



12 AVR. 2011

Brussels,
D(2011)

Opinion

Title **ENTR - Impact Assessment on the proposal to align
10 product harmonisation directives to Decision 768/2008**
(draft version of 9 March 2011)

(A) Context

EU product harmonisation directives cover a wide range of products (cars, toys, electrical products, lifts etc.) and have the objectives of ensuring that products are safe for consumers, respect environmental requirements and can be freely traded on the internal market. A 2004 stocktaking exercise on this legislation concluded that overall the legislation has largely reached its objectives, however there remain some enforcement issues: (a) non-compliant products still reach the market, (b) the quality of operations of certain notified bodies is problematic and (c) the legislative approach is not always consistent. To remedy these issues, the 'New Legislative Framework' (NLF) was adopted as part of the goods package in 2008. This IA examines whether it would be beneficial to undertake a horizontal NLF alignment exercise for 10 existing product harmonisation directives, for which a sectoral revision has not been planned. The scope of the analysis is limited only to the NLF alignment provisions and the report builds on the 2006 impact assessment supporting the original NLF proposal.

(B) Overall assessment

While the report presents in a clear and proportionate manner the arguments with respect to the proposed alignment exercise, some aspects should be further improved. Firstly, the report should clarify a few inconsistencies between the problems and the proposed solutions. Secondly, it should improve the presentation and comparison of the costs and benefits of economic operators. Finally, the report should clarify how the effectiveness of the proposed measures will be monitored and evaluated.

(C) Main recommendations for improvements

(1) Ensure full coherence between the problem definition and the options. In the problem definition the report mentions that sanctions for violations are occasionally too weak, and that some notified bodies are excessively inflexible. The section on options should include solutions for these issues. In addition, as regards the language regime of

product information, the report should clarify in the problem definition which issues triggered the need for a new manufacturers' obligation.. Finally, the report should further clarify the specific enforceability problems related to imported products.

(2) Provide more transparent comparison of costs and benefits. In general, the report expects that the regulatory costs of this initiative will be limited and would be off-set by the benefits (e.g. avoided losses due to fair competition). In order to better support this conclusion, the report should present the overview of the costs and benefits, as perceived by stakeholders, in a more transparent manner. It should also better justify that the proposed measures would not imply disproportionate burdens for SMEs. Finally, the report should be more specific about the information obligation of notified bodies, discuss indicative ranges for the additional accreditation costs and mention the environmental impacts.

(3) Clarify the monitoring and evaluation arrangements. The report should specify when the revised legislation is planned to take effect, and outline the future evaluation arrangements. It should also discuss how progress with respect to the enforceability of the directives will be monitored (i.e. whether the share of non-compliant products on the market has indeed reduced).

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

The report is clearly written and accessible for the non-expert reader. It provides a thorough reflection of stakeholders' views. In the section on context the report should explain on what basis the 10 directives were chosen and why it would not have been beneficial to wait for a sectoral update.

(E) IAB scrutiny process

Reference number	2010/ENTR/002
External expertise used	No
Date of Board Meeting	Written procedure