



Ms Liliana Brykman
Director
DG ENTR, Directorate C
200 rue de la Loi
1049 Brussels

8 July 2010

Dear Ms Brykman,

I am writing to you in response to the public consultation regarding the alignment of ten product harmonisation directives with the provisions of Decision 768/2008 on a common framework for the marketing of goods.

Although from the business side the consultation is addressed specifically to economic operators that manufacture, import or distribute products in the specific areas of the above-mentioned directives (lifts, electrical and electronic products, pressure equipment, etc), BUSINESSEUROPE, as a horizontal business organisation that is active on the Goods Package, would like to provide some general comments.

BUSINESSEUROPE supports the main principles of the Decision and suggests that the provisions are implemented in both existing and future product legislation. In particular we support common definitions and conformity assessment modules, a clearer indication of obligations of economic operators, a more equal level of competence of all notified bodies and more efficient market surveillance on behalf of Member States.

BUSINESSEUROPE would like to stress that the alignment of the ten directives with Decision 768/2008 should focus on procedural aspects alone, unless there is broad stakeholder consensus for the need to revise certain content aspects of the directives.

At annex you will find BUSINESSEUROPE's concrete views on the elements that fall under the three actions outlined in the public consultation.

We remain at your disposal should you wish to discuss these comments further.

Yours sincerely,

(original signed by)
Jérôme P. Chauvin
Director
Legal Affairs Department
Internal Market Department

ANNEX

Action 1 elements: Obligations applicable to manufacturers, importers and distributors and market surveillance

BUSINESSEUROPE believes that the obligations specified in Decision 768/2008 which are to be transferred to the individual directives make the role of each economic operator in the supply chain clearer. This will help to decrease the number of non-compliant products and create a better level playing field for companies.

The specification of distributors' obligations is a significant change. Although it may create extra burdens for distributors it will result in the placing of safer products on the market.

BUSINESSEUROPE does not believe that the obligations for manufacturers and importers after the product has been placed on the market will have a great impact. In principle the type of products covered by the directives in question will remain compliant if they were compliant before having been put on the market.

The obligation to have the details of both the manufacturer and importer on the product will lead to increased costs and administrative burdens. In particular the requirement to have the name of the importer on the products might lead to a need for adaptation to individual countries, which will increase operating costs and result in less flexibility in the supply chain.

In general though, BUSINESSEUROPE is confident that the elements that fall under Action 1 will both significantly improve the health and safety conditions of consumers and workers and lead to a significant improvement for the well-functioning of the internal market. In this context, the obligations should be incorporated into the legal texts of the EU directives and be binding for economic operators and market surveillance authorities. This will be more effective than an informal guidance text.

Action 2 elements: Performance of Notified Bodies

Today there are significant differences in the performance of Notified Bodies, which creates an uneven level playing field and also leads to the fact that non-compliant products might be put on the market. Lack of competence and differences in interpretation and assessments are the main challenges. Furthermore, many Notified Bodies are unaware of commonly fixed guidelines. Especially wrong and different test results lead to unfair competition and legal uncertainty.

BUSINESSEUROPE considers that it is important to have clear and reinforced requirements, both for the Notifying authorities and bodies. In this context the elements outlined in Action 2 of the public consultation should be included in the legal texts as they will lead to a significant improvement in the functioning of the internal market and to the safety of products.

**Action 3 elements: Addressing inconsistencies on specific issues in current legislation**

When several directives apply simultaneously to one product, BUSINESSEUROPE believes that common definitions and the alignment of conformity assessment procedures are appropriate for economic operators. Even if only one directive applies to a specific product, it is still useful to have the same definitions of common terms and obligations where possible, in order to facilitate the work of the importers and distributors who often have to deal with many different types of products.

Consequently BUSINESSEUROPE supports the measures set out under Action 3, namely the introduction of harmonised definitions of common terms like 'manufacturer' into the directives concerned and the alignment of modules, whereby the existing text of the modules in the directives is aligned to the standard modules set out in Annex II of Decision 768/2008.

BUSINESSEUROPE considers that the final result – seen from society – will be that it reduces costs to correct inconsistencies in legislation.

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