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GUIDANCE DOCUMENT No. 17

ON THE APPLICATION OF THE DIRECTIVE ON THE SAFETY OF TOYS

Carnival costumes (disguise costumes, fancy dress)

This document is a non binding document intended to provide guidelines to help Member States and stakeholders making the distinction between toys and dress up products. 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").

Carnival costumes are not explicitly mentioned within the TSD and they are not toys to which the TSD does not apply (Art. 2 (2) of the TSD) nor are they covered by Annex I of the TSD "List of products that, in particular, are not considered as toys within the meaning of this Directive".

There are only two categories mentioned within this annex I which - maybe - show some points of interest with carnival costume namely "decorative objects for festivities and celebrations" and "Fashion accessories for children which are not for use in play". As can be seen in the Explanatory guidance document to the TSD the first mentioned category "decorative objects for festivities and celebrations" includes a variety of decorative objects, for example for Christmas or birthdays, but not carnival costumes. Regarding "Fashion accessories for children which are not for use in play" it is stated in the Guidance document

that "This point clarifies that fashion accessories, in particular jewellery for children, which are not for use in play are not considered as toys. Jewellery with play value, in contrast, is a toy, for instance jewellery sold with toy disguise costumes and (imitation) jewellery to be assembled by the child himself." From this one may conclude that disguise costumes and their accessories (like jewellery) can be classified as toys.

CEN report 14379 lists costumes, disguises and masks (intended to imitate) as toys for children below and above 36 months, depending on the size.

The age determination guidelines of the CPSC¹ list information on dress-up materials and gives examples of costumes regarded as toys for children as of 12 months old.

According to "Die ersten 3 Jahre meines Kindes"², do children under 3 like role play ("to do as if-plays") and they like to disguise (put on daddy's big shoes to be daddy and so on). Websites as e.g. (www.babycenter.at; www.babycenter.de; www.familie.de/baby-entwicklungskalender/entwicklung-kleinkind-mit-30-monaten) indicated that most children aged 2-3 years (during their 3rd year) are able to undress themselves, about 50 % are able to put on their clothes themselves.

Carnival costumes are products used to disguise and most children also use them to play the corresponding character (e.g. cowboy, policeman, princess and witch). If they are products designed or intended, whether or not exclusively, for use in play by children under 14 years of age they should be classified as toys - of course only if they are of a size which is suitable for children under 14 years. Carnival costumes for adults are no toys in the sense of the TSD.



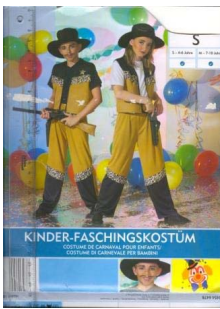
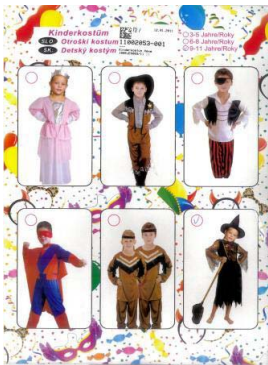
Most children, especially children in the kindergarten and elementary school, do use the costumes really in play: they are not only dressed as a cowboy or a princess – at this time they are a cowboy or a princess. But there are grave doubts if very young children can use such costumes in this way. On the market carnival costumes for children aged 0-1 year are sold with the CE-marking. However, babies are not even capable to dress themselves, it is impossible for them to have an idea what they are dressed as and to play this character. Carnival costumes for children aged 0-1 year clearly have no play value for the children and should therefore not be classified as toys. This is also in accordance with the age determination guidelines of the CPSC. Economic operators have to bear in mind that other EU legislation may be applicable e.g. General Product Safety Directive 2001/95/EC (GPSD) saying the product has to be safe. In case of an age range covering below and above 1 year, the product has to be regarded as a toy.



Toy carnival costumes for children have to comply with all requirements of the TSD. These toys are covered in particular by standard EN 71-2, partly in chapter 4.2 "Toys to be worn on the head" (beards, wigs and so on) and especially in chapter 4.3 "Toy disguise costumes and toys intended to be worn by a child in play". CEN elaborated a supporting document to the revised version of EN 71-2, related to masks and accessories, giving information on applicable clauses to test for. Presumption of conformity is given by the referenced harmonized standards published under the TSD for the hazards covered by these standards.




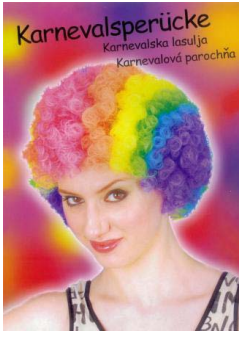
¹ Consumer Product Safety Commission , US

² Birgit Gebauer-Sesterhenn, Anne Pulkkinen, Dr. med. Katrin Edelmann; Gräfe und Unzer Verlag GmbH München, 2011

2. EXAMPLES

	Toy	Consumer product	Note
	X		costume “Indian” for children; for use in play; available in size “S” (4-6 years) and size “M” (7-10 years)
	X		costume “Robin Hood” for children; for use in play; available size “M” (7-10 years)
	X		costume “Cowboy” for children; for use in play; available in size “S” (4-6 years) and size “M” (7-10 years)
	X		different costumes for children; for use in play; available in size “3-5 years”, “6-8 years” and “9-11 years”

	X		<p>costume “witch” (dress and hat) for children, for use in play</p>
	X		<p>costume “Ladybird” for children; for use in play; available in size “XS” (2-3 years)</p>
	X		<p>costume “Princess” for children; for use in play; available in size “104” ; “116”, “128” and “140”;</p> <p>size “104” is for 3-4 years</p>
	X		<p>costume “bear” for children; for use in play; available in size “98/104”</p> <p>size “98/104” is for 2-4 years</p>
		X	<p>costume “hero” (“Zorro”) for children; not for use in play; size “Ages (0-1)”*</p> <p>photo from RAPEX notification 0934/11</p>

			
	X		*also available in size “Ages (1-3)/(4-6)/(7-10)/(11-14)”
		X	costume for babies; not for use in play photo from RAPEX notification 0380/11
	X		wig for children; for use in play; standard size
		X	wig for adults – adult size only
		X	carnival costumes for babies see for example: http://www.karneval-megastore.de/html/index.php?cPath=1359_933

