

Public consultation for the targeted revision of the Toy Safety Directive

Fields marked with * are mandatory.

Introduction

About you

* Language of my contribution

- ☐ Bulgarian
- ☐ Croatian
- ☐ Czech
- ☐ Danish
- ☐ Dutch
- ☒ English
- ☐ Estonian
- ☐ Finnish
- ☐ French
- ☐ German
- ☐ Greek
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- ☐ Slovenian
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* I am giving my contribution as

- ☐ Academic/research institution
- ☐ Business association
- ☐ Company/business organisation
- ☒ Consumer organisation
- ☐ EU citizen
- ☐ Environmental organisation
- ☐ Non-EU citizen
- ☐ Non-governmental organisation (NGO)
- ☐ Public authority
- ☐ Trade union
- ☐ Other

* First name

Tania

* Surname

VANDENBERGHE

* Email (this won't be published)

tania.vandenberghe@anec.eu

* Organisation name

255 character(s) maximum

ANEC, The European consumer voice in standardisation

* Organisation size

- ☐ Micro (1 to 9 employees)
- ☒ Small (10 to 49 employees)
- ☐ Medium (50 to 249 employees)

- ☐ Large (250 or more)

Transparency register number

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507800799-30

* Country of origin

Please add your country of origin, or that of your organisation.

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| <input type="radio"/> Cuba | <input type="radio"/> Kyrgyzstan | <input type="radio"/> Russia | <input type="radio"/> Wallis and Futuna |
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| <input type="radio"/> Cyprus | <input type="radio"/> Latvia | <input type="radio"/> Saint Barthélemy | <input type="radio"/> Yemen |
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The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

☐ Anonymous

Only organisation details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

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Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

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Part I - Strengthening the protection of children against possible risks in toys

1. Strengthen the protection of children against chemical risks

The [evaluation](#) of the Toy Safety Directive identified several shortcomings – in particular concerning chemical risks – that could compromise the health and safety of children. In the EU, Regulation No 1272 /2008 on Classification, Labelling and Packaging (CLP) determines whether a substance or mixture displays properties that lead to it being classified as hazardous. The Toy Safety Directive generally bans in toys substances that are classified as carcinogenic, mutagenic or toxic for reproduction (CMRs) under the CLP Regulation, with only a few derogations. Substances under other hazardous classifications in the CLP Regulation are not currently covered by the general bans in the Directive. The chemicals strategy for sustainability commits to better protecting from the most harmful chemicals in toys and to extend the general bans to other most harmful chemicals, i.e. chemicals that affect the endocrine system, chemicals affecting the immune, neurological or respiratory systems, and chemicals toxic to a specific organ. The Directive already preventively bans carcinogenic, mutagenic or toxic-for-reproduction substances based on their hazardous properties and generic exposure and risk considerations. Limited exemptions to the general bans are allowed.

Chemicals with adverse effects on the environment, including endocrine disruptors and chemicals that are persistent, bioaccumulative and toxic, are regulated under REACH.

Question 1.

Do you agree or disagree that the EU rules on toy safety should set stricter requirements for chemicals in toys?

- ☒ Strongly agree
- ☐ Agree
- ☐ Neutral
- ☐ Disagree
- ☐ Strongly disagree
- ☐ No opinion

Question 2.

In your opinion, should the Toy Safety Directive address the following substances, and in what manner?

	They should be preventively banned from toys (generic risk assessment)	They should be banned only after they have been scientifically assessed and found unsafe for use in toys (specific risk assessment)	They should not be regulated in the Toy Safety Directive	I don't know /No opinion
Substances that are known or presumed to be disruptive to the endocrine system (endocrine disruptors for human health)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Substances that are suspected to be disruptive to the endocrine system (endocrine disruptors for human health)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Substances that affect the immune system	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Substances that affect the neurological system	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Substances that affect the respiratory system	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Substances toxic to a specific organ	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Substances that can cause an allergic response following skin contact (skin sensitizers)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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Other substances – please clarify:

It is important for the revised Toy Safety Directive to ban certain categories of chemicals (rather than individual substances), in line with the "Chemicals Strategy for Sustainability - Towards a Toxic-Free Environment" of the Commission published in October 2020, which foresees to use generic bans ("generic approach to risk management") not just for endocrine disruptors but also for CMRs, substances of very high concern (SVHCs) or sensitizing substances as default approach.

Question 3.

Currently, the Directive allows for a number of derogations to the general bans on substances. In line with the chemicals strategy for sustainability, other most harmful chemicals – i.e. those that affect the endocrine system, those that affect the immune, neurological or respiratory systems and those toxic to a specific organ – could also be subject to general bans.

Do you agree or disagree that the Toy Safety Directive should, by way of exception, allow the presence of chemicals which are subject to current and new general bans?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	No opinion
When these chemicals are contained in equal or smaller concentrations than required to be classified as hazardous under the relevant EU legislation (CLP Regulation)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
When these chemicals are inaccessible to children in any form, including inhalation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
When these chemicals are found to be safe for human health (as evaluated by a scientific committee) for that particular use in toys	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
When these chemicals are found to be safe for human health (as evaluated by a scientific committee) for that particular use in toys and there are no alternatives	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

When the use of these chemicals in toys is proven to be essential for society	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
There should be no derogations to the general bans	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other – please specify:

Question 4.

How do you assess the likely overall impact of introducing general bans for the most harmful chemicals as described in the previous question, with some limited derogations if necessary?

Impact on:

Scale from 5 (very positive), through 3 (neutral) to 1 (very negative)

	5	4	3	2	1	No opinion
Costs for companies to adapt to new chemical requirements	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Administrative burden for businesses	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Administrative burden for public authorities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Protection of children	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Consumer demand	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Price of toys	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Choice of toys	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Incentives for companies to place innovative products on the market	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Free movement of toys within the EU single market	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Competitiveness of small- and medium-sized enterprises (SMEs)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Competitiveness of larger firms	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Other – please specify:

Question 5.

Comments: (if appropriate)

Question 4 does not explain the answer options. Our answers should however be read according to the scale used in Q9 below: i.e. from 5 (very positive), through 3 (neutral) to 1 (very negative)

Question 6.

The Directive currently only empowers the Commission to set limit values for additional chemicals in toys for children under 36 months and in toys intended to be put in the mouth.

To what extent do you agree or disagree with the following statements?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	No opinion
The toy safety rules should continue to allow different requirements to be set for chemicals in toys for younger children (under 3 years) compared to older children	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
The toy safety rules should continue to allow different requirements to be set for chemicals in toys intended to be put in the mouth	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
The toy safety rules should allow new requirements to be set for chemicals in any toy should new scientific knowledge emerge	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other – please specify:

It is key to broaden the scope of Art 46 of the Toy Safety Directive, in order to allow for the establishment (or amendment) of provisions for all kinds of chemicals (not simply limits for specific substances) and for all kinds of toys (not only for children under 36 months), using a comitology procedure.

Question 7.

The evaluation concluded that the current limits for (the carcinogenic) nitrosamines and their precursors, the nitrosatable substances, appear to be too high.

Do you agree or disagree that limit values in the Directive for nitrosamines and nitrosatable substances should be lowered?

- ☒ Strongly agree
- ☐ Agree

- ☐ Neutral
- ☐ Disagree
- ☐ Strongly disagree
- ☐ No opinion

Question 8.

Do you think toys should be labelled with their chemical composition?

- ☒ Yes
- ☐ No
- ☐ No opinion

Question 8b.

Which toys should be labelled with their chemical composition? (multiple replies possible)

- ☐ All toys
- ☒ Toys which are chemical mixtures and lead to intense exposure (such as modelling clay, slimes, soap bubbles, finger paints, water paints or toy pens)
- ☒ Toys containing specific allergenic fragrances, as is the case in the current Toy Safety Directive
- ☒ Toys intended for children under 36 months (as these children are more vulnerable or more likely to put toys in their mouth)
- ☐ Other – please specify

Question 8c.

Which chemical substances in toys should be included on the label? (multiple replies possible)

- ☒ All chemical substances
- ☒ Allergenic fragrances
- ☒ Substances subject to general bans which may still be present in toys due to derogations
- ☐ Other – please specify

Question 9.

How do you assess the likely overall impacts of requiring the labelling of chemical substances in toys?

Impact on:

Scale from 5 (very positive), through 3 (neutral) to 1 (very negative)

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	5	4	3	2	1	No opinion
Costs for companies to adapt to new chemical requirements	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Administrative burden for companies	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Administrative burden for public authorities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Protection of children	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Consumer demand	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Price of toys	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Choice of toys	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Incentives for companies to place innovative products on the market	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Free movement of toys within the EU single market	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Competitiveness for small- and medium-sized enterprises (SMEs)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Competitiveness of larger firms	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Other – please specify:

Question 10.

Comments: (if appropriate)

ANEC welcomes the conclusion of the Commission's evaluation (November 2020) with respect to deficient chemical provisions. Chemical requirements for toys need to be strengthened significantly.

The revised TSD should make it possible - by using a Committee Procedure (and extending the scope of Art 46):

- to allow for the establishment or amendment of provisions for all kinds of chemicals and all kinds of toys (not only for children under 36 months)
- to ban certain categories of chemicals (rather than individual substances) in line with the new "Chemicals Strategy for Sustainability - Towards a Toxic-Free Environment" of the Commission published in October 2020, which foresees to use generic bans ("generic approach to risk management") not just for CMRs but also for e.g. substances of very high concern (SVHCs), sensitising substances or endocrine disruptors as default approach for consumer products and to set low practical enforcement thresholds for them (either for content or migration/release);
- to establish positive lists of authorised substances such as colourants or preservatives in line with current provisions in the Cosmetics Regulation (Regulation (EC) No 1223/2009);
- to provide for the possibility to make use of restrictions in other regulations or cross referencing e.g. to ban or restrict substances which are already banned or restricted in cosmetics such as preservatives without having to perform extensive risk assessments;
- to allow for the possibility to adopt labelling provisions such as a chemicals content declaration (a list of names and concentrations of ingredients)

2. Adapting the Directive to other risks

Digital technologies in toys may pose new risks for children, for example in terms of protection of data, privacy or risks linked to cybersecurity. The Directive is currently focused on the physical health and safety of children. Other pieces of horizontal EU legislation addressing aspects like cybersecurity and the protection of data or privacy in a more general manner (such as the Radio Equipment Directive, the General Data Protection Regulation or the proposed regulatory framework for artificial intelligence) also apply to toys.

Question 11.

Do you agree or disagree that the Toy Safety rules should address the following, in addition to the EU legislation on these aspects referred to above? (multiple replies possible)

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	No opinion
Privacy breaches (for example, in relation to information or data on the child being shared)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cybersecurity risks	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Psychological harm	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other – please specify:

Question 12.

What would be your preferred option to ensure that children are protected from new risks posed by the use of digital technologies?

- ☐ No action is needed
- ☒ Toys should comply with specific requirements for cybersecurity and privacy, additional to those for other connected consumer products
- ☐ Toys should comply with general requirements for cybersecurity and privacy for connected consumer products
- ☐ Toy safety rules should protect children from risks in toys not only for their physical health, but also for their mental health or cognitive development

Other – please clarify:

- Toy safety rules should protect children from risks in toys not only for their physical health, but also for their mental health or cognitive development
- The safety obligations of producers need to cover the entire lifespan of internet-connected toys, not only when placed on the market (e.g. software updates).

Question 13.

How do you assess the likely overall impacts of your preferred option for adapting the Directive to risks posed by the use of digital technologies?

Impact on:

Scale from 5 (very positive), through 3 (neutral) to 1 (very negative)

	5	4	3	2	1	No opinion
Costs for companies	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Administrative burden for companies	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Administrative burden for public authorities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Protection of children	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Consumer demand	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Price of toys	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Choice of toys	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Incentives for companies to place innovative products on the market	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Free movement of toys within the EU single market	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Competitiveness of small- and medium-sized enterprises (SMEs)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Competitiveness of larger firms	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Other – please specify:

Part II - Single market

The evaluation of the Directive found that many non-compliant toys are sold in the EU and that it is difficult to enforce the Directive, in particular for online sales. Enforcing the Toy Safety Directive in online sales is challenging: for instance because it is more difficult to reach online providers who place non-compliant products on the market, or to obtain the necessary documentation to assess the compliance of the toy with the Directive's requirements.

Question 14.

To what extent do the following issues hamper the application of the Directive?

	To a very large extent	To a large extent	To a moderate extent	To a small extent	Not at all
The chemical requirements for toys are set out in different pieces of legislation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
The Directive and its regular adaptations to new scientific knowledge need to be transposed into national law	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Testing and safety/conformity assessment is done by the manufacturer itself without the intervention of a qualified conformity assessment body	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Documentation on the conformity of the product is provided only at the request of the authorities	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There are no specific requirements for online sales	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other – please specify:

- Member States may have a different interpretation of the Directive and a different approach to the implementation of the text. The way the TSD is enforced also suffers from a lack of consistency: national authorities not only have different resources to enforce the legislation, but also different approaches to enforcement (ex. in the number of controls performed or in the methodologies used for toy testing, for imposing fines, etc). In some cases, this is also explained by the lack of specific provisions (ex. on warnings and chemicals) or by the complicated or ambiguous nature of some provisions which prevent legal certainty.
- there is a lack of traceability and of clear/strengthened obligations for all economic operators along the supply chain, also for toys that are sold online. Consistency should be ensured with sector specific legislation so that no loopholes remain.
- Some economic operators, especially those belonging to the category of small and medium-sized enterprises or those operating from third-countries, may have a limited knowledge and understanding of the Directive or its specific requirements.

1. Conformity assessment of toys

Question 15.

The Toy Safety Directive requires the manufacturer to demonstrate that the toy they produce conforms to the safety requirements applicable. Currently, third-party verification by a notified body is required only in very limited cases (i.e. when harmonised standards do not exist or are not applied, or when the manufacturer considers that the nature, design, construction or purpose of the toy necessitates third-party verification). A notified body is a test laboratory of recognised quality which has been designated by a Member State (where the test laboratory is

located) for this purpose. The notified body then examines a prototype of the toy and delivers a certificate (EU-type certificate) on the conformity of the prototype with the requirements of the Directive.

Do you think the toy safety rules should extend the obligation of third-party verification to more toys (EU-type examination)?

- ☒ Yes
- ☐ No
- ☐ No opinion

Question 15b.

To which toys should the third-party verification apply?

- ☐ All toys
- ☒ Toys which are chemical mixtures and may lead to intense exposure to chemical substances (such as modelling clay, slimes, soap bubbles, finger paints, water paints or toy pens)
- ☒ Toys for children under 36 months (as these toys are subject to specific requirements, in particular the requirement not to contain small parts)

Other – please specify:

- toys which, for functional reasons, cannot be designed to eliminate all risks (e.g. toys with high accessible surface temperature, magnetic toys);
- toys which, in case of a failure, can lead to severe health impacts of a child (e.g. a toy containing a laser or button cell batteries);
- toys which have caused severe accidents in the past (c.f. EU Safety Gate notifications);
- toys which have raised considerable concern in enforcement activities.
- connected toys

The higher the risk, the higher the conformity assessment procedure (module) needs to be. This principle is already applied for the PPE or Medical Devices Regulations.

Question 16.

How do you assess the likely overall impacts of extending the requirements to apply third-party verification to other toys as in the previous question?

Impact on:

Scale from 5 (very positive), through 3 (neutral) to 1 (very negative)

	5	4	3	2	1	No opinion
Costs for companies	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Administrative burden for companies	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Administrative burden for public authorities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Protection of children	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Compliance of toys with the Directive	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Consumer demand	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Price of toys	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Choice of toys	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Incentives for companies to place innovative products on the market	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Free movement of toys within the EU single market	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Competitiveness of small- and medium-sized enterprises (SMEs)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Competitiveness of larger firms	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

2. Obtaining compliance information and performing checks

In market surveillance, experience has shown that checks on toys can be difficult – mainly because key documents such as the EU declaration of conformity are difficult to obtain, are incorrect or of questionable quality, and/or are drafted only after a request from authorities. An option would be to require that products be accompanied by a digital product passport – including information on compliance of the product – which would ensure that information is immediately available to market surveillance and customs authorities.

Question 17.

Should the following information be available through digital tools?

	Should be available in paper /on the product	Basic information should be available on the product /paper and more details can be available digitally	Should be available only digitally	No opinion
Name and address of the manufacturer	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
EU declaration of conformity	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
EU-type examination certificates, where they exist	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Instructions for use	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Safety information	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on allergenic fragrances or any other	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

chemical substance which may be subject to labelling obligations				
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Question 18.

If any of this information is provided through digital tools, what digital solution would you prefer to use to access the information online?

- ☐ QR code
- ☐ Other barcodes
- ☐ Contactless technologies such as NFC or RFID tags
- ☐ Website address
- ☐ Doesn't matter as long as it works with my preferred device
- ☒ Other (please specify below)
- ☐ I don't know/cannot answer

Other – please specify:

For the options/answers we indicated under Q17 above and Q19 below, would like to stress the need to have it both digital and on paper. Digital labelling can be a useful complement but should never replace the printed safety info which is given to consumers with a toy.

One exception to this is the CE marking: it is not a mark of safety and has never been intended as a mark for consumers. It is directed at market surveillance authorities and customs authorities. Its appearance on many products (or their packaging) is misleading to consumers, as not all consumer products are required to bear CE Marking. This raises some curious examples: a cot for a baby is exempt from having to bear CE Marking and yet a toy cot, covered by the Toy Safety Directive, is obliged to carry CE Marking. Does this mean a toy cot is safer than a baby's cot? How is the consumer to know? Hence ANEC wants to see CE Marking relegated to the technical file and would support it to be only digital.

Question 19.

How do you assess the likely overall impacts of requiring the provision of certain information through digital means?

Impact on:

Scale from 5 (very positive), through 3 (neutral) to 1 (very negative)

	5	4	3	2	1	No opinion
Costs for companies	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Administrative burden for companies	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Administrative burden for public authorities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Protection of children	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Compliance of toys with the Directive	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Efficiency of market surveillance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Consumer demand	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Price of toys	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Choice of toys	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Incentives for companies to place innovative products on the market	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Free movement of toys within the EU single market	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Competitiveness of small- and medium-sized enterprises (SMEs)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Competitiveness of larger firms	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Question 20.

While a Regulation is directly applicable in every Member State, a Directive has to be transposed by Member States into national legislation. The evaluation concluded that unequal transposition – as regards both substance and time – of the numerous amendments to the Directive into national law are a further obstacle to the single market.

Do you agree or disagree that the Toy Safety Directive should be converted into a Regulation?

- ☒ Strongly agree
- ☐ Agree
- ☐ Neutral
- ☐ Disagree
- ☐ Strongly disagree
- ☐ No opinion

Other – please specify:

Question 21.

What would be your preferred measures to be included in the Directive to improve compliance and enforcement? (multiple replies possible)

- ☐ No action needed
- ☐

The toy should have digital information on compliance that should also be available at customs (digital product passport)

- ☒ More toys should be tested by a third party before they can be marketed in the EU
- ☒ The Directive should be converted into a Regulation

Other – please specify:

- Measures in line with our answers to the questions under Part 1 (chemicals) and Part 2 (adapting the directive to other risks)
- Issues indicated below under question 22 (other aspects).

Part III - Additional feedback

Question 22.

What other aspects, if any, do you think could be improved if the Toy Safety Directive were revised?

Traceability along the supply chain needs to be improved, also for toys that are sold online. The role of online marketplaces in the supply chain must be acknowledged: their status and obligations must be those of importers to make sure they can be ultimately held liable for product safety violations.

No procedure is foreseen for a flexible modification of the TSD in response to market changes/new risks. The extended Comitology (see our answer to Q6) should be used to specify, where appropriate, also essential requirements for safety aspects other than chemicals (i.e. mechanical and physical requirements, e.g. to set noise limit values).

Specific requirements are missing to better regulate noise levels. There is no maximum safety level of sound (in decibels) for sound emitting toys in the TSD. The Directive needs to be amended to regulate impulse noise levels in toys, and to set a limit which shall to no extent exceed what is allowed for adults in industry according to Directive 2003/10 /EEC. We see no safety-based reason to expose children to higher levels than is allowed for adults. Limits which have a direct effect on the health and safety of consumers (children) shall be set by the legislator, not by the standardiser.

Not only a change of the regulatory provisions is needed. In addition, it must be ensured that the Commission has at its disposal the necessary resources to efficiently regulate chemicals in toys (more staff, resources for assessments, etc)

Article 11 of the TSD states that toy manufacturers shall mark warnings on toys in a clearly visible, easily legible, understandable and accurate way. Experience shows that:

- warnings on toys are often too small, hidden by other text, hidden under crumples in the packaging, etc. It is sometimes difficult to discover and read the warning(s), also with corrected vision. Therefore, consumers might not detect it and children are not always protected properly.
- some authorities have had problems to enforce the presentation of warnings on toys because there are no specified requirements in the Directive and the belonging standards, like e.g. a minimum letter size. It is important, in the interest of legal certainty, to introduce specific requirements for visibility and legibility of warnings on toys (e.g. a minimum letter size), in order to enable Member States to enforce these

requirements in a uniform way.

Since several years, toys have been the most notified product category under the RAPEX (EU Safety Gate) system of unsafe products. It shows that the market is far from clean and that there is a continued need for increased market surveillance actions:

- Necessary resources (budget and staff) shall be made available
- Member States shall coordinate their market surveillance activities: we call on the European Commission to organise and finance joint market surveillance actions on toys
- Setting up a pan-European accident and injuries database is important to avoid a fragmented market surveillance approach (see also below).

The efficiency of the legal frameworks for consumer products in Europe depends on the ability of the European Commission and of the Member States to identify problems. As market surveillance is generally poorly resourced, it is of utmost importance for authorities to have reliable and up-to-date accident and injury data at their disposal to identify problems. We reiterate the need to revitalise the European Injury Database (EU-IDB) and to create a legal basis for a pan-European accident & injury database, in order to systematically collect information about accidents and injuries that occur because of dangerous toys. The Single Market Programme could provide a sound financial base for this.

The detailed provisions in the TSD have not helped reduce the grey area between toys and non-toys. The overlap with e.g. sports and other recreational equipment remains a problem. For trampolines for instance, it is unclear which kind are covered by the TSD (e.g. in-ground trampolines, bouncing facilities). There is also a potential overlap in requirements for toy scooters for children over 20 kg and scooters that are sports equipment. In this respect, we propose a change to Annex I of the TSD:

- Scooters: delete the 5th para in Annex I and introduce scooters in the 3rd para, to be in line with similar sports equipment (roller skates, inline skates, skateboards).
- Annex I should also indicate which kind of trampolines are not considered as toys.

Question 23.

If you would like to share a document in connection with the possible revision of the Toy Safety Directive, please upload it below:

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

ab006258-a2fb-44d4-86d4-c848a3556ef6/ANEC-CHILD-2019-G-041.pdf

761ee0b9-6854-48da-b8e7-18871e06bf64/ANEC-CHILD-2021-G-055.pdf

7458b903-0e2c-427d-9fa8-3871af4f9dbf/ANEC-CHILD-2021-G-130.pdf

Contact

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