CECIP European Weighing Industry

Encourage consistent interpretations on weighing instrument requirements to strengthen EU single market

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Requirements to place non-automatic weighing instruments (NAWI) and automatic weighing instruments (AWI) on the European market are harmonised at EU level. The European weighing instrument industry, represented by CECIP, welcomes these harmonised product requirements. However, inconsistent interpretations and different procedures after the instruments are placed on the market hinder the free movement of goods and services in Europe. CECIP calls on better co-operation between national authorities to further strengthen the EU single market for weighing instruments.

The European single market for weighing instruments

The success of the single market for weighing instruments is driven by the interaction of four groups of actors, manufacturers, notified bodies, market surveillance authorities and inspection authorities. It is important to distinguish the last two groups as distinct actors.

The New Legislative Framework (NLF) assumes that manufacturers take the responsibility for compliance of their product with all relevant directives. Notified bodies are responsible to confirm that instruments comply with the requirements set in Directive 2014/31/EU on non-automatic weighing instruments or Directive 2014/32/EU on measuring instruments. Market surveillance authorities of each member state must ensure that products covered by EU legislation have been placed on the market in compliance with the relevant applicable legislation.

The obligations of the New Legislative Framework are added to by national legislation after an instrument has been placed on the market. After that point a product will be subject to the individual member state requirements. In this part of the lifecycle of an instrument it will be the responsibility of national inspection authorities to ensure continued compliance.

Severe challenges with the current system due to inconsistent interpretations and different national requirements

This model of the NLF works well if there is a consistency of interpretation and implementation between all stakeholders; the product is not subject to alteration, addition, repair or replacement after it has been placed on the market; nor is subject to periodic inspection by national authorities. Products where the procedures work well are products unlikely to be altered or repaired once they have been placed on the market. This means that national legislation would have little bearing on them.

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In cases where there is inconsistency in interpretation , reverification, repairs and additions are necessary or there is a periodical inspection the successful operation of the single market is hindered. Weighing instrument manufacturers must adapt in those cases to the different technical interpretations and different bureaucratic procedures that each member state is at liberty to implement. Manufacturers face extra unnecessary costs and an administrative burden often preventing small and medium size enterprises to enter certain EU markets outside their own. In general, this leads to the contradictory situation of a reasonably successful operation of the single market up to the point a weighing instrument is placed on the market and more problematic situation once the instrument is in use.

Wide range of inconsistent interpretations hindering the European single market for weighing instruments

There are many examples of different national requirements influencing the operation of the single market with regard to the free movement of goods once the instrument has been placed on the market. Below three examples are presented to give an initial idea of the problems. However, there are numerous other examples that could be cited, such as the differing requirements relating to software downloads implemented by different member states and the re-qualification requirements that relate to this. Moreover, many similar examples that can be found in the re-qualification requirements for automatic weighing instruments as well.

Electronic Point of Sale Systems

A Point of Sale (POS) device is a separate module that is connected to a NAWI, that receives transaction data. Together with data not derived from the weighing instrument this module presents transaction information to the customer.

The challenge faced by manufacturers is that the POS device is a module. The Directive 2014/31 EU is not clear as to how notified bodies, market surveillance authorities and inspection bodies should treat modules under inspection programs. This has led to an inconsistent implementation as regards the procedures when a NAWI that is used in conjunction is subject to repair and needs re-qualification.

A guidance note by WELMEC (European legal metrology co-operation body) on a common interpretation was published in 2007[1] and is in the process of being updated for a number of years. Regrettably, it has been impossible to reach an agreement in the WELMEC groups on this revision. The market is subject to different interpretations in different member states of both the WELMEC Guide and the requirements of the Directive.

For instance, in Germany it is necessary for the POS to be secured to the NAWI, where as in other countries such as the Netherlands and Ireland this is not an obligation. The effect of this inconsistent interpretation is that in some Member States the separate modules can be re-qualified in an identical system based in the premises of the manufacturer. This means that they are re-qualified independently of their final location and “swapped” when they are in need of repair. In other countries this is not possible and they must be re-qualified in situ.

1 WELMEC 2.2 (Issue 3)

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This has a direct effect on the procedures operated by pan–European businesses in different members states increasing cost to the manufacturer and their customers and it has a detrimental effect on the operation of the free movement of service and goods.

"New vs. Repair"

As soon as an instrument has been placed on the market or put into service its control will be the responsibility of the national authorities. Consequently, it will be for those authorities to decide which economic actors can undertake the procedures of periodic re-verification or re-verification after repair.

In member states such as Ireland manufacturers can undertake re-verification after repair themselves, in other states such as Germany or Poland only national authorities are allowed to provide these services. Even if manufacturers can carry out re-verifications in several member states, separate authorisations are necessary in each member state. This has created a hindrance to the smooth operation of the single market with manufacturers needing to have national service businesses rather than one, which can operate across borders. Additionally, this results in unnecessary expense and delay to customers.

Another effect is the pressure to treat instruments that have been subject to any alteration as new rather than repaired. New instruments enable the manufacturer to undertake the conformity assessment for a new product rather than letting the authorities carrying out the reverification. This allows for a quicker and cheaper response times and a more cost-effective operation for business. The concomitant of this is complicated and often unresolved discussions with the authorities on the degree of changes that would constitute a new instrument and thus cause an initial verification and those changes, which would necessitate a re-verification after repair.

Printing below minimum load

One of the essential requirements in Directive 2014/31/EC stipulates the following:

"Price labelling instruments shall meet the requirements of price indicating instruments for direct sale to the public, as far as applicable to the instrument in question. The printing of a price label shall be impossible below a minimum capacity"[2]

This essential requirement has been interpreted in different ways in different Member States. The requirement relates only to a price labelling instrument, which are a very specific type of instrument used for printing a weight value, a unit price and a price to pay for pre-packages. Different countries have interpreted this requirement differently and often more broadly. For example, in Poland there appears to be a much broader prohibition on the printing of a price label below minimum on a wider range of instruments. This has created a pressure on manufacturers to adapt the software of weighing instruments to comply with specific national requirements, increasing costs and creating technical barriers to trade.

International co-operation should reduce inconsistent interpretations between member states

Currently, there exist co-operation bodies between notified bodies (NoBoMet) and market surveillance authorities (WELMEC). Their function is to promote consistency between notified bodies, market surveillance authorities and

[2] Directive 2014/31/EU Annex 1 (15)

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inspection bodies in different member states. However, these co-operation bodies can only issue guidance; notified bodies and market surveillance authorities are always at at liberty to act independently of any guidance offered by these institutions, there effectiveness is always limited. CECIP is convinced that strengthening this co-operation via NoBoMet or WELMEC is currently the optimal way to reduce the negative consequences of inconsistent interpretations and non-harmonised requirements.

Conclusions

Overall, the present legal frameworks have some effectiveness when it considers the placing of instruments on the market, enabling manufacturers to design and manufacture instruments to a common standard. Unfortunately, the effective operation of the single market is severely restricted once instruments that have been placed on the market become subject to national controls.

CECIP would like to see a more consistent approach amongst member states after instruments have been placed on the market. CECIP acknowledges that it is a long-term ambition to align or harmonise requirements that might reach beyond the placing on the market and putting into service of instruments. CECIP considers this only a long-term ambition.

In the short term, CECIP would urge an increase in the effectiveness of WELMEC as a route to improve the co-ordination of the requirements relating to weighing instruments in use. It is contended that a more consistent approach to the implementation of in service requirements would reap benefits to all stakeholders.

__CECIP__ (www.cecip.eu) is the European association representing the weighing instrument industry. Founded in 1958, CECIP has currently members in 14 countries. The weighing instrument industry in Europe is world leader and consists of around 700 companies that are mostly SMEs. The total turnover is approximately 3 billion euro and the industry employs about 50.000 persons.

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