

GUIDANCE DOCUMENT No 18
ON THE APPLICATION OF
DIRECTIVE 2009/48/EC ON THE SAFETY OF TOYS

Age classification of puffer balls, puffer figures, puffer animals and yo-yo balls

This Guidance document is a non-binding document intended to provide guidelines to help Member States and stakeholders on the age classification of puffer toys. It expresses the views of the majority of members in the Expert Group on Toys Safety.

The images appearing in the document constitute examples intended to facilitate the decision-making. They do not presuppose the conformity of the represented products.¹

This Guidance document does not relieve national authorities from their obligation to determine for any individual product, on a case-by-case basis, whether it falls within the scope of application of the Toy Safety Directive 2009/48/EC or within the scope of application of other sectoral legislation. The Court of Justice of the European Union has repeatedly held that the national authorities, acting under the supervision of the courts, must proceed on a case-by-case basis, taking account of all the characteristics of the product. Therefore, this document shall not ‘prescribe’ which regulatory framework applies. Rather, it shall serve as one out of many elements supporting the national competent authorities in their case-by-case decision on individual products. In particular, this Guidance document does not deprive a national authority from consulting with colleagues from other regulated sectors concerned in order to reach a complete view on all aspects related to a given product.

1. Age classification of puffer balls, puffer figures, puffer animals and yo-yo balls

Puffer balls, puffer figures, puffer animals and yo-yo balls are made from elastomeric material, often a visco-elastic polymer. They normally have a soft central part and are easy to pull and press into variable shapes. They are manufactured in a variety of colours including fluorescent.

Puffer toys should be classified in a pragmatic way on a case-by-case basis taking into account the definition for toys in Article 2 of the Toy Safety Directive 2009/48/EC: ‘products designed or intended, whether or not exclusively, for use in play by children under 14 years of age’.

The definition of ‘intended for use by’ in Article 3.29 of the Directive gives the criteria for evaluating whether a particular toy is intended for use by a certain age group: “‘intended for use by’ means that a parent or supervisor shall reasonably be able to assume by virtue of the functions, dimensions and characteristics of a toy that it is intended for

¹ The views expressed in this document are not legally binding; only the Court of Justice of the European Union can give an authoritative interpretation of Union law.

use by children of the stated age group”. The definition indicates that the decisive factor is what the parent or supervisor shall reasonably assume about the intended age group by virtue of the functions, dimensions and characteristics of a toy. This includes toys that are intended for use by children under 36 months.

The harmonised standard EN 71-1:2014+A1:2018, the reference of which has been published in the Official Journal of the EU², notes (in its section ‘Scope’) on the basis of the Toy Safety Directive’s definition of ‘intended for use by’ that ‘*soft-filled toys* with simple features intended for holding and cuddling are considered as toys intended for children under 36 months’.

Several categories of puffer balls, puffer figures, puffer animals and yo-yo balls can be distinguished for the purpose of age classification, under 36 months or for 36 months and over. They are all covered by the definition for toys in Article 2 of the Toy Safety Directive and are presented below.

2. Puffer balls

Puffer balls are soft balls and normally have hair imitating cords attached to them. Puffer balls may have different features such as prints on them, a light source inside activated by movement, a loop to shake the ball, etc. Playing with puffer balls normally consists of, e.g., throwing, pulling, pressing, shaking.

Puffer balls have been on the market since at least 2005 and are regarded as toys intended for children 36 months and over. However, as they might be dangerous for children under 36 months, they shall bear the warning according to Article 11 and Annex V, Part B, Point 1 of the Toy Safety Directive 2009/48/EC. See examples of puffer balls in Annex I.

3. Puffer figures and puffer animals

A puffer figure or a puffer animal is similar to a puffer ball but is shaped, e.g., as an animal, such as a bear, chicken or rabbit. Puffer figures and puffer animals may have a tether made from elastic material, usually with a ring at one end, as a yo-yo ball.

Puffer figures and puffer animals could be confused by a parent or supervisor with traditional soft-filled toys (which have simple features intended for holding and cuddling). Puffer figures and puffer animals that could be confused with traditional soft-filled toys should be classified as toys for children under 36 months. When classified as toys for children under 36 months they shall not bear the warning according to Article 11 and Annex V, Part B, Point 1 of the Toy Safety Directive. See examples of puffer figures and puffer animals in Annex II.

4. Yo-yo balls

A yo-yo ball requires more ability from a child to play with as intended, such as putting the finger into the loop and swinging the ball up and down or in circles. Yo-yo balls are normally for children of 36 months and over. Since these toys might be dangerous for

² OJ C 282, 10.8.2018, p. 3.

children under 36 months of age, they should bear a warning according to article 11 and Annex V, Part B, Point 1 of the Toy Safety Directive 2009/48/EC.

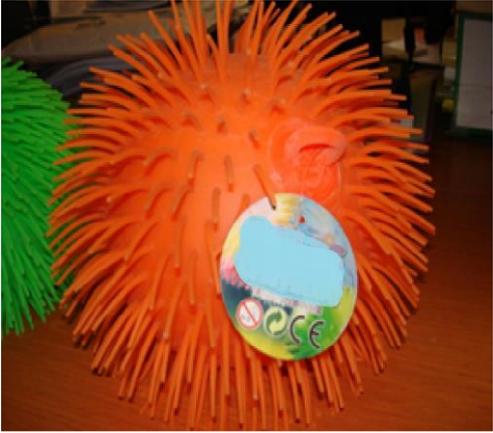
Standard EN 71-1:2014+A1:2018 defines a yo-yo ball as follows (clause 3.81): 'toy with a tether made from an *elastic material* usually having a ring at one end (i.e. a loop to place around a finger), and a flexible object at the other end intended to be thrown and returned to the hand'.

Standard EN 71-1:2014+A1:2018 further defines a ball as follows (clause 3.6): 'spherical, ovoid or ellipsoidal object, usually but not always designed or intended to be thrown, hit, kicked, rolled, dropped or bounced

Note 1 to entry: The term *ball* also includes any multisided object formed by at least 48 connecting planes into a generally spherical, ovoid or ellipsoidal shape.'

See examples of yo-yo balls in Annex III.

ANNEX I. Puffer balls: toys for children of 36 months and over

Puffer balls	Comments
	<p>Small soft face ball (bear)</p>
	<p>Small balls (about 10 cm) with “smiley”</p> <p>Small balls (about 10 cm) with eyes</p>
	<p>Big soft ball</p>
	<p>Big soft ball</p>

ANNEX II. Puffer figures and puffer animals: toys for children under 36 months

Puffer figures and puffer animals	Comments
	<p>Soft bears</p>
	<p>Small soft rabbits Rabbit</p>
	<p>Small soft chicken Small soft ducks (about 7 cm)</p>
	<p>Dragon (about 12 cm) Dolphin (about 16 cm)</p>



Monkey (about 26 cm)

Bear (about 32 cm)



Dog



Small fictional animal figure

ANNEX III. Yo-yo balls: toys for children of 36 months and over

Yo-yo balls		
		
		
		