How are market surveillance authorities using and how could they use different tools to increase traceability

Session IV: Traceability in conformity assessment and Market Surveillance

INTERNATIONAL WORKSHOP “TRACEABILITY: A TOOL FOR MANAGING RISKS“

the Palais des Nations, Geneva, 31 October – 1 November 2011

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Overview

- Responsibilities of Slovak Trade Inspection
- Market surveillance, planning of inspections
- Obligations of manufacturers
- Traceability of product – a sign of the producer’s responsibility
- When is traceability essential
- Consequences of insufficient identification of the product


How to improve our work

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Competencies of Slovak Trade Inspection

- Act on State Control of Internal Market in the Consumer Matters (the sphere of authority of STI, the rights and duties of the inspectors, the rights and duties of the inspected persons, powers - protective measures

- Act on Technical Requirements for Products and On Conformity Assessment Procedures (the system of government ordinances – transposition of the New Approach Directives)

- Act on Consumer Protection (transposition of the General Product Safety Directive in the form of Governmental Ordinance to the Act)

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Other Acts regarding protection of consumer’s economic interests ...
Market Surveillance

- ...the enforcement of law
- ...protection of consumers
- ...level playing field for all competitors
- ...cooperation between MS and private sector
- ...essential for a well functioning trading system
- ...attract foreign direct investments
- ...essential for competitive market economy
Planning of Inspections based on

- Complaints of consumers and economic operators
- Complaints of other administration bodies
- Announcements from new legal norms
- Announcements from previous inspections
- Experience from appeal procedures
- Notifications from RAPEX system and ECHO
- Risk assessment

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Within scope of risk assessment (before sampling of products)

Factors are taken into account in deciding whether a product is suspicious and whether we will take a sample of it or not:

- Type of product – with recurrent risk
- The origin of the product – the manufacturer
- Riskiness of the economic operator – the importer, the distributor (Inspectorates have the database of operators according the degree of risk)
The objective of the system is to actively gather information on accidents caused by the use of any non-food products in the household, in leisure and sports activities. The system has been active since 2008 and has helped to enhance the awareness of consumers.
Obligations of manufacturers

- Responsibility during the design and production stage
  - Products must fulfill essential requirements and must be tested
- After placing on the market
  - To conduct continuous monitoring of marketed products,
  - To take appropriate measures when complaints of non-conforming
    products are received by such
  - To ensure that distributors are informed of any such
- To declare their responsibility by labeling the product with their
Traceability of product – a sign of the producer’s responsible behavior

It is important for:

- fast enforcement of consumer protection via action of
- possible for MS authority to inform the responsible
- possible for the responsible subject to intervene with the
- agreement on effective cooperation between the

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When is traceability essential

- Dangerous products (properties or lack of safety)
- Non-conforming products (not compliant with NAD)
- Products not compliant with EU harmonization (material composition, noise, ....)
Consequences of insufficient identification of the product

- Stopping of products notified by RAPEX system (or via ECHO system in Slovakia for issues posed by products)
- Imposing of restrictive measures as regards free movement of the dangerous product only on the last segment of the supply chain – the seller (we are not able to trace the main responsible subject)
- Time-consuming investigation into the movement of the dangerous product in the supply chain

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The importance of traceability is entrenched in:

- **Regulation No 765/2008 (controls of products entering the EU market: Art. 27 – 29)**

  - Notifications of customs authorities if there is:
    - Suspicion the product may pose risk
    - No documentation or labeling complying with EU harmonization legislation
    - No CE marking or it has been affixed to the product in a false or misleading manner
  
  - STI is notified of all imports that are identified as potentially risky – at present e.g. lighters and electrical Christmas lights

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The importance of traceability is entrenched in:
Decision No 768/2008 on common framework for marketing (obligations of manufacturers, authorized representatives and importers)

- Ensuring traceability of a product throughout the whole supply chain makes market surveillance simpler and more efficient.  It allows for easy system facilities market authorities task of tracing economic operators who made non-compliant products available

- For the time being, incorporated only into the Toy Safety Directive 2009/48/EC which came into force on 20 July 2011
The importance of traceability is entrenched in:

- General Product Safety Directive 2001/95/EC (obligations of manufacturers, importers and distributors to accompany the product with safety instructions, obligation of manufacturer and importer to identify...
Slovak experience

- Taking advantage of the identification of the subject on the product
- Communication with the subject about shortcomings
- Warning in case the subject fails to act the STI will restrict the free movement of goods
- In case of dangerous products the subject notifies the voluntary measures taken for the purpose of protecting market

Two options we encounter:

- The subjects respond – they eliminate shortcomings in the production process and the protection of the market is up to MSA
- The subjects do not respond

In 2010 – 24 notifications – 9 subjects responded / 7 took appropriate measures
In 2011 – 14 notifications – 9 subjects responded / 9 took appropriate measures
Regional and international cooperation

- ICSMS, CIRCA, ADCO
- Administrative cooperation
- Regional cooperation
  - Common inspections in cross border areas
- International cooperation
  - Common inspection projects, financial support, exchange of products...

Cooperation with third countries

Art. 25.2 and Art. 26 of Regulation N°765/2008 encourages the Member States not only to exchange experience, information and best practice among, but also to develop the cooperation with competent authorities of other countries.
How to improve our work

- Improve the cooperation and strengthen confidence between notified bodies
- Eliminate consumer protection, Slovak Trade - authorities in member state(s) which put the product into distribution and makes test protocols available immediately after the risk has been confirmed
- All actors on the market must be confident that notified bodies operate to high standards
- Try harder to learn consumer and business needs better
- Try harder to know and to understand the way how the risk is assessed in the country of product origin
- Information and education – informed and confident consumers are essential for the market

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Thank you for your attention!