

Rules and Constitution
of the
Radio Equipment Directive
Compliance Association

REDCA



The rules are effective from January 1st 2016. The rules of R&TTECA will be repealed on 13 June 2017.

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RULES AND CONSTITUTION

1 INTRODUCTION

1.1 The REDCA provides a forum for people concerned with the compliance of radio equipment with regulations and technical standards in the European Economic Area, as well as in the Countries that have a Mutual Recognition Agreement with the EU, such as the USA, Canada, Japan, New Zealand and Australia.

It has specific responsibilities in respect of Notified Bodies appointed under EU Directive 2014/53/EU (the Radio Equipment Directive - RED).

A most essential part of ensuring the effectiveness of these arrangements is the establishment of mutual confidence between all parties involved in the conformity assessment route (e.g. Notified Bodies, Laboratories, Industries, and Enforcement Agencies). Nevertheless the promotion of this mutual confidence shall not conflict with the regulatory powers of relevant authorities, for example the Telecommunication Conformity Assessment and Market Surveillance Committee (TCAM).

This need for mutual confidence extends, but not exclusively, to:

- Equivalence of interpretation regarding specifications and legislation;
- Demonstrating equivalence of test results;
- Maintenance of test quality and accuracy;
- Equivalence of test reports and certificates, where applicable.
- Maintenance of impartiality.

whilst at the same time not inhibiting open and fair competition between the Parties concerned.

There is also a need for Member State Administrations, Manufacturers, Suppliers, Network Operators, End Users, Notified Bodies, Laboratories, etc. to have a consistent and uniform manner on interpreting and applying the regulatory requirements.

1.2 The REDCA is set up with a view to establishing and maintaining this necessary mutual confidence. It also recognised that such a body could have additional benefits such as:

- Experience Interchange
- Shared development of new test tools in appropriate cases
- Contribution towards the maintenance of existing international standards which relate to the Association's interest and in the preparation of similar new standards in accordance with the procedures of established bodies, e.g. ETSI, CEN, CENELEC.
- Identification of and expansion into new areas

2 PREAMBLE

Recognizing that it is necessary that the conformity assessment routes are applied consistently by all parties in order to achieve an open and competitive Radio Equipment market throughout the European Economic Area and recognizing that co-operation between relevant parties will improve the confidence of compliance to the essential requirements of all products concerned, the *Radio Equipment Compliance Association* was set up on June 1, 2015. At the Steering Committee meeting on June 1, 2015 in Gothenburg, Sweden, the Association agreed to adopt the terms and conditions of this document with the following aims and objectives.

3 THE AIM

- 3.1 The Association shall respond to the needs set out in
- a. European Commission Document Certif. 94/6 on a "Framework for Co-ordination and Co-operation between Notified Bodies, Member State and the European Commission under the Community Harmonization Directives based on the New Approach and the Global Approach."
 - b. Article 38 of Directive 2014/53/EU
- 3.2 The Association shall provide a framework for co-operation between its members in the application of standards and procedures for apparatus conformity assessment. In particular it shall contribute to the effective implementation of relevant legislation in co-operation with appropriate responsible body (i.e. TCAM) and shall facilitate the convergence of conformity assessment practices in the regulatory sphere. The Association will reference to and liaise with relevant organisations such as ETSI, ECO and the R&TTED ADCO.
- 3.3 Subject to consideration of market demand, and recognizing the institutions which already exist in the field, the Association may also facilitate co-operation between its members in the field of voluntary testing and certification of Radio Equipment.

The Association shall also provide a framework for co-operation between its members and other parties which have been designated under the provisions of a Mutual Recognition Agreement for the conformity of Equipment, which has been concluded with the European Union on the basis of a mutually satisfactory understanding.

4 THE OBJECTIVES

- 4.1 Setting up and the maintenance of co-ordination and co-operation to enable equivalence of interpretation regarding conformity assessment of radio equipment throughout the EEA.
- 4.2 Providing a forum for identification of any problems and interpretation of the conformity assessment procedures and consultation with appropriate bodies, where applicable.
- 4.3 Providing a signalling function for identification of any problems related towards the

maintenance of existing standards that relate to its members' interests and in the preparation of similar new standards.

- 4.4 Contributing to the evolution, maintenance and preparation of testing methods.
- 4.5 Actively engaging in the extension and improvement to the scope of testing and conformity assessment by facilitating appropriate development activities.
- 4.6 Facilitating co-operation amongst its members without inhibiting fair and open competition between them.
- 4.7 Coordinating contact and co-operation with outside bodies when it is of benefit to members of the Association and in order to progress the aims and objectives of the Association. In particular all documents which relate to the responsibilities of TCAM shall be submitted to that body.
- 4.8 Providing public workshops or open meetings from time to time to facilitate the promulgation of the Association's work and to promote dialogue with the radio-communications industry as a whole.

5 MEMBERSHIP

- 5.1 Membership of the Association shall be open to any organisation which is prepared to agree to further the aims, objectives and rules of the Association as stated in this document.
- 5.2 There shall be three categories of membership:
 - Member
 - Observer
 - Honorary member
- 5.3 Any organisation which has an interest in promoting and supporting the aims and objectives of the Association is eligible for Membership of the Association. Organisations that are part of the same overall corporate structure but established in different countries may join as separate members from each country.

Members can for example be: Testing Laboratories, Notified Bodies, Consultants, Manufacturers of equipment or software, Administrations, Certification Bodies, Conformity Assessment Bodies, Organisations representing Suppliers or Users of apparatus.
- 5.4 The Association shall maintain an awareness of a need to encourage membership.
- 5.5 The Association can provide Observer membership to specific organisations (not being mentioned in 5.3) such as the European Commission, ECO, ETSI, CENELEC and sister organisations such as EUANB.
- 5.6 The Association can provide honorary membership to persons that have been of specific importance to the Association. Honorary members have access rights to all meetings.

- 5.7 Observers have no voting rights and pay no fee, but have access to relevant electronic information and meetings.
- 5.8 Only Members being European organisations can vote on changing Rules and Constitution of the REDCA and apply for positions as REDCA Officers.
- 5.9 Due to the specific function Notified Bodies have, including the specific tasks as stated in the Radio Equipment Directive, they have a special status with the REDCA. (Further details are contained in Annex 1).

6 ORGANISATION, STRUCTURE and MANAGEMENT

- 6.1 The Association will not be incorporated as a separate legal entity or partnership. The activities of the Association shall be co-ordinated by a Steering Committee. The Steering Committee shall comprise one representative from each Member organization with a Chairman, a Secretary and a Treasurer.
- 6.2 Only the nominated Steering Committee member and his deputy may participate in the activities of the Association, including having access to the REDCA and CIRCABC websites and REDCA mailservr.
- 6.3 Working groups shall be established as necessary to further the Aims and Objectives of the Association.
- 6.4 Membership of the Association shall commit each member to use all reasonable endeavours to promote the Association and to further its Aims and Objectives. Any member who in the opinion of the Steering Committee fails or refuses to comply with this Agreement or use all reasonable endeavours to promote the Association and to further its Aims and Objectives may be required to terminate its membership by a majority vote returned in a postal ballot of all Members.
- 6.5 If members of the Association agree common practices and procedures to ensure equivalence of testing, measurement, reporting and certification then so long as they remain members of the Association each member shall be obliged to implement and operate its facilities in accordance with such common practices and procedures. This obligation does not apply if the practices and procedures conflict with the requirements of TCAM, the European Commission or (national) legislation, or where, pursuant to law, the Member is unable to bind itself to follow such practices and procedures. Members shall not in any way be restrained from applying superior or additional procedures at their absolute discretion provided they do not conflict with those agreed by Association members.
- 6.6 In the event that members of the Association agree to share development of test tools intended for their common use any intellectual property rights (IPR) generated or acquired as part of such development will be owned jointly by those members funding the development. The detailed conditions for this are subject to specific agreements in each case. Every Member will be entitled to use such IPR for the acquisition and use of such test tools and the supply of conformance testing services but members may be required to pay a fair and reasonable royalty to be shared amongst the members funding development of that test tool.

- 6.7 For the avoidance of doubt it is agreed and understood that all members are free to compete with each other in the supply of test and conformity assessment services. Accordingly the members shall not act in breach of relevant competition law concerning in particular:
- Prices charged, quoted or paid, or to be charged quoted or paid for their services.
 - Terms and conditions on which their services are to be supplied.
 - Precise details of services provided or to be supplied.
 - The cost of providing their services.
 - Customer details.
 - Marketing and Sales Data.

All Notified Bodies are required to meet the Notified Body requirements of the Radio Equipment Directive at all times.

All members are required to act with impartiality in all RED CA activities, including, but not limited to, the drafting of Technical Guidance Notes (TGNs)

- 6.8 Nothing in this document shall be deemed to create a partnership or to confer upon any of the members individually the power to represent or commit any of the other members.
- 6.9 Any liability incurred by a member vis-à-vis a third party in connection with the rendering of services or advice shall be borne by such member alone. The financial liability arising from membership of the Association shall be limited to the payment of the annual fee for membership.
- 6.10 Each member of the Association undertakes, unless otherwise agreed in writing, to keep in confidence and not to disclose to any person (except to such member's own or affiliate companies' employees and then only to those employees who need to know the same) any information which is either marked to be kept in confidence or is by its nature confidential and which is received by one member from another member in connection with the business of the Association. This obligation shall not extend to information which is or comes into the public domain otherwise than through the default of the receiving party, or is already in the possession of or is shown to have been independently developed by the receiving member, or is obtained by such member from a third party without obligation of confidentiality.
- 6.11 Only Chairman or Secretary may formally represent the Association in other fora. In specific cases the Steering Committee may appoint individual members to represent the Association. Such representation should have a defined scope and limited time frame.

7 FUNDING

In order to support the activities of the Association financially, members shall pay an annual fee. The amounts payable by Members shall be decided annually by the Steering Committee.

The funds shall be used to pay essential expenses, including, inter alia:

- Direct expenses of officers (i.e. Chairman, Secretary and Treasurer) incurred on Association business. This includes the meetings of the Steering Committee.
- Reasonable costs associated with the operation of the Secretariat.
- Expenses related to maintaining the Association's website and other communication facilities.

Costs of officers related to meetings shall be based on actual costs. However to simplify accounting the costs may be based on the standard Per Diem rate as apply by the EU Commission. The Per Diem rate include: accommodation, meals, local travel within the place of meeting and sundry expenses

Due care shall be taken to ensure that the fees of officers are as low as is possible.

The Treasurer shall administer the funds and maintain accounts. Further details are contained in Annex 1.

8 TERMINATION

The Members may resolve to wind up and dissolve the Association by a majority resolution at a meeting of the Steering Committee of which due notice has been given. Upon a winding up or dissolution the net assets of the Association shall be transferred to any goal decided upon.

9 DISPUTES

Subject as follows, any controversy or claim arising out of or relating to this document, or the breach thereof, shall as far as possible be settled by negotiation. If the disagreeing parties are unable to reach a settlement by negotiation all outstanding issues between them shall be submitted to arbitration by a single arbitrator to be appointed pursuant to and acting in accordance with the rules of arbitration of the Brussels Chamber of Commerce, Belgium. All hearings pursuant to such arbitration shall be conducted in English. Any award or decision rendered by the arbitrator shall be final and without further recourse and judgment thereon may be entered in any court having jurisdiction thereof.

Provided, however, that this clause shall not apply where the controversy or claim, or alleged breach of this document, involves what is in substance an allegation that a Member has not properly discharged its functions under the national legislation to which it is subject.

ANNEX 1 ORGANISATION STRUCTURE AND MANAGEMENT

Composition of Steering Committee

- A1.1 Each Member or Observer of the Association shall be entitled to appoint one person to the Steering Committee. The persons thus constitute the Steering Committee.
- A1.2 Each Steering Committee Member may nominate one named deputy.
- A1.3 Experts and advisers may accompany the Steering Committee Member. Such experts and advisers shall speak at the invitation of the Steering Committee Member on his behalf. The number of persons attending the meetings on behalf of a member organisation shall not exceed 2 without the specific agreement of the Chairman or Secretary.
- A1.4 The quorum for meetings of the Steering Committee shall be ten (10) Members.

Frequency of Steering Committee Meetings

- A1.5 The Steering Committee shall meet on at least two occasions during each year of the Association's existence.

Agenda

- A1.6 The Chairman and Secretary will prepare and distribute before each meeting a dossier including an Agenda that will cover, inter alia:
- Consideration of Applications for Membership of the Association;
 - Consideration of Reports/Proposals from Working Groups;
 - Consideration of Proposals for new work areas;
 - Agreement of Terms of Reference for new work areas.

Record of Steering Committee Meetings

- A1.7 A written record shall be maintained of the proceedings of all Steering Committee Meetings. This record shall be made available to all Members.

Correspondence

- A1.8 All Association correspondence shall be distributed by electronic means, unless decided otherwise. Only the person representing the member and its deputy as stated in the REDCA membership list will be provided access to the electronic systems containing REDCA material.

Role of Steering Committee

- A1.9 The Steering Committee shall be responsible for ensuring that the members achieve the aims and objectives outlined in this document. More specifically the role of the Steering Committee is to:
- Administer the membership of the Association;
 - Agree amendments to this document;
 - Agree Proposals for work areas;
 - Agree the establishment of Working Groups to consider agreed work areas;
 - Agree the Terms of Reference for each work area;
 - Make Policy decisions emanating from the proposals of Working Groups;
 - Review the operation, organisation, and achievements of the Association from time to time;
 - Determine the need for any postal or email ballot under section 6.4. Only the email addresses supplied to the secretary prior to the ballot request will be deemed valid.

Decision Making & Voting

- A1.10 As a principle, decisions shall be made during Steering Committee meetings in accordance with A1.12. In the following cases where decisions need to be made between two Steering Committee meetings, decisions may be made by electronic voting (e-voting), i.e. voting by email:
- a) answers to consultations; or
 - b) exceptions triggered by the Chairman's decision; or
 - c) activities (including follow-up activities) on action points from the preceding Steering Committee meeting; or,
 - d) any other subject where a voting date is foreseen and the Steering Committee has so decided.

Administrative matters shall, as a rule, be decided during Steering Committee meetings.

- A1.11 A fixed period of 21 days for e-voting shall apply. This period may be shortened to a minimum of 7 days, if target dates require this. Votes cannot be changed during the e-voting process. No information of the actual status of the votes shall be given during the voting process, however, the members and their votes shall be provided once the e-voting period is closed.
- A1.12 Whenever possible decisions at Steering Committee Meetings will be made by the consensus method. In the event of a dispute a voting procedure by a show of hands will be adopted.
- A1.13 Any decision reached by use of the e-voting process shall require a minimum number of votes (for and against combined) equal to the quorum for a Steering Committee and needs formal confirmation at the following Steering Committee meeting.
- A1.14 Only Members of this association have voting power. Organisations with multiple

memberships shall have one vote only, exercisable on behalf of the Organisation as a whole. Observers and honorary members have no voting power. Except as provided for in A1.16, matters will be decided by a simple majority of votes.

A1.15 Where a decision, by its nature, is of relevance to a particular group of members (e.g. see “Special Meetings” A1.23 & A1.24) voting may be restricted to the members concerned.

A1.16 Adoption of an amendment to this document shall be determined by a majority of not less than two thirds of the voting Members.

Officers

A1.17 The Steering Committee shall elect a Chairman, a Secretary and a Treasurer from amongst the European organisations that are Members of the Association. The Secretary shall remain independent of the interests of the manufacturers and of the users of the products being subject to the conformity assessment procedure requiring the involvement of a RED Notified Body.

Officers are elected by simple majority voting amongst the Members. The term of office shall be two years. Officers may be re-elected for further terms.

If there is an equality of votes the Chairman shall also have a casting vote.

Secretariat

A1.18 The Chairman is responsible for providing a Secretariat, located in the EEA.

Application and Control of Membership

A1.19 Organizations applying for membership shall provide the Secretariat with a completed application form to be found on the Association’s website.

The Secretariat will invite “new members” for the first next Steering Committee meeting so they can motivate their application if . All applications deemed by the Steering Committee to meet the appropriate criteria for membership shall be accepted.

The Secretariat shall maintain an up to date list of all members.

A member may terminate his membership by giving 3 months notice in writing of his intention to the Secretariat. The Secretariat shall notify this in writing to all other members. There will be no refund of membership fees.

Individual and Corporate Membership may be terminated under the following scenarios:

- Lapse of membership due to non-payment of subscription.
A member who has not paid the annual subscription within 4 months of date of invoice may be suspended, and six months of the date of invoice may be deemed to have resigned.
- Suspension of membership due to disciplinary action taken by a Member State or MRA country Authority
RED CA will suspend a member if it is deemed that it is the appropriate course of disciplinary action against them. During this period of suspension, all privileges of membership are temporarily withdrawn.
- Termination of membership due to disciplinary action taken by a Member State or MRA country Authority
A member's membership will be terminated immediately if RED CA deems this is the appropriate disciplinary action against them. The unpaid balance on the member's subscription account at this date will be noted against the member's record and must be paid upon such time the member chooses to reinstate and REDCA allows such reinstatement in the future.
- Members who cease trading are deemed to have resigned their membership.
- Members wishing to take a break from membership
The RED CA has no facility to take account of those members who wish to suspend membership and take a break from membership. The only action available is to resign from membership (see how above) and reinstate later.
- Reinstatement
Reinstatement can be made after a formal vote of the RED CA membership

Administration of Funds and payment of fees

A1.20 The Steering Committee shall have the power to open and conduct Bank Accounts in the name of the Association. The Treasurer is responsible to the Steering Committee for the administration of funds and shall keep proper accounts. The financial year shall commence on June 1st.

The annual membership fee is payable on the first of January each year, unless the Treasurer decides differently. Organizations joining in the course of a year shall be required to pay the full fee for that financial year.

The Treasurer is empowered to reimburse expenses of the officers and costs associated with the Secretariat.

The Treasurer shall present to the Steering Committee accounts for the financial year ended on the 31st of December. These accounts shall be presented as soon as possible in the next financial year.

The Treasurer will have the accounts audited by an adequate external organisation once every two years.

Until further notice the name R&TTE CA shall be retained for financial purposes only because:

- 1) The REDCA bank account and PayPal account are in the name of R&TTE CA,*
- 2) The Association is currently registered as R&TTE CA with the UK tax authorities,*
- 3) The Association is set up as a supplier by members under the name R&TTE CA.*

Fees for Association's officers need approval from the Steering Committee. The basic fees are fixed for each 2 year tenure of the Officers.

The Association's Chairman can decide on an annual basis to add to the basic fee of the Secretary or Treasurer an amount to cover any unexpected increase of workload (e.g. due to increased membership amount) or specific extra activities having been performed by the officers.

Nominations for Work Areas

- A1.21 Any proposals for study into work areas must be made in writing and circulated to all Members of the Steering Committee at least 21 days prior to the Committee Meeting at which they will be discussed.

Working Groups

- A1.22 Each Working Group which is established by the Steering Committee will appoint a Chairman whose responsibility it is to ensure that the Terms of Reference agreed by the Steering Committee are strictly adhered to. Any Member can join a Working Group unless exceptionally otherwise decided.

Special Meetings

- A1.23 At their own initiative, or at the special request of the EU Commission, those Members of the Association which are Notified Bodies shall meet together in private to consider such matters that they, or the EU Commission, may determine. All business conducted at such meetings shall be confidential to the Notified Bodies unless decided otherwise.
- A1.24 In any vote of Notified Bodies only, there shall be one vote per Notified Body identification number, irrespective of the number of memberships held.

REDCA Logo

- A1.25 The REDCA will apply a copyright protected logo to be inserted on documents issued by REDCA or presentations given by REDCA.
- A1.26 The REDCA logo can be used by the REDCA members on documents or on their website only to indicate that they are REDCA member. The use of the REDCA logo shall not in any manner suggest that the REDCA approves any activity performed by the member.

ANNEX 2 DEFINITIONS

- A2.1 **"This document"** shall mean the *Rules and Constitution of the Radio Equipment Compliance Association* and its Annexes 1, 2 & 3 including any amendments and modifications agreed by the Steering Committee in accordance with Annex 1.
- A2.2 **"EFTA Member State"** shall mean:
- The Republic of Iceland, or;
 - The Principality of Liechtenstein, or;
 - The Kingdom of Norway, or;
 - The Swiss Confederation.
- A2.3 **"Notified Body"** shall mean either:
- (i) A body that is notified to the Commission by a Member state in accordance with Article 30 of Directive 2014/53/EU and registered on the NANDO list, or;
 - (ii) A body, equivalent to that in (i) above established in an EFTA Member State, which State participates in mutual recognition arrangements for the conformity of Radio Equipment which have been concluded with the European Union on the basis of a mutually satisfactory understanding; or
 - (iii) A body equivalent to that in (i) recognised for the purposes of Directive 2014/53/EU by inclusion in a mutual recognition agreement (including a Protocol to the Europe Agreement) which has been concluded between the European Union and a State other than an EEA State."
- A2.4 **"Relevant Legislation or RE Directive"** shall mean Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating the making available on the market of Radio Equipment.
- A2.5 **"Standards"** shall mean international or European standards.
- A2.6 **"Radio Equipment"** means a product under the scope of Directive 2014/53/EU.
- A2.7 **"European Organisation"** means an organisation legally established and located within the boundaries of the European Economic Area - EEA.