

Consumer product safety

2013/0049(COD) - 13/02/2013 - Legislative proposal

PURPOSE: to ensure the functioning of the internal market as regards products intended for consumers by laying down uniform rules regarding a general safety requirement (product safety and market surveillance package).

PROPOSED ACT: Regulation of the European Parliament and of the Council (repealing Council Directive 87/357/EEC and Directive 2001/95/EC on general product safety).

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the free movement of safe consumer products is one of the cornerstones of the European Union. Directive 2001/95/EC on general product safety (GPSD) 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.

Overlaps of market surveillance rules and obligations of economic operators laid down in various pieces of Union legislation (the GPSD, the Regulation (EC) No 765/2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and sector-specific Union harmonisation legislation that also covers consumer products) has led to confusion on the part of both economic operators and national authorities and has seriously hampered the effectiveness of market surveillance activity in the Union.

The Commission considers that 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 In the interest of clarity, Directive 2001/95/EC should be repealed and replaced by this Regulation.

The proposal is part of the "Product Safety and Market Surveillance Package" which also includes a [proposal for a single market surveillance regulation](#) and a multiannual action plan for market surveillance covering the period 2013-2015. The [Single Market Act II](#), adopted in 2012, confirms the "Product Safety and Market Surveillance Package" as a key action to improve the safety of products circulating in the EU.

IMPACT ASSESSMENT: the [impact assessment](#) prepared by the Commission thus covers aspects related to both this proposal and the proposal for a new Market Surveillance Regulation. The Commission's Impact Assessment Board delivered a favourable opinion in September 2012.

LEGAL BASIS: Article 114 of the Treaty on the Functioning of the European Union.

CONTENT: this proposal for a Regulation on consumer product safety, which will replace Directive 2001/95/EC on general product safety (GPSD), concerns manufactured non-food consumer products. It aims at clarifying the regulatory framework for consumer products taking into account legislative developments in recent years.

Like the GPSD, the proposed Regulation requires that consumer products must be "safe", sets certain obligations on economic operators and contains provisions for the development of standards in support of the general safety requirement.

The main elements of the proposal are as follows:

Scope and definitions: the proposed Regulation clearly delimits its scope of application compared to sectoral Union harmonisation legislation.

- Whilst the general principle that all non-food consumer products must be safe applies across the board, the more detailed obligations on economic operators only apply to those operators that are not subject to corresponding obligations laid down in harmonising legislation covering a specific product sector.
- The definitions section has been updated and, where applicable aligned with the New Legislative Framework for the Marketing of Products.

General safety requirement and obligations of economic operators: the general requirement, laid down already in the GPSD, that all consumer products must be safe when placed or made available on the Union market has been kept. However, its operation in practice will be significantly simplified due to the introduction of a clear link with sector-specific legislation and a simplification of the rules on standards.

On the basis of Decision No 768/2008/EC on a common framework for the marketing of products, the proposal:

- lays down the elementary obligations of economic operators (manufacturers, importers, distributors) involved in the supply chain of consumer products insofar as they are not subject to corresponding requirements under sector specific Union harmonisation legislation. These obligations concern issues related to labelling, product identification, corrective actions to be taken in case of unsafe products and information of the competent authorities;
- requires economic operators to be able to identify the operators who supplied them with the product and to whom they supplied it. Where justified due to the risks inherent to specific types of products, the Commission should be empowered to adopt measures requiring economic operators to establish or adhere to an electronic traceability system.

Use of European standards: like the GPSD, also the proposal for the new Regulation favours the use of standards in support of the implementation of the general safety requirement. However, the process to identify existing European standards or to ask for the development of European standards that would give rise to presume that a product is safe has been significantly simplified and aligned to Regulation (EU) No 1025/2012 that sets a new overarching framework for European standardisation.

Market surveillance and RAPEX: the provisions regarding market surveillance and RAPEX that are currently contained in the GPSD have been transferred to the proposal for a new single Market Surveillance Regulation. That new Regulation would produce a one-tier system in

which all market surveillance rules are brought together in a single instrument and in which RAPEX will be the single alert system regarding products presenting a risk.

BUDGETARY IMPLICATION: the proposal does not have other budgetary implications than those related to the proper management of the Regulation which, in form of the GPSD, is already part of the Union law acquis. The budgetary implications are already foreseen in the existing or proposed programmes and respect the Commission proposal for the new multiannual financial framework.

According to the financial statement, the total appropriations (operational appropriations, human resources and administrative expenditure) amount to EUR 12 019 million in commitments for 2015-2020.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.