

“Product Safety Conference – Time for Change”

Speaking points of ANEC President, Arnold Pindar

Electrical Product Safety Conference 2014

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Changing shape of product safety legislation and its effect on the supply chain and consumers

Good Morning. Thank you for the invitation to speak.

I shall briefly cover ANEC’s views on the so-called Product Safety Package, including the Consumer Product Safety Regulation (CPSR) and Market Surveillance Regulation (MSR). I shall also cover the recently-revised Low Voltage Directive. Then a brief word on the Consumer Rights Bill from the perspective of the National Consumer Federation.

1. *Scope the CPSR*

ANEC has concerns about the scope of the draft CPSR. We know some amendments sought to create a distinction of its scope from the scopes of harmonised product legislation. However, such a distinction overlooks that the essential requirements of harmonised product legislation do not necessarily address additional requirements that may be needed to ensure the safety of consumers. For example, the present GPSD requires products complying with harmonised legislation to be safe for consumers. The CPSR does not. It is a slip that could see us sleepwalking from a directive that deals with consumer safety, to a regulation that deals only with compliance with legislation. This needs to be reviewed.

2. *Child-appealing & food-imitating products (CPSR)*

Now some specific concerns: A toaster in the shape of Mickey Mouse. A shampoo bottle resembling Barbie. Although more and more child-appealing products are entering the market, there are no directions in the present EU legislation as to whether a product is indeed child-appealing, or whether the product presents specific risks to young children.

Although we accept not all such products pose risks to children, we believe the CPSR needs to require that, when a product has child-appealing characteristics, the product must be safe for children to use, to explore, to interact with, under all foreseeable conditions. Hence we welcome the European Parliament’s support for this.

Although many consumer products do not have a play value, children are particularly attracted by design. This is why we want to see the CPSR address child-appealing characteristics, and not ‘toy-like’ characteristics.

Separately, we welcome the intention to move product safety forward by prohibiting the marketing, import and manufacture of food imitating products that could endanger the health and safety of consumers, especially children.

3. *Country of origin indication and traceability (CPSR)*

Country of origin marking. We know it has been a hot topic in the Parliament and still is in the Council and one where it's difficult to reach a consensus. Some consumers see value in it; others do not. The same division can be found among business people. On its own, it's probably not enough to help product safety but needs to be associated with measures on traceability. So it will be a huge shame if the whole Product Safety Package falls because some countries demand country of origin is in, while others demand it is out.

4. *Standardisation (CPSR)*

As with harmonised legislation, the CPSR looks to European standards to help its implementation. In the case of the GPSD, however, we have always had the concern that the Commission Decision, specifying the safety requirements a standard needs to reflect, is not legally-binding.

Article 16 of the CPSR presents a simplified procedure for the adoption of standardisation mandates in line with Regulation 1025/2012 on European Standardisation. Time will tell whether this simplified procedure works. Nevertheless, it is unclear what happens if a standardisation mandate with safety requirements is not (or only partly) accepted by the European Standards Organisations.

5. *European Injury Database (MSR)*

We very much welcome the support of MEPs in the Market Surveillance Regulation to create a pan-European accident & injuries database. This is needed to help identify preventive measures and their effectiveness, and help market surveillance authorities make more informed decisions on risk assessment. It is not only consumers who want it; industry does too. The coalition of European associations calling on regulators to act is now more than 30 in number, drawn from across the economic & social spectrum.

Nevertheless, we are hearing from Member States and the European Commission it is too expensive and can't be done. With modern communications technology and a study of the real economic costs, I believe a cost effective system could be introduced.

6. *Resourcing of market surveillance (MSR)*

I shall leave Christine Heemskerk to cover the resourcing of market surveillance but will say now that, from the consumer perspective effective, market surveillance and enforcement is absolutely key to the implementation of legislation and standardisation. It has to be effective and consistent across all Member States and not only in a few countries.

7. *Products bought on-line (MSR+CPSR)*

We welcome that both the CPSR & MSR contain dedicated requirements on the surveillance of internet sales as consumers are buying more and more on-line. As you might know, the European Commission is currently drafting some guidance for Market Surveillance Authorities on on-line market surveillance, which we welcome and to which we are contributing.

8. *Precautionary principle (MSR+CPSR)*

Turning to the Precautionary Principle. We have heard from several sources – including from people in the Commission – that explicit reference to the Precautionary Principle in both proposals is not needed. Their argument is that, through case law, the Precautionary Principle has become a general principle of EU law, even though the Treaties refer to the Principle **only** in the context of environmental protection.

This may be the case. But the Precautionary Principle is a cornerstone of the present GPSD (2001/95/EC). Its inclusion there was considered by the Council and Parliament to be a necessary clarification of the original GPSD of 1992. So we are very pleased the European Parliament made an explicit reference to the Precautionary Principle in both proposals. So let's not go backwards when dealing with potential risks to the health & safety of consumers.

As an aside, I heard rumours the Principle didn't appear in the proposals as a potential concession to the United States in the TTIP (Transatlantic Trade & Investment Partnership) negotiations. I hope that isn't the case. I believe that consumers potentially have as much to gain from TTIP as business, but only if the present levels of consumer protection in Europe are at least maintained.

9. Low Voltage Directive (LVD)

On 5 February 2014, the European Parliament adopted several product safety directives under revision such as the Low Voltage Directive to align them to the New Legislative Framework (NLF). ANEC pressed for the provisions on market surveillance to be strengthened and for the concept of foreseeable use to be included in the legislation. MEPs took on board our call to consider real consumer behaviour when setting safety requirements. We are of the opinion that consumers can be effectively protected only if their (**foreseeable**) behaviour is taken into account by manufacturers when designing products. In addition, we welcome that under the new LVD, the Commission will appoint a LVD-consultant, something ANEC has been requesting for many years. The new LVD takes into account the provision of Regulation 1025/2012 on European Standardisation for a procedure for objections to harmonised standards, where those standards do not entirely satisfy the safety objectives. This is also what ANEC asked for. We also welcomed that the new LVD specifically mentions the need for standards supporting this Directive to address the UN Convention on the Rights of Persons with disabilities.

10. Consumer Rights Bill

Putting on my hat as Chairman of the UK National Consumer Federation, I can say that we broadly welcome the aim to bring together much consumer legislation under the Consumer Rights Bill. We are simply concerned that such a complex piece of legislation may result in gaps and errors. In recent months the NCF has focused on getting three amendments into the Bill.

- The first is for suppliers of goods and services to display point of sale information. Here we want a statement of principle and believe that this should then be underpinned by standards that ensure information provided is clear, simple and appropriate.
- Secondly, we are calling for better coordination of the Regulators in line with the Consumer Charter for Regulators. The Charter was published by the NCF after development with other key consumer and consumer interest organisations.
- Thirdly, we are calling for obligations on suppliers of utilities to give consumers the option of receiving bills and statements in paper or electronic format.

The amendments were debated at the House of Lords Committee Stage and were withdrawn to reconsider the detail before re-introducing them at the Report stage. I am currently briefing peers for the Report Stage and hope to get something into the debate on point of sale information related to product registration and recalls.

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