The New Goods Package

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The Goods Package 2008

- Regulation 764/2008 laying down procedures relating to the application of national technical rules (mutual recognition)

- Regulation 765/2008 on accreditation and market surveillance

- Decision 768/2008 on a common framework for the marketing of products
The Market Surveillance/ Product Safety Package 2013

Revision of EU Regulation 765/2008 and GPSD (2001/95/EC):


- Stricter requirements on traceability
- Clear divisions of responsibilities between economic operators
- Uniform use of terminology
- Uniform market surveillance obligations
Single Market Strategy 2015
(COM(2015)550)

- Increasing number of non-compliant products
- Lack of awareness of rules among economic operators
- Limited incentives to comply
- Fragmented market and border controls
- Underfinanced market surveillance authorities
Revision of Regulation 764/2008 (2016)


Comprehensive set of actions to further enhance efforts to keep non-compliant products from the EU market (including a possible legislative initiative)” (2016-2017)
Activities 2016-2017

• Stakeholder conference June 2016
• Public consultations July – October 2016
• Evaluation of 764/2008 and 765/2008 2016-2017
• Evaluation and impact assessment finalized by summer 2017
• Proposals expected in Autumn 2017
Stakeholder Conference

A deeper and fairer Single Market

Single Market for Products: Fresh ideas to unleash the full potential

Albert Borschette Congress Center, Brussels
Friday 17 June 2016

- How could mutual recognition in the single market for products be improved?
- How could the number of non-compliant products in the single market be reduced?

Results public consultation
market surveillance *(1)*

- 89 % consider that products within their sectors are affected by non-compliance

- 80 % of the companies confirm that non-compliance has a negative effect on sales and market shares of compliant companies

- Respondents believe that the most important reason for non-compliance is:
  - a deliberate choice to break the rules (33 %)
  - a lack of knowledge of the rules (27 %)
  - other type of inability to comply (11 %) or
  - ambiguity in the rules (10 %)

Results public consultation (2)

• All respondents have experience of authorities lacking financial, human and technical resources for market surveillance

• 50 % of the market surveillance authorities are in favour of levying administrative fees for the surveillance, whereas 55 % of business and 40 % of the consumers are against

• 80-85 % of the authorities, businesses and consumers believe that authorities should have more knowledge about their different sectors

• 60 % of authorities, 47 % of business and 60 % of the consumers consider that the authorities need stronger powers
Results public consultation (3)

• 70-80 % of business and the consumers believe that authorities should share capacity of testing laboratories. The corresponding figure among authorities is 50-60%.

• 75 % state that products within their sector are sold online, 10 % that this is not the case

• Broad agreement of the need for more explicit requirements on economic operators to reply to queries etc. from authorities in other member states

• A need for stronger requirements on authorities to cooperate with each other (mutual assistance).
Evaluation of 765/2008

Study performed by Tehnopolis Consulting Group Belgium 2016-2017

Desk research on national reports and programmes, studies, policies, strategies, impact assessments etc.

Surveys targeted at market surveillance authorities, customs authorities, economic operators, consumers etc.

In-depth interviews
Evaluation criteria

- **Effectiveness** (to what extent have the objectives of the provisions been achieved?)

- **Efficiency** (cost-benefit analysis of each provision, proportionality aspects)

- **Coherence** (are provisions coherent within 765/2008 and in relation to other provisions in particular GPSD and sectoral legislation?)

- **Relevance** (do provisions meet current needs, e.g. on-line trade, increasing imports, issues on scope?)

- **EU added value** (in relation to what could be achieved on national level)
Evaluation results

• Difficult to evaluate/quantify non-compliance, mainly due to lack of solid info from Member States

• No provision has been applied identically in 2 MS

• Cooperation between authorities has somewhat improved but still large room for further improvement

• Some unclarities in relation to e-trade, import and scope

• Relations to GPSD and sectoral legislation difficult

• Need for continued regulation on EU-level
Problem tree:

External factors:
- Increase in online sales
- Increase in third country imports
- Increase complexity of products

Drivers:
- Lack of awareness of rules for economic operators
- Little transparency for consumers and other stakeholders as to product compliance
- Low deterrence
- Fragmented market surveillance within the EU and at the external borders
- Limited resources for authorities

Problem: High number of non-compliant products

Consequences:
- Citizens are exposed to death, injuries, property losses, unfair transactions, pollution, security problems
- Compliant businesses are exposed to unfair competition, loss in competitiveness; negative impact on employment
Main goals of the initiative (1)

1) More efficient cross-border cooperation procedures:
   - more effective mutual assistance between member states
   - portability of test results
   - extended enforceability of MS restrictive measures/
     presumption of non-compliance
   - improved cooperation with customs

2) More efficient use of resources
   - network support structure to assist MS to coordinate
   - more joint actions
   - more funding, especially for testing
   - peer reviews/auditing of market surveillance performance
Main goals of the initiative (2)

3) More deterrent enforcement tools
   - common powers for market surveillance authorities
   - responsible person in EU
   - more use of cost-recovery, publication of restrictive measures, remedies, sanctions

4) More compliance information for businesses and easier access to information
   - extension of Product Contact Points
   - private-public partnerships
   - one-stop-shop and collaborative enforcement schemes
   - provision of compliance information via digital means
Policy objectives and options to achieve them

General objective

Reduce non-compliance

Improve incentives to comply

Improve effectiveness of market surveillance

Specific objectives

1. Help economic operators to comply
2. Increase transparency of compliance
3. Increase deterrence
4. Reduce fragmentation within EU and at external borders
5. Increase efficiency and available resources

Options

Option 1.1: Compliance assistance to businesses via information at the EU level
Option 1.2: Compliance assistance to businesses via information at the Member States level
Option 1.3: Compliance assistance to businesses via ad-hoc partnerships
Option 2.1: Digital compliance system
Option 2.2: Information available digitally through new technologies
Option 2.3: Common European Portal for voluntary measures
Option 3.1: More effective sanctions against rogue traders
Option 3.2: Option 3.1 + approximation of the types of infringements and non-criminal sanctions
Option 3.3: Sanctions imposed by the Commission in case of widespread infringements
Option 4.1: Stricter obligation for mutual assistance
Option 4.2: Option 4.1 + legal principles
Option 4.3: Option 4.2 + possibility for direct enforcement of decisions taken by authorities vis-a-vis businesses in another Member State
Option 4.4: In cases of widespread infringements Commission vested with explicit powers to carry out investigations
Option 5.1: EU funding to support Member States’ national control activities and capacity building
Option 5.2: EU platform with administrative support structure to coordinate and help implementing joint enforcement activities of Member States
Thank you for your attention!