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Subject: Common statement on traceability requirements

1. Introduction

During EMC Market surveillance activities all over Europe it has been determined that in multiple cases well-known brands did not meet the traceability requirements of article 7.6 of the EMC Directive 2014/30/EU (EMCD). It is understandable that other (smaller) economic operators criticised this unequal treatment and called upon the national market surveillance authorities to apply the same standards to all parties regarding the verification of formal requirements.

At EMC ADCO 47 it was decided to publish a common statement from EMC ADCO. This statement shall serve as support for national follow-up and to inform manufacturers of well-known brands what MSA's expect from them regarding the traceability requirements.

2. Common statement

Dear sirs, madams,
Dear Economic operator

The market surveillance authorities of the European Union come together in Administrative Cooperation Groups (AdCo's). For the EMC Directive this is the EMC ADCO. The market surveillance authorities of member states are aware that there can be a lack of understanding by economic operators of their responsibilities around product traceability resulting in non-compliance with the EMC Directive 2014/30/EU.

The purpose of this Common statement is to inform you about the requirements in place. Relevant articles in respect of traceability aspects are 7.6, 9.3 and 11 of the EMCD:

7.6. Manufacturers shall indicate, on the apparatus, their name, registered trade name or registered trade mark and the postal address at which they can be contacted or, where that is not possible, on its packaging or in a document accompanying the apparatus. The address shall indicate a single point at which the manufacturer can be contacted. The contact details shall be in a language easily understood by end-users and market surveillance authorities.

And,

9.3. Importers shall indicate on the apparatus their name, registered trade name or registered trade mark and the postal address at which they can be contacted or, where that is not possible, on its packaging or in a document accompanying the apparatus. The contact details shall be in a language easily understood by end-users and market surveillance authorities.

And,

11. An importer or distributor shall be considered a manufacturer for the purposes of this Directive and he shall be subject to the obligations of the manufacturer under Article 7, where he places apparatus on the market under his name or trade mark or modifies apparatus already placed on the market in such a way that compliance with this Directive may be affected.

And,

Whereas 21. When placing apparatus on the market, every importer should indicate on the apparatus his name, registered trade name or registered trade mark and the postal address at which he can be contacted. Exceptions should be provided for in cases where the size or nature of the apparatus does not allow it. This includes cases where the importer would have to open the packaging to put his name and address on the apparatus.

Additionally, The Blue Guide states in section 4.2.2 the following:

There is no explicit obligation that the addresses have to be preceded by the words 'Manufactured by', 'Imported by' or 'Represented by'. This information must however not mislead the end-user and the market surveillance authorities about the place of manufacture and the address of each economic operator. If these words are not mentioned, market surveillance authorities will decide what the role of each economic operator is. It is then up to the economic operator to prove that he has a different role.

The name and address must, as a rule, be affixed to the product. However, it may exceptionally be moved from the product if this rule cannot be followed. This would be justified where affixing it to the product was not possible under reasonable technical or economic conditions excluding however esthetical reasons. It is up to the manufacturer to make this assessment. This assessment has to be done according to the size or nature of the product.

The address must indicate a single point at which the manufacturer can be contacted, in particular by market surveillance authorities. The legal text obliges the manufacturer to put a single contact point on the product. Only one single contact point in each product is allowed. This is not necessarily the address where the manufacturer is actually established. This address can for example be the one of the authorised representative or of the customer services. The single contact point does not need to be in every Member State where the product is made available. The address or the country does not necessarily have to be translated into the language of the Member State where the product is made available on the market but the characters of the language used must allow identifying the origin and the name of the company.

A website is additional information, but is not enough as an address. Normally an address consists of a street and number or post-box and number and the postal code and town, but some countries might deviate from this model.

If these requirements are not (completely) fulfilled, this results in a formal non-compliance, based on article 40. Number 1 under f) EMCDD.

The Market Surveillance Authorities of the EU can take appropriate measures in formal non-compliance cases, like the ones mentioned above. These measures can include a demand for correction, a fine or even a sales ban if the economic operator persists in the non-conformity.

Some authorities also have a policy of making such measures publicly available, e.g. on their websites.

In the Annex you will find a clear examples of a product indicating how to comply with the traceability requirements under the EMC Directive.

We expect this Common statement to give more insight into the responsibilities your company has regarding traceability and we trust that with this information you will be able to comply. If there are any questions concerning this matter, we will be happy to be of your assistance.

On behalf of the Market Surveillance Authorities participating in EMC ADCO,

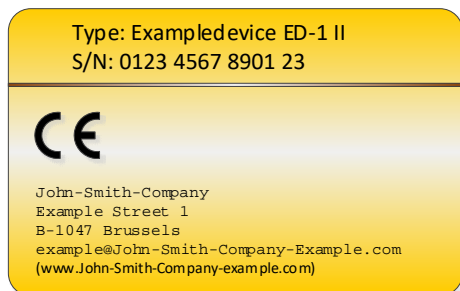
Chair EMC ADCO

Annex

Template of a correct data plate from manufacturer using a registered trade-mark:



Template of a correct data plate from manufacturer using a (registered trade) name:



Template of a correct data plate for an importer (instead of a name a registered trade mark could also be used):

