EUROPEAN COMMISSION

Brussels,1.8.2018
C(2018) 5262 final

Dear President,

The Commission would like to thank the Senat for its Opinion on the proposal for a Regulation of the European Parliament and of the Council laying down rules and procedures for compliance with and enforcement of Union harmonisation legislation on products {COM(2017) 795 final}.

By proposing this measure as part of the 'Goods Package', the Commission is keeping its promise in the Single Market Strategy of October 2015 to strengthen the Single Market for goods.

The Commission welcomes the Senat's overall support for the proposal. It has taken due note of the views expressed by the Senat and agrees that unfair competition due to the placing of non-compliant products on the market is a key element to address. This is one of the main aims of the proposal. The Commission is pleased to take this opportunity to provide a number of clarifications regarding the proposal and trusts that those will allay the Senat's concerns.

As regards the Senat's comment on the consistency between the current proposal and Regulation (EC) No 765/2008, the Commission recalls that Article 38 of the proposal provides that Articles 15 to 29 of Regulation (EC) No 765/2008 will no longer apply to the legislation listed in the Annex to the proposal. This means that the two Regulations would not overlap.

As regards Article 5 of the proposal, the Commission had indeed examined the possibility to make a specific reference to the Declaration of Performance as in Regulation (EC) 305/2011. However, unlike most Directives and Regulations that contain rules for the Declaration of Conformity, Regulation (EC) 305/2011 already contains provisions under which conditions the Declaration of Performance can be made available on a website.

Mr Călin POPESCU-TARICEANU
President of the Senat
Calea 13 Septembrie nr. 1-3, sector 5
RO – 050711 BUCHAREST

With regard to the Senat's suggestion to revise or delete Articles 7 and 8 of the proposal, the Commission would like to stress that these provisions establish a framework for working with businesses as part of the flexible, collaborative and optional enforcement tools to gather market intelligence and prevent non-compliance. They allow compliance problems to be addressed efficiently, in a preventative manner instead of by costly corrective action. These optional tools could reduce the inspection scope or frequency for such businesses, allowing an increase of inspection efforts on untrustworthy businesses. There is no conflict of interest for market surveillance authorities. These tools are not for profit. Market surveillance authorities retain their duties to take appropriate and proportionate enforcement action against businesses that are found to be non-compliant with legislation, whether or not they use the tools set up by these provisions.

As regards the Senat's comment on Article 13 of the proposal, the Commission finds it essential that all Member States' market surveillance strategies address channels of online sales. In order for market surveillance to be efficient, the effort to oversee the single market must be uniform throughout the Union. Where some Member States lack certain capacities, the Union Product Compliance Network established by Article 31 of the proposal could address this. Moreover, Article 36(2)(f) of the proposal allows the financing by the Union of the implementation of the strategies.

Finally, with regard to the Senat's suggestion to delay the application of the proposal, the Commission recalls that a Regulation does not require transposition. Therefore, the Commission finds that the period until the date of application should be shorter than the two years suggested by the Senat.

The Commission would like to add that the above points are based on the initial proposal presented by the Commission, which is currently under discussion between the Commission and the co-legislators.

The Commission hopes that these clarifications address the issues raised by the Senat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

Elżbieta Bieńkowska
Member of the Commission