

Permanent Representation to the EU

B – Brussels

Ref.: BEUC-L-2025-031
ANEC-CHILD-2025-G-010

Brussels, 27 January 2025

Subject: The consumer perspective on the draft Toy Safety Regulation

Dear Attaché,

On behalf of BEUC and ANEC, we write to share our recommendations for how the European Parliament and Council can improve the draft Toy Safety Regulation (TSR) to ensure fair and safe play for children in Europe.

We welcome the improvements suggested by the co-legislators to the European Commission proposal. Indeed, the Parliament's report and the Council's general approach each contain positive elements with strong potential to enhance the safeguards against unsafe toys. This includes for example the Council's proposal to ban biocides in toys and the Parliament's suggestion to address risks to mental health of digitally connected toys.

In view of the ongoing trilogue negotiations, we outline in annex how a final compromise between the co-legislators can ensure safe and fair play for children. In brief, we encourage the co-legislators to:

- **Get the governance right:** the legal framework should enshrine the precautionary principle to enable a preventive approach to unsafe toys.
- **Strengthen the chemical requirements:** the generic prohibition should be extended to skin sensitisers while the non-intended presence of dangerous substances must be kept to a strict minimum.
- **Address the risks posed by smart toys:** the safeguards for connected toys and toys embedded with artificial intelligence should be further reinforced.

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- **Establish maximum noise limit values:** limits related to health should be set by the regulator and not be left to standardisers.
- **Make toy labels work for consumers:** formatting requirements should be established to improve the visibility and legibility of warnings.
- **Keep the transition period to a minimum:** children should benefit from the new safeguards as soon as possible.

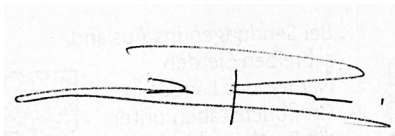
Unsafe toys sold via online marketplaces is a severe and increasing concern for children's health. A [recent test](#) by our Danish member, Forbrugerrådet Tænk, for example found that over 60% of slime toys bought on online marketplaces released illegal amounts of dangerous chemicals. The scale of noncompliance on online marketplaces is massive – and while the co-legislators rightly propose to align the TSR with the Digital Services Act and the General Product Safety Regulation, the proposed improvements will be insufficient to effectively safeguard children's health and wellbeing.

We consequently urge the co-legislators to be more ambitious in their approach including by empowering market surveillance authorities to hold online marketplaces liable for noncompliant toys sold via their platforms where no other responsible economic operator can be identified or takes appropriate action.

Consumers legitimately expect products on the Single Market to be safe. This is especially so for toys, as children are particularly vulnerable. We therefore call for a swift conclusion to the trilogue negotiations, taking consumers' interests into account.

We thank you in advance for your time and consideration. Our [joint position paper](#) further details the consumer perspective on this important file – and we would warmly welcome the opportunity to discuss our recommendations with you.

Yours sincerely,



Florence Punzano
BEUC Senior Policy Officer



Tania Vandenberghe
ANEC Senior Manager

Encl.: TSR | How the co-legislators can ensure safe and fair play for children.

TSR | How the co-legislators can ensure safe and fair play for children

BEUC and ANEC strongly welcome the Commission's proposal for a Toy Safety Regulation (TSR). As highlighted in our joint position paper,¹ the draft text is good news for consumers. To fully ensure safe and fair play for children, we call on the European Parliament and Council to improve the TSR as outlined below.

Get the governance right

To ensure a high level of protection of children health and safety, we recommend to:

- Enshrine the **precautionary principle** in the main legal text as proposed by Parliament (Amendment 41). Similar to the current Directive, integrating the precautionary principle in the legal text will help guide the regulator and market surveillance authorities in those circumstances where there are reasonable grounds for concern, but scientific evidence is uncertain or inconclusive.
- Clarify which **products are included or excluded** from the TSR scope (Annex I). In particular, we support the Parliament's proposal to introduce scooters in point 3 of Annex I in order to solve the overlap between the standard for toys and the one for sport equipment when it comes to scooters with weight classes from 20kg to 50kg (Amendments 201-202).²

Strengthen the chemical requirements

Children are particularly vulnerable to hazardous chemicals. Therefore, we urge the co-legislators to further reinforce the safeguards against harmful chemicals in toys, by:

- Prohibiting the use in toys of **skin sensitisers** and **endocrine disruptors for the environment**.
 - o **Skin sensitisation** is a severe and growing concern for consumer health, with an estimated 27% of the EU population sensitised to one or more allergens.³ An allergy developed in childhood is irreversible. To safeguard children's health, the generic prohibition in Annex II, Part III should be extended to skin sensitisers category 1 and 1A to effectively prevent exposure to these harmful chemicals.
 - o As proposed by Parliament (Amendment 209), **endocrine disruptors for the environment** should be regulated as substances of equivalent concern – such as endocrine disruptors for human health or CMR substances – unless it can be demonstrated that their mode of action is not relevant to humans.
- Restricting any **scope exemptions from the generic prohibition**. In particular, we consider that the following three scope exemptions proposed by the Council should be clarified and further reduced:
 - o **Annex II, part III, point 5** as regards the non-intended presence of prohibited substances: we support the Council's intention to ensure that the non-intended presence of prohibited substances in toys is kept as low as reasonably achievable according to the ALARA principle. For this reason, we however

¹ ANEC and BEUC. *Ensuring Safe and Fair Play for Children*. December 2023

https://www.beuc.eu/sites/default/files/publications/BEUC-X-2023-168%20Ensuring_Safe_and_Fair_Play_for_Children.pdf

² For years, this overlap has caused problems in the classification of scooters and has led to double standardisation work. We consider that scooters are similar products to roller skates, inline skates, and skateboards, as also indicated in Annex III, point 6 of the TSR.

³ T. Diepgen *et al.* 2016. Prevalence of contact allergy in the general population in different European regions. *British Journal of Dermatology* 174(2).

recommend establishing a default concentration limit of 10 mg/kg rather than 100 mg/kg – also to ensure consistency with the default limit for prohibited fragrance allergens proposed by both the Council and Parliament. Likewise, the European Chemicals Agency, ECHA concludes⁴ that a 10 mg/kg default content limit for prohibited CMR substances in childcare articles will ensure that their non-intended presence is kept to technically unavoidable trace levels. Notably, ECHA observes that this limit will enable a practical, efficient and harmonised enforcement approach as also intended by the Council (cf. the reasoning outlined in recital 16a).

- **Annex II, part III, point 7(d)** as regards the interface with REACH: we recommend limiting the exemption to only those situations where a REACH restriction sets a more protective limit value than any eventual TSR default limit in point 5. For example, REACH prohibits the presence of certain endocrine disrupting phthalates in toys above 1 000 mg/kg for each substance individually or in total. This limit is notably higher than the default limit for prohibited substances proposed by Council (i.e. 100 mg/kg) or the more recent limit recommended⁵ by ECHA for these substances in childcare articles. As such, it is crucial to ensure that a REACH restriction will not prevail over a potentially more protective limit established in the TSR, more so as REACH does not require the Commission to systematically evaluate – and revisit as relevant – limit values established in restrictions (in contrast to TSR article 46.9).
- **Annex II, part III, point 10** as regards preservatives approved in cosmetics: we recommend establishing this as an additional requirement rather than as a scope exemption from the generic prohibition. Unlike the TSR, the Cosmetic Products Regulation does not include a generic prohibition of endocrine disruptors meaning the proposed exemption could enable their continued use in toys. For example, the endocrine disruptor butylparaben is authorised as a preservative in leave-on cosmetics – and according to the Council proposal it could therefore be used in toys despite not meeting the conditions set out in TSR article 46(7), in particular a lack of suitable alternatives and the absence of potential safety concerns for children.⁶
- Closing the loophole for **biocides** used in toys. The Biocidal Product Regulation (BPR) exempts toys from its authorisation requirements, meaning that biocides used in toys do not need to be authorised for that use. This is a serious omission, and we therefore welcome the Council’s proposal to prohibit the use in toys of biocides.
- Prohibiting the use in toys of **per- and polyfluoroalkyl substances (PFAS)** and of **bisphenols** as proposed by Parliament (Amendment 215). To enable practical and harmonised enforcement of such a ban, we recommend taking inspiration from article 5(5) of the Packaging and Packaging Waste as regards pfas. For bisphenols, inspiration could come from Commission regulation (EU) 2024/3190 provided its

⁴ ECHA. *Investigation report to support the Commission on the preparation of a restriction proposal for the use and presence of CMR 1A or 1B substances in childcare articles based on REACH Article 68(2)*. October 2023.

https://echa.europa.eu/documents/10162/17233/rest_cmrs_childcare_articles_investigation_report_com_en.pdf/4422f4aa-e862-1ff0-fb6e-dfeab480c12f?t=1699423889558

⁵ i.e. 50 mg/kg for each phthalate and 100 mg/kg for total phthalates. See ECHA. *Investigation report to support the Commission on the preparation of a restriction proposal for the use and presence of CMR 1A or 1B substances in childcare articles based on REACH Article 68(2)*. October 2023.

https://echa.europa.eu/documents/10162/17233/rest_cmrs_childcare_articles_investigation_report_com_en.pdf/4422f4aa-e862-1ff0-fb6e-dfeab480c12f?t=1699423889558

⁶ Notably, the Scientific Committee on Consumer Safety concluded in its 2023 opinion on butylparaben in cosmetics that: “In the absence of exposure data specific for children to Butylparaben in cosmetic products, potential safety concerns cannot be excluded.”

https://health.ec.europa.eu/system/files/2023-11/sccs_o_275.pdf

approach is extended to all substances with the chemical structure covered by article 2(2), points (c) and (d).

- Extending the limit value for **nitrosamines and nitrosatable substances** to all toys as proposed by Parliament (Amendment 256). Nitrosamines are strong carcinogens, and children's exposure to these substances (e.g. from balloons or finger paints) should be kept to the lowest technically achievable level⁷ according to the ALARA principle (cf. the Council's proposal for a recital 16a). Extending the limit value to all toys will ensure that children of all ages are guaranteed the same high level of protection, in line with the reasoning set out in Recital 22.

Address the risks posed by smart toys

Digitally connected toys and toys embedded with AI can present new risks for children. We therefore welcome the clarification suggested by the Parliament according to which manufacturers of such toys must take into account any risk posed to mental health, as well as the cognitive development of children (Amendments 62 and 63). This would align the TSR with the General Product Safety Regulation which provides that health should be understood as a state of complete physical, mental and social well-being and that the safety assessment of products should consider vulnerable consumers, in particular children.

For this reason, we also call on the co-legislators to discard the Council proposal to delete the reference in article 5 of the TSR to the psychological and mental health, well-being and cognitive development of children.

Set out maximum noise limit values

To ensure that sound emitting toys do not impair children's hearing, maximum limit values should be established as proposed by Parliament (Amendment 205). There is no legitimate reason to expose children to higher noise levels than those allowed for adults in the workplace. Maximum noise limit values for toys should therefore not exceed those established in Directive 2003/10/EEC on the protection of workers.

Make toy labels work for consumers

We welcome the co-legislators' intention to establish specific formatting requirements for toy warnings. To improve the visibility and legibility of warnings, this should include a mandatory minimum letter size, letter spacing, and contrast between text and background.

Further, we recommend establishing in Annex III the specific pictogram that can be used to replace the word 'warning' as also proposed by the Council. This will avoid that consumers are confused by a proliferation of different, potentially unfamiliar symbols. Likewise, we support the Parliament proposal to require that toy warnings are immediately visible and legible to consumers before a purchase, including in cases where the purchase is made through distance and online sales (Amendment 78).

⁷ Indeed, a [2018 market investigation](#) by the Dutch consumer protection authorities demonstrated that it is already today possible for balloon manufacturers to comply with the proposed limit. Notably, the Dutch authority observed that "Nitrosamines and nitrosatable substances can be generated during the latex production process if certain compounds (carbamates) are added to accelerate the process. Because nitrosamines are carcinogenic substances, they pose a health risk. Alternative accelerators are available, making this risk an avoidable one." (our emphasis)

To enable informed consumer choice, we recommend extending the obligation to provide an ingredient list to all toys that are chemical mixtures, such as for example soap bubble toys, finger paints or slime toys, as proposed by Parliament (Amendment 207).

By contrast, we call on the co-legislators to discard the Parliament proposals to delete the obligation to report in the Digital Product Passport (DPP) information on any substance of concern present in the toy (Amendments 59 and 239). Including this information in the DPP is crucial to ensure traceability of such substances, both to enable Member State surveillance activities and informed consumer choice. We consider that the Council proposal in this regard presents a practical and enforceable approach.

Keep the transition periods to a minimum

Children should benefit from the proposed new safeguards as soon as possible. We therefore urge the co-legislators to keep the transition periods to a strict minimum in line with the Commission proposal.

As observed in the Commission impact assessment, the proposed transition periods should be sufficient to allow toy manufacturers to assess the viability of existing products and, if needed, shift resources to the production and sale of alternative toy products. Indeed, a 2013 consultant study⁸ for the Commission noted that the “toy industry experiences a short product life cycle, which typically varies from six months to two years.”

Against this background, we consider unacceptable the Council proposal to defer application of the TSR by 60 months. Combined with the Council’s proposal for an additional 54 months sell-through period, this would imply that toys produced according to the existing rules can remain on the market for almost 10 years after the TSR enters into force – meaning that a child born today will (largely) not benefit from new safeguards.

END

⁸ ECSIP Consortium. *Study on the competitiveness of the toy industry*. Final report. August 2013.
<https://ec.europa.eu/docsroom/documents/6653/attachments/1/translations/en/renditions/native>