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GUIDANCE DOCUMENT No. 16

ON THE APPLICATION OF THE DIRECTIVE ON THE SAFETY OF TOYS

Electronic equipment

This document is a non binding document intended to provide guidelines to help Member States and stakeholders making the distinction between toys and electronic equipment. 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.

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 EU 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. Introduction

According to Article 2 (Scope) of the Toy Safety Directive (TSD) 2009/48/EC, this Directive shall apply to products designed or intended, whether or not exclusively, for use in play by children under 14 years of age ("toys").

- a) Products not regarded as toys according to Annex I of TSD 2009/48/EC

Electronic equipment, such as personal computers and game consoles, used to access interactive software and their associated peripherals, unless the electronic equipment or the associated peripherals are specifically designed for and targeted at children and have a play value on their own, such as specially designed personal computers, key boards, joy sticks or steering wheels

Personal computers and consoles

This point clarifies that electronic equipment such as personal computers and game consoles which are used to access interactive software are not to be considered as toys. The only exception is that they shall be considered as toys if, but only if, they are

- (i) specifically designed for and targeted at children and
- (ii) have a play value on their own.

In this context, to "have a play value on their own" does not refer to the fact that the personal computer or game console can "play" the software-based games for which it was designed. To have a "play value on their own" the personal computer or console must have a play value for children that goes beyond its ability to play software-based games. Below are examples of personal computers that would be considered toys for the purpose of the Directive. These personal toy computers are clearly specifically designed and targeted at children, and have a clear play value for children (for example role play) that goes beyond their ability to play software-based games.

Peripherals for personal computers and game consoles

Similarly, the associated peripherals of a personal computer or game console are also not to be considered as toys, unless they are

- (i) specifically designed for and targeted at children and
- (ii) have a play value on their own.

Again, "have a play value on their own" means more than just that the peripheral is used in interacting with the software-based games for which it and the personal computer/console is designed. The peripheral device must have some other feature that gives it an independent play value of its own that goes beyond just enabling the user to play the software-based game for which it was designed to be used.

In addition to having a play value of its own, in order to be considered a toy, the peripheral must be specifically designed for and targeted at children. For example, a steering wheel peripheral device for use in playing games on a personal computer/console is not to be considered a toy, unless that steering wheel is specifically designed for and targeted at children (in contrast to being designed and targeted at all game-players generally).

Any product whose intended purpose is to be used specifically in conjunction with a personal computer or game console can be considered an associated peripheral of the personal computer/console. This includes devices such as keyboards, joysticks and other controllers intended to be connected, whether by wire or wirelessly, directly to the personal computer/console, but also other products that are designed to be used in any way with the personal computer/console and/or the user's interface with the software for which the personal computer/console was designed. This would include items such as carry cases and stands designed specifically for use with the computer/console.

Each product is an individual

The applicability or otherwise of the Toy Safety Directive must be considered for each product individually.

As examples, the fact that a personal computer/console or a peripheral device is bundled and sold together with a toy, such as a toy giveaway, does not make the personal computer/console or the peripheral a toy. If a personal computer/console, which is otherwise exempt from the Directive, is bundled together with a toy peripheral, that does not make the personal computer/console a toy. Similarly, if a personal computer that is a toy under the Directive (i.e. it is specifically designed for and targeted at children and has a play value on its own) is bundled or sold with a peripheral or another product, it does not automatically mean that the peripheral/other product is to be considered a toy. Each product must be individually judged on its merits.

b) Products not regarded as toys according to Annex I of TSD 2009/48/EC

Interactive software, intended for leisure and entertainment, such as computer games, and their storage media, such as CDs
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This point clarifies that interactive software intended for leisure and entertainment, and their storage media are not to be considered as toys. As examples are mentioned computer games, together with the media - disk, cartridge, CD etc - on which the software is stored.

This is a complete exemption for all interactive software and their storage media, including the case/box in which it is packaged, even if the software has been exclusively designed for and targeted at children or may otherwise be bundled or sold together with a toy product. The software and its storage media is never a toy.


In judging each product individually, a personal computer/console or a peripheral device similarly does not become a toy simply because it is bundled with children's software.

2. BELOW ARE EXAMPLES OF TOY COMPUTERS, COMPUTER TOYS OR PRODUCTS

1. toy computers

	<p>It is specifically designed for and targeted at children and it has a play value on its own (car)</p>
	<p>It is specifically designed for and targeted at children and it has a play value on its own</p>

2. computer toys

Keyboards	Is it specifically designed for and targeted at children?	Has it a play value on its own?	Conclusion: is it covered by the TSD?
	NO	NO	NO



(only the keyboard and the mouse)

YES

NO

NO



(only the keyboard and the mouse)


YES



YES
 (keyboard
 may play
 music even
 when not
 connected to a
 PC)

YES



Joystick	Is it specifically designed for and targeted at children?	Has it a play value on its own?	Conclusion: is it covered by the Toy Directive?
	NO	NO	NO
	NO	NO	NO
	NO	NO	NO

Joystick	Is it specifically designed for and targeted at children?	Has it a play value on its own?	Conclusion: is it covered by the Toy Directive?
	NO	NO	NO
	YES	NO – (Similar to colourful keyboard and mouse above)	NO
	YES	NO (Similar to colourful keyboard and mouse above)	NO

Joystick	Is it specifically designed for and targeted at children?	Has it a play value on its own?	Conclusion: is it covered by the Toy Directive?
	YES	YES Includes a drawing pad and pen for an enhanced learning experience	YES




Mouse	Is it specifically designed for and targeted at children?	Has it a play value on its own?	Conclusion: is it covered by the Toy Directive?
	NO	NO	NO
	NO	NO	NO

Mouse	Is it specifically designed for and targeted at children?	Has it a play value on its own?	Conclusion: is it covered by the Toy Directive?
	YES	NO – it looks child-appealing but it has no play value	NO
	NO	NO	NO
	NO	NO	NO



Mouse	Is it specifically designed for and targeted at children?	Has it a play value on its own?	Conclusion: is it covered by the Toy Directive?
	YES	NO – it looks child-appealing but it has no play value	NO
	YES	NO – it looks child-appealing but it has no play value	NO



Steering wheels	Is it specifically designed for and targeted at children?	Has it a play value on its own?	Conclusion: is it covered by the Toy Directive?
	NO	YES (child may use it to play pretending to drive an imaginary car)	NO
	NO	YES (child may use it to play pretending to drive an imaginary car)-	NO
	NO	YES (child may use it to play pretending to drive an imaginary car)	NO

 <p>Powered by DIYTrade.com</p>	NO	YES (child may use it to play pretending to drive an imaginary car)	NO
	YES	YES	YES

Others	Is it specifically designed for and targeted at children?	Has it a play value on its own?	Conclusion: is it covered by the Toy Directive?
 <p data-bbox="188 896 746 963">Keyboard intended to be connected to a PC</p>	NO	YES: it can be played also when not connected to a PC	NO
 <p data-bbox="188 1523 402 1556">Only the bicycle</p>	YES	YES	YES
	YES	NO	NO

	YES	YES	YES
	NO	YES (shooting)	NO
	NO	YES (fishing)	NO
	NO	YES (boxing)	NO
	NO	YES (shooting)	NO

	YES	YES	YES
	NO	YES (playing golf, tennis, etc)	NO
	NO	NO	NO
	NO	NO	NO

Consoles	Is it specifically designed for and targeted at children?	Has it a play value on its own?	Conclusion: is it covered by the Toy Directive?
	NO	NO	NO
	NO	NO	NO

Consoles	Is it specifically designed for and targeted at children?	Has it a play value on its own?	Conclusion: is it covered by the Toy Directive?
	YES	NO	NO
	NO	NO	NO
	NO	NO	NO
	NO	NO	NO