

Position Paper

UEAPME¹ position on the General Product Safety Legislative Initiative

General remarks

UEAPME welcomes the Commission initiative on the reform of the General Product Safety Directive (GPSD) (2001/95/EC). We consider that the four published consultation papers identify the problems of the GPSD in a right way.

Specific remarks

1) Standardisation procedure under the GPSD – consultation paper 1

UEAPME agrees on the fact that the procedure for issuing mandates and publishing standards takes too long. Although, we would like to highlight at this stage that from the average six years development and publications period only three years is the actual drafting procedure. The last three years are due to the slow administrative policy. We consider that the process has to be speeded up, but this has to be carried out very carefully. Drafting standards is a time consuming activity and its quality is more than crucial. For this reasons the most important issue is to reduce the time related to the administrative part of the procedure.

UEAPME does not support action 2 of the Commission “*Legal measures setting the specific safety requirements for products would be directly applicable to third parties and would be adopted for categories of products (e.g. childcare articles) or hazards (e.g. chemical hazards)*”. GPSD is a horizontal directive while technical requirements are regulated by vertical directives. The two different approaches should not be mixed up, as it would lead only to confusion. Specific risks or products should be dealt with in specific vertical directives.

UEAPME considers action 3 “*Adoption of “standing or framework” mandates sent to the European Standardisation Organisations on the basis of measures setting the requirements for the fulfilment of the general safety requirement*” as a feasible solution, as though this time concerning the development of standards can be saved rather than through individual mandates. In any case, mandates should not evolve into detailed, quasi mandatory requirements.

¹ UEAPME subscribes to the European Commission’s Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID number is [55820581197-35](#).

According to UEAPME's opinion action 4 and the related "*interim measures*" should be only used if parallel a standard mandate is issued. Amongst many arguments only harmonised standards have high quality and only these takes the special needs of SMEs into account. Further these kinds of standards are confidential for SMEs.

The development of standards is a reaction on the needs of the market. This is also the reason why standardisation bodies also act independently of the Commission's mandate. The solution provided in action 5 would fit to the challenges of the new technologies and to the needs of the market. Nevertheless a kind of post-hoc mandate should meet the same requirements as a standards based on mandates.

2) Harmonisation of diverging safety evaluations of consumer products – consultation paper 2

2.1

UEAPME is convinced that changes should be made concerning product safety emergency measures. For this reason UEAPME support action 2 and 3. Nevertheless with respect of action 3 it should be avoided that because of an effective measure no more actions going to be undertaken. It should be mandatory that parallel to a continuous measure the standard drafting/legislative procedure starts.

UEAPME also supports action 4 "*direct application of EU product safety "emergency" measures*" as this would provide a level playing field for the economic operators.

2.2

UEAPME is convinced that also in the area of the non-emergency situations actions are needed. The "*possibility of an additional laboratory test*" could be useful in case of different test results due to the different enforcement of the authorities. An additional test could solve as a foundation for a common position.

With respect of action 3 UEAPME supports the Commission to use EU-wide binding measures, but standard mandate has to be issued parallel to the aforementioned, as only harmonised standards are agreed upon by all stakeholders. EU-wide binding measures can be used in urgent cases and in cases of major difference between the applications of the authorities of the Member States.

3) Market surveillance framework in the product safety area – consultation paper 3

The market surveillance system of the European Union has been facing several problems. Most of the problems are related to the fact, that although markets are global the surveillance is still a more national issue. Furthermore the coordination at EU-level for surveillance efforts is quite burdensome. The inappropriate coordination and the related interpretation difficulties lead to uncertainty for SMEs. To this situation has to be put an end. For this reasons UEAPME supports actions 2, 3 and 4 in order to establish an appropriate level of playing field.

UEAPME sees the need to simplify the notification system of RAPEX, but in the same the system has to be strengthened as well. Only in this way can be assured that unfair trading practices will be controlled.

Concerning market surveillance of the safety of products sold on the internet UEAPME does not support any special (legal) measures for this kind of distribution. The same measures have to be valid for face-to-face and internet selling. Anything else would lead to the distortion of competition, as different regimes would mean either for the one or the other unfair benefits. The same rules have to apply for face-to-face and internet based market surveillance.

4) Alignment with the free movement of products package – consultation paper 4

The new market surveillance rules, applying from 1 January 2010 shows clearly a fragmentation related to the two legislative regimes, one for harmonised and one for non-harmonised products. This fragmentation can be noticed due to the different product safety obligations of the economic operators. For this reason UEAPME call for same principles for harmonised and non-harmonised products.

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