

The Swedish Consumer Agency

**2016-2018 Market Surveillance Programme for
the Swedish Consumer Agency
(*Konsumentverket*) - Product Safety**

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Background

One of Sweden's commitments as a member of the EU is to carry out market surveillance. Market surveillance means that the authority responsible conducts monitoring to ensure that products placed on the market or taken into use in Sweden comply with the requirements in force and that it takes measures if this is not the case. The authority responsible is required to organise and carry out market surveillance in a sufficiently effective way and to an adequate extent.

Aims of market surveillance

The aim of market surveillance is to protect the safety and health of employees, consumers and other users. Citizens are entitled to a similar level of protection throughout the common market, irrespective of the product's origin. Another aim of market surveillance is to ensure equivalent competition conditions among undertakings and thus help to eliminate unfair competition.

Legal basis

The provisions on market surveillance appear in Regulation (EC) No 765/2008 on accreditation. The Market Surveillance Ordinance (2014:1039) provides information about which Swedish authorities must carry out market surveillance, and also lays down general guidelines with regard to how the surveillance must be carried out.

The General Product Safety Directive (hereinafter GPSD, 2001/95/EC) also includes market surveillance requirements. This Directive has been implemented in Sweden by means of the Product Safety Act (2004:451) and the Product Safety Ordinance (2004:469). The Act imposes requirements to the effect that goods and services that are made available to consumers may not pose any risk, or only a small risk, of personal injury. The Swedish Consumer Agency carries out surveillance on the products, both goods and services, that fall within its jurisdiction. According to Section 3 of the Product Safety Ordinance, other authorities are also responsible for products falling within their respective areas of supervision under the Product Safety Act.

Article 18(5) of Regulation (EC) No 765/2008 and Section 9 of the Product Safety Ordinance impose requirements on supervisory authorities to the effect that they must:

- establish, implement and follow up programmes for their supervision of various types of good, service and risk;

- follow up scientific and technical knowledge in matters relating to product safety; and
- regularly assess and review their supervisory activities.

The Swedish Consumer Agency is responsible for the market surveillance of:

- toys under Directive 2009/48/EC on the safety of toys and the Act (2011:579) on the Safety of Toys;
- personal protective equipment for private use under Directive 89/686/EEC on personal protective equipment and the Act (1992:1326) on personal protective equipment for private use;
- hazardous food imitations under Directive 87/357/EEC concerning products which, appearing to be other than they are, endanger the health or safety of consumers, and the Act (1992:1328) on Hazardous Food Imitations;
- other consumer products (goods and services) that do not fall under any special legislation under Directive 2001/95/EC on general product safety and the Product Safety Act (2004:451).

Provisions on CE marking may also be found in the Act (2011:791) on Accreditation and Technical Inspections.

Intelligence – the basis for selecting products

The basis for the Swedish Consumer Agency's selection of products for market surveillance is a risk assessment. Among other things, the Swedish Consumer Agency uses the following factors as a basis for the risk assessment:

- injury statistics from the IDB (Injury Database);
- any fatal accidents that have occurred;
- reports received by the Agency;
- submissions from traders;
- notifications in the RAPEX system;
- amendments to laws, Commission decisions, new regulations and new or revised standards;
- intelligence and media monitoring.

Injury statistics from the IDB include information about which products have been involved in accidents. The National Board of Health and Welfare (*Socialstyrelsen*) is responsible for the system, and information about various product-related accidents can be obtained from it. Visits to a number of emergency services were recorded in the database, which covers approximately 7% of the population, and are then extrapolated to the whole

population. With regard to services, it is currently difficult to obtain relevant injury statistics from the system.

Information about fatal accidents may be obtained from the register of deaths. An important part of the Swedish Consumer Agency's intelligence comes from media monitoring, but also via industry contacts and work in the various international networks including ADCO (the Administrative Cooperation Group for Market Surveillance), ANEC (the European Association for the Coordination of Consumer Representation in Standardisation), standardisation work and PROSAFE (the Product Safety Enforcement Forum of Europe).

Surveillance methods

Active market surveillance in the form of a project

- planned initiatives aimed at various types of product

Planned market surveillance is carried out in the form of projects. The selection is based on injury statistics, intelligence analyses, new rules, the need to follow up previous surveillance, or experience acquired from visits to trade fairs, for example, and problems cropping up in notifications. The Swedish Consumer Agency also carries out projects to check whether traders are systematically working to prevent products that they place on the market from complying with the safety requirements.¹

The Swedish Consumer Agency carries out market surveillance projects by means of:

- a) targeted initiatives aimed at manufacturers/importers or distributors;
- b) targeted initiatives in collaboration with Customs;
- c) targeted initiatives at trade fairs or exhibitions;
- d) targeted initiatives in collaboration with other authorities in Sweden;
- e) targeted initiatives in collaboration with supervisory authorities in other countries, e.g. Nordic market surveillance;
- f) participation in EU projects.

Reactive market surveillance

– initiatives triggered by reports and notifications

A high proportion of the Swedish Consumer Agency's market surveillance arises from reports from consumers and consumer advisers, but also from

¹ *Translators' note:* Possibly something omitted in the Swedish. It could mean that the Agency is checking whether traders are systematically working to ensure that the products they place on the market comply with safety requirements, or that the Agency is checking whether traders are systematically ensuring that the products they place on the market do not comply with safety requirements, i.e. they are deliberately trying to circumvent the rules.

notifications from businesses, other authorities and competitors. Every case is processed, and the risk posed by the product is assessed. Measures are imposed in the event that the product poses a risk that is assessed as having the potential to cause personal injury.

Market surveillance in collaboration with consumer advisers

The Swedish Consumer Agency has no local supervisory organisation. In order to carry out market surveillance across the country, the Agency has market surveillance contracts with consumer advisers in approximately 40 municipalities. These advisers assist as necessary with inventory work, procurement of products and, to some extent, with intelligence.

Cooperation with constraints

Surveillance of personal protective equipment is the joint responsibility of the Swedish Consumer Agency and the Swedish Work Environment Authority.

The Swedish Consumer Agency therefore plans some of the market surveillance in this area in collaboration with the Swedish Work Environment Authority (*Arbetsmiljöverket*).

For some types of products, the supervisory responsibility is divided among several market surveillance authorities. In many cases, an investigation is required on a case-by-case basis in order to establish what types of risk are involved and which supervisory authority should handle the case.

One example of this is lighters, where the responsibility is shared between the Swedish Consumer Agency and the MSB (Swedish Civil Contingencies Agency). The Swedish Consumer Agency's responsibility covers the requirement that lighters must be child resistant and may not resemble toys. The MSB has supervisory responsibility for the product in other respects. Toys are another example where the supervisory responsibility is shared between the Swedish Consumer Agency, the Swedish Chemicals Agency (*Kemikalieinspektionen*) and the National Electrical Safety Board (*Elsäkerhetsverket*).

Since Regulation (EC) No 765/2008 came into force on 1 January 2010, there has been cooperation between the Swedish Consumer Agency and Swedish Customs. This takes the form of both working together on projects and also cooperating on an ongoing basis where consultation is needed if Swedish Customs' checks lead them to suspect that goods might have safety failings.

Market surveillance – Plan

Aims of market surveillance by the Agency

According to the Product Safety Act, products that are made available to consumers must not constitute any risk, or only a small risk, of personal injury. The Swedish Consumer Agency carries out surveillance on the products, both goods and services, that fall within its jurisdiction.

Market surveillance is defined in the Ordinance (2014:1039) on Market Surveillance of Products as: *'Market surveillance shall mean the activities carried out and the measures taken by a state authority or a municipal authority to ensure that a product that is placed on the market complies with the requirements in force'.*

Regulation (EC) No 765/2008 contains the following definition of market surveillance: *'The activities carried out and measures taken by public authorities to ensure that products comply with the requirements set out in the relevant Community harmonisation legislation and do not endanger health, safety or any other aspect of public interest protection.'*

Market surveillance may be initiated in various ways:

- own initiative;
- reports;
- notifications;
- Customs cases.

Follow-up

Market surveillance may include the collection, risk assessment and, where relevant, testing of products. It may also involve checks on technical documentation, labelling, product design and other product information.

Market surveillance also includes targeted proactive measures in the form of information, etc. with the aim of ensuring that goods on the market comply with the health and safety requirements.

The follow-up and evaluation of market surveillance may lead, amongst other things, to:

- an information campaign being launched;
- plans for further follow-up market surveillance;
- cooperation and discussions with industry representatives;
- cooperation with other authorities on an upcoming activity;

- forming a basis for standardisation work at the Swedish Consumer Agency.

The results of market surveillance are followed up a few times a year in conjunction with the budget review and planning of work.

Proposed market surveillance plan

The market surveillance plan will be evaluated on an ongoing basis during the period. Depending on intelligence, injury statistics and new regulations, new market surveillance may be initiated and planned surveillance may be cancelled.

2016

Product	Directive/law	Other information
Services provided within climbing and zip lines	GPSD/PSL SERVICE	The market surveillance started in 2014. Will finish in early 2016.
Eye protection, hearing protection and breathing protection for DIY work	PPE	Approx. 25 000 accidents occur every year during DIY work in the home. The surveillance started in 2014 and also includes testing. Will finish in 2016.
Protection for martial arts	PPE	Approx. 2 500 injuries every year, indicating that protection is important and must meet safety requirements. Started in 2015.
Equestrian sports	Service/PSL	Riding, trotting and horse-racing are high-risk activities with high accident rates. Market surveillance and collaboration with the various professional bodies. Will continue in 2016-2017.
Large chain stores, toys and children's products	GPSD TSD	The checking will involve site visits and verification of the chain stores' preventive safety measures as well as testing and verification of documents.
Bunk beds	GPSD	Injury statistics from IDB show that serious injuries occurred as a result of falls from bunk beds. The surveillance includes documentary checks and testing.
Toys in children's menus at fast-food chains	TSD	Around 100 000 toys are distributed via fast-food chains. There are suspicions that many such toys do not meet safety requirements. The market surveillance includes information to relevant actors, purchasing and testing.
Information campaign at industry days for	TSD	Attendance at the annual industry days is a good way of distributing

the toy industry		information about regulations to traders.
Bouncy castles	GPSD/PSL SERVICE	Many accidents have occurred when children have tumbled out of bouncy castles and landed head first on hard surfaces. Targeted information campaign as well as randomly selected site visits to hamburger restaurants where bouncy castles are available.
High-visibility clothing	PPE	Cooperation with the Swedish Work Environment Authority. Many products on the market are not CE marked. Follow-up of previous inspections conducted in 2008 concerning reflectors and reflective jackets.

2017

Product	Directive/law	Other information
Play centres	GPSD/SERVICE	Follow-up of the control carried out in 2011, where major deficiencies were noted.
Maracas and rattles	TSD	Some types of instruments are marketed as toys and also with a foreseeable use as rattles. Checking for absence of long handles.
Small balls, confectionery eggs and toys in coin-operated machines	TSD	From experience and previous checks we know that this is an area in which there are deficiencies.
Ladders	GPSD	Many accidents every year through falling off ladders. Suspected lack of stability. Some legal uncertainty about the applicable standard, which needs to be investigated before testing.
Ice hockey protection	PPE	Personal protective equipment which performs an important safety function and is used by many people.
Beds for infants and young children	GPSD	In previous checks in 2006, only 2 out of 13 tested beds met the safety requirements laid down in the standard.
Dummy holders	GPSD	A large proportion of the small businesses producing dummy holders are unfamiliar with the regulations. The market surveillance includes an information campaign and checks that dummy holders do not contain small parts.
Toughened glass in the home	GPSD	It is common for toughened glass to implode. Many reports have been received. The market surveillance will consist of an information campaign targeted at the economic operators concerned.
Information campaign at industry days for the toy industry	TSD	Attendance at industry days is a good way of distributing information.

Ice hockey protection	PPE	High number of participants and high rate of injury. Important that the protection used meets the safety requirements. Testing is included.
Guided mountain and snow-mobile tours	SERVICE/PSL	The surveillance involves monitoring whether market participants are aware of and comply with the guidance issued.
Protection for equestrian sports	PPE	Equestrian sports are the second largest sport among children and young people, and the risk of injury is high. Checks on documents.
Motorcycle protection, shoes and gloves	PPE	None of these products has previously been checked by the Consumer Agency. Key protection which may substantially reduce injury.

2018

Product	Directive/law	Other information
Dummy holders	GPSD	Continued from 2017
Beds for infants and young children	GPSD	Continued from 2017
Guided mountain and snow-mobile tours	SERVICE/PSL	Continued from 2017
Firelighters	GPSD	Checks on firelighters with an appearance making them appealing as playthings
Children's clothing with hoods	GPSD	Surveillance to ensure that hoods on children's clothing are removable.
Children's high-chairs	GPSD	Surveillance to ensure that high-chairs on the market meet applicable safety requirements.
Diving regulators, leisure diving	PPE SERVICE	Previous market surveillance which was carried out in 2008 revealed major deficiencies in the documentation from manufacturers. The results of accident investigations have indicated certain failings in the equipment. At the same time, the safety of the diving training provided should be monitored.
Information campaign at industry days for the toy industry	TSD	Despite previous information meetings, awareness of toy safety regulations remains low. Attendance at industry days is a good way of meeting traders and distributing information.
Guided mountain and snow-mobile tours	SERVICE	Continued from 2017
Alpine skiing	SERVICE PSL	A sport with a high accident rate. The market surveillance will focus on the service providers' preventive safety measures and procedures in the event of an accident.