Market surveillance of products

2013/0048(COD) - 22/10/2013 - Committee report tabled for plenary, 1st reading/single reading

The Committee on the Internal Market and Consumer Protection adopted the report by Sirpa PIETIKÄINEN (EPP, FI) on the proposal for a regulation of the European Parliament and of the Council on market surveillance of products and amending Council Directives 89/686/EEC and 93/15/EEC, and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 1999/5/EC, 2000/9/EC, 2000/14/EC, 2001/95/EC, 2004/108/EC, 2006/42/EC, 2006/95/EC, 2007/23/EC, 2008/57/EC, 2009/48/EC, 2009/105/EC, 2009/142/EC, 2011/65/EU, Regulation (EU) No 305/2011, Regulation (EC) No 764/2008 and Regulation (EC) No 765/2008 of the European Parliament and of the Council.

The committee recommended that Parliament adopt its position in first reading following the ordinary legislative procedure, and amend the Commission proposal as follows:

Precautionary principle: Members wanted the provisions of the Regulation to be based on the precautionary principle. The principle, is a fundamental principle for the safety of products and for the safety of consumers and should be taken into due account by market surveillance authorities when assessing the safety of a product.

Intermediary service providers: these intermediaries, such as online hosts and registrars, should be obliged to cooperate with market surveillance authorities and take corrective actions where required, like other economic operators, in order to prevent the selling of unsafe or otherwise non-compliant products online.

Product presenting an emerging risk: market surveillance authorities should also tackle products presenting an emerging risk. A definition is proposed in order to be easily applied in a harmonised manner across the EU

Market surveillance: this should be carried out with a view to ensuring that products presenting a risk and non-compliant products are not placed or made available on the Union market and, where such products have been made available, effective and proportionate measures are taken to remove the risk presented by the product or to resolve non-compliance.

Member States shall report on the market surveillance activities and external border controls to the Commission every year. The Commission shall make that information available to the public electronically and, where appropriate, by other means.

Market surveillance authorities: each Member State shall grant market surveillance authorities the powers and entrust them with the resources and means necessary for the proper performance of their tasks. The Commission shall evaluate whether those powers and resources are sufficient for the proper performance of that Member State's market surveillance obligations.

Effective surveillance: Market surveillance authorities shall organise their activities in such a way that maximum effectiveness can be achieved. They shall, accordingly, carry out the sample checks on sufficient numbers of products made available on the market, enabling conformity and the real risk posed to be assessed.

Market surveillance authorities must also:

- alert users in their territories without delay of the identity of products that those authorities have identified as presenting a risk. Where available, that information shall also include data on the manufacturer, retail channel and period of sales;
- cooperate with economic operators and other competent national authorities to prevent or reduce risks caused by products;
- follow up consumer complaints within a reasonable time frame;
- verify that corrective action has been taken in a timely manner;
- monitor accidents and damage to health which are suspected to have been caused by those products;
- be encouraged to participate in national standardisation activities aimed at the development or revision of standards requested by the Commission.

The levels and methods for calculation of fees applicable to economic operators must be included in the general market surveillance programmes.

Market surveillance programmes: general and sector-specific programmes must be drawn up with the input of key stakeholders concerned, including professional organisations, business organisations and consumer organisations,

General obligations of economic operators: the latter must make available to market surveillance authorities information that enables the precise identification of the product and facilitates the tracing of the product.

Economic operators shall cooperate with market surveillance authorities at their request, on any action taken to eliminate the risks presented by or non-compliance of products that they have placed or made available on the market.

Cooperation and exchange of information: Members considered that the European Market Surveillance Forum should serve as a platform for cooperation not only between the authorities but also between the authorities and the economic operators as well as other stakeholders such as consumer groups.

They stressed the importance of structured cooperation under the auspices of this Forum, which is yet to be established. They wished to strengthen the future role of the Forum and suggest that the Commission should consider proposing, when this Regulation is next reviewed, that the Forum is given the power to set binding recommendations as to the quality and practices of market surveillance.

Products presenting a risk: if the products in question present a serious risk, Members considered that preventing the product from being placed or made available on the market must be done Immediately.

Measures taken by market surveillance authorities: the relevant economic operator shall bear all of the expenses related to the destruction of products and the expenses incurred by the market surveillance authorities. Furthermore, market surveillance authorities shall charge fees for the relevant economic operators which are caught placing or making available non-compliant products and products presenting a risk on the Union market.

The Union rapid information system (RAPEX): this system must be constantly updated. RAPEX should also include notifications related to Food Contact Materials, moved there from the Rapid Alert System for Food and Feed (RASFF) platform.

Pan-European Injuries Database: the report required the Commission to adopt, two years after entry into force of the Regulation, delegated acts establishing a Pan-European Injuries Database which would cover all types of injuries, and in particular those related to products used at home and for leisure, transportation and work activities. The database shall be coordinated and operated by the Commission.

Deterrent penalties: Members proposed the introduction of EU-wide, harmonised administrative penalties. To add to the deterrent effect sought, the penalties imposed under the Regulation should also be made public. In addition to this the report proposed establishing a public blacklist of operators who repeatedly breach this Regulation.