

TOWARDS THE EUROPEAN PRODUCT ACT

Why it matters to consumers

Consumers deserve safe products, whether they purchase them online or offline. In recent years, the surge of products entering the EU, especially from third-country online marketplaces, has led to the growing circulation of unsafe, counterfeit or non-compliant products. This endangers consumers and exposes compliant European businesses to unfair competition.

EU policymakers should reinforce consumer products' market placement rules and update market surveillance and products' compliance through the upcoming European Product Act (EPA).

This checklist sums up our key recommendations.

1

EXTEND RESPONSIBILITY OF ECONOMIC ACTORS TO ALL PRODUCTS

Today, the Market Surveillance Regulation requires that companies name an economic operator established in the EU to ensure compliance for only 20 out of 71 harmonised products categories (e.g. personal protective equipment, toys, batteries, etc.). The same requirement applies to all non-harmonised products under the General Product Safety Regulation. The upcoming EPA should mandate the appointment of an EU-based responsible person for all products. This would increase consumer protection by closing e-commerce loopholes, and improve enforcement.

2

EXTEND LIABILITY TO ONLINE MARKETPLACES

Breaches of compliance are higher regarding products sold online. Online marketplaces (OMPs) are not economic operators under product legislation meaning it can be difficult to identify who is responsible and liable. OMPs must become economic operators to ensure that there is always someone in the EU that is ultimately liable for illegal and non-compliant products sold to European consumers. This includes where no manufacturer, importer or authorised representative in the EU exists, cannot be found, or does not take sufficient action.

3

ENABLE CIRCULARITY AND DIGITALISATION

The New Legislative Framework (NLF) clearly states the roles and responsibilities among different economic operators, including manufacturers, importers, distributors, and conformity assessment bodies. To avoid fragmented approaches, the NLF should introduce harmonised definitions for new economic operators such as refurbishers, remanufacturers, repairers, and circular economy processes, aligning them with sectoral legislation. This would enhance consumer trust on circular products and ensure fair competition for businesses by clarifying their responsibilities.

The EPA is set to expand the scope of the Digital Product Passport (DPP) to contain mandatory information for conformity assessment and market surveillance. The DPP will streamline product documentation and enhance controls for market surveillance and customs authorities. However, important safety and purchasing information should remain available physically on the product.

4

ENHANCE ENFORCEMENT AT THE EU LEVEL

Unsafe products increasingly circulate across multiple countries simultaneously. The EU should gain market surveillance powers to intervene in cross border cases where there is common Union interest. These powers could include carrying out inspections, coordinating multinational operations, requesting corrective actions, and imposing EU level penalties in well-defined situations. The Commission could also verify Member States' enforcement performance through an audit system, especially in cases of systemic and persistent failures.

6

STRENGTHEN COOPERATION WITH CONSUMER ORGANISATIONS

Consumer organisations can play a key complementary role in sharing intelligence, liaising with national stakeholders and assisting with communication efforts towards consumers. They also regularly test products in laboratories in which they often find unsafe items and share the evidence at EU level. The EU could do with more structured involvement, for instance through the EU Product Compliance Network or agreements with national authorities for joint activities, as prescribed in the legislation. The EU should create a CPC-style external alert mechanism for consumer organisations to inform national authorities and the Commission about the cross-border presence of dangerous products. Consumer groups' work cannot replace the work of market surveillance authorities but can complement it. Additional funding could allow consumer organisations to carry out more useful projects and share the intelligence with the public, regulators, and enforcers.

5

MAKE NATIONAL MARKET SURVEILLANCE MORE EFFECTIVE

National authorities report inadequate human and material resources, lack of expertise and an overwhelming number of products entering the market. It is critical to reinforce checks, pool resources and discourage non-compliance from all market actors. In addition, the EU should enhance cooperation between national authorities through joint activities, such as the existing Coordinated Actions on the Safety of Products (CASPs) and Joint Actions on Compliance of Products (JACOPs).

The EU should establish a product safety mechanism that enables coordinated investigations, harmonised enforcement, and faster actions against unlawful products, similar to the one under the Consumer Protection Coordination (CPC) Regulation. Activities could include joint sweeps, coordinated risk assessments, shared corrective measures, and regular enforcement reviews. For EU wide-enforcement cases, cooperation based on dialogue with traders without proper deterrence is insufficient and should go hand-in hand with centralised enforcement and sanctioning powers.