EUROPEAN COMMISSION
Cabinet of Markos Kyprianou

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Member of Cabinet

Brussels, 22 June 2006
GG / D (2006) 1256/7

Dear Mr Lesser,

Thank you for your letter of 7 May, addressed to Commissioner Verheugen and forwarded to Commissioner Kyprianou, on your petition on behalf of Friends of the Earth concerning the discrimination of the handicapped.

For some time now, a number of individuals have reported a variety of health problems related to EMF exposure. This reputed sensitivity to EMF has been generally termed as "electromagnetic hypersensitivity" (EHS). [1]
EHS is characterized by a range of non-specific symptoms (most commonly dermatological, neurasthenic and vegetative) that can vary widely in their severity, that lack apparent toxicological or physiological basis or independent verification and which afflicted individuals attribute to exposure to EMF.

The collection of symptoms is not part of any recognized syndrome and EHS has no clear diagnostic criteria. EHS is not a medical diagnosis, nor is it clear that it represents a single problem, medical or otherwise.

There is at this moment no scientific basis to link EHS symptoms to EMF exposure. The majority of studies indicate that EHS individuals cannot detect EMF exposure any more accurately than non-EHS individuals. Well controlled and conducted double-blind studies have shown that symptoms were not correlated with EMF exposure. [2]

The European Commission is sponsoring further EMF research to allow a better understanding of any health risk associated with EMF exposure.

Further on the issue of the potential effect on health of electromagnetic fields, the Council adopted Recommendation 1999/519/EC on 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz)[3] based on the guidelines of the International Commission on Non-Ionizing Radiation Protection (ICNIRP) as endorsed by the Scientific Steering Committee advising the European Commission on multi-disciplinary scientific issues.

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[1] A more general term for sensitivity to environmental factors is Idiopathic Environmental Intolerance (IEI). IEI is a descriptor without any implication of chemical etiology, immunological sensitivity or EMF susceptibility. IEI incorporates a number of disorders sharing similar non-specific medically unexplained symptoms that adversely affect people (such as multiple chemical sensitivities or MCS, another disorder associated with low-level environmental exposures). However, the term EHS is in common usage.
[2] http://www.who.int/mediacentre/factsheets/fs296/en/
[3] OJ L 199, 30.7.1999 (http://europa.eu.int/eur-lex/pri/en/oj/dat/1999/l_199/l_19919990730en00590070.pdf).

This text recommends that Member States, in order to provide for a high level of public health protection, should adopt a framework of basic restrictions and reference levels. The recommendations on limitation of exposure have been based on established effects on human health.

When reference levels are exceeded, it is recommended that national authorities carry out an assessment of the exposure situation and take appropriate follow-up actions, such as provision of information to the public exposed, changes in the installation or design of the source of radiation or in the way it is operated.

In reply to a questionnaire from the Commission, the situation of Member States with regard to implementation of the Recommendation was summarised in a report in 2002[4].

In order to take account of new scientific data, the Commission has asked its Scientific Committee on Newly Identified and Emerging Health Risks (SCENIHR)[5] to undertake a comprehensive review of the opinion of the Scientific Committee on Toxicity, Eco-toxicity and the Environment (SCTEE)[6] of 30 October 2001[7] on possible health effects of electromagnetic fields, radio frequency fields and microwave radiation. In view of the substantial quantity of new scientific information that has become available since 2001, the SCENIHR opinion is programmed for September 2006.

Under Directive 1999/5/EC[8] (the R&TTE Directive), Member States must ensure that products that are placed on the market and put into service are safe and do not affect the health of the user or any other person.

To that end, the Commission mandated the elaboration of safety standards to be recognised under this Directive with the objective to ensure that the public will not be exposed beyond the limits of the Council Recommendation on the limitation of exposure of the general public to electromagnetic fields.

Member States are obliged to survey their markets to ensure compliance with the Directive. As yet, there are no indications that products in the Community market would not comply with the above-mentioned safety standards.

The European Commission can act only in case of non-transposition or incorrect transposition of binding Community legislation into national law, or of the inaccurate enforcement of such legislation. In the case of non-compliance thereof, the Commission may initiate infringement proceedings against the offending Member State.

As recommendations (such as the above mentioned Recommendation 1999/519/EC) are not binding, the Commission does not have the power to start infringement proceedings in this case. Therefore, it is the task of the Member States to ensure that adequate health protection measures are taken. If the petitioner wishes to pursue the matter further, it is suggested that he is well informed about the position of the Danish law and about related measures at national level.

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[4] http://europa.eu.int/comm/health/horiz_publications_en.htm#2

[5] SCENIHR web page: http://europa.eu.int/comm/health/ph_risk/committees/04_scenihr/04_scenihr_en.htm

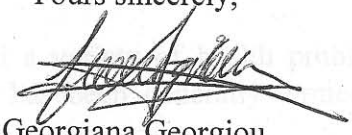
[6] http://europa.eu.int/comm/health/ph_risk/committees/sct/sct_en.htm

[7] http://europa.eu.int/comm/health/ph_risk/committees/sct/documents/out128_en.pdf

[8] Directive 1999/5/E of the Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity, OJ L 91, 7.4.1999.

Nevertheless, as the European Court of Justice held (judgement in the case C-322/88, point 18), recommendations cannot be regarded as having no legal effect. The national courts are bound to take recommendations into consideration in order to decide disputes submitted to them, in particular where they cast light on the interpretation of national measures adopted in order to implement a given recommendation or where recommendations are designed to supplement binding Community provisions.

Yours sincerely,



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