

COMMISSION DECISION

of 23 June 2009

on the safety requirements to be met by European standards for personal music players pursuant to Directive 2001/95/EC of the European Parliament and of the Council

(Text with EEA relevance)

(2009/490/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety ⁽¹⁾, and in particular Article 4(1)(a),

Whereas:

- (1) Directive 2001/95/EC provides for European standards to be established by European standardisation bodies. Such standards should ensure that products satisfy the general safety requirement of the Directive.
- (2) Under Directive 2001/95/EC a product is presumed safe, as far as the risks and risk categories covered by national standards are concerned, when it conforms to voluntary national standards transposing European standards.
- (3) Depending on the type of personal music player, its safety is covered either by Directive 2001/95/EC, Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity ⁽²⁾ or Directive 2006/95/EC of the European Parliament and of the Council of 12 December 2006 on the harmonisation of the laws of Member States relating to electrical equipment designed for use within certain voltage limits ⁽³⁾. Directive 2001/95/EC covers portable music players with no integrated communication function.
- (4) Directive 1999/5/EC and Directive 2006/95/EC make reference to European harmonised standard EN 60065:2002 'Audio, video and similar electronic apparatus — Safety requirements'. Given the ever more blurred borderline between consumer electronics and

information technology equipment, this standard is intended to merge with EN 60950 'Information technology equipment — Safety — Part 1: General requirements' into a new standard EN 62368.

- (5) The standards currently prescribe no maximum sound limit nor require any specific labelling in respect of noise emissions but require that a statement be put in the instruction manual to warn of the adverse effects of exposure to excessive sound level.
- (6) The European Commission requested the Scientific Committee on Emerging and Newly Identified Health Risks (SCENIHR) to assess the potential health risks posed by personal music players and mobile phones with a music playing function, given their widespread use and the growing number of people who are continuously exposed to sound levels exceeding the limits at workplace (80 decibels). SCENIHR concluded in its Opinion ⁽⁴⁾ that listeners risk both hearing and non-hearing problems. In particular, listeners risk permanent hearing loss if they use a personal music player for more than 40 hours per week at high volume settings (exceeding 89 dB(A)) for at least five years. Such usage patterns have now become quite common, especially among children and adolescents.
- (7) The safety requirement for personal music players should be drawn up under the provisions of Article 4(1)(a) of Directive 2001/95/EC, with the aim to request the standardisation bodies to develop a standard that prevents the risk of hearing damage from exposure to sound from such devices, according to the procedure laid down in Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations ⁽⁵⁾. The reference of the standard adopted should be published in the *Official Journal of the European Union*, in accordance with Article 4(2) of Directive 2001/95/EC. To ensure a comprehensive and harmonised approach covering the safety of all personal music players, including mobile phones with a music playing function, a request is to be submitted to the standardisation bodies jointly under Directive 2001/95/EC, Directive 1999/5/EC and Directive 2006/95/EC.

⁽¹⁾ OJ L 11, 15.1.2002, p. 4.

⁽²⁾ OJ L 91, 7.4.1999, p. 10.

⁽³⁾ OJ L 374, 27.12.2006, p. 10.

⁽⁴⁾ Opinion of 13 October 2008 made public at: http://ec.europa.eu/health/ph_risk/committees/04_scenihr/docs/scenihr_o_018.pdf

⁽⁵⁾ OJ L 204, 21.7.1998, p. 37.

- (8) Once the standard is available, and provided that the Commission decides to publish its reference in the Official Journal, personal music players designed and manufactured in compliance with the standard will be presumed to conform to the general safety requirement of Directive 2001/95/EC, as far as the safety requirement covered by the standard is concerned.
- (9) This Decision is in accordance with the opinion of the Committee set up under Article 15 of Directive 2001/95/EC,

HAS DECIDED AS FOLLOWS:

Article 1

Purpose

The purpose of this Decision is to establish the safety requirement on the basis of which the Commission shall request the relevant standardisation bodies to establish standards for ensuring that, under normal usage conditions, exposure to sound from personal music players does not pose a risk to hearing. The requirements for personal music players shall take full account of the Opinion of the Scientific Committee on Emerging and Newly Identified Health Risks on 'Potential health risks of exposure to noise from personal music players and mobile phones including a music playing function'.

Article 2

Definition

For the purpose of this Decision, a 'personal music player' means a portable device, that is not covered by Directive 1999/5/EC or Directive 2006/95/EC, with headphones or earphones, used to listen to recorded, generated or broadcasted sound.

Article 3

Requirements

1. For the purpose of Article 4(1)(a) of Directive 2001/95/EC, the safety requirement for personal music players shall be the following:

Personal music players shall be designed and manufactured in a manner that ensures that, under reasonably foreseeable conditions of use, they are inherently safe and do not cause hearing damage.

2. The requirement set out in paragraph 1 shall include in particular the following:

1. Exposure to sound levels shall be time limited to avoid hearing damage. At 80 dB(A) exposure time shall be limited to 40 hours/week, whereas at 89 dB(A) exposure time shall be limited to 5 hours/week. For other exposure levels a linear intra- and extrapolation applies. Account shall be taken of the dynamic range of sound and the reasonably foreseeable use of the products.

2. Personal music players shall provide adequate warnings on the risks involved in using the device and to the ways of avoiding them and information to users in cases where exposure poses a risk of hearing damage.

Done at Brussels, 23 June 2009.

For the Commission

Meglana KUNEVA

Member of the Commission