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from: General Secretariat
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Subject: 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
- Outcome of the European Parliament's first reading
(Strasbourg, 14 to 17 April 2014)

I. INTRODUCTION

The Rapporteur, Mrs Christel SCHALDEMOSE (S&D-DK), presented a report consisting of 92 amendments (amendments 1-92) to the proposal for a Regulation, on behalf of the Committee on Internal Market and Consumer Protection. A group of more than 40 members (Mr Andreas SCHWAB (EPP-DE) and others) tabled two further amendments (amendments 93 and 94) and the ALDE political group tabled two amendments (amendments 95 and 96).

II. DEBATE

The debate, which took place on 15 April 2014, was a joint debate which covered two Ordinary Legislative Procedure proposals:

1. the proposal for a Regulation on consumer product safety [*Rapporteur: Christel Schaldemose (S&D-DK), (COD 2013/0049)*], and
2. the proposal for a Regulation on market surveillance of products [*Rapporteur: Sirpa Pietikäinen (EPP-FI), (COD 2013/0048), - see doc. 8984/14 for the voting results-*];

The Rapporteur for the Regulation on consumer product safety, Mrs Christel SCHALDEMOSE (S&D-DK) opened the debate, and:

- stressed the importance of the product safety Regulation for the Committee on Internal Market and Consumer Protection, which had long asked the Commission to present a revision.
- noted that regarding the market surveillance Regulation, the adoption is very urgent since there are too many faulty and dangerous products on the market, and that for her political group it is of utmost importance that the consumer can be sure of buying safe products. The precautionary principle must apply.
- pointed out that a definition of vulnerable consumer must be introduced.
- stressed that the introduction of the "made in" marking will lead to safer products and will have positive effects. With the possibility for traceability in the supply chain, manufacturers can be made responsible.
- regretted that a solution with the Council could not be found on the "made in" issue. Since Member States cannot find a compromise, she invited the Council to accept the Parliament's position.

The Rapporteur for the market surveillance Regulation, Mrs Sirpa PIETIKÄINEN (EPP-FI):

- called the proposal on market surveillance key legislation concerning the functioning of the internal market, in terms both of consumer safety and of a level playing field between different companies.
- stressed that the practices of market surveillance in Member States are very uneven and need to be harmonised, since once a product is put on the market in one Member State it can circulate freely within the Union.

- noted that it is also in the interest of European companies, which are responsible producers and which respect the safety norms but whose products are much more expensive than imports, that market surveillance be coherent and similar in all Member States.
- spoke in favour of the risk-based assessment of market surveillance and an increase in the penalties, which should also be harmonised.
- pointed out that - due to a lack of public resources for checks - the internal inspection systems within companies, including external audits, should be enforced with the consequence that companies would be responsible for the production chain, the content of CE marking and the reliability of their products.
- expressed great disappointment that the Council did not find a position and did not negotiate with the Parliament, and expressed the hope that the Commission will continue to push forward this legislation.

Vice-President of the Commission, Mr Antonio TAJANI:

- thanked the European Parliament and in particular the Internal Market Committee for the very good cooperation and the ambitious report which it had adopted.
- stressed the importance and the crucial steps which need to be taken in order to improve the health and safety of consumers and to make sure that EU rules are respected, in particular in order to avoid unfair competition.
- noted that the Commission welcomes several amendments to the proposal on market surveillance: a clearer distinction between non-compliant products and products presenting a risk; guidelines to improve market efficiency with the objective of ensuring proper on-the-ground surveillance, and obligations for internet providers, as long as they are in line with EU rules on e-trading.
- pointed out that the Commission cannot accept the Parliament's proposals on the assessment of national surveillance programmes, the pan-European injury database and the imposition of administrative sanctions. In this respect he referred to the Commission's Communication on economic sanctions of 22 January 2014.
- stressed that he attached great importance to the "country of origin" labelling since it ensures traceability and transparency and makes sure that products are safe. He pointed out that the Parliament has regularly stated its support for "made in" labelling, and he hopes it will continue in doing so and will further support the Commission.

Commissioner Neven MIMICA:

- stressed that the Commission shares the same goals as the Parliament, namely enhanced consumer safety and the better functioning of the internal market.
- noted that, regarding the consumer product safety Regulation, the Commission can support most of the amendments of the Internal Market Committee: the introduction of an explicit reference to the precautionary principle and the concerns about products that appeal to children, which can be addressed in the context of the safety assessment of non-harmonised products.
- pointed out that the Commission can generally support the mandatory origin-marking proposal. In this respect he expressed confidence that the Council will soon be able to open negotiations with the Parliament on the whole package.
- noted, however, that certain amendments are not acceptable to the Commission:
 - the proposed "EU safety tested label" risks to introduce further confusion for the consumer and has no added value. Furthermore, it contradicts certain parts of EU legislation on CE marking.
 - the link to trademark protection. This should remain a subject for specific EU legislation and should not be mixed up with product safety regulation.
 - the introduction of additional obligations for non-harmonised consumer goods could jeopardise the objective of simplification.
 - the proposed ceiling for administrative penalties and a possible blacklist.
- expressed the readiness of the Commission to work closely with the Parliament and Council in order to reach an agreement on the two proposals as soon as possible.

Speaking on behalf of the Committee on International Trade, Mr George Sabin CUTAS (S&D-RO):

- supported the adoption of the proposed Regulation, as it meets the concerns of the Parliament on risks for European consumers. There had been a fragmentation of the market. Now there is a simplification by the introduction of new categories for products that will come onto the EU market and that will boost consumer confidence and get the internal market working.
- noted that there should be enhanced cooperation with third countries that export mostly to the European market and that the list of goods that will be subject to monitoring should be expanded.

Speaking on behalf of the Committee on International Trade, Mrs Cristiana MUSCARDINI (EPP-IT):

- pointed out that the Union is based on fundamental principles: democracy and freedom. Therefore citizens need to be aware of their rights, in order to make informed choices, in goods as well as in other areas.
- stressed that based on the proposed Article 7 - which foresees mandatory country of origin labelling - it must be possible to apply sanctions to any deliberate breaches of fair competition. European manufacturers should not lose out vis-à-vis manufacturers elsewhere.
- spoke strongly against the Council, as its attitude is driving citizens away from the Union.

Speaking on behalf of the Committee on Industry, Research and Energy, Mrs Patrizia TOIA (S&D-IT):

- noted that the proposed Regulation will enhance consumer protection, the quality of products, combat counterfeiting and protect children and other vulnerable consumers.
- spoke in favour of the adoption of "made in" labelling as it will increase the safety of products, help consumers to make informed choices and reward companies which manufacture good quality products. This is all to the benefit of the European economy not one single country.

Speaking on behalf of the Committee on Legal Affairs, Mr Jiri MASTALKA (GUE/NGL-CZ):

- supported the adoption of the proposed Regulations and the introduction of the precautionary principle. He drew particular attention to the protection of vulnerable citizens, such as children and elderly people.
- asked for a strengthening of the RAPEX system (Rapid Exchange of Information System) for non-food products.

Speaking on behalf of the S&D political group, Mrs Evelyn GEBHARDT (S&D-DE):

- thanked the Rapporteurs for their hard work and expressed satisfaction that the Commission supports the reintroduction of the precautionary principle, as voted for by the Committee on Internal Market and Consumer Protection.
- spoke in favour of a safety logo in order for citizens to know which products have been certified by a third party and which have not. This should, in particular, apply to dangerous products and products which aim at children. She pointed out that this is of particular importance for the S&D political group.
- supported mandatory origin marking as this will make traceability possible and improve product safety and the safety of consumers.

Speaking on behalf of the ALDE political group, Mr Michael THEURER (ALDE-DE):

- pointed out that his group has voted against the report of Mrs Schaldemose in the Internal Market Committee, because of the requirement of mandatory origin marking. His group is of the opinion that product safety and market surveillance cannot be improved by mandatory labelling as requested by Article 7. His group has also introduced amendments (amendments 95-96) for the plenary that ask for the deletion of Article 7.
- spoke against an "EU safety tested" label that would cause major costs and bureaucratic burdens in particular for SMEs. Furthermore, for a majority of the products standards for checks do not exist. Not only business representatives but also consumer organisations speak against such a label.
- noted that his group is not in general against a "made in" label since it is a sign of the quality of the product. He insisted that the consumer product safety Regulation is not the right place to introduce such a mark. The fact that a product has been produced in a certain country does not mean that it is *per se* not safe, in particular since the development, the design and the construction of that product could have been done in Europe. This is misleading for the consumer and does not serve the purposes of consumer safety and market surveillance.

Speaking on behalf of the Greens/EFA political group, Mrs Heide RÜHLE (Greens/EFA-DE):

- thanked the rapporteurs for their work, in particular Mrs Schaldemose for insisting and asking the Commission to present a review of the market surveillance and product safety regulations.
- stressed the importance of a revised and strengthened market surveillance in Europe and the creation of European standards.
- pointed out that the two Regulations where the Parliament adopted its position will never be adopted in that form since the dossiers are blocked in the Council. Therefore she asked the Commission to be active and help to de-block the situation and concentrate on the important points which are essential for consumer safety and market surveillance. If this was the case the Council might also be able to find a position.
- spoke against country of origin marking in the product safety Regulation. A "made in" label based on the customs code categories, which means the country where the last parts of a product were assembled, is misleading for the consumers and does not improve consumer safety.

Speaking on behalf of the ECR political group, Mr Ashley FOX (ECR-UK):

- spoke in favour of simplifying the rules on product safety and reducing costs for businesses. The proposed regulations could help to ensure safe products across Europe and across the single market.
- rejected the proposed change, introduced by the S&D group, which wants "to prohibit the manufacture of products that are likely to be confused with foodstuffs due to their form, colour, odour, appearance, packaging, labelling, volume, size" or any other characteristics. As a consequence the sale of soaps and bubble-bath bars resembling food would be prohibited. This goes too far and will control citizens' lives, and is not aimed at making products safe, but to create a European nanny state.

Speaking on behalf of the EFD political group, Mr Matteo SALVINI (EFD-IT):

- stressed that consumers should not be left ignorant and have the right to know from the label where a product was made and what it is made of, this is of particular importance for toys and products for children.
- noted that in order to protect consumers, workers and manufacturers in Europe, a country of origin labelling is needed, and that these groups are more important than the profits of multinational companies.

Mr Andreas SCHWAB (EPP-DE):

- stressed that his political group is supporting the two proposals of the Commission as they aim at improving the market surveillance and the control of consumer goods. However, in order to fully reach this goal there must also be sufficient personnel and resources available.
- noted that the adopted positions of the Parliament will have no consequences since the Council cannot accept them and they will not apply. Therefore it was not helpful to mix political ideas with economic reasoning, as happened in this case.
- asked for a sober matter-of-fact analysis of the situation regarding the mandatory labelling, leaving emotional factors out. In this case it might be possible to find a solution with the Council, but unfortunately this will not be case in the current legislative term.

III. VOTE

When it voted on 15 April 2014, the Parliament adopted 89 amendments (amendments 1-17, 20-59, 61-92) to proposal for a Regulation. No other amendments were adopted.

The Commission's proposal, as thus amended, and the legislative resolution constitute the Parliament's position at first reading. The text of the amendments adopted and the European Parliament's legislative resolution are set out in the Annex to this note.

Consumer product safety ***I

European Parliament legislative resolution of 15 April 2014 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 (COM(2013)0078 - C7-0042/2013 – 2013/0049(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0078),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0042/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 22 May 2013¹,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinions of the Committee on International Trade, the Committee on Industry Research and Energy and the Committee on Legal Affairs, (A7-0355/2013),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 271, 19.9.2013, p. 81.

Amendment 1

Proposal for a regulation Recital 1

Text proposed by the Commission

(1) Directive 2001/95/EC of the European Parliament and of the Council **of 3 December 2001 on general product safety**¹³ lays down the requirement that consumer products must be safe and that Member States' market surveillance authorities must take action against dangerous products as well as exchange information to that effect through the Community rapid information exchange system RAPEX. Directive 2001/95/EC needs to be fundamentally revised to improve its functioning and to ensure consistency with developments in Union legislation as regards market surveillance, obligations of economic operators and standardisation. In the interest of clarity, Directive 2001/95/EC should be repealed and replaced by this Regulation.

¹³ OJ L 11, 15. 1.2002, p. 4.

Amendment

(1) Directive 2001/95/EC of the European Parliament and of the Council¹³ lays down the **fundamental** requirement **for products on the internal market** that consumer products must be safe and that Member States' market surveillance authorities must take **efficient** action against dangerous products as well as exchange information to that effect through the Community rapid information exchange system RAPEX. Directive 2001/95/EC needs to be fundamentally revised to improve its functioning and to ensure consistency with developments in Union legislation as regards market surveillance, obligations of economic operators and standardisation. In the interest of clarity, Directive 2001/95/EC should be repealed and replaced by this Regulation.

¹³ **Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety** (OJ L 11, 15. 1.2002, p. 4).

Amendment 2

Proposal for a regulation Recital 2

Text proposed by the Commission

(2) A Regulation is the appropriate legal instrument as it imposes clear and detailed rules which do not give room for divergent transposition by Member States. A Regulation ensures that legal requirements are applicable at the same time throughout the Union.

Amendment

(2) A Regulation is the appropriate legal instrument as it imposes clear and detailed rules which do not give room for divergent transposition **and application** by Member States. A Regulation ensures that legal requirements are applicable at the same time throughout the Union.

Amendment 3

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) This Regulation must contribute to the attainment of the objectives referred to in Article 169 of the TFEU. In particular it should aim at ensuring the functioning of the internal market as regards products intended for consumers by laying down uniform rules regarding a general safety requirement, assessment criteria and obligations of economic operators. Given that rules on market surveillance, including rules on RAPEX, are laid down in Regulation (EU) No [.../...] [on market surveillance of products]¹⁴ which applies also to products covered by this Regulation, no further provisions on market surveillance or RAPEX are needed in this Regulation.

¹⁴ OJ L, , p. .

(See wording of recital 4 of Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety)

Amendment 4

Proposal for a regulation

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3) In order to ensure a high level of consumer protection, the Union should contribute to protecting the health and safety of consumers. In that regard, this Regulation is essential to delivering the fundamental aim of an internal market for safe products, whilst contributing to the attainment of the objectives referred to in Article 169 of the Treaty on the Functioning of the European Union (TFEU).

(3a) This Regulation should aim in particular to ensure the functioning of the internal market as regards products intended for consumers, by laying down uniform rules regarding a general safety requirement, assessment criteria and the obligations of economic operators. Given that rules on market surveillance, including rules on RAPEX, are laid down in Regulation (EU) No .../... of the European Parliament and of the Council^{1*}, no further provisions on

market surveillance or RAPEX are necessary in this Regulation.

¹ *Regulation (EU) No .../... of the European Parliament and of the Council of ... on market surveillance of products and amending Council Directives 89/686/EEC and 93/15/EEC, and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 1999/5/EC, 2000/9/EC, 2000/14/EC, 2001/95/EC, 2004/108/EC, 2006/42/EC, 2006/95/EC, 2007/23/EC, 2008/57/EC, 2009/48/EC, 2009/105/EC, 2009/142/EC, 2011/65/EU, Regulation (EU) No 305/2011, Regulation (EC) No 764/2008 and Regulation (EC) No 765/2008 of the European Parliament and of the Council (OJ L ...)*

** OJ: please insert the number of Regulation (2013/0048(COD)) in the recital and the number, date of adoption and publication reference of the Regulation in the footnote.*

Amendment 5

Proposal for a regulation Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) The safety of consumers depends to a great extent on the active enforcement of Union product safety requirements. Market surveillance activities at national and Union level should be improved on an on-going basis and should be increasingly effective in order to meet the ever-changing challenges of a global market and a progressively complex supply chain. Failing market surveillance systems could generate a distortion of competition, jeopardise consumer safety and undermine citizens' trust in the internal market. The Member States should, therefore, establish systematic approaches to ensure the increasing effectiveness of

market surveillance and other enforcement activities and should ensure their openness to the public and interested parties.

(See wording of recital 24 of Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety)

Amendment 6

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) This Regulation should not cover services. However, in order to secure the attainment of the protection of health and safety of consumers, it should apply to products that are supplied or made available to consumers in the context of the provision of services, including products to which consumers are directly exposed during a service provision. ***Equipment on which consumers ride or travel which is operated*** by a service provider ***should be excluded from the scope of this Regulation since it has to be dealt with in conjunction with the safety of the service provided.***

Amendment

(6) This Regulation should not cover services. However, in order to secure the attainment of the protection of health and safety of consumers, it should apply to ***all*** products that are ***used***, supplied or made available to consumers in the context of the provision of services, including products to which consumers are directly exposed during a service provision ***by a service provider.***

Amendment 7

Proposal for a regulation

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Products which are designed exclusively for professional use but have subsequently migrated to the consumer market should be subject to this Regulation because they can pose risks to consumer health and safety when used under reasonably foreseeable conditions.

(See wording of recital 10 of Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety)

Amendment 8

Proposal for a regulation

Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) Equipment on which consumers travel which is operated by a service provider should be excluded from the scope of this Regulation since it has to be dealt with in conjunction with the safety of the service provided.

Amendment 9

Proposal for a regulation

Recital 8

Text proposed by the Commission

Amendment

(8) In respect of the consumer products subject to this Regulation the scope of application of the different parts of it should be clearly delimited from sector-specific Union harmonisation legislation. Whilst the general product safety requirement and related provisions should be applicable to all consumer products, the obligations of economic operators should not apply where Union harmonisation legislation includes equivalent obligations, such as Union legislation on cosmetics, toys, electrical appliances or construction products.

(8) In respect of the consumer products subject to this Regulation the scope of application of the different parts of it should be clearly delimited from sector-specific Union harmonisation legislation. Whilst the general product safety requirement and related provisions ***in Chapter I of this Regulation*** should be applicable to all consumer products, the obligations of economic operators should not apply where Union harmonisation legislation includes equivalent obligations, such as Union legislation on cosmetics, toys, electrical appliances or construction products.

Amendment 10

Proposal for a regulation

Recital 9

Text proposed by the Commission

Amendment

(9) In order to ensure consistency between this Regulation and sector-specific Union harmonisation legislation with regard to

(9) In order to ensure consistency between this Regulation and sector-specific Union harmonisation legislation with regard to

specific obligations of economic operators, the provisions concerning manufacturers, authorised representatives, importers and distributors should be based on the reference provisions included in Decision No 768/2008/EC of the European Parliament and of the Council *of 9 July 2008 on a common framework for the marketing of products*¹⁶.

¹⁶ OJ L 218, 13. 8.2008, p. 82.

specific obligations of economic operators, the provisions concerning manufacturers, authorised representatives, importers and distributors should be based on the reference provisions included in Decision No 768/2008/EC of the European Parliament and of the Council¹⁶. *Nevertheless, harmonised legislation should not impose unnecessary administrative burdens on businesses.*

¹⁶ *Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC* (OJ L 218, 13.8.2008, p. 82).

Amendment 11

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) The scope of this Regulation should not be limited to any selling technique of consumer products, and thus also cover distance selling.

Amendment

(10) The scope of this Regulation should not be limited to any selling technique of consumer products, and thus also cover distance selling, *such as electronic selling, online sales and sales platforms.*

Amendment 12

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) This Regulation should apply to second hand products that re-enter the supply chain in the course of a commercial activity, except for those second-hand products for which the consumer cannot reasonably expect that they fulfil state-of-the art safety standards, such as antiques.

Amendment

(11) This Regulation should apply to second-hand products that re-enter the supply chain in the course of a commercial activity, *provided that they have been placed on the market as such, and to second-hand products originally placed on the market after the entry into force of this Regulation, and* except for those second-hand products for which the consumer cannot reasonably expect that they fulfil state-of-the art safety standards,

such as antiques.

Amendment 13

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) This Regulation should also apply to consumer products which, although not foodstuff, resemble foodstuff and are likely to ***be confused with foodstuff in a way that consumers, especially children, may place them in their mouths, suck or ingest them, which might cause, for example, suffocation, poisoning, the perforation or obstruction of the digestive tract.*** Those food-imitating products have so far been regulated by Council Directive 87/357/EEC of 25 June 1987 on the approximation of the laws of the Member States concerning products which, appearing to be other than they are, endanger the health or safety of consumers¹⁷ which should be repealed.

¹⁷ OJ L 192, 11.7.1987, p. 42.

Amendment

(12) This Regulation should also apply to, ***and thus prohibit the marketing, import and manufacture or export of,*** consumer products which, although not foodstuff, resemble foodstuff and are likely to ***cause persons, in particular young children, to confuse them with foodstuff and consequently to place them in their mouths, suck or ingest them, which by doing so may cause death or personal injury.*** Those food-imitating products have so far been regulated by Council Directive 87/357/EEC¹⁷ which should be repealed.

¹⁷ Council Directive 87/357/EEC of 25 June 1987 on the approximation of the laws of the Member States concerning products which, appearing to be other than they are, endanger the health or safety of consumers (OJ L 192, 11.7.1987, p. 42).

Amendment 14

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) The safety of products should be assessed taking into account all the relevant aspects, in particular their characteristics and presentation as well as the categories of consumers who are likely to use the products taking into account their vulnerability, in particular children, the elderly and the disabled.

Amendment

(13) The safety of products should be assessed taking into account all the relevant aspects, in particular their characteristics, ***composition, authenticity, materials, components,*** and presentation of ***the product and its packaging*** as well as the categories of consumers who are likely to use the products taking into account their vulnerability, in particular children,

the elderly and the disabled.

Amendment 15

Proposal for a regulation Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) The precautionary principle, as laid down in Article 191(2) TFEU and outlined inter alia in the Commission Communication of 2 February 2000 entitled "On the precautionary principle", is a fundamental principle for the safety of products and for the safety of consumers and should be taken into due account when laying down the criteria for assessing the safety of a product.

(See Communication from the Commission on the precautionary principle of 2 February 2000 (COM(2000)1))

Amendment 16

Proposal for a regulation Recital 13 b (new)

Text proposed by the Commission

Amendment

(13b) This Regulation should take into account "child-appealing products" whose design and characteristics in any way resemble a toy or an object appealing to or intended for use by children. Child-appealing products should furthermore be assessed for their levels of risk and appropriate action to mitigate that risk should be taken.

Amendment 17

Proposal for a regulation Recital 13 c (new)

(13c) When assessing the safety of a product, special consideration should be given if the product has caused injuries notified into the Pan-European Injury Database established pursuant to Regulation (EU) No .../... *.

**** OJ: please insert the number of Regulation (2013/0048(COD)).***

Amendment 20

Proposal for a regulation Recital 15

Text proposed by the Commission

(15) Economic operators should be responsible for the compliance of products, in relation to their respective roles in the supply chain, so as to ensure a high level of protection of the health and safety of consumers.

Amendment

(15) Economic operators should be responsible for the compliance of products, in relation to their respective roles in the supply chain, so as to ensure a high level of protection of the health and safety of consumers. ***In that regard, there should be a strict alignment of the provisions regarding obligations of economic operators in Decision No 768/2008/EC of the European Parliament and of the Council¹, since this will provide a level playing field between the obligations on economic operators covered by harmonised legislation and those covered by non-harmonised legislation under this Regulation.***

¹ ***Decision No 768/2008/EC of the European Parliament and of the Council, of 9 July 2008, on a common framework for the marketing of products (OJ L 218, 13.8.2008, p. 82.).***

Amendment 21

Proposal for a regulation

Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) In the case of products that are not subject to Union harmonisation legislation, European standards or national legislation on health and safety requirements, economic operators should assess the safety of products according to specific criteria, on which basis they should define the level of risk associated to a product. Market surveillance authorities may assist economic operators in carrying out the safety assessment.

Amendment 22

**Proposal for a regulation
Recital 15 b (new)**

Text proposed by the Commission

Amendment

(15b) To make it easier to place safe products on the market, economic operators, in particular small and medium-sized enterprises (SMEs), should be able to meet their obligations under this Regulation by establishing consortia with the dual purpose of ensuring compliance with product safety requirements and high quality standards and reducing the costs and "red tape" with which individual businesses are burdened.

Amendment 23

**Proposal for a regulation
Recital 16 a (new)**

Text proposed by the Commission

Amendment

(16a) Manufacturers should ensure that the products they place on the market have been designed and manufactured in accordance with the safety requirements laid down in this Regulation. In order to clarify the obligations of the

manufacturer and to minimise the related administrative burdens, the Commission should establish a Union general risk assessment methodology for products and create user-friendly electronic tools for analysing risks. The methodology should establish an efficient tool for risk assessment that the manufacturers can use when designing products, by building on best practices and input from stakeholders.

Amendment 24

Proposal for a regulation Recital 16 b (new)

Text proposed by the Commission

Amendment

(16b) In order to facilitate communication between economic operators, market surveillance authorities and consumers, Member States should encourage economic operators to include a website address in addition to the postal address.

Amendment 25

Proposal for a regulation Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) The distributor should ensure that the manufacturer and the importer have complied with their obligations, that is to say verifying the indication on the product or on its packaging of the name, model name, brand name or address at which the manufacturer and the importer can be contacted and the affixing of the manufacturer's batch number, serial number or other element on the product for its identification. The distributor should not check each product individually, unless the distributor considers that the manufacturer or the importer have not fulfilled their

obligations.

Amendment 26

Proposal for a regulation Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) Globalisation, increased outsourcing and the growth in international trade mean that more products are being traded on markets across the world, and in that regard a close cooperation between global regulators and other stakeholders in the area of consumer product safety is essential to addressing the challenges of complex supply chains and higher volumes of trade. In particular, the Commission should be encouraged to strengthen the attention to safety by design of products through bilateral cooperation with the market surveillance authorities of third countries.

(See wording of paragraph 10 of European Parliament resolution of 8 March 2011 on the revision of the General Product Safety Directive and market surveillance (2010/2085(INI)))

Amendment 27

Proposal for a regulation Recital 20 b (new)

Text proposed by the Commission

Amendment

(20b) The current traceability systems and identification procedures already in place should be effectively enforced and improved. In that regard, assessments and evaluations on the use of the technologies in place are necessary to ensure better performance and lower the administrative burden on economic operators. One of the objectives of this Regulation is to constantly improve the traceability systems imposed on economic operators and products.

Amendment 28

Proposal for a regulation Recital 20 c (new)

Text proposed by the Commission

Amendment

(20c) In order to improve traceability in the future, the Commission should assess how to facilitate the application of specific track-and-trace technologies and product authentication technologies. In that assessment, the technologies assessed should ensure inter alia consumer product safety, improve tracing mechanisms and avoid putting unnecessary administrative burdens on economic operators in order to prevent the costs thereof from being passed on to consumers.

Amendment 29

Proposal for a regulation Recital 20 d (new)

Text proposed by the Commission

Amendment

(20d) Building on the establishment of national contact points pursuant to Regulation (EU) No 764/2008 of the European Parliament and of the Council¹, Product Safety Contact Points should function as information centres in the Member States for economic operators in order for those operators to receive guidance and training on product safety requirements and legislation.

¹ Regulation (EU) No 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State and repealing Decision No 3052/95/EC (OJ L 218, 13.8.2008, p. 21).

Amendment 30

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) The indication of origin **supplements** the basic traceability requirements concerning the name and address of the manufacturer. **In particular**, the indication of the country of origin helps to identify the actual place of manufacture in all those cases where the manufacturer cannot be contacted **or** its given address is different from the actual place of manufacture. Such information can facilitate the task of market surveillance authorities in tracing the product back to the actual place of manufacture and enable contacts with the authorities of the countries of origin in the framework of bilateral or multilateral cooperation on consumer product safety for appropriate follow up actions.

Amendment

(21) The indication of origin **is a necessary supplement to** the basic traceability requirements **laid down in this Regulation** concerning the name and address of the manufacturer. **Furthermore**, the indication of the country of origin helps to identify the actual place of manufacture in all those cases where the manufacturer cannot be contacted, **in particular where** its given address is different from the actual place of manufacture, **where the name and address of the manufacturer is missing altogether or where the address was on the packaging that has been lost**. Such information can facilitate the task of market surveillance authorities in tracing the product back to the actual place of manufacture and enable contacts with the authorities of the countries of origin in the framework of bilateral or multilateral cooperation on consumer product safety for appropriate follow up actions.

Amendment 31

Proposal for a regulation

Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) The indication of origin of the product would make it easier for consumers to access information about the product chain, thereby increasing their level of awareness. In particular, when indicating the name of the manufacturer fulfilling the obligations of the economic operators, there is a risk of misleading the consumers since an indication of the manufacturer does not necessarily enable the consumer to

establish what the country of production is. Thus, the indication of origin should be the sole means by which the consumers would be able to establish the country of production of a product.

Amendment 32

Proposal for a regulation Recital 21 b (new)

Text proposed by the Commission

Amendment

(21b) In several jurisdictions of the trade partners of the Union, the indication of origin is mandatory in product labelling and custom declarations. The introduction of the indication of origin pursuant to this Regulation will bring the Union into line with the international trade regime. Furthermore, since the requirement to provide an indication of origin covers all non-food products on the territory of the Union, whether imported or not, it will comply with the international trade obligations of the Union.

Amendment 33

Proposal for a regulation Recital 24

Text proposed by the Commission

Amendment

(24) The procedures to request European standards in support of this Regulation, and on formal objections against them, should be laid down in this Regulation and be aligned with Regulation (EU) No 1025/2012. To ensure overall consistency in European standardisation issues, requests for European standards, or objections to a European standard, should therefore be brought before the committee set up by that Regulation, after appropriate consultation of experts of the Member States in the field of consumer product

(24) The procedures to request European standards in support of this Regulation, and on formal objections against them, should be laid down in this Regulation and be aligned with Regulation (EU) No 1025/2012. To ensure overall consistency in European standardisation issues, requests for European standards, or objections to a European standard, should therefore be brought before the committee set up by that Regulation, after appropriate consultation of experts of the Member States in the field of consumer product

safety.

safety *and of relevant stakeholders*.

(see amendment of Article 16(1))

Amendment 34

Proposal for a regulation

Recital 30

Text proposed by the Commission

(30) Member States should lay down rules on penalties applicable to infringements of this Regulation and ensure that they are implemented. Those penalties must be effective, proportionate and dissuasive.

Amendment

(30) Member States should lay down rules on penalties applicable to infringements of this Regulation and ensure that they are implemented. Those penalties must be effective, proportionate and dissuasive *and depend on the seriousness, duration and intentional or recurring character of the infringement, as well as the size of the undertakings, in terms of the number of persons employed by and annual turnover of the economic operators concerned, with a particular regard to SMEs. Infringements should entail administrative penalties that are harmonised at Union level. Member States should be encouraged to allocate the revenues collected from such penalties to market surveillance activities.*

Amendment 35

Proposal for a regulation

Recital 30 a (new)

Text proposed by the Commission

Amendment

(30a) In order to enhance the deterrent effect of the penalties, the Commission should make them public. In addition, economic operators who are repeatedly found to have intentionally breached this Regulation should be placed on a public, Union-wide blacklist.

Amendment 36

Proposal for a regulation

Article 1 – title

Text proposed by the Commission

Amendment

Subject matter

Subject matter **and objective.**

Amendment 37

Proposal for a regulation

Article 1 - paragraph -1 (new)

Text proposed by the Commission

Amendment

The objective of this Regulation is to ensure the proper functioning of the internal market whilst maintaining a high level of health, safety and consumer protection.

Amendment 38

Proposal for a regulation

Article 1 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The provisions of this Regulation are based on the precautionary principle.

Amendment 39

Proposal for a regulation

Article 2 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. This Regulation shall apply to products obtained through a manufacturing process placed or made available on the market, whether new, used or reconditioned, and which comply with any of the following criteria:

1. This Regulation shall apply to products obtained through a manufacturing process placed or made available on the market, ***including the online market***, whether new, used or reconditioned, and which comply with any of the following criteria:

Amendment 40

Proposal for a regulation

Article 2 – paragraph 1 – point b

Text proposed by the Commission

(b) which are likely, under reasonably foreseeable conditions, to be used by consumers even if not directly intended for them;

Amendment

(b) which are likely, under reasonably foreseeable conditions, to be used by consumers even if, ***when placed on the market, they were*** not directly intended for them; ***products are not likely to be used by consumers if they are intended for the exclusive use by professionals and are explicitly labelled and presented as such;***

Amendment 41

Proposal for a regulation

Article 2 – paragraph 1 – point c

Text proposed by the Commission

(c) *to* which ***consumers are exposed*** in the ***context*** of a service ***provided to them***.

Amendment

(c) which ***are provided to a consumer*** in the ***course*** of a service, ***whether or not the product is used by the consumer himself***.

Amendment 42

Proposal for a regulation

Article 2 – paragraph 2

Text proposed by the Commission

2. This Regulation shall not apply to products to be repaired or reconditioned prior to being used where those products are made available on the market as such.

Amendment

2. This Regulation shall not apply to products to be repaired or reconditioned prior to being used where those products are made available on the market as such, ***nor to second-hand products originally placed on the market before ...****.

**** OJ: please insert the date of entry into force of this Regulation.***

Amendment 43

Proposal for a regulation

Article 2 – paragraph 3 – point d a (new)

(da) medical devices as defined in Council Directive 93/42/EEC¹, Council Directive 90/385/EEC² and Directive 98/79/EC of the European Parliament and of the Council³;

¹ Council Directive 93/42/EEC of 14 June 1993 concerning medicinal devices (OJ L 169, 12.7.1993, p. 1).

² Council Directive 90/385/EEC of 20 June 1990 on the approximation of the laws of the Member States relating to active implantable medical devices (OJ L 189, 20.7.1990, p. 17).

³ Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998 on in vitro diagnostic medical devices (OJ L 331, 7.12.1998, p. 1).

Amendment 44

Proposal for a regulation Article 2 – paragraph 3 – point i a (new)

Text proposed by the Commission

Amendment

(ia) construction products as defined in Regulation (EU) No 305/2011 of the European Parliament and of the Council¹

¹ Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ L 88, 4.4.2011, p. 5).

Amendment 45

Proposal for a regulation Article 3 – point 1

Text proposed by the Commission

(1) ‘safe product’ means any product which, under normal or reasonably foreseeable conditions of use of the product concerned, including the duration of use and, where applicable, its putting into service, installation **and maintenance** requirements, does not present any risk or only the minimum risks compatible with the product's use, considered acceptable and consistent with a high level of protection of health and safety of persons;

Amendment

(1) ‘safe product’ means any **authentic** product which **is compliant with Union harmonisation legislation for health and safety. In the case of absence of such legislation it means any products which**, under normal or reasonably foreseeable conditions of use of the product concerned, including the duration of **the** use and, where applicable, its putting into service, installation, **maintenance, training and supervision** requirements, does not present any risk or only the minimum risks compatible with the product's use, considered acceptable and consistent with a high level of protection of health and safety of persons;

Amendment 46

Proposal for a regulation
Article 3 – point 1 a (new)

Text proposed by the Commission

Amendment

(1a) ‘product model’ means products that are considered to be distinct in terms of presenting identical or similar essential characteristics, with differences, if any, having no impact on their safety level unless otherwise proven by the manufacturer or the importer;

Amendment 47

Proposal for a regulation
Article 3 – point 17

Text proposed by the Commission

Amendment

(17) ‘serious risk’ means **a risk requiring rapid intervention and follow-up**, including **cases where** the effects **may not be** immediate.

(17) ‘serious risk’ means **any serious** risk, including **those** the effects **of which are** not immediate, **requiring rapid intervention by the public authorities;**

(See wording of Article 2 (d) of Directive 2001/95/EC of the European Parliament and of the

Amendment 48

Proposal for a regulation Article 4 a (new)

Text proposed by the Commission

Amendment

Article 4a

Prohibition of marketing, import and manufacture or export of food-imitation products

Member States shall take all the measures necessary to prohibit the marketing, import, manufacture and export of consumer products which, although not foodstuffs, resemble foodstuffs and are likely to be confused with foodstuffs due to their form, odour, colour, appearance, packaging, labelling, volume, size or other characteristics, thereby endangering the health or safety of consumers.

(See wording of Council Directive 87/357/EEC of 25 June 1987 on the approximation of the laws of the Member States concerning products which, appearing to be other than they are, endanger the health or safety of consumers)

Amendment 49

Proposal for a regulation Article 5 – point a a (new)

Text proposed by the Commission

Amendment

(aa) if it is authentic, meaning that the product or any presentation of the product does not bear a trade mark without the authorisation of the trade mark owner that is identical or similar to a registered trade mark for that product, thereby misleading consumers as to the true identity of the product;

Amendment 50

Proposal for a regulation

Article 5 – point c

Text proposed by the Commission

(c) in the absence of requirements laid down in or pursuant to Union harmonisation legislation referred to in point (a) and European standards referred to in point (b), as regards the risks covered by health and safety requirements laid down in the law of the Member State where the product is made available on the market, if it **conforms to** such national requirements.

Amendment

(c) in the absence of requirements laid down in or pursuant to Union harmonisation legislation referred to in point (a) and European standards referred to in point (b), as regards the risks covered by health and safety requirements laid down in the law of the Member State where the product is made available on the market, if it **complies with** such national **rules provided that they comply with Union law**.

Amendment 51

Proposal for a regulation

Article 6 – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

(a) the characteristics of the product, including its composition, packaging, instructions for assembly and, where applicable, for installation and maintenance;

Amendment

(a) the characteristics of the product, including its **authenticity**, composition, packaging, instructions for assembly and, where applicable, for installation and maintenance;

Amendment 52

Proposal for a regulation

Article 6 – paragraph 1 – subparagraph 1 – point d

Text proposed by the Commission

(d) the **categories** of consumers at risk when using the product, in particular vulnerable consumers;

Amendment

(d) the **characteristics** of consumers at risk when using the product **under reasonably foreseeable conditions**, in particular vulnerable consumers;

Amendment 53

Proposal for a regulation

Article 6 – paragraph 1 – subparagraph 1 – point e

Text proposed by the Commission

(e) the appearance of the product and in particular where a product, although not foodstuff, resembles foodstuff and is likely to be confused with foodstuff due to its form, odour, colour, appearance, packaging, labelling, volume, size or other characteristics.

Amendment

(e) the appearance of the product and in particular where a product:

(i) although not foodstuff, resembles foodstuff and is likely to be confused with foodstuff due to its form, odour, colour, appearance, packaging, labelling, volume, size or other characteristics, or

(ii) although not designed or not intended for use by children, resembles an object commonly recognised as appealing to or intended for use by children, because of its design, packaging and characteristics.

Amendment 54

Proposal for a regulation

Article 6 – paragraph 2 – point a

Text proposed by the Commission

(a) the state of the art and technology;

Amendment

deleted

(see amendment proposing an Article 6(1a) new by the same author)

Amendment 55

Proposal for a regulation

Article 6 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) reasonable consumer expectations concerning safety in terms of the nature, composition and intended use of the product;

(See amendment on Article 6, paragraph 2, point h. The text has been modified)

Amendment 56

Proposal for a regulation

Article 6 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the essential requirements contained in the standardisation requests to European standardisation organisations in accordance with Article 16 of this Regulation as long as the Commission has not yet published the reference of the harmonised standard in the Official Journal of the European Union;

Amendment 57

Proposal for a regulation

Article 6 – paragraph 2 – point g a (new)

Text proposed by the Commission

Amendment

*(ga) if the product, categories or groups of products, have caused injuries notified into the Pan-European Injury Database established pursuant to Regulation (EU) No .../... *.*

** OJ: please insert the number of Regulation (2013/0048(COD)).*

Amendment 58

Proposal for a regulation

Article 6 – paragraph 2 – point h

Text proposed by the Commission

Amendment

(h) reasonable consumer expectations concerning safety.

deleted

Amendment 59

Proposal for a regulation

Article 6 – paragraph 2 – point h a (new)

Text proposed by the Commission

Amendment

(ha) the state of the art and technology.

(see amendment proposing an Article 6(1a) new by the same author)

Amendment 61

Proposal for a regulation Article 7 – paragraph 2

Text proposed by the Commission

Amendment

2. For the purpose of determination of the country of origin within the meaning of paragraph 1, non-preferential origin rules set out in Articles **23 to 25 of Council Regulation (EEC) No 2913/92 establishing a Community Customs Code**²¹ shall apply.

2. For the purpose of determination of the country of origin within the meaning of paragraph 1 ***of this Article***, non-preferential origin rules set out in Articles **59 to 62 of Regulation (EU) No 952/2013 of the European Parliament and of the Council**²¹, ***including delegated acts to be adopted pursuant to Article 62 of that Regulation***, shall apply.

²¹ *OL L 302, 19.10.1992, p. 1.*

²¹ *Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).*

Amendment 62

Proposal for a regulation Article 7 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Manufacturers shall be authorised to indicate the country of origin in English alone ('Made in [country]'), since this is readily comprehensible for consumers.

Amendment 63

Proposal for a regulation Article 8 – paragraph 3

Text proposed by the Commission

3. Proportionate to the possible risks of a product, manufacturers shall, to protect the health and safety of consumers, carry out sample testing of products made available on the market, investigate complaints and keep a register of complaints, non-conforming products and product recalls, and shall keep distributors informed of any such monitoring.

Amendment

3. Proportionate to the possible risks of a product, manufacturers shall, to protect the health and safety of consumers, carry out sample testing of ***randomly picked*** products made available on the market ***chosen under the control of a judicial officer or any qualified person designated by each Member State***, investigate complaints and keep a register of complaints, non-conforming products and product recalls, and shall keep distributors informed of any such monitoring. ***That information shall be made available to the market surveillance authorities on request.***

Amendment 64

Proposal for a regulation

Article 8 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. When the products made available on the market have been subject to a Commission decision adopted under Article 12 of Regulation (EU) No .../...*, manufacturers or, where appropriate, importers, shall, in order to protect the health and safety of consumers and proportionate to the possible risks of a product, 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.

**** OJ: please insert the number of Regulation (2013/0048(COD)).***

Amendment 65

Proposal for a regulation

Article 8 – paragraph 4 – subparagraph 1 – introductory part

Text proposed by the Commission

Proportionate to the possible risks of a product, manufacturers shall draw up a technical documentation. The technical documentation shall contain, *as appropriate*:

Amendment

Proportionate to the possible risks of a product, manufacturers shall draw up a technical documentation. The technical documentation shall contain:

Amendment 66

**Proposal for a regulation
Article 8 – paragraph 5**

Text proposed by the Commission

5. Manufacturers shall keep, for a period of ten years after the product has been placed on the market, the technical documentation *and make it available to* the market surveillance authorities, upon request.

Amendment

5. Manufacturers shall keep, for a period of ten years after the product has been placed on the market, 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.

Amendment 67

**Proposal for a regulation
Article 8 – paragraph 6 – subparagraph 1 a (new)**

Text proposed by the Commission

Amendment

Where the information allowing the identification of a product is not provided directly on the product, manufacturers shall indicate in a sufficiently visible manner that the medium containing that information should be retained.

Amendment 68

**Proposal for a regulation
Article 8 – paragraph 6 a (new)**

Text proposed by the Commission

Amendment

6a. Manufacturers of products that are the subject of a Commission decision adopted under Article 12 of Regulation

(EU) No .../... shall draw up a list of product models, accompanied by a photograph, and make it available to the public and other economic operators by any appropriate means.*

The manufacturer shall provide, upon request, the market surveillance authorities as well as any economic operator to whom he distributes his products with evidence supporting the existence of different essential characteristics between its models within the meaning of the definition given in point 1a of Article 3 of this Regulation.

** OJ: please insert the number of Regulation (2013/0048(COD)).*

Amendment 69

Proposal for a regulation

Article 8 – paragraph 8 – subparagraph 1

Text proposed by the Commission

Manufacturers shall ensure that their product is accompanied by instructions and safety information in a language which can be easily understood by consumers, as determined by the Member State in which the product is made available, except where the product can be used safely and as intended by the manufacturer without such instructions and safety information.

Amendment

Manufacturers shall ensure that their product is accompanied by instructions and safety information ***addressed to the consumer in a clear and comprehensible manner*** in a language which can be easily understood by consumers, as determined by the Member State in which the product is made available, except where the product can be used safely and as intended by the manufacturer without such instructions and safety information.

Amendment 70

Proposal for a regulation

Article 8 – paragraph 9

Text proposed by the Commission

9. Manufacturers who consider or have reason to believe that a product which they have placed on the market is not safe or is

Amendment

9. Manufacturers shall ensure that they have procedures in place for taking corrective action, withdrawing or

otherwise not in conformity with this Regulation shall immediately take the corrective action necessary to bring that product into conformity, to withdraw it or recall it, if appropriate. Furthermore, where the product is not safe, manufacturers shall immediately inform the market surveillance authorities of the Member States in which they made the product available to that effect, giving details, in particular, of the risk to health and safety and of any corrective action taken.

recalling their products. Manufacturers who consider or have reason to believe that a product which they have placed on the market is not safe or is otherwise not in conformity with this Regulation shall immediately take the corrective action necessary to bring that product into conformity, to withdraw it or recall it if appropriate, ***and to warn consumers who are at risk caused by the non-conformity of the product.*** Furthermore, where the product is not safe, manufacturers shall immediately inform the market surveillance authorities of the Member States in which they made the product available to that effect, giving details, in particular, of the risk to health and safety and of any corrective action taken ***and of the results of such corrective action.***

(See wording of Article 5, paragraph 1 (b) of Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety)

Amendment 71

Proposal for a regulation

Article 9 – paragraph 2 – point a

Text proposed by the Commission

(a) further to a request from a market surveillance authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of a product;

Amendment

(a) further to a ***reasoned*** request from a market surveillance authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of a product;

Amendment 72

Proposal for a regulation

Article 10 – paragraph 3

Text proposed by the Commission

3. Importers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the product or, where that is not possible, on its packaging or in a document accompanying the product. They

Amendment

3. Importers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the product or, where that is not possible, on its packaging or in a document accompanying the product. They

shall *ensure that any additional label does* not obscure any information *on the label* provided by the manufacturer.

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

Amendment 73

Proposal for a regulation Article 10 – paragraph 6

Text proposed by the Commission

6. Proportionate to the possible risks presented by a product, importers shall, to protect the health and safety of persons, carry out sample testing of marketed products, investigate complaints, and keep a register of complaints, of non-conforming products and of product recalls, and shall keep the manufacturer and distributors informed of such monitoring.

Amendment

6. Proportionate to the possible risks presented by a product, importers shall, to protect the health and safety of persons, carry out sample testing of *randomly picked* marketed products, investigate complaints, and keep a register of complaints, of non-conforming products and of product recalls, and shall keep the manufacturer and distributors informed of such monitoring.

Amendment 74

Proposal for a regulation Article 10 – paragraph 7

Text proposed by the Commission

7. Importers who consider or have reason to believe that a product which they have placed on the market is not safe or is otherwise not in conformity with this Regulation shall immediately take the corrective action necessary to bring that product into conformity, to withdraw it or recall it, *if* appropriate. Furthermore, where the product is not safe, importers shall immediately inform the market surveillance authorities of the Member States in which they made the product available to that effect, giving details, in particular, of the risk to health and safety and of any corrective action taken.

Amendment

7. Importers who consider or have reason to believe that a product which they have placed on the market is not safe or is otherwise not in conformity with this Regulation shall immediately take the corrective action necessary to bring that product into conformity, to withdraw it or recall it, *as* appropriate. Furthermore, where the product is not safe, importers shall immediately inform the market surveillance authorities of the Member States in which they made the product available to that effect, giving details, in particular, of the risk to health and safety and of any corrective action taken, *and of the results of such corrective action.*

(see amendment of Articles 8(9) and 11(5) by the same author)

Amendment 75

Proposal for a regulation

Article 10 – paragraph 8

Text proposed by the Commission

8. Importers shall keep, for a period of ten years after the product has been placed on the market, the technical documentation **and make it available to** the market surveillance authorities, upon request.

Amendment

8. Importers shall keep, for a period of ten years after the product has been placed on the market, 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.

(See wording of Article R4 (8) of Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products)

Amendment 76

Proposal for a regulation

Article 11 – paragraph 2

Text proposed by the Commission

2. Before making a product available on the market distributors shall verify that the **manufacturer and the importer have complied with the requirements** set out in Article 8(6), (7) and (8) and Article 10(3) and (4), as applicable.

Amendment

2. Before making a product available on the market distributors shall verify that the **product bears the required information**, set out in Article 8(6), (7) and (8) and Article 10(3) and (4), as applicable. **Distributors shall not obscure compulsory information or safety-related information provided by the manufacturer or the importer.**

Amendment 77

Proposal for a regulation

Article 11 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Depending on the risks that a product is likely to pose, distributors may, in order to protect the health and safety of consumers, test products made available on the market, taking random samples.

Amendment 78

Proposal for a regulation

Article 11 – paragraph 5

Text proposed by the Commission

5. Distributors who consider or have reason to believe that a product which they have made available on the market is not safe or is not in conformity with Article 8(6), (7) and (8) and Article 10(3) and (4), as applicable, shall make sure that the corrective action necessary to bring that product into conformity is taken, to withdraw it or recall it, if appropriate. Furthermore, where the product is not safe, distributors shall immediately inform the manufacturer or importer, as applicable as well as market surveillance authorities of the Member States in which they made the product available to that effect, giving details, in particular, of the risk to health and safety and of any corrective action taken.

Amendment

5. Distributors who consider or have reason to believe that a product which they have made available on the market is not safe or is not in conformity with Article 8(6), (7) and (8) and Article 10(3) and (4), as applicable, shall ***immediately*** make sure that the corrective action necessary to bring that product into conformity is taken, to withdraw it or recall it, if appropriate. Furthermore, where the product is not safe, distributors shall immediately inform the manufacturer or importer, as applicable as well as market surveillance authorities of the Member States in which they made the product available to that effect, giving details, in particular, of the risk to health and safety and of any corrective action taken ***and of the results of such corrective action.***

Amendment 79

Proposal for a regulation

Article 13 – paragraph 1 – point b

Text proposed by the Commission

(b) the manufacturer, importer or distributor can demonstrate that the risk has been ***fully*** controlled ***and cannot any more endanger*** the health and safety of persons;

Amendment

(b) the manufacturer, importer or distributor can demonstrate that the risk has been ***effectively*** controlled ***so as to prevent any dangers to*** the health and safety of persons;

Amendment 80

Proposal for a regulation

Article 13 – paragraph 1 – point c

Text proposed by the Commission

(c) the cause of the risk of the product is such that knowledge of it does not

Amendment

deleted

represent useful information for the authorities or the public.

Amendment 81

Proposal for a regulation

Article 14 – paragraph 1 – introductory part

Text proposed by the Commission

1. Economic operators shall, on request, **identify the following to** the market surveillance authorities:

Amendment

1. Economic operators shall, on request, **provide** the market surveillance authorities **with the following information:**

Amendment 82

Proposal for a regulation

Article 14 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Where economic operators provide the information referred to in paragraph 1, the market surveillance authorities shall treat that information as confidential.

Amendment 83

Proposal for a regulation

Article 15 – paragraph 1

Text proposed by the Commission

1. For certain products, categories or groups of products which, due to their specific characteristics or specific conditions of distribution or usage, susceptible to bear a serious risk to health and safety of persons, the Commission may require economic operators who place and make available those products on the market to establish or adhere to a system of traceability.

Amendment

1. For certain products, categories or groups of products which, due to their specific characteristics or specific conditions of distribution or usage, **are** susceptible to bear a serious risk to health and safety of persons **and, after consulting relevant stakeholders, as appropriate,** the Commission may require economic operators who place and make available those products on the market to establish or adhere to a system of traceability.

Amendment 84

Proposal for a regulation

Article 15 – paragraph 3 – point a

Text proposed by the Commission

(a) determining the products, categories or groups of products susceptible to bear a serious risk to health and safety of persons as referred to in paragraph 1;

Amendment

(a) determining the products, categories or groups of products susceptible to bear a serious risk to health and safety of persons as referred to in paragraph 1. ***The Commission shall state in the delegated acts concerned if it has used the risk analysis methodology provided for in Commission Decision 2010/15/EU¹ or, if that methodology is not appropriate for the product concerned, it shall give a detailed description of the methodology used;***

¹ ***Commission Decision 2010/15/EU of 16 December 2009 laying down guidelines for the management of the Community Rapid Information System RAPEX established under Article 12 and of the notification procedure established under Article 11 of Directive 2001/95/EC (the General Product Safety Directive) (OJ L 22, 26.1.2010, p. 1).***

Amendment 85

Proposal for a regulation

Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15a

Product Safety Contact Points

1. 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.

2. The Commission shall draw up and regularly update a list of Product Safety Contact Points and publish it in the Official Journal of the European Union.

The Commission shall also make that information available on its website.

(See wording of Article 9 of Regulation (EC) No 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State)

Amendment 86

Proposal for a regulation Article 15 b (new)

Text proposed by the Commission

Amendment

Article 15b

Tasks of Product Safety Contact Points

1. Product Safety Contact Points shall, at the request of inter alia an economic operator or a competent authority of another Member State, provide the following information:

(a) the technical rules applicable to a specific type of product on the territory in which those Product Safety Contact Points are established and information as to whether that type of product is subject to a requirement for prior authorisation under the laws of their Member State, together with information concerning the principle of mutual recognition as provided for in Regulation (EC) No 764/2008 and the application of that Regulation in the territory of that Member State;

(b) the contact details of the competent authorities within that Member State by means of which they may be contacted directly, including the particulars of the authorities responsible for supervising the implementation of the technical rules in question in the territory of that Member State;

(c) 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.

2. Product Safety Contact Points shall

respond within 15 working days of receiving any request referred to in paragraph 1.

3. Product Safety Contact Points in the Member State in which the economic operator concerned has lawfully marketed the product in question may provide the economic operator or the competent authority as referred to in Article 6 of Regulation (EC) No 764/2008 with any relevant information or observations.

4. The Member States shall establish offices in the framework of the Product Safety Contact Points in order to facilitate training on product safety legislation and requirements in general and transfer information across industries in order to support education of economic operators on product safety requirements.

5. Product Safety Contact Points shall not charge any fee for the provision of the information referred to in paragraph 1.

(See wording of Article 10 of Regulation (EC) No 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State)

Amendment 87

Proposal for a regulation

Article 16 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The Commission may request one or several European standardisation organisations to draft or identify a European standard, which aims at ensuring that products that conform to such standard or parts thereof comply with the general safety requirement laid down in Article 4. **The** Commission shall determine the requirements as to the content to be met by the requested European standard and a deadline for its adoption.

Amendment

The Commission may request one or several European standardisation organisations to draft or identify a European standard, which aims at ensuring that products that conform to such standard or parts thereof comply with the general safety requirement laid down in Article 4. **Taking into account the views of relevant stakeholders, as appropriate, the** Commission shall determine the requirements as to the content to be met by the requested European standard and a deadline for its adoption.

Amendment 88

Proposal for a regulation Article 18 – paragraph 1

Text proposed by the Commission

1. The Member States shall lay down the rules *on* penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. ***The penalties provided for must be effective, proportionate and dissuasive.*** Member States shall notify those provisions to the Commission by *[insert date - 3 months prior to the date of application of this Regulation]* and shall notify it without delay of any subsequent amendment affecting them.

Amendment

1. The Member States shall lay down the rules ***establishing appropriate*** penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. Member States shall notify those provisions to the Commission by ... * and shall notify it without delay of any subsequent amendment affecting them.

**** OJ: please insert the date: three months prior to the date of application of this Regulation.***

Amendment 89

Proposal for a regulation Article 18 – paragraph 2

Text proposed by the Commission

2. The penalties ***referred to in paragraph 1*** shall have regard to the ***size of the undertakings and in particular to the situation of small and medium-sized enterprises.*** The penalties ***may be increased if*** the relevant economic operator has previously committed a similar infringement and may include criminal sanctions for serious infringements.

Amendment

2. ***The penalties provided for shall be effective, proportionate and dissuasive.*** The penalties shall have regard to the ***seriousness, the duration and, where applicable, the intentional character of the infringement.*** ***In addition,*** the penalties ***shall take into account whether*** the relevant economic operator has previously committed a similar infringement.

Amendment 90

Proposal for a regulation Article 18 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. 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. The penalties imposed may be higher than 10 % of the annual turnover or an estimate thereof, where necessary to offset the economic advantage sought through the infringement. The penalties may include criminal sanctions for serious infringements.

Amendment 91

Proposal for a regulation Article 18 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. The Member States shall inform the Commission of the type and the size of the penalties imposed under this Regulation, identify the actual infringements of this Regulation, and indicate the identity of economic operators for which penalties have been imposed. The Commission shall make that information available to the public without undue delay, electronically and, where appropriate, by other means.

The Commission shall, on the basis of the information received under the first subparagraph, publish and update a Union-wide blacklist of economic operators who are repeatedly found to intentionally infringe this Regulation.

Amendment 92

Proposal for a regulation Article 21 – paragraph 1

Text proposed by the Commission

No later than [five] years after the date of application, the Commission shall assess the application of this Regulation and transmit an evaluation report to the European Parliament and the Council. This report shall assess if this Regulation achieved its objectives, in particular with regard to enhancing the protection of consumers against unsafe products, taking into account its impact on business and in particular on *small and medium-sized enterprises*.

Amendment

No later than [five] years after the date of application, ***and every five years thereafter***, the Commission shall assess the application of this Regulation and transmit an evaluation report to the European Parliament and the Council. This report shall assess if this Regulation achieved its objectives, in particular with regard to enhancing the protection of consumers against unsafe products ***within the meaning of Article 4 of this Regulation***, taking into account its impact on business and in particular on ***SMEs***. ***That report shall also assess the implications and contributions of Regulation (EU) No 1025/2012 within the scope of this Regulation.***