



**Raising standards for consumers**



**The Consumer Voice in Europe**

Permanent Representation to the EU

B - Brussels

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ANEC-ML-2022-0072

Brussels, 13 September 2022

**Subject: Consumer organisations' comments ahead of the first trilogue on the General Product Safety Regulation**

Dear Attaché,

We are reaching out on behalf of the European Consumer Organisations ANEC and BEUC ahead of the first trilogue meeting on the General Product Safety Regulation.

While we welcome that both, the European Parliament and Council adopted their negotiation position, we believe not enough time has been spent to discuss the political options on how to adequately regulate online marketplaces. Therefore, the trilogue meetings during the second half of 2022 will be an important occasion to do so and controversial points on the online marketplaces should be prioritised and not be left until the last negotiation steps.

As an outcome of the negotiations, we would like to see that the:

- **Online marketplaces** are being properly regulated. This means they must be included into the general safety requirement of article 5 and become liable in case no other responsible economic operator acts. In such cases they also must recall products from end consumers and offer remedies.
- **Precautionary principle** is being retained as part of the scope.
- sequence of articles 7 (safety criteria) and 6 (standardisation) is being inversed and that the safety criteria apply to all products.
- **Safety criteria** adequately cover the safety of connected products, including when there is a loss of connectivity, and that the importance of mental health issues is being emphasised.
- **Remedies for consumers** are being improved as consumers should receive back the purchase price and be able to chose from at least two different types of remedies.
- economic operators must draw up **product related documentation** before products are being placed on the market. The scope of such documentation is to be defined by the authorities, not manufacturers themselves.
- **Information obligation** towards consumers about the safe installation, use and maintenance of products always requires written information to be included in the box of products. Only informing consumers with digital means is not adequate to ensure safety of all users.
- **Enforcement provisions** are being strengthened. Provisions on penalties must not be watered down as we need a stronger and more pan-European wide approach to market surveillance. The GPSR should be included into the Representative Actions Directive.

.../...

**ANEC, the European Association for the Co-ordination of Consumer Representation in Standardisation**

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- **Transparency** about non-compliant companies is being improved. A reference to 'business secrets' should not be used to protect the non-compliant companies.
- **Transition periods** to the full implementation of the Regulation are short (6 months) as the current legislation is outdated and cannot keep consumers safe in globalised and digitalised markets.

Please find attached our considerations in more detail which we hope you consider when finalising this important legislation for consumers. We also enclose a summary table in annex with the most important points.

Best regards,

Sylvia Maurer  
Director Sustainability, Energy, Food, Health and  
Safety

Chiara Giovannini  
Deputy Secretary General

## ANNEX – Summary table article by article

Article	BEUC recommendation
<b>Recitals</b>	<p>(6) support Parliament’s approach to the safety net function of the GPSR</p> <p>(8a) support Council’s reference to the Union’s Customs code which clarifies that consumer products for free release must comply with this Regulation and in particular the general safety requirement.</p> <p>(10) Support Council’s proposal to reinforce the precautionary principle</p>
<b>1- Subject matter</b>	<p>Support Parliament’s idea to clarify the objective of the GSPR.</p> <p>Reject deleting references to the “placing on the market” (both in the introductory sentence of this article and throughout the text of the proposal).</p> <p>Support Council’s proposal to extend the scope beyond consumer products.</p>
<b>2- Scope</b>	<p>reject Parliament’s proposal to delete the precautionary principle and to limit it to market surveillance only</p> <p>reject Parliament’s proposal to delete recital 11 which makes a broad reference to health and safety.</p>
<b>3 - Definitions</b>	<p>(1) Product: Support Council’s proposal</p> <p>(2) Safe product: Support Commission’s proposal</p> <p>(9) Authorised representative: Support Council’s proposal</p> <p>(13) Economic operator: include online marketplaces</p> <p>(14) Online marketplaces: see definition in Omnibus directive</p> <p>(15b) Trader: Support Council’s proposal</p> <p>Reject EP’s proposal in Amendment 10 to delete reference to the WHO definition of health which includes also mental health impacts that could stem from new technologies.</p>
<b>4- Distance contracts</b>	<p>(1) Support Council’s proposal about products free of charge</p> <p>(2) Support Commission’s proposal</p>
<b>5 - General safety requirement</b>	<p>Make sure that the general safety requirement also applies to online marketplaces</p>
<b>7 – Aspects for assessing the safety of products</b>	<p>Support Council’s approach to this article overall and proposal to convert initial article 6 into new article 7a</p> <p>Support Parliament’s proposal to include risks related to loss of connection</p>
<b>8- Obligations of manufacturers</b>	<p>(4) Technical documentation: Support Council’s approach and clarify that it must be drafted ‘before placing on the market’</p> <p>(5) Support Parliament’s proposal to keep technical documentation up to date</p>
<b>9- Authorised representative</b>	<p>- Extend the mandate to sample testing and oblige this entity to provide information about any action taken or planned to eliminate certain risks</p>

	- ensure legal representation in the EU for all obligations of this Regulation
<b>14 – Cooperation of economic operators with authorities</b>	- Support Council's proposals to provide market surveillance authorities with all necessary information about a product, including number of items placed on the market, related complaints and known accidents, information about suppliers Reject Parliament's proposal to delete possibility to request regular progress reports about corrective measures
<b>15 – Responsible Person</b>	Support Commission proposal Reject Parliament's proposal to restrict sample testing to certain products, categories of products or group of products
<b>17- Traceability of products</b>	Support Commission's proposal
<b>18 – Obligations of economic operators in case of distance sales</b>	(a) support Council's proposal and make sure that phone number is also communicated
<b>20 – Online marketplaces</b>	<p>Online marketplaces should be regulated in Chapters II and III as economic operator and be given an importer-like status. The following obligations should apply to them:</p> <ul style="list-style-type: none"> <li>- Require traders to provide key information about products which can be shared with authorities on request</li> <li>- Give appropriate answer to product safety notices within 3 working days (both Council and Parliament)</li> <li>- Remove offers referring to dangerous products and to identical content (Council)</li> <li>- Consult the EU safety gate in addition to other database of interfaces about dangerous products</li> <li>- carry out random checks on products from non-EU traders</li> <li>- Suspend traders that frequently offer non-compliant products (Council)</li> <li>- Provide information about safety recalls and directly notify affected consumers (Council)</li> <li>- Conduct recalls and offer remedies to consumers in case no other economic operator in the supply chain act or can be identified</li> <li>- Keep authorities and other economic operators informed about accident and safety issues, and notify them on the business safety gate (Parliament and Council)</li> </ul> <p>Reject Parliament's proposal about Memoranda of understanding.</p> <p>We doubt that self-certification of traders in line with the DSA will contribute anything meaningful to raising the level of safety (Council).</p>
<b>31- Information between public</b>	Support Commission's proposal to ensure that the protection of commercial interests doesn't prevent consumers' right to information and transparency

<b>authorities and consumers</b>	
<b>35 – Right to remedy</b>	Support Council’s approach to this article Support possibility for consumers to submit complaints to competent authorities in case of non-satisfactory remedy (proposal both from the Parliament and Council)
<b>40 - Penalties</b>	Support Commission’s proposals to establish an EU catalogue of criteria and types of infringement that lead to penalties Reject Council’s proposal to delete provisions on recurrent penalties
<b>44 -Standardisation</b>	Support Council’s approach to this article to ensure coherence of terminology and concepts about standardisation as well as legal certainty in the references made.
<b>44 - Amendments</b>	Support Parliament’s proposal to include the GPSR in the Representative Actions Directive.