



IMCO Public Hearing on Product Safety Package

European consumers expect products to be safe. European business expects fair competition. But the lack of effective market surveillance and enforcement means the expectations of both communities are unfulfilled. For these reasons, in April 2009, ANEC and Orgalime published a common call to the Institutions to create a European framework for market surveillance. We shall shortly be publishing our common assessment of how the draft Regulation meets and fails that call, and we intend to publish a position with BEUC on the Regulation itself. So I shall limit myself today to some more general comments from the ANEC perspective.

Many consumers believe market surveillance will protect them from buying unsafe products. But that is not true. Market surveillance even means different things in different countries. In the United Kingdom for example, product safety was not a priority for its market surveillance inspectors in the years 2007 to 2010¹. And these differences are important as market surveillance is the responsibility of individual Member States, in a Single Market of common product legislation and common product standards.

Of course, once a product enters one Member State it should be free to circulate to all Member States. Hence the effectiveness of market surveillance within the Single Market is dependent on the quality of surveillance in the weakest Member State.

Even though the Single Market has existed for over 20 years, market surveillance was not addressed by a European legislative instrument until 2008. And although Regulation 765 of the New Legislative Framework has set obligations on Member States to intervene to remove dangerous products from the market, it is not able to achieve a consistent approach to market surveillance and enforcement in all countries.

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

Nor could it ensure the commitment of resources at national level, as it is issues such as health, education and the economy that win national elections, even in times of financial stability. Not a commitment to better market surveillance.

Indeed, a study conducted for this very committee in October 2009 showed most Member States did **not** plan to commit more resources, despite the adoption of Regulation 765.

If we need an example of the problems facing the thin line of market surveillance officers, look no further than enforcement of the Commission Decision on the safety of cigarette lighters. It has become a well-known example in the Institutions. According to the Commission, up to 40 deaths and 1.900 injuries each year in the EU are caused by lighters. The victims are often children. The Decision was meant to see the removal of unsafe lighters from the market by 11 March 2008. Yet, in February 2010, 76% of lighters tested were found not to comply with the relevant standards. The market still remains far from clean.

Turning to the Market Surveillance Regulation, it tries to address some loopholes left by Regulation 765. But does it go far enough?

In some ways, it goes too far. The evidence is that the resources now available to market surveillance authorities are not enough to ensure the market is clean of unsafe products, such as non-compliant lighters. But the MSR looks to extend the scope of activities, not only to the safety of workers but also the protection of the environment. All very understandable. But where is the money going to come from? And how? ANEC doubts fees and penalties will be enough to resource a broadened system, if it is also to be effective.

Further to the comments made by Monique Goyens, we are also disappointed the precautionary principle is not reflected explicitly in the MSR. The precautionary principle is a pillar of consumer protection in Europe. So much so that I hear the Commission considers it to be a given. I need a little more reassurance. A reference please to the precautionary principle in the MSR and the CPSR.

Origin marking? I am afraid we are against it. Just another claim for the market surveillance authorities to have to enforce, while adding little to the traceability of a product or its safety. It could be forged like any other mark.

We also fear the MSR does very little to increase the surveillance and enforcement of sales over the internet. Market surveillance officers should be empowered to act regardless of the selling technique.

And, in case it has not been said enough these past weeks, Europe needs a pan-EU database of accidents & injuries to support the raft of legislation on product safety.

All we hear from Member States is their concern about how much it is all going to cost. Don't look at it as a cost. Look at it as an investment in safety that is going to recoup its cost many times over in safer products and reduced healthcare costs. And we think a representative database could be created for about 7,5M€ annually, not all new money. We are pleased to learn that the Economic & Social Committee is going to support the creation of the database in its Opinion on the MSR.

A last thought. Europe can have the best legislation. And Europe can have the best standards. But without enforcement, both become worthless. As consumers, we should not and must not accept that.

Stephen Russell

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