

## **Revision of the General Product Safety Directive: Summary of envisaged actions**

### **FOREWORD**

**The Health & Consumers Directorate-General of the European Commission would be pleased to receive any feedback on the planned revision of the General Product Safety Directive, in particular:**

- any opinions and views on the actions envisaged by the Commission described below; and/or;
  
- proposals of any further action which could enhance the functioning of the EU general product safety regime.

**For this purpose, a special questionnaire was created. It is accessible through the following link:**

**[http://ec.europa.eu/consumers/safety/prod\\_legis/GPSD\\_consultation/index\\_en.htm](http://ec.europa.eu/consumers/safety/prod_legis/GPSD_consultation/index_en.htm)**

### **1. Objective of the public consultation**

The aim of this consultation is to collect opinions and information from all stakeholders on various issues in the application of the **General Product Safety Directive 2001/95/EC (the "GPSD")** and actions envisaged by the Commission supposed to bring solutions to these issues. **The actions envisaged are, however, not definitive and may be subject to change depending on the results of the on-going impact assessment.**

### **2. Envisaged actions**

#### **A. Standardisation procedures under the GPSD**

Under the current rules of the GPSD, procedures for issuing mandates for European standards are long and slow. This costs businesses time and money and prevents appropriate protection of consumers as far as their health and safety is concerned. Hence, the Commission intends to modernise the machinery relating to the mandating phase of the development of European standards covered by the GPSD. For this purpose, legal measures setting the specific safety requirements for products could be made directly applicable and could cover categories of products (e.g. childcare articles) or hazards (e.g. chemical hazards).

Apart from that, "standing" or "framework" mandates sent to the European Standardisation Organisations on the basis of measures setting the requirements for the fulfilment of the general safety requirement could be adopted. In the case of long delays in the adoption of European standards, the Commission could introduce interim measures - subject to the adoption of a standard or a legal provision - that could provide presumption of conformity with the general safety requirements to products which comply with an existing European or international standard. Finally, direct referencing of existing European standards developed without a Commission mandate would no longer be prevented.

## **B. Harmonisation of diverging safety evaluations of consumer products**

Harmonisation of diverging safety evaluations of consumer products at the EU level is at the moment possible only in emergency situations by means of EU-wide "emergency" product safety decisions.<sup>1</sup> The adoption and implementation of these EU product safety "emergency" measures is, however, cumbersome and confusing. Therefore, it should be facilitated and simplified. This can be attained by allowing more flexibility in the adoption of these EU measures, for example, by extending their period of validity, or by simplifying their implementation, for example, by making these measures directly applicable to economic operators.

Besides, the Commission would like to prevent as much as possible the occurrence of divergent safety evaluations of identical products in different Member States, or if not possible, provide for mechanisms suitable to resolve divergences in safety evaluations between authorities of different Member States.

## **C. Market surveillance framework**

Firstly, the Commission intends to strengthen the EU market surveillance framework in the consumer product safety area by means of better coordination of national market surveillance authorities in the investigation phase. Also, the learning from joint market surveillance actions organised by Member States should be expanded, since these actions contribute to the creation of a level playing field for economic operators and to more even consumer protection throughout the EU. For example, each Member State should participate in at least one of such joint action of its choice per year and a permanent platform for organisation of joint market surveillance actions could be secured.

Secondly, the Commission is determined to enhance the functioning of the RAPEX<sup>2</sup> system by making its notification criteria uniform for all products and ensuring better respect of the obligation of Member States to submit reactions.

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<sup>1</sup> Example of such a EU-wide product safety emergency measure can be Commission's Decision 2009/251/EC requiring Member States to ensure that products containing the biocide dimethyl-fumarate are not placed or made available on the market (as amended by the Commission Decision 2010/153/EU).

<sup>2</sup> RAPEX stands for Rapid Alert System for non-food products, a system ensuring early distribution of notifications among EU/EEA Member States of products posing serious risk found in these Member States.

Thirdly, despite the fact that all products must be safe irrespective of the way they reach the final consumer, the problem of unsafe products sold on the Internet should receive deeper attention at the EU level, since it frequently involves cross-border issues. Therefore, the Commission wants to explore the need for providing guidelines on how to apply enforcement measures against dangerous products sold online or formulating more specific provisions in general product safety rules dealing with online distribution channels.

#### **D. Alignment with the Free Movement of Products Package**

The reason for the alignment of the general product safety rules with those set out in the Free Movement of Products Package is to avoid the existence of a double product safety market surveillance regime, one for products harmonised at the EU level and one for products not harmonised at the EU level.

On the one hand, alignment with the Free Movement of Products Package involves alignment of definitions and competences of market surveillance authorities with those set out under Regulation (EC) No. 765/2008, such as the power to enter business premises for inspection purposes, the obligation to establish, implement and update market surveillance plans and provide them to the Commission etc.

On the other hand, it includes alignment of obligations of economic operators with those under Decision 768/2008/EC. This would eliminate the differences in obligations of economic operators with respect to "harmonised" and "non-harmonised" products. Simultaneously, this brings clear definitions of roles for each group of economic operators in the production and distribution chain, including manufacturers, importers, distributors etc. as well as service providers providing products to consumers in the context of a service.