

## INCEPTION IMPACT ASSESSMENT

Inception Impact Assessments aim to inform citizens and stakeholders about the Commission's plans in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Citizens and stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have, including on possible impacts of the different options.

<b>TITLE OF THE INITIATIVE</b>	Noise emission by outdoor equipment
<b>LEAD DG (RESPONSIBLE UNIT)</b>	DG GROW: Internal Market, Industry, Entrepreneurship and SMEs (Unit C3: Advanced Engineering and Manufacturing Systems)
<b>LIKELY TYPE OF INITIATIVE</b>	Legislative
<b>INDICATIVE PLANNING</b>	Q2 2018
<b>ADDITIONAL INFORMATION</b>	Commission's sectorial website on Noise Emissions by Outdoor Equipment: <a href="http://ec.europa.eu/growth/sectors/mechanical-engineering/noise-emissions/">http://ec.europa.eu/growth/sectors/mechanical-engineering/noise-emissions/</a>

**The Inception Impact Assessment is provided for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by the Inception impact assessment, including its timing, are subject to change.**

### A. Context, Problem Definition and Subsidiarity Check

#### Context

The [Outdoor Noise Directive 2000/14/EU](#) (OND) concerns noise emissions by equipment and machines for use outdoors such as those used in construction sites, road maintenance, gardening and forestry activities, etc. Being part of the EU strategy to reduce noise at source, in line with the [Fifth Environmental Action Programme](#) and the [Green Paper on Future Noise Policy](#), the Directive aims to protect the health and well-being of citizens as well as to protect the environment.

The possible revision of the Directive, related to the [Commission's Regulatory Fitness and Performance \(REFIT\) programme](#), makes reference to the requirements on the Commission to report to the European Parliament and to the Council on the experience in the implementation and administration of the Directive, as by Article 20. This must take into consideration the need for revision of the lists of equipment in Articles 12 and 13, and the possibilities for revision of the limit values laid down in Article 12 taking into account technological development. In addition, also other aspects could be taken into account in the initiative.

In this sense, different studies have been already produced so far (Evaluation study "Nomeval" 2007, Impact assessment study "Arcadis" 2009, [Noise-Machinery integration study "Ceps"](#) 2014, [Noise scope and limit values assessment study "Odelia"](#) 2016), providing a significant basis for the next steps oriented to develop a revised and updated EU legislation on Outdoor Noise Emissions.

#### Problem the initiative aims to tackle

The possible revision of the Outdoor Noise Directive would take into consideration not only the elements covered by Article 20, but also other directly or indirectly correlated aspects, on the basis of the [analysis of problems](#) related to this initiative. Such problems affect to different extent the sectorial economic operators and in particular SMEs and micro-enterprises, in particular with respect to the adaptation to technical progress, implementation of legal requirements, administrative burdens, legal uncertainties, etc. In more details:

1. Lack of adaptation to technical progress:

- Scope and limit values: in line with the overall objectives of the Directive as described in Recital (1) and in Article 1, the possibilities for reduction of permissible noise limits should be analysed to better protect human health and well-being, for workers and citizens in general exposed to this kind of nuisance, as well to protect the environment. The OND identifies equipment in its scope subject to specific noise limits and noise marking (Articles 12 and 13, Annexes I and III): both aspects have now been in force for more than 10 years (since Stage II as from 3 January 2006) but they are directly related to technological development ("state of the art") which evolved during these years. As evidenced in previous studies, the lack of an updated list of equipment, as well as more technologically feasible noise limit values, may cause excessive and unnecessary noise and may disincentive the development of less noisy equipment.

- Conformity assessment procedures: the current OND provisions reflect the division between equipment in Article 12 (mandatory third party verification) and Article 13 (self-certification). As for the scope and limit values mentioned above, the lack of adaptation of conformity assessment procedures to the technical progress and

the evolution of the "state of the art" leads to the risk of having outdated and non-innovative products on the market, causing competitive disadvantages to operators for not ensuring the highest level of performance of equipment in terms of noise emission.

- Standards for noise measurement methods / test codes: the OND stipulates precise noise measurement methods as "basic noise emission standards" and "general supplements to these basic noise emission standards" (Annex III), aiming to guarantee fair comparability of results. The current system appears to be too rigid with respect to the evolution of available technical solutions in reduction and measurements of noise emissions and the related feasibility and reliability: in fact, outdated references to measurement standards already withdrawn and replaced by new standards cause uncertainty, misunderstandings and unnecessary costs for operators, in particular in the relationship with other EU pieces of legislation which use technical solutions laid down in "harmonised standards" regularly updated.

## 2. Implementation and information issues, administrative and reporting burdens:

- Labelling: alongside the "CE marking", the "Indication of the guaranteed sound power level" (Annex IV) appears to be unclear, due to the amount of information on the current format and its highly technical nature. The current provisions could lead to provide inaccurate or misleading information to the users of equipment and citizens in general, not always able to comply with the information objectives of the Directive.

- Collection of noise data: the obligation for manufacturers to provide a copy of the EC declaration of conformity for each type of equipment and for the Commission to publish the relevant information periodically, as required by Article 16, in practice imposed significant administrative burdens on the involved actors, with no clear added value. In fact, on one hand, manufacturers have to devote specific time and resources to organise and send to the relevant contact points the information required; and on the other hand, the management of the received data is very complex and costly for both the Commission services and the MS authorities. The results of these efforts revealed not be really useful to comply with the objectives of providing information to end-users to improve customer choice and for assessment of new technological developments, in particular when the information is already available on the market for each category of equipment.

## 3. Legal issues:

Legal uncertainties can be caused by the non-alignment of the Outdoor Noise Directive to the [New Legislative Framework](#) (Decision 768/2008/EC), while most of the EU harmonisation legislation on products in the internal market uses the specific NLF terminology and structure, in particular with respect to:

- definitions, obligations and responsibilities of economic operators (manufacturers, importers, distributors),
- market surveillance and safeguard clause procedures,
- notification and operation of conformity assessment bodies ("notified bodies"),
- use of CE marking, and
- conformity assessment procedures and modules.

The lack of alignment of the Directive in these aspects can cause problems of incoherencies and divergences in particular when different pieces of legislation apply to the same product, and the manufacturer has to carry out the related conformity assessment procedures, issue the declaration of conformity, etc.

## **Basis for EU intervention (legal basis and subsidiarity check)**

Concerning the [legal basis, subsidiarity and proportionality](#) aspects related to this initiative, the OND is based on Article 95 of the EC Treaty, now replaced by Article 114 of the Treaty on the Functioning of the European Union (TFEU): it enables the EU to adopt measures to harmonise the legislation of the Member States in order to ensure the establishment and functioning of the internal market. Such measures must take as a base a high level of protection of the health and safety of persons, consumer protection and environmental protection, also taking into account the objectives of the EU policy on the environment as laid down in Article 191 of the TFEU.

Any changes to the scope, requirements and procedures in the Directive, in view of a possible new EU legislation on Outdoor Noise, must be carried out at the UE level in order to avoid distortion on the market, barriers to the free circulation of products and undermining of the protection of human health, well-being of citizens, consumer protection and environmental protection.

## **B. Objectives and Policy Options**

The aim of the initiative is to improve the legal framework structured in the current Directive concerning the noise emission in the environment of equipment for use outdoors to be placed on the EU internal market, to take advantage from the most recent developments by the point of view of the New Legislative Framework (alignment to the whole set of EU harmonisation legislation for health and safety of products) as well as technical progress and the available state of the art in the sector. In particular, it aims to achieve the following overall objectives:

1. **Reduce noise of outdoor equipment** and incentivise better performance of such equipment in terms of noise emissions to better protect workers and citizens (who may occupy the same environment as these machines when in use, or who may be exposed to them).

2. Update and **simplify** the EU regulatory environment (for all the stakeholders active in the field taking into account the technical evolution of equipment, the state of the art and the demands of the market).

**3. Improve innovation and competitiveness** of economic operators in this area of economic activity in the EU, directly related to the other objectives above in terms of improvement and alignment.

On the basis of the current Directive, the possible identified [policy options](#) to be taken into consideration include:

1) baseline, no change;

2) the pure alignment to the New Legislative Framework and conversion to a Regulation, without any change in the substantial contents of the current legal act (scope, definitions, noise limits, conformity assessment, collection of data and information on declarations of conformity) and just adding the relevant provisions from Decision No 768/2008/EC on economic operators, market surveillance, notified bodies, conformity assessment, etc.;

3) the full revision of the legislation, including not only the alignment to the New Legislative Framework and conversion into a Regulation, but also changes in the substantial contents of the current legal act. This option would involve different possible sub-options that can be considered, as a whole or only some of them:

- adaptation of the scope of the Directive, with the revision of the lists of equipment in Articles 12 and 13, by adding or removing specific types of equipment;
- modification of the noise limit values in Article 12 for control and reduction of noise emission, for all or some types of equipment;
- adaptation of the conformity assessment procedures, according to the changes introduced in the scope and/or in the noise limits;
- modification of noise measurement methods / test codes, with a different regime for the standards to be used;
- modification or elimination of the requirements on collection of noise data
- modification of marking, in particular the indication of the guaranteed sound power level.

### **C. Preliminary Assessment of Expected Impacts**

This section takes into consideration the relevant [identification of impacts](#) and [methodological tools for assessment of costs and benefits](#), for the changes related to the policy options of "pure alignment" and "full revision" and the related sub-options as described above (Section B).

#### **Likely economic impacts**

For the "pure alignment" option, no significant economic impacts are likely to occur, as changes in legislation and in requirements for economic operators would be rather of a formal nature. The efforts to adapt the relevant documents under the Directive (declaration of conformity, technical file, instructions etc.) would be compensated by reduction of administrative burdens thanks to the alignment to the other EU legislation potentially applicable to equipment in scope.

For the "full revision" option and the related sub-options, the improvement of the legal framework in the sector should have a positive [impact on sectorial competitiveness](#) of the EU mechanical engineering and the economic operators, including for [SMEs](#), as to be specifically taken into consideration in the whole development of the revision exercise, starting from the Impact Assessment Study by external consultants. This is aimed to contribute to the better achievement of the [internal market](#), within the common reference of the New Legislative Framework of the other EU legislation on health and safety of products. In particular, the adaptation of legislation to technical progress and enhanced available technologies in the scope, in the noise limits and in conformity assessment procedures, should allow economic operators to be able to place better quality and performant equipment on the EU market. On the other hand, it would be necessary to take into due account the compliance costs and investments for business (in particular SMEs) to comply with the new requirement, especially where the scope of legislation is enlarged and/or new noise limits are established. This would lead to carry out a cost-benefit analysis and to undertake a [SME Test](#), to assess the economic feasibility of the possible changes in legislation.

#### **Likely social impacts**

For the "pure alignment" option, no social impact is likely to occur.

For the "full revision" option and the related sub-options, it is foreseeable an improvement of [working conditions](#) for operators of equipment in the scope of the OND, in the sense of better performance and reduced emissions.

#### **Likely environmental impacts**

For the "pure alignment" option, no environmental impact is likely to occur.

For the "full revision" option and the related sub-options, the progressive reduction of noise limits, in line with technological progress, should contribute to minimize the environmental problem of noise emissions in urban areas, improving the level of [health](#) and safety of [workers](#), [consumers](#) and citizens in general.

#### **Likely impacts on fundamental rights**

No impact is foreseeable on fundamental rights.

<p><b>Likely impacts on simplification and/or administrative burden</b></p>
<p>Both for the "pure alignment" and the "full revision" options with the related sub-options, the likely impacts and benefits in terms of reducing unnecessary regulatory and administrative burdens in the sector would be related to the improved clarity in the scope of legislation, the applicable test methods related to noise limits according to the state of the art, and also with respect to collection of data and information obligations. This would be particularly important for micro and small companies, proportionately more affected by direct and indirect costs of legislation more than bigger businesses.</p> <p>In addition, the legislation as a Regulation would be a common and directly applicable reference, instead of different national legislative acts in different transposition steps.</p>
<p><b>D. Evidence Base, Data Collection and Better Regulation Instruments</b></p>
<p><b>Impact assessment</b></p>
<p>An <a href="#">Impact Assessment</a> will be carried out "back to back" with an evaluation of the current Directive.</p> <p>In order to adequately support the development of the initiative, a combined evaluation back to back to the impact assessment supporting study is to be carried out by an external contractor under the relevant Commission's framework contract, during a period of 12 months, from May 2017 until May 2018. The results and findings of the study, alongside with the other previous studies already available, will inform the evaluation and the Impact Assessment Report.</p>
<p><b>Evidence base and data collection</b></p>
<p>According to the general principles laid down in the <a href="#">Better Regulation Guidelines</a>, in particular on the need to develop an evidence-based evaluation and impact assessment, the collection of evidences and data would include the following documents, information sources and methodological tools:</p> <ul style="list-style-type: none"> <li>- experiences, approaches and agreements from the members of the formal sectorial working parties within the OND (Committee and Working Group, Administrative Co-operation Group, Coordination of Notified Bodies);</li> <li>- guidance documents elaborated in the framework of the activities of the sectorial working parties;</li> <li>- technical reports, position papers and other documents elaborated by relevant sectorial stakeholders;</li> <li>- evaluation and impact assessment studies already carried out on specific aspects related to the OND (as indicated in Section A - Context);</li> <li>- collection of data from the different consultation tools to be used: internet-based open public consultations, targeted consultations, interviews, etc., involving the most relevant interested parties at EU level.</li> </ul>
<p><b>Consultation of citizens and stakeholders</b></p>
<p>Sectorial stakeholders and interested parties (Member States, notified bodies, standardisers, manufacturers' organisations, trade unions and consumer associations, etc.) are involved in the continuous analysis and follow-up of the Directive since the entering into force, in particular through the sectorial working parties. Building on that, the consultation strategy for this revision exercise aims at capturing the views of citizens and all relevant stakeholders, allowing them to provide significant and robust information for the evaluation of the most demanding issues in the field. In particular, in view of the impact assessment, the consultation activities will aim to collect feedback on the identification of the key problems, the different options that will be proposed as well as the potential impacts thereof.</p> <p>In this context, specific consultation activities will be carried out:</p> <ul style="list-style-type: none"> <li>- A 12-week public consultation will be launched to consult all citizens about the main issues at stake and the possible solutions; this will be accessible via the Commission's central <a href="#">public consultation webpage</a> ("Contribute to Law-Making"). The consultation should run from January to March 2018 and be available in six languages: English, French, German, Italian, Polish and Spanish. The Commission will publish the results of the consultation and also provide a short factual summary of all received inputs.</li> <li>- Targeted consultations will be carried out also with the support of external consultants developing the Impact Assessment Study, addressed in particular to Member States authorities, notified bodies and European-wide stakeholders' organisations.</li> <li>- Regular consultations with stakeholders, experts, workers/users and the other interested party at EU level will be held through the Outdoor Noise Emission working parties: the Committee Working Group (with a minimum of 2 meetings per year), the Administrative Co-operation Group and the Notified Body Group (with a minimum of 1 meeting per year). Information on these activities will be shared through the <a href="#">Commission's sectorial website</a>.</li> </ul> <p>In all these consultation activities, particular consideration will be devoted to sectorial SMEs likely to be affected by the possible revision of legislation, ensuring that they are accessible to them through the internet as well as the most representative European organisations.</p> <p>The results of all consultation activities will be summarised in a synopsis report which will be published on the consultation webpage.</p>

**Will an Implementation plan be established?**

The establishment of an [implementation plan](#) would be useful to help Member States to consistently and effectively apply new legislation, in particular in transition period. This will include specific information and communication activities, guidance documents and a public workshop.