

## **Enforcement of Consumer Protection, Abano, Italy, 8-9 March 2004**

### **Working Session: General Product Safety**

#### **The Role of Consumer Associations**

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#### **Introduction**

Consumer protection in the first instance means safety. Products have to be fit for use – no matter where the consumer is living.

In the European Union (EU), a lot has been achieved in this respect thanks to sector-wise safety legislation and technical harmonisation both of which function as a backbone of the Internal Market and cover a wide range of products from machines to toys. Existing legal gaps will be covered by the revised General Product Safety Directive that entered into force earlier this year.

This sounds like paradise but the market reality in the EU is far from being heaven. The reason for this is quite simple: The best legislation and standards can only be effective when properly enforced!

As you know, the basic rule is that manufacturers and suppliers are responsible for the safety of their products and the government is responsible for market surveillance. However, according to our experience, both need to be constantly challenged to maintain and improve the levels of safety that consumers expect. This requires that in practice, consumer associations are involved in market surveillance – be it in an official capacity on behalf of the government or be it as a kind of “watch dog” in the system.

In my presentation, I will reflect on this independent and impartial role of consumer organisations. Their aim is to inform consumers about good and bad products. Only informed consumers can make reasonable choices. To this end, the presentation will explore why and how consumer associations challenge the system, by being involved in market surveillance, standardisation and product testing. It is illustrated how consumer associations can be effective by raising awareness, conducting research, lobbying, forming relationships and co-operating both within and between countries.

#### **Market surveillance and product testing**

Market surveillance, standardisation and testing alike are linked by the systems used to help ensure that products are safe. For specific types of products, standards are used to define the adequate level of safety.

Manufacturers usually rely on the conformity of their products to standards to show that their products are safe, by testing them in their own or other commercial test

laboratories. Regulators who carry out market surveillance rely on their own tests, carried out to these standards, to check that products on the market are safe or not.

However, all of this does not completely ensure that all the products on sale are indeed safe. Otherwise, there would be no need for market surveillance. In fact, reality in the market tells a different story.

For instance in Germany, each year 70.000 accidents are related to faulty products. And in the UK, tests by Consumers' Association over many years show that about 7% of the products that they test have serious safety problems.

Reasons for this might be that the existing standards are not properly applied or simply because of misbehaving and unserious producers.

Whatever the reason, the consequences of this are visible on the Commission's Consumer Affairs website, where the European Commission recently started publishing weekly summaries of the alerts it receives from Member States about dangerous non-food consumer products (Rapex).

- The number of notifications exchanged was 143 in 2001, 168 in 2002, and 139 in 2003;
- Four categories of risks represent more than 60% of all notifications in 2003: the risks of choking and suffocation, fire risk, presence of carcinogenic substances, electric shocks;
- The category of products most often notified in 2003 was toys, followed by other types of products for children.

Faulty and unsafe products trigger a loss of consumer confidence in product safety and market surveillance. This is even reinforced when unsafe products bear the CE marking. As you know, the CE marking is not addressed to consumers but to public authorities and thus is misleading the consumer who often enough perceives it as a quality or safety mark.

Therefore, product safety cannot be left to government and industry alone. Consumer associations have to be involved to improve the situation. Actually, some of ANEC's members, mainly in Scandinavian countries, are even officially in charge of market surveillance tasks with respect to European legislation. For instance, the Finnish Consumer Agency is responsible for market surveillance in certain product sectors according to the GPSD. This holds true for child-care articles, furniture and cigarette lighters just to name a few.

Other ANEC members do not have an official governmental role but nonetheless are well known because of their activities in terms of market control. Let's take for instance, Stiftung Warentest in Germany. Established in 1964 as an independent institute, its mission is to conduct comparative product testing. Since the 60s, the

Stiftung has tested around 63.000 products in around 3.000 tests in areas such as domestic appliances, garden equipment or information technologies.

How are the tests run? Researchers choose a selection of products in the market according to objective criteria such as relevance in the market, price and technical features. In a second step, the researchers pretend to be ordinary consumers and buy the products in shops as all of us do. For each test there is an individually designed test programme, which is discussed with an advisory body composed of producers and consumers. Most of the comparative tests look at four categories: technical, environmental, practical and safety issues but more and more they try to include corporate social responsibility.

Stiftung Warentest is one of the best-known and most trusted organisations in Germany. A survey in 1999 revealed that 96 percent of the German population do know the Stiftung. Even more striking is that when being compared to 12 other organisations, the Stiftung is the most trusted one, imagine even more trusted than the German police or the Red Cross.

What lessons can be learned from this?

- Consumer associations can utilise product testing to show the deficiencies in market surveillance;
- Through comparative testing, consumer organisations play a significant and even powerful role in market surveillance at the national level;
- A bad mark in comparative testing becomes a stigma for the product or the company with immediate economic impact. We have seen sale rates of cars, that performed badly in a crash test, drop by 30 percent after the publication of comparative test results;
- Consumer organisations provide a general service to consumers to enable them to do informed choices with respect to safety, quality and performance of products;
- There is a need for this kind of impartial and independent supervision of the market and consumer organisations definitely enjoy the consumers' confidence.

But comparative testing is expensive. Hence, national consumer organisations seek collaboration with their counterparts in other countries. That is why consumer organisations such as Consumers' Association in the UK, Stiftung Warentest in Germany or Consumentenbond in the Netherlands joined ICRT, International Consumer Research and Testing. This is an association of 23 consumer organisations from 21 countries worldwide. It aims at promoting co-operation in consumer research and testing among its members and other organisations concerned with consumer matters. ICRT also aims at developing better test methods for consumer goods and services, and to encourage the development of good

consumer testing facilities. This has a number of practical advantages, e.g. shared costs, and shared technical resources. However, the main advantage is that of consistency and impact. The manufacturer of an unsafe product found during such testing will find he is dealing with a number of consumer associations acting collectively, who will be in a much stronger position to demand improvements.

### **Standardisation**

As already mentioned, standards are used to define the criteria for what constitutes a safe product. One of the fundamental principles of standardisation is the participation of all stakeholders or interested parties. Industry, government and some standards bodies often claim to be able to represent the consumer interest ("we are all consumers after all"). However, both industry and governments are biased, the former commercially, the latter politically. Neither can claim to be acting solely in the interest of the consumer.

Consumer associations have to be involved effectively in the production of standards. But this is not easy to do in terms of technical expertise, time, funds and people. Therefore, consumer organisations have to raise awareness both within consumer associations and with consumers of the increasing importance of standards and of the need for effective consumer participation.

Consumer organisations also have to lobby governments and standards bodies to help facilitate effective consumer involvement. We have to lobby standards bodies both national and regional, to review and change their systems to reduce the dominance by industry and to actively encourage consumer participation.

Finally consumer organisations have to find relationships with other organisations and maybe even industry. There are special interest consumer groups (e.g. child protection, disabled) that have knowledge of specific consumer requirements. There are academic institutions with technical knowledge. We should use these relationships to increase technical expertise and understanding.

### **ANEC**

At European level, it is the role of ANEC to represent and defend consumer interests in standardisation. ANEC was established in 1995 as an international non-profit association under Belgian law. It is funded by the European Commission and EFTA. Its Secretariat is based in Brussels.

ANEC provides technical expertise based on a network of more than 200 consumer representatives across Europe. Our experts directly contribute to the work of more than 60 Technical Committees, Working Groups and New Deliverables of the European Standards Bodies. ANEC helps to identify priorities, to develop common positions on specific standardisation issues and to co-ordinate national activities. Our areas of priority, in which we hold standing Working Groups are: Child Safety, Design

for All, Domestic Appliances, the Environment, the Information Society, Services and Traffic Safety.

ANEC represents consumers from all EU Member States, EFTA countries as well as the Czech Republic, Slovakia and Hungary. It is only a question of time that all new Member States will be taken on board. Actually, it is very important that consumers are involved in standardisation at national level because the European standardisation system is based on national voting. A lack of participation of proper participation at national level would result in a lack of consensus at the European level.

Research is key in our work. ANEC invests considerably in research and testing projects so as to have scientific information at our disposal. Scientific evidence helps to back up our arguments in standardisation committees and working groups. This is of particular importance where a consumer representative has to argue his case against a strong industry majority.

### **Why is consumer participation so important?**

Standards are important. They affect us every day and everywhere. Consumer representatives have to ensure a high level of protection and counterbalance the industry view. Finally, it is the regulatory role of standardisation under the New Approach to Technical Harmonisation that makes it so important to participate in the process. Since the adoption of the New Approach in 1985, the European legislator restricts himself to define essential safety requirements whereas the technical solutions are left to the standards makers, the three European Standards Bodies (ESOs), namely CEN, CENELEC and ETSI.

### **Conclusions**

Safety standards and legislation are only as good as their implementation and enforcement. Effective market surveillance and information are therefore crucial factors for consumer protection. In this respect, consumer organisations expect that:

- Consumer protection becomes the guiding principle in market surveillance;
- Market surveillance detects, sanctions and corrects violation of product safety law;
- Regulators improve the co-ordination and efficiency of market surveillance systems;
- More resources are allocated to market surveillance;
- Market surveillance is transparent and the knowledge of public authorities becomes publicly available. The data provided by the European Commission on the basis of the RAPEX-System is a positive step into this direction.

Consumer organisations for their part will have to:

- Lobby for their expectations
- Continue to raise public awareness to the malfunctioning of market surveillance and
- Co-operate with consumer organisations and other consumer-orientated organisations, both in our own countries and abroad, and sometimes even with industry. Sharing information, resources and producing a common position will make a much bigger impact than any single organisation could do. Regional and International organisations (ANEC, BEUC, Consumers International) exist who coordinate policy positions and lobby at the EU and global level.

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