Raising standards for consumers

POSITION PAPER

Revision of Machinery Directive (2006/42/EC)

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SUMMARY

This position paper expresses ANEC's preliminary views on the revision of the Machinery Directive (2006/42/EC).

For ease of reference, we present our comments with reference to the numbering of European Commission slides (for the Machinery WG) in tabular format.

1 | ANEC Comments

Slides	Machinery Directive 2006/42/EC	Issue	ANEC comments
4-10	Annex I -1.1.1. Definitions and 1.1.6. Ergonomics Annex I –1.1.2. Principles of safety integration Annex I –1.2.1. Safety and reliability of control systems Annexes IV & V (software) Article2 Definitions – Substantial modification Annex V 17 g):	New Technologies	Lack of **security** (eg: hacking) can put consumer safety at risk. **Software updates** of AI systems should be considered as substantial modifications if they have an impact on the safety, even if the intention is not to change the product. **Artificial intelligence/Machine-learning** can have an impact on the safety of the product even though the intention is not to change its performance. This is not covered at present in the Blue Guide ('Software updates or repairs could be assimilated to maintenance operations provided that they do not modify a product already placed on the market in such a way that compliance with the applicable requirements may be affected'). This wording should be clarified to cover machine-learning but this will depend on the legal requirements of the Machinery Directive. The safety of the machinery might also depend on the quality of the data and market surveillance authorities might need to be able to check this data and have access to the algorithms. The issue of human control or 'humans in the loop' should also be considered. **Collaboration humans/robots**: As machine learning does not always stop with the putting into service, it is important to have provisions which ensure safety of consumers in an unstructured environment. Consumer robots might interact with humans in an environment which is not controlled/unstructured, where parameters are not known/foreseeable. This might require some updated/additional requirements, in light the European approach to AI which is Trustworthy AI/ethical. In addition, the

			concept of safety risk might need to also include mental/phycological risks induced by the interaction with the robot. **Cybersecurity**: While section 1.2.1 of Annex I deals with 'intended operating stresses and external influences' and 'fault in the software', the concept of cybersecurity, which is wider, is not present. The notion of 'intended' is narrowing the scope of what a security threat is: cyber attacks but also any potential circumstance, event or action that could damage, disrupt or otherwise adversely impact network and information systems, the users of such systems and other persons. The present legal framework about security of connected products is fragmented, with many gaps. We need clear provisions which ensure the safety and security of connected products, protecting consumers and critical infrastructure from cyber threats.
13	Article 1.2 (b) fairgrounds	Fairgrounds	According to Article 1 (2) b) "specific equipment for use in fairgrounds and/or amusement parks" is excluded from the scope. It is not clear to us what is meant by "specific" equipment. Does this mean that some **fairground equipment** is included in the scope? If so, which equipment? In 2018, we welcomed adoption of three European standards for amusement rides and devices (EN 13814-1, EN 13814-2 and EN 13814-3). We regret continued absence of a European legal framework for fairground and amusement park equipment. Over the years, the concept and the design of amusement park equipment has changed considerably into bigger, more exiting and more hazardous attractions. Although millions of consumers make use of this machinery (often when being on a holiday abroad), very serious accidents continue to happen.

			We think that fairgrounds and amusement parks should fall under the scope of the Machinery Directive in order to offer a high level of consumer safety.
16-17	Article 1. 2 (k)	LVD	Bearing in mind the high level of non-compliant **LVD** consumer products, it could be interesting to consider the application of the Machinery Directive safety requirements to LVD products.
25	Article 2 Definitions Substantial modification	Definitions	**Software updates** of AI systems should be considered as substantial modifications if they have an impact on the safety, even if the intention is not to change the product.
30	Annex I 1.1.6 . Ergonomics	Essential Health and safety requirements	It is important to take into account human factors, accessibility and usability principles in the machine design.
31	Annex I -1.1.2. Principles of safety integration	Foreseeable use	In order to cover the consumer behaviours and what influences them (which might be different from workers behaviours), we suggest to introduce the concept of **foreseeable use** (in line with art. 4.1), based on the following elements:-the technical and functional characteristics of the machine,-the presentation of the machine,-the presentation of the equipment-the factual and human behaviours and physical characteristics,-the relation with other machines/products and the use with other machines/products.
33-34	Annex I -1.7.4 Instructions - paper and/or digital	Digital Instructions for use	It is important to offer both on-line and paper formats as not all consumers are regularly connected to the Internet. The target audience and conditions of use must be the decisive factor when prescribing the manufacturers obligations about the content, media and format of the instructions. The following criteria have to be taken into account:

			-accessibility to information in all situations the instructions are needed e.g. in normal operation of the product as well as in exceptional and emergency situation emergency. -availability and legibility of the instructions (for example the specific instructions related to the safe operation of the machinery shall be collated together in the front section of the user instructions. The height of the characters, measured on the capital letters, shall be at least 3 mm). -conditions under which the machinery with the instruction is used. The format of the instructions should depend on the kind of machinery in question. Consumers must be able to safely operate the machine in all reasonable foreseeable circumstances. Problems of digital format instructions: -Not all consumers are connected to the Internet and not all the time/everywhere. As several machines are to be used outdoors, this has to be taken into account. And smartphone screens are far too small to be able to read complicated machinery instructions. -The digital format should be accessible for people with disabilities. -There is no environmental benefit if users print out instructions as they will invariably use more paper than a compact printed manual. -As many manufacturers have a plethora of different models of each product, all with different model numbers, it is not obvious that a consumer will refer to the correct model and/or download the correct instructions. -The situation where the digital format of the instruction manual is physically

			embedded in the machinery itself should be avoided because of possible inherent design limitations (the product might have limited I/O capabilities). In case of malfunction of the product itself, the user would be left without a reference manual to rely upon.
39-40	Annex I -6.2. Control Devices	Platform lifts/slow lifts	The **hold-on run button** might be better/safer. Some of these lifting platforms are used by/for people with disabilities. We are not sure whether light barrier curtains would be safe for persons with visual impairments.
43	Annex IV	Escalators	We agree that **escalators** are machines with similar or greater high risk factor and potential for danger than comparable other machines, such as stairlifts for persons with disabilities. They have unrestricted, public access and are intended to be used by unskilled persons/laypersons without instructed personnel. They have crushing and shearing points. There are high risks in case of failure of the controls.

2 | New Issues

New		Accessibility requirements	In order to support our suggestion to add accessibility requirements, we think that the MD should make a reference to the UN Convention on the Rights of Persons with disabilities (like the Low Voltage Directive and Lifts Directive in order to have accessibility safety requirements).
New		E-scooters	We ask to consider the possibility to introduce an Acoustic Vehicle Alerting System (AVAS) for E-scooters like hybrid and electric cars.
New		New consumption patterns/circular economy	We ask to consider the impact when consumer rent/exchange and do not purchase the machine.
New		Gender balance	We suggest changing the wording of the legal provision which refer to manufacturers/economic operators as 'he' and say 'she/he' or 'they'. In this age and time, it is not acceptable that European legislation refers to manufacturers as only males.

ENDS.

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