



Raising standards for consumers



The Consumer Voice in Europe

Permanent Representation to the EU

B - Brussels

Ref.: BEUC-X-2022-079

7 July 2022

Subject: BEUC's recommendations on the proposed compromise for a GPSR

Dear Attaché,

We are writing to you on behalf of the European Consumer Organisations ANEC and BEUC related to the revision of the General Product Safety Regulation (GPSR). As we understand that Member States are about to conclude on major discussion points, we would like to highlight the following aspects from a consumer perspective which we hope will be part of the Council's General Approach:

- **The importance of the precautionary principle should be underlined.** We strongly disagree with the European Parliament's approach to delete the precautionary principle from the scope of the GPSR (article 2). Hence, a strong commitment from Council is needed.
- **Online marketplaces must be duly regulated.** We believe it is important to define them as 'economic operators', so the general safety requirement according to which only safe products should be made available on the market (article 5) will also apply to them. Furthermore, and as recommended by a number of delegations, they should assume an importer-like status in case no one else in the supply chain takes appropriate responsibility to keep consumers safe from dangerous products sold online.
- **Authorised representatives' obligations must be strengthened,** notably when it comes to the checks that should be performed on products and the handling of information about product safety issues.

In Annex, we comment on some technical points in more detail for your consideration.

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We trust that you will take the consumer interest into account when deciding on the provisions contained in the General Approach.

Should you have comments or questions, please do not hesitate to contact us.

With kind regards,

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BEUC Director for safety and sustainability

Chiara GIOVANNINI
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Technical comments on the General Product Safety Regulation

Scope and definitions

- The fundamental value of the precautionary principle should be underlined in the recitals and remain a key provision of the regulation as proposed in article 2.
- The definition for 'product' should reflect that they can be of physical or digital nature, or possess both aspects combined. This will allow to cover software and connectivity aspects. It should however be unequivocally clarified that softwares, whether embedded into a product or standalone, are included in the scope of the GPSR.
- Online marketplaces must be defined as in the Omnibus Directive¹, i.e., 'online marketplace means a service using software, including a website, part of a website or an application, operated by or on behalf of a trader which allows consumers to conclude distance contracts with other traders or consumers.'
- Clarifications should be brought as regards the safety aspects that should be taken into consideration when assessing whether a product is safe, and how requirements apply to all actors involved in the supply chain (articulation of articles 5 to 7).

Economic operators and online marketplaces

As illustrated by the [latest research by Which?](#) in the UK, BEUC's member organisations have provided an overwhelming amount of evidence on the need to better protect consumers in relation to sales from third-party vendors. In this respect, we consider that the option as reported in the press² to strictly align the GPSR with the DSA will not be the most effective to address the problem. The prohibition of a general monitoring obligation or the freedom of economic operators to conduct their business should not be used to curb the ambition to better protect consumers' safety, physical integrity and health.

If online marketplaces will not be defined as economic operators which again is the most efficient solution and the easiest for enforcement purposes, it must at least be ensured that online marketplaces:

- carry out regular random checks (including laboratory testing) of products.
- verify information provided by new traders before admitting them on their platform and to check that product offers of these traders do not concern dangerous products flagged already on the Safety Gate or other databases (ICSMS, OECD etc.). While offers are online, marketplaces should check regularly new Safety Gate notifications to take offers down which are related to safety notifications.

¹ DIRECTIVE (EU) 2019/2161 on better enforcement and modernisation of Union consumer protection rules

² <https://www.euractiv.com/section/digital/news/french-presidency-ponders-options-on-product-safety-rules-for-online-marketplaces/>



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- carry out product recalls if no other responsible economic operator in the EU takes appropriate action and offer remedies to consumers.
- Online marketplaces should not only be required to take a specific dangerous product offer down but also comparable ones, if it is certain that the same dangers exist for consumers and/ or such product features or categories of products in the EU are already banned. An example is clothing for children which has long cords around the neck: long cords are a strangulation hazard and are not allowed in the EU. Therefore, all offers which show on the pictures long cords on children clothing should be taken down. Similarly, Chinese paper lanterns pose a fire threat and irrespective of whether Member States notify a specific product from a specific trader, all such products should be taken down. Moreover, cigarette lighters which look appealing to children are not allowed in the EU. Plenty of lighters in the form of cartoon characters or little figures can still be found on online marketplaces³. It would neither be efficient nor effective for market surveillance authorities to notify each single product separately. Hence online marketplaces not only need to check specific Safety gGte notifications but also not allow similar dangerous offers for sale on their online marketplaces.

Remedies

- Consumers should have the choice from at least 2 types of remedies in case of product recalls, including the possibility to receive a refund that is equivalent at least to the initial purchase value (article 35). Companies should be encouraged to use additional tools such as vouchers to make sure the recalls will have a high participation from consumers.

Penalties

- Enforcement measures on product safety issues should follow a consistent pan-European approach to ensure the same level of safety for consumers in the EU. For this reason, we are disappointed that both the European Parliament and Council aim to delete large parts of article 40 and that the proposed modifications also can increase even more opacity about companies that put non-compliant products on the market.

Technical documentation

- As the position of the European Parliament is not satisfactory on this aspect, the technical documentation to be drawn by the manufacturers should require a risk assessment to be done and risk mitigation measures to be defined

³ See for example funny doll lighter on Aliexpress:

https://www.aliexpress.com/item/1005004194048858.html?spm=a2g0o.productlist.0.0.712549d2PrBH4o&alqo_pvid=b5094a42-5a3f-44bb-a4cf-613c3a3d81cf&algo_exp_id=b5094a42-5a3f-44bb-a4cf-613c3a3d81cf-9&pdp_ext_f=%7B%22sku_id%22%3A%221200002%22%7D; Website accessed on 1 July 2022.