



***Raising standards for consumers***



**The Consumer Voice in Europe**

## KEEPING CONSUMERS SAFE FROM DANGEROUS PRODUCTS

How to make the General Product Safety  
Regulation a useful tool to ensure product  
safety

**Contact:** [safety@beuc.eu](mailto:safety@beuc.eu) – [anec@anec.eu](mailto:anec@anec.eu)

Ref: BEUC-X-2021-107 - ANEC-WP1-2021-G-054 -15/11/2021

**ANEC, THE EUROPEAN ASSOCIATION FOR THE CO-ORDINATION OF CONSUMER REPRESENTATION IN  
STANDARDISATION**

Av. de Tervueren 32, box 27 – 1040 Brussels - +32 (0)2 743 24 70 - [www.anec.eu](http://www.anec.eu)  
EC register for interest representatives: identification number 507800799-30

**BUREAU EUROPÉEN DES UNIONS DE CONSOMMATEURS AISBL | DER EUROPÄISCHE VERBRAUCHERVERBAND**

Rue d'Arlon 80, B-1040 Brussels • Tel. +32 (0)2 743 15 90 • [www.twitter.com/beuc](http://www.twitter.com/beuc) • [consumers@beuc.eu](mailto:consumers@beuc.eu) • [www.beuc.eu](http://www.beuc.eu)  
EC register for interest representatives: identification number 9505781573-45



Funded by the European Union

## Why does it matter to consumers?

Consumers legitimately expect all products to be safe and compliant with legislation and standards, no matter if they buy clothes, home appliances, IT equipment, toys or childcare products, and regardless of whether they purchase these online or in traditional shops.

However, safety checks performed by consumer organisations, market surveillance authorities and business alike show that many dangerous goods continue to be available on the market. And the problematic products uncovered might only be the tip of the iceberg as many escape the safety net.

We call for urgent action to be taken to keep consumers safe and confident about shopping in the Single Market. To address challenges posed by the emergence of new market realities and sales channels (e.g., online marketplaces and increased international e-commerce) and new technologies (e.g., connected devices), the revision of the General Product Safety Directive is indispensable.

## Summary

On 30 June 2021, the European Commission presented a legislative proposal for a General Product Safety Regulation. BEUC and ANEC welcome this proposal as it takes into account many of [our recommendations](#) with regard to improving market surveillance and better addressing new technologies. It also [considers points we remarked during the unfinished reform attempt in 2013](#) as being important for a well-functioning EU safety framework.

This position paper is an update to our earlier recommendations and takes the [draft legislation](#) as well as its [impact assessment](#) into account.

To ensure a high level of safety and consumer protection in the EU internal market as well as a consistent legislative framework that can tackle emerging challenges, BEUC and ANEC recommend to:

- Better acknowledge the role of online marketplaces in the supply chain by including them in the definition and the chapter about economic operators, where their obligations should be reinforced. Online marketplaces should be given the status of importers to make sure they can be ultimately held liable for product safety violations;
- Safeguard a strong safety net function which could fill lacunae in sector specific legislation, even when the latter is under revision or development;
- Establish a proper pan-European system for accident and injury data collection;
- Allow for the use of conformity assessments which are more thorough than manufacturer's self-certification;
- Give the European Commission new powers to set implementing measures;
- Clarify the rules on recalls and consumer rights to remedies;
- Ensure the GPSR reform works well and flawlessly in combination with other policy reforms, such as the Product Liability Directive, the Digital Services Act and the sustainable product policy framework initiative.

## Introduction

---

With the proposal for a new General Product Safety Regulation, the European Commission has presented a strong starting point for improving product safety in the EU internal market. Co-legislators must make sure that this proposal is swiftly negotiated and implemented as this reform is long overdue. Current legislation is not capable of protecting consumers from new technologies and dangerous products bought online from outside the EU that are delivered directly to consumers.

In a nutshell, we highlight below the main strengths of the proposal, as well as elements that co-legislators must improve during the upcoming negotiations:

### *To be supported:*

- 😊 Market surveillance rules are made consistent for all products - no matter whether already subject to EU legislation or not - and Member States given new powers and tools to do their job.
- 😊 Criteria for risk assessments are extended to cover more risks and products used by different types of consumers.
- 😊 Traceability requirements are improved which will facilitate the identification of products by consumers, economic operators and authorities along the supply chain
- 😊 New provisions are included to address the challenges posed by connected products
- 😊 Rules on product recalls are clarified and complemented with new rights for consumers' remedies.
- 😊 Detailed criteria for penalties are introduced, thereby making enforcement more consistent.
- 😊 New powers are granted to the European Commission to adopt implementing measures and to set up specific traceability requirements.

### *To be improved:*

- 😞 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.
- 😞 The strong safety net function of the current legislation framework should be safeguarded.
- 😞 A proper system of accident and injury data collection must be established
- 😞 The use of more thorough conformity assessments than manufacturer's self-certification must be allowed for certain products.
- 😞 Co-legislators should make sure the Commission will be given the power to adopt specific implementing measures.

Below, we give more specific recommendations on the strong and weak points and how the proposal should be strengthened in the political process.

## 1. What are the main benefits of the legislative framework for consumers?

---

The General Product Safety Directive (GPSD) of 2001 proved a key piece of consumer protection policy by creating a general obligation for producers to place only safe products on the market. As such, it functions as the safety legislation for products that do not benefit from 'sectoral' – that is product-specific – legislation. This means the GPSD is the main safety law for commodities as diverse as furniture, textiles and child-care products.

With the new proposal, the safety rules will be turned into a regulation, thereby creating more clarity and legal certainty for economic operators about their duties, and bringing greater clarity for market surveillance authorities when assessing the safety of products and enforcing this Regulation.

Below we give a first appreciation of the main benefits of this draft Regulation.

### 1.1. A more coherent framework for market surveillance in the EU

Among the strong points of the GPSR proposal is the extension of the market surveillance rules that already exist for harmonised products to all consumer products. This gives authorities important new powers and tools to check products, such as ordering products under a hidden identity on online marketplaces, entering fulfilment centres for product sample taking, and asking information about product compliance to a contact person in the EU<sup>1</sup>. Furthermore, product identification and traceability along the supply chain is being improved through a requirement for manufacturers to indicate a name and the contact details, as well as a batch, type and serial number on the product or its packaging.

Extending these market surveillance rules to all consumer products also enables strengthened cooperation among the authorities at EU level, as well as with consumer groups. It is beneficial that the enforcement work of the Consumer Safety Network (CSN) will be closely coordinated with the enforcement network for harmonised products. Yet, coordination should also be strengthened with regard to other entities relevant for consumer protection, such as the Consumer Protection Coordination Network.

### Policy Recommendations

- Co-legislators should make sure the market surveillance rules for harmonised products apply to non-harmonised products, as proposed.
- While the coordination between the Consumer Safety Network and the European Product Compliance Network will be strengthened, other relevant bodies should be kept in the loop, such as the Consumer Protection Coordination Network.
- National authorities should be equipped with additional human, financial and technical resources to fulfil their enforcement role effectively.
- The European Commission shall organise & finance joint market surveillance actions.

---

<sup>1</sup> The draft Regulation foresees a need for all manufacturers who are not in the EU to establish an authorised representative, based on a written mandate. The role of the authorised representative will be to give information to enforcement authorities about product compliance. We believe however that the authorised representative does not have enough duties/responsibilities compared to importers and there may be cases of fraud. As a consequence, no one can be held responsible effectively and efficiently in the EU and consumer law will remain unenforced.

## 1.2. Additional powers to set specific product traceability requirements

The draft GPSR empowers the Commission to set additional traceability requirements for certain (categories of) products which can pose serious risks to consumer health and safety. For example, in sectors where non-compliance is very high (such as toys bought from outside the EU via e-commerce), additional requirements on manufacturers for product traceability can enhance the level of safety.

### Policy Recommendations

- Specific traceability requirements are a new and important tool for the Commission that should swiftly be applied during the implementation phase of the GPSR to make sure only safe products are delivered to consumers.
- BEUC advises to add that such traceability requirements can also be addressed to online marketplaces.

## 1.3. A broader set of criteria to assess product safety

The GPSR proposal contains a modernised definition for a 'safe product' and a broader set of criteria that must be considered when assessing whether a product is safe. This is important as products today might be connected, or change over time because of software updates and interactive learning. Moreover, products are being used by diverse groups of consumers - including vulnerable ones - and must be safe for all users.

BEUC and ANEC welcome the criteria in article 7 as they make an important contribution to modernise the GPSR, but we propose several additional improvements as outlined below:

### Policy Recommendations

- The reference to continued conformity, and to conditions of misuse which have been added to the definition for a 'safe product' in article 3, are important clarifications and need to be kept.
- The criteria of article 7 must be binding on economic operators, legislators, standards makers, and market surveillance authorities for the whole life cycle of a product, from its design to its disposal. It would be counterproductive to apply such broad criteria only in specific cases: for instance, when doing post market checks and having a doubt about a product's conformity. For this reason, we suggest deleting the first half sentence of article 7 as follows:

1. ~~Where the presumption of safety laid down in article 5 does not apply, the following aspects shall be taken into account when assessing whether a product is safe. (...)~~

- The various criteria mentioned in the recitals as being relevant for the safety assessment of products must clearly feature in article 7 (ex. not only the cybersecurity features of a given product, but also the environmental and chemical risks and the mental health risks posed by connected products).
- Article 7 should also be properly linked to article 6.2 on standardisation, to make sure these criteria will be taken into account by the European Standardisation Organisations (ESOs) when drafting and revising technical harmonised standards.
- We are pleased that the risk assessment criteria take into account the safety of consumers of all ages and abilities. It is equally important to ensure that all consumers can have access to the safety information, whatever their age and abilities. We suggest that safety information is provided to consumers in an

accessible and inclusive way (for example, in article 8 on the obligations of manufacturers, article 25 on Safety Business Gateway, article 32 on the Safety Gate, article 34 on recall notices).

#### 1.4. Requiring authorised representatives to report to the Business Safety Gate

It is beneficial that each manufacturer who is not established in the EU must make a contact person available in the EU to give information and collaborate with the authorities on product safety issues (so-called 'authorised representative'). It is furthermore useful that article 15 requires authorised representatives to periodically carry out sample testing of randomly chosen products made available on the market. Yet, the draft legislation does not clarify to whom findings about dangerous products will be reported for potential follow-up and withdrawal/recall of such products from the market.

#### Policy Recommendation

- Authorised representatives must be required to proactively share evidence about dangerous and non-compliant products with authorities through the Business Safety Gate. A respective addition should be made in article 15.

#### 1.5. Better rules on product recalls

The GPSR proposes a new article related to recalls which can bring more coherence and greater clarity on what is expected from economic operators. BEUC and ANEC welcome these useful clarifications and additions. We however suggest the following improvements:

#### Policy Recommendations

- Recall notices should always be made publicly available. This ensures that not only (initial) buyers take notice, but also consumers who might have received a product as a gift or bought it on the second-hand market.
- The use of elements which could be misleading for the consumer in a recall notice should not only be 'avoided' but be prohibited.
- The template for recall notices which the Commission will make available should ensure that it contains accessibility features to ensure all consumers can consult the information once the recall is out.
- It must be possible for market surveillance authorities to oblige online marketplaces to carry out recalls, including for products from third-party sellers. We noticed with concern that a request from the US Consumer Product Safety Commission (US CPSC) to Amazon to carry out a recall of dangerous consumer products - such as dysfunctional smoke alarms from third-party vendors - was refused by the company, referring to the fact that they were only required to take down the information from their website, which they had done. However, this is an insufficient measure to protect consumers from dangerous products which were already in their homes. We therefore call on the EU legislator to ensure that, in future, recalls can be made binding for online marketplaces for all products distributed through their online marketplaces, including those from third party sellers<sup>2</sup> in case those cannot be reached, do not react properly or on time.

<sup>2</sup> More information on the US case can be found below:

- Announcement of the complaint by CPSC: <https://www.cpsc.gov/Newsroom/News-Releases/2021/CPSC-Sues-Amazon-to-Force-Recall-of-Hazardous-Products-Sold-on-Amazon-com?fbclid=IwAR3paQQJ24XYrV-BrSDxo5-RsCdFqb2bOUcG34INBynrmm4bBgausAXWRO8>

- CPSC complaint: [https://www.cpsc.gov/s3fs-public/pdfs/recall/lawsuits/abc/001-In-re-Amazon-com-Inc\\_.pdf?TvLLxHy1UMfiz3BpfXaK1Qy1ibQbYAiU](https://www.cpsc.gov/s3fs-public/pdfs/recall/lawsuits/abc/001-In-re-Amazon-com-Inc_.pdf?TvLLxHy1UMfiz3BpfXaK1Qy1ibQbYAiU)

- Amazon's response: <https://cpsc-d8-media-prod.s3.amazonaws.com/s3fs-public/pdfs/recall/lawsuits/abc/002-In-the-Matter-of-Amazon-com-Inc-Answer-8-3-1.pdf>

### 1.6. Giving consumers a right to remedy

Among the welcome proposals is a new right to remedy for consumers in case dangerous products are recalled. Nevertheless, we advise to improve this article on three important points.

#### Policy Recommendations

- Consumers should always have the choice which type of remedy they would like to receive: a replacement, a repair or a refund. This right to choose should explicitly be added.
- The value of the refund should correspond to the initial purchase price and not the remaining value of the product. This is important because, in case a product is already old and only the actual value would be reimbursed, consumers would not receive enough incentives to return a dangerous product and may continue to make use of it, despite being aware of the recall. This will be the case where consumers would not have the means to purchase a similar new product, such as a washing machine for example, even though such a product is needed in a modern household.
- Where no economic operator offers a remedy to consumers, even though this will be a new consumer right under the GPSR, consumers must be entitled to submit a complaint to a competent authority.

### 1.7. Setting common criteria for penalties

We welcome that the GPSR sets out a very detailed catalogue of criteria, infringement of which can lead to penalties, as this will help more uniform enforcement across the EU.

#### Policy Recommendations

- Co-legislators should make sure that this catalogue of criteria as outlined in article 40 is adopted.
- It should be ensured that online marketplaces can also be fined if infringing product safety legislation. To this end, they also need to be held accountable as part of the economic supply chain (see our more detailed suggestions on online marketplaces below).

### 1.8. Cooperation to be stepped up not only internationally, but also with other consumer protection authorities

The GPSR contains a new article on international cooperation. This is important as the level of product safety is often decided at global scale and as many problems – on recalls and on holding online marketplaces accountable – are experienced by important trade partners of the EU as well.

However, we believe that the cooperation at EU level also needs to be improved. Whereas the new market surveillance regulation has already made improvements with regard to the cooperation between different EU countries, at EU level and with customs, we suggest highlighting in the GPSR that different consumer protection authorities need to work together more effectively and more efficiently. Because economic operators who are non-compliant in one area, such as safety, are also often found non-compliant in other areas, such as data-protection, or are neglecting basic consumer rights related to returns and guarantees.



- We suggest turning chapter IX on international cooperation into a chapter on 'cooperation' and to add a new article which would require cooperation of the Consumer Safety Network with other European networks, such as the Consumer Protection Coordination Network (CPC) and the European Data Protection Board (EPBD) and other European bodies, in particular when it comes to assessing the safety of products, or deciding on the remedies pursuant to article 35.

## 2. Which parts of the proposal need fundamental improvement?

---

While the above points are overall very positive, and can be finetuned through a restricted number of amendments, we outline below the points which need more fundamental discussion and consideration by co-legislators.

In a nutshell, the ambition of regulating **online marketplaces** is low. We also see an important need to make sure that **the safety net function** continues to fill lacunae in sector specific legislation, including in legislation under development or revision.

Furthermore, we are not convinced that the currently foreseen obligations on **accident and injury data collection** will deliver substantial added value.

We believe the Commission must require **conformity assessments** that go beyond mere self-certification for specific product groups.

Finally, we argue that the GPSR should be added to the Directive on representative actions (2020/1828/EC) to allow a common representation of consumers, e.g., in cases where their right to remedy has been neglected.

We consider those to be more fundamental changes as they concern the obligations of economic operators, the rights of the legislator and enforcement authorities, and thereby the overall level of safety that the legislators will create for consumers. It also strongly impacts the level of fairness and contributes to creating a level-playing field for businesses in the EU single market.

### 2.1. Giving online marketplaces an importer status to make sure they can be ultimately hold liable for product safety violations

Today's supply chains encompass a wide variety of economic operators who must all be subject to enforcement of EU safety legislation. Online marketplaces play an essential role in the supply chain: without their digital platform through which consumers find, compare, choose, pay, and get products delivered, many products from outside the EU would not get market access. Online marketplaces also perform many of the same functions as importers, and it is therefore important that market surveillance authorities can address enforcement measures to online marketplaces, in particular when no other responsible economic operator takes action.

#### Policy Recommendation

It is important to include online marketplaces into the definitions for economic operators and importers:



- Art.3 number 10: 'Importer' means any natural or legal person including online marketplaces established within the Union<sup>3</sup> who places a product from a third country on the Union market.
- Art. 3 number 13: 'economic operator' means the manufacturer, the authorised representative, the importer, the distributor, the fulfilment service provider, the online marketplace or any other natural or legal person who is subject to obligations in relation to the manufacture of products, making them available on the market in accordance with this Regulation.

## 2.2. The general safety requirement must apply to online marketplaces

The general safety requirement in article 5 requires economic operators to place or make available only safe products on the EU market. It is crucial that this safety requirement legally applies to online marketplaces. Today, online marketplaces escape this requirement even though they are implicated in many instances of dangerous products sold online. Consumers groups have collected vast [evidence about unsafe and illegal activities](#) online that demonstrates this issue.

### Policy Recommendation

- Through defining online marketplaces as 'economic operators' as outlined above, also the general safety requirement would apply. If this does not materialise, co-legislators must ensure a reference to online marketplaces is included into article 5.

## 2.3. Regulating online marketplaces in a dedicated article of the GPSR

Every type of economic operator (manufacturer, importer, distributor) has defined responsibilities which are specified in separate articles of the GPSR. Instead of treating online marketplaces in a different chapter, we call on legislators to regulate online marketplaces in chapter III 'obligations of economic operators' through a dedicated article which would include more obligations. To apply to all products, whether harmonised or not, such an article should be drafted in section 2 as a new article 19. This article must contain on top of what is already foreseen the following requirements:

- Online marketplaces shall ensure the identification of sellers and the traceability of products on their online interface. For this purpose, online marketplaces shall perform the necessary identity checks and verify the documentation provided by sellers before the products are being put into circulation.
- Online marketplaces shall periodically perform visual inspections and sample testing of randomly chosen products, taking into account notifications of the Safety Gate and evidence provided by market surveillance authorities and other stakeholders about dangerous products/product categories online.
- Online marketplaces should without delay exclude from their interfaces sellers that provide incomplete or incorrect information, and sellers that fail to comply with the requirements of the GPSR (and other consumer relevant legislation).
- Market surveillance authorities shall have the power to order online marketplaces to remove from their interfaces any illegal content referring to dangerous products or to disable access to such content.
- Online marketplaces shall undertake all the measures necessary to comply with such orders and act within one calendar day after having obtained the order. They shall also prevent illegal content from reappearing again.

---

<sup>3</sup> An obligation for online marketplaces to be established in the EU when targeting EU consumers must be included in the final Digital Services Act which is negotiated in parallel to the GPSR.

- Online marketplaces shall be required to notify evidence they may have about dangerous products on their platform to the Business Safety Gate and cooperate with the authorities including on carrying out recalls.

Besides the above-mentioned principles, we make a proposal for such an article below as inspiration for the co-legislators. It builds on the current article 20 but adds more requirements. As this is a fundamental point for consumer safety, it is of utmost importance to regulate this area properly and without loopholes, in line with the Digital Services Act.

### **Article 19 (new) Obligations of online marketplaces**

1. *Online marketplaces shall ensure the identification of the traders and the traceability of the products displayed to consumers via their online interfaces.*

#### **Obligations regarding the design of the online interfaces**

2. *Online marketplaces shall design and organise their online interfaces in such a way that they enable the online marketplaces and the traders using them to comply with consumer protection legislation, including product safety and market surveillance legislations.*
3. *Online marketplaces shall ensure that the traders provide the following information for each product sold on the online interface and verify that such information is reliable, complete and up-to-date on a regular basis:*
  - (a) the name, registered trade name or/and the registered trademark of the manufacturer, as well as the postal or electronic address at which the manufacturer can be contacted;*
  - (b) Where the manufacturer is not established in the Union, the name, address, telephone number and electronic address of the responsible person within the meaning of Article 15 (1) of this Regulation;*
  - (c) The information necessary to identify the product, including its type and batch or serial number as well as any other product identifier;*
  - (d) Any warning or safety information that shall be affixed on the product or to accompany it in accordance with this Regulation, applicable Union harmonisation legislation and relevant technical standards.*
4. *The information listed under paragraph 3 shall be displayed on the digital product listing in a way and a language that is easily accessible and understandable for all consumers.*

#### **Obligations to perform checks and inspections**

5. *Without prejudice to the prohibition to conduct general monitoring as established under the [Digital Services Act], online marketplaces shall conduct regular and random identity checks and proceed to the verification of the information provided by the traders using their online interfaces before the products are advertised, promoted or put into circulation.*
6. *Online marketplaces shall periodically carry out visual inspections and sample testing of randomly chosen products considering previous reports, databases, reviews and potential risks and harms towards consumers.*

#### **Obligations to de-list and signal the uncompliant traders**

7. *Online marketplaces shall immediately exclude from their online interfaces the traders providing incomplete or incorrect information and the traders failing to comply with the rules laid down in this Regulation.*
8. *Online marketplaces shall report those traders to Member State competent authorities and to the European Commission through the Business Safety Gateway.*

### **Obligation to cooperate with competent authorities**

9. *Online marketplaces shall cooperate with Member State competent authorities and other authorities in charge of consumer protection, relevant economic operators, consumer and other civil society organisations to facilitate any action taken to eliminate or to mitigate the risks presented by a product that is or has been shown on their online interfaces. That cooperation shall include in particular:*
- (a) Cooperating to ensure effective product recalls, including carrying out recalls directly and offering remedies to consumers if the responsible economic operator fails to take adequate and timely action;*
  - (b) Informing the competent authorities of any action taken on a regular and timely basis;*
  - (c) Cooperating with law enforcement agencies at national and Union level, including the European Anti-Fraud Office, through regular and structured exchange of information on offers that have been removed on the basis of this Article by online marketplaces;*
  - (d) Providing competent authorities access to relevant trader and product data and their interfaces to deploy online tools to identify and remove dangerous products;*
  - (e) Upon request of the competent authorities or any other authorities, where online marketplaces or traders operating on their online interfaces have set up technical obstacles to the extraction of data from their online interfaces (such as data scraping), allowing to scrape such data for product safety purposes based on the identification parameters provided by the requesting market surveillance and other competent authorities.*
10. *Online marketplaces shall establish a Single Point of Contact for the purpose of ensuring a swift and direct communication with all competent authorities, including market surveillance authorities and custom authorities, in relation to product safety issues. Online marketplaces shall indicate the details of their Single Point of Contact in the Safety Gate Portal.*

### **Obligation to comply with orders issued by competent authorities**

11. *Online marketplaces shall take all the measures that are necessary to comply with the order issued by a Member State market competent authority as referred to in Article 14 of the Market Surveillance Regulation.*
12. *Upon receipt of the order issued by a Member State competent authority, the online marketplace shall act without delay and no later than one calendar day from the receipt of the order.*
13. *The online marketplace shall inform the issuing competent authority of any follow-up actions they will take to prevent the illegal content from reappearing on the online interface.*

### **Obligation to communicate with consumers**

14. *Online marketplaces shall ensure that all consumers have the possibility to communicate with them in an effective, swift and easily accessible way. For this purpose:*
- (a) Online marketplaces shall disclose their contact details, including their phone numbers, email addresses and the postal address of their establishment within the Union;*
  - (b) Online marketplaces shall not exclusively rely on automated tools for the purpose of ensuring communication with consumers;*

- (c) *Where online marketplaces proposes electronic contact forms or instant messaging for consumers, online marketplaces shall also allow consumers to store or save on a durable medium any correspondence, including the date and hour of such correspondence;*
- (d) *Online marketplaces shall provide consumers with the postal address and the identity of the seller on whose behalf the online marketplace is acting;*
- (e) *Online marketplaces shall allocate the necessary human and financial resources to ensure that the communication referred to in Paragraph 14 is performed in a quick, effective and efficient manner.*

### **Obligation to respond to complaints**

- 15. *Online marketplaces shall respond without delay and no later than one calendar day respond to complaints submitted by consumers, consumer and other civil society organisations, and other stakeholders for the purpose of applying effective measures for detecting, identifying, removing and disabling access to dangerous products circulating on their digital interfaces.*

### **Sanction and remedies in case of non-compliance**

- 16. *Competent authorities shall be entitled to impose deterrent, proportionate and effective sanctions on online marketplaces failing to comply with the obligations laid down in this Article, in accordance with Article 40 GPSR.*
- 17. *Consumers, consumer organisations and other stakeholders shall be entitled to seek remedies against online marketplaces for failing to comply with the obligations laid down in this Regulation.*

## **2.4. Safeguarding a strong safety net function**

The safety net is, in combination with the precautionary principle, one of the supporting structures of the GPSD/GPSR. While we welcome clear references to the safety net function in article 2 GPSR, the concept seems nonetheless to be weaker than in the past.

It is of particular importance to make sure that the GPSR can continue to apply in case there is lacunae in sector specific legislation. Only the fact that sector specific legislation has safety as an 'objective' does not mean that a specific aspect is addressed or addressed at the right level of ambition to keep consumers safe.

### **Policy Recommendations**

- As in the GPSD, also the GPSR should make clear that the safety net function is there to cover lacunae in sector specific legislation, including sector specific legislation which is under development or under revision. To this end recitals 6,8 and 13 of the GPSR should be amended as follows:

*(6) Despite the development of sector-specific Union harmonisation legislation that addresses safety aspects of specific products or categories of products, it is practically impossible to adopt Union legislation for all consumer products that exist or may be developed. There is therefore a need for a broad-based legislative framework of a horizontal nature to fill gaps in particular pending revision of the existing specific legislation, and to complement provisions in existing or forthcoming specific legislation to ensure consumer protection not otherwise ensured, in particular with a view to achieving a high level of protection of safety and health of consumers, as required by Article 114 and Article 169 of the Treaty.*

**Justification:** This change re-introduces text from the current legislative framework and should be kept.

*(8) .... In particular the general product safety requirement and related provisions should be applicable to consumer products covered by Union harmonisation legislation when certain types of risks are not specifically regulated by that legislation.*

**Justification:** The insertion clarifies that certain types of risks may be addressed (such as chemicals) but that a loophole nonetheless exists. Without this clarification the GPSR would be prevented from taking its safety net function.

*(13) .... The regulation of materials and articles intended to come in contact with food is covered by the GPSR where aspects are concerned that are not already covered by Regulation (EC) No. 1935/2004....*

**Justification:** The change clarifies in which cases the GPSR can be used to address risks of food contact materials.

## 2.5. Establishing a system of accident and injury data collection which brings real added value

The GPSR proposal makes only very modest improvements on accident and injury data collection: where such data is known to economic operators, they must notify it in the Business Safety Gateway. However, the point is that accident and injury data in relation to products needs to be more proactively collected, analysed and evaluated in cooperation with hospitals across the EU so that product design, safety legislation, technical standardisation and consumer information on safe use improve over time based on this evidence. Reducing the number of accidents and injuries in combination with products is very relevant, as has been pointed out in the impact assessment. Yet, a systematic approach is missing, and therefore data is incomplete and collected in a patchy way across EU Member States.

### Policy Recommendation

A new article 20 on a pan-European Injury Database should be introduced as shown below. The [Single Market Programme](#) could provide a sound financial base for the pan-European surveillance of product-related injuries.

#### *Article 20 (New)*

#### **Pan-European Injury Database**

1. *A Pan-European Injury Database (IDB), which would cover all types of injuries involving consumer products, shall be set up and coordinated by the European Commission.*
2. *The relevant market surveillance authorities established by the Member States shall contribute to the establishment of the database and deliver injury data to the database, based on a common methodology, comprehensive and in accordance with European and national laws on data protection.*
3. *The Commission shall support the co-ordination of the collection of data from Member States and the operation of the database.*

## **2.6. Allowing for the use of conformity assessments which are more thorough than manufacturer's self-certification**

The GPSR does not provide a possibility for the legislator to choose a level of conformity assessment appropriate to the risks that a product may pose.

### **Policy Recommendation**

- A provision should be introduced to allow EC-type examination (independent third-party testing and certification) for certain categories of consumer products, such as products that have caused serious accidents in the past or products that are aimed at vulnerable consumers.

## **2.7. New European Commission powers to set implementing measures**

Consumer organisations have flagged for many years, that the GPSD was missing the opportunity to adopt implementing measures on products which are inherently dangerous and therefore need regulation that go beyond mere 'emergency' measures. Hence, BEUC and ANEC very much welcome that this point has been included into the GPSR draft.

### **Policy Recommendation**

- Co-legislators should make sure the European Commission will be given the power to adopt specific implementing measures.

*This publication is part of an activity which has received funding under an operating grant from the European Union's Consumer Programme (2014-2020).*



*The content of this publication represents the views of the author only and it is his/her sole responsibility; it cannot be considered to reflect the views of the European Commission and/or the European Innovation Council and SMEs Executive Agency (EISMEA) or any other body of the European Union. The European Commission and the Agency do not accept any responsibility for use that may be made of the information it contains.*