

Market surveillance of products

2013/0048(COD) - 13/02/2013 - Legislative proposal

PURPOSE: Commission proposal on a single regulation on market surveillance of products aimed at simplifying the Union framework on market surveillance (product safety and market surveillance package).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

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

BACKGROUND: in a single market in which products circulate freely through 27 Member States, market surveillance needs to be highly coordinated and capable of reacting rapidly over a huge area. However, market surveillance has not kept pace with developments in the Union regulatory framework. Whilst advances have been made over the last decade, in particular with the implementation of Directive 2001/95/EC (General Product Safety Directive) and Regulation (EC) 765/2008 setting out the requirements for accreditation and market surveillance, the overlap of market surveillance rules and the obligations of economic operators laid down in various pieces of Union legislation 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. Different product evaluation requirements and procedures apply depending on the category of product involved. The proposal aims to simplify the rules.

It should be noted that in response to calls from the European Parliament, the proposal was added to the Product Safety and Market Surveillance Package, which also includes a [proposal for a regulation on consumer product safety](#) (replacing the GPSD) and a proposal on multi-annual action plan for market surveillance covering the period 2013-2015.

IMPACT ASSESSMENT: the Commission carried out an [impact assessment](#) and a favourable opinion was delivered by the Impact Assessment Board in 2012.

LEGAL BASIS: Articles 33, 114 and 207 of the Treaty on the Functioning of the European Union.

CONTENT: this proposal aims at clarifying the regulatory framework for market surveillance in the field of non-food products. It merges the rules on market surveillance of the GPSD, Regulation (EC) 765/2008 and many sector-specific pieces of Union harmonisation legislation into a single legal instrument that applies horizontally across all sectors. The main aims are as follows:

- to reduce the number of pieces of legislation containing market surveillance rules: the 3 tier system spread across the GPSD, Regulation (EC) 765/2008 and a range of sector-specific legislation will be reduced to a one tier system in which all those rules are brought together in a single instrument;
- to eliminate overlaps in the current system: the new regulation will (a) dispense with the distinction between consumer and professional products for market surveillance purposes; (b) avoid making a distinction between harmonised products and non-harmonised products except where this is unavoidable in applying certain specific provisions. To the greatest extent possible the applicable rules will be the same for all products;
- to dovetail the RAPEX and Union evaluation procedures: at present, there are two separate procedures operating, sometimes in parallel, which require Member States to notify to the Commission and to other Member States certain market surveillance action taken at national level. This is an especially problematic aspect of the overlapping categories of products mentioned above. Under the new Regulation the two procedures become a single procedural flow with certain events triggering a single notification to the other Member States and the Commission (made using either the proven RAPEX rapid alert system or the Information and Communication System for Market Surveillance in accordance with the distinction made in the Regulation). In urgent situations the Commission is empowered to adopt measures requiring consistent action across the EU against products presenting a serious risk;
- to make the legislation more accessible: current market surveillance provisions are not based around a chronological flow of events. The new Regulation sets out the whole process of a market surveillance exercise in a chronological, sequential manner. It presents a chain of events, incorporating relevant provisions on publication of information, notification etc. at each stage of the procedure. This approach substantially improves the accessibility and user-friendliness of the legislation, and hence its effectiveness.

BUDGETARY IMPLICATIONS: the budgetary implications are already envisaged in existing or proposed programmes and the initiative will be financed through redeployment of existing resources. According to the financial statement, the total appropriations (operational appropriations, human resources and administrative expenditure) amount to EUR 39 276 million in commitments for 2015-2020.