

## **ANEC /BEUC comments on compliance and enforcement**

As noted in the EC Communication on the Goods Package, there are still too many unsafe and illicit products on the market, despite Regulation 765/2008/EC and the Single Market having celebrated its 25<sup>th</sup> anniversary. Indeed, testing by consumer organisations confirms many consumer products – both with and without CE-marking – are unsafe.

Although the EC proposal is a step in the right direction, we fear it represents only a 'quick fix' that fails to address the fundamental problems of market surveillance: lack of financial & human resources, and commitment of Member States to make these resources available.

We particularly welcome the proposals,

- to designate Union laboratories for testing and risk assessment;
- to oblige a legal representative in the EU;
- to give clear rights to surveillance authorities to carry out mystery shopping;
- to add transparency on CE marking and the activities of surveillance authorities;
- to provide EC resource to assist Member States.

Unfortunately,

- The focus of the proposal is more on the provision of information by market surveillance authorities to economic operators on their own legal obligations (e.g.: compliance partnership arrangements), rather than on the surveillance authorities and their activities;
- exclusion of non-harmonized products means the many consumer products falling under the General Product Safety Directive are not addressed;
- lessons from 'Dieselgate' are ignored e.g. no firm percentage of checks per Member State and product category is foreseen, when more products need to be tested in laboratories and under real-use conditions;
- the financing of market surveillance is ignored. A fee structure for inspections should be established to equip authorities with certain revenues to support their inspection work. The proposal also fails to include an innovation from regulating the car sector that a right to the EC to fine non-compliant manufacturers on top of the fines from Member States should national measures not be meaningful;
- the fragmentation of market surveillance, both between and within Member States, is overlooked when Regulation 765/2008/EC has not led to more effective national structures or collaboration between Member States;

- the EC wants to leave the monitoring of accident and injury data to Member States, when a pan-European accident & injury database is needed to ensure consistency of data across Member States. This would be a key tool for enforcement, development of new safety legislation, the improvement of technical standards and prevention of further injuries;
- clear rules on product traceability are missing (such as an obligation to add a batch-type or serial number, and full name and address of manufacturer and importer). This will undermine the effectiveness of requiring a legal representative in the EU as it may be impossible to link a dangerous product to that person in EU territory. Therefore, market surveillance authorities will neither be quicker nor more effective in keeping dangerous products off the shelves and away from online stores;
- the proposal fails to respond to the new challenges of connected products;
- despite the aim to establish better strategies and rights for surveillance authorities to carry out checks on online sales, it will be meaningless without a clarification of the legal obligations of platforms and other intermediaries;
- partnership agreements between authorities and economic operators could confuse the impartiality and independence of surveillance authorities, especially if fees are payable under such agreements;
- it is not clear whether the compliance network will allow all stakeholders – including consumer groups – to help prioritise and select common, simultaneous surveillance activities;
- there is no link between surveillance initiatives and other legislation to protect the rights of consumers. For example, effective procedures for consumer redress in all Member States have not yet been put in place. The possibility for collective actions and the link between non-compliance and guarantee rights should be provided.