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Committee on Legal Affairs

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AMENDMENTS

25 - 44

Draft opinion
Jiří Maštálka
(PE514.663v01-00)

Consumer product safety

Proposal for a regulation
(COM(2013)0078 – C7-0042/2013 – 2013/0049(COD))

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United in diversity

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Amendment 25
Giuseppe Gargani

Proposal for a regulation
Recital 13

Text proposed by the Commission

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

Amendment

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

Or. it

Amendment 26
Françoise Castex

Proposal for a regulation
Recital 13

Text proposed by the Commission

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

Amendment

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

Or. fr

Justification

Only authentic products should be considered safe, since only in the case of authentic products are guarantees provided to the consumer as regards origin, quality and compliance with regulatory requirements. The authenticity of a product must therefore be one of the

criteria used to assess its safety.

Amendment 27
Françoise Castex

Proposal for a regulation
Recital 20

Text proposed by the Commission

(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 data¹⁸ is applicable to the processing of personal data for the purposes of this Regulation.

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 **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 data¹⁸ is applicable to the processing of personal data for the purposes of this Regulation.

Or. fr

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 28 **Giuseppe Gargani**

Proposal for a regulation **Recital 21**

Text proposed by the Commission

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

Amendment

(21) The indication of origin 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.
Modern business processes regarding the purchasing and processing of materials are such that the indication of the country of origin of the finished product is insufficient to provide consumers with full and trustworthy information on the true origin of that product. Indicating the country of origin of the materials used in the product guarantees consumers the right to make purchasing choices in full knowledge of the facts. 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.

Or. it

Amendment 29
Françoise Castex

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

Text proposed by the Commission

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

Amendment

(1) ‘safe product’ means any **authentic** product which, 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;

Or. fr

Justification

Only authentic products should be considered safe. Authenticity must therefore be an explicit part of the definition of a safe product within the meaning of this Regulation. In the case of counterfeit products, there are no guarantees as regards origin, manufacturing conditions or compliance with regulatory requirements.

Amendment 30
Dimitar Stoyanov

Proposal for a regulation
Article 4 – paragraph 1

Text proposed by the Commission

Economic operators shall **place** or make available on the Union market only **safe products**.

Amendment

Economic operators shall **offer** or make available on the Union market only **products that are not dangerous, do not present a risk and meet the requirements for a high level of consumer health and safety protection, in particular for children, the elderly and the disabled**.

Or. bg

Amendment 31
Françoise Castex

Proposal for a regulation
Article 5 – paragraph 1 – point a (new)

Text proposed by the Commission

Amendment

(aa) when it is authentic – i.e. has been manufactured in compliance with the regulatory requirements, bears the relevant identifying marks and has been placed on the EU market by the intellectual property rights holder or with his consent;

Or. fr

Justification

The presumption of safety should only apply to authentic products. EU and Member State legislation provides a clear legal framework for establishing whether or not a product is authentic. In the case of counterfeit products, there are no guarantees as regards origin, manufacturing conditions or compliance with regulatory requirements.

Amendment 32
Françoise Castex

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 ***authenticity***, composition, packaging, instructions for assembly and, where applicable, for installation and maintenance;

Or. fr

Justification

Only authentic products should be considered safe. The authenticity of a product must therefore be one of the criteria used to assess its safety.

Amendment 33
Rebecca Taylor

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

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 34
Hans-Peter Martin

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

Text proposed by the Commission

Amendment

2a. Safety standards and rules commonly applicable to similar products.

Or. de

Amendment 35
Giuseppe Gargani

Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

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.

Amendment

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 36
Rebecca Taylor

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 (8) and Article 10(3) and (4), as applicable.

Or. en

Justification

The wording used provides legal uncertainty. Obliging distributors to verify that manufacturers and importers have complied with the law is very burdensome and would be in practice impossible for some smaller and independent retailers and distributors. The full verification process, technical evaluation, product testing, checking safety instructions etc should be undertaken by the relevant authorities.

Amendment 37
Rebecca Taylor

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

Or. en

Justification

It is important to allow for exemptions, especially for the problems raised by isolated cases,

hence why Art.13(1)(a) and (b) are important to keep. However, general knowledge about the cause of a risk should not be considered as an exemption.

Amendment 38
Klaus-Heiner Lehne

Proposal for a regulation
Article 13 – paragraph 3

Text proposed by the Commission

Amendment

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.

deleted

Or. de

Amendment 39
Rebecca Taylor

Proposal for a regulation
Article 13 – paragraph 3

Text proposed by the Commission

Amendment

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.

3. The Commission **may by means of implementing acts determine** 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. **Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 19(2).**

Or. en

Justification

The use of a implementing act procedure with an advisory committee oversight must be used here instead of delegated acts, as the it relates to uniform conditions for implementing the Regulation.

Amendment 40 Klaus-Heiner Lehne

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.

Or. de

Amendment 41 Rebecca Taylor

Proposal for a regulation Article 15 – paragraph 3 – introductory part

Text proposed by the Commission

Amendment

3. The Commission shall ***be empowered to*** adopt ***delegated*** acts in accordance with Article 20:

3. The Commission shall adopt ***implementing*** acts in accordance with Article ***19(2) in order to:***

Or. en

Justification

Article 15 establishes a new traceability system and therefore the determination of potential groups of products, or products should be determined by implementing acts using the examination procedure so that proper consultation is undertaken.

Amendment 42 **Rebecca Taylor**

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

Text proposed by the Commission

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

Amendment

(a) **determine** 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;

Or. en

Amendment 43 **Rebecca Taylor**

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

Text proposed by the Commission

(b) **specifying** the data which economic operators shall collect and store by means of the traceability system referred to in paragraph 2.

Amendment

(b) **specify** the data which economic operators shall collect and store by means of the traceability system referred to in paragraph 2.

Or. en

Amendment 44 **Klaus-Heiner Lehne**

Proposal for a regulation **Article 20**

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.

Or. de

