

Common framework for the marketing of products

2007/0030(COD) - 27/11/2007

The Committee on the Internal Market and Consumer Protection adopted a report drafted by Christel **SCHALDEMOSE** (PES, DK), amending, under the first reading of the codecision procedure, the proposal on a common framework for the marketing of products.

The principal amendments were as follows:

Objective and scope: a new Article stipulates that products placed on the Community market shall comply with all applicable legislation. When placing products on the Community market, economic operators are responsible for the compliance of the product with all applicable legislation. The Committee stated that the decision sets the general structure for future legislation and gives guidance on how to use the common elements to ensure as much coherence in future legislation as can be politically and technically possible. Given the legislative nature of the decision it was inappropriate to exempt a certain group of existing legislation as the Commission had proposed;

Manufacturers' obligations: manufacturers shall keep the technical documentation and the EC declaration of conformity for a maximum period of 10 years after the product has been placed on the market. They shall, in all cases where appropriate for protection of the health and safety of consumers, carry out sample testing of marketed products, investigating, and, if necessary, keeping a register of complaints, non-conforming products and product recalls. Manufacturers shall guarantee that all information they provide with regard to their products is accurate, complete and in compliance with applicable Community rules.

Importers' obligations: importers shall place only compliant products on the Community market. The Committee felt that the level of responsibility the importers have to bear under the Commission proposal was not sufficient and needed to be increased. Accordingly, it stipulated that, before placing a product on the market, importers shall ensure (rather than "verify" that the appropriate conformity assessment procedure has been carried out by the manufacturer, and shall also ensure that the manufacturer has drawn up the technical documentation. Where an importer discovers that the product is not in conformity with the appropriate legislation, he may not place the product on the market until the appropriate risk assessment has been carried out and the product has been brought into conformity with the applicable requirements. Importers shall, in all cases where appropriate for protection of the health and safety of consumers, carry out sample testing of marketed products, investigating, and, if necessary, keeping a register of complaints, non-conforming products and product recalls, and keeping distributors informed of such monitoring. They must guarantee that all information they provide with regard to the products they import is accurate, complete and in compliance with applicable Community rules. They must, for a maximum period of 10 years, keep a copy of the EC declaration of conformity at the disposal of the market surveillance authorities. Importers shall be deemed jointly liable, together with the foreign manufacturer, for damage caused by dangerous or non-compliant products which they placed on the market.

Harmonised standard: when a Member State or the Commission considers that a harmonised standard does not entirely satisfy the requirements which it covers, the Commission or the Member State concerned shall contact the relevant European standardisation organisations ("ESOs") for an opinion. When a

Member State or the Commission considers that the opinion of the ESO does not entirely satisfy the request, the Commission or the Member State concerned shall bring the matter before the relevant Commission Committee.

CE marking: Member States shall ensure the correct implementation of the regime governing the CE marking and take legal action in the case of improper use thereof. Member States shall also provide for penalties, which may include criminal sanctions for serious infringements. Such penalties shall be proportionate to the seriousness of the offence and constitute an effective deterrent against improper use. A new recital states that within one year of the publication of this Decision in the Official Journal of the EU, the Commission should present an in-depth analysis in the field of consumer safety markings, if necessary followed by legislative proposals.

Conformity assessment body: the conformity assessment body shall perform its activities taking into consideration the size, the sector, the structure of the undertakings involved, the relative complexity of the technology used by the products and the serial character of production.

Safeguard measures: where the market surveillance authorities of one Member State provide information to the market surveillance authorities of another Member State, they shall first contact the economic operator concerned at the address stated on the product in question, on its packaging or in the document accompanying the product. The economic operator shall be permitted a reasonable period in which to respond, which shall be 28 days where there is no immediate risk to the health and safety of the public.

Where the market surveillance authorities of one Member State wish to withdraw a product manufactured in another Member State, they shall advise the economic operator concerned thereof at the address stated on the product in question, on its packaging or in the document accompanying the product.