



European Commission

Enterprise and Industry Directorate General

Notification Procedure - Directive 98/34/EC

Explanatory Part of Screening Exercise

Turkey and Croatia

Brussels, 16-20 January 2006

Today's Presentation

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2. Objectives of Directive 98/34/EC
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What is Directive 98/34/EC?

A system of notification
of technical regulations
in draft form
applying standstill periods
during which the Commission
and all Member States
can react in a specific form.

Objectives of Directive 98/34/EC

- Transparency

- All participants in the notification process are informed

- Prevention

- Avoiding barriers to trade before they appear

- Subsidiarity

- Detecting those cases where community intervention appears most appropriate

An optimal functioning of the Internal Market

Greater competitiveness for enterprises

Scope of Application of Directive 98/34/EC (1)

- The Directive applies to all industrial and agricultural products
- Directive 98/48/EC extended the notification procedure to Information Society Services

Scope of Application of Directive 98/34/EC (2)

- Factors triggering a notification:
 - a) must contain technical regulations
 - b) must fall outside the “harmonised” area
 - c) measures must be imputable to the state

Scope of Application of Directive 98/34/EC (3)

Technical regulations:

Technical specifications

- levels of quality, performance, safety
- dimensions
- terminology, symbols, labelling
- testing, testing methods
- conformity assessment procedures

Other requirements

- affecting the life cycle after placing on the market
- such as conditions of use, recycling, reuse or disposal

Rules on services

- taking up and pursuit of services

Scope of Application of Directive 98/34/EC (4)

Information Society Services

- at a distance
- by electronic means
- at the individual request of a recipient of services

Exceptions:

- Telecommunication services
- Financial services
- Regulated markets

Scope of Application of Directive 98/34/EC (5)

For example:



De facto
technical
regulations



Voluntary agreements



Fiscal or financial measures
affecting the consumption of
products or services

Moment of Notification

When to notify a text:

- when a text is still at a draft stage
- when substantial amendments can still be made
- in any case before its adoption

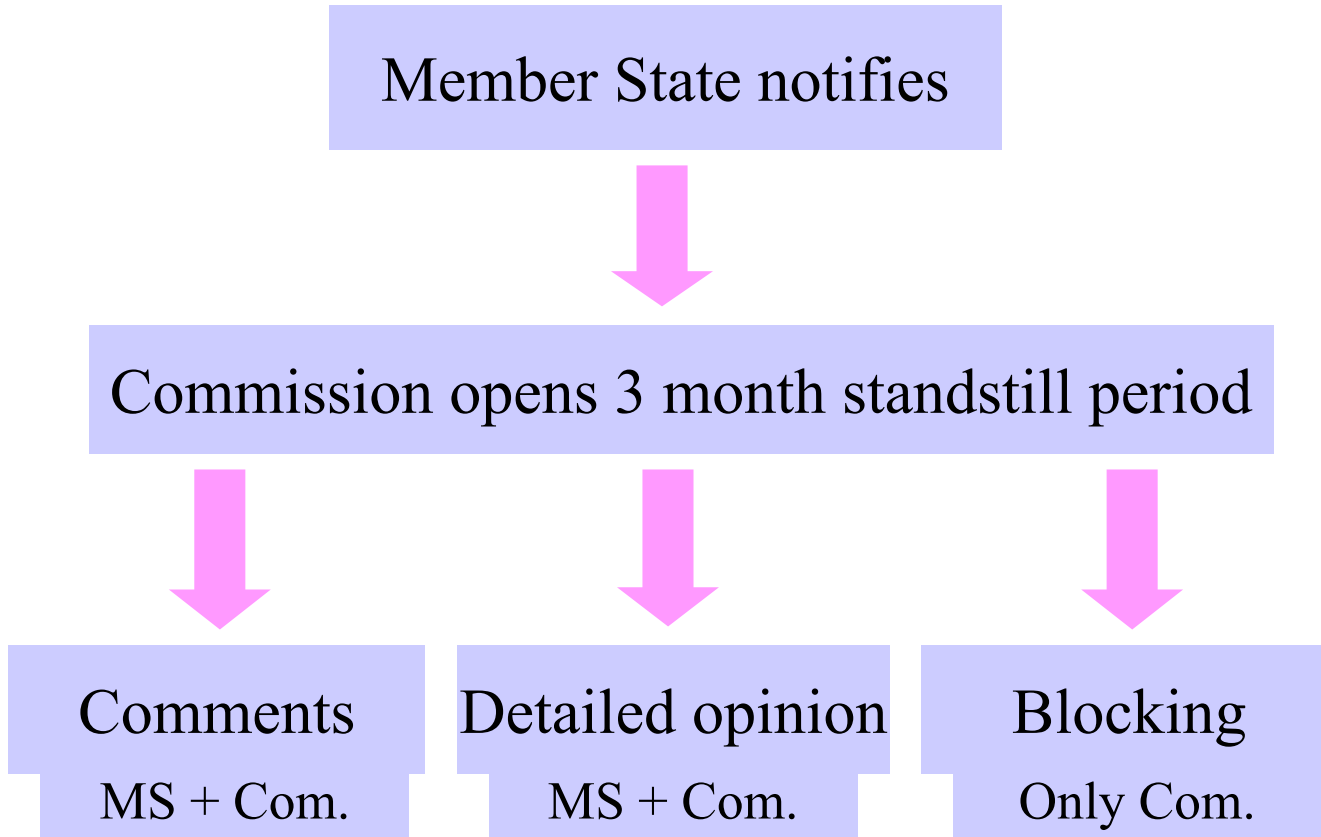
Documents to be submitted

Documents to be submitted for notification:

- text of the notified draft
- basic texts (if possible also texts referred to in the notified draft)
- filled in message 001
- any other useful texts (impact studies, etc.)

NB: For chemicals article 8(1) requires submission of risk analysis

Notification Process (1)



Notification Process (2)

Comments

Detailed opinion

Blocking

Total standstill
period 3 months

Total standstill
period 6 months

Total standstill
period 12 months

4 months for V.A.
and I.S. services

Taking into
account

Taking into account
+ Obligation to
answer

Extension to
18 months poss.

Transmission of final text

Need for a New Notification

Amendments necessitating re-notification:

- significantly altering its scope
- shortening the timetable for implementation
- adding specifications or requirements
- making specifications or requirements more restrictive

Request for Urgency

Article 9.7

The original 3 months standstill period does not apply if a Member State invokes serious and unforeseeable circumstances relating to:

- protection of public health or safety, protection of animals and plants
- for rules on services, also to public policy, notably the protection of minors

Exceptions

- Main exceptions to notification:
 - complying with binding community (EC) acts;
 - fulfilment of obligations under an international agreement;
 - implementation of an ECJ judgement;
 - amendment of a technical regulation in accordance with a Commission request;
 - making use of safeguard clauses; and
 - technical specifications linked to national social security systems.

Administrative Practicalities

- Authority assigned in each Member State for coordination of the procedure
- Informatics infrastructure developed by the Commission
- Member States need to connect to this infrastructure
- Translations provided by the Commission

Absence of Notification (1)

Cases on procedure:

- CIA Security (C-194/94)

- Inapplicability of non-notified technical regulations

- Unilever (C-443/98)

- Inapplicability of texts for which standstill period has not been respected

Absence of Notification (2)

Cases on the Directive's scope of application

- Unilever (C-443/98) and Canal Satélite Digital (C-390/99)
 - Narrow interpretation of « harmonised » area
- Lemmens (C-226/97)
 - Rules falling under criminal law need to be notified if they contain technical regulations

Results of the Procedure (1)

	Total	Detailed opinions	Comments
2003	486	80 (COM) 59 (MS)	165 (COM) 151 (MS)
2004	557	66 (COM) 60 (MS)	229 (COM) 178 (MS)
2005 (on 01/01/2006)	739	52 (COM) 34 (MS)	204 (COM) 134 (MS)

Results of the Procedure (2)

Some statistics for 2005 (figures on 01/01/2006) :

- 739 notifications made by Member States
- 61 notifications made by EFTA & Turkey

Main sectors:

- Foodstuffs, Agricultural products (140)
- Transport (121)
- Telecommunications (102)
- Building and construction (99)

Detailed opinions	52 (COM)	34 (MS)
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Comments	204 (COM)	134 (MS)
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Useful links and contacts

Commission Internet site:

<http://europa.eu.int/comm/enterprise/tris>

Commission email:

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