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### **BUSINESSEUROPE's response to first-stage European Social Partner consultation on electromagnetic fields at work (Directive 2004/40/EC)**

#### **I. Introduction**

1. The European Commission decided on 1 July 2009 to launch a first-stage consultation of the European social partners as regards the possible amendment of Directive 2004/40/EC on minimum health and safety requirements regarding the exposure of workers to the risks arising from electromagnetic fields (EMF).
2. The consultation follows postponement of implementation of the existing Directive 2004/40/EC. As this directive would have had negative consequences for the use of certain common technologies such as medical MRI scanning, it was decided in 2008 to delay transposition of this directive by EU member states until 2012. The interim period was to be used by the Commission to review the directive and find a solution that will also take into account the most recent research and technological recommendations.

#### **II. General remarks**

3. Whilst most of the observable effects do not amount to harm, BUSINESSEUROPE acknowledges the potential health risks of exposure to EMF and that such risks should be dealt with adequately. Consequently, European employers agree with the principles stated in the preamble of the directive: to secure improvements, especially in the working environment, to guarantee a better level of protection of the health and safety of workers by providing a system of protection against EMF without imposing undue administrative, financial and legal constraints on employers.
4. In line with the Commission's agenda for better regulation in Europe, however, employers seek a thorough review of the directive and in particular of the technical annex. This is because the current directive 2004/40/EC will have an unnecessary negative impact on technological processes, equipment and workplaces without securing a better level of protection for workers. In addition, it will impose excessive administrative and financial burdens on many businesses, particularly for SMEs, which would be disproportionate to any potential benefit.
5. Therefore, BUSINESSEUROPE is in favour of option 2 in the consultation document: a proposal to amend the existing binding legislative provisions that introduce new revised exposure limit values based on the latest international recommendations.



6. However, a revision of the directive should not be based on the assumption that only the limit values are revised. European employers also find it of great importance that a more practical approach concerning risk assessment is integrated into a new revised directive. Furthermore, such a directive must work for companies of all sizes, across all sectors, in all member states.
7. Finally, a revised directive would need to be complemented by guidelines, information campaigns, training, etc., in order to be effective.

### **III. Specific remarks**

8. BUSINESSEUROPE below provides specific answers to the individual points for consultation, as requested in section 4 of the consultation document.

(1) *Do you consider the current Directive 2004/40/EC sufficient for the health and safety protection of workers exposed to electromagnetic fields during their work?*

9. BUSINESSEUROPE strongly opposes implementation of an unchanged directive 2004/40/EC. We do not consider the current directive an appropriate way forward as its implementation would pose problems for many sectors of industry in terms of compliance without ensuring a better level of protection of the health and safety of workers. The burdens and cost to business would be disproportionate to any potential benefit.
10. The imminent problems that implementation of this directive would entail include the following:
11. Firstly, the exposure limit values are set low in the directive. This is due to the fact that they are based on the 1998 guidelines from the International Commission on Non-Ionizing Radiation Protection (ICNIRP) which are designed to avoid detectable biological effects rather than harm. This in practice leads to an excessively restrictive upper limit for exposure and means that some sectors of industry per definition will exceed the exposure limit values. As such they will therefore be hindered in carrying out their function within the EU should the directive be implemented, e.g. sectors doing simple welding.
12. Secondly, the action values are also set low. Consequently, a number of work processes exceed the action values such as resistance welding, electrochemical processes, and induction heating. Therefore, in all these typical industrial work processes – even though the EMF exposure will not pose a real risk to workers – a detailed assessment and in many cases calculation will need to be carried out to see whether the action values are exceeded or not.
13. Thirdly, with the current low action values, the assessment will in general lead to the conclusion that the action values are exceeded and therefore further measurement / calculation will be required to show whether or not the exposure limit values are exceeded.
14. Assessment and measurement will become the norm, not a rare exception, and create a huge burden for businesses, in particular SMEs. Seeing that the limit



values are not directly measurable, the calculations for the proof of compliance require highly technical equipment and expertise which companies to a great extent can only acquire through costly purchase externally.

15. Fourthly, there is in some incidences a lack of legal clarity, since the margin of error in EMF measurements is quite substantial in some case, for instance using older measurement equipment. This poses a legal problem in particular when the limit and action values are too restrictive.
16. To conclude, there is a need for a review of the exposure limit and action values based on the latest international scientific information. Bearing in mind that there is no evidence of occupational accidents or health problems – at least in the extremely low frequency range, BUSINESSEUROPE believes that both the limit and the action values can be raised and the action values can be set closer to the exposure limit values without jeopardising worker health and safety.
17. By raising the action values closer to the exposure limit values, it will help reduce the difficulties that a number of sectors have with demonstrating compliance. This will therefore help reduce the costs to business of implementing the requirements of the directive.
18. A more flexible and practical approach should be adopted, specifying that measurement and calculations are only needed when the action values are likely to be exceeded. Further, specific attention should be given to the elaboration of a practical way to document evidence of compliance with the specified levels of action values and limit values. This approach should be based on easy-to-operate common methods of measurement and a model which reflects the real risk derived from the results of these measurements. Unnecessary administrative burdens should not be placed on companies where there is no real risk to workers' health due to EMF exposure. A new revised directive should embody a sense of proportion between the preventive measures and the risk.

(2) *Do you think that a Community initiative is the best way to ensure a high standard of protection of workers exposed to electromagnetic fields?*

19. BUSINESSEUROPE believes that a Community initiative is the best way to proceed in the field of EMF. This is not because it ensures a high standard of protection of workers exposed to EMF at work, since the Framework Directive 1989/391/EC already provides for both the assessment of risks and the management of any risk identified.
20. This is because BUSINESSEUROPE believes a harmonised approach is needed throughout Europe and across all industrial sectors. If national regulatory provisions on the subject are to be deployed this will result in differences between member states, as some countries have already transposed the legislation or have their own legal frameworks. This would hamper legal certainty which is required for companies across sectors and across member states.

(3) *Do you think that certain categories of workers should be excluded from the scope of any future Community initiative because of reported implementation problems (e.g. medical procedures involving MRI) with some provisions (exposure limit values) of Directive 2004/40/EC?*



21. From BUSINESSEUROPE's point of view, as the cross-sectoral representative of European companies, no categories of workers or work activities should be excluded from the scope of any future Community initiative. The current directive should be revised in such a way as to offer a solution for all companies operating in Europe potentially affected by the directive, rather than solutions which are only applicable to certain sectors. This is particularly the case for exemptions from the entire directive.
22. A new revised directive on electromagnetic fields at work should be based upon sound scientific evidence. Following this principle, there is no justification for permitting workers in one sector to experience higher exposures than in another. Allowing conditional exemptions for specific sectors would be an admission that the directive is not fit for purpose.
  - (4) *Would you find non-binding measures – such as the production of good practices guides, launching of regular information campaigns, setting-up appropriate training programmes, and drawing-up of voluntary agreements between the social partners at EU or sectoral level – useful, and for what purpose?*
23. BUSINESSEUROPE supports the production of good practice guides, information campaigns, training programmes, etc., as complementary to a Community initiative in terms of raising awareness and assisting companies with the implementation of that initiative. The guide that is being drawn up by the Advisory Committee on Health and Safety Working Party on EMF is a good example of this. However, BUSINESSEUROPE does not believe that non-binding measures alone would be the most effective way forward in the field of EMF.
24. Furthermore, BUSINESSEUROPE does not agree that voluntary social partner agreements at European or sectoral level would be appropriate in the field of EMF.
25. Firstly, social partner agreements that are not based on the latest scientific evidence could lead to unnecessarily restrictive limit values being negotiated as a consequence of unwarranted concern. Secondly, such agreements could create different approaches at national level in the different member states which would prevent a practical approach for European companies as they would have to be familiar with and to comply with different rules across the EU.
26. Consequently, such agreements could in several ways unintentionally result in considerable unnecessary cost for businesses in the EU.
  - (5) *Should a possible future EU Community initiative cover the long-term effects of workers' occupational exposure to electromagnetic fields?*
27. A possible future EU Community initiative should not cover the long-term effects of workers' occupational exposure to EMF as there is no conclusive scientific evidence establishing a causal relation between long-term exposure to EMF and health effects.



28. When the current directive was adopted, there was no evidence for long-term effects of workers' occupational exposure to EMF, which is why this aspect was not included in the directive. The scientific data on possible health effects after long-term exposure to EMF is still very limited or even negative. In the authoritative statements of IARC<sup>1</sup> and WHO<sup>2</sup>, the classification of magnetic fields as being possibly carcinogenic is driven only by rare cases of childhood leukaemia. There is no scientific evidence that supports an association between EMF exposure and all other cancers, including adults and occupational exposures, and for other diseases in adults. Furthermore, the latest conclusions from SCENHIR presented in February 2009 conclude that no new evidence supports a link between long-term exposure to EMF and human health effects.<sup>3</sup>
29. Therefore, drawing conclusions regarding potential long-term health effects would be based on insubstantial grounds and could lead to arbitrary exposure limit values without ensuring better worker health and safety protection, which is not to be recommended. Further long-term exposure studies are needed in order to examine the exposure limits and to evaluate whether there are any risks to human health before a possible future EU Community initiative seeks to cover long-term effects. This line is also promoted by the WHO in the WHO guidance.<sup>4</sup>

#### **IV. Conclusion**

30. BUSINESSEUROPE agrees with the principles in the current directive 2004/40/EC but does not believe that the directive is proportionate to its aim.
31. Without securing a better level of protection for workers exposed to EMF, implementation of the current directive will have an unnecessary negative impact on European businesses. It will hinder the creation and development of technological processes, equipment and workplaces, and impose excessive administrative and financial burdens on many businesses, particularly for SMEs and will ultimately lead to a reduction in the competitiveness of EU businesses.
32. Consequently, BUSINESSEUROPE strongly opposes implementation of an unchanged directive 2004/40/EC. A revision of the existing binding legislative provisions in the directive is necessary, introducing new higher exposure limit and action values based on generally acknowledged recommendations as well as a more practical approach to the risk assessment requirements and a sound prevention concept.

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<sup>1</sup> IARC: Monographs on the Evaluation of Carcinogenic Risks to Humans. Static and Extremely Low Frequency Electric and Magnetic Fields, Vol. 80, 2002.

<sup>2</sup> WHO: Extremely Low Frequency Fields, Environmental Health Criteria Monograph No. 238, 18 June 2007.

<sup>3</sup> SCENHIR: Scientific Committee on Emerging and Newly Identified Health Risks: Health Effects of Exposure to EMF. European Commission 2009.

<sup>4</sup> WHO: Fact sheet no. 322, June 2007