



Electronic Communications Committee (ECC)
within the European Conference of Postal and Telecommunications Administrations (CEPT)

ENFORCEMENT BENCHMARKING

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0 EXECUTIVE SUMMARY

This report is based upon a questionnaire drafted by the WGRA Project Team on Enforcement Issues (PT RA1) and circulated to CEPT administrations in September 2005. The first report was agreed by WGRA in 2006, and this report will also be submitted to WGRA for consideration. The report sets out the questions asked and the detailed responses received from 18 CEPT administrations.

From the information received in response to the questionnaire it is clear that there are variations in enforcement activities across Europe, as well as many similarities. The results have been presented in table form to reflect the actual data submitted. Conclusions and recommendations have been drawn based on an analysis of this raw data.

The report highlights the cross-border relationships and activities that each enforcement organisation concentrates upon. These activities have been broken down by area of work and number of tasks carried out over a two-year period (2005 and 2006). The report also builds a picture of each enforcement organisation by detailing the numbers of staff each organisation has, and the areas of enforcement they are most active in. The report also presents enforcement criteria and principles of planning the enforcement operations and use of resources.

The report points towards the need for a greater level of co-operation across member states within the enforcement area. The success of cross-border agreements is also highlighted as a good method of sharing resources and information and preventing borders becoming an obstacle to the resolution of cross-border interference caused by radio signals.

The report is intended also to stimulate further constructive discussions on best practises. It shows that in some enforcement areas there are significant differences, but is not able to give complete reasons for that. Many administrations have reported reductions in enforcement resources so prioritising and effective allocation of resources seems to become more and more important. Learning from good experiences of other administrations and successful methods of co-operation will help administrations in those tasks.

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1 INTRODUCTION

In accordance with the definition from ECC Report 015¹ enforcement means: “The range of actions and sanctions that can be used to enhance national law and regulations for the purpose of achieving the best possible quality of (radio) communications for the legitimate users of the radio frequency spectrum.” It includes taking action against occurred and potential sources of interference and unauthorised use and may include appropriate measures.

Enforcement can include all types of investigation activities such as:

- market surveillance
- inspection of radio equipment
- spectrum monitoring
- interference investigation.

A proposal to benchmark enforcement activities across CEPT administrations was agreed at the meeting of WGRA on February 2005. It was recognized that enforcement authorities across Europe are under increasing pressure to respond to a more rapidly changing technological and regulatory telecommunications environment. This has a corresponding impact on working practises, resources and knowledge for all enforcement organisations. Comparing the results and resources of enforcement organisations within CEPT was seen as a useful indicator of enforcement activities across Europe. The subsequent report, based on this exercise, was seen as a good method of sharing the information and encouraging more co-operation between the national enforcement organisations of member administrations.

The first questionnaire on bench marking was prepared by PT RA1 and submitted to CEPT administrations in September 2005. The first Report on Benchmarking of Enforcement Authorities was approved at the meeting of WGRA in October 2006, where it was also decided that the report should be reviewed regularly.

The first questionnaire, although very useful, was focused on the number of activities. The first report gave a good indication of the numbers of tasks carried out by each administration and their relative effectiveness. The report did not, however, analyse the results with a future-facing attitude and did not make any recommendations on enforcement activities or ways forward. This second report seeks to build on the success of the first report, but reflects the results in a different way.

The objective was to gain an European-wide picture of the duties and responsibilities of enforcement organisations within each administration. In order to gain information a questionnaire was agreed (annex 1) and sent to the members of PT RA1 in order to collect data on their organisational structure, enforcement activities, powers, sanctions and the effectiveness of their efforts. Special interest was paid to activities with a view to highlighting any cross-border co-operation or agreements between administrations.

Completed questionnaires were received from 18 administrations, and this report is based on the enforcement activities described in these submissions.

Comparison of administrations’ responses to the questionnaire is rather difficult. Any analysis should be conducted cautiously as every administration operates differently, and only the same types of processes and actions should be compared. Nevertheless, even taking such divergence into account, the results provide some valuable comparisons and an overview of the work of enforcement authorities.

It is also worth noting that some administrations do not only perform enforcement in the areas questioned. For example there are administrations that also perform enforcement activities in the satellite area, coverage plots and the "112" emergency service. This service must perform efficiently and be free from interference.

¹ ECC Report 015 on market surveillance, radio equipment inspection, spectrum monitoring and the enforcement aspects of these activities, reviewed May 2008

2 ANALYSIS OF RESPONSES TO THE QUESTIONNAIRE

The raw data has been extracted from all received questionnaires and collated for easy comparison of all data received during the exercise. The charts within the report show each administration as a country code (annex 2).²

2.1 Enforcement activities

Each enforcement organisation stated which activities it performs in its day-to-day operations. All organisations are responsible for **interference investigation and action against illegal and/or unlicensed use** of radio equipment.

Almost every organisation was responsible for **on-site inspections** of radio installations and **market surveillance** of radio and telecommunications terminal equipment. Table 1 gives a detailed overview (country codes for the tables can be found in annex 2).

Enforcement activities								
	Action against illegal and/or unlicensed use of radio equipment	Investigating interference to business radio systems	Investigating interference to licence exempt systems	Investigating interference to TV and broadcast radio receivers	On-site inspections of radio installations	EMC Market Surveillance 2004/108/EC or equivalent national regulation	R&TTE Market Surveillance 1999/5/EC or equivalent national regulation	Other (EMF etc)
BIH	✓	✓	✓	✓				
BEL	✓	✓	✓	✓	✓		✓	
SUI	✓	✓	✓	✓	✓		✓	
CZE	✓	✓	✓	✓	✓	✓	✓	✓
D	✓	✓	✓	✓	✓	✓	✓	✓
EST	✓	✓	✓	✓	✓		✓	
E	✓	✓	✓	✓	✓	✓	✓	
FIN	✓	✓	✓	✓	✓		✓	
F	✓	✓	✓	✓	✓		✓	✓
G	✓	✓	✓	✓	✓	✓	✓	✓
HNG	✓	✓	✓	✓	✓	✓	✓	
IRL	✓	✓	✓	✓	✓	✓	✓	
LTU	✓	✓	✓	✓	✓	✓	✓	
HOL	✓	✓	✓	✓	✓	✓	✓	✓
ROU	✓	✓	✓	✓	✓	✓	✓	
SRB	✓	✓	✓	✓	✓	✓	✓	
S	✓	✓	✓		✓		✓	
SVK	✓	✓	✓	✓	✓	✓	✓	✓

Table 1: Enforcement activities

The five administrations highlighted yellow in the Table 1 are responsible for all the areas of enforcement on which the questionnaire concentrated. All administrations have tasks related to illegal or unlicensed use of radio equipment and interference to business radio (licensed) systems and licence exempt systems. Most administrations also perform investigations to interference into broadcast receivers, on-site inspections of radio installations and market surveillance of

² The Czech Republic has two separate bodies dealing with enforcement matters. The Czech commercial inspection organisation deals with the market surveillance activities of products across all areas - not only technical equipment but also consumer goods, toys, machinery etc. The numbers submitted for enforcement actions include all of these areas. The second body, the Czech Telecommunication office has responsibility for radio inspection and spectrum monitoring activities. For ease of comparison the responses of these two bodies have been combined in this report in order to be able to compare country-specific information.

radio and telecommunications terminal equipment. Twelve administrations out of eighteen reported that they perform EMC market surveillance. Six administrations also perform tasks related to EMF.

It should be noted that this result reflects only the tasks of the organisations that responded to the questionnaire. Some tasks listed in the questionnaire - typically EMC or EMF matters - may be under the responsibility of other national organisations which did not necessarily have an opportunity to take part in this exercise. Grey boxes in the tables show where no data was received. It was not clear whether this was due to administrations not being able to supply data for these tasks, or administrations not performing these tasks. Hyphen in the tables indicate that the administration informed not to have any information available.

For more detailed information, the questionnaire included questions concerning numbers of different kinds of enforcement cases from years 2005 and 2006. These numbers are presented in tables 2 and 3.

Not all administrations compile results of this kind nationally. However, the need to quantify and qualify workloads is ever increasing in administrations as resources are reduced and priorities changed.

Enforcement cases in 2005										
	Action against illegal and/or unlicensed use of radio equipment	Investigating interference to business radio systems	Investigating interference to licence exempt systems	Investigating interference to TV and broadcast radio receivers	On-site inspections of radio installations	EMC Market Surveillance administrative check	EMC Market Surveillance technical test	R&TTE Market Surveillance administrative check	R&TTE Market Surveillance technical test	Other
BIH	1	14	-	78	15	-	-	-	-	40
BEL	146	65	207	336	1258	-	-	>2500	-	-
SUI	285	39	1	25	241	-	-	229	254	-
CZE	65	175	10	1791	784	164	17	498	42	363
D										
EST	-	32	-	-	-	-	-	2248	-	-
E	-	962	52	221	1356	-	-	321	195	-
FIN	19	112		124	20	-	-	391	32	45
F	534				115	-	-	-	-	-
G	770							100	31	-
HNG	39	92	-	211	1332	6	40	25	132	-
IRL	8	55	8	32	15	-	-	12	-	12
LTU	31	91	-	274	152	4	4	132	20	-
HOL	680	55	24	128	970	100	100	100	45	-
ROU	246	50	200	1290	1675	192	-	289	-	-
SRB										
S										
SVK	9	56	70	22	393	5	-	254	-	-
Total	9735				8326	471	161	7099	751	460

Table 2: Enforcement cases in 2005

Enforcement cases in 2006										
	Action against illegal and/or unlicensed use of radio equipment	Investigating interference to business radio systems	Investigating interference to licence exempt systems	Investigating interference to TV and broadcast radio receivers	On-site inspections of radio installations	EMC Market Surveillance administrative check	EMC Market Surveillance technical test	R&TTE Market Surveillance administrative check	R&TTE Market Surveillance technical test	Other
BIH	2	18	-	60	2	-	-	-	-	89
BEL	79	62	242	313	975	-	-	>2500	-	-
SUI	297	68	16	32	245	-	-	226	317	-
CZE	62	200	10	1781	419	169	-	473	25	120
D										
EST	-	45	-	-	-	-	-	1407	-	-
E	-	756		81	320	1245	-	-	361	223
FIN	18	113		121	8	-	-	366	23	97
F	599				123	-	-	40	40	-
G	1085							119	39	-
HNG	153	102	-	43	819	78	38	154	71	-
IRL	10	68	19	46	62	6	8	80	-	80
LTU	29	58	-	238	200	6	4	120	42	-
HOL	541	112	26	227	1553	152	100	152	8	-
ROU	118	62	450	1752	2686	280	-	1581	-	-
SRB	452	310	52	269	740	-	12	721	-	-
S								173	60	1
SVK	5	128	79	17	279	10	-	144	-	-
Total	11746				9356	701	162	8617	848	387

Table 3: Enforcement cases in 2006

Looking at the numbers of enforcement cases it can be seen that the amount of actions against unlicensed use of radio increased from 2005 to 2006. Also the number of cases concerning interference investigation and on-site inspections has increased.

The changes in figures concerning market surveillance can be considered negligible because figures from one country can affect the result too much. This can be seen especially in the increase of nearly 33 % of administrative checks of radio and telecommunications terminal equipment which is almost solely due to the numbers of Romania and Serbia. Regarding EMC market surveillance or EMF (other) cases, the amount of respondents is too low to draw any significant conclusions.

Most administrations perform actions against illegal or unlicensed use of radio equipment, interference investigation, on-site inspections of radio installations and R&TTE market surveillance. When the numbers of cases concerning these four main tasks are compared it can be seen that the most common case of enforcement is on-site inspection of radio installations which cover 34 % of cases. Interference investigations³ cover 30 % of cases, R&TTE market surveillance 26 % and actions against illegal or unlicensed use of radio equipment 10 %.

The range of values is largest in on-site inspections of radio installations where the lowest value is 2, and the highest 2686 (year 2006). This may partly be due to limitations of the questionnaire itself and differences in national statistics criteria, but it can be assumed that the result also conceals significant differences in enforcement policies and working methods when it comes to on-site inspections.

Regarding interference investigations the range of values is largest in interferences to broadcast receivers. In this area it is assumed that there are major differences in enforcement policies. Also the overall amount of interference investigations varies substantially. The reasons for these differences need further studies.

³ Includes investigating interference to business radio systems, to licence exempt systems and to broadcast radio receivers

It is also a known fact that in countries that follow the R&TTE Directive 1999/5/EC the resources for market surveillance vary greatly, mainly because the Directive does not clearly define market surveillance issues. The revised New Approach⁴ is expected to set a minimum level of market surveillance, and therefore it could be assumed that quality and quantity of actions in this field will become more uniform in future.

Since several countries did not supply numbers for all categories and did not state whether this was due to lack of cases or lack of information, it is not reasonable to compare the total amounts of cases to population or count average values or medians. Chart 2 shows, however, some categories adjusted to population.

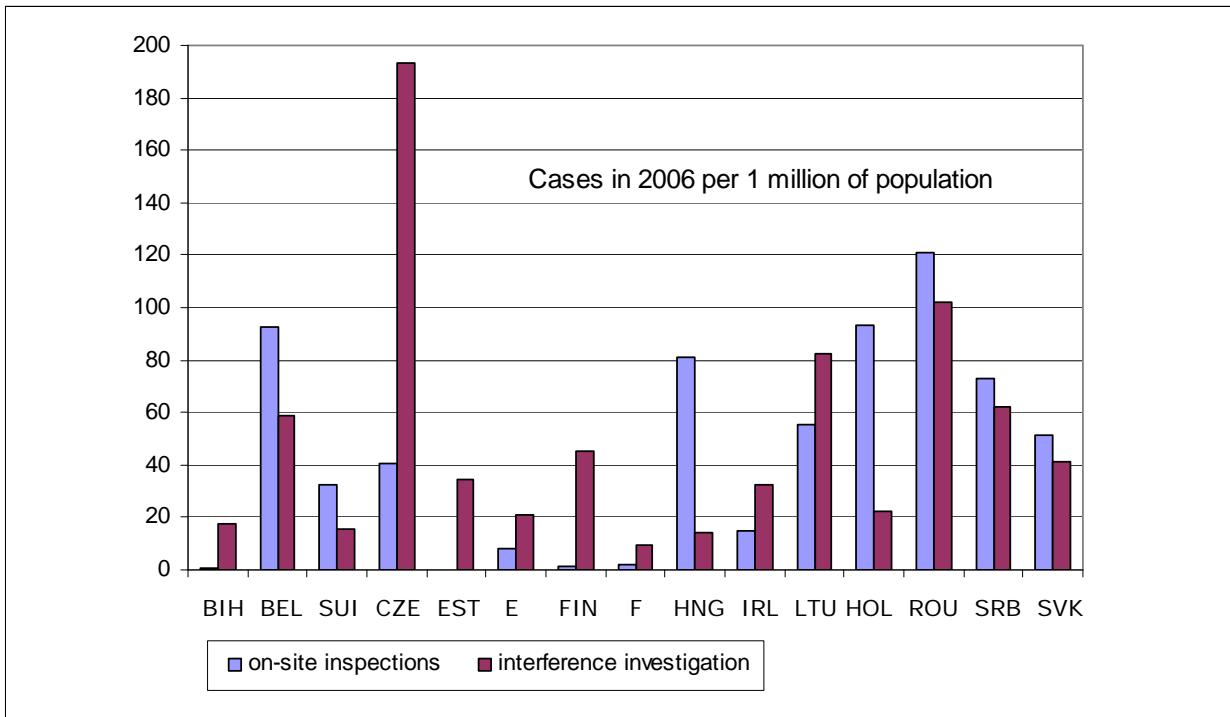


Chart 1: Enforcement cases per 1 million of population (2006)⁵

It has to be recognized that the questionnaire did not specify "a case" in detail, and therefore the respondents have been forced to be quite creative when transforming their national data to match the categories in the questionnaire. Only the main lines can be seen from the results, and any extensive conclusions concerning the numbers of one country should not be made on the basis of this report.

Some organisations, such as the Dutch, have reduced in size over this period. This may account for such time-intensive work being reduced as the existing staff needs to prioritise tasks since the organisation cannot operate at the same level with less staff, and they therefore operate on a risk analysis basis. Comparing numbers of organisations that have cut back resources with numbers of other organisations can give impulses and ideas when prioritising tasks and allocating resources.

2.2 Enforcement organisation

Enforcement organisations were asked for background information on their structure and type of organisation. Nine organisations described themselves as agencies, five as non-government organisations and four as government departments.

Of the 18 administrations who replied four had enforcement organisations with only one office. All others had regional offices strategically situated around the country. Some have offices dedicated to specific functions.

⁴ Regulation (EC) No 765/2008

⁵ Numbers of Sweden, Germany and UK were not available and therefore not included.

Regional offices 2006																		
Countries	BIH	BEL	SUI	CZE	D ⁶	EST	E	FIN	F	G	HNG	IRL	LTU	HOL	ROU	SRB	S	SVK
Regional offices	-	5	12	21	10	3	17	-	7	11	6	-	4	-	4	2	4	4

Table 4: Regional offices (year 2006)

A question on the size of the organisation, also in terms of staff, was asked. Table 5 below shows the staff headcount and Chart 1 shows staff per 1 million of each country's population.

Enforcement staff 2006																		
Countries	BIH	BEL	SUI	CZE	D ⁷	EST	E	FIN	F	G	HNG	IRL	LTU	HOL	ROU	SRB	S	SVK
Inspectors	-	56	29	488	66	8	55	14	67	76	23	4	5	45	130	6	26	61
Administrative staff	20	8	1	93	20	3	119	1	20	8	3	-	-	6	6	1	-	-
Managers	4	5	6	35		-	4	1	10	23	4	1	12	6	6	3	1	7
Secretarial staff	12	-	4	20		1	2	-	9	-	2	-	-	2	-	1	-	6
Lawyers	12	.5	4	22		1	6	0.5	8	-	2	-	8	3	4	-	-	-
Other	42	-	12	-		-	118	-	28	-	6	-	36	7	-	1	-	-
Total	90	74	56	658	86	13	304	16.5	142	107	40	5	61	69	146	12	27	74

Table 5: Enforcement staff (year 2006, incl. staff of regional offices)

⁶ This number does not include the service centres which also perform enforcement tasks.

⁷ This number does not include the service centres which also perform enforcement tasks.

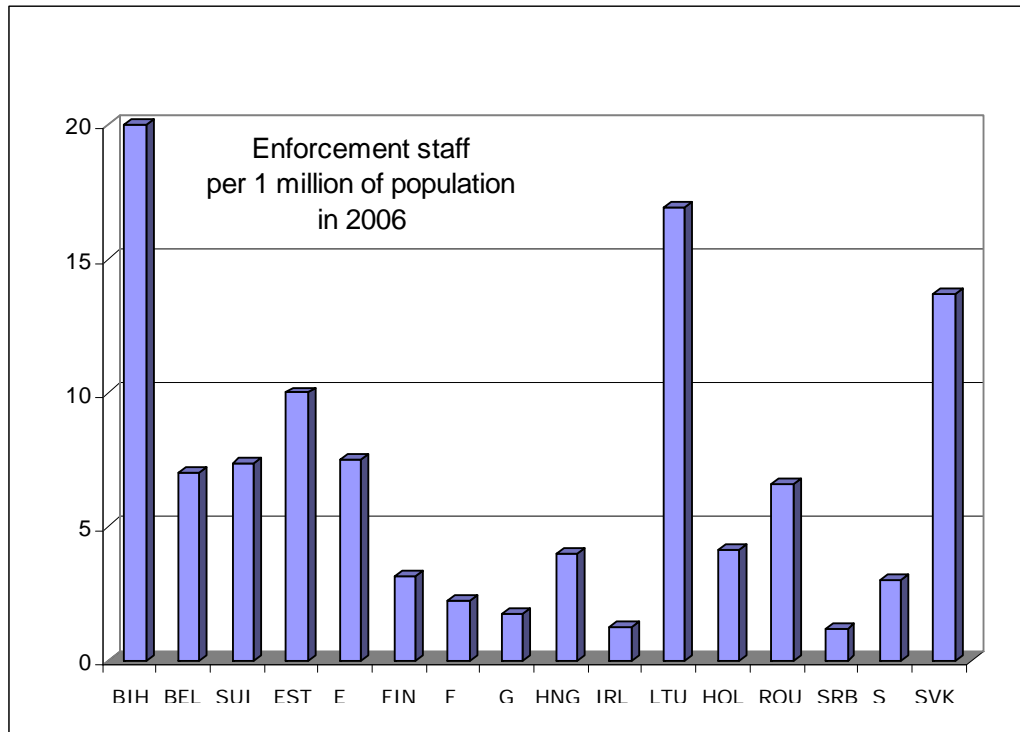


Chart 2: Enforcement staff per 1 million of population⁸

Comparing staff numbers is difficult as administrations have different tasks. Also geographical conditions, e.g. area to be covered, should be taken into account when comparing staff numbers. Language conditions can also have an influence since for example in Switzerland enforcement must cater for three national languages, and Finland and Belgium for two national languages. Also national regulations concerning administration can affect the workload of enforcement organisations.

2.3 Intervention

The questionnaire also included questions that aimed to clarify the powers each organisation has in the enforcement area. The questions were asked whether the enforcement organisations can intervene with sanctions, fines or ultimately prosecutions, and to what extent they can intervene in cases of non-compliance.

In the responses received a wide variety of intervention measures were listed: Warnings, prosecutions, revocations, sales bans, fines, conditional fines, confiscations etc. Due to differences in national legislation definitions and designations of intervention measures varied, as well as conditions for using the powers. However, any alarming discrepancies from the point of view of the final result of interventions were not found in this questionnaire.

The organisations were asked whether the intervention actions taken were initiated and carried through solely by the organisation or was it a combined or shared effort. Half of the organisations reported to be fully responsible for the whole intervention process, and the other half share the responsibility, for example with the public prosecutor.

Most organisations perform the tasks of giving informal warnings, sending warning letters and actual revocations. However, only a few of the organisations who returned the questionnaire prosecute offenders. Tables 6 and 7 below show the numbers of interventions and what form they take. The cases were broken into market surveillance cases and other enforcement cases over a two year period, 2005 - 2006.

⁸ Numbers of Germany are not comparable and therefore excluded

Interventions 2005																		
	BIH	BEL	SUI	CZE	D ⁹	EST	E	FIN	F	G	HNG	IRL	LTU	HOL	ROU	SRB	S	SVK
Enforcement cases other than market surveillance																		
prosecutions		487		4			1650		9	65		8	157	239				
warning letters	10		47	300					217	111		46	14		262			56
informal warnings	60	300		291		78		19				29	20		25			37
fixed penalty fines	8		178	189			1425		290					41	8			13
other sanctions	1		18	1						41				224				
other penalties																		
Market surveillance cases																		
prosecutions		332	1	55	608		23						26	13				42
warning letters			64		10	2		22			76	8			31		24	13
informal warnings		>300			-	65		62			44	7	8		12			12
fixed penalty fines			4	138			34								1			4
EMC non compliance prosecutions				21	470								4					4
other penalties																		

Table 6: Cases of intervention in 2005 (empty box means no information received)

⁹ This number does not include the service centres which also perform enforcement tasks.

Interventions 2006																		
	BIH	BEL	SUI	CZE	D ¹⁰	EST	E	FIN	F	G	HNG	IRL	LTU	HOL	ROU	SRB	S	SVK
Enforcement cases other than market surveillance																		
prosecutions		597	1				2195		7	70		10	162	171	1			
warning letters	14		42	265		7			118	84		57	21		243	420		131
informal warnings	55	300		279		158	1865	18			18	22	8	5	23	159		37
fixed penalty fines	13		176	53		1			217					63	9	2		14
other sanctions	1		29							48				311		10		
other penalties										1								
Market surveillance cases																		
prosecutions		518		92	312		39		18				18	2				21
warning letters			94		14	7		12	23		60	12	8		34	10	21	19
informal warnings		> 300			-	94		51	84		72	16	2		62			13
fixed penalty fines			19	182		1	20				6				1			8
EMC non compliance prosecutions				22	470								3	2				
other penalties											37			3				

Table 7: Cases of intervention 200 6 (empty box means no information received)

Interventions that are listed in tables 6 and 7 do not necessarily include verbal such informal tools as warnings, negotiations or informal advice which also could lead to the resolution of problems. These less formal methods are widely used, but in many countries not compiled statistically. It is clear that there are significant differences in regulations and working processes across CEPT administrations even though the final result is be similar..

2.4 Enforceability

Almost all administrations reported to be involved in checking the enforceability - regulatory work examining the regulatory consistency related to enforcement - of a proposed regulation for the use of radio or telecommunications terminal equipment. Many take part also in preparing other aspects of regulations.

Work of groups such as PT/RA1 and R&TTE ADCO helps administrations on how new regulations will be implemented, coupled with respective national legislation. Discussions in these groups with the involvement of the ECC and European Commission help to clarify misunderstandings and highlight irregularities, providing relevant feedback targeted at influencing regulations in a positive way by enforcement authorities.

¹⁰ This number does not include the service centres which also perform enforcement tasks.

2.5 Enforcement criteria

The organisations were asked to describe the criteria on which their enforcement activities are based. Even though some organisations described high level objectives, and others replied from more of a practicality point of view, the following could be concluded from the responses.

Priorities

1. Fifteen countries had prioritized their activities and almost all mentioned interference investigations both as a high-priority task and as a main source of information for other activities.
2. Complaints, e.g. from end users or market players were seen as a major source of information gathered for planning purposes.
3. Preventing illegal use of radio equipment and risk of harmful interference was mentioned in several responses as a primary task of enforcement.
4. Especially when it comes to market surveillance, consumer protection and fair competition were seen as important objectives.

Planning

1. Most organisations plan their operations on a yearly basis
2. Objectives are based on the priorities
3. Some organisations also described the planning tools used:
 - The Netherlands has developed an enforcement planning system called Risk Based Management which includes risk analyses for each application taking into account both technical and economical aspects.
 - Sweden has created an evaluation guide based on which the enforcement activities are performed.
 - Finland mentioned using the so-called balanced scorecard (BSC) as a tool for planning and evaluating results. BSC is a common strategic planning and management system which includes four main perspectives: influence, customer, personnel and finance.

The following table shows administration's criteria for enforcement.

BIH	<ul style="list-style-type: none"> ▪ Planning based on the following principles: coexistence of spectrum users, prevention of life hazardous usage regarding air and maritime navigation, protection of communication market against illegal users
BEL	<ul style="list-style-type: none"> ▪ E.g. risk based enforcement. Minimize the risk of perturbations. We check every new installation based on licence terms.
SUI	<ul style="list-style-type: none"> ▪ Priorities in market surveillance: equipment causing interference, non-compliant equipment (suspected or detected), refused notifications, random ▪ Priorities in actions concerning illegal/unlicensed use: interference cases, seizures by police and customs, complaints by other users, results of spectrum monitoring, other observations ▪ Priorities in on site inspections: requests from frequency management and/or licensing department, random
CZE	<ul style="list-style-type: none"> ▪ Activities based on monitoring of market and on suggestions by consumers, commercial sphere or other authorities ▪ Risk assessment only for the purpose of evaluation of seriousness of detected faults
EST	<ul style="list-style-type: none"> ▪ Routine inspections and subsequent control in shops where non-compliances were discovered ▪ Interference complaints
E	<ul style="list-style-type: none"> ▪ Priorities: 1. safety and emergency services, 2. human health considerations as to levels of exposure, 3. Harmful interference on licensed/unlicensed services
FIN	<ul style="list-style-type: none"> ▪ Priorities in radio inspection: 1. interference to emergency services, 2. interference to public cellular networks, programme distribution, radio networks serving energy distribution, communal infrastructure etc. ▪ Priorities in market surveillance: 1. risk of harmful interference, 2. public interest, 3. fair competition
F	<ul style="list-style-type: none"> ▪ Information from competitors, users, administration, databases etc. ▪ Interference cases ▪ Risk of interference ▪ New products
G	<ul style="list-style-type: none"> ▪ Activities based on interference cases, complaints and routine campaigns
HNG	<ul style="list-style-type: none"> ▪ Activities based on interference investigation (using spectrum monitoring system), on site inspection and an annual market surveillance plan
IRL	<ul style="list-style-type: none"> ▪ Activities based on interference investigations
LTU	<ul style="list-style-type: none"> ▪ Activities based on complaints ▪ Objectives: efficient use of electronic communications resources and protection of the rights of consumers of electronic communications services
HOL	<ul style="list-style-type: none"> ▪ Risk based management, analysis for each application based on information from various sources
ROU	<ul style="list-style-type: none"> ▪ Priorities: consumer protection, fair competition ▪ Random checks within expected problem areas
SRB	<ul style="list-style-type: none"> ▪ Combination of regular planning and so called risk based enforcement
S	<ul style="list-style-type: none"> ▪ Monitoring reactions based on complaints from licence holders ▪ Market surveillance priorities on mass markets and new products, actions in accordance with national evaluation guide
SVK	<ul style="list-style-type: none"> ▪ Priorities: 1. interference investigation, 2. on site inspections, 3. market surveillance

Table 8: Summary of responses concerning enforcement criteria's

2.6 Financing of Enforcement

One aim of the questionnaire was to gain an overview of who financed the enforcement activities. The vast majority of costs of enforcement activities are funded from licence fees and/or state budgets.

In addition, some organisations can charge testing costs from an importer of a non-compliant radio transmitter. The UK also charges a consultation fee for incorrect "callouts". Should a licensee complain of interference to their system, and the fault be found to be their equipment, Ofcom UK will charge a consultancy fee which is stated and agreed beforehand in the literature sent to the complainant. This fee, however, is paid to the state who funds all of Ofcom UK's activities.

2.7 Co-operation

It was found that a number of neighbouring countries had cross-border agreements or there were other bilateral agreements for enforcement activities. The responses to the questionnaire detailed a number of best practises on co-operation between enforcement organisations but they also showed the need for better exchange of information between administrations in Europe.

Examples of forms of co-operation:

1. The French authorities entered into agreements with Switzerland and Spain for spectrum monitoring operations. These agreements enable France to effectively monitor its spectrum in partnership.
2. France also agreed to a market surveillance special event co-operation with Germany and a Tour de France agreement which is signed by any administrations through which the great race will pass. For market surveillance campaigns this arrangement covers a larger area and the authorities find more resources at their disposal.
3. The Dutch Administration can use Germany's spectrum monitoring for short wave direction finding. It also has a signed MoU with five other CEPT administrations for the use of the German Satellite monitoring facility at Leeheim.
4. Inspectors from the Netherlands and Belgium are authorised to cross the border in either direction to carry out frequency monitoring in cases of harmful interference..
5. Several administrations participate in market surveillance campaigns organised by R&TTE ADCO and EMC ADCO.

Organisations were encouraged to express their view on CEPT cooperation and their view of its future:

Efficiency and resource management

The views in general were that the more cooperation there is between CEPT countries on enforcement, the better and more efficiently European-wide enforcement will work. It was also noted that sharing of resources would help those with limited resources and allow a co-operation network to be built across Europe.

In some comments co-operation was found more effective when it comes to spectrum monitoring and interference inspection than when it comes to market surveillance. It was, however noted that market surveillance cooperation works very well between some EU member states and on a case by case basis.

Exchange of information

Organisations suggested that especially information exchange should be improved particularly concerning market surveillance issues by exchanging views and feedback on market surveillance issues and on non-compliant products. It was stated that in the framework of free circulation of goods, it is important to give a picture of unity to the industry and stakeholders.

Co-ordination of activities

The enforcement co-operation in the CEPT was regarded as well-organised in project group PT RA1, and some responding administrations expressed support to upgrading PT RA1 to a working group in the ECC in the future was considered advisable in order to improve the commitment of the national enforcement authorities and frequency authorities in the CEPT countries, especially with regard to the aspect of common procedures, shared interests and operation towards the common goals such as harmonization of legislations and increasing the expert's knowledge. The role of PT RA1 was seen to be that of a very important initiator and mediator.

Enforceability

The consensus policy of the ECC regarding ECC Decisions or Recommendations was considered to sometimes cause conflicts concerning enforceability of regulations (e.g. indoor and outdoor use of a transmitter, 24 GHz radars, UWB and some SRDs).

3 CONCLUSIONS

3.1 Enforcement actions and resources

The administrations are quite homogeneous when it comes to activities they perform. The most common tasks are actions against illegal or unlicensed use of radio equipment, interference investigations, on-site inspections of radio installations and R&TTE market surveillance. Also the priorities are quite similar. The administrations prioritise interference investigations but also measures to prevent illegal use of radio equipment and harmful interference are considered to be very important tasks.

The result shows that the main objectives are similar, but ways of achieving them vary. The widest differences were in quality and quantity of cases and interventions. The main reasons for variation are probably differences in national regulations, differences in enforcement strategy and differences in resources. These types of high-level factors cannot easily be influenced.

However, this survey does not include any deeper descriptions of working methods or planning/evaluation processes of administrations, but raises many questions concerning them. It is recommended to share information concerning these issues within CEPT in future and continue the benchmarking process in that way in order to find some best practices. Enforcement has become increasingly important, but at the same time many administrations have reduced enforcement resources. For efficient enforcement in the current environment it is crucial to have a clear common enforcement strategy, best possible tools for operational planning and good cooperation between other administrations.

3.2 Co-operation

The responses to the questionnaire detailed a number of good practices on co-operation between enforcement organisations. On the other hand they also showed the need for better communication between administrations across Europe, not only between those who share boundaries.

A good example of cross-border agreement would be the UK and Netherlands working in partnership with smaller administrations such as Lithuania or Bosnia & Herzegovina in order to share knowledge and regulatory practices. This kind of partnership could be envisaged, e.g. to share resources on legal matters with administrations who do not have ample enforcement resources. Also expertise in market research practices and the use of accredited test laboratories could also be shared.

The UK has a number of accredited test laboratories and a monitoring station which can monitor the short wave frequency band world-wide. The Netherlands administration also has a good monitoring facility, as does Germany and other countries. These facilities could be used by other administrations on an ad-hoc agreement basis. Obviously the expertise and equipment has costs which need to be covered. These costs could be payable on such occasion a foreign administration contracts the facility to perform work on their behalf. A directory of these monitoring facilities could be made available so administrations may contact a facility and gain expert help.

More examples of cross-border agreements and operations are presented in chapter 2.7. This kind of agreements can be seen as good models of co-operation and should be extended to include more administrations to create a wider network which can share resource and work co-operatively.

The administrations should co-operate more with other authorities such as customs, police or public prosecutors. Also co-operation with companies who are either source or victim of interference or involved in placing non-compliant products on the market has been proven to be very efficient. For example the UK and Germany have agreements with eBay and this has proved to be a very useful tactic in efforts against placing non-compliant radio and telecommunications terminal equipment on the market. The administrations who have this kind of knowledge could share it with others in order to have the same agreement with eBay and suchlike market places everywhere.

3.3 ECC involvement

Most of the enforcement organisations reported their involvement in checking the enforceability of a proposed regulation for the use of a radio or telecommunications terminal equipment. On the other hand the administrations listed cases where the enforcement aspects were not properly taken into account in ECC decisions or recommendations. Both administrations and ECC working groups could be more active in discussion of enforcement aspects. Enforceability should be seen as a basic element of all ECC decisions and reports.

This survey shows the difficulties on collecting statistics of enforcement operations in Europe. Especially when it comes to interference investigations there are no European-wide statistics or research reports available. This kind of background information would be useful for ECC working groups that produce technical reports and ECC decisions and recommendations in order to have enforcement issues highlighted more in the process, with regard to avoiding restrictions that are useless or non-enforceable as well as creating decisions and recommendations that ensure interference-free environment in the best possible way. Project team RA1 should start a work item concerning this issue.

The ECC should in general encourage administrative co-operation that stimulates knowledge-sharing and sharing of other resources across Europe. All CEPT members should become active in this field. The report shows that yearly over 30 000 enforcement cases are handled in the countries that responded in the questionnaire. The numbers show that enforcement cannot be considered as a minor task within ECC.

4 RECOMMENDATIONS

- a. The ECC should encourage administrative co-operation that stimulates knowledge sharing and other sharing of enforcement resources such as legal services and test laboratory facilities.
- b. ECC working groups should be more active in taking enforcement issues into account when issuing ECC Decisions and recommendations. WGRA and the responsible entity developing draft ECC Decisions are advised to pay attention to the procedure to ensure regulatory consistency and enforceability of ECC Decisions according to ECC working methods.
- c. PT RA1 should start a work item concerning co-operation regarding interference investigations in order to provide ECC processes with information that is based on reality.
- d. PT RA1 should continue the benchmarking project in a way that provides information on the reasons for differences between administrations and aims to define best enforcement practises.
- e. A clear, common enforcement strategy incorporating best practice tools and operational planning needs to be defined and supported by CEPT administrations.

ANNEX 1

Letter and questionnaire on Bench Marking

To: CEPT Administrations (contact persons)

Subject: Bench Marking on Enforcement

Dear colleagues

A proposal to benchmark enforcement activities across CEPT administrations was agreed by WGRA. The background to this proposal was recognition that enforcement authorities across Europe are under increasing pressure to respond to a more rapidly developing technological, regulatory and market driven environment. This has a corresponding impact on working practices, resources, expertise, knowledge and capital investment. Administrations will be asked to complete the revised questionnaire in order to obtain comparisons of activities.

Project Team on Enforcement RA1 has an excellent record of cooperation among members on an event-by-event basis; this cooperation can be extended to the benefit of enforcement teams and administrations across Europe through greater sharing of simple but relevant information. Administrations can benchmark against each other and compare key performance indicators, such as the results of enforcement work and details of available resources.

In order to gather the necessary information, a questionnaire has been prepared. A report will then be compiled from the responses received and the intention is to place it on a secure area of the ERO website with access made available only to members of PT RA1. The structure, maintenance and updating of the information will be under the review of PT RA1.

Although intended as a benchmarking exercise across CEPT administrations, once again it will be important to be cautious in interpreting the data because every administration works differently and we are not necessarily comparing the same types of processes and actions in all cases. Nevertheless, even taking such divergence into account, the results will provide chairman RA1 with some valuable comparisons and a detailed overview of the work of enforcement authorities.

See the European Radiocommunications website www.ero.dk for enforcement contacts and website addresses of administrations

I would wish to have information available for the next meeting of RA PT1 and would therefore seek your responses by the 15th October August 2007.

Please submit your responses by 15th October 2007 to sherington.gaskin@ofcom.org.uk

Yours sincerely

Bert van Dijk

Chairman PT RA1

Attached: Questionnaire on benchmarking of Enforcement Authorities

Questionnaire on benchmarking of Enforcement Authorities

Please answer as many questions as possible and email the completed form to sherington.gaskin@ofcom.org.uk by 1st of November 2007 or fax the form to Sherington Gaskin, OFCOM on + 44 207 981 4502

Country :
Administration :

1. Enforcement organisation

If more than one organisation is involved please submit one form per organisation

Question 1A – Organisation in charge of Enforcement (Inspection, Monitoring, Interference resolution and, Market Surveillance*)

Contact information

Name of Organisation	
Area of responsibilities*	
P.O. Box	
City	
Country	
Telephone	
Fax	
Website	
Contact person Telephone: Email address:	

***) Definition from ECC Report on Enforcement nr.15**

Enforcement means: “The range of actions and sanctions that can be used to enhance national law and regulations for the purpose of achieving the best possible quality of (radio) communications for the legitimate users of the radio frequency spectrum.” It includes taking action against occurred and potential sources of interference and unauthorised use and may include appropriate measures.

Enforcement can include all types of investigation activities such as:

- market surveillance
- inspection of radio equipment
- Spectrum monitoring.

Question 1B – Enforcement organisation

Your organisation is part of (please tick box *):

<input type="checkbox"/>	A Government Department
<input type="checkbox"/>	Agency
<input type="checkbox"/>	A non-Government body (e.g. OFCOM (UK))
Remarks	

*) Could you provide a brief description of your enforcement organisation?

Question 1C – Structure of enforcement organisation		
Does the enforcement organisation include regional or local offices in your country?		
<input type="checkbox"/>	No	
<input type="checkbox"/>	Yes	How many:
If yes, please briefly describe the location of these regional/local offices		

Question 1D – Enforcement organisation		
How many employees are working (2006) in your enforcement organisation?		
	National	Local (if relevant)
Inspectors		
Administrative staff		
Managers		
Secretarial staff		
Lawyers		
Other		
Remarks:		

2. Enforcement activities

Question 2A – Type enforcement activities		
For what type of activities is your enforcement organisation responsible? (Please tick box)		
If below mentioned activities are not applicable, please indicate responsible body for the activity?		
<input type="checkbox"/>	Action against illegal and/or unlicensed use of radio equipment	
<input type="checkbox"/>	Investigating interference to business radio systems	
<input type="checkbox"/>	Investigating interference to licence exempt systems	
<input type="checkbox"/>	Investigating interference to TV and broadcast radio receivers	
<input type="checkbox"/>	On-site inspections of radio installations	
<input type="checkbox"/>	EMC Market Surveillance 2004/108/EC or equivalent national regulation	
<input type="checkbox"/>	R&TTE Market Surveillance 1999/5/EC or equivalent national regulation	
<input type="checkbox"/>	Other (EMF etc).....	
Remarks.....		

Question 2B – Enforcement cases in 2005 and 2006		
How many enforcement cases did your organisation perform in 2005 and 2006		
Enforcement activities	2005	2006
Total action against illegal and/or unlicensed use of radio equipment		
Total investigating interference to business radio systems		
Total investigating interference to licence exempt systems		
Total investigating interference to TV and broadcast radio receivers		
Total on-site inspections of radio installations		
Total EMC Market Surveillance (Administrative check)*		
Total EMC Market Surveillance (Technical test)**		
Total R&TTE Market Surveillance (Administrative check)*		
Total R&TTE Market Surveillance (Technical test)**		
Other		
Remarks (If necessary please describe method of reporting)		

*Administrative check = Product type checked for administrative compliance

**Technical test = Product type tested by a laboratory for compliance with essential requirements

Question 2C – Financing enforcement activities**How are enforcement-activities financed? (Please tick box where applicable)**

Type of enforcement activities	By the State	By Licence holders	Other bodies *)
Action against illegal and/or unlicensed use of radio equipment			
Investigating interference to business radio systems			
Investigating interference to licence exempt systems			
Investigating interference to TV and broadcast radio receivers			
On-site inspections of radio installations			
EMC Market Surveillance 2004/108/EC or equivalent national regulation			
R&TTE Market Surveillance 1999/5/EC or equivalent national regulation			
Other.....			

*) please specify the relevant bodies

3. Intervention**Question 3A – Actions****Which are the possible interventions in case of non-compliance with regulations?**

E.g.; Warnings, Prosecution, Revocation etc...

Question 3B – Sanctions**Is your enforcement organisation fully responsible for taking appropriate actions in case of non-compliance with regulations? (Sanctions, such as prosecutions, penalties, fines etc.)**

- Yes
- No
- Shared

In case of common responsibilities, please describe briefly the cooperation/responsibility with the other organisations

Question 3C – Enforcement action taken		
Please indicate numbers where applicable: Total number of actions taken for all categories of radio/Terminal equipment		
Year	2006	2005
Total number of prosecutions		
Total number of warning letters		
Total number of informal warnings		
Total number of fixed penalty fines		
Total number of other sanctions		
Enforcement action taken – Market Surveillance		
Year	2006	2005
R&TTE prosecutions		
R&TTE warning letters		
R&TTE informal warnings		
R&TTE fixed penalty fines		
EMC non compliance prosecutions		
Other penalties		
Year	2006	2005
<i>please specify</i>		

4. Enforceability

Question 4A – Enforceability	
Is your enforcement organisation involved in checking the enforceability of a proposed regulation for the use of a radio or Terminal equipment?	
<input type="checkbox"/>	No
<input type="checkbox"/>	Yes
If yes , please indicate the level of involvement (e.g. advice, decision, etc.).	

Question 4B – Enforcement criteria
Which criteria are your Enforcement activities based upon? Eg risk based enforcement

5. Multilateral/bilateral agreements

Question 5A – agreements

Does your enforcement organisation have (bilateral) agreements with foreign enforcement agencies?

Yes

No

If yes, please describe briefly the relevant agreements (e.g. (bilateral) Cross border agreements, SatMoU etc.....

Question 5B – CEPT cooperation

What is your view on CEPT (Enforcement) co-operation at present and in the future?

Comments or extra information you wish to add

Annex 2

List of country codes¹¹ and population (million)¹²

Bosnia and Herzegovina	BA	3,8
Belgium	BE	10,5
Czech Republic	CZ	10,3
Estonia	EE	1,4
Finland	FI	5,2
France	FR	59,6
Germany	DE	82,6
Hungary	HU	10,1
Ireland	IE	4,0
Lithuania	LT	3,5
Netherlands	NL	16,2
Romania	RO	21,8
Serbia	RS	10,1
Slovakia	SK	5,4
Spain	ES	40,7
Sweden	SE	8,9
Switzerland	CH	7,3
United Kingdom	GB	60,4

¹¹ ISO 3166-1

¹² <http://europa.eu>