Consumer product safety

2013/0049(COD) - 15/04/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 485 votes to 130 with 27 abstentions, a legislative resolution 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.

Parliament adopted its position at 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: Parliament called for the 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**.

The 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.

Identification of the origin: Parliament proposed that the manufacturers should be authorised to indicate the country of origin in English alone (‘Made in [country]’), since this is readily comprehensible for consumers.

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 should **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 should: (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 should not obscure any compulsory information or safety-related information provided by the manufacturer or importer. In order to protect the health and safety of consumers, they should carry out at least once a year representative sample testing of products made available on the market chosen under the control of a judicial officer or any qualified person designated by each Member State.

Product Safety Contact Points: Member States should 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.

Product Safety Contact Points should provide information on the remedies generally available in the territory of that Member State in the event of a dispute between the competent authorities and an economic operator. They should respond within 15 **working days** of receiving any request.

Penalties: penalties should 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 should **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 could include criminal sanctions for serious infringements.