



European Association for the Co-ordination of Consumer Representation in Standardisation, AISBL

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Outcomes of the MarketWatch project and the future of monitoring, verification, and enforcement of product policy in Europe

2 March 2016, Brussels, Belgium

The role of civil society in monitoring regulation

Stephen Russell, ANEC Secretary General

I am very pleased to speak on behalf of ANEC, the European consumer voice in standardisation. A final event should be a celebration, and I think the collaboration among so many partners in MarketWatch is a cause for celebration, even if the results make unhappy reading for consumers, and those manufacturers and retailers who play by the rules.

Perhaps I should say a little about ANEC, although many of you probably know us. ANEC was created in 1995 by national consumer associations and public authorities in the then EEC & EFTA countries.

Our mission is to provide specialist consumer expertise in the development of European standards – and sometimes international standards. We also represent the European consumer interest in the use of standards, and in aiming to influence legislation that intends to make use of standards. Of course, we work closely with the mainstream consumer organisations, BEUC and Consumers International. We receive funding from the EU & EFTA, while national consumer organisations contribute in kind.

Bringing together consumer organisations in 33 European countries, ANEC joined MarketWatch as EU co-ordinator of consumer activities. Our particular role was to open dialogue with national market surveillance authorities. Poor market surveillance was known to be a principal obstacle to the realisation of the potential of the Energy Labelling & Ecodesign Directives. Most experts say



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10% to 20% of expected savings are wasted due to non-compliant products on the market, or in other words, more than 100 TWh of energy savings are missed in the EU each year.

As found by the [Ecofys](#) report of 2014, which evaluated the Labelling Directive and aspects of the Ecodesign Directive, public market surveillance cannot alone ensure an effective check on compliance. Five Member States were considered active in such market surveillance, six had no activity, while the level of activity in the rest was found to be no better than low to medium. MarketWatch has confirmed the consequence that consumers are paying literally too high a price in buying and using products that are not compliant. At the same time, manufacturers and retailers who play by the rules are losing out to unfair competition.

This is through no fault of the market surveillance authorities themselves. It has been known for many years that the resources made available at national level to market surveillance are nowhere near enough, especially in non-food sectors, and now there is the added challenge of online and cross-border retail. Regrettably, it is promises to improve the economy, education, or health service that win national elections, not improving market surveillance and enforcement. Not only that but priorities vary from Member State to Member State. And there is further fragmentation at the national level. You've heard that there is separation of responsibilities among the Länder in Germany. The last I checked, the responsibilities in England and Wales were divided among no fewer than 200 local authorities.

Only common surveillance activities in all Member States can be truly effective, as the chain of surveillance & enforcement across the EU is only as strong as its weakest country. ANEC, in an alliance with business, has looked for more formal agreement at European level on national surveillance priorities for most of the past decade, as well as commitment of the Member States to resource those priorities fully, and to introduce criminal penalties that are both punitive and deterring.

We thought we had it with the Market Surveillance Regulation, proposed by the EC as part of the Product Safety Package three years ago.

But not at all.

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You may know that the Market Surveillance Regulation, despite being uncontroversial in itself, is part of the impasse in Council that arises from the other bit of the Product Safety Package, the Consumer Product Safety Regulation. It is stuck because of a clause parachuted in by the EC after the Impact Assessment that seeks the mandatory use of country-of-origin labelling. If you ask me, origin labelling has little to do with safety. It will also be something else for our already hard-pressed market surveillance authorities to check.

Meanwhile, the interests of consumers and of most industry, are disadvantaged by the failure of the Market Surveillance Regulation to proceed.

The present revision of the Energy Label provides a further opportunity to strengthen market surveillance, as does the more recent Single Market Strategy.

PROSAFE, a forum of individual market surveillance officers, still does an excellent job meanwhile in setting joint actions, and we welcome initiatives such as EEPLIANT that seeks to build compliance with the legislation on energy efficiency in cooperation with industry. But there needs to be a new approach to surveillance and enforcement in an internal market in which much emphasis is placed on self-declaration.

It remains an anomaly that the EU has a mature system of European legislation, a mature system of European standardisation to support that legislation, but no system of market surveillance & enforcement.

The third leg of the tripod is missing, and a tripod cannot stand on only two legs.

Given this under-resourcing and fragmentation of public market surveillance, there was indeed need to test whether private civil society organisations could complement public action in an area that, although of economic & societal importance, was not critical to safety. It is why ANEC gave full support to MarketWatch. We found that a partnership is possible at national level and the value of that partnership has been proven. Indeed, based on our findings, partnerships between market surveillance authorities and national civil society organisations should be encouraged in order to help protect both consumers and responsible manufacturers from misleading claims.

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Thank you for listening.

Stephen Russell

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