

Request for Information

Thank you for your request for information dated 17 March about a legal system to support market surveillance which has been considered under the Freedom of Information Act 2000.

You asked:

Beside the EU regulations, Do you have your own legal system to support market surveillance in UK?

And where can I find the surveillance procedures and sanctions requirements?

By way of background, all radio products placed on the market in the UK are required to comply with the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000 (as amended) (Statutory Instrument number 2000/730) (the "R&TTE" Regulations). This implements an EU Directive 1999/5/EC. Under the R&TTE Regulations, Ofcom are listed as an enforcing authority in relation to the protection and management of the radio spectrum. For example, Ofcom take enforcement action in respect of radio equipment that does not meet the Essential Requirements relating to harmful interference and/or electromagnetic compatibility.

Turning to your request, Ofcom are not a market surveillance authority and we do not have our own legal system to support market surveillance in the UK. The local weights and measures authority (Trading Standards) also have enforcement powers under the R&TTE Regulations.

Ofcom are empowered to conduct market surveillance (both online and 'off the shelf') as part of investigations where there is a spectrum related issue and we currently form part of the Market Surveillance Co-ordination Committee (MSCC) for the UK. In addition, Ofcom participate in annual European wide market surveillance campaigns as part of the Administrative Coordination group for R&TTE (ADCO).

Ofcom do not publish surveillance procedures and sanction requirements but we do abide by the principles of better regulations ensuring we take a proportionate and targeted approach to investigations, conduct such investigations in a timely manner and are accountable and consistent in our actions. Decisions made during investigation cases are subject to the Code for Crown Prosecutors insofar that we assess the evidence and whether such an investigation is in the public interest.

For your information the R&TTE is being replaced with the RED. From 13 June the R&TTE can no longer be used to place products on the European Market.

In terms of legislation, you can find the Directive 1999/5/EC which was transposed into UK Law as the Radio Equipment and Telecommunications Regulations via the following link:

<http://www.legislation.gov.uk/ukxi/2003/3144/contents/made>

Ofcom has a FAQ on our website regarding the R&TTE which you may find helpful:

https://www.ofcom.org.uk/spectrum/information/rtte_faq

Kind regards
Julia

If you are unhappy with the response or level of service you have received in relation to your request from Ofcom, you may ask for an internal review. If you ask us for an internal review of our decision, it will be treated as a formal complaint and will be subject to an independent review within Ofcom. We will acknowledge the complaint and inform you of the date by which you might expect to be told the outcome.

The following outcomes are possible:

- * the original decision is upheld; or
- * the original decision is reversed or modified.

Timing

If you wish to exercise your right to an internal review you should contact us within two months of the date of this letter.

There is no statutory deadline for undertaking internal reviews and it will depend upon the complexity of the case.

However, we aim to conclude all such reviews within 20 working days, and up to 40 working days in exceptional cases.

We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact:

Steve Gettings
The Secretary to the Corporation
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF