



*Raising standards for consumers*

POSITION PAPER

# ROADMAP FOR THE STANDARDISATION STRATEGY

## ANEC response



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## Key messages

- Consumer spending constituted 54% of EU GDP before the pandemic and hence the needs of consumers must be central to EU policies, with the ESS effective in responding to these needs.
- Following the proposal of Harbour and Bjerkem (EPC), ANEC supports creation of a high-level group to build and maintain a new dialogue between the EC and stakeholders of European standardisation. This should look to avoid fundamental difficulties (such as citation of Harmonised Standards) in the implementation of legislation or policy.
- ANEC trusts the High-Level Task Force created by the EC and the ESOs will come forward quickly with effective and lasting solutions that allow the timely citation of Harmonised Standards. It is vital for all stakeholders in the ESS that industry maintains its confidence in European standardisation and does not look to other solutions.
- ANEC agrees with the EC interpretations of the *Amstar* and *James Elliott* rulings. We trust a further consequence will be that the EC ensures a similar implementation of other provisions of the Regulation, such as those of Article 5 on deepening inclusiveness.
- ANEC does not believe a revision of Regulation (EU) 1025/2012 is needed. Instead its implementation should be improved, especially in the obligations on Member States to provide the political and financial frameworks needed at national level to ensure the participation of all stakeholders in European standardisation.
- Nevertheless, the convergence of technologies, and its consequences for the complexity of standardised solutions, is likely to mean that the national delegation principle will need to continue to be complemented by the “Annex III organisations” in safeguarding the participation of under-represented stakeholders.
- The EC should ensure the AUWP reflects its collective standardisation needs, and that it looks to use the provisions of Regulation (EU) 1025/2012 when it identifies the need for a “technical specification”.
- ANEC shares the concern that only 2% of standards address services when services represent some 70% of EU GDP. We believe the EC needs to place at least the same emphasis on B2C standards as B2B. We also renew our call for a legislative proposal on the safety of services. Without such a legal framework, the implementation of European Standards on services will remain frustrated by a landscape of fragmented national legislation.
- ANEC advocates *timely* standardisation over *speedy* standardisation. The core values of a European Standard (EN) should not be risked just to reduce development times even further. This is essential where a core objective of an EN is to ensure the safety of a product or service, especially the safety of consumers.
- Standardisation Requests (SReqs) should not delegate political decisions (e.g. on safety limits) to the ESOs. An SReq should also offer sufficient detail for it to be able to be used by Market Surveillance Authorities in the absence of a Harmonised Standard.
- Turning to the strategic autonomy of Europe, ANEC believes an SReq should state whether a Harmonised Standard can be offered to ISO/IEC for development at the international level, or is to be developed within the ESS in order to safeguard European values or ethics. Regardless of the origin of an EN, ANEC considers that the ESOs must be responsible for ensuring ENs reflect (and are developed in line with) the provisions of Regulation (EU) 1025/2012.
- ANEC supports education and training on European standardisation: the students of today are the practitioners of tomorrow.

## Introduction

ANEC welcomes the wish of the European Commission (EC) to develop a Standardisation Strategy.

For consumers, standards are important as, when they are properly developed and applied, they can make our lives easier; the products we buy safer, securer, more interoperable and accessible to people of all ages and abilities. They can also improve product performance and help reduce environmental impacts. Moreover, standards can raise the quality and safety of services for their customers.

“Standards made by industry, for industry” certainly no longer holds true, if it ever did. Consumer spending constituted 54% of EU GDP before the COVID-19 pandemic. Demand for the products and services of European business requires confident and empowered consumers. Their needs must therefore be central to EU policies, including the Digital Decade and the Green Deal, and the European Standardisation System (ESS) must be effective in responding to these needs.

For example, as noted during the launch of the New European Bauhaus in May 2021, “waste is a design mistake”, and the consumer interest in reducing waste as part of the improved durability and repairability of products can (and must) be helped through standards.

Our comments focus on the public-private partnership that is a fundamental characteristic of the ESS as we see this as central to the issues raised by the Roadmap. Given this, we do not address the national delegation principle, nor the structure of the European Standardisation Organisations (ESOs), as these are examples of other characteristics that lie (more) within the competence of the ESOs as private organisations. Nevertheless, this should not be interpreted as meaning ANEC does not have a view on these elements.

Nor do we address revision of Regulation (EU) 1025/2012. We believe better implementation of the Regulation – notably by Member States in tackling the inclusiveness of standardisation at the national level as the main channel to European standardisation (at least in CEN/CENELEC) – would be more useful. Nevertheless, if a revision of the Regulation is to be proposed as part of the Strategy, ANEC will respond through a further position paper.

In the meantime, we shall be pleased to expand on our views through the discussions with the EC that the Roadmap foresees.

Our comments follow the problem statements set out in the Roadmap.

### 1. Anticipating standardisation needs

We believe the ability of the ESS to anticipate future standardisation needs could be enhanced by improving the overall coverage of the AUWP (and Rolling Plan for ICT standardisation with which it should be better integrated). This should include possible new standardisation actions required to answer newly-emerging political or legislative needs. As an added measure, the EC should also ensure that it uses Regulation (EU) 1025/2012, and the provisions of the New Legislative Framework (NLF), whenever it identifies the need for a technical specification (used in the broadest sense) to support its legislative measures or policy. We are aware that some Directorates-General do not appear familiar with standardisation (or perhaps consider it “too slow”), and have looked to refer to specifications developed outside the ESS (e.g. by European trade associations or through more informal initiatives) to support their needs. The processes used in the development of these specifications are often not transparent nor do they address the provisions of Regulation (EU) 1025/2012 in facilitating the participation of under-represented stakeholders, such as consumers.

More broadly, in the digital sphere, these local solutions can lead to “pseudo-interoperability”, where applications are interoperable, but only in the platform-specific ecosystem according to the rules and interests of the respective platform companies.

## 2. Speed of standards development

Turning to the speed of standards development, we understand CEN typically publishes a European Standard (EN) in around 24 to 30 months. A series of initiatives over the past two decades has seen the average development time reduced from about 96 months in the late 1980s, and 60 months at the turn of the century. With the ESOs and their national members now digitising both their standards development and delivery processes – such as through the CEN/CENELEC “Online Standardization” project – and the prospect of continued (and more frequent) online/hybrid meetings after the COVID-19 pandemic, further downwards pressure on these development times can be expected.

Hence the need for added speed should be questioned, especially as each enforced reduction in time risks the chance to build the broad and robust consensus of all interested parties that ought to be fundamental to an EN. This risk applies especially to the representation of under-represented stakeholders. The *James Elliott* ruling, that at least Harmonised Standards form a part of EU law, underlines our concern and the need for caution.

The emphasis should be on an EN being delivered in a **timely** manner, and the expectations as to what “timely” means varies from sector to sector. For example, the ICT sector has been the sector looking for rapid standardisation solutions that convey the results of innovation to the market. Conversely, the focus of the pressure vessels industry is achieving standards that ensure safety, and the time taken is less important, especially as the life of an industrial pressure vessel can be 40 years or more.

Where a prime purpose of a standard is to ensure safety, especially of consumers, ANEC is convinced the rigour of the technical solution must take precedence over the speed of development.

We recommend the ESOs look for other standardisation solutions that meet the needs of fast-moving industries (such as the ICT sector) - or where a standard is needed urgently to aid the deployment of emerging technologies - that do not risk undermining the value of the EN, notably where implementation of the standard at national level in 34 countries is not considered useful or appropriate. It should be remembered that ENs have never formed a large part of the ETSI portfolio, and maybe CEN/CENELEC should look to increase use of other standardisation deliverables.

Regarding the development of Harmonised Standards, ANEC believes SReqs to the ESOs need to be clear and should not delegate responsibility to the ESOs on issues such as safety levels. In the absence of a Harmonised Standard, the SReq should provide sufficiently-detailed requirements in order to provide Market Surveillance Authorities with a benchmark to use.

Turning to the citation of Harmonised Standards in the Official Journal, ANEC agrees with the *Amstar* ruling of the European Court of Justice that “*the Commission must assess the conformity of Harmonised Standards established by the European standardisation bodies with the relevant mandates*”, and also the *James Elliott* ruling that “*since the development of Harmonised Standards, which are considered a measure of EU law after citation in OJEU, is entrusted to private organisations (ESOs), it follows this assignment must be a controlled delegation in which the Commission plays a fundamental role*”.

We believe these are natural consequences of the effective implementation of Regulation (EU) 1025/2012, and trust a further consequence will be that the EC ensures the implementation of other provisions of the Regulation, such as those of Article 5 on deepening the inclusiveness of the ESS (as reported in COM(2018) 764 final of 22 November 2018, the EC acknowledges it has used AUWPs “*to strengthen the involvement of small and medium-sized enterprises and societal stakeholders in the European standardisation process.*”).

Nevertheless, it is evident that this added layer of control by the EC (and the new system of HAS Consultants) has introduced significant delays in the citation of Harmonised Standards. This has caused much concern among some industry sectors as manufacturers cannot benefit from the presumption of conformity until the reference of the Harmonised Standard is cited. ANEC trusts the high-level Task Force, created recently by the EC and the ESOs, will come forward with effective and lasting solutions quickly.

Indeed, ANEC believes the Standardisation Strategy needs to be forward-looking and not be preoccupied by the issue of citation which is a matter for the present, although we do not belittle the concerns of industry. Nevertheless, we would prefer to place the emphasis in the Strategy on building and maintaining a new dialogue between the EC and stakeholders of European standardisation. This should look to avoid similar bottlenecks in the implementation of future legislation or policy, and the breakdown of trust. Although ANEC understands the reasons for the delays in citation, we are concerned by the loss of confidence among industry players that has resulted. Bearing in mind that the use of Harmonised Standards is voluntary (although they should offer the easiest and most cost-efficient means of showing conformity), the risk must be avoided that similar cases lead the industry to no longer invest in European standardisation, instead going directly to Notified Bodies to pay for type-approval in order to achieve market access. Consumers would then have no influence over the specifications the Notified Bodies use, while SMEs would be driven from the market by the costs involved.

As Harbour & Bjerkem put forward in the EPC publication, *'Europe as a global standard-setter: the strategic importance of European standardisation'* (October 2020), *"Global leadership in standards needs a framework that encourages all the partners to deliver the needed results. It should be a structured, transparent and regular forum, overseen and endorsed at the highest decision-making level. The partners will be expected to remove obstacles and make progress together at all stages. A trusted framework could be built around a High-Level Group, jointly chaired by the Internal Market Commissioner and a leader from standards stakeholders."*

Such a forum – built on the Joint Initiative on Standardisation (JIS) and First Interinstitutional Dialogue of 7 June 2018 – could provide a valuable means in ensuring the evolution of the ESS meets the needs and expectations of both sides of the public-private partnership, and confirm the European model as the optimal model of standardisation.

### **3. Inclusiveness**

Turning to inclusiveness, Regulation (EU) 1025/2012 has codified and improved the rights of participation of the under-represented stakeholders, especially through its provisions on facilitating the participation of the European stakeholder organisations cited in Annex III to the Regulation. We believe an EN that meets the needs of economic and societal stakeholders can give European business an advantage on the global stage. Nevertheless, we agree with ECOS (among others) that the Standardisation Strategy should ensure the inclusiveness and effective participation of societal stakeholders is implemented beyond the simple obligation of efforts, as defined in Articles 5 and 16 of the Regulation, and also takes account of the actual results of the consensus-building process.

We see this of particular importance at national level, noting that the Regulation has (by its very nature) direct legal effect in EEA countries, and that the standards development process in CEN/CENELEC (and the adoption of ENs in ETSI) is led by the national delegation principle.

Given this, there is an obligation on Member States to put into place the political and financial frameworks needed to ensure participation of all interested stakeholders at the national level, so national delegations in CEN/CENELEC (and ISO/IEC) contribute a genuine consensus built at the national level.

ANEC proposed an action of the JIS should aim to facilitate participation of all stakeholders at the national level, and saw Member States as the key protagonists. Although such an action was agreed (JIS Action 10), few Member States joined the initiative, despite calls made for them to do so through the Committee on Standards. As a result, little progress was made and, in our view, very few Member States have the needed frameworks in place to facilitate the participation of all stakeholders. This means national positions in other countries are almost exclusively influenced by (multinational) industry, given industry has a direct economic interest in pursuing the development of standards, and especially Harmonised Standards.

On the other hand, the creation of ANEC in 1995 recognised the expertise needed to represent the consumer interest in national standardisation was fragmented or non-existent in many countries. This was confirmed by the Access to Standardisation study, published by DG ENTR (March 2009). In the years since ANEC was created, it is still true that

consumer organisations in only a small minority of countries are able to make systematic and effective contributions at national level. With the convergence of technologies a reality, and the added difficulties that causes in finding consumer advocates who are experts in the topics under discussion, it is extremely doubtful whether the national delegation principle will ever deliver a sufficient and effective consumer voice in European standardisation. We think the case to be similar for stakeholders represented by the other Annex III organisations.

Noting this, we conclude there is a fundamental need for the EU Institutions (and EFTA) to continue to support European representative associations of stakeholders listed in Annex III to Regulation (EU) 1025/2012, politically and financially. This aligns with the wish of (then) Commissioners Crețu and Oettinger for the EU to focus its support in the present MFF (2021 to 2027) *“where intervention at the level of the EU is either more effective or unique”*.

Regarding the international level (ISO/IEC), we recognise the interest of industry and EC to pursue the development of International Standards, especially where it is believed the EU can gain a first-mover advantage by shaping the International Standard, and for these ISO/IEC standards to be adopted as identical European Standards.

Nevertheless, it must be recognised that ISO/IEC are not mirrors of CEN/CENELEC. Not all ISO/IEC members (e.g. the USA) uphold the “single standards model” pursued in Europe. Indeed, it is not an obligation on ISO/IEC members to adopt International Standards at national level. Although ISO/IEC aim to accommodate the needs of all interested parties in the development process, through the national delegation principle, neither subscribes to “inclusiveness” of the process as it is understood in Regulation (EU) 1025/2012, especially as inclusiveness is not a criterion of the WTO Agreement on Technical Barriers to Trade (to which ISO/IEC, CEN/CENELEC and the European NSBs and NCs are all subscribed).

Given ISO/IEC are autonomous organisations, we cannot see how either could be required to follow the provisions of Regulation (EU) 1025/2012, even if CEN/CENELEC decides ISO/IEC should take the lead in the development of what is intended to be a European Standard under the Vienna or Frankfurt Agreements. Moreover, there is a danger that a move by ISO/IEC to be more favourable to EU NSBs and NCs (and representation of the Annex III organisations within their technical bodies), could see renewed calls for the CEN/CENELEC NSBs and NCs to be treated as a regional bloc within both organisations, with only one “EU” vote, rather than the votes of 27 individual nations.

We consider that, under the requirements of Regulation (EU) 1025/2012, it is for CEN/CENELEC to ensure ENs reflect (and are developed in line with) the provisions of the Regulation, regardless of their origin. We believe this follows from the ESOs being the interlocutors of the EC in the latter’s check of (at least) Harmonised Standards in line with Article 10 of the Regulation.

#### **4. International vs European standardisation**

We see a paradox arising from the EC wish for the EU to promote its strategic capacity by leading the development of International Standards, while ensuring (and reinforcing) its strategic autonomy. Although the European members of ISO/IEC remain collectively well-positioned in both organisations (but not as well as 20 years ago), the USA, Japan and (increasingly) China have the knowledge and expertise, not only to influence work that falls under the scope of the EU strategic interest, but to lead it even in the face of European opposition. Also, as noted above, none of the ISO/IEC members is obliged to adopt an International Standard at national level, which can impede the use of the Standard<sup>1</sup>.

The High Level Group, foreseen by Harbour and Bjerkem, could be the forum that sets high-level principles as to whether work in the EU strategic interest should be developed in CEN/CENELEC or offered directly to ISO/IEC for the development of an International Standard.

<sup>1</sup> *Indeed, through the Vienna and Frankfurt Agreements, and the obligation on CEN-CENELEC members to implement all ENs as national standards, Europe leads the world in the implementation of International Standards (37% of ENs in CEN are identical to or based on ISO Standards, while 70% of ENs in CENELEC are identical to or based on IEC Standards).*

The SReq AHGs used by the ESOs (and open to representatives of all interested stakeholders) could be the fora to consider individual proposals and then recommend to the Committee on Standards where work under the SReq be done. Only in this way do we believe the balance can be struck between the wishes of the EC and industry for global solutions, and need to ensure strategic autonomy within Europe and the protection of European values and ethics.

We note separately that pursuit of work in ISO/IEC has resource implications, notably in ensuring the participation of weaker stakeholders, given the international locations of ISO/IEC meetings (which will continue, even if remote or hybrid meetings also remain after the COVID-19 pandemic). Indeed, where it is necessary in terms of European interest to make standards at the global level, we consider it important to support societal stakeholder participation through measures such as the StandICT.eu 2023 project provides, but extended to all sectors.

Although we appreciate that coalitions of like-minded countries or regions could help promote a European position in ISO or IEC, we caution such cooperation could come with a price, such as using the standards of these countries or regions to demonstrate presumption of conformity to EU legislation. Given inclusiveness is a value that is intrinsic only to the ESS, we would be opposed to the use of standards that could affect consumers, without having been developed with effective consumer participation or failing to reflect European values.

Similarly, we think the EC must be cautious in using or recognising standards in whose development non-European countries or companies participated, especially in the ICT and telecommunications sectors, and those sectors where the cybersecurity of products and services is paramount.

## **5. Education and training**

In ANEC's view, consumers are more interested in whether a product or service is (for example) safe or sustainable than whether it complies with a standard. Indeed, although some consumers may be familiar with standards, very few know the process. This view echoed by the findings of an ANEC Technical Study from 2008 which showed consumers placed more emphasis on brand names and the reputation of retailers, than even marks of conformity to standards.

Nevertheless, we think it essential to promote education and training on standards, and the value of standards, as part of tertiary and (perhaps) secondary education. Today's students and pupils are tomorrow's leaders and experts, and standardisation requires the continual recruitment of new talent if it is to remain an effective tool to the benefit of economy and society.

Moreover, we believe the EU Institutions and ESOs, aided by stakeholder organisations should use the opportunities provided by social media and similar to demonstrate the value of standards to people's lives, through coordinated campaigns (e.g. how would a world without standards look?).

## **6. Services**

ANEC shares the concern of the EC that only 2% of European standards address services, when services represent at least 70% of EU Gross Domestic Product.

Nevertheless, we believe the EC needs to be more active in encouraging Member States to take steps to reinforce the Single Market for Services. Indeed, we were disappointed to see services did not form one of the 14 industrial ecosystems of the revised EC Industrial Strategy, with only some elements forming part of the other ecosystems.

For ANEC, the focus of the EC on B2B services is insufficient. We know the argument that service provision is often local, with little cross-border activity, but this ignores that consumers consume cross-border (e.g., leisure & sports services, health & well-being services, cross-border online services, tourism services & accommodation and financial services). There is also scope for improving service quality through providing standardisation deliverables stating best practice, for example.

We have long-called for introduction of an EU legal framework for the safety & liability of services to harmonise what is now a fragmented legal landscape across the Member States. Without such a framework, the potential of European Standards to support services to the benefit of the economy and society will be far from optimised, as an EN cannot take precedence over national regulation.

In conclusion, ANEC believes the standardisation of B2C services should be a key objective for the Standardisation Strategy to deliver.

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ANEC is the European consumer voice in standardisation, defending consumer interests in the processes of technical standardisation and the use of standards, as well as related legislation and public policies.

ANEC was established in 1995 as an international non-profit association under Belgian law and is open to the representation of national consumer organisations in 34 countries.

ANEC is funded by the European Union and EFTA, with national consumer organisations contributing in kind. Its Secretariat is based in Brussels.

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