



# FACTSHEET

## Sewing up the holes in Europe's product safety net

### Why the General Product Safety Directive (GPSD) must be reformed, and how to do it

Consumers expect products to be safe: no matter what they buy, whether they do so online or offline, and whatever the price. The EU has adopted various product safety laws that require producers to only place safe products on the internal market. An important one is the General Product Safety Directive (GPSD) which sets safety requirements for products that do not benefit from sector-specific safety laws.

However, the GPSD dates back to 2001 and is not made for an era of global online shopping. It also does not address the rise of 'smart products' and the presence of harmful chemicals in everyday products. That is why we call on EU decision-makers to revise it<sup>1</sup>.

### What are currently the main product safety challenges?

- **MARKET GLOBALISATION.** This makes it difficult for authorities to check products considering the complexity of supply chains and production processes.
- **NEW TECHNOLOGIES.** The legal definition of 'safety' itself traditionally focuses on consumers' health or physical integrity. But consumer group tests have unveiled hackable smart watches, tablets, security cameras and toys. What if a third-party maliciously exploits the security gaps of a connected product and puts consumers' health and safety at risk?
- **INCREASE IN ONLINE SHOPPING.** Online marketplaces that allow third-party traders from around the world to sell on their platforms have become very popular. Many unsafe products end up in people's homes this way, with in one recent test two-thirds out of 250 tested products failing EU safety laws and technical standards<sup>2</sup>. In the current GPSD there is insufficient enforcement of consumer protection online, and gaps exist to hold platforms accountable and liable in the supply chain.
- **LACK OF ROBUST RULES ON CHEMICALS.** The current GPSD does not establish what a 'safe' product is when it comes to chemicals. For example, the EU bans cancer-causing chemicals in toys, but not in childcare products even though the exposure risk is often similar.

### Our advice to decision-makers to improve the GPSD

- **MAINTAIN THE PRECAUTIONARY PRINCIPLE:** The GPSD must continue to enable decision-makers to adopt precautionary measures when scientific evidence about an environmental or human health hazard is uncertain but the stakes are high. Setting the level of protection is and must remain a political decision and take the precautionary principle into account.
- **KEEP THE SAFETY NET FUNCTION:** The GPSD must continue to step in when sector specific legislation has loopholes, and consumers are at risk.
- **UNIVERSALISE BETTER MARKET CONTROLS:** The EU started to address the above challenges by approving a reform of market controls in 2019<sup>3</sup>. It requires authorities to intensify controls of products

<sup>1</sup> BEUC and ANEC (2020) [Achieving a higher level of consumer safety through a revision of the General Product Safety Directive](#).

<sup>2</sup> BEUC (2020) [Two-thirds of 250 products bought from online marketplaces fail safety tests, consumer groups find](#).

<sup>3</sup> BEUC and ANEC (2019) [European Parliament approves reform of market controls](#)



including those sold online. However, this reform only applies to products with sector-specific laws. The future GPSD needs to extend this to all consumer goods. Market surveillance efforts ought to be shared, coordinated and streamlined throughout Europe. Adequate human, financial and technical resources are very important here, so authorities can run more tests, including on smart products or algorithms.

- **MAKE ONLINE MARKETPLACES LIABLE:** Marketplaces must be considered as operators in the supply chain. They must be held ultimately liable if products sold through their platforms are dangerous and if the responsible producer cannot be held accountable. Market surveillance authorities should be enabled to address their enforcement actions to the platform.
- **IMPROVE KEY SAFETY CONCEPTS:** 'Safety' should be expanded to include 'security'. All products

must be safe and protected by design and default against unauthorised access during their entire expected lifespan.

- **STRENGTHEN THE SETTING OF SAFETY REQUIREMENTS:** To achieve more legal certainty and support enforcement work, the legislator should be able to decide on detailed safety requirements for specific products. This cannot be left to standardisation bodies alone. Member States should also be able to oppose standards in case these do not sufficiently meet the mandate given to standardisation bodies and in turn do not contribute to more product safety.
- **SET DETAILED CHEMICAL SAFETY CRITERIA FOR CONSUMER PRODUCTS:** The GPSD should allow chemicals safety criteria to be set for the products that fall under the law.

## Holding online marketplaces to account

Legislation has not caught up with the rise of online marketplaces. People consequently do not have the same protection when shopping with these platforms as when they buy from offline shops or other websites. Three different EU laws need to change and address this shortcoming:

- **GENERAL PRODUCT SAFETY DIRECTIVE:** Dating back to 2001, this law sets product safety obligations for operators in the supply chain. But its current version does not mention online marketplaces. These marketplaces must be classified as such an operator.
- **E-COMMERCE DIRECTIVE:** Dating back to 2000, this horizontal law regulates the role of online intermediaries in tackling illegal activities and content online. However, its current version predates the rise of marketplaces, the rise of third-country suppliers and the digital economy as we know it. The Directive is being revised as part of the Digital Services Act. We advocate for specific liability rules for online marketplaces, so if there is any issue or damage arising from a product or service they facilitated selling, they can give redress to consumers.<sup>4</sup>
- **PRODUCT LIABILITY DIRECTIVE:** Dating back to 1985, this law deals with what happens when a defective product harms a person. It, too, does not mention the role of online marketplaces in describing who is liable in such a case, because these did not exist. Here, online marketplaces should be held liable if – for example – a producer cannot be identified, or can be identified but does not remedy the harm.<sup>5</sup>

<sup>4</sup> Full position: BEUC (2020) [Making the Digital Services Act work for consumers](#).

<sup>5</sup> Full position: BEUC (2020) [Product liability 2.0: How to make EU rules fit for consumers in the digital age](#).