



OPERATIONAL DOCUMENT

OD 116

**COMMUNICATION AND LICENCING PROCEDURES
IN SERIOUS CASES OF NON-CONFORMING PRODUCTS**

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COMMUNICATION AND LICENCING PROCEDURES IN SERIOUS CASES OF NON-CONFORMING PRODUCT

1. Purpose and Scope

- 1.1 These Procedures should be followed whenever it is found that a HAR marked cable product has been manufactured and released to the market which could threaten the reputation of the HAR scheme. Preparations in advance of action are required by Member CBs, Manufacturers and the HAR Group.
- 1.2 The purpose of these procedures is to ensure effective and timely action is taken by Member CBs, the HAR Group, and the Manufacturer involved, to communicate information about the problem to all relevant parties, to assist in the identification of the non-compliant product, and to minimise the impact on the market, end users, and the reputation of the HAR scheme.
- 1.3 These procedures cover situations where a product is found to be non-conforming to the extent that operational performance or safety may be compromised, and where the extent of the problem is large, for example when many cable types and batches are affected. A further requirement is that the situation must compromise the validity of the Licence(s) issued to the Manufacturer, or it threatens the reputation of the HAR scheme. Careful assessment will be required to the categorisation of any situation, but it is recommended that a precautionary approach be adopted. Lesser product non-compliances should be handled using the normal system of deviations, rechecking, or by the Member CB's normal complaint system.
- 1.4 These procedures are applicable only to those cases subject to contractual arrangements between HAR scheme Member CBs and Manufacturers, and do not cover legal aspects that are within the remit of national authorities. Such cases should be referred to and handled by the relevant national market surveillance and enforcement authorities.
- 1.5 These procedures are not applicable in the case of counterfeit HAR marked cable. In those cases appropriate legal/trade mark action should be taken.

2. Preparations

- 2.1 Member CBs shall ensure that their contractual agreements with Manufacturers and their operational rules contain suitable and sufficient provisions to ensure that Manufacturers have clear and enforceable responsibilities for complying with these Procedures.
- 2.2 Member CBs shall ensure that they have in place suitable, sufficient and verified procedures to enable them to fulfil their responsibilities under these Procedures.
- 2.3 Manufacturers shall ensure that they have in place suitable, sufficient and verified procedures to enable them to fulfil their responsibilities under these Procedures.
- 2.5 The HAR Group (Secretariat, Chairman, Vice-Chairman and the Chairmen of Working Groups) shall ensure that they have in place a suitable working protocol to enable them to fulfil their responsibilities under these Procedures.

3. Initiation and Initial Assessment

- 3.1 Initiation of action under these Procedures may be triggered by any of the following parties:
 - Responsible CB (Member CB who has issued the Licence(s) to the relevant Manufacturer and is responsible for surveillance activities with the Manufacturer).
 - Member CB (any other HAR Scheme Member CB).
 - Manufacturer holding Licence(s) for the relevant product(s).
 - HAR Group Management (Secretariat, Chairman, Vice-Chairman and the Chairmen of Working Groups).
 - Third parties, who should report problems through the Member CBs in the territories where the problem arises.
- 3.2 Discovery or reporting of a problem may occur as a result of activities of the Responsible CB during routine surveillance testing or audit, self-reporting by the Manufacturer, complaints from the market (end user, regulator, trade body, trader, another manufacturer, etc.), complaints from another Member CB, through market surveillance activities or otherwise.

Note: The Responsible CB should be aware of possible competition issues in responding to complaints.
- 3.3 Any of the parties listed in 3.1 shall issue a request to the Responsible CB for the problem to be initially assessed against the criteria in 3.4. Samples of the cable(s) in question shall be sent to the Responsible CB as soon as possible. Any other evidence (such as test results) shall be submitted to the Responsible CB with the request for initial assessment. Any such request for initial assessment shall be copied to the HAR Group Management.
- 3.4 A problem shall be classified as requiring action where a HAR marked product has been released to the market and it is found to be non-conforming to the extent that

operational performance or safety may be compromised, and where the extent of the problem is large, for example when many cable types and batches are affected. A further requirement is that the situation must compromise the validity of the Licence(s) issued to the Manufacturer, or it threatens the reputation of the HAR scheme. For example, the product may be found to be non-functional, requiring removal from use and replacement, production volumes may be large, whole ranges of a product may be affected, or several product types are affected. Where the product is considered unsafe, legal action through the relevant national authorities shall be initiated.

- 3.5 In undertaking the assessment, the Responsible CB should adopt quantitative approaches where possible, based on the evidence available.
Note: Speed of response is often essential and initial investigations should be undertaken in parallel with the obtaining of confirmatory test results.
- 3.6 The Responsible CB shall acknowledge the complaint to the initiator, they shall contact the manufacturer, and they shall report on their actions to the HAR Group Management within five working days.
- 3.7 The Responsible CB shall undertake appropriate confirmatory testing, they shall contact the manufacturer with the results, and they shall report on the findings to the HAR Group Management within a further five working days.
- 3.8 Communication to other Members of the HAR Group shall be undertaken by the Responsible CB once the findings are verified.

4. Suspension Prior to Full Investigation

- 4.1 In undertaking the initial assessment, the Responsible CB may determine that there is sufficient evidence and concern that the Licence(s) issued to the Manufacturer should be suspended to help prevent further non-conforming products being manufactured and/or released to the market, pending further investigations. Decisions on suspension shall be taken in accordance with the Responsible CB's rules. Suspension of one or more HAR Licences shall be reported to the HAR Group Management and to all HAR Group Member CBs within five working days.
- 4.2 The Responsible CB shall decide whether information about the suspension shall be made public or not, taking account of the Responsible CB's rules, the severity of the problem, and of the potential impact on the reputation of the Manufacturer and the HAR Scheme, should findings not be substantiated.
- 4.3 No decision shall be made on the reinstatement of Licence(s) or on the withdrawal of Licence(s) until a full investigation has been completed.

5. Full Investigation

- 5.1 Following their reporting of the initial assessment of the problem, the Responsible CB shall initiate a full investigation into the problem, with re-testing and factory audits. Once test findings are confirmed, these shall be communicated to the Manufacturer and to the HAR Group Management.
- 5.2 The Responsible CB shall make enquiries of the Manufacturer to determine where the product likely to be affected is located, including export to other countries. The Manufacturer shall fully co-operate with the Responsible CB, and provide full access to facilities, production and sales records, and provide any information the Responsible CB demands within a reasonable timescale. The Responsible CB shall maintain the confidentiality of this information except as required under 5.4.
- 5.3 Within 20 working days of the start of the full investigation, the Responsible CB shall inform other Member CBs with responsibilities for any countries to which any affected product has been exported (with detail of types, sizes, quantities and traceability information), and provide a summary of the findings to all HAR Member CBs and to the HAR Group Management.
- 5.4 If investigations continue, the Responsible CB shall provide updated reports (as in 5.3) whenever new results are available.

6. Suspension, Withdrawal, Reinstatement

- 6.1 Once the full investigation has been completed, the Responsible CB shall consider the suspension or withdrawal of the Manufacturer's Licence(s) for the relevant product(s), in accordance with the Responsible CB's normal procedures, including provision for appeal.
- 6.2 If the Manufacturer's Licence is suspended, reinstated or withdrawn, the Responsible CB shall inform all HAR Member CBs and the HAR Group Management within ten working days.
- 6.3 If the Manufacturer's Licence is withdrawn, the Responsible CB shall consider an application for a new Licence from the same Manufacturer in accordance with the Responsible CB's normal procedures.
- 6.5 Following the full investigation, the Responsible CB shall determine how the Manufacturer shall be managed, in accordance with their normal procedures.

7. Recall of Affected Product

- 7.1 The Manufacturer shall be responsible for taking any decisions concerning the recall of the product affected by the problem, and be responsible for its organisation and any necessary publicity. This shall apply whether the Licence(s) are continuing, suspended, reinstated or withdrawn.
- 7.2 As a result of the findings of the full investigation, the Responsible CB shall communicate to the Manufacturer the results of the investigation and shall remind the Manufacturer of their obligations under the applicable national laws and health and safety legislation in the countries where the product has been produced and/or supplied that may indicate a recall of the product is required.
- 7.3 If the Manufacturer decides to recall the affected product, information about the recall process (including product types and sizes, together with traceability information for the affected product) shall be issued by the Manufacturer to their customers, including those in other countries, and within five working days to the Responsible CB, who shall pass this information on immediately to all Member CBs and to the HAR Group Management.
- 7.4 No member of the HAR Group shall be responsible for making decisions about any recall process or related publicity.

8. Post Mortem – HAR Group Management

- 8.1 Once the situation has been resolved, the HAR Group Management shall review the problem and the actions taken to check that procedures have been followed and that appropriate follow-up has been undertaken, and shall communicate the findings to the HAR Group at the next annual meeting.