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Union

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Accompanying the document Commission legislative proposal for a
revision of Directive 2000/9/EC of the European Parliament and of the
Council of 20 March 2000 relating to cableway installations designed to
carry persons

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Commission legislative proposal for a revision of Directive 2000/9/EC of the European Parliament and of the Council of 20 March 2000 relating to cableway installations designed to carry persons

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Disclaimer: This report commits only the Commission's services involved in its preparation and does not prejudice the final form of any decision to be taken by the Commission.

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EXECUTIVE SUMMARY SHEET

Impact assessment on the Commission legislative proposal for a revision of Directive 2000/9/EC of the European Parliament and of the Council of 20 March 2000 relating to cableway installations designed to carry persons (the Cableways Directive)

A. Need for action

Why? What is the problem being addressed?

In line with the political commitment of the EU legislator the Cableways Directive will be aligned to the New Legislative Framework (Decision No 768/2008/EC). This exercise provides the opportunity to address some difficulties experienced with the implementation of the directive:

1. *Difficulty to clearly identify certain installations as cableways:* Authorities, notified bodies and manufacturers have had different views whether certain types of installations, namely inclined lifts, small funiculars and equipment designed for leisure and transport purposes comes under the scope of the Cableways Directive and hence have to be manufactured and certified in line with the directive's requirements and procedures.
2. *Difficulty to distinguish between subsystems, infrastructures and safety components and to determine the right conformity assessment procedure:* Stakeholders have had different views on whether certain equipment should be considered as subsystem, infrastructure or safety component. Furthermore the directive does not say clearly which type of conformity assessment procedure has to be applied to subsystems.

Manufacturers and operators of the installations concerned had to modify the equipment or to undergo further certification which led to extra costs. Furthermore authorities and notified bodies throughout the EU have taken divergent approaches, which led to different treatment of economic operators. In general the problems concern a limited number of cases per year and are not considered to be major problems for the sector as such. Nevertheless the majority of stakeholders consider that further clarification on these issues should be provided.

What is this initiative expected to achieve?

The overall objectives of this initiative are to (1) provide more legal certainty and facilitate the implementation of the cableways directive (2) favour a fair level playing field for cableways economic operators, and (3) simplify the overall European regulatory environment in the field of cableways installations.

What is the value added of action at the EU level?

The alignment with the NLF will improve and facilitate the implementation of the legislation and simplify the overall framework of EU product harmonisation legislation. The alignment provides the opportunity to also address the specific problems identified. While the problems are not endangering the general objectives of the Directive addressing them at EU level will avoid diverging approaches taken by the authorities or notified bodies which lead to unequal treatment of economic operators. As the problems are partly rooted in the text of the existing directive, changes can only be carried out by the EU legislator. Therefore effective action can only be taken at EU level.

B. Solutions

What legislative and non-legislative policy options have been considered? Is there a preferred

choice or not? Why?
Three policy options have been considered, i.e. 1) the “do nothing” as a baseline option; 2) the “soft law” option as non-legislative alternative consisting of issuing commonly agreed interpretation on the application of the Cableways Directive; and 3) as “legislative” option the amendment of the legal text. Option 3) combined with option 2) turned out to be the preferred choice to appropriately respond to the “problems” identified. The current uncertainties concerning installations with a double purpose (transport and leisure) and the applicable conformity assessment procedures for subsystems will be clarified by changes in the legislation. The borderline to the Lifts Directive and the distinction between safety components and subsystems will be clarified through further guidance.
Who supports which option?
A broad consensus exists among the Member States, manufacturers, notified bodies and other stakeholders that the Cableways Directive needs improvements on the issues mentioned above, and in general they have expressed support to simplify and clarify the legislation. A clear majority favours a clarification in the legislation regarding installations that have a dual (transport and leisure) function and the conformity assessment procedures for subsystems. On the possible solutions for the borderline with the lifts directive and the distinction between subsystems, safety components and infrastructures, stakeholders have been largely divided, in particular competent authorities. Manufacturers tend to favour the “soft law” option, while the majority of notified bodies expressed support for the legislative option.
C. Impacts of the preferred option
What are the benefits of the preferred option (if any, otherwise main ones)?
The current uncertainties concerning the scope and the applicable conformity assessment procedures will be clarified. Manufacturers will benefit from higher legal certainty by avoiding unnecessary modification and extra certification costs as well as delays in the operation of the installation following a wrongful interpretation of the directive. This will enable easier market access across the EU for safety components and subsystems and encourage manufacturers to invest on advanced product designs and technologies. Furthermore they will benefit from a fair level playing field. The clarifications will also facilitate the work of the market surveillance authorities and notified bodies. While “soft law” can be useful in providing further guidance and explanations, only the legislative option will result in legal certainty. Despite the fact that the legislative option for the conformity assessment procedures for subsystems entails some costs not present in the “soft law” option, the legislative option results in higher benefits, in particular in higher legal certainty. By facilitating the practical application of the regulation, the proposed changes also contribute to a high level of quality of cableway installations to the benefit of the health and safety of the users of cableway installations.
What are the costs of the preferred option (if any, otherwise main ones)?
The costs of the preferred option are of minor significance for manufacturers. The preferred option 3) combined with 2), involving only clarifications in the scope of the Directive, definitions and conformity assessment procedures, would only imply costs for manufacturers who have erroneously not applied the Directive before or have not applied it correctly and now need to make products compliant and/or follow the specific conformity assessment procedures. However, significant positive impacts for the whole sector are expected from improved clarity and predictability as well as a level playing field
How will businesses, SMEs and micro-enterprises be affected?
The proposed changes will be applicable to all types of businesses. No impacts specific for SMEs and micro-enterprises have been identified, taking into consideration the current market situation in the EU Cableways sector.
Will there be significant impacts on national budgets and administrations?
The initiative will not have significant impacts on national budgets and administrations.
Will there be other significant impacts?

The minor changes would improve the readability and clarity of it and are therefore not assumed to have any other significant impacts.

D. Follow up

When will the policy be reviewed?

No specific date for the revision of the policy has been made.

1. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

1.1. Identification

Lead DG: Enterprise and Industry (ENTR)

Agenda Planning/WP Reference: 2012/ENTR/004

1.2. Organisation and timing

Work on the present Impact Assessment (IA) report started in 2010 with the launch of a consultation held by the European Commission services with the competent national authorities and all actors involved in the Directive's implementation, namely representatives of industry, standardisation bodies and notified bodies. The results had been reflected in the adoption in 2011 of the First Report from the Commission to the European Parliament and the Council on the implementation of Directive 2000/9/EC relating to cableway installations designed to carry persons¹, in which a number of specific problems had been highlighted, with possible solutions to be examined in view to revising the Directive. The Report represents the starting point for the revision process.

An impact assessment steering group was created and met on 30 May 2011 and 11 June 2013. Representatives of SG, DG MOVE, DG ENV, DG SANCO, DG MARKT, DG TRADE and DG COMP were invited. DG SANCO and SG participated in these meetings. See also the Roadmap for the initiative "Legislative amendment of Directive 2000/9/EC on cableway installations designed to carry persons" (May 2011)².

An external study "Impact Assessment Study Concerning the Revision of Directive 2000/9/EC Relating to Cableway Installations Designed to Carry Persons" was launched in 2012 and the Final Report³ was delivered in October 2012.

1.3. Consultation and expertise

Member States and stakeholders, including manufacturers' organisations, notified bodies and representatives of standardisation bodies, have been involved in the IA process from its beginning. In the framework of the Standing Committee under the Directive regular discussions took place about the functioning of the Directive and the potential issues that would require improvements, either through legislative or non-legislative solutions.

¹ Report from the Commission to the European Parliament and the Council - First Report on the implementation of Directive 2000/9/EC relating to cableways installations designed to carry persons. COM(2011) 123 final, 16.3.2011 (published on <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0123:FIN:EN:PDF>).

² Published on http://ec.europa.eu/governance/impact/planned_ia/docs/2012_entr_004_cableways_designed_to_carry_persons_en.pdf.

³ Impact Assessment Study Concerning the Revision of Directive 2000/9/EC Relating to Cableway Installations Designed to Carry Persons - Final Report. RPA, October 2012 (available on http://ec.europa.eu/enterprise/sectors/mechanical/files/cableways/rev-iastudy_en.pdf).

Consultations included the organisation of meetings with the Cableways Advisory Standing Committee, the Cableways Working Group, the Cableways Member States Market Surveillance Administrative Co-operation Group (AdCo) and the Cableway Installations Sectoral Group (CSG) of the European Co-ordination of Notified Bodies. These groups bring together all relevant stakeholders (national authorities, notified bodies, manufacturers and user associations). They were actively contributing to the revision process and members provided written and oral inputs.

Additionally, three specific consultations have been carried out. The first one took place in the first half of 2010 in the framework of the preparation of the above mentioned Report from the Commission to the European Parliament and the Council on the implementation of the Directive. The second and the third one took place in 2012 as part of the above mentioned Impact Assessment Study and were carried out by the external contractor: one relating to the existing situation and the other one on the policy options. The results have been integrated into the Final Report of the study which has been presented and discussed in the Cableways Standing Committee meetings held on 25 September 2012 and 8 April 2013, in which Member States and sectoral stakeholders had the opportunity to express a number of opinions, contributions and position papers on the policy options included in the study (see the Summary Reports to the European Parliament in Annexes III and IV).

Stakeholders have actively contributed to identify the issues needing solutions to improve the functioning of the Cableways Directive. The majority of stakeholders agree with the problems identified. Regarding the options to address the problems (legislative or “soft law”) a clear majority favours a legislative solution for clarifying the scope in relation to equipment that has a leisure function and the conformity assessment procedure of subsystems. On the possible solutions for the borderline with the lifts directive and the distinction between subsystems, safety components and infrastructures stakeholders have been largely divided, in particular competent authorities. Manufacturers tend to favour the “soft law” option while the majority of notified bodies expressed support for the legislative option.

In view of the amount of information collected and the rather technical issues, no open public consultation was launched, as targeted expertise consultations were deemed more appropriate for this quite technical initiative. The points of view of the relevant stakeholders are known by the Commission services, in general all of them supporting the initiative to revise the Cableways Directive, and have been taken into due account. For more details on these consultations and contributions, see Annexes III, IV and V.

1.4. Scrutiny by the Commission Impact Assessment Board

The Impact Assessment Board of the European Commission assessed a draft version of the present Impact Assessment and issued its opinion on 18/09/2013. The Impact Assessment Board made several recommendations and, in the light of the latter, the final impact assessment report:

Clarifies the significance of the problem, in particular the disparities between the legal requirements and observed (diverging) implementation approaches followed by the Member States' authorities, as well as the difficulties that economic operators encounter in complying with the requirements of the Directive, when undergoing the conformity assessment procedures;

Clarifies the assessment of impacts, by explaining how the existing issues with the operation of the Directive would be reduced or eliminated. It also compares in a clearer way the advantages and disadvantages for the choice of the legal instrument.

Clarifies the position of both Member States' authorities and economic operators and explains how the positions of stakeholders have affected the design of different policy options. A summary of the positions of stakeholders is annexed to the impact assessment report.

2. CONTEXT

2.1. The Cableways Directive

The purpose of the Cableways Directive⁴ is to establish the free movement in the internal market of safety components and subsystems of cableway installations while maintaining a uniform and high level of safety. It is founded on the principles of the “New Approach”, whereby legislative harmonisation only provides for the essential requirements of safety, human health, consumer protection and protection of the environment. Only those products that meet the essential requirements set out in the Directive may be placed on the market; the technical specifications of the products concerned are laid down in European harmonised standards. Compliance with the harmonised standards confers to the products a presumption of conformity to the essential requirements set out in the Directive. The application of harmonised standards is, however, not mandatory, and manufacturers may also choose other technical solutions, provided that conformity with the essential requirements established in the Directive is guaranteed in all cases.

While the Directive draws on these general principles, it also contains specific aspects relating to the characteristics of cableway installations. Indeed, cableway installations are unique products adapted to the local conditions and by nature inextricably linked to fixed infrastructure and mobile machinery. As a result, the Cableways Directive focuses on the distinction between safety components, subsystems and installations, and stipulates different arrangements for, on the one hand, the safety components and subsystems and, on the other, installations. Safety components and subsystems are subject to the rules on the free movement of goods and to the conformity assessment and Declaration of Conformity, whereas fixed installations continue to fall within the Member States' competence and are subject to a licence for construction and authorisation for putting into service which are granted by the competent public authorities.

This distinction between safety components, subsystems and installations thus reflects the specific nature of cableway installations compared with other mechanical engineering products. This distinction also underpins the legislator's choice to adopt, for cableway installations, a legislative act specifically designed for the sector.

⁴ Directive 2000/9/EC of the European Parliament and of the Council of 20 March 2000 relating to cableway installations designed to carry persons, OJ L 106, 3.5.2000, p. 21-48.

Scope (Article 1)

The installations covered by the Cableways Directive are funicular railways, cable cars, gondolas, chairlifts and drag lifts.

Table 1 presents types of cableway installations with their main characteristics:

<u>Cableway Installations</u>	<u>Short description</u>	<u>Capacity per carrier</u>	<u>Max pers./hour</u>	<u>Top line speed</u>
Funicular	A wire rope controls the motion of the carriers even though a funicular may travel at ground level or on structurally supported steel tracks. The carriers tend to be large, enclosed and, often, seating is provided.	400	8,000	3.5m/s
Gondola	Small carriers set at regularly-spaced close intervals continuously circulating with carriers passing around terminal bull-wheels, where are decelerated and carried through the unloading and reloading	4 to 15	3,600	6m/s
Detachable Chair Lift	The same as gondolas, but the carrier is a multi-passenger open chair with restraining bar and footrest	2 to 8	4,000	5m/s
Fixed-grip Chair Lift	Multi-passenger carriers circulate between and around terminals at a constant speed	2 to 8	4,000	5m/s
Aerial Tramway	Large carriers or cabins travelling high above ground	n/a	n/a	n/a
Funitel	Special type of passenger cableway which is based on cabins supported by two ropes	24	3,200 to 4,000	7.5m/s
Combined installations	They unite elements of several cableway types, such as gondolas and chairlifts	n/a	n/a	n/a
Drag Lifts (or Surface Lift)	Move skiers by means of an overhead haulage rope with attached towing devices	1 to 2	1,500	12m/s

Table 1 – Types of cableways and main characteristics

The Directive is applicable to the installations built and put into service as from 3 May 2004, and to subsystems and safety components placed on the market as from that date; with regard to changes to existing installations, i.e. installations built and put into service before 3 May 2004, the Directive provides that only changes requiring a new authorisation for putting into service must meet the basic requirements, whereas other changes do not fall within the scope of the Directive.

The Directive establishes the free movement of safety components and subsystems in the internal market, and these are, therefore, subject to an assessment procedure and declaration of conformity procedure; whereas installations continue to fall within the Member States' competence and, therefore, each Member State lays down the procedures for authorising the construction and putting into service of installations located within its territory. In this sense, clarity and coherence in identifying safety components and subsystems and installations are crucial in order to correctly implement the Directive.

The Directive's scope, under Article 1(6), excludes lifts within the meaning of Directive 95/16/EC⁵, tramways of traditional construction, rack railways and equipment for use in amusement parks.

2.1.2. *Essential requirements and harmonised standards (Articles 2-3 and Annex II)*

Essential requirements are set out in the Directive for the safety of users, workers and third parties, referred to the design, construction and operation of cableway installations.

On the basis of the essential requirements a comprehensive body of standards has been developed in the field of cableways installations. The standardisation programme – on the basis of the mandate M300 given by the Commission to the European Committee for Standardisation (CEN) and to the European Committee for Electrotechnical Standardisation (CENELEC) in 2000 – was completed by the responsible CEN Technical Committee 242 (Safety requirements for passenger transportation by rope) during 2005. There are currently twenty-three European harmonised standards in the field of cableway installations: their references are published in the Official Journal of the European Union⁶. As part of the standardisation mandate from the Commission, the CEN/TC 242 has launched the first review process for the existing harmonised standards with a view to modifying and updating them if necessary, to be completed in 2014.

2.1.3. *Safety analysis and safety report (Article 4 and Annex III)*

The Directive provides that all planned installations shall be subject to a safety analysis which covers all safety aspects of the system and its surroundings in the context of the design, construction and putting into service and makes it possible to identify risks that could occur during operation. The safety analysis is the subject of a safety report recommending the measures envisaged to deal with any such risks and including a list of the safety components and subsystems.

2.1.4. *Assessment and declaration of conformity of safety components (Article 7 and Annexes IV-V) and of subsystems (Article 10 and Annexes VI-VII)*

Before the safety components or the subsystems are placed on the market, the manufacturer or his authorised representative established in the European Union must submit these products to a conformity assessment procedure.

The conformity assessment procedures set out in the Directive for safety components refer to various modules laid down in Decision 93/465/EEC⁷ and include the following:

- EC type-examination (Module B),
- Full quality assurance (Module H), and

⁵ Directive 95/16/EC of the European Parliament and of the Council of 29 June 1995 on the approximation of the laws of the Member States relating to lifts. OJ L 213, 7.9.1995, p. 1.

⁶ The most recent publication of references of harmonised standards in the field of cableway installations appeared in OJ C 51, 4.3.2009, p. 9: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:051:0009:0011:EN:PDF>.

⁷ Council Decision 93/465/EEC concerning the modules for the various phases of the conformity assessment procedures and the rules for the affixing and use of the CE conformity marking, which are intended to be used in the technical harmonisation directives. OJ L 220, 30.8.1993, p. 23.

- Unit verification (Module G);

the production process can be evaluated via:

- Production quality assurance (Module D),
- Product verification (Module F),
- Full quality assurance (Module H), and
- Unit verification (Module G).

The various modules may be chosen by the manufacturer or his authorised representative and will always be carried out by third party bodies, i.e. the notified bodies. Once the conformity assessment procedure is completed, the manufacturer or his authorised representative affixes the EC conformity marking and draws up the EC declaration of conformity.

The conformity assessment procedure set out in the Directive for subsystems does not, unlike that set out for safety components, refer to specific modules. The Directive sets out an EC examination procedure for subsystems, which is carried out at the request of the manufacturer or his authorised representative by the notified body chosen for this purpose by the manufacturer or his authorised representative. Once this procedure is completed, the manufacturer or his authorised representative draws up the EC declaration of conformity. The Directive does not require the CE marking for subsystems.

The Cableways Directive stipulates the safeguard procedure to be followed if a Member State finds that a safety component, subsystem or even an installation may jeopardise the health or safety of persons and, if relevant, the safety of property.

2.2. Implementation of the Cableways Directive 2000/9/EC

The Cableways Directive entered into force on 3 May 2000 and became fully applicable on 3 May 2004 in member countries of the European Economic Area (EEA), i.e. in all Member States of the European Union as well as in Iceland, Liechtenstein and Norway.

Various actors and organisations are involved in the management of the cableways directive with the objective to ensure a uniform application of its requirements throughout the EU. The co-ordination of implementation is carried out through the Cableways Standing Committee, chaired by the Commission services. The Standing Committee brings together the representatives of the Member States, of the European manufacturers associations, of the European Standardisation Organisation (CEN, CENELEC) and of the Notified Bodies. The group discusses implementation and interpretation issues. The Cableways ADCO (Administrative Cooperation) group provides a forum for national market surveillance authorities in the sector to exchange information and best practices. Coordination of notified bodies is organised through the Notified Bodies Group Cableways. The CEN/CENELEC consultants are key operators in the checking of harmonised European standards.

An important task of these groups is to ensure a uniform application of the cableways directive. In addition the involved parties provide feedback on the functioning of the directive.

The Commission services have prepared, in consultation and co-operation with experts and the stakeholders in the sector, an Application guide to the Directive⁸. The Guide, published in 2006, was developed with the intention of providing all players involved in the application of the Cableways Directive with a reference tool, in particular for economic actors wishing to operate in the single market and for market surveillance authorities. This tool offers, in particular to economic operators and to market surveillance authorities, practical guidance on how to implement and comply with the provisions of the Cableways Directive.

In 2011 the Commission presented to the European Parliament and the Council a report on the implementation of the Directive. The report concluded that the Cableways Directive has been successful in achieving the objectives of establishing an internal market for safety components and subsystems of cableways installations and guaranteeing high level of safety of cableways installations. At the same time, the report highlighted a number of specific problems that have been experienced with the application of the Cableways Directive, that are to be addressed in the proposed revision of the Directive.

2.3. Alignment to the New Legislative Framework

The whole area of product legislation and in particular the "New Approach" has recently undergone a horizontal review that resulted in the adoption of the New Legislative Framework (NLF)⁹. The NLF aims in particular at facilitating compliance of products with the applicable requirements, to improve the unsatisfactory performance of certain notified bodies¹⁰ and to eliminate inconsistencies throughout the legislation making its application unnecessarily complicated for manufacturers and authorities

The NLF consists of two instruments. Regulation (EC) No 765/2008 on accreditation and market surveillance¹¹ (NLF Regulation) has introduced rules on accreditation¹² and requirements for the organisation and performance of market surveillance and controls of products from third countries. It is complemented by Decision No 768/2008/EC establishing a common framework for the marketing of products¹³ (NLF Decision) which is conceived as a "toolbox" for future legislation providing solutions that can work across all sectors. It contains model provisions to be commonly used in EU product legislation (e.g. definitions, obligations of economic operators, notified bodies, safeguard mechanisms, etc.).

⁸ Application guide to Directive 2000/9/EC of the European Parliament and of the Council of 20 March 2000 relating to cableways installations designed to carry persons. European Communities, 2006 (available on http://ec.europa.eu/enterprise/sectors/mechanical/files/cableways/guidecabl_en.pdf).

⁹ http://ec.europa.eu/enterprise/policies/single-market-goods/documents/new-legislative-framework/index_en.htm

¹⁰ Laboratories and certification or inspection bodies delivering certificates which are notified to the Commission by Member States.

¹¹ Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93, OJ L 218, 13.8.2008, p. 30;

See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:218:0030:0047:EN:PDF>

¹² Accreditation is a tool for the control of the competence of laboratories and certification/inspection bodies delivering certificates in the EU

¹³ Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC, OJ L218, 13.8.2008, p.82.

See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:218:0082:0128:EN:PDF>

The three EU institutions involved in the legislative process, Council, Parliament and Commission have committed themselves to use the NLF Decision's provisions as much as possible in future legislation in order to bring about the maximum of coherence in the regulatory framework¹⁴. The NLF was accompanied by an impact assessment¹⁵.

2.4. Overview of the market for cableway installations

Cableway installations are mainly a means of public transport and their safety is therefore vitally important in relation to both the persons transported and the staff involved in putting these installations into service and maintaining them. It should also be stressed that, particularly in mountainous regions, cableway installations are normally used for tourist purposes and their use plays a crucial economic role.

There are 17,500 cableway installations in Europe¹⁶, which are 60% of the world total. France, Austria, Italy, Germany and Switzerland are the main markets, accounting for 50% of European installations¹⁷.

Between 2001 and 2010, about 3,000 new cableways have been installed in the world, and most of them have been built in Europe (see table 2).

		2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Europe	No. of installs	188	190	231	232	243	205	167	137	146	130
	% of installs	72	75	72	70	68	58	61	54	63	58
Americas	No. of installs	37	27	40	55	37	47	46	46	26	28
	% of installs	14	11	12	17	10	13	17	18	11	12
Others ¹⁸	No. of installs	36	37	52	43	76	104	63	70	58	68
	% of installs	14	15	16	13	21	29	23	28	25	30
Total no. of installs		261	254	323	330	356	356	276	253	230	226

Table 2 – Worldwide cableways market evolution 2001-2010¹⁹

¹⁴ Article 2 of Decision 768/2008 reads: "**Subject matter and scope:** This Decision sets out the common framework of general principles and reference provisions for the drawing up of Community legislation harmonising the conditions for the marketing of products ("Community harmonisation legislation"). Community harmonisation legislation shall have recourse to the general principles set out in this Decision and to the relevant reference provisions of Annexes I, II and III. However, Community legislation may depart from those general principles and reference provisions if that is appropriate on account of the specificities of the sector concerned, especially if comprehensive legal systems are already in place".

¹⁵ See SEC 2007(173)

http://ec.europa.eu/governance/impact/ia_carried_out/docs/ia_2007/sec_2007_0173_en.pdf

¹⁶ Western Europe and the Alps

¹⁷ International Organisation for Transportation by Rope (OITAF)

¹⁸ Asia&Pacific, Eastern Europe, Central Europe and Central Asia & others

¹⁹ Impact Assessment Study Concerning the Revision of Directive 2000/9/EC Relating to Cableway Installations Designed to Carry Persons, page i – RPA – October 2012

Table 2 shows that emerging tourist markets have become more important for the cableways sector in recent years. This suggests that maintaining and increasing competitiveness in those markets would be of great importance for the European Cableways industry.

Nevertheless, though market percentages indicate an increasing trend in the share of installations from non-European manufacturers, their absolute number of installations is quite stable. We observe an important reduction of new installations in Europe, with the exception of Eastern Europe. Main reasons for this situation appear to be linked to the economic situation, to the tourist and ski industry market trends of the latest years and – finally – to the already high number of existing installations in Europe. Such trend indicates that in the coming years there will be increased need to support maintenance of existing European installations and that a clearer legal framework would be of help to maintain high security and quality standards.

The market for cableway installations is characterised by a high degree of specialisation in the industrial sector. It is based on professional buyers and operators who choose the cable lift constructor after launching the procurement procedure by issuing a call for tenders, whether public or private. European²⁰ industry has traditionally held a very strong position on the market for cableway installations, not only within but also outside the European Union. In recent years, mergers and acquisitions have led to three large European industrial groups emerging which have prominent positions on the European and global markets, currently accounting for between 80% -90% of the global industry.

Main companies involved in the cableways market are Doppelmayr-Garaventa, Leitner and Poma^{21,22}. They provide employment to about 4000 persons in Europe.

In contrast, there are about 30 small and medium-sized cableway manufacturers in Europe, representing about 10% to 20% of the total market. In terms of employment, SME roughly account 400 employees, i.e. approximately 10% of total. In addition, Europe has not less than 80 suppliers of subsystems and safety components for cableways.

Generally speaking, these SME cableways manufacturers in Europe appear to be more focussed on drag lifts and chair lifts, and only some of them are active in the high-end segments of the market which includes gondolas, funiculars, etc. For many cableways manufacturers, also installation and maintenance activities account for a significant part of business: this is applicable mainly for the largest companies but to some extent also to SME.

By harmonising the conformity assessment procedures of safety components and subsystems, and by promoting the establishment of harmonised standards at the European level, the Cableways Directive has contributed to make economies of scale possible by standardising products: these opportunities for increased economies of scale have been of benefit to the EU cableways sector. Above all, however, the adoption of the Directive has led to an improvement in the positioning and visibility of the industrial sector concerned as it has proved to be a beneficial instrument even outside the European Union: in fact, European

²⁰ EU 28 plus Switzerland

²¹ Poma and Leitner belong to the same group, but their brands are independent.

²² More details can be found in the Impact Assessment Study Concerning the Revision of Directive 2000/9/EC Relating to Cableway Installations Designed to Carry Persons, pages 24-27 – RPA – October 2012

harmonised standards and CE-marked products appear to be recognised and accepted in many non-European export markets (with the exception of North America), in better conditions than compared to national markings. As such, European manufacturers have a competitive advantage with regard to exports to third countries.

The increasing importance of non-European export markets appears to be confirmed by analysing Eurostat databases concerning import/export values of articles classified under code 84286000. Although the coding is not totally related to the entire cableways sector it is a good bias as it includes teleferics, chair lifts, sky-drag and traction mechanisms for funiculars (see table 3):

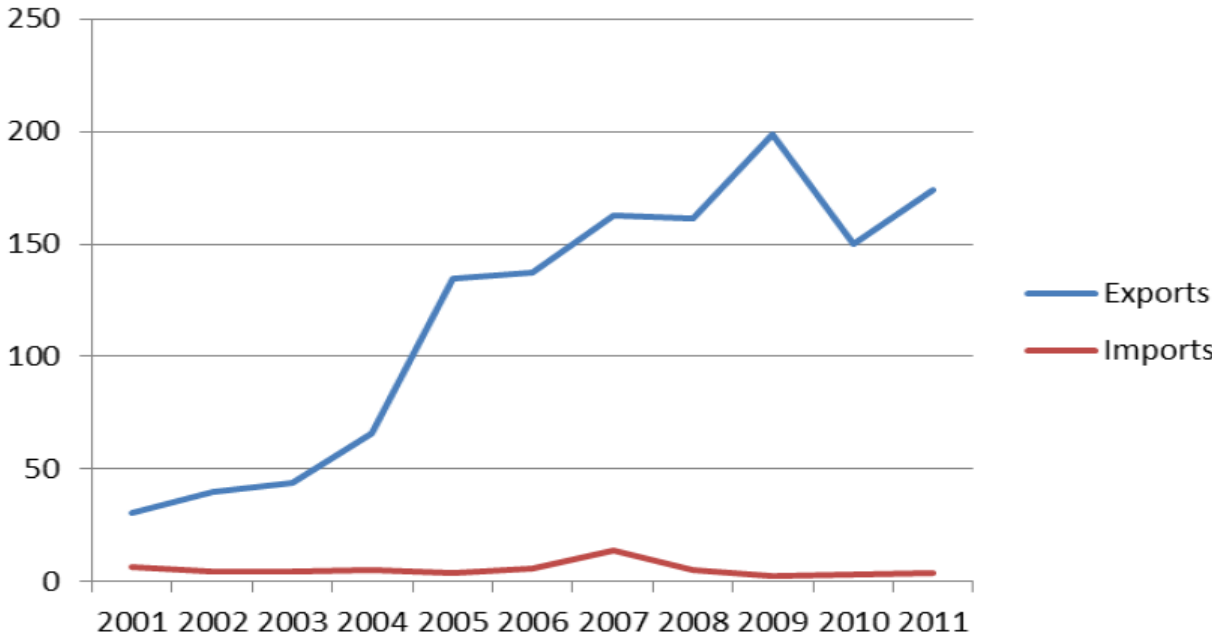


Table 3 – EU27/non-EU27 imports and exports of cableways-related products [values in M€]

Table 4 summarises the competitive situation of the Cableways industry:

Strengths	Opportunities
<ul style="list-style-type: none"> Two main players accounting for 80-90% of the market and global leaders are EU companies Dominance of large companies allows for increased profitability and benefits from economies of scale Ideal historical location near to Alps, which has made the European industry leaders in innovation and development of cableways and resulted in high technical know-how and development of knowledge clusters around the area 	<ul style="list-style-type: none"> Demand for gondolas is increasing The capacity per cable car is rising strongly Trend towards more comfort, less waiting time and faster cable cars Increasing demand for cable cars in urban transportation Growing markets in Eastern Europe, Asia and South America

<ul style="list-style-type: none"> • Good links and integration with companies manufacturing cable car parts • Significant investment in R&D and continued innovation • High reputation of European harmonised standards globally 	
Weaknesses	Threats
<ul style="list-style-type: none"> • Total number of new cableways is declining • Large number of cableways for skiing purposes installed in new Member States may be second-hand lifts from Alpine countries • Very long lifetimes of installations (up to 30 to 40 years) limiting renewal demand • Problems in the current regulatory framework (unclear legal situations, divergences in interpretation, possible market distortions) 	<ul style="list-style-type: none"> • Long-term downward trend in number of companies may impact on future innovation potential within the sector • New manufacturers in local emerging markets (e.g. China, India, etc.) limiting the need for imports of cable cars from EU companies • Impact of climate on snow availability and demand for cableways • Increased maintenance needs for existing installations

Table 4 - Summary of the strengths, weaknesses, opportunities and threats for the European industry

More details on the market situation in the cableways sector and the impacts of the Cableways Directive on the sector are provided by the above mentioned Impact Assessment Study carried out by an external contractor (chapters 2 and 3).

2.5. Overview of the Cableways operating sector in Europe

The ski industry is the primary market for cableways technology and currently accounts for 80% of the business. The remaining 20% of cableways targets other environments (for instance urban), though this percentage will probably increase in coming years according to recent statistics²³.

It is estimated that there are currently between 1,500 and over 2,200 cableways operators in Europe²⁴. The majority of cableways operators are small, privately owned companies which own one ski resort, but larger companies which acquire small groups of resorts are increasing.

The way operators invest has changed during the last 30 years. Whereas up until the late 1980s resorts invested in new cableways now they invest in *replacement* installations which

²³ Impact Assessment Study Concerning the Revision of Directive 2000/9/EC Relating to Cableway Installations Designed to Carry Persons, pages 13-14 – RPA – October 2012

²⁴ FIANET, 2012

are more technologically innovative, higher performance and more comfortable²⁵. As an example, during 2008 and 2009 in Switzerland a total of € 645 million were invested in cableways installations and related activities. The higher percentage of those investments (42% per year) was devoted to replacement cableways and only 6% on new cableways installations²⁶.

3. PROBLEM DEFINITION

While it is generally recognised that the Cableways directive has successfully achieved its main objectives, experience collected throughout the 10 years of implementing the directive has also allowed identifying some weaknesses in its operation. Some aspects have been recurrently on the agenda of the various groups involved in the implementation of the directive or were otherwise brought to the attention of the Commission by stakeholders. Based on this feedback the following problems have been identified:

- Uncertainty whether certain installations are cableways;
- Unclear distinction between safety components and subsystems, and between subsystems and infrastructure;
- Different practices in the conformity assessment for subsystems.

Apart from the above sector-related issues, the Cableways Directive has to be aligned to the New Legislative Framework in the light of the political commitment to ensure better overall coherence of EU product legislation. It is therefore necessary to incorporate the main elements of Decision No 768/2008/EC, i.e. definitions and obligations for economic operators, criteria for notified bodies and conformity assessment procedures.

3.1. Difficulty to clearly identify certain installations as cableways

3.1.1. The problem that requires action and its underlying drivers

Manufacturers, notified bodies and competent authorities have experienced difficulties in clearly identifying certain installations as cableways installations that are covered by the scope of the cableways directive and hence have to be manufactured, certified and put into service in accordance with its requirements and procedures. Authorities have been confronted with installations that they considered to be subject to the cableways directive, while the manufacturers of these installations contested the applicability of the cableways directive and considered that they are covered by different legal regimes, such as the Machinery Directive or the Lifts Directive.

The legal regime applicable has an important influence on the design and the production of an installation and manufacturers need to know precisely in advance which regime to follow. The essential health and safety requirements of the three directives differ from each other, and so there are also different harmonised standards that are used. Furthermore, the conformity assessment procedures are different. While under the Machinery and the Lifts Directive there are conformity assessment procedures that cover the design, construction and installation, for the Cableways Directive there are harmonised requirements where the authorization is granted by the competent national authorities as regards their construction and putting into service.

²⁵ Domaines Skiabiles de France, 2011b

²⁶ Remontées Mécaniques Suisses, 2010

Cases are particularly problematic when the difference of opinions between authorities on the one hand and manufacturers or notified bodies on the other hand come to light when an installation is already installed and “ready” to be approved and there has been no prior consultation with the authorities. There are also different interpretations and practices amongst the responsible authorities in the EU. No common line has emerged and the classification of such installations is dealt with on a case by cases basis and not on the basis of a clear common understanding of the definition of cableways.

Such situations have been experienced with regard to two types of installations in particular:

- ❖ Installations that do not only have a transport function but are also designed for leisure purposes

The Cableways Directive excludes from its scope “equipment for use in fairgrounds or amusement parks, for leisure purposes”. However there is new kind of equipment on the market that has been designed for leisure purposes but also serves as a means of transport.

An example of such equipment is the “Wieli system” manufactured by a German company: it consists of “transporters” or vehicles which are driven uphill on tracks and wheels by a cable. Passengers are able to alight at intermediate stations (such as at the top of a hill) where they can undertake other activities such as skiing, snowboarding, tubing and tobogganing. Passengers can remain in the vehicles or can return to the vehicle to be transported back to the starting point by force of gravity. The system also appears to have different uses in summer and winter, with it being used as a means of transport for skiers etc. in winter and more as an amusement ride in summer; therefore, the system may be classified as having a dual function (transport and amusement). The manufacturer of the Wieli system considered that the Cableways Directive is not applicable, while the authorities considered it does. The case was discussed by the Standing Committee which supported the viewpoint of the authorities.

Similar doubts can arise with regard to tourist cableways in urban environments or other installations serving mixed or multiple leisure-transport purposes. Currently the Wieli system is the only known practical example of an installation with a dual function.

- ❖ Small funiculars and inclined lifts

While inclined lifts (lifts inclined at an angle) fall within the scope of the Lifts Directive 95/16/EC, small funiculars are subject to the Cableways Directive. Consequently these products have to comply with different essential requirements and have to be approved in accordance with different procedures.

The relationship between the two legislative texts in this context can be described as follows:

The relationship between the Cableways Directive and the Lifts Directive	
Inclined lifts/small funiculars provide a good example of the interplay between the Lifts, Cableways and Machinery Directives:	
–	Inclined lifts permanently serving buildings or constructions are subject to the Lifts Directive. The Lifts Directive applies to lifts with guides “ <i>inclined at an angle of</i>

more than 15 degrees to the horizontal” and thus includes inclined lifts such as those installed alongside an escalator.

- Small funiculars in outdoor mountain or urban sites are “generally” not covered by the Lifts Directive; rather they are covered by the Cableways Directive and are excluded from the scope of the Lifts Directive.

The Guide to application of the Lifts Directive 95/16/EC notes that “*the lifts to which the Directive applies are those ‘serving buildings and constructions’.* [...] *Lifting appliances serving similar transport functions but which are installed in outdoor mountain or urban sites are generally not covered by the Lifts Directive. Most such outdoor appliances are covered by Directive 2000/9/EC relating to Cableways.* [...] *Only lifts ‘permanently’ serving buildings and constructions are in the scope of the Lifts Directive”.* In other words, in addition to the transport objective, location and permanence are key determinants of whether a lifting appliance falls under the Cableways Directive or the Lifts Directive.

The Application Guide to the Cableways Directive also notes that while the exclusion (above) is categorical, “*features of certain installations may give rise to some uncertainty, as inclined lifts could also be considered as small funiculars”.* For these, the application of the legislation will have to rely on a joint case-by-case examination between the main contractor, the authorities and the manufacturer.

Despite the guidance provided by the Application Guide, in practice the distinction between these installations has proven difficult, in particular where formalised and effective communication between public authorities and companies is not established at an early stage of the planning process. The problem is well illustrated by an example referred to by the UK in a Lifts Working Group meeting in 2010:

The case concerned an installation which was commissioned as a lift, but following deeper inspection, was finally considered as a cableway. The installation consists of a 40 passenger car; it travels on a rail system inclined at 17.5° to the horizontal. The car travelled between alighting stations at each end of the incline. There were no intermediate stations.

Evidence suggested the installation met the traditional interpretation of the Cableways Directive, but it was not notified as cableway (as required by national regulations), and further enquiries revealed that the installation had been subject to a conformity assessment under the Lifts Directive, involving a Notified Body appointed under the Lifts Directive.

Competent UK authorities concluded that the installation should be considered as a cableway, on the basis of the following:

- the structures at the top and bottom of the installation in question are not “buildings” within the meaning of the Lifts Directive;
- the Lifts Directive does not take account of the readily available access to the passenger car travel zone;
- the Essential Requirements under the Cableways Directive are more relevant and better cater to the environmental conditions that may compromise the safety of the passenger / operators using or working on the installation.

In that specific case the Lifts Working Group substantially confirmed that the installation should be considered as a cableway within the scope of the Cableways Directive. The adaptation of the installation that was finally considered to be a cableways installation in the UK resulted in extra costs for the operator of about €30,000 - 40,000, including extra time for re-assessment.

The source of this kind of problems is that the relevant provision concerning the scope of cableway installations and the scope of the lifts are not entirely clear with a view to these particular installations and that the guidance developed in this context does not provide all the necessary elements in order to allow a clear distinction in all cases. In this respect it has to be noted that the relevant terms and definitions were drawn up over a decade ago and do not necessarily take into account current market developments, and especially new types of installations and new products, components and subsystems, both in traditional and in emerging markets for transport purpose, leisure, etc.

In order to address the borderline problem with the Lifts Directive, a specific ad-hoc working group was created in 2011 with the task of setting up additional criteria that would ease the finding of suitable and coherent solutions in the singular cases, and to ensure a coherent and uniform approach to be followed in similar circumstances. The working group presented a proposal to amend the Application Guide for the Cableways Directive; however there was no consensus in the Cableways Standing Committee whether addressing the issue through guidance is appropriate. Finally some members favoured a legislative solution in the context of the revision of the Directive and the alignment to the New Legislative Framework.

As stated in the study, page 96, a significant proportion of stakeholders addressed the problem of lack of clarity as to the distinction between inclined lifts and small funiculars.

Table 4.1: Do you think that the current definition of cableways in the Directive (Articles 1.2 and 1.3) is too narrow and/or unsuited to market developments?

	National Authorities		Notified Bodies	
	No. of Responses	% of Responses	No. of Responses	% of Responses
Yes	6	26%	2	33%
No	17	74%	4	77%
TOTAL	23	100%	6	100%

Table 4.2: Would you support a broader and more general definition of cableway installations, for instance, similar to the definition provided in Recital 1 of the Directive?

	National Authorities		Notified Bodies	
	No. of Responses	% of Responses	No. of Responses	% of Responses
Yes	6	27%	3	50%
No	16	73%	3	50%
TOTAL	22	100%	6	100%

Table 4.3: Do you think that it is necessary to clarify the scope of the Cableways Directive as opposed to the Lifts Directive?

	National Authorities	Notified Bodies
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	No. of Responses	% of Responses	No. of Responses	% of Responses
Yes	11	52%	4	80%
No	9	43%	1	20%
Other	1	5%	0	0%
TOTAL	21	100%	5	100%

Source: RPA (2012)

3.1.2. *Who is affected, in what ways and to what extent?*

Manufacturers of installations, safety components and subsystems:

The classification of equipment as cableways has consequences for the product design as well as for the applicable conformity assessment procedure. This in turn has impacts on production and compliance costs for manufacturers. The legal uncertainty makes it difficult for manufacturers of “grey zone installations” to determine the legal regime applicable to their equipment and to adapt the design, production and conformity assessment process accordingly. It has to be noted that each installation has its own design and there are no identical installations in two different Member States. However when discussing the items in the standing committee or e.g. in the ad-hoc group that worked on the distinction between lifts and cableways, the authorities had diverging opinions, explaining that they would have taken different approaches in certifying the same installation. This demonstrates the uncertainty for economic operators who want to be active in several EU Member States.

Regarding the borderline with lifts Directive, the problem has led to market distortion, as authorities and notified bodies have applied different practices and interpretations, classifying the similar installation as a lift in one Member State and a cableway in a different Member State.

Users of installations:

Some authorities and stakeholders have pointed out that the current situation can have negative impacts as well on the health and safety of users of the installations concerned. The health and safety requirements of the cableways directive addresses the risks typically associated to these installations. The conformity assessment procedures ensure that the manufacturer has taken all measures to address these risks appropriately. If an installation is wrongfully considered to be outside the scope of the cableways directive and assessed in relation to other requirements there is a risk that the installation is not sufficiently safe and accidents can occur.

Authorities and notified bodies:

The legal uncertainty also puts authorities in charge of the implementation of the directive and hence responsible for the safety of these installations into difficult situations. They often find themselves in conflict with the manufacturer who will refuse to incur extra costs resulting from the classification of his equipment as cableways installation.

On a general note, however, it has to be observed that this problem concerns a very limited number of installations. By today only one manufacturer is known who produces installations that are clearly designed for a dual purpose (transport and leisure). Similarly there are not many inclined lifts or funiculars installed per year and only a few cases raise doubts with

regard to the application of the cableways directive. Out of approximately 120-130²⁷ new installations per year, less than 5 cases would be concerned.

The problem only affects new installations.

3.2. Distinction between safety components, subsystems and infrastructures

3.2.1. The problem that requires action and its underlying drivers

As explained in section 2.1 the Cableways Directive is based on the distinction between safety components, subsystems, infrastructure and installations. The distinction between safety components and subsystems, and between subsystems and infrastructure, has not always been clear.

- Safety components are defined as “any basic component, set of components, subassembly or complete assembly of equipment and any device incorporated in the installation for the purpose of ensuring a safety function and identified by the safety analysis” (Article 1.5);
- Subsystems are not explicitly defined, but they are listed in Annex I of the Directive and include items such as cables and cable connections, drives and brakes, mechanical equipment, vehicles, electro-technical devices and rescue equipment;
- Infrastructure is specially designed for each installation and includes the layout, station structures and structures along the line, and the foundations;
- Installations are defined as “the whole on-site system, consisting of infrastructure and subsystems” (Article 1.5).

Safety components and subsystems are subject to the rules on the free movement of goods and to that purpose they are submitted to the EC conformity assessment procedure and the EC declaration of conformity. On the other hand, installations continue to fall within the Member States’ competence and in this respect they are subject to an authorisation granted by the competent national authorities as regards their construction and putting into service. In addition, infrastructure is also not subject to free movement and may have to be tested in multiple Member States.

In the 2010 consultation the majority of stakeholders pointed out that the distinction between safety components, subsystems and infrastructure is not entirely clear.

The problem has also been mentioned by companies responding to the consultation carried out by the contractor producing the IA study. Overall, this does however not seem to be a major problem for most cableway manufacturers. A company pointed to components that may often be classed as infrastructure but are in fact series-produced standardised products (such as line towers); this means that these components are not subject to free movement and require approval in individual Member States, thus allegedly presenting an unnecessary burden on cableway manufacturers. It was further suggested that in order to address this

²⁷ Number of new installations in 2010

problem, it might be necessary to revisit the definition of infrastructure given in the Cableways Directive.²⁸

Responses from national authorities and notified bodies demonstrate a wish for more clarity on this question.

Table 4.4: Have you experienced problems arising from lack of clarity as to the difference between subsystems and infrastructure?

	National Authorities		Notified Bodies	
	No. of Responses	% of Responses	No. of Responses	% of Responses
Yes	5	22%	2	40%
No	18	78%	3	60%
TOTAL	23	100%	5	100%

Table 4.5: Have you experienced problems arising from lack of clarity as to the difference between safety components and subsystems?

	National Authorities		Notified Bodies	
	No. of Responses	% of Responses	No. of Responses	% of Responses
Yes	10	45%	4	80%
No	12	55%	1	20%
TOTAL	22	100%	5	100%

The problem has similar consequences as the one experienced with the scope of the directive. Depending on the classification as safety component, subsystem or infrastructure different conformity procedures are applicable.²⁹ At the moment of approval the choice of the procedure applied by the manufacturer and the notified body may be put into question by the authority. It has also been reported that authorities throughout Europe have also taken different approaches as to what would be the correct classification and hence the applicable procedure.

3.2.2. Who is affected, in what ways and to what extent?

Manufacturers of installations, safety components and subsystems, notified bodies:

The consequences are similar to those already described under 3.1.2. The lack of clarity has led to undesirable consequences for manufacturers and installers with regard to application of design and construction requirements, in terms of time and costs.

The problem is more widespread than the problem related to the scope, however according to the study it does overall not appear to be a major problem for manufacturers.

²⁸ Impact Assessment Study Concerning the Revision of Directive 2000/9/EC Relating to Cableway Installations Designed to Carry Persons, page 70 – RPA – October 2012

²⁹ As the applicable essential requirements remain the same for all types of cableway products, the different classification does not have a major impact on the product design as would be the case if they come under another directive.

3.3. Conformity assessment procedure for subsystems

3.3.1. *The problem that requires action and its underlying drivers*

In contrast to safety components, the Cableways Directive does not provide for a specific conformity assessment module for subsystems. Annex VII requires notified bodies to check the subsystems but does not indicate the clear procedural steps to be followed by the notified bodies. That situation has led to some divergent interpretation and implementation of the conformity assessment of the subsystems, as there are differences in applying specific conformity assessment procedures in terms of time, costs, complexity, etc.; in this sense, divergences in interpretation can result in legal uncertainty and market distortions.

Furthermore as explained in the Impact Assessment study on page 106, it appears that the current Directive may be interpreted by some stakeholders to mean that notified bodies have to perform an on-site check of how subsystems have been assembled and incorporated into the installation. It has been noted that it is not feasible for notified bodies that approve subsystems, which are used in a large number of installations, to carry out on-site inspections for each installation that includes the relevant subsystem. Therefore, it has been alleged that in practice on-site inspections are not carried out. Instead, subsystems are widely assessed by means of conformity assessment modules that do not require an on-site inspection

The issue of conformity assessment procedure for subsystems has been discussed several times at the Cableways Standing Committee meetings, in particular concerning the possibility to introduce clearly defined conformity assessment modules also for subsystems. Most of stakeholders agreed on the need to consider possible modifications to be inserted into the text of the Directive.

In the meantime, in order to remedy the situation certain practical solutions have been applied. Notified Bodies have coordinated their practices in their European Coordination, by issuing specific Recommendations for Use, as 00.009 “Process oriented procedure for subsystems conformity assessment / Subsystems, procedure, Module H” (rev. 3, 2010) and 00.010 “EC examination of a subsystem - meaning of completed / Completed, subsystem, EC examination” (rev. 3, 2010)³⁰. This measure has been considered useful, but has not entirely solved the problem according to the opinion of stakeholders expressed in the consultation. It appears that the guidance/recommendation approach has not fully convinced operators to abide to a non legally binding rule.

There has been consensus amongst all stakeholders in the 2010 consultation as well as in the following consultation that the current provisions of the directive are unsatisfactory as it can be interpreted in different ways and hence should be reviewed.

3.3.2. *Who is affected, in what ways and to what extent?*

This problem mainly affects manufacturers and Notified Bodies.

Different practices in the conformity assessment process for subsystems result in different conditions and different costs for manufactures for placing their products on the market and

³⁰ NB-Cableways Agreed Recommendations for Use (RfUs) :
http://ec.europa.eu/enterprise/sectors/mechanical/files/cableways/cablrfus_en.pdf

hamper fair competition. In the same vein fair competition between notified bodies can be distorted.

The problem affects new products placed on the market.

Data on the significance of the above mentioned problems can be obtained on the basis of responses to the questionnaires used in the consultation phases, and of information obtained from discussions with stakeholders. 45% of the authorities and 80% of notified bodies responding to the consultation confirmed that they experienced problems with the distinction between subsystems and safety components. 22% of the authorities and 40% of the notified bodies have also experienced difficulties with the distinction between infrastructure and subsystem.

3.4. Evolution of the problems - Baseline scenario

According to the information available, it is not expected that the above mentioned identified issues and described problems could be effectively resolved without a specific EU action, in addition to the efforts already developed by the relevant Commission services, Member States and stakeholders. In fact, these problems have been often discussed at the Cableways Committee meetings as well as in other formal and informal sectoral fora, in particular regarding divergences in interpretation and their consequences by a practical point of view for market surveillance authorities, manufacturers and other economic operators.

As a result, a number of position papers have been produced and submitted to the Commission services, including proposals to improve specific aspects of the Cableways Directive within the framework of the revision process, taking into consideration problems identified or potentially arising, the different policy options and their impacts.

Looking at the uncertainties on the scope, in view of the very small number of installations that might be potentially concerned, taking no action will not endanger the overall objectives of the directive as such. However leaving the situation unchanged would be a missed opportunity as under the given circumstances there is no indication that these problems will disappear. Although there is currently no further operator known that might place new products with a double – transport and leisure – function on the market, this case cannot be excluded for the future. Further cases will occur where due to a lack of previous communication with authorities on the legal regime applicable economic operators may be forced to adapt their installation retroactively, incurring considerable additional costs and loss of income due to the delay in the operation of the installation. Furthermore the issue of diverging views of authorities will remain unsolved given that today the application guide does not provide any guidance on criteria to distinguish inclined lifts from cableways. Hence similar installations will be assessed differently and economic operators are faced with unequal treatment, preventing the full achievement of free movement.

Regarding the conformity assessment for subsystems a cableway manufacturer identified large potential negative cost impacts if the disparity between legal requirements and practice is not addressed. These negative cost impacts would be experienced if certain EU Member States insist that notified bodies carry out on-site inspections on each subsystem that has been incorporated into an installation.

3.5. Alignment with the New Legislative Framework

One of the reasons for the adoption of the New Legislative Framework (NLF) was a finding that in many sectors a significant number of products not fulfilling the requirements set out in the corresponding Directives were placed on the market (non-compliant products). Some actors were simply affixing the CE marking to their products, even though these products do not fulfil the conditions for being CE marked.

Neither consultations with the main sectoral stakeholders and interested parties, nor the Impact Assessment Study carried out by an external contractor, could identify evidence on this behaviour being a problem in the Cableways sector. It appears that the existing mechanisms are effective in prevention and identification of products that do not comply with the requirements of the Directive, including the specific provisions in the case of “innovative safety components or subsystems” laid down in Article 11(3) which has never been used. In this context, the safeguard procedure stipulated by the Directive for non-compliant Cableways products, has never been applied so far.

However, many of the general horizontal problems identified by the NLF have also been observed in the context of implementing the Cableways Directive [2000/9/EC](#), as for example:

- complexity in the legal framework with possible inconsistencies when also other directives have to be taken into consideration;
- unclear definitions and obligations of economic operators;
- differences in terms of operation and application of common criteria in conformity assessment procedures, as well as in evaluation and monitoring of notified bodies.

The alignment of the Cableways Directive with the NLF takes place in the light of the political commitment laid down in Article 2 of the NLF Decision¹⁵ to use the solutions offered by the Decision as consistently as possible in order to address the overall problems.

The Impact Assessment Report on the Alignment Package³¹ has already examined in depth the different options to give effect to the NLF Decision. The options are basically the same for the Cableways Directive. The report also provided an analysis of the impacts resulting from the measures set out by the NLF Decision. In view of the horizontal nature of these measures, the impacts are expected to be the same. For this reason this Impact Assessment Report will not particularly re-examine these aspects, apart from a reference to the specific aspects developed in the Impact Assessment Study developed by an external contractor (see below, 6.4): it is focused on Cableways specific problems and issues as well as the ways to address them.

3.6. EU right to act

The main justification for the action is to ensure legal certainty and the NLF alignment for the Cableways Directive and the sectoral stakeholders.

This initiative concerns the proper and effective functioning of the internal market for products in the field of cableways installations designed to carry persons. EU action in this area is based on Article 114 of the TFEU. The aspects addressed in this context are already regulated by the Cableways Directive [2000/9/EC](#). This legislation does however not address

³¹ SEC 2007(173): http://ec.europa.eu/governance/impact/ia_carried_out/docs/ia_2007/sec_2007_0173_en.pdf.

the identified problems as effectively as desirable. If actions are taken at national level to address the problems, they may create obstacles to the free movement of Cableways products (safety components and subsystems). Due to the increasing intra-community trade, also the number of cross-border cases due to the above legal ambiguities is constantly rising. Diverging approaches taken by the authorities or notified bodies have already led to unequal treatment of economic operators. Furthermore the problem is partly rooted in the existing EU legislation. Any changes to the scope and procedures of the directive must be carried out by the EU legislator. Therefore effective action can only be taken at EU level.

In terms of the proportionality principle, policy options to be considered to address the above identified issues will represent relatively limited changes in the existing legal text of the Cableways Directive, in direct and strict correspondence to each one of the issues and not go beyond what is needed to achieve satisfactorily the objectives of the initiative. In this sense, the revised Directive will leave the same scope for national decision as the current one; it will set appropriate transposition and implementation periods and will contribute to remove obstacles to compliance, on the basis of the improved clarity of the requirements and elimination of legal uncertainty in interpretation issues.

4. OBJECTIVES

4.1. General policy objectives

The main objective is to improve the functioning of the internal market for the safety components and the subsystems of cableway installations, ensuring at the same time a higher level of safety, and to achieve a level playing field for Cableways economic operators. Another important objective is simplification, as this initiative aims at clarifying some major concepts and definitions contained in the text of the Directive, facilitating therefore its practical application.

4.2. Specific and operational policy objectives

The following table presents the specific and operational objectives of the initiative for the revision of the Cableways Directive related to the general policy objectives indicated above.

GENERAL	SPECIFIC	OPERATIONAL
Better protect the health and safety of users of cableway installations designed to carry persons	Ensure sound and uniform application of the Cableways Directive	Clarify the scope of the Directive, definitions and borderlines with other directives (as Lifts 95/16/EC)
Achieve a level playing field for Cableways economic operators and ensure free movement of goods	Ensure clarity of legislation and its consistent application through the EU	Clarify identification and distinction between safety components and subsystems, and between subsystems and infrastructure
	Ensure consistency and flexibility of conformity assessment procedures for all the products in the scope of the Cableways Directive	Provide a selection of clear conformity assessment procedure for subsystems
	Simplify the European	

	regulatory environment in the field of cableways installations designed to carry persons	based on NLF modules
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4.3. Consistency with other policies and objectives

This initiative is in line with the Commission’s policy on the Single Market (Single Market Act)³² and Better Regulation policy, as well as to the Europe’s growth strategy “Europe 2020”³³.

5. POLICY OPTIONS

Policy options for the revision of the Cableways Directive 2009/9/EC have been considered for each of the identified issues (see 3.1 and 3.2): scope of the Directive, distinction safety components, subsystems, infrastructures and installations, and conformity assessment procedure for subsystems. Stakeholders have also been involved in the design of the options. On the basis of feedback some options were discarded at an early stage, e.g. enlarging the scope of the cableways directive.

5.1.1. Scope of the Directive

1. Do nothing (baseline).

Option 1 is to leave the existing situation unchanged. The scope of the Cableways Directive would not be changed. The existing definitions in the Directive would be retained, with neither specific clarification as regards installations serving both leisure and transport purposes, nor further guidance on the scope of the Cableways Directive with respect to the Lifts Directive.

2. Further clarify the scope of the Directive in the Application guide (“soft law”).

Option 2 is a “soft law” option. The Directive would not be changed, but the Application guide to the Cableways Directive would be used to explain, in a more detailed way than currently, the product coverage, in particular with a clarification of the situation relating to lifts inclined at an angle and to equipment for amusement parks. That is to say, on one hand, retaining the existing legal definition of cableways but providing in the Application Guide a broader explanation and clarifying that installations “which are designed for leisure purposes, but could also be used as a means for transporting persons” are within the scope of the Directive; and on the other hand, providing more extensive guidance on the implementation of existing provisions regarding inclined lifts and small funiculars, as well as on the importance of companies formally collaborating with the authorities at an early stage of the installation’s design to determine, on a case-by-case basis, whether it is preferable to construct an inclined lift or a small funicular.

3. Clarify the relevant provisions on the scope of the Directive.

³² See http://ec.europa.eu/internal_market/strategy/index_en.htm

³³ Europe 2020: <http://ec.europa.eu/europe2020>

Option 3 would use legislative measures, i.e. the Cableways Directive would be changed. The following potential changes were assessed. A) Modify the definition of Cableways. The current definition is considered sound. A huge majority of Member States and stakeholders consider that the definition should not be changed. The impact assessment study has not demonstrated value added in changing the definition of cableways. Therefore this possibility is not further considered. B) Clarity in Article 1.6 (products to which the provisions of the Cableways Directive do not apply) that equipment with a dual use, meaning fairground equipment which is at the same time transport equipment, falls within the scope of the Cableways Directive. C) Better define the borderline case with respect to inclined lifts. While representatives of Member States and stakeholders support the clarification of the scope of the Cableways Directive as opposed to the Lifts Directive, the assessment carried out shows that the required clarification implies changes in the Lifts Directive, in particular with respect to its scope and related definitions, and not a legislative modification of the Cableways Directive. As a result, a legislative modification of the Cableways Directive in this respect is not further pursued.

5.1.2. *Safety components, subsystems, infrastructures and installations*

1. Do nothing (baseline).

Option 1 is to leave the existing situation unchanged. Definitions of the Cableways Directive would not be changed, and there would be no further clarification of the distinction between safety components and subsystems, and between subsystems and infrastructure. The described problems will persist.

2. Further clarify the distinction in the Application guide (“soft law”).

Option 2 is a “soft law” option. The Directive would not be changed, but the Application guide to the Cableways Directive would be used to identify and to make a distinction, in a clearer way than currently, between safety components and subsystems, and between subsystems and installations, for example, by introducing a non-exhaustive list of safety components and/or addressing doubts about concrete products.

3. Clarify the relevant provisions the Directive.

Option 3 would use legislative measures, i.e. the Cableways Directive would be changed. The current definitions in Article 1.5 would be modified and rendered more precise, a specific definition of “subsystem” with a clear distinction from “installation”, “infrastructure” and “safety component” could be introduced. The introduction of an exhaustive list of safety components has also been considered under this option.

5.1.3. *Conformity assessment procedure for subsystems*

1. Do nothing (baseline).

Option 1 is to leave the existing situation unchanged. Annex VII on assessment of conformity of subsystems would not be changed, and no specific conformity assessment module for subsystems will be introduced in the Directive. The described problems will persist.

2. Further clarify in the Application guide the conformity assessment procedure for subsystems (“soft law”).

Option 2 is a “soft law” option. The Directive would not be changed, but the Application guide to the Cableways Directive would be used to clarify interpretation and implementation of the conformity assessment of the subsystems. The amendment to the Application guide would recommend using specific conformity assessment modules for the assessment of subsystems.

3. Amend the relevant provisions of the Directive.

Option 3 would use legislative measures, i.e. the Cableways Directive would be changed. In Annex VII of the Directive, the conformity assessment modules specifically conceived for the subsystems and recommended by the coordination of notified bodies would be introduced.

The general view of stakeholders is that the non-binding nature of the already existing guidance does not provide enough legal certainty to avoid problems in the future and that a more formalised solution is needed.

In any case, these policy options represent relatively minor changes and they are proportionate to the policy objectives pursued (see also above 3.6).

6. ANALYSIS OF IMPACTS

6.1. General remarks

In general terms, this initiative aims at improving and simplifying the applicable rules of the Cableways Directive, by clarifying some concepts and definitions contained therein, including the alignment to the NLF, thus facilitating its practical application. This initiative is expected to have a positive impact on the sound, consistent and uniform application of the Cableways Directive through the European Union: in particular, it will provide legal certainty on whether some products fall or do not fall within the scope of the Directive, and it will therefore avoid or limit queries, doubts or conflicts on this issue.

Consultations with Member States and relevant stakeholders, as well as the Impact Assessment Study carried out by an external contractor, have found no significant negative economic, environmental or social impacts if the Cableways Directive were modified in a few elements of the legislative text and aligned to the provisions of the New Legislative Framework.

The analysis of impacts will be presented in two steps. First, the most relevant impacts are identified in chapter 6.2. In the second step an in-depth analysis of all the policy options will follow in chapter 6.3. . On the basis of this analysis, the need of mitigating measures for the most affected parties will be considered (chapter 6.4).

6.2. Overview of the relevant impacts and the methodology for their assessment

The following impacts are deemed the most relevant and therefore have been considered. No environmental impacts are expected:

Social impact: The social impact consists mainly of benefits to the health and safety of the users of cableway installations. The proposed changes are designed to improve the practical application of the Directive. Providing legal certainty, in particular by ensuring that the cableways safety provisions are applied to installations for which there existed doubts before, and better specifying the obligations of economic operators, through the alignment to the NLF, is assumed to contribute to an improved level of safety and quality of cableway installations. As a result, the probability of accidents or injuries would be reduced. However, it was not possible to illustrate benefits from a quantitative point of view.

None of the options is expected to have an impact on employment in the sector. This is explained by the small number of installations that are actually affected by the problems described. Furthermore as will be explained in this chapter, the economic impacts of all options are considered minor and will not have a knock-on effect on employment in the sector.

Economic impacts: with respect to clarifications in the scope of the Directive and the implementation of a specific conformity assessment procedure for subsystems, additional costs should not intervene, because what the changes will provide is legal certainty to the current situation. The same products are considered to fall already today within the scope of the Directive; costs would therefore arise only for those manufacturers who have erroneously not applied the Cableways Directive. In this context, it needs to be pointed out that the compliance costs with the Cableways Directive are higher than if a product had not to ensure this compliance. On the other hand, benefits would occur from clarification in the scope and conformity assessment procedures for manufacturers, operators and national authorities, as a result of avoiding possible mistakes on compliance, conformity assessment and certification, which have resulted in additional costs and, in some cases, the need for re-certification.

The assessment of each proposed change is based on its costs and benefits, where the latter includes improvements in legal certainty, a fair level playing field for the industry and then health and quality benefits. It is the result of contributions and consultations carried out with Member States and stakeholders in the cableway installations sector: most of the results of such consultations are presented in the Impact Assessment Study carried out by an external contractor, including a detailed description and analysis of impacts of the options for the revision of the Cableways Directive.

6.3. Analysis of relevant impacts

The analysis of the options and of the impacts takes into consideration the contributions provided by representatives of Member States and by stakeholders in the fora in point 1.3 of this report, as well as the results of the “Impact Assessment Study Concerning the Revision of Directive 2000/9/EC Relating to Cableways Installations Designed to Carry Persons”, carried out by an external contractor, in particular in Chapters 5 “Impact assessment of options for revision of the current framework” and 6 “Conclusions: summary of impacts and comparison of policy options”.

6.3.1. Scope of the Directive

1. Do nothing (baseline).

Option 1 is to leave the existing situation unchanged. This would have no impact, meaning that the described problems will persist.

2. Further clarify the scope of the Directive in the Application guide (“soft law”).

Option 2 is a “soft law” option. In this case, in terms of effectiveness of the measure, it is possible to foresee a positive impact. The specific objectives of the revision process would be partly met, through the improvement, to some extent, of the sound and uniform application of the Cableways Directive. However guidance is not binding. It cannot be excluded that unclear legal situations would remain. Taking into account the results of the consultation it appears that the problem would not be completely solved. Regarding efficiency, no significant costs are expected, because the proposed clarification would just invite to bring practice in line with the already applicable requirements. Costs will hence only occur for manufacturers who by mistake have not yet manufactured and certified their installations in accordance with the Cableways directive. A positive impact could be envisaged regarding predictability for manufacturers. In terms of coherence of the measure, a positive impact would be related to some contribution to better regulation and the Single Market Act.

3. Clarify the relevant provisions on the scope of the Directive.

Option 3 would use legislative measures, i.e. the Cableways Directive would be slightly changed, in Article 1.6 to better clarify that equipment with a dual use of amusement and transport falls within the scope of the Cableways Directive. This change would not modify the Article but just clarify its applicability. In this case, in terms of effectiveness of the measure, the specific objectives of the revision process would be met through the improvement of the sound and uniform application of the Cableways Directive, as well as of clarity of legislation and its consistent application through the European Union. Regarding efficiency, no costs are expected for the same reasons as in Option 2; costs will only occur for manufacturers who by mistake do not certify their installations in accordance with the Cableways directive. A positive impact would come from improved legal certainty for all manufacturers, having to comply with a clearer set of rules instead of having to deal with different interpretations in the EU Member States. In terms of coherence of the measure, a positive impact would relate to the contribution to better regulation, with a clearer legal situation. With respect to the possible confusion between inclined lifts and the small funiculars, the Cableways Directive is clear in its scope. As explained in point 5.1.1, a legislative option was not considered in this case.

4. Other impacts.

Regarding installations designed for a dual purpose (leisure and transport) the case identified so far was clarified as falling within the scope of the Cableways Directive. The study concluded that, as no further systems that would be included into the scope of the Directive have been identified, it is expected that the proposed options would have no impacts with regards to consumer choice, competition, barriers for new suppliers and service providers, anti-competitive behaviour or the emergence of monopolies and market segmentation.

Regarding the situation of funiculars and inclined lifts, it appears that in most cases companies seek clarification from the authorities as to which of the two Directives

applies to each particular case. However, overall, it seems to be more common to do so for companies that are (also) active in the cableways sector than for companies active solely in the lifts sector, which may be characterised by a comparatively lower level of awareness of the need to discuss the particularities of each case with the authorities.

Stakeholders' views are illustrated in the study at page 95 and show their preference for amending the Application Guide of both Cableways Directive and Lifts Directive. It is believed that this will ensure maximum clarity and minimum confusion for all stakeholders in all Member States as the advice given in both Application Guides would be consistent.

It should be noted that stakeholders (particularly competent authorities) were largely divided over whether 'soft law' or legislative approach would be the most effective. While no clear view emerged from national associations of cableway operators that responded to the consultants, one industry association expressed support for amending the application guide of both directives

The “soft law” can contribute to setting lift manufacturers on an equal footing with companies in the cableways sector, and therefore positive impacts in terms of improved competition and reduced market segmentation may occur.

The manufacturers will know in advance to what procedure they should comply with in order to avoid unnecessary costs and delays, which is the main problem.

As neither option is expected to result in substantive changes, impacts are not expected on the global competitive position of EU firms, trade barriers and investment flows.

With respect to operating costs, regarding the “soft law” and the legislative options envisaged to clarify the situation of installations that serve a leisure and transport function the study concluded that no such costs would arise as only one company producing leisure equipment that also has a transport function has been identified, and a clarification was already provided in this case.

Concerning the borderline between inclined lifts and cableways, the “soft law” option may benefit companies that are currently unaware of the need to contact the authorities as early in the planning process as possible. Considering that this option seeks to clarify current legislative requirements rather than to modify them, no additional costs can be expected.

According to the UK national authority, should greater clarity be achieved, this would reduce costs incurred by economic operators and public authorities that arise due to misunderstandings and dealing with errors. Should cases such as the one experienced in the UK be avoided, significant additional costs could also be avoided as the operator and the manufacturer in the UK appear to have incurred significant additional costs. As noted above, benefits from guidance provided under the “soft law” option are more likely to be accrued by lift manufacturers than cableway manufacturers.

With respect to administrative burdens on businesses, taking into consideration that the changes proposed involve clarification of existing requirements, the study has not identified additional administrative burdens.

One-off costs

With regard to the costs to public authorities, as the Cableways Directive needs to be aligned with the NLF, transposition costs would be incurred anyhow and the incremental transposition costs from the legislative option is minimal. The cost of the “soft law” option, i.e. changing the Application Guide attributable specifically is expected to be minimal as the structures (regular meetings of the most relevant stakeholders such as those of the Standing Committee and of the Cableway Installations Sectoral Group of Notified Bodies) are already in place and can easily provide the expertise needed to elaborate proposals to change the Application Guide.

As far as running costs for public authorities are concerned, this option should lead to a reduction in the workload for public authorities. The additional costs of handling a case where a public authority has to deal with incorrect classification of an installation have been estimated by one of the respondents at one week’s worth of personnel costs, amounting to approximately €5,000.

Consumers and households

On innovation and research, on consumers and households and with respect to specific regions and sectors, no impacts are expected as no substantive change is being enacted.

In the area of public health and safety, three stakeholders pointed to potential improvements in passenger safety as a result of changes to the current framework; however, further information on specific problems with passenger safety has not been provided. As a more general comment, other stakeholders expect no safety improvements from the policy options proposed.

Conclusion

In conclusion, as regards installations serving a leisure and transport purpose, a slight change in Article 1.6 of the Cableways Directive will clarify the current legal framework. This clarification avoids costs to manufacturers and public administrations that could result from a wrong assessment of the product both with respect to its design and the applicable conformity assessment. As regards the borderline between lifts and cableways the legislative option in the Cableways Directive cannot address the problem, whereas clarification in the guidance documents can be expected to have a positive impact (primarily on companies in the lifts sector) associated with increased awareness of the need to obtain formal classification from the authorities at early stage of planning and development.

6.3.2. Safety components, subsystems, infrastructures and installations

1. Do nothing (baseline).

The baseline scenario would have no impact, but the described problems will persist.

2. Further clarify the scope of the Directive in the Application guide (“soft law”).

For option 2, in terms of effectiveness of the measure, the application guide could further clarify the concepts of safety components, subsystems, infrastructures and installations and thereby meet the objective of improving a sound and uniform application of the Cableways Directive. Regarding efficiency, no significant costs are expected, as the design of the product would not be affected. The relevant costs relate to the applicable conformity assessment procedure. In terms of coherence of the measure, a positive impact would be related to some contribution to better regulation.

3. Clarify the relevant provisions of the Directive.

For option 3, in terms of effectiveness of the measure, a positive impact is foreseen, as the specific objectives of the revision process would be met through the clarification of the legislation, the improvement of the sound, uniform and consistent application of the Cableways Directive throughout the European Union. Concerning efficiency, more significant costs are expected than under option 2; however, a the improved legal certainty for all manufacturers operating with subsystems would have a positive impact on costs as manufacturers would not need to potentially face different interpretation in the EU Member States. In terms of coherence of the legal clarification would contribute to better regulation.

4. Other impacts

A cableways manufacturer suggested that it is possible that the introduction of a non-exhaustive list of safety components into the Directive may distort competition if companies interpret the non-exhaustive list as exhaustive. However, the study did not find evidence that the proposed options would result in higher prices due to less competition, the creation of barriers for new suppliers, the emergence of monopolies or market segmentation.

Nevertheless, the study has concluded that a legislative option in these areas may be too prescriptive and therefore reduce the flexibility of manufacturers to develop new technical solutions. Should this possibility emerge, competitiveness and investment by EU manufacturers would be negatively impacted.

On operating costs, the study could not estimate impacts of introducing a non-exhaustive list of safety components. There is a risk that products that are not on the list of safety components start to be certified as subsystems systematically. This would have a negative impact on the current system which requires a safety analysis for assessing safety components.

As regards administrative burdens for businesses, changes in the legislation would require that companies familiarise themselves with the new requirements and adapt their procedures. It was noted that large companies have dedicated members of staff for compliance issues while small companies have to devote a portion of their normal working time to these activities (which do not generate any revenue). In the context of an SME, these costs could be significant; the Director of an SME cableway manufacturer noted that during the period when the Directive was initially implemented, he used to spend one working day every week on familiarising himself with the new requirements.

The time required to familiarise themselves with the new obligations would depend on the exact changes to be implemented. Even if these options seek to clarify the existing

requirements rather than implement new ones, the introduction of new definitions about subsystems and/or a list of safety components would imply administrative costs. However, the study could not provide a quantitative assessment about those costs.

For public authorities, the costs of transposing any changes implemented under the legislative option will not be relevant because the Directive would be aligned to NLF and a transposition would need to take place. Reducing the need to provide advice to stakeholders on interpretation of relevant provisions, both in the legislative or in the “soft law” options is expected to provide cost savings for public administrations but may subsequently accrue cost savings due to avoiding problems of interpretation of the relevant terms. The German authorities expect some increase in administrative burden from both options associated with providing advice.

Innovation and research

On innovation and research, a national authority noted that the legislative option may turn out to be too prescriptive and could potentially hinder research and development of new products. From this perspective, it was further argued that negative impacts on research and development could be avoided under the “soft law” option. Another public authority stated that an indicative list of safety components would be useful but a prescriptive list would harm innovation.

Significant impacts have not been identified for consumers and households, specific regions and sectors, or in public health and safety.

In conclusion, it is clear that some stakeholders have faced problems when interpreting the concepts examined. The assessment has showed that a legislative option brings risks in particular related to costs and to innovation, and therefore with a potential negative impact on competitiveness and SMEs. Given these potential risks, implementing the “soft law” appears to be the best available option.

6.3.3. Conformity assessment procedure for subsystems

1. Do nothing (baseline).

This would have no impact, but the described problems will persist.

2. Further clarify in the Application guide the conformity assessment procedure for subsystems (“soft law”).

Suggesting the use of specific modules for conformity assessment in the application Guide would probably encourage more stakeholders to use it. However it is questionable whether the current uncertainty would disappear. In fact the available modules including the recommendations of the notified bodies are widely known but problems identified are not solved satisfactorily. In conclusion a limited positive impact could be expected from the soft law option as the specific objectives and the sound and uniform application of the Directive would only be partially met. No significant costs for establishing specific conformity assessment procedures for subsystems are expected. In fact manufacturers need already now to follow a conformity assessment procedure which is not clearly defined in the Directive but

involves costs. The costs are not expected to increase substantially with the introduction of specific module, as costs for conformity assessment depend mainly on the complexity of the product.

3. Amend the relevant provisions of the Directive.

For option 3, in terms of effectiveness of the measure, a positive impact is foreseen. The specific objectives of the revision process would be fully met, through the improvement of the consistency and flexibility of conformity assessment procedures for all the products in the scope of the Cableways Directive. In addition reductions in time, costs and complexity would be obtained as compared to the current situation. The conformity assessment for subsystems would become more transparent, more predictable, providing the same framework for all interested parties. On efficiency, no significant costs for establishing specific conformity assessment procedures for subsystems are expected as the change would imply replacing existing practices on conformity assessment by a clear defined procedure. As already stated, additional costs are more related to the complexity of the products than to replace existing practices by a clear conformity assessment module. In terms of coherence of the measure, a clearer legal situation will contribute to improved legal certainty for all manufacturers operating with subsystems.

4. Other impacts

The introduction of a clear defined module will bring all the manufacturers of subsystems under the same conditions with respect to conformity assessment. From an internal market and competition points of view, it would be a positive step.

The changes will affect only new products placed on the market and it aims to provide manufacturers more flexibility and choice as regards costs, time and administrative burdens.

Overall, no significant impacts on consumer choice, prices, competition, barriers to entry, monopolies or market segmentation are expected.

The study has not identified significant impacts with respect to competition, trade and investment.

With respect to operating costs, the study has concluded that significant impacts on companies are not to be expected, because they need already to have a conformity assessment carried out.

However, one cableway manufacturer identified large potential negative cost impacts if the legislative option is not implemented and the disparity between legal requirements and practice is not addressed. These negative cost impacts would be experienced if certain EU Member States insist that notified bodies carry out on-site inspections on each subsystem that has been incorporated into an installation.

Consultation suggests that the cost of conformity assessment varies depending on the number of constituent safety components and whether they have already undergone conformity assessment. As a broad estimate (based on information provided by cableway manufacturers), the cost of a conformity assessment of a subsystem ranges from a €5,000 to €20,000. A somewhat lower estimate has been provided by one

notified body which stated that the cost varies with the size of the installation and the innovation that is embedded in it. Should an on-site inspection of the way each subsystem has been incorporated into an installation be carried out, one stakeholder estimated that these costs would increase to around €50,000 to €80,000. While it has not been possible to reliably verify this estimate, it is clear that costs would increase should the requirement to conduct an on-site inspection be enforced.

The above-described impacts that could possibly occur under the baseline scenario (i.e. should certain Member States decide that they wish to enforce the interpretation of Annex VII that obliges notified bodies to carry out on-site inspections) might have a large impact on SME cableway and subsystem manufacturers. A SME cableways manufacturer noted that they certify less than ten subsystems each year. Applying this to the estimates of the cost of conformity assessment provided above, suggests a possible increase in annual certification costs from €50,000 to €200,000 and from €500,000 to €800,000. These potential costs would be avoided under the legislative option.

As regards SMEs, in order to avoid increasing their cost burden, it was proposed, as suggested in the consultation process, that the legislative option ensures that it is not only Module H but also Module G (unit verification) that is allowed. This would allow SMEs to certify bespoke subsystems without significant additional burden.

From an administrative burdens point of view, no additional impacts were identified for both options, conclusion that appears related to the fact that a conformity assessment procedure needs to be followed already now.

No significant impacts on public authorities are expected.

Similarly, on innovation and research or on consumers and households, no impacts have been identified.

On public health and safety, competent national authority identified potential benefits but as no specific problems have been identified, it is not expected that these benefits would be significant.

Conclusion

The consultation conducted for this initiative has confirmed problems with lack of clarity as regards existing requirements. On-site inspections may be required while subsystems are already assessed by means of conformity assessment modules, some of which do not require on-site inspections. Therefore, the main impact of the proposed options would arise in relation to eliminating disparities in legal interpretation and the lack of legal clarity. In this respect, however, the “soft law” option is not seen as effective in reducing legal uncertainty and the legislative option is seen as preferable.

6.4. Mitigation measures

The magnitude of potentially negative impacts appears to be null or minimal for all legislative options regarding efficiency in terms of costs for making products compliant by the manufacturers of cableways installations. In this sense, no specific mitigation measures have been considered necessary. The positive impacts as a consequence of the improvement of the application of the Cableways Directive, clarification of legislation and consistency and

flexibility of conformity assessment procedure, suggest that any possible limited negative impacts would be easily compensated.

7. COMPARING THE OPTIONS

On the basis of the assessment carried out in chapter 6 the policy options “Do nothing” (baseline), “Soft law” (amending the Application Guide) and “Legislative measure” (amending the Directive) have been compared

In view of this analysis the following options turn out to be the most appropriate and hence preferred options:

Scope of the Directive

A combination of both, the soft law option and the legislative option, is seen as the most effective and efficient way to achieve the objective and to address the problem. It will provide clarity to the legal text and will help manufacturers and authorities to know from an early stage to which requirements they should comply with and therefore avoid extra costs.

Based on the responses received from the stakeholders who participated in the consultation, the options of amending the Application Guide and legislative change are considered to be the most suitable in tackling this problem area.

Safety components, subsystems and infrastructures

The soft law option is considered the most appropriate to tackle the problem, as it will provide flexible guidance (avoiding unwanted too prescriptive provisions that may result from a legislative solution in this case)

Conformity assessment procedure

The legislative option is the best option to address the problem effectively and efficiently.

The consideration of modules for subsystems will grant consistency in the use of conformity assessment procedures and will provide more flexibility and choices as regards costs and administrative burden reduction.

The following table provides an overview on the impacts of each option; the preferred options are highlighted in grey colour.

The magnitude of each impact is assessed according to the following scale:

- ++ significant positive impact
- + minor positive impact
- 0 no impact / baseline
- minor negative impact
- significant negative impact

	Effectiveness	Efficiency		Coherence
		costs	benefits	
Scope of the Directive				
1. Do nothing (baseline)	0	0	0	0
2. “Soft law” (amending the Application Guide)	+ Sound and uniform implementation of the Cableways Directive will be promoted but it will not make unclear legal situations disappear completely.	+ Additional costs are not foreseen. The clarifications state the correct interpretation of the current law.	+ Benefits may be expected if at least a part of involved manufacturers take knowledge and abide by the provisions of the Application Guide. A particular uncertainty involving the soft law approach related to the fact that it is mainly addressed to lifts manufacturers.	+ Progress in the uniform implementation of the Cableways Directive will contribute to better regulation and Single Market Act, despite the risk that unclear legal situations may emerge in the future.
3. Legislative measure (amending the Directive)	++ The sound, uniform and consistent application of the Cableways Directive will be ensured by the legislative measure from the limited scope it covers.	+ Additional costs have not been identified. As in the previous option, it is a clarification of an existing legal requirement.	++ Significant improvement of legal certainty for manufacturers. Wrong assessment on what legal requirements to comply with will be avoided.	++ The clear legal situation will contribute to better regulation and Single Market Act.
Safety components, subsystems, infrastructures and installations				
1. Do nothing (baseline)	0	0	0	0
2. “Soft law” (amending the Application Guide)	+ Soft law would provide flexible guidance, avoiding unwanted too prescriptive provisions that may result from a legislative solution in this case. Specific objectives of sound and uniform application of the Cableways Directive would be better achieved by the soft law option.	+ Additional costs resulting from a soft law approach were not identified	+ Benefits are to be expected because a tool will be available for clarifying applicable provisions for manufacturers, notified bodies and public administrations. Mistakes and involved costs, in the classification of products are expected to be reduced.	+ The clarification provided in the Application Guide will encourage a consensual implementation of the legislation, bringing therefore a positive contribution to better regulation and Single Market Act. However, it will not grant that unclear legal situations will completely disappear.
3. Legislative	In principle, a legislative measure	- -	0	0

measure (amending the Directive)	would provide a more sound and uniform application of the Cableways Directive. However, the discussions in the working groups and the consultation process have not provided a clear legal text that would avoid further interpretation in the future.	There are risks associated to higher costs from a legislative option, including also for innovation.	Benefits were not clearly identified, unless it is assumed that a clear legal text, if available, would improve predictability for manufacturers.	Taking into account the questions raised on the availability of a sound legislative solution, it is questionable whether any positive contribution this solution could provide for better regulation or the Single Market Act.
Conformity assessment procedure for subsystems				
1. Do nothing (baseline)	0	0	0	0
2. “Soft law” (amending the Application Guide)	+ The promotion of conformity assessment modules in the Application Guide may contribute to partly meet consistency in this area. However, this approach is not fundamentally different compared to the current situation. The modules are widely known but identified problems remain.	- Limited costs for establishing specific conformity assessment procedure for subsystems may arise. A conformity assessment procedure is already required now, therefore additional costs should not be significant.	0 It is questionable whether benefits would result from this option. The current availability of modules has not allowed to promote a completely predictable situation for manufacturers.	0 Contributions to better regulation and Single Market Act are not clear as the impact of a soft law option is considered to be very limited.
3. Legislative measure (amending the Directive)	++ The consideration of modules for conformity assessment in the law, as it is usually done for products falling under new approach legislation, will grant consistency in the use of conformity assessment procedures in the EU. The specific objectives will be fully met.	- As for soft law, limited costs for establishing specific conformity assessment procedure for subsystems may arise for the reasons explained above.	++ A significant improvement of legal certainty and predictability for manufacturers will be achieved.	++ This option provides a clear legal situation. It will contribute to better regulation and Single Market Act.

8. MONITORING AND EVALUATION

No additional evaluation arrangements will be introduced beyond what currently exists. The evaluation of the effectiveness of the legislation will continue to be based on the feedback received through the various communication and co-operation mechanisms already established within the framework of the Cableways Directive, i.e.:

- Cableways Advisory Standing Committee (CSC) and Cableways Experts Working Group (CWG);
- Cableways Member States Market Surveillance Administrative Co-operation Group (Cableways AdCo);
- Cableway Installations Sectoral Group (CSG) of the European Co-ordination of Notified Bodies;
- Technical Committee 242 on Safety requirements for passenger transportation by rope of the European Committee for Standardisation (CEN/TC 242).

Additional feedback will be obtained from the new or expanded cooperation and information exchange mechanisms provided for by NLF Regulation 765/2008.

These mechanisms will support the efficient and uniform enforcement of the cableways regulation and can be useful should problems of non-compliance arise in future.

Monitoring the level of compliance will be possible via the following indicators:

- number of products checked;
- number of non-compliant products among those checked;
- type of non-compliance found.

These enforcement indicators will be based on information provided by the market surveillance authorities via:

- the RAPEX³⁴ system;
- a general database established under Article 23 of the NLF Regulation 765/2008 for the exchange of information among the Member States on market surveillance activities and non-compliant products (ICSMS³⁵);
- the safeguard clause notification procedures.

Non-compliance will also be detectable through complaints addressed to the Commission.

In line with its “Smart regulation” policy³⁶, the Commission will evaluate the effectiveness of the revised Cableways Directive within a period of 5 up to a maximum of 10 years after the date of application of the revised directive, basing itself on the feedback obtained from the mechanisms set out above. If specific circumstance so require, the Commission will ask for an external evaluation report.

³⁴ EU Rapid Alert system for exchange of information between the EU Member States and the Commission on dangerous consumer and non-consumer harmonised products:

http://ec.europa.eu/consumers/safety/rapex/index_en.htm.

³⁵ Data Exchange system on market surveillance between the market surveillance bodies in Europe:

<https://www.icsms.org>.

³⁶ http://ec.europa.eu/enterprise/policies/smart-regulation/index_en.htm.

ANNEX I: REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL – FIRST REPORT ON THE IMPLEMENTATION OF DIRECTIVE 2000/9/EC RELATING TO CABLEWAYS INSTALLATIONS DESIGNED TO CARRY PERSONS

The report to the European Parliament and the Council on the implementation of the Cableways Directive 2000/9/EC is available here:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0123:FIN:EN:PDF>

**ANNEX II: IMPACT ASSESSMENT STUDY CONCERNING THE REVISION OF
DIRECTIVE 2000/9/EC RELATING TO CABLEWAYS INSTALLATIONS DESIGNED TO
CARRY PERSONS – FINAL REPORT (RPA)**

Final report of the Impact Assessment study concerning the revision of the Cableway installation Directive can be found on DG Enterprise and Industry website:
http://ec.europa.eu/enterprise/sectors/mechanical/files/cableways/rev-iastudy_en.pdf

ANNEX III: EXTRACT FROM SUMMARY REPORT TO EP - XII STANDING COMMITTEE MEETING 25-09-2012

4. Revision Process and Alignment of the Cableways Directive 2000/9/EC to the New Legal Framework for New Approach Legislation

Risk & Policy Analysts Ltd., the external contractor in charge of the preparation of the Impact Assessment Study concerning the revision of Cableways Directive 2000/9/EC, was invited at the meeting in order to present the outcome of the work carried out.

The Final Report was submitted by Risk & Policy Analysts Ltd. on 18 September 2012 and distributed to the Committee members in view of the meeting. The Impact Assessment Study has two Parts. The objective of Part 1 of the Study is to provide the European Commission with a clear picture of the cableway sector, its competitiveness, and the impact that the Directive 2000/9/EC had on it. The objective of Part 2 of the Study is to provide the European Commission with an assessment of the advantages and disadvantages of the different policy options considered in view of the revision of Cableways Directive.

The Commission services further explained that the revision of Cableways Directive 2000/9/EC will concern two main issues: the alignment to the New Legislative Framework (NLF) for New Approach Legislation, in particular, to Decision No 768/2008/EC on a common framework for the marketing of products, and the update of the legislative text, taking into account on the one hand, the new Comitology provisions of the Lisbon Treaty, and on the other hand, the experience gathered during the first years of implementation of the Directive.

The Commission services will prepare the Impact Assessment, which will accompany the Commission legislative proposal. The Impact Assessment will be carried out with a view to estimate, for each of the items considered, the advantages and disadvantages of the different policy options: do nothing, clarify the issue in the Application Guide to the Directive (Soft Law approach), and amend the Directive. The Commission legislative proposal is scheduled in the third Quarter of 2013.

In this respect, the Commission services invited the Committee members to express their views and submit their comments as regards the different items identified in view of the alignment of the Directive to the NLF and the update of the legislative text.

5. State of Play concerning the Application of Cableways Directive 2000/9/EC

Following a request for clarification made by a Committee member, the Commission services stated that the issue of the borderline between Cableways Directive 2000/9/EC and Lifts Directive 95/16/EC, as regards in particular small funiculars and inclined lifts, will be dealt with in the framework of the revision process of Cableways Directive.

List of participants at the Standing Committee meeting

Member State	Public Authority
Austria	Bundesministerium für Verkehr, Innovation und Technologie

Member State	Public Authority
Belgium	Service Public Fédéral Economie
Bulgaria	State Agency for Metrological and Technical Surveillance - SAMTS -
Cyprus	Department of Electrical and Mechanical Services
Czech Republic	Ministry of Transport
France	Service Technique des Remontées Mécaniques et Transports Guidés (STRMTG)
Germany	Bayerisches Staatsministerium für Wirtschaft, Infrastruktur, Verkehr und Technologie
Hungary	Ministry of National Development
Italy	Ministero delle Infrastrutture e dei Trasporti
Latvia	Ministry of Economics
Poland	Transportowy Dozor Techniczny (TDT)-
Romania	Ministry of Economy and Commerce
Slovakia	Ministry of Transport, Construction and Regional Development
Slovenia	Ministry of Transport
Sweden	National Board of Housing, Building and Planning (BOVERKET)
United Kingdom	Health and Safety Executive (HSE)

Stakeholders
Garaventa AG
Leitner AG
Pomagalski
FIANET
CEN/TC 242 Chairman
TÜV SÜD Industrie Service GmbH
Kontrollstelle IKSS
Technical Secretariat of the NB-CSG
Risk & Policy Analysts Ltd.

ANNEX IV: EXTRACT FROM SUMMARY REPORT TO EP - XIII STANDING COMMITTEE MEETING 8-4-2013

4. Revision process and alignment of the Cableways Directive 2000/9/EC to the New Legislative Framework

The Chairperson announced that the Final Report of the Impact Assessment Study concerning the Revision of Directive 2000/9/EC (CABL-SC/2013/04/28 - Doc. 5), developed by Risk & Policy Analysts Ltd., has been made available on the Cableways website on EUROPA http://ec.europa.eu/enterprise/sectors/mechanical/documents/legislation/cableways/index_en.htm.

A number of contributions, opinions and position papers on the possible policy options had been submitted by Member States, Industry Associations and Notified Bodies, and they have been presented and discussed at the meeting:

- FR Proposition on the Revision of Directive 2000/9/EC - (CABL-SC/2013/04/28 - Doc. 8)
- AT Opinion on Impacts and Policy Options - (CABL-SC/2013/04/28 - Doc. 5)
- IT Osservazioni e proposte di modifiche - (CABL-SC/2013/04/28 - Doc. 10)
- DE Novellierung der EU-Seilbahnrichtlinie (RL 2000/9/EG), Konzeptpapier (CABL-SC/2013/04/28 - Doc. 11)
- OITAF-IARM Position, Comments and Remarks (CABL-SC/2013/04/28-Docs.12_1 and 12_2)
- NB-CSG report in view of the Cableways directive revision - (CABL-SC/2013/04/28-Doc. 3)

The Chairperson confirmed that such contributions, and others from Member States, stakeholders and interested parties – to be submitted in written form as soon as possible – will be taken into due consideration in the drafting process of the Commission legislative proposal for a revised Cableways Directive and its accompanying Impact Assessment. This work should be concluded in the third or fourth quarter of 2013.

6. State of play on the application of Cableways Directive 2000/9/EC

The Chairperson confirmed that the issues related to the application of the Cableways Directive and its borderline with other directives – mainly the Lifts Directive 95/16/EC – will be addressed within the revision process.

List of Member States attending the Standing Committee meeting

Member State	Public Authority
Austria	Bundesministerium für Verkehr, Innovation und Technologie
Belgium	Service Public Fédéral Economie
Bulgaria	State Agency for Metrological and Technical Surveillance (SAMTS)
Cyprus	Department of Electrical and Mechanical Services
Czech Republic	Ministry of Transport
France	Service Technique des Remontées Mécaniques et Transports Guidés

Member State	Public Authority
	(STRMTG)
Germany	Bayerisches Staatsministerium für Wirtschaft, Infrastruktur, Verkehr und Technologie
Hungary	Ministry of National Development
Italy	Ministero delle Infrastrutture e dei Trasporti
Latvia	Ministry of Economics
Netherlands	Ministry of Infrastructure and the Environment
Poland	Transportowy Dozór Techniczny (TDT)
Portugal	Instituto da Mobilidade e dos Transportes, I.P.
Romania	Ministry of Economy and Commerce
Slovakia	Ministry of Transport, Construction and Regional Development
Slovenia	Ministry of Transport
Sweden	National Board of Housing, Building and Planning (BOVERKET)
United Kingdom	Health and Safety Executive (HSE)

Stakeholders
Garaventa AG
Leitner AG
Doppelmayr Seilbahnen GmbH
Pomagalski
FIANET
CEN/TC 242 Chairman
TÜV SÜD Industrie Service GmbH
Kontrollstelle IKSS
Technical Secretariat of the NB-CSG
Risk & Policy Analysts Ltd.

ANNEX V: STAKEHOLDERS' VIEWS ON THE REVISION OF THE CABLEWAYS DIRECTIVE

This annex summarises the results of the consultation carried out the European Commission in 2010 by means of a questionnaire on the different aspects of the Directive's implementation that was sent to competent national authorities, stakeholders and other actors involved in the Directive's implementation. , which refers to the problems raised subject to the revision.

The results have been taken into consideration and analysed in the view of identifying the problems that need to be addressed and designing the most appropriate and preferred policy options.

On the questions regarding **the scope** of the Directive, there was a majority consensus among stakeholders, national authorities and other industry representatives replying to the consultation that the list of installations excluded from the scope of the Directive is exhaustive and does in principle not engender interpretative problems. The majority of respondents also considered that the definitions determining the scope are sufficiently clear and exhaustive. However it is was felt necessary to have a better guidance to make a clear demarcation between current definitions of lifts and cableways. A manufacturer also highlighted the need to provide clarity for the situations where installations have a dual use – transport and leisure.

For the questions related to distinction between **safety components, subsystems and installations**, majority of the stakeholders, national authorities and representative associations were of the opinion that there is a need to clarify the distinction of these three elements, in particular the borderline between safety components and subsystems. In the current interpretation of the Directive, a safety component could sometimes also be considered a subsystem.

With regards to the **Conformity assessment procedures**, the opinion of the majority of the respondents is that the process for the assessment of subsystems in Annex VII is not clearly defined. Almost all stakeholders suggested introducing modules for subsystems as it is laid down for safety components.

An important stakeholder stated that there is no uniform guideline within the EU as regards the procedure to apply in case of subsystems and safety components, which have already been certified and placed on the market, undergo modifications. Thus, even if no serious problems have arisen so far, there is the risk that the technical upgrading of existing installations and repairs will become more difficult in future.

Two further rounds of consultations have been carried out by the contractor carrying out the impact assessment study and a summary of stakeholders' views are provided with in the various chapters of the study. See http://ec.europa.eu/enterprise/sectors/mechanical/files/cableways/rev-iastudy_en.pdf