

## Ensuring Europe's parents can rely on the safety of toys

As consumers embark on the annual Christmas shopping spree they should be aware of the potential health or safety hazards for children that may be concealed in dangerous toys on the market. Toy safety is vital for consumers' trust in the European Union's toy industry – which currently generates about €5.8 billion per year. To protect children, the EU has the highest safety requirements worldwide, especially regarding the use of chemical substances. As a result, dangerous toys account for around 25% of all the products – from across the internal market – notified to the Commission under the RAPEX system, allowing their removal from the market.

### Specific EU rules on toys

Key aspects of ensuring [toy safety](#) lie within the responsibility of the toy industry and EU Member States' regulatory authorities. The EU legislation applicable in this area is [Directive 2009/48/EC](#) on the safety of toys. Updating a 1988 Directive with the same objective, it improves the safety aspects, rules for the marketing of toys and adds to the list of chemicals for which limits apply on the amounts that may be contained in materials used for toys. EU safety requirements regarding toys refer to their physical and mechanical properties (to avoid any risk of strangulation or asphyxiation), flammability, chemical properties, electrical properties, hygiene (toys for children under three years of age must be designed and manufactured in a way that they can be cleaned) and radioactivity. 'Toys' are defined by the Directive as products designed or intended, whether or not exclusively, for use in play by children under 14 years of age. Annex I of the Directive lists examples of products that are not considered as toys (such as sports equipment, fireworks, historical replicas of toys, folk dolls and decorative dolls, and puzzles with more than 500 pieces). The main difficulty with this definition however is the concept of 'use in play', or playing value. Almost everything can have play value for a child, but for the object to be considered a toy according to the Directive, the playing value needs to be introduced intentionally by the manufacturer.

### CE marking

The [CE mark](#) (for '*Conformité européenne*') which applies to a wide range of products in the internal market is a guarantee to the consumer that a product bearing the mark was assessed before being placed on the market and therefore meets EU safety, health and environmental protection standards. Supervisory authorities in Member States are responsible for effectively checking the legitimate use of the CE mark by manufacturers, importers and distributors, including in the toy sector. Notwithstanding such checks, it is the manufacturer – whether or not based in the EU – who has full responsibility for ensuring their product conforms with relevant legal requirements. It is also the manufacturer who carries out an analysis of the hazards that the toy may present, together with an assessment of the potential exposure to such hazards before placing it on the market. According to EU rules, warnings (minimum and maximum user age, together with a brief indication of the specific hazard calling for this precaution) must appear on the packaging, or be clearly visible to the consumer before the purchase, including to purchasers shopping online. Toys with a CE mark enjoy free circulation in the [European Economic Area](#) (EU, Iceland, Liechtenstein and Norway).

### Recent changes in toy safety rules

[Product safety](#) is crucial to consumers' trust in the internal market. In 2012 and 2013 the European Commission – which has the right to amend non-essential elements of the Directive on the basis of technical and scientific developments – lowered the European limit for [cadmium](#) and [barium](#) values, both of which

have applied since July 2013. In June 2014 it also limited the [maximum authorised content of TCEP](#) flame retardant (also including the substitutes TDCP and TCPP) in toys for children under three, and in all toys intended to be put in the mouth since the substance poses a risk for children as well as a cancer risk. Similarly, it set a strict limit of 0.1 mg/l (migration limit) for [Bisphenol A](#) (BPA) as research found evidence that it has endocrine-modulating activity. These two latest stricter provisions will apply from 21 December 2015. The Commission also recently amended rules regarding [nickel](#), allowing up to 1% of this substance to be used in toys from 1 July 2015.

#### *European Parliament*

Following the adoption of Directive 2009/48/EC, the European Parliament held a [debate](#) in November 2010, pointing out that it will continue to be extremely vigilant regarding the safety of toys and all the substances that could be potentially harmful to children's health. In 2011, it adopted a [resolution on a new strategy for consumer policy](#), where it stressed the need to raise safety standards for toys, and urged the Member States quickly to transpose and fully implement Directive 2009/48/EC on the safety of toys, which was due to take effect the same year. With the same concern in mind, but in a broader framework, the European Parliament in April 2014 also adopted a first-reading [legislative resolution](#) with amendments to the Commission's [proposal for a regulation](#) on consumer product safety (the proposal is currently awaiting a 1st reading position in the Council). Parliament amended the original proposal by adding that the 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.

#### *Possible further improvements*

In 2012 Germany challenged the European Commission at the Court of Justice in an effort to keep [stricter national limit values](#) for certain substances in toys. In May 2014, the [EU Court of Justice](#) upheld the Commission's decision that Germany cannot maintain its stricter limit values for arsenic, antimony and mercury in toys, but was allowed to retain its stricter limit values for lead. Directive 2009/48/EC (Article 48) obliges Member States to send national reports on its application and effectiveness every five years, making future revisions very possible.

Since stakeholders are also invited to present their views, in 2012 the European Consumer Organisation BEUC and the European Association for the Coordination of Consumer Representation in Standardisation (ANEC) published a [critical review](#) of the Directive. ANEC recently proposed additional [possible improvements](#) to the Directive. It pointed out the lack of adequate provisions for excluding exposure to carcinogenic, mutagenic substances and/or substances toxic to reproduction, particularly in toys intended for use by children under 36 months. It also called for a regulation of impulse noise levels in toys, by setting the limit to what is allowed for adults in industry, and for the introduction of specific requirements regarding visibility and legibility of warnings on toys (e.g. a minimum letter size). Additionally, it urged that a product-specific approach to tackling endocrine-disrupting chemicals in toys, and stricter rules for allergenic fragrances used in toys, are needed. It also suggested that nanomaterials should not be used in toys unless endorsed by a scientific committee.

[RAPEX](#) – Rapid Alert System for non-food dangerous products market surveillance system – with **31 participating countries (EU Member States, Norway, Iceland and Liechtenstein)** allows a dangerous product to be quickly withdrawn from the market. More specifically, the responsible business or the competent national authority that identifies the problematic product can withdraw it from the market, recall it from end-users and issue warnings, in order to prevent further risks to consumers. Accordingly, the relevant RAPEX national contact point then communicates this information to the European Commission which disseminates the information to all the other national contact points, which need to check whether the product is available on their territory and take further measures as necessary. The latest [RAPEX monthly reports](#) confirm the [trend from 2013](#): 25% of all dangerous product notifications concern toys, the total number of notifications in 2013 amounting to 2 364. The 2013 data also show that the majority of toys notified as dangerous came from China (including Hong Kong).