



EUROPEAN COMMISSION
 ENTERPRISE AND INDUSTRY DIRECTORATE-GENERAL

New Approach Industries, Tourism and CSR
 International Regulatory Agreements, Toys Safety, CSR

GUIDANCE DOCUMENT No. 13 ON THE APPLICATION OF THE DIRECTIVE ON THE SAFETY OF TOYS (88/378/EEC and 2009/48/EC)

Crafts

This document is a non binding document intended to provide guidelines to help Member States and stakeholders making the distinction between toys and art crafts. This document 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 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 Safety of Toys Directive or within the scope of application of other sectoral legislation. The Court 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” what 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 manual does not deprive a national authority to consult with colleagues from other regulated sectors concerned in order to reach a complete view on all aspects related to a given product.

1. Provisions of the Toys Safety Directive(s)

1.1 Directive 88/378/EEC

Article 1 of the Safety of Toys Directive 88/378/EEC defines toys as products “designed or clearly intended for use in play by children of less than 14 years of age ”

1.2 Directive 2009/48/EC

¹ the views expressed in this document are not legally binding; only the European Court of Justice (“Court”) can give an authoritative interpretation of community law

Article 2 of the Safety of Toys Directive 2009/48/EC defines toys as products "designed or intended, whether or not exclusively, for use in play by children under 14 years of age".

According to article 3, paragraphs 23, 24 and 25, olfactory board games, cosmetic kits and gustative games are considered as toys and therefore not addressed by these guidelines.

2. Product categories

2.1 Creative hobby kits

A creative hobby kit contains materials to be used by children to create a product themselves, using, if provided, instructions for assembly.

If the kit has a play value it is a toy and has to fulfill the requirements of the Toys safety directive (s). The play value has to be assessed according to Guidance document nr 4, on a case by case basis.

Example of a toy creative kit:





However, some creative kits have only an educational purpose (for example knitting, sewing, embroidering, etc.). The kits are not child appealing and the end product is not a toy. The purpose of the kit is not play, but learning and mastering a technique (knitting, mosaic, etc.). Therefore they can not be qualified as toys. They have to comply with the

general safety requirement set out in the General product safety Directive 2001/95/EC (GPSD).

Examples of creative kits with an educational purpose:



Stamine stier - n. Mosibir®

(46)



(47)



(48)





If assembled according to the instructions, the final product has to be safe. The final product can be a toy or not to be evaluated case by case depending if the final product complies with the definition of a toy according to the TSD .

2.2 Creative crafts workshops

When children participate in creative craft workshops, different materials are made available to them for the creation of the product (buttons, strings, etc.). These materials may not take the form of a kit as described previously and have to be assessed individually. All materials provided have to comply with the general safety requirement set out in Directive 2001/95/EC (GPSD). Some materials may have a play value and can be considered as toys (for example paints, coloring pencils, etc). If the materials take the form of a kit as described previously, the kit has to comply with the TSD (for a toy kit) or the GPSD (for an educational kit).

If the final product created by the child in such workshops (to be a toy or not) is intended to be kept by the child and brought home, it is considered as a "for own use" product which is not placed on the market according to the Toy safety directive and therefore not covered by the TSD requirements .

If the final product created by the child in such workshops is intended for sale, market surveillance authorities have to assess if the product is a toy or not, using Guidance

document nr 4. If the final product is a toy, the shop will be considered as the manufacturer placing the toy on the market. He will be responsible for the compliance of the toy with the directive's safety requirements.

Further more, market surveillance authorities shall take into account, when performing such assessment that the definition of placing and making available on the market refers to commercial activities. A commercial activity should be understood as providing goods in a business related context. The concept of placing on the market refers to legal and natural persons carrying out such activities on a regular basis.

Examples of product manufactured by children during creative workshops:



