



17 September 2013

**'EP WORKING LUNCH ON PRODUCT SAFETY AND MARKET SURVEILLANCE PACKAGE', HOSTED BY ECR  
17 SEPTEMBER 2013, 12.00-15.00, EUROPEAN PARLIAMENT**

**Speech by Annette Dragsdahl- BUSINESSEUROPE**

*(10 minutes)*

Members of Parliament, Ladies and Gentlemen,

Thank you very much to the organisers for inviting BUSINESSEUROPE to present its views on the Product Safety and Market Surveillance Package.

First of all, let it be clear that business wants safe products on the market! Not only do safe products benefit consumers and society at large, they also make perfectly good business sense.

Industry originally welcomed a revision of the General Product Safety Directive in order to get more legal clarity, i.e. to have a clear distinction between products regulated through harmonised sector directives and non-harmonised consumer products under the product safety directive.

Industry also asked for more efficient market surveillance. We have an interest in ensuring that consumers have confidence in products placed on the market.

However, what we see now may lead to the exact opposite!

BUSINESSEUROPE is very concerned about the draft reports, especially the one on consumer product safety.

In a time of crisis when job creation and growth are lacking all over Europe, industry really doesn't need extra burdens nor costs and legal uncertainty. And this is what we might get.

**1. Many of the amendments will lead to extra burdens and costs for companies without ensuring better safety**

a) This applies e.g. to the **proposal for a CE+ marking.**



It sets aside the conformity assessment methodology of the New Legislative Framework (from 2008). This is opposite to 'alignment'!

A CE+ mark would add confusion, complexity, costs and administrative burdens to the marketing of products in the EU without any corresponding benefits for the consumer. Furthermore, it doesn't solve the problem of false marking and rogue traders.

Other examples are proposals for the deletion of some of the proportionality measures that the Commission has introduced in the light of the fact that most products under the future CPSR are low or no risk products. This applies e.g. to the requirement for user instructions and the contents of the technical documentation.

**2. Other amendments lead to legal uncertainty for manufacturers and open up for different interpretations by market surveillance authorities – Let me mention a few...**

- a. The delimitation between the CPSR and the sector specific directives becomes even more blurred, leading to overlapping requirements and legal uncertainty – which was exactly what we wanted to avoid.

To include 'risks not covered in the harmonisation directives' under the CPSR is a slide away from the New Approach which in future will necessitate very detailed legislative requirements.

b. Precautionary Principle

The draft report contains numerous references to the precautionary principle. BUSINESSEUROPE thinks that this is unnecessary as the principle is already detailed in the Treaty.

The principle is meant for legislators. To ask manufacturers to use the principle in their risk assessment is a misunderstanding of the whole concept.

A risk assessment should be based on clearly formulated requirements not individual assumptions.

- c) Also provisions about introducing the concept of child-appealing products would lead to different interpretations and thus to legal uncertainty.



The safety of consumers, especially children, is of great concern to business. However, given the fact that nearly every product could be considered, in one way or another, appealing to a child due to its colours, sound and/or shape, such a concept opens up for different interpretations by market surveillance authorities.

As for children and risk, the essential supervisory role of parents should not be forgotten. Though legislators are well-meaning – you will never be able to create a world without risks for children.

Before turning to the issue of market surveillance, I would like to say a few words on the **issue of country of origin**.

It has already been discussed during many debates and I won't go into detail. Opinions diverge, also within BUSINESSEUROPE.

Still it is worth signaling that most BUSINESSEUROPE members see no added value in making the marking mandatory. The arguments are that it will not in itself lead to more product safety or better traceability, but it will involve time-consuming procedures, and lead to higher costs for manufacturers and importers.

Some BUSINESSEUROPE members, however, support the proposal for consumer products to bear a mandatory indication of the country of origin, believing that it would supplement basic traceability requirements.

Now please allow me to turn to **the draft IMCO report on Market Surveillance**.

Here, there are quite a few elements that BUSINESSEUROPE can welcome, for example the clarifications on documentation required by market surveillance. But we also have some elements of concern.

Let me concentrate on 2 key issues:

1) Definition of Risk

BUSINESSEUROPE believes it is necessary to distinguish (safety) risk from other non-conformity issues. We need to have better definitions of the various degrees of safety risks, and we need to distinguish material non-conformity of the product itself from formal non-conformity relating to flaws in



the documentation or marking. Different categories of non-conformity should not lead to the same measures.

## 2) Fees and Penalties

BUSINESSEUROPE urges caution with regard to the proposal to partly finance market surveillance by fees charged to economic operators. In no way should this be used as an incentive for market surveillance authorities to take unnecessary corrective actions as a way of making financial gains.

Regarding penalties, these must be proportionate and dissuasive, but they cannot be fixed on a central basis.

The proposal to set administrative penalties at no less than 10% of the total annual turnover in the preceding financial year as suggested by the rapporteur is completely out of proportion and would cause major disruptions for companies, their employees and the economy at large.

I hope to be able to further elaborate on some of these issues (and possible others) during the discussion, but the bottom line is:

**Business wants and works hard to ensure that safe products are put on the market.**

**We need your help to get clear and unambiguous rules that are easy to enforce. This - coupled with a stronger and better coordinated market surveillance framework - is the way forward!**