How to target continuous compliance

Background: WP.6 project on regulatory compliance of products with embedded AI…

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The regulatory compliance of products with embedded AI or other digital technologies

- Project started initially in November 2020 within GRM
- Formal project launched in January 2023

- Project leader: Markus Krebsz
- Project team of a dozen international experts
- 30-day public review (6 June to 10 July; 81 comments, 78% accepted)

- Supports the ECE 70th Commission session theme “Digital and green transformations for sustainable development”
Definitions

• **Product with AI system**: a product with an embedded system, that operates with varying levels of autonomy and can make decisions influencing real or virtual environments in a way that is generally intended to further human objectives.

• **Product with integrated software**: a product with an embedded, upgradeable (remotely, offline or by other means) system that controls the functioning of the product and directs its operation.

• **Product with embedded digital technologies**: a product with an AI system or with integrated, upgradeable software or with a combination of both.
Regulatory compliance of embedded AI & digital technologies is of horizontal nature
Relevant international standards

- ISO/IEC JTC 1 / SC42 on artificial intelligence
- ITU AI for Good Global Summit 2023
- WP.6 Recommendation of relevance (G, K, N, S, T, U, V)
- WTO *Technical Barriers to Trade*
- *Universal Declaration of Human Rights*
- *United Nations Global Compact*
- Other
Considerations for market surveillance of products with embedded digital technologies

- Ensure human-centric objectives
- Protect society, particularly vulnerable, children, environment
- Consider needs of emerging economies and reducing the digital divide
- Have mechanisms to report incidents & monitor non-compliance
- Embrace best practices implementing Agenda 2030 SDGs
- Consider mandating independent audits with binary criteria
- Consider product characteristics of autonomous weapons
Given the prevalence of the topic of artificial intelligence and the challenge that products with AI will pose to quality infrastructure, WP.6 could potentially develop one or a combination of the following:

- Common regulatory arrangement (CRA)
- WP.6 recommendation
- Declaration
- Convention
Common regulatory arrangement

- Based on *Recommendation L on an International Model for Transnational Regulatory Cooperation Based on Good Regulatory Practice*
- Technical in nature; often adopted at the agency level
- Can evolve with the technology / standards
- Financial implications are indirect related to the cost of compliance to the CRA
WP.6 Recommendation

• Highest level policy document within WP.6
• Establishes a policy direction; may be go beyond today’s practices towards an envisioned best practice
• Policy in nature; usually does not contain technical aspects
• Adopted by member States or government agencies, or private-sector bodies
• Modifications would be slow; deprecation difficult
• Non-binding and voluntary
• Financial implications are indirect related to the cost of compliance
• Declaration outlines a universal principle that the signatories engage to implement
• Political in nature – normally not technical, though could integrate some éléments which are technical in nature
• Could be signed by member State or directly by the pertinent entity that would implement
• Declaration demonstrates an intent (but may not be binding)
• Modifications difficult; would require agreement of all signatories
• Financial implications are indirect related to the cost of compliance
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<th>WP.6 way forward</th>
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- Written legal agreement between Member States
- Results from negotiations between Member States who wish to advance on the same topic
- Political by nature (will normally not be technical)
- Signed by member States
- It is binding for those who have signed and ratified, after entry into force
- Withdrawal process integrated into articles of the agreement
- Modifications after entry into force defined by the agreement
- Financial implications for compliance and for creation and maintenance of a secretarial body