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REPORT

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)

Committee on the Internal Market and Consumer Protection

Rapporteur: Christel Schaldemose

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Symbols for procedures

*	Consultation procedure
***	Consent procedure
***I	Ordinary legislative procedure (first reading)
***II	Ordinary legislative procedure (second reading)
***III	Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: **[...]**.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

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 (C7-0043/2013),

– 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 2013[1],

– 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.

Amendment 1

Proposal for a regulation
Recital 1

Text proposed by the Commission	*Amendment*
(1) Directive 2001/95/EC of the European Parliament and of the Council of 3	(1) Directive 2001/95/EC of the European Parliament and of the Council of 3

[1] OJ C 271, 19.9.2013, p. 81.

December 2001 on general product safety 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.

December 2001 on general product safety 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.

Amendment 2

Proposal for a regulation
Recital 2

Text proposed by the Commission	*Amendment*
(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.	(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	*Amendment*
(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***	(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***

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***.	***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)***.

(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*
	(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*, no further provisions on market surveillance or RAPEX are necessary in this Regulation.
	**** OJ: please insert the numberof Regulation on market surveillance of products (2013/0048(COD)) in the text and the full title and the publication reference in a 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 ongoing 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)

Justification

Product safety and market surveillance must complement each other in order to strengthen the Single Market. Thus, it is necessary to set strict requirements on the market surveillance activities and to prioritise this in the future.

Amendment 6

Proposal for a regulation
Recital 6

Text proposed by the Commission	*Amendment*
(6) This Regulation should not cover services. However, in order to secure the attainment of the protection of health and	(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***.	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***.

Justification

In order of clarity, the exemptions have been moved to AM 9.

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.

Justification

Editorial clarification.

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 specific obligations of economic operators, the provisions concerning manufacturers, authorised representatives, importers and distributors should be based on the reference provisions included in Decision	(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.	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***. Nevertheless, harmonised legislation should not impose unnecessary administrative burdens on businesses***.

Amendment 11

Proposal for a regulation
Recital 10

Text proposed by the Commission	*Amendment*
(10) The scope of this Regulation should not be limited to any selling technique of consumer products, and thus also cover distance selling.	(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.***

Justification

We believe the proposal should make clear that this Regulation also applies to online sales. Although recital 10 states that it is not limited to any selling technique, the specific case of electronic selling was mentioned alongside distance selling in recital 7 of the General Product Safety Directive (GPSD), but has been omitted from the current proposal.

Amendment 12

Proposal for a regulation
Recital 11

Text proposed by the Commission	*Amendment*
(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.	(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.

Justification

There must be no legal uncertainty in regards to the retroactivity of the legislation regarding second-hand products.

Amendment 13

Proposal for a regulation
Recital 12

Text proposed by the Commission	*Amendment*
(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 consumers which should be repealed.	(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 food 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/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 which should be repealed.

Justification

Since this Regulation repeals Directive 87/357/EEC on food-imitation products and transpose this into the aspects when assessing products (Article 6 (e) of this Regulation), it is unclear whether or not marketing, import and manufacture or export of food-imitation products will continue to be prohibited. By this amendment, the prohibition as stated in Directive 87/357/EEC will continue in this Regulation.

Amendment 14

Proposal for a regulation
Recital 13

Text proposed by the Commission	*Amendment*
(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.	(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.

Justification

The indication of the materials that make up the product completes the information to consumers. Moreover, the authenticity of the product and the existence of a trade mark indicate that the product meets quality standards that are recognised at EU level.

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 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 crieteria 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)

Text proposed by the Commission	*Amendment*
	(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 as established in Regulation (EU) No .../... *.
	**** OJ: please insert the numberof Regulation on MSP (2013/0048(COD)).***

Justification

The creation of a Pan-European Injury Database must be included in the forthcoming Regulation on market surveillance of products (COM(2013)75).

Amendment 18

Proposal for a regulation
Recital 14 a (new)

Text proposed by the Commission	*Amendment*
	(14a) The CE marking is a declaration by the manufacturer that the product complies with Union law. However, studies have shown that consumer believe that the CE marking proves the safety of the product. Thus, the 'EU Safety Tested' marking should be introduced as a voluntary scheme to be used by economic operators willing and capable to ensure compliance with safety through the award of a safety marking by an accredited third party body.

Amendment 19

Proposal for a regulation
Recital 14 b (new)

Text proposed by the Commission	*Amendment*
	(14b) The 'EU Safety Tested' marking, used as a voluntary marking by the economic operator, should cover both harmonised and non-harmonised products. Harmonised products should be able to bear both CE and 'EU Safety Tested' marking, thus ensuring conformity with harmonisation legislation and compliance with safety requirements. Non-harmonised standardised products bearing the 'EU Safety Tested' marking ensures compliance with safety requirements and through such marking consumers should be able to distinguish between the current simple CE marking and the 'EU Safety Tested' marking which is the only marking indicating products tested for their safety.

Amendment 20

Proposal for a regulation
Recital 15

Text proposed by the Commission	*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.	(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 this 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 Council[1], 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.).

Justification

By having a strict alignment of the provisions on obligations of economic operators, there should only be editorial changes in the provisions of this Regulation regarding this issue in order to have the provisions of the Decision transposed as clearly as possible.

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, EU 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.

Justification

It is important that market surveillance authorities assist economic operators (e.g. manufacturers, importers etc.) in assessing the risk of products especially when those are not covered by harmonisation legislation or European standards. Especially in the case of imported products, assessing product safety may be complex since importers do not fully know the characteristics of a product.

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 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.

Justification

The Commission's Multi Annual Plan published with the proposal for a regulation on consumer product safety foresees a common approach to risk assessment. To get the full benefit of the methodology, manufacturers should be obliged to integrate the methodology in the design work of the products. The Commission should make an electronic assessment tool available for economic operators and market surveillance authorities.

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 requirements.

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 this 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 strenghten 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 adminstrative 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 in Regulation

(EU) No 764/2008 of the European Parliament and of the Council[1], Product Safety Contact Points should function as information centres in the Member States for economic operators in order to receive guidance and training on product safety requirements and legislation.

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[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 (OJ L 218, 13.8.2008, p. 21).

Amendment 30

Proposal for a regulation
Recital 21

Text proposed by the Commission	*Amendment*
(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.	(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 following 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 will be the sole means by which the consumers are 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 safety.	(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 ***and of relevant stakeholders***.

(see amendment of Article 16(1))

Justification

The Commission should take into account the views of stakeholders, as appropriate, when determining the content of new European safety standards in order to ensure that such standards are relevant, proportionate and effective.

Amendment 34

Proposal for a regulation
Recital 30

Text proposed by the Commission	*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.	(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 small and medium-sized enterprises. 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.

Justification

Without harmonised penalties in the various Member States – or at least ones in line with pan-European maximum and minimum levels – this issue will not be resolved; in fact, this would encourage importation and distribution in states where penalties are less harsh than in others.

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 penalities, 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.

Justification

This amendment clearly sets out the objective of the Regulation by tying it in closely to Article 114 of the TFEU.

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:

Justification

Given the increasing role played by e-commerce, it is advisable to specify that the regulation

applies also to the online market.

Amendment 40

Proposal for a regulation
Article 2 – paragraph 1 – point b

Text proposed by the Commission	*Amendment*
(b) which are likely, under reasonably foreseeable conditions, to be used by consumers even if not directly intended for them;	(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 explicitly labelled and presented as such;***

Amendment 41

Proposal for a regulation
Article 2 – paragraph 1 – point c

Text proposed by the Commission	*Amendment*
(c) ***to*** which ***consumers are exposed*** in the ***context*** of a service ***provided to them***.	(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	*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.	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 the entry into***

force of this Regulation.

Justification

Retroactivity of the legislation with regard to second-hand products has to be avoided.

Amendment 43

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

Text proposed by the Commission	*Amendment*
	(da) medical devices as referred to in Council Directive 93/42/EEC[1] , Council Directive 90/385/EEC[2] and Directive 98/79/EC of the European Parliament and of the Council[3];
	[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).

Justification

The references to the directives currently still in force should be amended in accordance with the proposal for a regulation of the European Parliament and of the Council concerning medicinal devices and amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009, which is currently under consideration and yet to be adopted, and the proposal for a regulation of the European Parliament and of the Council concerning in vitro diagnostic medical devices.

Amendment 44

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

Text proposed by the Commission	*Amendment*
	(ia) construction products as referred to in Regulation (EU) No 305/2011 of the European Parliament and of the Council [1]
	[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 Text with EEA relevance (OJ L 88, 4.4.2011, p. 5).

Amendment 45

Proposal for a regulation
Article 3 – point 1

Text proposed by the Commission	*Amendment*
(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;	(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;

Justification

Risk assessment should focus on enforcing applicable legislation and minimising room for interpretation by local market surveillance authorities. The suggested amendment: clarifies the first chronological step of the Market Surveillance's risk assessment: to determine whether the product is covered by applicable Union harmonisation legislation; •eliminates any area of legal conflict between this Regulation and Union harmonisation legislation, which already specifies the scope, extent and limitations to market operators' obligations; •eliminates non-transparent and discretionary room for interpretation of concepts not defined in this Regulation such as "reasonable and acceptable"; "under normal and reasonably foreseeable conditions of use"; or "duration of use"; •removes reference to aspects of the risks not necessarily depending on the person liable for placing the product on the market: "putting into service, installation and maintenance".

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 as 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.

Justification

The notion of model is a cornerstone of the work of market surveillance authorities. Testing and surveillance is carried out by models. However, a number of market players have either no models identification or multiply the number of models for products that are actually similar, which hampers the work of market surveillance authorities, and deters them from performing controls as it significantly increases the level of resources that they need for controls.

Amendment 47

Proposal for a regulation
Article 3 – point 17

Text proposed by the Commission	*Amendment*
(17) 'serious risk' means ***a*** risk ***requiring***	(17) 'serious risk' means ***any serious*** risk***,***

rapid intervention and follow-up, including ***cases where*** the effects ***may*** not ***be*** immediate**.**	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 Council of 3 December 2001 on general product safety)

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 products that, 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)

Justification

Since this Regulation repeals Directive 87/357/EEC on food-imitation products and transpose this into the aspects when assessing products (Article 6 (e) of this Regulation), it is unclear whether or not marketing, import and manufacture or export of food-imitation products will continue to be prohibited. By this amendment, the prohibition as stated in Directive 87/357/EEC will continue in this Regulation.

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 trademark 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	*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 ***conforms to*** such national ***requirements***.	(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	*Amendment*
(a) the characteristics of the product, including its composition, packaging, instructions for assembly and, where applicable, for installation and	(a) the characteristics of the product, including its ***authenticity,*** composition, packaging, instructions for assembly and, where applicable, for installation and

maintenance;	maintenance;

Justification

Authenticity is a guarantee of safety for the consumer, it helps to guarantee the origin and the conformity of a product, and should thus form an integral part of the criteria for evaluating product safety.

Amendment 52

Proposal for a regulation
Article 6 – paragraph 1 – subparagraph 1 – point d

Text proposed by the Commission	*Amendment*
(d) the ***categories*** of consumers at risk when using the product, in particular vulnerable consumers;	(d) the ***charateristics*** of consumers at risk when using the product ***under reasonably foreseeable conditions***, in particular vulnerable consumers ;

Justification

The broader definition of vulnerable consumers is taken from recital 13 of this Regulation.

Amendment 53

Proposal for a regulation
Article 6 – paragraph 1 – subparagraph 1 – point e

Text proposed by the Commission	*Amendment*
(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.	(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***, or***
	- 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.

Justification

Any product might be 'child appealing', simply because children are often interested in objects that adults use. This makes it difficult to assess whether a product is 'child appealing'. It is therefore only when the appearance of the product clearly resembles a toy that special precautions/warnings should be considered by the manufacturer.

Amendment 54

Proposal for a regulation
Article 6 – paragraph 2 – point a

Text proposed by the Commission	*Amendment*
(a) the state of the art and technology;	***deleted***

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

Justification

Moved to the end of the list. While it is important to consider the state of the art and technology, it should not be the first of aspects to be considered. The state of the art will normally attain higher degrees of safety. However, a product could still be considered safe if other products with even higher safety standards are available on the market. This amendment is also included in the 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;

Justification

While a standard is being developed, a review of compliance with the essential requirements of standardisation mandates can be a useful indicator as regards the safety of a product.

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 under Regulation (EU) No .../... *.
	**** OJ: please insert the numberof Regulation on MSP (2013/0048(COD)).***

Justification

The creation of a Pan-European Injury Database must be included in the forthcoming Regulation on market surveillance of products (COM(2013)75).

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***

Justification

Change in order of other aspects to be taken into account when assessing the compliance of the safety requirements.

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)

Justification

Moved to the end of the list. While it is important to consider the state of the art and technology, it should not be the first of aspects to be considered. The state of the art will normally attain higher degrees of safety. However, a product could still be considered safe if other products with even higher safety standards are available on the market. This amendment is also included in amendment proposing an Article 6(1a) new by the same author.

Amendment 60

Proposal for a regulation
Article 6 a (new)

Text proposed by the Commission	*Amendment*
	Article 6a
	'Eu Safety Tested' marking

1. The 'EU Safety Tested' marking is a voluntary additional scheme for the economic operators and shall be affixed only by the manufacturer or his authorised representative.

2. The 'EU Safety Tested' marking shall be affixed only to consumer products covered by this Regulation, and shall not be affixed to any other product. The 'EU Safety Tested' marking shall be affixed after testing on representative samples of the products put up for sale pick randomly under the control of a judicial officer, an authority or any other accredited third party body designated by each Member State and notified to the Commission.

3. By affixing or having affixed the 'EU Safety Tested' marking, the manufacturer indicates that the product has been tested and found compliant with the safety requirement in this Regulation by an accredited and notified third party body which is responsible for awarding the marking and certifying and supervising the compliance of the specific product with the safety requirements set by this Regulation.

4. Products tested by third parties through national product safety requirements in the Member States shall de facto be awarded the 'EU Safety Tested' marking.

5. Member States shall ensure the correct implementation of the regime governing the 'EU Safety Tested' marking and take appropriate action in the event of improper use of the marking. Third party bodies conducting sample tests shall be liable for the results of those tests, for the awarding of the marking and for certifying and supervising the compliance of the specific product with the safety requirements set out in this Regulation. Member States shall also provide for penalties for infringements, which may include criminal sanctions for serious infringements. Those penalties shall be

proportionate to the seriousness of the offence and constitute an effective deterrent against improper use.

6. The affixing to a product of markings, signs or inscriptions which are likely to mislead third parties regarding the meaning or form of the 'EU Safety Tested' marking shall be prohibited. Any other marking may be affixed to the product provided that the visibility, legibility and meaning of the 'EU Safety Tested' marking is not thereby impaired.

7. The Commission shall approve, by means of implementing acts, the national product safety schemes as laid down in paragraph 4 of this Article on an annual basis.

Justification

The CE-mark sends the signal to consumers that the product is safe. The CE-mark is, however, only the manufacturer's indication, that he takes responsibility for the conformity of the product with all applicable requirements set out in the relevant legislation. The proposed CE+ mark will be supplementary to the CE-mark and indicates that the marked product has been tested by an independent third party and found safe by a competent body.

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 shall apply.	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 ***52 to 55, including delegated acts to be adopted pursuant to Article 55 of*** Regulation ***No 952/2013 of the European Parliament and of the Council[1],*** shall apply.

———

[1] Regulation 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	*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 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.	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 decision by the Commission on the basis of 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 on MSP (2013/0048(COD)).***

Amendment 65

Proposal for a regulation
Article 8 – paragraph 4 – subparagraph 1 – introductory part

Text proposed by the Commission	*Amendment*
Proportionate to the possible risks of a product, manufacturers shall draw up a technical documentation. The technical documentation shall contain***, as appropriate***:	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	*Amendment*
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.	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 this 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 decision by the Commission 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, in particular for products
	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 Article 3(2) of this Regulation.

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

Amendment 69

Proposal for a regulation
Article 8 – paragraph 8 – subparagraph 1

Text proposed by the Commission	*Amendment*
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.	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.

Justification

The deleted sentence is not part of Article R2 (7) of Decision 768/2008/EC.

Amendment 70

Proposal for a regulation
Article 8 – paragraph 9

Text proposed by the Commission	*Amendment*
9. 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	9. ***Manufacturers shall ensure that they have procedures in place for taking corrective action, withdrawing or recalling their products***. Manufacturers who consider or have reason to believe that a product which they have placed on the

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.	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	*Amendment*
(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;	(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	*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	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.	not possible, on its packaging or in a document accompanying the product. They shall not obscure any ***compulsory*** information ***or safety-related information*** provided by the manufacturer.

Justification

The deletion of "where that is not possible" is meant to bring more flexibility for importers to implement the provision of article 10.3 (they can indicate the information on the packaging - and not necessarily on the product- and therefore do not need to open the packaging). The modification of the last sentence is meant to cover other forms of potential obscuring of essential information (not only by using labels, as it can be done by using another packaging for instance). Besides information referred to in this provision should not be limited to the one provided on the label.

Amendment 73

Proposal for a regulation
Article 10 – paragraph 6

Text proposed by the Commission	*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 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.	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 chosen*** 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	*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	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.	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)

Justification

The word "if" creates legal uncertainty, as it could be read as implying an additional conditionality for the use of corrective actions.

Amendment 75

Proposal for a regulation
Article 10 – paragraph 8

Text proposed by the Commission	*Amendment*
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.	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)

Justification

This is a strict alignment from Article R4 (8) of the Decision.

Amendment 76

Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission	*Amendment*
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.	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.***

Justification

The distributor should be subject to the same obligation as the importer (article 10.3) and shall not conceal essential 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.

Justification

It is not appropriate to require distributors to test products. By contrast, and in line with current practice, this regulation should encourage them to do so, particularly as regards products that may pose risks

Amendment 78

Proposal for a regulation

Article 11 – paragraph 5

Text proposed by the Commission	*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 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.	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***.

Justification

The same obligation in terms of capacity of reaction should apply to manufacturers, importers and distributors (addition of the term "immediately"). In addition, it is necessary to ensure that information provided by manufacturers to market surveillance authorities include the results of the potential corrective actions taken, in order to guarantee appropriate information of the market surveillance authorities (follow-up). The same obligation should apply to manufacturers (article 8), importers (article 10) and distributors (article 11).

Amendment 79

Proposal for a regulation
Article 13 – paragraph 1 – point b

Text proposed by the Commission	*Amendment*
(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;	(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;

Justification

Total control of risk is impossible to achieve in practice. The wording should therefore be adjusted in order to create legal certainty for economic operators.

Amendment 80

Proposal for a regulation
Article 13 – paragraph 1 – point c

Text proposed by the Commission	*Amendment*
(c) the cause of the risk of the product is such that knowledge of it does not represent useful information for the authorities or the public.	***deleted***

Justification

It is almost impossible to define what represents '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	*Amendment*
1. Economic operators shall, on request, ***identify the following to*** the market surveillance authorities:	1. Economic operators shall, on request, ***provide*** the market surveillance authorities ***with the following information***:

Justification

Information on the quantity of products concerned and any traceability information available are particularly useful for risk assessment and targeting controls.

Amendment 82

Proposal for a regulation
Article 14 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. Where economic operators identify the information referred to in paragraph 1, the market surveillance authorities shall treat that information as confidential.

Justification

For many distributors and wholesalers it is a company secret from whom they source and to whom they supply. It is therefore necessary to protect the identity of their suppliers. The information provided by economic operators should only be for the use of the market surveillance authorities and there should be no possibility of commercially sensitive information being published generally or getting into the hands of competitors.

Amendment 83

Proposal for a regulation
Article 15 – paragraph 1

Text proposed by the Commission	*Amendment*
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.	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.

Justification

Before proposing new traceability requirements, the Commission should consult relevant stakeholders, such as business and consumer organisations, so as to benefit from their expertise and to take into account the practical implications of such requirements.

Amendment 84

Proposal for a regulation

Article 15 – paragraph 3 – point a

Text proposed by the Commission	*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;	(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/EU[1] 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)

Justification

It is necessary to broaden the scope of the Product Contact Points by facilitating training on product safety legislation and transfer information across industries and to the economic operators.

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 as 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)

Justification

It is necessary to broaden the scope of the Product Contact Points by facilitating training on product safety legislation and transfer information across industries and to the economic operators.

Amendment 87

Proposal for a regulation

Article 16 – paragraph 1 – subparagraph 1

Text proposed by the Commission	*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. ***The*** Commission shall determine the requirements as to the content to be met by the requested European standard and a deadline for its adoption.	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.

(See amendment of Recital 24 by the same author)

Justification

The Commission should take into account the views of stakeholders, as appropriate, when determining the content of new European safety standards in order to ensure that such standards are relevant, proportionate and effective.

Amendment 88

Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission	*Amendment*
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.	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	*Amendment*
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.	2. The penalties ***provided for shall be effective, proportionate and dissuasvie. The penalties*** shall have regard to the ***seriousness, the duration and, where applicable, the intentional character of the infringement. In addition, the*** penalties ***shall have regard to whether*** the relevant economic operator has previously committed a similar infringement and may include criminal sanctions for serious infringements.

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 blacklist of economic operators who are repeatedly found to intentionally infringe the provisions of this Regulation.

Amendment 92

Proposal for a regulation
Article 21 – paragraph 1

Text proposed by the Commission	*Amendment*
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.	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 small and medium-sized enterprises. ***That report shall also***

assess the implications and contributions of Regulation (EU) No 1025/2012 within the scope of this Regulation.

EXPLANATORY STATEMENT

Introduction

When the Commission proposed its proposal for a Regulation on Consumer Product Safety on the 13th of February 2013, it was introduced in the midst of a long and fatiguing crisis for the European consumers and businesses. The proposal thereby places itself in the middle of a debate between regulation and simplification of Union legislation.

The Rapporteur's wish is to give a solid answer to this fundamental and everlasting debate. It is from the Rapporteur's point of view without a doubt that a well-functioning Single Market requires two fundamental components: Safety for consumers and a level playing field for businesses. Only through regulation and requirements can the consumers be safe. Only with safe products will the consumers be encouraged to buy more products on the Single Market. Product safety is key in ensuring a well-functioning Single Market and through this facilitating growth for European businesses and prosperity in the Union

As a general note, the Rapporteur welcomes the Commission proposal since it in large parts is close to the recommendations of the European Parliament Resolution on the revision of the General Product Safety Directive and market surveillance[1]. The Regulation on Consumer Product Safety touches upon a large part of the Single Market. As the Commission states in its impact assessment[2], as far as consumer products are concerned - harmonised and non-harmonised - the volume of intra-EU trade between 2008 and 2010 amounted to almost EUR 1 trillion.

However, the European consumers do not feel safe when acting on the Single Market. According to a Commission survey conducted by Eurobarometer in 2012, 27 % of consumer thought that a significant number of non-food consumer products on the Single Market were unsafe[3].

Furthermore, the yearly report of 2012 on the operation of the Rapid Alert System for non-food dangerous products (RAPEX) showed a rise of 26 % in alerts of products reported in the RAPEX system compared to 2011 figures[4]. There is no doubt that a part of the increase is caused by improved market surveillance activities in the Member States but it is also without a doubt that the number of dangerous products on the Single Market is increasing.

The Rapporteur finds this unacceptable since a lack of trust towards the Single Market hampers growth and prosperity in the Union in general. A fundamental key to solving this problem is through a well-functioning product safety regime established by this Regulation.

[1] European Parliament resolution of 8 March 2011 on the revision of the General Product Safety Directive and market surveillance (2010/2085(INI))
[2] Commission Staff Working Document, Impact Assessment, Product Safety and Market Surveillance Package, SWD(2013) 33 final, p. 9
[3] 2012 Annual Report on the operation of the Rapid Alert System for non-food dangerous products, p. 42
[4] 2012 Annual Report on the operation of the Rapid Alert System for non-food dangerous products, chapter II

Horizontal issues

CPSR as a general safety net

For the Rapporteur, it is of outmost importance that this Regulation will continue to act as a 'safety net' for product safety. In the current legislation, the General Product Safety Directive[1] underlines that the Directive applies to cases where there is a lack of more specific safety provisions in Union legislation and through this ensuring safety of all products placed on the market.

By aligning the current provisions to this Regulation, the Consumer Product Safety Regulation will have an 'umbrella' function in order to close the abovementioned loophole. It is therefore stipulated by the Rapporteur that the Regulation will act as a broad-based, legislative framework of a horizontal nature in order to deal with products that exist or may developed and also to cover lacunae.

Re-introduction of the precautionary principle

A safety net for Union product legislation must provide efficient safety requirements. However, the Rapporteur finds that the Commission proposal has one major shortcoming: The reference to precautionary principle in the General Product Safety Directive[2] when assessing possible risks of products has been deleted.

The Rapporteur finds that this is not the right signal to send to the consumers, economic operators and market surveillance authorities. Instead, the precautionary principle - as stated in Article 191, paragraph 2, of TFEU - must be reintroduced in order to ensure a proper consideration of fundamental safety aspects when assessing product safety.

By re-introducing the precautionary principle, the Rapporteur underlines the necessity of preserving this horizontal principle and fundamental cornerstone for the safety of products and for the safety of consumers.

Strict alignment with the New Legislative Framework

One of the most important innovations in the Commission proposal on Consumer Product Safety is the alignment of the obligations of economic operators from Decision 768/2008/EC[3] to this Regulation. This is an innovation since the Decision - as part of the New Legislative Framework - until now only has been aligned into harmonised Union legislation whereas Chapter II of this Regulation covers non-harmonised products only.

The Rapporteur finds it crucial to have consistency throughout Union legislation as regards to the obligations of economic operators. Therefore, the alignment from the Decision to this

[1] Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety

[2] Article 8 (2) and recital 1 of Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety

[3] 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

Regulation will be kept as strict as possible by seeking not to amend the wording of the provisions already introduced in the Decision and transposed into this Regulation.

Increased emphasis on safety by design

Product safety will always be the responsibility of the manufacturers. Ensuring that manufacturers automatically consider the safety of the product in the design phase can hugely impact the safety of products on the market, saving resources for market surveillance.

The Rapporteur will ask the Commission to create a user-friendly and effective way for economic operators to assess any risks of the product before putting it on the market.

Key proposals

The Rapportuer will besides the four abovementioned horizontal issues focus on the following key proposals:

Vulnerable consumers

Special consideration must be given to vulnerable consumers on the Single Market. When assessing the safety of products, vulnerability of the consumer is a key factor in determining whether a product is safe or not. Furthermore, the Rapporteur finds it necessary to take into account the notion of child-appealing products when assessing product safety.

Country of origin

The proposal of the Commission introduces a requirement for an indication of origin on the products or on their packaging. The Rapporteur keeps the proposal as stated in Article 7 because it is key to improve traceability for market surveillance authorities, improving transparency of the supply chain and thereby strengthening the confidence of consumers towards the Single Market.

CE+ mark

The CE-mark sends the signal to consumers that the product is safe. The CE-mark is, however, only the manufacturer's indication, that he takes responsibility for the conformity of the product with all applicable requirements set out in the relevant legislation. The Rapporteur suggests the introduction of a new CE+ mark to indicate that the marked product has been tested by an independent third party and found safe by a competent body. Thus, the new CE+ mark will be supplementary to the current CE-mark.

Transatlantic dialogue

Cooperation with the product safety and market surveillance authorities of the United States is crucial in order to improve the current state of play and legislative regime in the Union. Through formalised cooperation, dialogue and exchange of best practices, the Union can learn from the US in terms of better and more efficient legislation. Before the deadline for amendments to this Report, the Rapporteur will engage in a dialogue with representatives of the American government and will possibly introduce amendments on the transatlantic dialogue at this stage.

Product Safety Contact Points

In Regulation 764/2008 on procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State, Product Contact Points are established in each Member State in order to inform economic operators about the rules regarding mutual recognition as outlined in the Regulation. However, the Rapporteur finds it necessary to broaden the scope of these Product Contact Points by facilitating training on product safety legislation and transfer information across industries and to the economic operators.

Penalties

Penalties and sanctions must be streamlined and earmarked in order to have rogue traders paying the majority of the costs of market surveillance activities. Today, it is the taxpayers who pay the price for market surveillance in the Union. In the future, penalties are crucial to prevent and dissuade rogue traders coming into the Single Market while being proportionate and fair.

Online sales

Finally, because of the number of products from third countries bought online by consumers which may not be in compliance with European safety requirements and standards, thus endangering the safety and health of consumers, the Rapporteur stresses the need for a dedicated focus on strengthening the consumers' confidence in e-commerce through education and awareness campaigns initiated by the Commission.

ANNEX - LIST OF SUBMISSIONS BY STAKEHOLDERS

Disclaimer

The following list of stakeholders is collected on the basis of meetings, mails and position papers since January 2010 until the deadline for this draft report in June 2013.

It must be noted that the list is non-comprehensive. It is somewhat impossible to outline all types of advocacy on the Rapporteur during this legislature. Furthermore, the Rapporteur has worked in the European Parliament on the topic of product safety since 2008. Thus, the sources of inspiration are vast and difficult to grasp in their entirety.

However, the ambition of this lobby footprint is for the Rapporteur to show in an open manner where the inspiration for this draft report originates.

List of stakeholders

- ANEC
- BEUC
- BUSINESSEUROPE
- CEN-CENELEC
- CEOC International
- Confederation of Danish Industries
- Danish Chamber of Commerce
- Danish Consumer Council
- Danish Safety Technology Authority
- Danish Standards Foundation
- DG SANCO
- ETUI (European Trade Union Institute)
- Eurocommerce
- European Economic and Social Committee
- European Tyre & Rubber Manufacturers' Association
- Incoming Lithuanian presidency of the Council of the European Union of autumn 2013
- Irish presidency of the Council of the European Union of spring 2013
- Mr Jean-Philippe MONTFORT, partner at MayerBrown
- LEGO and TIE (Toy Industries Europe)
- Louis Vuitton Moët Hennessy (LVMH)
- Orgalime
- Permanent Representation of Austria to the European Union
- Permanent Representation of Denmark to the European Union
- Permanent Representation of the Netherlands to the European Union
- Mr Torben RAHBEK, independent consultant
- TÜV
- UL DEMKO
- U.S. Consumer Product Safety Commission (CPSC)
- VELUX Denmark

The Rapporteur hosted a breakfast debate in collaboration with BUSINESSEUROPE and BEUC on the 4th of June 2013. For list of participants, please contact the office of the

Rapporteur.

18.9.2013

OPINION OF THE COMMITTEE ON INTERNATIONAL TRADE

for the Committee on the Internal Market and Consumer Protection

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))

Rapporteur: Cristiana Muscardini

SHORT JUSTIFICATION

The free movement of products that are safe, satisfy legal requirements and are genuine is a foundation of the European Union and a keystone of the single market. It is also something which could restore the confidence of consumers who are currently not being accorded the right to know where the products they are purchasing have come from.

This proposal seeks to clarify the regulatory framework applicable to non-food consumer products in a way that takes into account the responsibilities of economic operators and national authorities, and for which harmonisation is needed in terms of the applicable rules and inspections and of the interpretation and application of existing regulations. Without this, effective supervision of the single market will be seriously hindered, with a resulting increase in costs to European enterprises.

This ambitious proposal contains a set of requirements applicable to producers, importers and distributors aimed at ensuring the necessary information is always clearly visible to consumers, but there are question marks as to how those requirements are to be enforced.

Your rapporteur welcomes the clear definition of the scope of the regulation, which relates to manufactured, non-food consumer products, to which product safety applies horizontally. She considers the inclusion of the requirement that products be traceable to be essential in order to prevent, or limit, illicit and unfair trading practices, with that requirement forming part of oversight throughout the entire supply chain, which already exists in the case of many European enterprises in response to market pressures.

A compulsory indication of product origin has been added, which will tighten up basic traceability requirements by helping the supervisory authorities establish the place of manufacture and enable contacts with the authorities of the countries of origin within the

framework of bilateral or multilateral cooperation on consumer product safety. Knowing where a product has been manufactured is not in the least liable to confuse consumers when they make their choice, but is vital to an understanding of the sustainability of a product in terms of social, environmental and manufacturing standards and the quality and safety of the product itself. Consumers have genuine freedom of choice when they are aware of all the factors needed to make a purchase in full knowledge of the facts. This already happens in many countries, be they the EU's partners or its trading competitors, where more stringent rules of origin have been applied since the 1920s to all goods, including imports of European products. Those countries include the United States of America, Mexico, Canada and Japan. Information means safety, and the reliability of information is important both in terms of consumer health and for industrial development in Europe.

Your rapporteur nevertheless has doubts over the nature of the risk as expressed in the Regulation: it is unclear whether traceability requirements should apply across the board to all products to not covered by harmonised rules or whether, with proportionality in mind, very low-risk products and ones already subject to other directives or regulations should be exempted.

In the interests of legislative simplification, the scope of this regulation should be broadened to include all products not covered by harmonised rules, with the exception of food products.

Your rapporteur also considers that the ways in which Member States apply penalties for infringing the regulation, their severity and their timing, should be defined more clearly. Maximum and minimum common penalties should hence be established, and the timing of their application defined, so as to ensure that operators failing to comply with safety rules face identical consequences regardless of which Member State they operate in, while the concept of proportionality should be adjusted and based on the premise that the penalty should be proportionate to the quantity of the good sold in the EU and to its monetary value.

In the EU, with its open borders, there cannot be excessively different rules for penalising the same offence in the commercial sector, which is one for which the EU itself has almost exclusive competence.

AMENDMENTS

The Committee on International Trade calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation
Recital 10 a (new)

Text proposed by the Commission	*Amendment*
	Regarding the development of internet online selling and customs, the attention should be drawn to the difficulties faced by market surveillance authorities when taking action against dangerous products sold online. This is particularly relevant as the number of products from third countries bought online by consumers which do not comply with European Standards is increasing and, hence, endangering the health and safety of consumers. To tackle these challenges of adequate controls on imported products need to be set up. For this purpose, specific tools for customs authorities and for further enhanced co-operation between enforcement authorities should be set up. Customs checks and market surveillance on products bought on the internet should be strengthen and standardized.

Amendment 2

Proposal for a regulation
Recital 13

Text proposed by the Commission	*Amendment*
(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.	(13) The safety of products should be assessed taking into account all the relevant aspects, in particular their characteristics***, composition, authenticity*** 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.

Justification

The indication of the materials that make up the product completes the information to consumers. Moreover, the authenticity of the product and the existence of a trade mark indicate that the product meets quality standards that are recognised at EU level.

Amendment 3

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, EU standards or national legislation on health and safety requirements, economic operators will assess the safety of products according to specific criteria, on which basis they will define the level of risk associated to a product. Market surveillance authorities may assist economic operators in carrying out the safety assessment.

Justification

It is important that market surveillance authorities assist economic operators (e.g. manufacturers, importers etc.) in assessing the risk of products especially when those are not covered by harmonisation legislation or European standards. Especially in the case of imported products, assessing product safety may be complex since importers do not fully know the characteristics of a product.

Amendment 4

Proposal for a regulation
Recital 16 a (new)

Text proposed by the Commission	*Amendment*
	(16a) 'risk' means a risk that has the potential to affect adversely health and safety of persons in general, health and safety in the work place, consumer protection, the environment and public

security as well as other public interests to a degree which goes beyond that considered reasonable and acceptable under the 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 and maintenance requirements;

Justification

The CPSD only provides for a definition or 'serious risk'. For the sake of consistency with the Market Surveillance Regulation, this Directive should also have a general definition of risk.

Amendment 5

Proposal for a regulation
Recital 20

Text proposed by the Commission	*Amendment*
(20) Ensuring product identification and the traceability of products throughout the entire supply chain helps to identify economic operators and to take effective corrective measures against unsafe products, such as targeted recalls. Product identification and traceability thus ensure that consumers and economic operators obtain accurate information regarding unsafe products which enhances confidence in the market and avoids unnecessary disruption of trade. Products should therefore bear information allowing their identification and the identification of the manufacturer and, if applicable, of the importer. Manufacturers should also establish technical documentations regarding their products for which they may choose the most appropriate and cost-efficient way such as by electronic means. Moreover, economic operators should be required to identify the operators who supplied them and to whom they supplied a product. Directive 95/46/EC of the	(20) Ensuring ***the*** identification, ***the indication of origin and*** traceability of products, ***based on stringent specifications and criteria***, throughout the entire supply chain helps to identify economic operators and to take effective corrective measures against unsafe products, such as targeted recalls ***and product destruction***. Product identification and traceability, thus ensure that consumers and economic operators obtain accurate information regarding unsafe products which enhances confidence in the market and avoids unnecessary disruption of trade. Products should therefore bear information allowing their identification and the identification of the manufacturer and, if applicable, of the importer. Manufacturers should also establish technical documentations regarding their products for which they may choose the most appropriate and cost-efficient way such as by electronic means. Moreover, economic operators should be required to identify the operators who

European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data is applicable to the processing of personal data for the purposes of this Regulation.

supplied them and to whom they supplied a product. Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data is applicable to the processing of personal data for the purposes of this Regulation. ***Therefore, the Commission should establish a public Consumer Product Safety Information Database, to raise awareness of dangerous products across borders in the internal market and to duly inform consumers, producers and distributors involved while ensuring the necessary confidentiality.***

Amendment 6

Proposal for a regulation
Recital 21

Text proposed by the Commission	*Amendment*
(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.	(21) The indication of origin supplements the basic traceability requirements concerning the name and address of the manufacturer ***without increasing administrative burdens***. 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, ***to enable consumers to connect products with the social, environmental and safety standards of their country of origin and to safeguard them against fake or illicit products***. 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

	and the combating of counterfeiting for appropriate follow up actions***, as is already the case with many of the EU's trading partners and competitors, which since the 1920s have applied more stringent rules of origin for all goods, including products imported from Europe. Those countries include the United States, Mexico, Canada and Japan. The Commission should play an active role in coordinating the activities of the European market surveillance and customs authorities with those of Third Countries and to launch Public information and awareness-raising campaigns on the role of the market surveillance authorities as help desk for consumers.***

Amendment 7

Proposal for a regulation
Recital 21 a (new)

Text proposed by the Commission	*Amendment*
	(21a) The European Union has already finalised, or is negotiating, bilateral agreements with countries where the marking of origin is mandatory, it considers that a compulsory indication of country origin shall create a more balanced and fair market and increase the competition among countries, whilst any disparity of treatment shall constitute an obstacle to trade.

Amendment 8

Proposal for a regulation
Recital 21 b (new)

Text proposed by the Commission	*Amendment*
	(21b) The origin information on products will enhance the effectiveness of market surveillance authorities when tracing dangerous products. Furthermore the indication of the country of origin has a vital role regarding product recalls or withdraws of dangerous products from the EU market.

Amendment 9

Proposal for a regulation
Recital 21 c (new)

Text proposed by the Commission	*Amendment*
	(21c) National competent authorities should develop awareness-raising campaigns to inform consumers about the risk of buying counterfeited products, especially online.

Amendment 10

Proposal for a regulation
Recital 30

Text proposed by the Commission	*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.	(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, ***harmonised to the extent possible,*** proportionate ***in terms of quantity, the value of the good and the length of time it has been available on the market,*** and dissuasive.

Justification

Without harmonised penalties in the various Member States – or at least ones in line with

pan-European maximum and minimum levels – this issue will not be resolved; in fact, this would encourage importation and distribution in states where penalties are less harsh than in others.

Amendment 11

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:

Justification

Given the increasing role played by e-commerce, it is advisable to specify that the regulation applies also to the online market.

Amendment 12

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

Text proposed by the Commission	*Amendment*
	(l a) construction products within the meaning of 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;
	****OJ L 88, 4.4.2011, p. 5.***

Justification

Construction products are as a rule only intermediate products, not end products. In the rare cases where safety requirements need to be imposed on the product itself, Regulation (EU) No

305/2011 contains adequate provisions to meet these requirements (see Articles 3(3), 11(6), 27(3) and (4)).

Amendment 13

Proposal for a regulation
Article 3 - paragraph 2

Text proposed by the Commission	*Amendment*
(2) 'making available on the market' means any supply of a product for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;	(2) 'making available on the market' means any supply of a product for distribution, consumption or use on the Union ***or online*** market in the course of a commercial activity, whether in return for payment or free of charge;

Justification

Inclusion of a reference to the on-line market, which is not supervised in cases where a product placed on the market is distributed directly to a consumer's home. This is particularly the case with small-sized products.

Amendment 14

Proposal for a regulation
Article 5 – paragraph 1 – 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 authorization of the trademark owner that is identical or similar to a registered trade mark for this product, thereby misleading consumers as to the true identity of the product;

Amendment 15

Proposal for a regulation
Article 6 – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission	*Amendment*
a) the characteristics of the product, including its composition, packaging, instructions for assembly and, where applicable, for installation and maintenance;	a) the characteristics of the product, including its composition, ***authenticity,*** packaging, instructions for assembly and, where applicable, for installation and maintenance;

Justification

The authenticity of the product and the existence of a trade mark indicate that the product meets quality standards that are recognised at EU level.

Amendment 16

Proposal for a regulation
Article 6 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. For the purpose of paragraphs 1 and 2, economic operators shall make available to national market surveillance authorities a checklist explaining how the parameters as per paragraphs 1 and 2 have been assessed, and how the possible risk of a product has been estimated on the basis of such checklist. Market surveillance authorities will support economic operators in carrying out the assessment upon request.

Justification

In the case of products that are not subject to any Union harmonisation legislation, EU standards or national health and safety legislation, there needs to be clear parameters on which basis risk can be properly assessed and defined. However, this evaluation should not be left only to economic operators, but there should be a control by market surveillance authorities that is at least based on self-declarations of economic operators showing how the risk assessment has been carried out. This is particularly relevant in the case of imported products since importers may have a more limited knowledge of how the requirements as per paragraph 2 apply to an imported product.

Amendment 17

Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Manufacturers ***and importers*** shall ensure that products bear an indication of the country of origin of the product or, where the size or nature of the product does not allow it, that indication is to be provided on the packaging or in a document accompanying the product.	1. Manufacturers***, importers and distributors*** shall ensure that ***end consumer*** products bear an indication of the country of origin of the product or, where the size or nature of the ***end consumer*** product does not allow it, that indication is to be provided on the packaging or in a document accompanying ***that*** product***, such as point of sale material. The manufacturers or importers have to secure that the country of origin is indicated on all products sold within the European Union, regardless if*** the product ***is from an EU or non-EU-country. Distributors shall check if the manufacturer or importer has labelled the consumer product in proper form before selling or offering it on the EU market.***

Amendment 18

Proposal for a regulation
Article 7 - paragraph 1a (new)

Text proposed by the Commission	*Amendment*
	1a. The indication of the country of origin of the product shall be expressed by the words 'manufactured in' followed by the name of the country of origin. This indication may be expressed in any official language of the European Union easily understandable to consumers or final customers in the Member State in which the goods are to be marketed. The indication may not be expressed in any alphabet other than the Latin alphabet in the case of products marketed in countries whose language is written in that alphabet while, in countries which use an alphabet

other than the Latin alphabet, the indication must also be expressed in the Latin alphabet.

Justification

It is necessary to state how the indication of origin is to be expressed and to enable suppliers to select the right language for the target consumer group.

Amendment 19

Proposal for a regulation
Article 7 - paragraph 1 b (new)

Text proposed by the Commission	*Amendment*
	1b. The indication of origin must appear in clearly legible and indelible characters, be visible during normal use, markedly distinct from other information and presented in a way which is not misleading nor likely to create an erroneous impression with regard to the origin of the product.

Justification

In the interests of consumer information and security, it is essential to ensure that the indication of origin is authentic and cannot be used to mislead consumers.

Amendment 20

Proposal for a regulation
Article 7 – paragraph 1 c (new)

Text proposed by the Commission	*Amendment*
	1c. Art 7 of the Regulation shall apply to those products which are destined for end consumers excluding fisheries and aquaculture products as defined in Article 1 of Regulation (EC) No 104/2000 and foodstuff as defined in Article 2 of Regulation (EC) No 178/2002 of the European Parliament and of the Council.

Amendment 21

Proposal for a regulation
Article 7 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Where the country of origin determined in accordance with paragraph 2 is a Member State of the Union, ***manufacturers and importers*** may refer to the Union or to a particular Member State.	3. Where the country of origin determined in accordance with paragraph 2 is a Member State of the Union, ***the "made in" label*** may refer to the Union or to a particular Member State. ***The name and address of the manufacturer shall be provided as well on all consumer products placed on the EU market.***

Amendment 22

Proposal for a regulation
Article 8 – paragraph 4 – subparagraph 1 – introductory part

Text proposed by the Commission	*Amendment*
Proportionate to the possible risks of a product, manufacturers shall draw up a technical documentation. The technical documentation shall contain, as appropriate:	Proportionate to the possible risks of a product ***as assessed on the basis of Article 6***, manufacturers shall draw up a technical documentation. The technical documentation shall contain, as appropriate:

Amendment 23

Proposal for a regulation
Article 10 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Before placing a product on the market importers shall ensure that the product is compliant with the general safety requirement laid down in Article 4 ***and*** that	1. Before placing a product on the market importers ***are subject to the same obligations as EU producers and*** shall ***thus*** ensure that the product is compliant

the manufacturer ***has complied*** with the requirements set out in Article 8***(4), (6) and (7)***.	with the general safety requirement laid down in Article 4, that the manufacturer ***complies*** with the requirements set out in Article 8 ***and that the supporting technical documentation shows the product to be compliant in respect of the possible risks related to it***.

Amendment 24

Proposal for a regulation
Article 10 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	1a. Since obligations as per Article 8(4) are based on the risk evaluation of a product, which could be based on different criteria and parameters in third countries, it is the responsibility of the importer to ensure that the foreign manufacturer has taken into account the same EU parameters as per Article 6 and which will be reported in the technical documentation it will have provided to the importer.

Justification

It has to be ensured that risk assessment carried out by foreign manufacturers is based on the same EU requirements for products that are imported into the EU and for introduction into the EU market.

Amendment 25

Proposal for a regulation
Article 10 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. Importers shall ensure that their products bear a type, batch or serial number or other element allowing the

	identification of the product which is easily visible and legible for consumers, or, where the size or nature of the product does not allow it, that the required information is provided on the packaging or in a document accompanying the product.

Amendment 26

Proposal for a regulation
Article 10 – paragraph 6

Text proposed by the Commission	*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 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.	6. Proportionate to the possible risks presented by a product ***as assessed on the basis of Article 6***, 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 27

Proposal for a regulation
Article 10 – paragraph 7

Text proposed by the Commission	*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***, if appropriate***. Furthermore***, where the product is not safe,*** importers shall immediately inform the market	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. Furthermore importers shall immediately inform the market surveillance authorities of the Member

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.

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 28

Proposal for a regulation
Article 10 – paragraph 8

Text proposed by the Commission	*Amendment*
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.	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***, as well as any economic operator to whom he distributes his products, with evidence supporting the existence of essential differences between its models***.

Amendment 29

Proposal for a regulation
Article 11 – paragraph 5

Text proposed by the Commission	*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 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	5. Distributors who consider or have reason to believe that a product which they have made available on the ***Union or on-line*** 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. 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

product available to that effect, giving details, in particular, of the risk to health and safety and of any corrective action taken.

available to that effect, giving details, in particular, of the risk to health and safety and of any corrective action taken.

Amendment 30

Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission	*Amendment*
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.	1. The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation, ***on the basis of the common minimum levels proposed by the Commission***, 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 ***from*** the date of application of this Regulation] and shall notify it without delay of any subsequent amendment affecting them. ***The penalties provided for must be harmonised, proportionate to the length of time, the value and the quantity of non-compliant products placed on the market***.

PROCEDURE

Title	Consumer product safety
References	COM(2013)0078 – C7-0042/2013 – 2013/0049(COD)
Committee responsible Date announced in plenary	IMCO 12.3.2013
Opinion by Date announced in plenary	INTA 12.3.2013
Rapporteur Date appointed	Cristiana Muscardini 20.3.2013
Discussed in committee	28.5.2013 17.6.2013 5.9.2013
Date adopted	17.9.2013
Result of final vote	+: 26 –: 3 0: 0
Members present for the final vote	William (The Earl of) Dartmouth, Laima Liucija Andrikienė, Maria Badia i Cutchet, María Auxiliadora Correa Zamora, Andrea Cozzolino, George Sabin Cutaş, Marielle de Sarnez, Yannick Jadot, Metin Kazak, Bernd Lange, David Martin, Vital Moreira, Paul Murphy, Cristiana Muscardini, Franck Proust, Godelieve Quisthoudt-Rowohl, Niccolò Rinaldi, Helmut Scholz, Peter Šťastný, Robert Sturdy, Henri Weber, Jan Zahradil
Substitute(s) present for the final vote	Amelia Andersdotter, Josefa Andrés Barea, Salvatore Iacolino, Elisabeth Köstinger, Emma McClarkin, Mario Pirillo, Jarosław Leszek Wałęsa
Substitute(s) under Rule 187(2) present for the final vote	Jean-Pierre Audy, Krzysztof Lisek

02.10.2013

OPINION OF THE COMMITTEE ON INDUSTRY, RESEARCH AND ENERGY

for the Committee on the Internal Market and Consumer Protection

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))

Rapporteur: Patrizia Toia

AMENDMENTS

The Committee on Industry, Research and Energy calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation
Citation 1

Text proposed by the Commission	*Amendment*
Having regard to the Treaty on the Functioning of the European Union, and in particular ***Article*** 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular ***Articles 26 and*** 114 thereof,

Amendment 2

Proposal for a regulation
Recital 6 a (new)

Text proposed by the Commission	*Amendment*
	(6 a) Products which are designed for professionals but have subsequently migrated to the consumer market and sold to ordinary consumers should be subject to this Regulation.

Amendment 3

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 ***its*** application should be clearly delimited from sector-specific Union harmonisation legislation. ***This Regulation*** should ***therefore not apply to*** products ***subject to*** Union harmonisation legislation such as Union legislation on cosmetics, toys, electrical appliances or construction products.

(see amendments of Articles 2, 5 and 6)

Justification

The Regulation should not apply to harmonised goods in order to avoid overlaps and redundancies, since the main elements of Chapter I are already covered by harmonisation legislation. A clear separation between legislation applicable to harmonised and non-harmonised consumer goods would simplify the compliance with product rules by economic operators and their enforcement by market surveillance authorities.

Amendment 4

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 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.	(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***. Nevertheless, harmonised legislation should not impose unnecessary administrative burdens on enterprises***.

Amendment 5

Proposal for a regulation
Recital 10

Text proposed by the Commission	*Amendment*
(10) The scope of this Regulation should not be limited to any selling technique of consumer products, and thus also cover distance selling.	(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 online selling***.

Amendment 6

Proposal for a regulation
Recital 11

Text proposed by the Commission	*Amendment*
(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-	(11) This Regulation should apply to second hand products that re-enter the supply chain in the course of a commercial activity***. It should not apply to*** second-hand products for which the consumer cannot reasonably expect that they fulfil state-of-the art safety standards ***or***

the art safety standards***, such as antiques***.	***resulting from transactions between private individuals***.

Justification

Private transactions between individuals should be clearly exempted from the scope of the Directive, such as for example garage sales.

Amendment 7

Proposal for a regulation
Recital 13

Text proposed by the Commission	*Amendment*
(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.	(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 ***under reasonably foreseeable conditions,*** taking into account their vulnerability, in particular children, the elderly and the disabled. ***When assessing the risks for vulnerable consumers, due consideration should be given to the applications intended and described as such by the manufacturer in the product's safety instructions and the responsibilities and supervision or training obligations incumbent upon family members, service providers or employers.***

(see amendment of Article 6(1)(1)(d))

Justification

The concept of vulnerable consumers covers a wide spectrum of situations which escape the normal conditions of liability. The risks for vulnerable consumers should therefore be assessed in accordance with their likeliness to use a product under reasonably foreseeable conditions.

Amendment 8

Proposal for a regulation
Recital 13

Text proposed by the Commission	*Amendment*
(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.	(13) The safety of products should be assessed taking into account all the relevant aspects, in particular their characteristics***, 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 9

Proposal for a regulation
Recital 13

Text proposed by the Commission	*Amendment*
(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.	(13) The safety of products should be assessed taking into account all the relevant aspects, in particular their characteristics***, their composition,*** 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.

Justification

Product composition (component or constituent matter, raw material) is a key element in assessing product safety.

Amendment 10

Proposal for a regulation
Recital 14

Text proposed by the Commission	*Amendment*

(14) To avoid overlapping safety requirements and conflicts with other Union legislation, a product which ***conforms*** to sector-specific Union harmonisation legislation that aims at the protection of health and safety of persons should be ***presumed to be safe under*** this Regulation.	(14) To avoid overlapping safety requirements and conflicts with other Union legislation, a product which ***is subject*** to sector-specific Union harmonisation legislation that aims at the protection of health and safety of persons should be ***excluded from the scope of*** this Regulation.

(see amendments of Articles 5 and 6)

Justification

The Regulation should not apply to harmonised goods in order to avoid overlaps and redundancies, since the main elements of Chapter I are already covered by harmonisation legislation. A clear separation between legislation applicable to harmonised and non-harmonised consumer goods would simplify the compliance of economic operators with product rules and their enforcement by market surveillance authorities.

Amendment 11

Proposal for a regulation
Recital 15 a (new)

Text proposed by the Commission	*Amendment*
	(15a) To make it easier to place safe products on the market, economic operators, in particular SMEs, can meet their obligations under this regulation by establishing consortia with the dual purpose of ensuring compliance with product safety requirements efficiently and with high quality and reducing the costs and red tape with which individual firms are burdened.

Amendment 12

Proposal for a regulation
Recital 20

Text proposed by the Commission	*Amendment*
(20) Ensuring product identification and	(20) Ensuring product identification and

the traceability of products throughout the entire supply chain helps to identify economic operators and to take effective corrective measures against unsafe products, such as targeted recalls. Product identification and traceability ***thus*** ensure that consumers and economic operators obtain accurate information regarding unsafe products ***which enhances confidence in the market and avoids unnecessary disruption of trade***. Products should therefore bear information allowing their identification and the identification of the manufacturer and, if applicable, of the importer. Manufacturers should also establish technical documentations regarding their products for which they may choose the most appropriate and cost-efficient way such as by electronic means. Moreover, economic operators should be required to identify the operators who supplied them and to whom they supplied a product. Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data is applicable to the processing of personal data for the purposes of this Regulation.	the traceability of products throughout the entire supply chain helps to identify economic operators and to take effective corrective measures against unsafe products, such as targeted recalls. Product identification and traceability ***for the manufacturer, may*** ensure that consumers and economic operators obtain accurate information regarding unsafe products. Products should therefore bear information allowing their identification and the identification of the manufacturer and, if applicable, of the importer. Manufacturers should also establish technical documentations regarding their products for which they may choose the most appropriate and cost-efficient way such as by electronic means. Moreover, economic operators should be required to identify the operators who supplied them and to whom they supplied a product. Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data is applicable to the processing of personal data for the purposes of this Regulation.

Justification

In order to protect cosumers' privacy it should be ensured that traceability of the product is solely for the manufacturer and for the purpose the events that a recall would be necessary.

Amendment 13

Proposal for a regulation
Recital 20

Text proposed by the Commission	*Amendment*
(20) Ensuring product identification and the traceability of products throughout the entire supply chain helps to identify	(20) Ensuring product identification and the traceability of products throughout the entire supply chain helps to identify

economic operators and to take effective corrective measures against unsafe products, such as targeted recalls. Product identification and traceability thus ensure that consumers and economic operators obtain accurate information regarding unsafe products which enhances confidence in the market and avoids unnecessary disruption of trade. Products should therefore bear information allowing their identification and the identification of the manufacturer ***and***, if applicable, of the importer. Manufacturers should also establish technical documentations regarding their products for which they may choose the most appropriate and cost-efficient way such as by electronic means. Moreover, economic operators should be required to identify the operators who supplied them and to whom they supplied a product. Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data is applicable to the processing of personal data for the purposes of this Regulation.	economic operators and to take effective corrective measures against unsafe products, such as targeted recalls. Product identification and traceability thus ensure that consumers and economic operators obtain accurate information regarding unsafe products which enhances confidence in the market and avoids unnecessary disruption of trade. Products should therefore bear information allowing their identification and the identification of the manufacturer ***or***, if applicable, of the importer. Manufacturers should also establish technical documentations regarding their products for which they may choose the most appropriate and cost-efficient way such as by electronic means. Moreover, economic operators should be required to identify the operators who supplied them and to whom they supplied a product. Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data is applicable to the processing of personal data for the purposes of this Regulation.

(see amendments on Articles 8 and 10)

Justification

If name and address of a non-EU-manufacturer must appear on an imported product, this information would be known to the importer's competitors and business customers with the consequence that they could bypass this particular importer in the future and source directly from the non-EU-manufacturer. This would discourage SMEs from importing and result in a significant distortion of competition. It is therefore suggested to include this information in the technical documentation.

Amendment 14

Proposal for a regulation
Recital 20 b (new)

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

Amendment 15

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 safety.	(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 ***and relevant stakeholders***.

(see amendment of Article 16(1))

Justification

The Commission should take into account the views of stakeholders, as appropriate, when determining the content of new European safety standards in order to ensure that such standards are relevant, proportionate and effective.

Amendment 16

Proposal for a regulation
Recital 27

Text proposed by the Commission	*Amendment*
(27) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards the exemption to the obligation to inform market surveillance authorities about products presenting a risk, as regards the type of data carrier and its placement on the product for the purposes of the traceability system***, as regards standardisation requests to European standardisation organisations*** and as regards decisions on formal objections to European standards. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers.	(27) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards the exemption to the obligation to inform market surveillance authorities about products presenting a risk, as regards the type of data carrier and its placement on the product for the purposes of the traceability system and as regards decisions on formal objections to European standards. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers.

(see amendment of Article 16 (1))

Justification

New European safety standards for consumer products based on Article 4 should be considered as supplementing the basic act by addingnon-essential elements in accordance with Article 290 TFEU. Given the very general nature of Article 4, the European Parliament and the Council should have the possibility to revoke and object against a mandate for new standards by the Commission. It is therefore appropriate to adopt the mandate through a delegated act.

Amendment 17

Proposal for a regulation
Article 2 – paragraph 1 – point b

Text proposed by the Commission	*Amendment*
(b) which are likely, under reasonably foreseeable conditions, to be used by consumers even if not intended for ***them***;	(b) which are likely, under reasonably foreseeable conditions, to be used by consumers even if***, when placed on the market, they were*** not intended for ***consumers***;

Justification

This applies in particular to the German translation, which needs to be reworded in order to make clear that Article 2(1)(b) of the proposal merely aims to ensure that the regulation also applies to products which are likely, under reasonably foreseeable conditions, to be used by consumers. The spirit and purpose here is not to legislate on the improper use of products by consumers.

Amendment 18

Proposal for a regulation
Article 2 – paragraph 2

Text proposed by the Commission	*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.	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. ***This regulation shall not apply to transactions between private individuals.***

Justification

Private transactions between individuals should be clearly exempted from the scope of the Directive, such as for example garage sales.

Amendment 19

Proposal for a regulation
Article 2 – paragraph 4

Text proposed by the Commission	*Amendment*
4. ***Chapters II to IV of*** this Regulation	4. ***This*** Regulation shall not apply to

shall not apply to products subject to requirements designed to protect human health and safety laid down in Union harmonisation legislation or pursuant to it.	products subject to requirements designed to protect human health and safety laid down in Union harmonisation legislation or pursuant to it.

(see amendments on Articles 5 and 6)

Justification

The Regulation should not apply to harmonised goods in order to avoid overlaps and redundancies, since the main elements of Chapter I are already covered by harmonisation legislation. A clear separation between legislation applicable to harmonised and non-harmonised consumer goods would simplify the compliance with product rules by economic operators and their enforcement by market surveillance authorities.

Amendment 20

Proposal for a regulation
Article 3 – paragraph 1 – point 1

Text proposed by the Commission	*Amendment*
(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;	(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***, 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;

Justification

When assessing the safety of a product, due consideration should be given to the responsibilities and supervision or training obligations incumbent upon family members, service providers or employers.

Amendment 21

Proposal for a regulation
Article 3 – paragraph 1 – point 1

Text proposed by the Commission	*Amendment*
(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;	(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***,*** maintenance requirements ***and disposal***, 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;

Justification

Whenever an operation has to be carried out by the consumer at the end of life of product, this operation should be safe.

Amendment 22

Proposal for a regulation
Article 3 – paragraph 1 – point 7

Text proposed by the Commission	*Amendment*
(7) ‘distributor’ means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a product available on the market;	(7) ‘distributor’ means any natural or legal ***accountable*** person in the supply chain, other than the manufacturer or the importer, who makes a product available on the market; ***it does not include transactions of private individuals acting in a non-business capacity;***

Amendment 23

Proposal for a regulation
Article 4

Text proposed by the Commission	*Amendment*
Economic operators shall place or make	Economic operators shall place or make

available on the ***Union*** market only safe products.	available on the Union ***internal*** market only safe products.

Amendment 24

Proposal for a regulation
Article 5 – title

Text proposed by the Commission	*Amendment*
Presumption of safety	Presumption of ***compliance with general*** safety ***requirements***

Amendment 25

Proposal for a regulation
Article 5 – paragraph 1 – point a

Text proposed by the Commission	*Amendment*
(a) as regards the risks covered by requirements designed to protect human health and safety laid down in or pursuant to Union harmonisation legislation, if it conforms to those requirements;	***deleted***

(see amendments of Article 2 and 6)

Justification

The Regulation should not apply to harmonised goods in order to avoid overlaps and redundancies, since the main elements of Chapter I are already covered by harmonisation legislation. A clear separation between legislation applicable to harmonised and non-harmonised consumer goods would simplify the compliance with product rules by economic operators and their enforcement by market surveillance authorities.

Amendment 26

Proposal for a regulation
Article 5 – paragraph 1 – point b

Text proposed by the Commission	*Amendment*
(b) ***in the absence of requirements laid down in or pursuant to Union harmonisation legislation referred to in point (a),*** as regards the risks covered by European standards, if it conforms to relevant European standards or parts thereof, the references of which have been published in the Official Journal of the European Union in accordance with Articles 16 and 17;	(b) as regards the risks covered by European standards, if it conforms to relevant European standards or parts thereof, the references of which have been published in the Official Journal of the European Union in accordance with Articles 16 and 17;

(see amendments of Articles 2 and 6)

Justification

The Regulation should not apply to harmonised goods in order to avoid overlaps and redundancies, since the main elements of Chapter I are already covered by harmonisation legislation. A clear separation between legislation applicable to harmonised and non-harmonised consumer goods would simplify the compliance with product rules by economic operators and their enforcement by market surveillance authorities.

Amendment 27

Proposal for a regulation
Article 5 – paragraph 1 – point c

Text proposed by the Commission	*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 conforms to such national requirements.	(c) in the absence of requirements laid down in or pursuant to 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.

(see amendments of Articles 2 and 6)

Justification

The Regulation should not apply to harmonised goods in order to avoid overlaps and redundancies, since the main elements of Chapter I are already covered by harmonisation legislation. A clear separation between legislation applicable to harmonised and non-harmonised consumer goods would simplify the compliance with product rules by economic operators and their enforcement by market surveillance authorities.

Amendment 28

Proposal for a regulation
Article 6 – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission	*Amendment*
(a) the characteristics of the product, including its composition, packaging, instructions for assembly and, where applicable, for installation ***and maintenance***;	(a) the characteristics of the product, including its composition, packaging, instructions for assembly and, where applicable, for installation***, maintenance and disposal***;

Amendment 29

Proposal for a regulation
Article 6 – paragraph 1 – point a

Text proposed by the Commission	*Amendment*
(a) the characteristics of the product, including its composition, packaging, instructions for assembly and, where applicable, for installation and maintenance;	(a) the characteristics of the product, including its composition, packaging, instructions for assembly and ***disassembly***, where applicable, for installation and maintenance;

Justification

Products should be safe also during their disposal phase.

Amendment 30

Proposal for a regulation
Article 6 – paragraph 1 –point d

Text proposed by the Commission	*Amendment*
(d) the categories of consumers at risk when using the product, in particular vulnerable consumers;	(d) the categories of consumers at risk when using the product, in particular vulnerable consumers ***likely to use the product under reasonably foreseeable conditions***;

(see amendments of Recital 13 and Article 16(2a) new)

Justification

The concept of vulnerable consumers covers a wide spectrum of situations which escape the normal conditions of liability. The risks for vulnerable consumers should therefore be assessed in accordance with their likeliness to use a product under reasonably foreseeable conditions.This amendment is also included in the amendment proposing an Article 16(2a) new.

Amendment 31

Proposal for a regulation
Article 6 – paragraph 2 – point a

Text proposed by the Commission	*Amendment*
(a) the state of the art and technology;	***deleted***

(See amendments on Articles 6(1) and 6(1a) new and 6(2).)

Justification

Moved to the end of the list. While it is important to consider the state of the art and technology, it should not be the first of aspects to be considered. The state of the art will normally attain higher degrees of safety. However, the availability of products presenting a lesser degree of risk shall not constitute sufficient grounds for considering a product not to be safe. This amendment is also included in the amendment proposing an Article 6(1a) new.

Amendment 32

Proposal for a regulation
Article 6 – paragraph 2 – point h

Text proposed by the Commission	*Amendment*
(h) reasonable consumer expectations concerning safety.	***deleted***

(see amendment proposing an Article 6(1a) new)

Justification

This criterion appears arbitrary and creates legal uncertainty for economic operators, as they have to determine what "reasonable consumer expectations" are for each product, without any certainty if market surveillance authorities might interpret the concept in a different way. This amendment is also included in the amendment proposing an Article 6(1a) new.

Amendment 33

Proposal for a regulation
Article 6 – paragraph 2 – point h a (new)

Text proposed by the Commission	*Amendment*
	(h a) the state of the art and technology

(amendment proposing an Article 6(1a) new)

Justification

Moved to the end of the list. While it is important to consider the state of the art and technology, it should not be the first of aspects to be considered. The state of the art will normally attain higher degrees of safety. However, a product could still be considered safe if other products with even higher safety standards are available on the market. This amendment is also included in amendment proposing an Article 6(1a) new.

Amendment 34

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission	*Amendment*
1. When placing their products on the market, manufacturers shall ensure that they have been designed and manufactured in accordance with the general safety	1. When placing their products on the market, ***also in case of distance selling,*** manufacturers shall ensure that they have been designed and manufactured in accordance with the general safety

requirement laid down in Article 4.	requirement laid down in Article 4.

Amendment 35

Proposal for a regulation
Article 8 – paragraph 4 – point c a (new)

Text proposed by the Commission	*Amendment*
	(c a) where the manufacturer does not place the product on the market, name, registered trade name or registered trade mark of the manufacturer and the address at which he can be contacted.

Justification

If name and address of a non-EU-manufacturer must appear on an imported product, this information would be known to the importer's competitors and business customers with the consequence that they could bypass this particular importer in the future and source directly from the non-EU-manufacturer. This would discourage SMEs from importing and result in a significant distortion of competition. It is therefore suggested to include this information in the technical documentation.

Amendment 36

Proposal for a regulation
Article 8 – paragraph 7

Text proposed by the Commission	*Amendment*
7. Manufacturers 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. The address must indicate a single point at which the manufacturer can be contacted.	7. ***Where*** manufacturers ***place a product on the market, they*** 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***,*** in a document accompanying the product ***or on a website clearly indicated on the product or its packaging or accompanying documents***. The address must indicate a single point at which the manufacturer can be contacted.

(see amendment of Article 10(3))

Justification

Especially for small products (e.g. socks) and products that might be sold separately as single items (e.g. golf balls), the proposed obligations will lead to high additional costs, as information will need to be provided on separate documents. The inclusion of a website where further information can be retrieved would be more cost-effective and environmentally friendly.

Amendment 37

Proposal for a regulation
Article 8 – paragraph 8 – subparagraph 1

Text proposed by the Commission	*Amendment*
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.	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. ***The safety information shall enable consumers to assess the risks inherent in a product throughout the normal or reasonably foreseeable period of its use, where such risks are not immediately obvious without adequate warning;***

Amendment 38

Proposal for a regulation
Article 8 – paragraph 8 – subparagraph 1

Text proposed by the Commission	*Amendment*
Manufacturers shall ensure that their product is accompanied by instructions and safety information in a language which can be easily understood by consumers, as	Manufacturers shall ensure that their product is accompanied by instructions and safety information in a language ***or visual format*** which can be easily understood by

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.	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.

Justification

The translation in all EU languages can be efficiently replaced in some cases by instructions in form of cartoons and pictograms. Those innovative solutions are good and attractive alternatives to the technical vocabulary used in the instructions for certain products.

Amendment 39

Proposal for a regulation
Article 8 – paragraph 9

Text proposed by the Commission	*Amendment*
9. 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. 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.	9. 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, ***as*** 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.

(see amendment of Article 10(7) and 11(5))

Justification

The word "if" creates legal uncertainty, as it is could be read as implying an additional conditionality for the use of corrective actions.

Amendment 40

Proposal for a regulation
Article 8 – paragraph 9 a (new)

Text proposed by the Commission	*Amendment*
	9 a. Warnings which determine the decision to purchase the product, such as those specifying the minimum and maximum age or weight for users and other important warnings, shall appear on the consumer packaging or be otherwise clearly visible to the consumer before the purchase, including in cases where the purchase is made online.

Justification

Consumer information must be strengthened, especially with regard to online sales, where it is difficult for consumers to check to specific information about a product and on its packaging.

Amendment 41

Proposal for a regulation
Article 10 – paragraph 3

Text proposed by the Commission	*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.	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 ***or on a website clearly indicated on the product or its packaging or accompanying documents***. They shall ensure that any additional label does not obscure any information on the label provided by the manufacturer.

(see amendment of Article 8(7))

Justification

Especially for small products (e.g. socks) and products that might be sold separately as single items (e.g. golf balls), the proposed obligations will lead to high additional costs, as information will need to be provided on separate documents. The inclusion of a website where further information can be retrieved would be more cost-effective and environmentally friendly.

Amendment 42

Proposal for a regulation
Article 10 – paragraph 4 – subparagraph 1

Text proposed by the Commission	*Amendment*
Importers shall ensure that the 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.	Importers shall ensure that the product is accompanied by instructions and safety information in a language ***or visual format*** 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.

Justification

The translation in all EU languages can be efficiently replaced in some cases by instructions in form of cartoons and pictograms. Those innovative solutions are good and attractive alternatives to the technical vocabulary used in the instructions for certain products.

Amendment 43

Proposal for a regulation
Article 10 – paragraph 7

Text proposed by the Commission	*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	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.	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.

(see amendment of Articles 8(9) and 11(5))

Justification

The word "if" creates legal uncertainty, as it could be read as implying an additional conditionality for the use of corrective actions.

Amendment 44

Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission	*Amendment*
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.	2. Before making a product available on the market distributors shall verify that the ***product bears the required marking*** set out in Article 8(6), (7) and ***10***(***3***) and ***is accompanied with the information set out in Articles 8***(***8***) and ***10***(4), as applicable.

Justification

The revised wording removes the risk of intepreting the obligations so that a distributor would need to evaluate (eg. through product testing) that the information supplied by manufacturer/importer is accurate. Distributors shall only be responsible for cheking that all the relevant and required information is present as set out in the Regulation.

Amendment 45

Proposal for a regulation
Article 11 – paragraph 5

Text proposed by the Commission	*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 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.	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, ***as*** 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.

(see amendments of Articles 8(9) and 10(7))

Justification

The word "if" creates legal uncertainty, as it is could be read as implying an additional conditionality for the use of corrective actions.

Amendment 46

Proposal for a regulation
Article 11 – paragraph 5 a (new)

Text proposed by the Commission	*Amendment*
	(5a) Distributors shall only make available on the market products that come with safety instructions and information in all the official languages of the country in which they are placing a product on the market, under the conditions set by the Member State concerned.

Amendment 47

Proposal for a regulation
Article 13 – paragraph 1 – introductory part

Text proposed by the Commission	*Amendment*
1. Obligation to inform the market surveillance authorities in accordance with Article 8(9), Article 10(2) and (7) and Article 11(3) and (5) shall not apply where the following conditions are fulfilled:	1. Obligation to inform the market surveillance authorities in accordance with Article 8(9), Article 10(2) and (7) and Article 11(3) and (5) shall not apply where ***all*** the following conditions are fulfilled:

Amendment 48

Proposal for a regulation
Article 13 – paragraph 1 – point b

Text proposed by the Commission	*Amendment*
(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;	(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;

Justification

Total control of risk is impossible to achieve in practice. The wording should therefore be adjusted in order to create legal certainty for economic operators.

Amendment 49

Proposal for a regulation
Article 13 – paragraph 1 – point c

Text proposed by the Commission	*Amendment*
(c) the cause of the risk of the product is such that knowledge of it does not represent useful information for the authorities or the public.	***deleted***

Justification

First, the cause of the risk may not be known. Second, if the cause of the risk is known, it could be difficult for economic operators to judge if it is of public interest. Such mandatory condition would create legal uncertainty.

Amendment 50

Proposal for a regulation
Article 13 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	(3 a) The Commission shall be empowered to adopt delegated acts in accordance with Article 20 determining the requirements of Article 8, Article 10, Article 11 and Article 14 of this Regulation from which distrubutors of second-hand goods may be exempted, based on the low level of risk involved or the excessive burden they create on the economic activity of those smaller-scale operators.

Justification

Small second-hand shops should be exmpted from some of the requirements put on distributors, the burden on their economic activity being too high or not some of the requirements being impossible to fulfil. The Commission should evaluate the criteria (turnover, size, scope, type of products) under which those exemptions should be made and propose those exemptions under a delegated act.

Amendment 51

Proposal for a regulation
Article 14 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	(2 a) Where economic operators identify the information referred to in the first paragraph, the market surveillance authorities shall treat this information as

confidential.

Justification

For many distributors and wholesalers it is a company secret from whom they source and to whom they supply. It is therefore necessary to protect the identity of their suppliers. The information provided by economic operators should only be for the use of the market surveillance authorities and there should be no possibility of commercially sensitive information being published generally or getting into the hands of competitors.

Amendment 52

Proposal for a regulation
Article 15 – title

Text proposed by the Commission	*Amendment*
Traceability of products	Traceability of products ***susceptible to bear a serious risk***

Justification

This tracability system is intended to cover only specific products and product categories, which are susceptible to bear a serious risk.

Amendment 53

Proposal for a regulation
Article 15 – paragraph 1

Text proposed by the Commission	*Amendment*
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.	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, ***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.

Justification

Before proposing new traceability requirments, the Commission should consult relevant stakeholders, such as business and consumer organisations, so as to benefit from their expertise and to take into account the practical implications of such requirements.

Amendment 54

Proposal for a regulation
Article 15 – paragraph 1

Text proposed by the Commission	*Amendment*
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.	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 ***for the manufacturer***.

Justification

In order to protect cosumers' privacy it should be ensured that traceability of the product is solely for the manufacturer and for the purpose the events that a recall would be necessary.

Amendment 55

Proposal for a regulation
Article 15 – paragraph 2

Text proposed by the Commission	*Amendment*
2. The system of traceability shall consist of the collection and storage of data by electronic means enabling the identification of ***the product*** and of the economic operators involved in its supply chain as well as ***of the placement of a data carrier*** on the product, its packaging or accompanying documents enabling access	2. The system of traceability shall consist of the collection and storage of data by electronic means enabling the identification of ***products*** and of the economic operators involved in its supply chain as well as ***appropriate means*** on the product, its packaging or accompanying documents ***for*** enabling access to that data.

to that data.

Justification

RFID technology or data carrier on the product, is not the only means to ensure that needed data regarding the safety of the product is made accessible. Other, more affordable alternatives exist such as an individual product code that can be linked to information on a website managed by the economic operator for instance. The directive should not prescribe a technologicals solution but allow operators to choose as long as safety requirements are complied with.

Amendment 56

Proposal for a regulation
Article 15 – paragraph 3 – point b

Text proposed by the Commission	*Amendment*
(b) specifying the data which economic operators shall collect and store by means of the traceability system referred to in paragraph 2.	(b) specifying the data which economic operators shall collect and store by means of the traceability system referred to in paragraph 2 ***and are necessary for ensuring product safety***.

Justification

In order to protect cosumers' privacy it should be ensured that data collected and stored is solely strictly necessary for the purpose of ensuring product safety.

Amendment 57

Proposal for a regulation
Article 16 – paragraph 1 – subparagraph 1

Text proposed by the Commission	*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. The Commission shall determine the	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***

requirements as to the content to be met by the requested European standard and a deadline for its adoption.	***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.

(See amendment of Recital 24)

Justification

The Commission should take into account the views of stakeholders, as appropriate, when determining the content of new European safety standards in order to ensure that such standards are relevant, proportionate and effective.

Amendment 58

Proposal for a regulation
Article 16 – paragraph 1 – subparagraph 2

Text proposed by the Commission	*Amendment*
The Commission shall adopt the request referred to in the first subparagraph by ***an implementing decision. Those implementing acts shall be adopted*** in accordance with ***the examination procedure referred to in*** Article ***19(3)***.	The Commission shall adopt the request referred to in the first subparagraph by ***a delegated act*** in accordance with Article ***20***.

(See amendment of Recital 27)

Justification

New European safety standards for consumer products based on Article 4 should be considered as supplementing the basic act by addingnon-essential elements in accordance with Article 290 TFEU. Given the very general nature of Article 4, the European Parliament and the Council should have the possibility to revoke and object against a mandate for new standards by the Commission. It is therefore appropriate to adopt the mandate through a delegated act.

Amendment 59

Proposal for a regulation
Article 18

Text proposed by the Commission	*Amendment*
Article 18	***deleted***
Penalties	
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.	
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.	

(see Article 31 of Regulation 2013/0048 (COD)))

Justification

The penalties applicable to infringements against product safety rules should be the same for all (harmonised and non-harmonised, consumer and professional) products and also apply to cases of non-compliance, e.g. with environmental standards. The rules for penalities should therefore be laid down exclusively in the market surveillance regulation.

Amendment 60

Proposal for a regulation
Article 20 – paragraph 2

Text proposed by the Commission	*Amendment*

2. The power to adopt delegated acts referred to in Articles 13(3) and 15(3) shall be conferred on the Commission for ***an indeterminate*** period of ***time*** from [insert date - the date of entry into force of this Regulation].	2. The power to adopt delegated acts referred to in Articles 13(3) and 15(3) shall be conferred on the Commission for ***a*** period of ***five years*** from [insert date - the date of entry into force of this Regulation]. ***The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension no less than three months before the end of each period.***

Amendment 61

Proposal for a regulation
Article 21 – paragraph 1

Text proposed by the Commission	*Amendment*
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.	No later than [five] years after the date of application, ***and every five years from the first report,*** 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 small and medium-sized enterprises. ***Also, this report shall assess the implications and contributions of Regulation (EU) No 1025/2012 within the scope of this Regulation.***

PROCEDURE

Title	Consumer product safety
References	COM(2013)0078 – C7-0042/2013 – 2013/0049(COD)
Committee responsible Date announced in plenary	IMCO 12.3.2013
Opinion by Date announced in plenary	ITRE 12.3.2013
Rapporteur Date appointed	Patrizia Toia 26.4.2013
Discussed in committee	2.9.2013
Date adopted	26.9.2013
Result of final vote	+: 37 –: 14 0: 0
Members present for the final vote	Josefa Andrés Barea, Jean-Pierre Audy, Zigmantas Balčytis, Ivo Belet, Bendt Bendtsen, Jan Březina, Maria Da Graça Carvalho, Giles Chichester, Pilar del Castillo Vera, Dimitrios Droutsas, Christian Ehler, Adam Gierek, Norbert Glante, Fiona Hall, Jacky Hénin, Romana Jordan, Judith A. Merkies, Angelika Niebler, Jaroslav Paška, Aldo Patriciello, Vittorio Prodi, Miloslav Ransdorf, Herbert Reul, Teresa Riera Madurell, Amalia Sartori, Salvador Sedó i Alabart, Francisco Sosa Wagner, Konrad Szymański, Britta Thomsen, Patrizia Toia, Ioannis A. Tsoukalas, Claude Turmes, Marita Ulvskog, Adina-Ioana Vălean, Kathleen Van Brempt, Alejo Vidal-Quadras
Substitute(s) present for the final vote	Rachida Dati, Francesco De Angelis, Elisabetta Gardini, Satu Hassi, Jolanta Emilia Hibner, Eija-Riitta Korhola, Paweł Robert Kowal, Bernd Lange, Werner Langen, Marian-Jean Marinescu, Markus Pieper, Hannu Takkula, Hermann Winkler
Substitute(s) under Rule 187(2) present for the final vote	Pier Antonio Panzeri, Britta Reimers

18.9.2013

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS

for the Committee on the Internal Market and Consumer Protection

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))

Rapporteur: Jiří Maštálka

AMENDMENTS

The Committee on Legal Affairs calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following amendments into its report:

Amendment 1

Proposal for a regulation
Recital 13

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

Justification

The precautionary principle (Article 191 TFEU), as a crucial pillar of current EU safety legislation, needs to be maintained. In most cases, European consumers and consumer associations must demonstrate the danger associated with a non-food consumer product. In the case of an action being taken under the precautionary principle, economic operators may be required to prove the absence of danger. As for market surveillance authorities, without the precautionary principle, taking adequate risk management measures may pose a problem for effective surveillance measures in practice.

Amendment 2

Proposal for a regulation
Recital 14

Text proposed by the Commission	*Amendment*
(14) To avoid overlapping safety requirements and conflicts with other Union legislation, a product which conforms to sector-specific Union harmonisation legislation that aims at the protection of health and safety of persons should be presumed to be safe under this Regulation.	(14) To avoid overlapping safety requirements and conflicts with other Union legislation, a product which conforms to sector-specific Union harmonisation legislation that aims at the protection of health and safety of persons should be presumed to be safe under this Regulation. ***Such an evaluation should be based on the precautionary principle.***

Justification

The precautionary principle (Article 191 TFEU), as a crucial pillar of current EU safety legislation, needs to be maintained. In most cases, European consumers and consumer associations must demonstrate the danger associated with a non-food consumer product. In the case of an action being taken under the precautionary principle, economic operators may be required to prove the absence of danger. As for market surveillance authorities, without the precautionary principle, taking adequate risk management measures may pose a problem for effective surveillance measures in practice.

Amendment 3

Proposal for a regulation
Recital 20

Text proposed by the Commission	*Amendment*
(20) Ensuring product identification and	(20) Ensuring product identification and

the traceability of products throughout the entire supply chain helps to identify economic operators and to take effective corrective measures against unsafe products, such as targeted recalls. Product identification and traceability thus ensure that consumers and economic operators obtain accurate information regarding unsafe products which enhances confidence in the market and avoids unnecessary disruption of trade. Products should therefore bear information allowing their identification and the identification of the manufacturer and, if applicable, of the importer. Manufacturers should also establish technical documentations regarding their products for which they may choose the most appropriate and cost-efficient way such as by electronic means. Moreover, economic operators should be required to identify the operators who supplied them and to whom they supplied a product. Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data[18] is applicable to the processing of personal data for the purposes of this Regulation.	the traceability of products throughout the entire supply chain helps to identify economic operators and to take effective corrective measures against unsafe products, such as targeted recalls ***and product destruction***. Product identification and traceability thus ensure that consumers and economic operators obtain accurate information regarding unsafe products which enhances confidence in the market and avoids unnecessary disruption of trade. Products should therefore bear information allowing their identification and the identification of the manufacturer and, if applicable, of the importer. Manufacturers should also establish technical documentations regarding their products for which they may choose the most appropriate and cost-efficient way such as by electronic means. Moreover, economic operators should be required to identify the operators who supplied them and to whom they supplied a product. Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data[18] is applicable to the processing of personal data for the purposes of this Regulation.

Justification

In the interests of consumer protection, it is important for products to be permanently withdrawn from circulation, and hence that their destruction can be authorised.

Amendment 4

Proposal for a regulation
Article 1 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	It establishes a broad-based, legislative framework of a horizontal nature to cover

	loopholes, in particular pending revision of the existing specific legislation, and to complement provisions in existing or forthcoming specific legislation, in particular with a view to ensuring a high level of protection of safety and health for consumers.

Justification

In the interest of comprehensive and complete protection of safety and health for consumers, the new Regulation should function as a general safety net covering potential omissions in existing or future specific legislation.

Amendment 5

Proposal for a regulation
Article 2 – paragraph 3 – point h

Text proposed by the Commission	*Amendment*
(h) equipment on which consumers ride or travel which is operated by a service provider within the context of a service provided to consumers;	(h) equipment on which consumers ride or travel which is operated by a service provider within the context of a service provided to consumers***, except for fairground equipment***;

Justification

Fairground equipment is responsible for many serious accidents and should therefore be covered by this Regulation.

Amendment 6

Proposal for a regulation
Article 6 – paragraph 1 – point d

Text proposed by the Commission	*Amendment*
(d) the categories of consumers at risk when using the product, in particular vulnerable consumers;	(d) the categories of consumers at risk when using the product, in particular vulnerable consumers***, such as children, older people and the disabled***;

Amendment 7

Proposal for a regulation
Article 6 – paragraph 1 – point e

Text proposed by the Commission	*Amendment*
(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.	(e) the appearance ***and characteristics*** of the product***, its packaging and its presentation to purchasers, including any potentially misleading impression given that might lead persons to actions posing a risk to health and safety,*** in particular***:***
	(i) 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***;***
	(ii) where a product, although not designed for use by them, may attract children to exploring it, coming into contact with it and interacting with it because of its design and characteristics.

Amendment 8

Proposal for a regulation
Article 6 – paragraph 2 – point aa (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 9

Proposal for a regulation
Article 6 – paragraph 2 – point h

Text proposed by the Commission	*Amendment*
(h) reasonable consumer expectations concerning safety;	***deleted***

(See amendment on Article 6, paragraph 2, point aa (new))

Amendment 10

Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Manufacturers and importers shall ensure that products bear an indication of the country of origin of the product or, where the size or nature of the product does not allow it, that indication is to be provided on the packaging or in a document accompanying the product.	1. Manufacturers and importers shall ensure that products bear an indication of the country of origin of the product ***and of the materials used in it*** or, where the size or nature of the product does not allow it, that indication is to be provided on the packaging or in a document accompanying the product.

Amendment 11

Proposal for a regulation
Article 8 – paragraph 6

Text proposed by the Commission	*Amendment*
6. Manufacturers shall ensure that their products bear a type, batch or serial number or other element allowing the identification of the product which is easily visible and legible for consumers, or, where the size or nature of the product	6. Manufacturers shall ensure that their products bear a type, batch or serial number or other element allowing the identification of the product which is easily visible**,** legible ***and understandable*** for consumers, or, where the size or nature of

does not allow it, that the required information is provided on the packaging or in a document accompanying the product.

the product does not allow it, that the required information is provided on the packaging or in a document accompanying the product.

Amendment 12

Proposal for a regulation
Article 8 – paragraph 9

Text proposed by the Commission	*Amendment*
9. 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. 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.	9. 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 warn consumers who are at risk as a consequence of the non-conformity of what immediate precautions they should take, and*** to withdraw or recall ***the product as*** 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.

Amendment 13

Proposal for a regulation
Article 9 – paragraph 2 – point a

Text proposed by the Commission	*Amendment*
(a) further to a request from a market surveillance authority, provide that authority with all the information and documentation necessary to demonstrate	(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 ***with the***

the conformity of a product;	***general safety requirement laid down in Article 4***;

Amendment 14

Proposal for a regulation
Article 13

Text proposed by the Commission	*Amendment*
Article 13	***deleted***
Exemption from certain obligations of manufacturers, importers and distributors	
1. Obligation to inform the market surveillance authorities in accordance with Article 8(9), Article 10(2) and (7) and Article 11(3) and (5) shall not apply where the following conditions are fulfilled:	
(a) only a limited number of well-identified products are not safe;	
(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;	
(c) the cause of the risk of the product is such that knowledge of it does not represent useful information for the authorities or the public.	
2. The Commission may by means of implementing acts determine the situations which meet the conditions of paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19(3).	
3. The Commission shall be empowered to adopt delegated acts in accordance with Article 20 determining the products, categories or groups of products for which, due to their low level of risk, the information referred to in Article 8(7) and Article 10(3) does not need to be indicated	

on the product itself.

Amendment 15

Proposal for a regulation
Article 15 – paragraph 3

Text proposed by the Commission	*Amendment*
3. The Commission shall be empowered to adopt delegated acts in accordance with Article 20:	***deleted***
(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;	
(b) specifying the data which economic operators shall collect and store by means of the traceability system referred to in paragraph 2.	

Amendment 16

Proposal for a regulation
Article 20

Text proposed by the Commission	*Amendment*
Article 20	***deleted***
Exercise of the delegation	
1. The power to adopt the delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	
2. The power to adopt delegated acts referred to in Articles 13(3) and 15(3) shall be conferred on the Commission for an indeterminate period of time from [insert date - the date of entry into force of	

this Regulation].

3. The delegation of power referred to in Articles 13(3) and 15(3) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following its publication in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles 13(3) and 15(3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period may be extended by two months at the initiative of the European Parliament or of the Council.

PROCEDURE

Title	Consumer product safety
References	COM(2013)0078 – C7-0042/2013 – 2013/0049(COD)
Committee responsible Date announced in plenary	IMCO 12.3.2013
Opinion by Date announced in plenary	JURI 12.3.2013
Rapporteur Date appointed	Jiří Maštálka 20.2.2013
Discussed in committee	8.7.2013
Date adopted	17.9.2013
Result of final vote	+: 22 –: 2 0: 0
Members present for the final vote	Raffaele Baldassarre, Luigi Berlinguer, Sebastian Valentin Bodu, Françoise Castex, Christian Engström, Marielle Gallo, Giuseppe Gargani, Lidia Joanna Geringer de Oedenberg, Sajjad Karim, Klaus-Heiner Lehne, Antonio López-Istúriz White, Antonio Masip Hidalgo, Jiří Maštálka, Alajos Mészáros, Bernhard Rapkay, Evelyn Regner, Francesco Enrico Speroni, Dimitar Stoyanov, Alexandra Thein, Cecilia Wikström, Tadeusz Zwiefka
Substitute(s) present for the final vote	Eva Lichtenberger, Angelika Niebler, József Szájer, Axel Voss
Substitute(s) under Rule 187(2) present for the final vote	Olle Schmidt

PROCEDURE

Title	Consumer product safety			
References	COM(2013)0078 – C7-0042/2013 – 2013/0049(COD)			
Date submitted to Parliament	13.2.2013			
Committee responsible Date announced in plenary	IMCO 12.3.2013			
Committee(s) asked for opinion(s) Date announced in plenary	INTA 12.3.2013	ECON 12.3.2013	ENVI 12.3.2013	ITRE 12.3.2013
	JURI 12.3.2013			
Not delivering opinions Date of decision	ECON 18.6.2013	ENVI 26.2.2013		
Rapporteur(s) Date appointed	Christel Schaldemose 20.2.2013			
Discussed in committee	7.5.2013	29.5.2013	9.7.2013	25.9.2013
	14.10.2013			
Date adopted	17.10.2013			
Result of final vote	+: –: 0:	27 7 5		
Members present for the final vote	Pablo Arias Echeverría, Adam Bielan, Preslav Borissov, Jorgo Chatzimarkakis, Sergio Gaetano Cofferati, Lara Comi, Anna Maria Corazza Bildt, António Fernando Correia de Campos, Jürgen Creutzmann, Vicente Miguel Garcés Ramón, Evelyne Gebhardt, Thomas Händel, Małgorzata Handzlik, Eduard-Raul Hellvig, Philippe Juvin, Sandra Kalniete, Edvard Kožušník, Hans-Peter Mayer, Franz Obermayr, Sirpa Pietikäinen, Phil Prendergast, Robert Rochefort, Zuzana Roithová, Heide Rühle, Matteo Salvini, Christel Schaldemose, Andreas Schwab, Róża Gräfin von Thun und Hohenstein, Gino Trematerra, Emilie Turunen, Barbara Weiler			
Substitute(s) present for the final vote	Raffaele Baldassarre, Ashley Fox, María Irigoyen Pérez, Sylvana Rapti, Patricia van der Kammen			
Substitute(s) under Rule 187(2) present for the final vote	Takis Hadjigeorgiou, Linda McAvan, Patrizia Toia			
Date tabled	25.10.2013			