



National Measurement Office

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Market Surveillance: MID and NAWI Directive
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Annual Report of Market Surveillance activities relating to Measuring Instruments.

For the Year 2013 – 2014, these activities covered Automatic Weighing Instruments under Annex MI-006 to the Measuring Instruments Directive, being specifically automatic catchweighers.

Annex MI-006 gives the following definitions, as applying to automatic weighing instruments, intended to determine the mass of a body by using the action of gravity on that body:-

Automatic weighing instrument - An instrument that determines the mass of a product without the intervention of an operator and follows a predetermined programme of automatic processes characteristic of the instrument.

Automatic catchweigher - An automatic weighing instrument that determines the mass of pre-assembled discrete loads (for example prepackages) or single loads of loose material.

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1. Executive Summary

Directive 2004/22/EC, relating to measuring instruments (MID) requires that Member States shall take all reasonable steps necessary to ensure that instruments placed on the market shall meet the requirements of the directive. In support of this, NMO decided to focus the attention of the 2013 / 2014 project on Automatic Weighing Instruments under Annex MI-006 of the Measuring Instruments Directive.

The specific types of automatic weighing instrument included in the project were Automatic catchweighers.

This project continued with the centrally controlled project methodology NMO has successfully adopted, in order to achieve increased consistency of approach and financial control. This framework also gives benefit to overall reporting and data control.

The project gave rise to 2 main conclusions:-

1. No significant non-compliance issues were found in respect of instruments which had properly undergone the formal Declaration of Conformity process, and were marked accordingly
2. Declarations of Conformity were not always easy to obtain and did not always include all pertinent directives. Some contained errors, including reference to outdated requirements.

In addition to this, one type of instrument appeared to have been supplied to a particular operator with accompanying documentation, including an EC Declaration of Conformity, which described it as an automatic catchweigher. This appeared, however, to be a purpose for which the type of instrument was neither designed nor capable. The instruments concerned were however, being used satisfactorily for a use which was not prescribed in the United Kingdom, as automatic checkweighers.

The purpose of this year's project was to determine whether the instruments selected had been properly and correctly placed on the market.

As an overall conclusion, there is still concern with regard to the documentation relating to the Declaration of Conformity.

- Whilst parties involved in the supply and use of measuring instruments were aware of the significance of Declarations of Conformity, they were not always readily obtainable and were not always complete and accurate.
- It appeared that with one type of instrument, the manufacturer had supplied an operator with an EC Declaration of Conformity which was in respect of a model of instrument different from that with which it was supplied, and relating to a functionality that the supplied instruments did not have.

Whilst it may be argued that some of the documentary problems found were due to ignorance of requirements by certain parties, or inadequate care in the preparation of Declarations of Conformity the inability to produce complete and accurate conformity documentation continues to be a matter of concern.

Traceability of conformity is central to the principle of operation of the New Approach Directives and breaches of this will prejudice confidence in the operation of the principle of the New Approach Directives.

It is essential that manufacturers should have a formal and regular process to ensure that the correct application of all pertinent directives is kept under review.

The outcome of the 2013 / 2014 Market Surveillance project will be to continue to build upon the principal of central control of such projects, with delivery of subject specific investigation being undertaken by contracted Trading Standards Authorities and individuals. Understanding of the operation of the market place will continue to be developed and special emphasis will be placed upon changes in trade practice and the practical introduction of instruments which incorporate new technologies

NMO will continue to focus projects on potentially problematic areas that have been identified using information received from the trading standards and business communities, and will utilise a risk based approach by reference to the WELMEC WG5 risk assessment model.

The central control of the projects will ensure high levels of consistency in reporting and data submission.

2. Introduction & Background

Local Weights & Measures Authorities (LWMAs) on behalf of the United Kingdom, under the Non-automatic Weighing Instruments (NAWI) Directive and Measuring Instruments Directive (MID), ensure by an inspectional process that instruments that are subject to legal metrological control are neither placed on the market in the UK nor put into use unless they comply with the applicable provisions of the Directives.

The Directive 2004/22/EEC creates an obligation for Member States to carry out market surveillance. Market surveillance considers compliance of instruments with the essential requirements of the Directives that apply to them when they are first placed on the market, or put into service. In the UK, market surveillance is conducted by the National Measurement Office (NMO) and is supported by project work which is commissioned out to LWMAs.

Market surveillance is an essential tool in the underpinning of the concept of New Approach Directives. The principles are outlined in the "Guide to the Implementation of Directives based on the New Approach and the Global Approach". This guide is referred to colloquially as the "Blue Guide" as a result of the colour of the cover. Regulation (EC) No 768/2008 sets out requirements for market surveillance and requires Member States to establish, implement and update their market surveillance programmes. They must also communicate the programmes to other Member States and to the Commission and make them accessible to the public via internet.

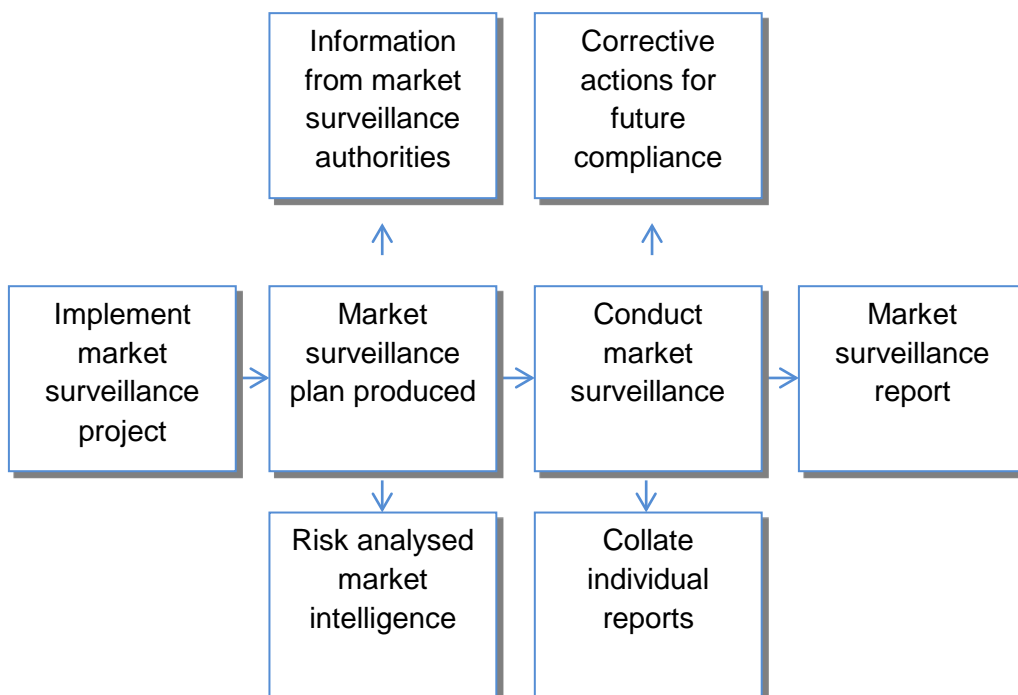
Market surveillance is expected to be carried between the point in time at which the instrument is placed on the market and put into use. NMO has taken the practical view that market surveillance may be more beneficial and give results that truly reflect the market place if conducted as soon after the instrument is in-situ but within the first 6 months of use. For example, an automatic weighing instrument or a forecourt petrol dispenser with the wrong software or no visible evidence of conformity assessment is likely to be incorrect when first placed on the market, which then becomes a market surveillance issue.

A market surveillance report on a particular instrument should contain the following information:-

1. CE marking and its affixing
2. The availability of the CE declaration of conformity
3. The information accompanying the product
4. The correct choice of conformity assessment procedures
5. Details of how the essential requirements of the MID are met.

3. Methodology

Market surveillance is a critical element of New Approach Directives, which not only gives confidence in the level of product conformity, but also helps to ensure that correct procedures are followed. The MID places emphasis on market surveillance which requires increased cooperation among Member States. The activities undertaken should confirm that the conformity assessment procedures are working and, if this is found not to be the case, to identify problems quickly to ensure consumers are protected. The NMO process for implementing the market surveillance project consists of planning, investigation and a corrective action stage.



Having determined the areas for the 2013 / 2014 market surveillance project, NMO identified local authorities who were suitably competent and had the equipment and resources in their area to carry out market surveillance on Automatic weighing instruments

4. Automatic Weighing Instruments - Catchweighers

The Market Surveillance project focussed specifically on automatic catchweighers

Background

- Automatic catchweighers have been controlled for many years by the Weights and Measures Act and subordinate legislation.
- Approval of such systems had previously been within the National Type Approval framework.

In the United Kingdom, these systems are usually supplied to the order of a specific customer. The distinction between “placing on the market” and “putting into use” of the instrument is therefore not of great significance, since the complete instrument will usually be delivered to the customer and put into use as a complete entity, and without further alteration or modification. The final outcome should always be that of a fully compliant instrument being supplied and then put into use.

“Placing on the market” means making available for the first time in the Community an instrument intended for an end user, whether for reward or free of charge.

“Putting into use” means the first use of an instrument intended for the end user for the purpose for which it was intended.

Method

Local Weights and Measures Authorities (LWMAs) were invited to take part in the 2013 / 2014 Project and to conduct Market Surveillance on Automatic Weighing Instruments which had been placed on the market and put into use under the Measuring Instruments Directive

Whilst some of the Market Surveillance was conducted by 3 LWMAs who are Notified Bodies for Automatic Weighing Instruments, the conclusions reported were impartial.

The implementing legislation is The Measuring Instruments (Automatic Catchweighers) Regulations 2006, SI 2006/1257

1. Sixteen individual instruments were examined by staff from four different Local Weights and Measures Authorities (LWMAs) under the Measuring Instruments (Automatic Catchweighers) Regulations 2006, SI 2006/1257.
2. The conformity assessment procedures used were B + D and B + F, although it was not always possible to clearly determine this retrospectively in all cases.
3. Seals and markings were found to be compliant.

4. Manufacturers Declarations of Conformity, which in some instances were difficult to obtain, were generally correct in scope except that:-
 - Not all applicable Directives were listed on every such declaration
 - There was reference to outdated and superseded requirements
 - One Declaration of Conformity had the wrong year of manufacture quoted (2014 instead of 2013)
 - One manufacturer was recommended to review all of the Directives quoted on their conformity documentation each year, in order to ensure currency.

5. The circumstances associated with one manufacturer were more complicated:-
 - They had supplied with the instruments that were examined, 'EC Declarations of Conformity' referencing a Type Examination Certificate number, but the actual certificate did not refer to the model of instrument in question, yet was supplied with the instruments.
 - In addition to this, the actual capacities of the instruments examined were not listed in the Type Examination Certificate.
 - The wording of the associated EC Declaration of Conformity, which said that 'the instrument has designed to meet the requirements of the following directives.....' (which included the MID) could have been taken to mean that it was fully compliant, but it was not sealed and did not apparently bear a compliant data plate. It might be assumed that it was made so that the instruments in question could be submitted for a Module F procedure.
 - Despite the description of these instruments as automatic catchweighers on the Declarations of Conformity which had been supplied with them, and in the referenced Type Examination Certificate, the manufacturer apparently advised that the instruments in question could *not* be used as catchweighers. They were unable to explain why the instruments were referred to as automatic catchweighers when they were apparently incapable of being used as such.

The instruments were in practice actually being used satisfactorily for a use which was not prescribed in the United Kingdom, as an automatic checkweigher. The instruments were therefore not non-compliant in use.

The manufacturer in question is in discussion with a UK Notified Body with regard to the Type Examination Certification.

Matters Arising in respect of Automatic Weighing Instruments:-

1. The significance of Declarations of Conformity needs to be recognised as being of great importance by all involved parties.
2. Declarations of Conformity should clearly cover all pertinent Directives.
3. Declarations of Conformity should be complete, up to date and accurate.
4. The manufacturer should have a formal and regular process to ensure that the correct application of all pertinent directives is kept under review.
5. The manufacturer should make sure that Declarations of Conformity are given to the purchaser of the instrument.

6. The operator should be aware of the significance of Declarations of Conformity when the instruments are new.

5. WELMEC WG5 Risk assessment

In May 2011, WELMEC Working Group 5 published WELMEC 5.5 entitled 'A Risk Assessment Guide for Market Surveillance: Weighing and Measuring Instruments'

This document assists in the targeting and planning of market surveillance activities and the relationship between probability of non-compliance, and the subsequent level of impact of non-compliance.

The rationale behind this Guide is twofold:-

- a. It assists in addressing the need for selective and focussed market surveillance which recognises the need to use scarce resources in an effective way.
- b. Regulation (EC) No 765 / 2008 of the European Parliament and Council requires Market Surveillance Authorities to take account of principles of risk assessment, complaints and other information.

This WELMEC Guide recognises a number of pertinent factors which should be addressed in order to determine a risk score. These factors will include assessment of the type of measuring instrument in question, its use and age etc.

It is a useful additional tool for planning the future market surveillance programme, and will be supported by our intelligence processes, both within the United Kingdom, and across the European Union.

6. Conclusions and Implications

Market surveillance is an obligation which is the responsibility of each Member State. It can be an effective tool for determining compliance in particular sectors in each individual Member State, and when effectively focussed, can highlight specific problems or developments which could be either local, or EU wide in their implication. Whilst it is an obligation, it should continue to be positively embraced as a tool for ensuring consistency across the Single Market.

The compliance of the Automatic Weighing Instruments in question was generally good in respect of their construction, sealing, marking, and accompanying documentation, but in the case of one manufacturer, particular problems were identified.

Declarations of Conformity were available, when requested, in most instances but were not necessarily complete or instrument specific.

7. Recommendations

- 1) Future market surveillance projects are organised by the NMO using market surveillance officers authorised by them

- 2) Such projects should continue to be focussed so that specific outcomes may be obtained and valid intelligence determined so that future work can be effectively directed. The WELMEC 'Risk Assessment Guide for Market Surveillance: Weighing and Measuring Instruments' is a valuable tool in assisting this process.
- 3) The specific recommendations of this report, in respect of catchweighers are that:-
 - Declarations of Conformity should be complete, accurate and up to date.
 - Declarations of Conformity should include compliance with all pertinent directives
 - Manufacturers should regularly review the accuracy and completeness of Declarations of Conformity
 - Declarations of Conformity should always accompany the instruments.
 - Manufacturers should have in place procedures which ensure that Declarations of Conformity are properly made and relate to the correct instruments.