

CECIP Position on the alignment of Non-automatic Weighing Instruments Directive 2009/23/EC (NAWID) to New Legislative Framework (NLF) Decision 768/2008/EC¹

CECIP, the European Weighing Industry

CECIP is the voice of the European weighing industry. With its membership of 15 national associations of weighing instruments manufacturers in Europe CECIP covers the whole productive capacity of the European weighing industry and represents ca. 400 manufacturers, counting for a turnover of 3 billion Euro and employing 50.000 employees. In addition, the weighing instruments industry indirectly includes some 4000 - 5000 small and micro companies with only 1-3 employees. These companies are often service providers, which also assemble scales in limited editions in order to provide tailor-made solutions for their customers.

Alignment of NAWID to the New Legislative Framework

CECIP understands the New Legislative Framework has been designed to further facilitate harmonisation of Community legislation that, in turn, is one of the main tools to facilitate the free movement of goods. As part of the better regulation initiative the NLF was meant to cut red tape for European companies and allow them to expand their operations to the entire EU. Although the current Non Automatic Weighing Instruments Directive is well-established and does not create problems neither for the manufacturers nor for their customers, consumers or market surveillance authorities, CECIP acknowledges that the European Commission has proposed a review of the NAWID, in order to align it to the new legislation.

However, having carefully analyzed the first drafts of the revision, we are concerned that changes go far beyond what is necessary to improve the current NAWID. On the contrary, CECIP is worried that due to the changes, bureaucracy for the companies will seriously increase, specific well-established business models will not be feasible in the future, unnecessary burden for the manufacturers will be created, costs and prices of products will rise and innovation will be discouraged.

In order to prevent the negative consequences for the industry mentioned above but at the same time allowing the adaption of the NAWID to the NLF, as far as necessary, CECIP has defined the five priorities which are the main sources of concern for industry.

A) Manufacturers of components/assemblers:

The definition of manufacturer as formulated in the EC proposal (R1.3) has been introduced and includes also the assemblers of weighing instruments. The consequence is that assemblers are required to obtain Type Examination Certificate for the assembled products.

¹ Reference to the Commissions working document **MI-10-008-rev1** (April 2010) alignment of NAWID to NLF

This creates problems in an industry where it is consolidated practice that manufacturers of components supply their products to assemblers, which then assemble the weighing instrument and place it on the market by using the certificates provided by the components' manufacturers. In practice, in particular SMEs would be hit by this extension as they are used to assemble the components manufactured by the larger companies to tailor-made solutions for their customers. As a consequence, thousands of crafts and microenterprises would be obliged to obtain type approval certificates, the cost of which will exceed by far the cost of the product itself. Moreover, assemblers of components would face huge difficulties in fulfilling all the requirements to present complete technical documentation for all the separated parts they buy from components' manufacturers. This would "de facto" exclude from the market those companies which manufacture small series or made to measure products, which represent the large majority of the sector.

B) Module D - Quality system:

1) Art 3.1 of Module D NAWID Omnibus requires including the technical documentation of Module B and the type examination certificate in the application lodged to the Notified Body for Module D.

This would impose a huge administrative burden to the manufacturers who will be obliged to include copies of unnecessary documentation in the application, without any improvement for the users or for the notified authority. This is the reason why we are convinced the original provision, requiring the operator only to make the relevant documentation available to the notified body, should be maintained.

2) At 3.5 of Module D NAWID Omnibus requires the manufacturer to inform the Notified Body of any intended change to the quality system.

CECIP is concerned this could have the effect of discouraging innovation. We therefore suggest the Commission to maintain the original wording of NAWID 2.3.4. which requires the manufacturer to keep the notified body informed of "*any updating of the quality assurance system in relation to changes brought about by, e.g. new technologies and new quality concepts.*"

C) Module B- Assessment of risks and adequacy of the technical design:

1) NAWID Omnibus indicates that the technical documentation provided by the manufacturer to the notified body should include an "adequate analysis and assessment of the risk(s)".

CECIP calls on the Commission not to include this change in the new version of the NAWID or to further clarify what exactly should be intended by *adequate* assessment of the risks, as weighing instruments do not represent significant risks for the health and safety of users and consumers.

2) Revised Module B requires the manufacturers to provide documents proving that the technical design solution is adequate, when standards have not been fully applied.

The manufacturer is obliged to provide the authority with evidence, including tests carried out by laboratories. This additional requirement would impose an additional burden on the manufacturers who choose to adopt innovative design solutions different from the standards. The negative consequence of this provision could prevent innovation.

D) Translation of the documentation²:

Current NAWID implies the technical documentation can be provided in a language accepted by the notified body that carries out the type examination. The latter can then be asked by market surveillance authorities to provide technical documentation of the type approval. According to the

² Requirements indicated in art. R2.7, R2.9.

new NAWI Directive the manufacturer shall provide the technical documentation and user instructions in a language that can be easily understood by the market surveillance authorities. In addition, the new version of NAWID requires manufacturers to ensure that the instrument is accompanied by instructions and information in a language which can be easily understood by consumers and other end-users, as determined by the Member State concerned.

Such provisions would impose significant extra costs to the economic operators and could lead to inconsistencies in case the manufacturers do the translations internally to save costs. It is in fact estimated that the cost of translation for a single product (the price of which could be very limited) could vary from c.a 700 € to c.a 9000 €, while to limit the translation of the technical documentation to the Declaration of Conformity only would be more reasonable. Whilst CECIP strongly supports enhancing market surveillance in the EU market, we are not convinced this should be implemented by imposing such an economic burden on the industry, especially if it is mainly composed by SMEs. In addition, we firmly believe this would have a negative impact on the free movement of goods within the EU single market, by providing a significant comparative advantage to firms that are already present in the country.

E) Address of manufacturer:

In R2 6 NAWID Omnibus requires the *manufacturers to indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the instrument or, where that is not possible, on its packaging or in a document accompanying the instrument. The address must indicate a single point at which the manufacturer can be contacted.*

CECIP wishes to raise two main concerns on this issue.

Firstly, because of the size of many weighing instruments it is easier for manufacturers to indicate the above mentioned information on the packaging or on the documents accompanying the instruments. Therefore we suggest deleting “where it is not possible” and permanently allow this opportunity to manufacturers. This would avoid misunderstandings when the market surveillance authorities undertake their checks.

Secondly, some large manufacturers of weighing instruments are established in many different countries of the EU. Users and customers of weighing instruments could benefit from having a national contact point to refer to, in case it exists. We therefore invite the EC to change the wording “a single point” into “clearly defined contact point”.

Conclusion

Although the European Weighing Industry understands the New Legislative Framework has been designed to enhance the harmonisation of Community legislation, we are concerned the alignment of the Non Automatic Weighing Instruments Directive to the NLF might have some negative consequences for the industry, in case the specificities of the sector are not taken into account. CECIP is confident the European Commission will be attentive to the concerns expressed by the European manufacturers of weighing instruments and will take its requests into due consideration.