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Committee on the Internal Market and Consumer Protection

2013/0049(COD)

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DRAFT 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: [...].

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	4
EXPLANATORY STATEMENT	49

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 2013¹,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinions of the Committee on International Trade, the Committee on Economic and Monetary Affairs, the Committee on Industry Research and Energy and the Committee on Legal Affairs, (A7-0000/2013),
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

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

Amendment

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

¹ Not yet published in the Official Journal.

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.

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.

Or. en

Amendment 2

Proposal for a regulation

Recital 2

Text proposed by the Commission

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

Amendment

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

Or. en

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 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.

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

Or. en

(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 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, of ..., on market surveillance of products]* no further provisions on market surveillance or RAPEX are

necessary in this Regulation.

** OJ: please insert the number, date and reference of Regulation on MSP (COD 2013/0048)*

Or. en

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.

Or. en

(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

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

Amendment

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

Or. en

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.

Or. en

Amendment 9

Proposal for a regulation

Recital 6 c (new)

Text proposed by the Commission

Amendment

(6c) Although this Regulation covers the safety of products in the context of the provision of services, there is still a need for Union legislation as regards to general safety requirements for consumer services since safety of consumer services is not covered by any Union legislation. Due to the current fragmented approach towards safety of consumer services between Member States, the Commission should assess and explore the feasibility of introducing a horizontal Union framework on safety of consumer services.

Or. en

Justification

The Commission must present in the nearest future a legislative framework for the safety of services since the current situation has caused a legal loophole. A uniform Regulation on the issue must complement the inclusion of products exposed to consumers in the context of a service into the scope of this Regulation.

Amendment 10

Proposal for a regulation **Recital 7**

Text proposed by the Commission

(7) Despite the development of sector-specific Union harmonisation legislation that addresses safety aspects of specific products or categories of products, it is practically impossible to adopt Union legislation for all consumer products that exist or may be developed. There is therefore still a need for a legislative framework of a horizontal nature to **fill gaps and ensure consumer protection not otherwise ensured**, in particular with a view to achieving a high level of protection of safety and health of consumers, as required by **Article 114 and Article 169 of the TFEU**.

Amendment

(7) Despite the development of sector-specific Union harmonisation legislation that addresses safety aspects of specific products or categories of products, it is practically impossible to adopt Union legislation for all consumer products that exist or may be developed. There is therefore still a need for a **broad-based**, legislative framework of a horizontal nature to **deal with such products, and also to cover gaps and to complement provisions in existing or forthcoming specific legislation**, in particular with a view to achieving a high level of protection of safety and health of consumers, as required by **Articles 114, 169 and 191 TFEU**.

Or. en

(See wording of recital 5 of Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety)

Justification

This Regulation shall continue to act as a 'safety net' for product safety as currently underlined in the General Product Safety Directive where it 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.

Amendment 11

Proposal for a regulation Recital 8

Text proposed by the Commission

(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.

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 ***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.

Or. en

Justification

Editorial clarification.

Amendment 12

Proposal for a regulation Recital 10

Text proposed by the Commission

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

Amendment

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

Or. en

(See wording of recital 7 of Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety)

Justification

Clarification in order to underline the inclusion of online selling in the scope of this Regulation.

Amendment 13

Proposal for a regulation Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) Given the number of products from third countries bought online by consumers which may not be in compliance with European standards, thus endangering the safety and health of consumers, the Commission should focus on strengthening consumers' confidence in e-commerce through education and awareness campaigns. The Commission should also explore the possibility of introducing an e-Trustmark by means of which manufacturer indicates on its website that it is aware of the provisions and requirements of this Regulation.

Or. en

Amendment 14

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.

Or. en

Justification

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

Amendment 15

Proposal for a regulation
Recital 12

Text proposed by the Commission

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

Amendment

(12) This Regulation should also apply to, ***and thus prohibit the marketing, import and manufacture or export of***, consumer products which, although not foodstuff, resemble foodstuff and are likely to 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.

Or. en

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 16

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 on the precautionary principle of 2 February 2000, is a fundamental principle for the safety of products and for the safety of consumers and should be taken into due account when assessing the safety of a product.

Or. en

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

Amendment 17

Proposal for a regulation Recital 13 b (new)

Text proposed by the Commission

Amendment

(13b) The precautionary principle plays a fundamental role in consumer protection in Union case-law. In particular, the principle should be interpreted in the light of the judgment of the General Court of 26 November 2002 in the joined Cases T-74/00 and others, Artedogan GmbH and Others v Commission of the European Communities¹ where it has been established that even though the precautionary principle is mentioned in the TFEU only in connection with environmental policy, it is broader in scope and is intended to be applied in order to ensure a high level of protection of health, consumer safety and the environment.

Or. en

(See Judgment of the Court of First Instance of 26 November 2002 in joined cases T-74/00, T-76/00, T-83/00 to T-85/00, T-132/00, T-137/00 and T-141/00))

Justification

In the judgment of the joined cases T-74/00 and others it is emphasised, especially in paragraph 181-186, that the precautionary is a horizontal principle applying to more than just environmental policies.

Amendment 18

Proposal for a regulation
Recital 13 c (new)

Text proposed by the Commission

Amendment

(13c) This Regulation should take into account so-called "child-appealing products" whose design resembles by any means another object commonly recognised as appealing to, or intended for use by, children. In particular, the notion of child-appealing products should be taken into account when assessing the safety of a product.

Or. en

Amendment 19

Proposal for a regulation
Recital 13 d (new)

Text proposed by the Commission

Amendment

(13d) 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 [.../..., of the European Parliament and of the Council, of ..., on market surveillance of products].*

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

Or. en

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 20

Proposal for a regulation

Recital 14

Text proposed by the Commission

(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.

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 ***provided that the precautionary principle has been taken into due account.***

Or. en

Amendment 21

Proposal for a regulation

Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) Experience has shown that CE marking wrongly gives consumers the impression that the product has been

approved by authorities as safe for consumers. The CE+ marking, indicating that the product has been tested and found compliant with the safety requirements laid down in this Regulation by an accredited independent third party body competent to assess the safety of the specific product clarifies that the original CE marking is the manufacturer's indication of conformity. The CE+ marking should clearly indicate to consumers that the product has been deemed safe by a competent body and should be seen as a supplement to the current CE marking.

Or. en

Amendment 22

Proposal for a regulation Recital 15

Text proposed by the Commission

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

Amendment

(15) Economic operators should be responsible for the compliance of products, in relation to their respective roles in the supply chain, so as to ensure a high level of protection of the health and safety of consumers. ***In 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, of 9 July 2008, on a common framework for the marketing of products¹, 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 in this Regulation.***

¹ 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 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, building on best practices and input from stakeholders, establish an efficient tool for risk assessment that the manufacturers can use when designing products.

Or. en

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 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, 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 the identification of the product. The distributor should not check each product individually, unless the distributor considers that the manufacturer or importer have not fulfilled their requirements.

Or. en

(See wording of Commission document "Toy Safety Directive 2009/48/EC - an explanatory guidance document" of 11 September 2011, p. 146)

Justification

It must be underlined that the distributors shall not check each product individually. Through this recital, the provisions regarding obligations of distributors is explained without changing the wording of the article in question.

Amendment 25

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 improve the notion of safety by design of products through bilateral cooperation with the market surveillance authorities of third countries.

Or. en

(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 26

Proposal for a regulation Recital 20 b (new)

Text proposed by the Commission

Amendment

(20b) The current traceability systems and identification procedures should be effectively enforced and improved. In this regard, assessments and evaluations on the use of the technologies in place are necessary.

Or. en

(See wording of paragraph 23 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 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.

Or. en

Amendment 28

Proposal for a regulation Recital 20 d (new)

Text proposed by the Commission

Amendment

(20d) When identifying for which specific products the economic operators who place and make available those products available on the market shall establish or adhere to a system of traceability, the Commission should first and foremost take into account the nature of the injury for which it was notified in the Pan-European Injury Database and the number of notifications in the RAPEX system as well as the seriousness of the risks notified. The Commission should furthermore involve relevant stakeholders, in particular the European Market Surveillance Forum as set up in Regulation (EU) No [...]. of the European Parliament and of the Council, of ..., on market surveillance of products]..*

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

Or. en

Amendment 29

Proposal for a regulation Recital 20 e (new)

Text proposed by the Commission

Amendment

(20e) Building on the establishment of national contact points in 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 State¹, 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.

¹ OJ L 218, 13.8.2008, p. 21.

Or. en

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

(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, ***where*** its given address is different from the actual place of manufacture, ***where the name and address of the manufacturer is missing altogether***

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 because the address was on the packaging that cannot be found. 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. en

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 place of production is. Thus, the indication of origin will be the sole means by which the consumers are able to establish what the country of production is.

Or. en

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.

Or. en

Amendment 33

Proposal for a regulation Recital 30 a (new)

Text proposed by the Commission

Amendment

(30a) Penalties based on infringements of this Regulation should be earmarked for the financing of the market surveillance authorities in the Member State in question which imposes a sanction on an economic operator.

Or. en

Justification

The provisions of sanctions must furthermore be streamlined with the adopted provisions in the forthcoming Regulation on Market Surveillance (COM(2013)75).

Amendment 34

Proposal for a regulation Recital 30 b (new)

Text proposed by the Commission

Amendment

(30b) Due to the fragmented and differentiated levels of penalties between the Member States it is necessary to look into the feasibility of introducing in a coordinated manner penalties, including heavy fines, for economic operators who deliberately introduce dangerous or non-compliant products into the internal market. Thus, product bans should be made public as often as possible in order to increase the visibility of border controls and market surveillance and to deter criminal market operators.

Or. en

(See wording of paragraph 4 of European Parliament resolution of 8 March 2011 on the revision of the General Product Safety Directive and market surveillance (2010/2085(INI)))

Amendment 35

Proposal for a regulation

Article 1

Text proposed by the Commission

Amendment

This Regulation lays down rules on the safety of consumer products placed or made available on the Union market.

This Regulation lays down rules on the safety of consumer products placed or made available on the Union market. ***The main objective of this Regulation is to ensure that products placed or made available on the market are safe.***

Or. en

(Cf. Article 1 of Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety)

Justification

The objective of this Regulation must always be to have a safe Single Market.

Amendment 36

Proposal for a regulation

Article 2 – paragraph 3 – point h

Text proposed by the Commission

(h) equipment on which consumers ***ride or*** travel which is operated by a service provider within the context of a service provided to consumers;

Amendment

(h) equipment on which consumers travel which is operated by a service provider within the context of a service provided to consumers;

Or. en

Amendment 37

Proposal for a regulation

Article 2 – paragraph 4

Text proposed by the Commission

4. Chapters II ***to IV*** of this Regulation 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.***

Amendment

4. Chapters II ***and III*** of this Regulation shall not apply to products subject to requirements ***laid down in Union harmonisation legislation or pursuant to it. Where products are subject to specific safety requirements imposed by Union legislation, Chapters II and III of this Regulation shall apply only to the aspects and risks or categories of risks not covered by those requirements.***

Or. en

Justification

This Regulation shall continue to act as a 'safety net' for product safety as currently underlined in the General Product Safety Directive where it 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.

Amendment 38

Proposal for a regulation

Article 3 – point 1

Text proposed by the Commission

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

Amendment

(1) 'safe product' means any 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 ***and in compliance with the precautionary principle;***

Or. en

Amendment 39

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

Text proposed by the Commission

Amendment

(1a) 'dangerous product' means any product which is not a safe product within the meaning of point 1;

Or. en

(See wording of Article 2 (c) of Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety)

Amendment 40

**Proposal for a regulation
Article 3 – point 17**

Text proposed by the Commission

Amendment

(17) 'serious risk' means a risk ***requiring rapid intervention and follow-up,*** including cases where the effects may not

(17) 'serious risk' means a risk ***or an exposure to risk, emergency or danger,*** including cases where the effects may not

be immediate.

be immediate, ***requiring rapid intervention and follow-up by the public authorities;***

Or. en

(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 41

Proposal for a regulation Article 3 – point 17 a (new)

Text proposed by the Commission

Amendment

(17a) 'service' means any self-employed economic activity, normally provided for remuneration, as referred to in Article 57 TFEU;

Or. en

(See wording of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, OJ L 376, 27.12.2006, p. 36)

Amendment 42

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.

(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 43

Proposal for a regulation

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The presumption of safety shall not prevent market surveillance authorities from taking action under the provisions of Regulation (EU) No [...]/... of the European Parliament and of the Council, of ..., on market surveillance of products]* where there is new evidence that, despite such conformity or compliance, the product presents a risk.

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

(See wording of proposal for a Regulation of the European Parliament and of the Council on market surveillance of products (COM(2013)75), paragraph 13 (3).)

Amendment 44

Proposal for a regulation

Article 6 – title

Text proposed by the Commission

Amendment

Aspects for assessing the safety of products

Aspects for assessing the ***compliance of the general safety requirement*** of products

Or. en

Justification

The assessment of products in this Regulation is an assessment of the compliance of the requirements of the product, not an assessment of safety as a broad definition.

Amendment 45

Proposal for a regulation

Article 6 – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

1. In the absence of Union harmonisation legislation, European standards or health and safety requirements laid down in the law of the Member State where the product is made available on the market as referred to in points (a), (b) and (c) of Article 5, the following aspects shall be taken into account when assessing whether a product is safe, in particular:

1. In the absence of Union harmonisation legislation, European standards or health and safety requirements laid down in the law of the Member State where the product is made available on the market as referred to in points (a), (b) and (c) of Article 5, the ***precautionary principle as laid down in Article 191(2) TFEU and the*** following aspects shall be taken into account ***by economic operators and market surveillance authorities of the Member States*** when assessing whether a product is safe, in particular:

Or. en

Amendment 46

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

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

vulnerable consumers;

elderly and the disabled, while taking into account vulnerability due to specific product categories;

Or. en

Justification

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

Amendment 47

Proposal for a regulation

Article 6 – paragraph 1 – subparagraph 1 – point e

Text proposed by the Commission

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

Amendment

(e) the appearance **and characteristics** of the product, **its packaging and its presentation to consumers or other purchasers. This includes potentially misleading appearances, in particular where a product**, although not *designed for use by them*, resembles **in any way to another object commonly recognised as appealing to, or intended for use by, children, because of its design and** characteristics.

Or. en

(See wording of Commission decision 2008/357/EC L 120, 7.5.2008, p. 11)

Justification

There is a need for having child appealing products included in a comprehensive Union legislative framework. The purpose is to always take these specifications and characteristics into the assessment of the safety of products.

Amendment 48

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 its nature, composition and intended use.

Or. en

Justification

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

Amendment 49

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ab) the precautionary principle;

Or. en

Amendment 50

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 as established in Regulation (EU) No [...]/... of the European Parliament and of the Council, of ..., on market surveillance of products]*.

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

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 51**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 52**Proposal for a regulation****Article 6 a (new)**

Text proposed by the Commission

Amendment

Article 6a***CE+ marking***

1. The CE+ marking shall be affixed only by the manufacturer or his authorised representative.

2. The CE+ marking shall be affixed only to consumer products covered by this Regulation, and shall not be affixed to any other product.

3. By affixing or having affixed the CE+ marking, the manufacturer indicates that the product has been tested and found compliant with the safety requirement in this Regulation by an accredited body

competent to assess the safety of the specific product.

4. The CE+ marking shall be the only marking which attests that the product has been tested and found to be a safe product.

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

6. Member States shall ensure the correct implementation of the regime governing the CE+ marking and take appropriate action in the event of improper use of the marking. 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.

Or. en

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 53

Proposal for a regulation

Article 8 – paragraph 4 – subparagraph 1 – introductory part

Text proposed by the Commission

Proportionate to the possible risks of a product, manufacturers shall draw up a

Amendment

Proportionate to the possible risks of a product, manufacturers shall draw up a

technical documentation. The technical documentation shall contain, *as appropriate*:

technical documentation. The technical documentation shall contain:

Or. en

Amendment 54

Proposal for a regulation

Article 8 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The Commission shall be empowered to adopt delegated acts in accordance with Article 20 specifying the aspects to be examined by the manufacturer when analysing the possible risks, including the format of the analysis referred to in point (b) of the first subparagraph of this paragraph. When adopting those acts, the Commission shall take into account any existing instruments of risk analysis to minimise the extra burden on manufacturers, including best practices among manufacturers.

Or. en

Justification

The amendment is related to safety by design and obliges the manufacturers to do thorough risk analysis as early as possible in the design phase of the product. The Commission is called upon to use existing instruments already available and especially link it to the work currently being undertaken in the Multi Annual Plan to establish an EU general risk assessment for products.

Amendment 55

Proposal for a regulation

Article 8 – paragraph 8 – subparagraph 1

Text proposed by the Commission

Amendment

Manufacturers shall ensure that their

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.*

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.

Or. en

Justification

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

Amendment 56

Proposal for a regulation Article 8 – paragraph 9

Text proposed by the Commission

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

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, ***and adequately and effectively warning 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.

Or. en

(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 57

Proposal for a regulation

Article 8 – paragraph 9 a (new)

Text proposed by the Commission

Amendment

9a. 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 packaging of the product or be otherwise clearly visible to the consumer before the purchase, including in cases where the purchase is made online.

Or. en

Justification

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

Amendment 58

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 which can be easily understood by consumers, as determined by the Member State in which the product is made available.

Or. en

Justification

The deleted sentence is not part of Article R4 (4) of Decision 768/2008/EC.

Amendment 59

Proposal for a regulation Article 10 – paragraph 8

Text proposed by the Commission

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

Amendment

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

Or. en

(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 60

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

Text proposed by the Commission

Amendment

5a. Warnings which can 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 where the purchase is made online.

Or. en

Justification

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

Amendment 61

Proposal for a regulation

Article 13 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) only a limited number of well-identified products are not safe;

deleted

Or. en

Amendment 62

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 almost impossible to define what represents 'useful information for the authorities or the public'.

Amendment 63

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

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. ***These delegated acts***

on the product itself.

shall be adopted in sufficient time before the entry into force of this Regulation.

Or. en

Justification

It is necessary for economic operators to know in due advance which products are covered by Article 13.

Amendment 64

**Proposal for a regulation
Article 15 – title**

Text proposed by the Commission

Amendment

Traceability of products

Traceability of ***certain*** products

Or. en

Justification

Addition necessary since the proposed traceability system only covers specific products or product categories.

Amendment 65

**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.

Or. en

(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 66

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.

Or. en

(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 67

Proposal for a regulation Article 15 – paragraph 1

Text proposed by the Commission

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

Amendment

1. For **products notified in the RAPEX system for bearing a serious risk to health and safety of persons or notified in the Pan-European Injury Database as established in Regulation (EU) No [.../... of the European Parliament and of the Council, of ..., on market surveillance of products]*, or for products** which, due to their specific characteristics or specific conditions of distribution or usage, **can be deemed as** 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.

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

Or. en

Justification

Recurring notification in the RAPEX system or notification in the Pan-European Injury Database are clear indicators that special traceability measures are needed for the specific group of products and the Commission should be empowered to take necessary steps after consultation of stakeholders. By including products not yet notified in the RAPEX system, the Commission is empowered to take the necessary steps without having to wait for a RAPEX notification.

Amendment 68

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

Text proposed by the Commission

(a) determining the products, categories or

Amendment

(a) determining the **products notified via**

groups of products susceptible to bear a serious risk to health and safety of persons as referred to in paragraph 1;

*the RAPEX system or in the Pan-European Injury Database and the products, categories or groups of products **that can be deemed** susceptible to bear a serious risk to health and safety of persons as referred to in paragraph 1.*

Or. en

Justification

Recurring notification in the RAPEX system or notification in the Pan-European Injury Database are clear indicators that special traceability measures are needed for the specific group of products and the Commission should be empowered to take necessary steps after consultation of stakeholders. By including products not yet notified in the RAPEX system, the Commission is empowered to take the necessary steps without having to wait for a RAPEX notification.

Amendment 69

Proposal for a regulation

Article 16 – paragraph 1 – subparagraph 2

Text proposed by the Commission

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).

Amendment

The Commission shall adopt the request referred to in the first subparagraph by *means of* implementing *acts after consultation with all relevant stakeholders as well as with the committee set up by Article 19(1)*. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19(3).

Or. en

(See wording of Article 10, paragraph 2, of Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation.)

Justification

Stakeholders and sectoral experts shall - as outlined in Regulation (EU) No 1025/2012 on European standardisation - be consulted when the Commission requests standards.

Amendment 70

Proposal for a regulation

Article 17 – paragraph 1 – introductory part

Text proposed by the Commission

1. When a Member State or the European Parliament considers that a European standard referred to in Article 16 does not entirely satisfy the requirements it aims to cover and the general safety requirement laid down in Article 4, it shall inform the Commission thereof with a detailed explanation and the Commission shall decide:

Amendment

1. When a Member State or the European Parliament considers that a European standard referred to in Article 16 does not entirely satisfy the requirements it aims to cover and the general safety requirement laid down in Article 4, it shall inform the Commission thereof with a detailed explanation and the Commission shall, ***after consulting the committee set up by Article 19(1)***, decide:

Or. en

(See wording of Article 11, paragraph 1, of Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation.)

Justification

The sectoral experts of the Member States must be involved when the Commission makes a decision regarding objections to harmonised standards.

Amendment 71

Proposal for a regulation

Article 18 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

If the penalties were to take in account the size of the undertakings, possible rogue traders would not be deterred since continuous infringements could easily be done by small undertakings while having a serious effect on the safety of products on the Single Market.

Amendment 72

Proposal for a regulation

Article 18 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The penalties shall be earmarked for market surveillance activities in the Member State concerned.

Or. en

Amendment 73

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 ... *, 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 ***in accordance with Article 4 of this Regulation***, taking into account its impact on business and in particular on small and medium-sized enterprises. ***That report shall assess inter alia the implications and interactions of Regulation (EU) No 1025/2012 with this Regulation.***

**** OJ: please insert the date: five years after the date of application of this***

Regulation.

Or. en

Amendment 74

Proposal for a regulation

Article 21 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

No later than ...*, the Commission shall assess the feasibility of introducing in a coordinated manner a regime for penalties for economic operators who deliberately introduce dangerous or non-compliant products into the internal market and transmit that report to the European Parliament and the Council.

**** OJ: please insert the date: five years after the date of application of this Regulation.***

Or. en

Amendment 75

Proposal for a regulation

Article 22 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Articles 9 and 10 of Regulation (EC) No 764/2008 are repealed with effect from ...*.

**** OJ: Please insert the date of application of this Regulation.***

Or. en

Justification

The repeal is a consequence of introducing the Product Safety Contact Points into 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 surveillance¹. The Regulation on Consumer Product Safety touches upon a large part of the Single Market. As the Commission states in its impact assessment², 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 unsafe³.

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 figures⁴. 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 Directive¹ 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 Directive² 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/EC³ 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 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.

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

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 Rapporteur 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 RAHBK, 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.

