Consumer product safety

2013/0049(COD) - 25/10/2013 - Committee report tabled for plenary, 1st reading/single reading

The Committee on the Internal Market and Consumer Protection adopted the report by Christel SCHALDEMOSE (S&D, DK) on the proposal for a regulation of the European Parliament and of the Council on consumer product safety and repealing Council Directive 87/357/EEC and Directive 2001/95 /EC

The committee recommends that Parliament adopt its position in first reading following the ordinary legislative procedure, and amend the Commission proposal as follows:

Purpose of the Regulation: the Regulation should aim in to ensure the functioning of the internal market and contributing to protecting the health and safety of consumers. The provisions of the Regulation are based on the **precautionary principle**, and the Regulation applies to the **online market**.

However, it will not apply to second-hand products originally placed on the market before the entry into force of the Regulation.

A **'safe product'** is defined any authentic product which is compliant with Union harmonisation legislation for health and safety. The notion of a **'product model'**, cornerstone of the work of market surveillance authorities, is introduced.

'Serious risk' means any serious risk, including those the effects of which are not immediate, requiring rapid intervention by the public authorities.

Food-imitation products: the marketing, import, manufacture and export of products that, although not foodstuffs, resemble foodstuffs and are likely to be confused with foodstuffs must be prohibited.

Factors related to evaluating the safety of a product: the report required the characteristics of the product to be taken into account, including its authenticity; the characteristics of consumers at risk when using the product under reasonably foreseeable conditions, in particular **vulnerable consumers**; the fact that the product resembles an object commonly recognised as **appealing to children**.

Evaluation must also bear in mind: reasonable consumer expectations concerning safety in terms of the nature, composition and intended use of the product; the essential requirements contained in the standardisation requests to European standardisation organisations; whether the product, categories or groups of products, have caused injuries notified into the Pan-European Injury Database.

'EU Safety Tested' marking: Members proposed to put in place a new CE marking certifying that the product had been tested by an independent third party and found safe by a competent body.

The new 'EU Safety Tested' marking will be complementary to the current CE marking.

Obligations of economic operators: the amended text strengthened these obligations by introducing the following provisions, amongst other things:

- Proportionate to the possible risks presented by a product, manufacturers or importers shall **carry out at least once a year** representative sample testing of a randomly selected product made available on the market chosen under the control of a judicial officer.

- Manufacturers must: (i) keep the **technical documentation** in paper or electronic form at the disposal of the market surveillance authorities and provide it to those authorities, upon reasoned request; (ii) ensure that their product is accompanied by instructions and safety information **addressed to the consumer in a clear and comprehensible manner;** (iii) ensure that they have procedures in place for taking corrective action, withdrawing or recalling their products; (iv) **warn** consumers who are at risk caused by the non-conformity of the product.

- Distributors shall not obscure any compulsory information or safety-related information provided by the manufacturer or importer.

Product Safety Contact Points: Member States shall designate Product Safety Contact Points in their territories and shall communicate their contact details to the other Member States and to the Commission.

Members proposed to **broaden the scope** of the Product Contact Points by facilitating training on product safety legislation and transfer information across industries and to the economic operators.

Penalties: penalties must take into account: (i) the seriousness, the duration and, where applicable, the intentional character of the infringement; (ii) whether the relevant economic operator has previously committed a similar infringement.

Administrative penalties applicable to infringements shall **at least offset the economic advantage sought through the infringement**, but shall not exceed 10 % of the annual turnover or an estimate thereof. They may be higher than 10 % of the annual turnover, where necessary to offset the economic advantage sought through the infringement. The penalties may include criminal sanctions for serious infringements.