



Consultation on EU proposal for a Regulation on the Safety of Toys

Submission to the Department of
Enterprise, Trade and Employment

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Coimisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission



Introduction

The Competition and Consumer Protection Commission ('the CCPC') welcomes the opportunity to respond to the Department of Enterprise, Trade and Employment consultation on the proposal for a Regulation on the Safety of Toys and Repealing Directive 2009/48/EC. The CCPC is the market surveillance authority with responsibility for Directive 2009/48/EC. We provide responses to the consultation questions in relation to the scope and definitions contained in the proposed Regulation, the obligations on economic operators, the Digital Product Passport, as well as providing additional comments on the proposal text.

The scope of the proposed Regulation

The CCPC welcomes the scope of EU Proposal for a Regulation on the Safety of Toys (the proposed Regulation) which is clearly defined and remains in line with Directive 2009/48/EC in that it applies to all toys, i.e. products designed or intended, whether or not exclusively, for use in play by children under the age of 14 years of age.

The definitions included in the proposed Regulation

The CCPC also welcomes that definitions in the proposed Regulation are aligned with EU Regulation 2019/1020 and EU Regulation 2023/988, ensuring coherence between legislative instruments.

The obligations of manufacturers, importers and distributors proposed in Chapter II

It is important that every actor in the supply chain has clear obligations relating to the safety of toys as is set out in the proposed Regulation, which the CCPC welcomes. In particular, the clarity in respect of the division of responsibility between a 'manufacturer' and an 'authorised representative' with respect to the drawing up of technical documentation and the digital product passport (DPP), and that neither role can form part of an authorised representative's mandate, is very welcome.

In addition to their name and postal address, manufacturers and importers will also have to indicate on the toy, on its packaging or in a document accompanying the toy, an email address (as also required by Regulation (EU) 2023/988). The CCPC queries whether the

need for this could be replaced by adding 'email address' to the list of information to be included in the DPP.

In addition to this and welcomed by the CCPC is the requirement for manufacturers to also make publicly available a dedicated section of their website or another communication channel allowing consumers or other end users to file complaints concerning the safety of toys. An importer will be obligated to verify this and where such a communication channel is not available, importers will have to provide for such a channel.

The proposed responsibilities of authorised representatives and economic operators outlined in Chapter II

The CCPC welcomes the clarity regarding the role of an authorised representative with respect to drawing up the technical documentation.

The Digital Product Passport

The CCPC welcomes the introduction of the DPP, intended to replace the EU Declaration of Conformity. The DPP will include a unique product identifier and be included in a European Commission registry (as foreseen by the Eco-design for Sustainable Products Regulation).

With the issuance of a DPP, the manufacturer declares that its toy conforms to the requirements of the proposed Regulation and with all other applicable European laws. For example, it will be made available using a QR code and will include information such as a clear product identification code for the product, the name and contact address of the manufacturer, a clear company identification code and the customs tariff number. It will also list all fragrances for which the Regulation requires special labelling and all "substances of concern" contained in the toy. It is noted that the Eco-design for Sustainable Products Regulation could allow for future sustainability requirements to be issued for toys.

The CCPC also notes the limitations of the DPP, as with the current Declaration of Conformity, the possibility that a DPP may not be genuine will still exist and would encourage any measures to mitigate against such risks. As noted above the inclusion of an email address in the DPP would be beneficial for market surveillance authorities.

Additional comments

Overall, the CCPC strongly welcomes the review of the Toy Safety Directive and many of the measures included in the proposed Regulation. In particular, the CCPC welcomes clear obligations for the various economic operators in the supply chain and the introduction of the DPP. The proposed Regulation will replace Directive 2009/48/EC meaning it is binding in its entirety and directly applicable in member states. It has the automatic force of law and overrides any inconsistent domestic law. The only discretion for members states is in prescribing penalties for breach (see Article 52) thus, the CCPC welcomes the increasing uniformity in implementation across the EU.

The CCPC notes that “particular safety requirements”, especially the chemical requirements governed by Part III of Annex II will be stricter than existing requirements. The use of CMR substances in toys will continue to be prohibited, but this prohibition will also apply to substances related to endocrine disruption, respiratory sensitisation, or specific target organ toxicity.

The CCPC also welcome the expansion of the concept of safety to add psychological and mental health, well-being and cognitive development in children (similar provisions to those included in Regulation (EU) 2023/988). However, the CCPC note that further clarity will be required in respect of this obligation to ensure that the obligation is clear and enforceable.

ENDS

