

Compliance with and enforcement of Union harmonisation legislation on products

2017/0353(COD) - 19/12/2017 - Legislative proposal

PURPOSE: to ensure that products placed on the Union market comply with the requirements of Union harmonisation legislation.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure on an equal footing with the Council

BACKGROUND: within the single market, the free movement of goods generates around 25% of EU GDP and 75% of intra-EU trade. However, much remains to be done to achieve a deep and fair European Single Market. **The increasing number of illegal and non-compliant products** on the market distorts competition and puts consumers at risk.

The evaluation of [Regulation \(EC\) No 765/2008](#) indicated that it has been only partly effective in achieving its specific and strategic objectives. This is mainly because coordination and cooperation have still not reached a satisfactory level. Tools such as the Union Rapid Alert System for dangerous non-food products (RAPEX) and the Information and Communication System on Market Surveillance (ICSMS) are in place to ensure cross-border market surveillance cooperation, but they are not sufficiently used by Member States.

Furthermore, **Regulation (EC) No 765/2008 is not yet uniformly applied**, due to the significant differences in how Member States implement it. This concerns the organisation of market surveillance at national level, the availability of financial, human and technical resources, the strategies of market surveillance, the powers of inspection and of sanctions and the systems of monitoring and reporting.

Lastly, border controls on imported products seem insufficient.

As announced by the Commission in the 2017 work programme, the initiative aims to **address the growing number of non-compliant products on the Union market**, while offering incentives to boost compliance with the regulation and ensure fair and equal treatment that will benefit businesses and citizens. In particular, it provides for appropriate incentives for businesses, increased compliance checks and enhanced cross-border law enforcement cooperation.

IMPACT ANALYSIS: the preferred option is to improve existing tools and cooperation mechanisms. In addition, effective enforcement strategies deployed by Member States that include control activities and capacity building at the national level require the establishment of a Union product compliance network.

CONTENT: the purpose of this proposal for a Regulation on compliance with and enforcement of Union harmonisation legislation on products is to contribute to a deeper and fairer internal market for goods by promoting greater cooperation between national market surveillance authorities.

In concrete terms, the proposal:

- introduces the concept of a **‘person responsible for compliance information established within the Union’** as a necessary condition for making the products available on the market. The person

responsible for compliance information can be the manufacturer, the importer or any other economic operator designated by the manufacturer. The tasks of the person responsible for compliance information are essentially to provide information on the product to market surveillance authorities and to cooperate with the authorities;

- defines how to **designate competent authorities and single liaison offices** for this Regulation and clarifies the roles of the single liaison offices;
- sets out the **Member States' obligations as regards organisation of market surveillance within their territory** and lays down the procedures they must establish to follow up complaints or issues relating to risks; monitor accidents and harm to the health of end-users; verify corrective actions taken by economic operators; and follow up scientific and technical knowledge of safety issues;
- provides for a set of **powers for market surveillance authorities**, defined with the view to ensure effective enforcement of Union harmonisation legislation on products is enforced effectively across borders. These powers include the power to access data and documents related to an instance of non-compliance, to require economic operators and public entities to provide all information related to an instance of non-compliance; to carry out on site inspections; to initiate investigations or procedures aimed at ceasing non-compliance; to prohibit the supply of products, or withdraw and recall and destroy them; to impose penalties and order the recovery of profits obtained as a result of non-compliance; and to publish decisions;
- provides for the **exchange of information on illegal products and on-going investigations** so that governments can take effective action against non-compliant products;
- imposes **stricter mutual assistance obligations** and the legal presumption that products declared to be non-compliant in one Member State are also non-compliant across the EU;
- provides for a **strengthened framework for controls on products entering the Union market** and strengthens the exchange of information between market surveillance authorities and customs authorities, in particular through procedures for releasing products, suspending and refusing of release for free circulation;
- establishes a **Union product compliance network** (the network) within the Commission to coordinate enforcement tasks, thereby boosting market surveillance cooperation at EU level.

BUDGETARY IMPLICATIONS: the proposal requires human and administrative resources, as well as operational appropriations. The total impact on expenditure is estimated at **EUR 12.576 million** up to the year 2020 inclusive.