

POSITION PAPER ON THE STANDARDISATION REQUEST FOR THE CYBER RESILIENCE ACT

INTRODUCTION

JBCE appreciates the efforts made by the European Commission in preparing the draft standardisation request ahead of the Cyber Resilience Act's (CRA) publication. We are optimistic that the ongoing discussions with European Standardisation Organisations (ESOs) and other stakeholders will result in an actionable standardisation request that can be adopted promptly following the CRA's publication in the Official Journal of the EU (OJEU). To achieve timely delivery of harmonised standards that can meet essential requirements, we would like to offer some observations and related proposals.

Based on current projections, it is anticipated that the CRA will be adopted and published in the OJEU by the end of October 2024. Given the 36-month transition period, along with the necessary time for the European Commission inter-service consultation, publication in the OJEU, and the subsequent adaptation period for manufacturers, ESOs will effectively have approximately two years to develop harmonised standards. While developing high-quality standards within this timeframe is challenging, delayed publication could significantly impact the market introduction of products. It is therefore crucial to prioritise standards and their delivery and eliminate dependencies. JBCE believes this can be accomplished in the way described below.

1. Prioritisation of Horizontal Standards

JBCE members recommend putting the primary focus on the essential harmonised standards. We recommend that the focus should be on standards applicable to the majority (90%) of "default" products undergoing self-assessment. The draft standardisation request currently sets a deadline for the adoption of these horizontal standards by the ESOs on 30th October 2027. This timeline would leave no transition period for manufacturers, potentially leading to the use of alternative technical specifications for compliance, thereby undermining a level playing field in the single market and complicating compliance assessments for market surveillance authorities. The solution would lie, in our opinion, in ensuring the availability of these horizontal harmonised standards well before the October 2027 deadline. As indicated in recital 22 of the draft standardisation request, the development of standards can leverage the work already conducted under the Radio Equipment Directive (RED) Delegated Act and thus commence immediately.

JBCE proposals:

- Bring forward the deadline for the adoption of the horizontal standards for items 2-24 of the draft standardisation request with 1 year, to 30th October 2026.
- Update recital 5 of the draft request to emphasize the importance of harmonised standards for self-declaration, due to its relevance to maintaining a level playing field and facilitating market surveillance.

2. Elimination of Dependencies Between Vertical and Horizontal Standards

As noted in recital 5, harmonised standards are crucial for important products with digital elements falling under Class I (ref. CRA Art 32(2)). In the absence of these harmonised standards, conformity assessments would necessitate the involvement of Notified Bodies. Using the same logic as for self-assessment, the deadline should be 30th October 2026. While a coherent approach is important, as highlighted in recital 8, requiring vertical standards to build upon and further specify horizontal provisions could delay the development of the product-specific standards.

Previously, the drafting of harmonised standards under the RED Delegated Act has demonstrated that coherent development is possible even when done in parallel.

Lastly, throughout the standardisation request, the terms “product-specific” and “vertical” standards are used. In alignment with the RED Guide (clause 5.2), we suggest adopting the terminology “generic” and “product-specific” standards instead.

JBCE proposals:

- Allow the parallel development of product-specific standards without mandating their dependency on the horizontal framework, in order to speed up the development.
- Rename “vertical” standards to “product-specific” standards and “horizontal” standards to “generic” standards.

3. Focus on needed standards

For important products with digital elements falling under Class II as well as for critical products, the involvement of a Notified Body or the use of European cybersecurity certification schemes is mandatory. Consequently, the immediate need for harmonised standards is less pressing. To optimise the allocation of the Working Groups' time, it is advisable to prioritise the development of horizontal standards and important standards for Class I first, with other standards to follow subsequently.

Additionally, clause 2.1, second paragraph of Annex II, specifies that the first requested item should serve as a framework covering all elements defined in section 1 of this Annex. It appears that this harmonised standard is not required for demonstrating compliance of products but serves as a foundation for other standards' development. This sequential approach could cause delays. Given

that Article 13(2) of the CRA already imposes these requirements as manufacturers' obligation, the necessity of this harmonised standard is questionable.

JBCE proposal:

- Remove the need for the horizontal harmonised standard item 1 if it is not required for demonstrating product compliance.

ABOUT JBCE

Founded in 1999, the Japan Business Council in Europe (JBCE) is a leading European organisation representing the interests of over 100 multinational companies of Japanese parentage active in Europe. Our members operate across a wide range of sectors, including information and communication technology, electronics, chemicals, automotive, machinery, wholesale trade, precision instruments, pharmaceuticals, textiles, and glass products.

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