

**ICPHSO – 18 November 2008**

**Stakeholder Perspectives on Emerging Issues**

**Intervention by Stephen Russell, ANEC Secretary General**

The New Approach to Technical Harmonisation and Standardisation has been a cornerstone of the creation of the Single European Market for almost 25 years now. There is no doubt that it has been a success in removing barriers to trade. I have seen no recent estimates of the financial gains of the Single Market but I am sure the 140 billion euros which Paolo Cecchini foresaw back in 1988 as being freed in a bonfire of controls and barriers in a far smaller European Union has long since been exceeded.

The adoption and implementation of almost 20.000 European Standards as identical national standards in the 30 countries of the Single Market has helped to create a market that is open to business from around the globe. A market which does not discriminate between businesses based here in Europe and those based elsewhere in the world. The rules are just the same for all manufacturers: American, Chinese and European. In a generation, Europe has eliminated a mountain of differing rules and regulations, not between some states or some provinces but among all countries.

But does the New Approach meet consumer expectations? Yes and no. Yes in that the New Approach has helped to encourage competition and innovation. No in that it has not met the consumer expectation for products to be safe regardless of the origin of the product or its price.

For almost all consumer products on the European market, there is no compulsion for the manufacturer to prove through an independent check that his product meets the legislation. If he claims the product meets a harmonized European Standard, then he is free to affix CE Marking and to place it on the market.

But as the infamous ‘summer of recalls’ showed, products bearing CE Marking need not be safe. Indeed, ANEC warns that CE Marking on consumer products means nothing more than Caveat Emptor (and for those who do not know Latin, the translation is ‘let the buyer beware’).

Many consumers believe market surveillance will protect them from buying unsafe or dangerous products. But that is not true. Market surveillance means different things in different countries. In the United Kingdom for example, the government has set six priorities for its market surveillance inspectors. Product safety is not one of them<sup>1</sup>.

And these differences are important as market surveillance is the responsibility of the Member States in Europe. It does not operate in a regulatory European framework. The individual Member States are responsible for resourcing and managing their own market surveillance and enforcement authorities.

But the New Approach is not new. And even the memory of the summer of recalls is starting to fade as we now face recession. So why do I consider this an emerging issue?

Well, it is because from 1 January 2010, the principles of the New Approach – which have until now be limited to certain sectoral products – will start to be extended to almost all products through a measure known as the New Legislative Framework. That may be good for consumer choice. But is it good for consumer safety? And is it good for consumer welfare?

The New Legislative Framework will extend the use of CE Marking and place more pressure on our already under-resourced market surveillance inspectors. Although the Framework addresses the resourcing of surveillance activities for the first time – it still leaves responsibility to the Member States.

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<sup>1</sup> The six are: air quality ; alcohol licensing ; hygiene of food businesses; improving health in the workplace; fair trading and animal & public health.

ANEC fears such obligations will not achieve a consistent approach in all European countries. It has to be left to initiatives such as EMARS to achieve that voluntarily. Nor will the funding needed be ensured as it is issues such as health, education and the economy that win national elections. Not a commitment to better market surveillance.

Europe can have the best legislation. Europe can have the best standards. But without enforcement, both become worthless. Market surveillance is too important to be left to national governments to fund and manage. Remember that some countries do not even consider product safety to be a priority for surveillance authorities. As consumers, we should not and must not accept that. It is why ANEC calls on the institutions to create a framework to ensure that surveillance activities across Europe are both coherent and adequately funded. And we ask that the market enforcement authorities be granted the powers to ensure the importers of illegal and dangerous products into the Single Market face serious criminal sanctions.

We must also not forget that the extension of the New Approach principles will also see an extension of self-regulation to far more product sectors. As the European Standards which support European legislation are developed in private associations, there is no reason why the public interest should be reflected. This makes this self-regulation very different from legislation. Although the development of European standards is an open process in principle, it is the business interest which has most to gain from influencing the content of the standards. And it is the business interest which has the resource to participate in the standardisation process.

It is thanks to the commitment of the European Parliament, European Commission and EFTA Secretariat that ANEC receives the funding to help defend the consumer interest in European standardisation. But we are able to support no more than 260 experts in a few areas of priority. Business is able to send almost 60.000 experts to CEN alone, the most multisectoral of the three European Standards Organisations.

With the New Legislative Framework, we expect the European Standards Organisations will be asked to define standards supporting the use of such controversial applications as the nanotechnologies and Radio Frequency Identification (or RFID).

These are two examples of technologies which go beyond challenging consumer safety in the usual sense and start to encroach on consumer welfare and consumer freedom. Is it right therefore that these be subject to self-regulation and not traditional legislation? Perhaps the later sessions of this conference will help to answer that question.

In conclusion, how is this European critique relevant to broader international product safety? Well, because I think none of the issues I have raised to be uniquely European. All governments sooner or later must consider how best to promote their economies on the global stage. We live in a global economy after all. And all governments sooner or later come to a decision which is effectively about a trade-off between less red tape for business and adequate consumer protection. How we achieve the optimal balance is not so evident. And hence is valuable for dialogue such as this where we can share ideas on not only how to continue (or re-start) economic growth but to ensure that the gains from economic growth benefit all in our societies and jeopardise no-one.

Thank you for listening.

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