

Consultation Responses – MGN on UK Market Surveillance

The following table gives a summary of consultation comments received and the corresponding MCA responses received during this consultation. The below has been anonymised to remove references to individuals or company names.

ID	Comment	MCA Response
1	There is no mention of enforcement onboard vessels. Assume this will be part of normal Port State control for other EU flags, but what about UK registered ships?	There is a mention of surveyors assessing equipment installed on board UK ships in 2.3 however the main intention of the MGN is to look at equipment pre-installation i.e. on the market.
2	2.2.2 and 2.2.3 limit the users for using annex 1 for reporting. 2.4 has not such a limitation. Does this mean that also manufacturers can use this form when finding any failings in equipment they might come across?	The intention is that anyone external to the MCA can use the form in annex 1 to report to the MCA any concerns with MED approved equipment. We will amend the 2.2.2 and 2.2.3 to make it clear that anyone can use the form in annex 1.
3	<p><i>2.3 Equipment may be evaluated after installation on board a UK ship providing that only operational performance tests required by the IMO Conventions for safety and / or pollution prevention equipment are conducted and do not duplicate the conformity-assessment procedures already carried out. This aspect of market surveillance will be carried out by:</i></p> <p>This may contradict in some aspects the essence of the MED; free placing of wheel marked equipment on a vessel of a EU/MED members state.</p> <p>In this paragraph it is noted that equipment to be placed on a UK vessel even when not all testing (operational performance testing) is finalised. It is suggested to get this agreed on a “higher” MED level to get this a unified agreed interpretation for all EU member state vessel as well as instruction (ADR) for notified bodies.</p>	<p>The intention of this paragraph is to state that any on board testing of equipment will not replicate the conformity assessment carried out by a Notified Body. Recalling Article 25 of the Directive; It states that market surveillance must take into account the responsibilities placed on flag and port states. It also states that equipment already installed will only be checked in way that it can remain fully functional. The UK intends to keep its current policy such that only performance tests in line with IMO instruments will be carried out on board in relation to market surveillance. This could be for example ensuring that a lifeboat system functions as required, lifejackets can be easily donned, HRUs are in date etc.</p>
4	<p>LSA Manufacturers, especially the ones supplying large LSA components like MES, davits and lifeboats, manufacture their products outside the UK for placing their equipment on UK flagged vessels being built outside the UK. Does this MGN not apply for such cases?</p> <p>Also direct delivery from a place of manufacture outside of the UK to a UK flagged ship will prevent sample checking as listed under paragraph 2.2 by the MCA.</p>	<p>This MGN is simply communicating UK policy with regard to market surveillance. The MED and UK Regulations facilitate the ability of the MCA as the Market Surveillance Authority to carry out market surveillance for equipment offered for supply in the UK or installed on board a UK ship. We do not have and do not intend to pursue legal means to carry out market surveillance activity overseas. We believe this is the same for each of the EU Member States. If for example a manufacturer builds equipment outside the UK but it is transferred to the UK and held in a ship yard ahead of installation. If the equipment is MED approved then an MCA inspector may</p>

	<p>In that case the equipment should be checked accessed by parties as listed under 2.2.2 and 2.2.3. These parties may not have the competence to checking / assessment which is concerning.</p>	<p>look at the equipment ahead of installation to ensure the wheel mark is present and all the paperwork is in order etc. If the equipment is then installed on board a UK ship, if the relevant surveyor has concern they could request a functional test of the equipment etc. This is no different from the current situation but we have updated the guidance in line with the new Directive.</p> <p>We would agree that this would not facilitate checking in the market as the equipment is never in the 'market'. However, Surveyors checking the ship (assuming UK ship) are competent to check the equipment's compliance with relevant IMO requirements etc once the equipment is installed. Further, there is no limitation on who may raise a concern with equipment to the MCA. In such a case that those in 2.2.2 or 2.2.3 raise a concern with equipment, this would be considered by MCA personnel.</p>
6	<p>In paragraph 2.2.1 the phrase "manufacturers' storage facilities" is used. We would suggest that it may be more relevant to describe "manufacturers' finished good warehouse".</p> <p>This would better indicate that it is the completed units that are subject to inspection, as opposed to any components, spares or sub-assemblies.</p>	<p>We will amend the MGN to ensure it is clear that only finished equipment is to be considered when at a manufacturer's premises.</p>