Therefore any PWC that does not comply with CARB 3 star or EPA 2010 must have an *individual* exhaust emissions test.

IMEC believe that if these measures are used by Notified Bodies, it will ensure that a true equivalent conformity has been achieved and this has been an *individual* assessment. It should also deny those economic operators that are seeking to run a business masquerading as an individual and seeking to exploit perceived benefits of a currently lax PCA procedure.

11. Inflatable sailing catamaran. Cyprus reported that they had come across importation of small sailing inflatable catamarans made in the US by Sea Eagle. Manufacturers are claiming that this is a catamaran pontoon and does not need to comply with the RCD and furthermore they are importing it all over Europe without problem. After a short discussion, it was agreed that there was no exemption for the craft in the RCD under Article 1.3.a and it should comply with the RCD and be CE plated. Market Surveillance authorities were alerted to this and I spoke to the UK rep, he was aware of one Sea Eagle products importer in the UK but so far he was not offering this boat for sale. The UK authority confirmed that they were investigating further because the importer has not given full contact details on his web site which is a requirement of UK Law.

Stuart Carruthers
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