



Raising standards for consumers

POSITION PAPER

ANEC position on the revision of the Market Surveillance Regulation (EU) 2019/1020



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EXECUTIVE SUMMARY:

Based on the experience of consumer organisations across the EU and in extensive evidence from product testing, enforcement actions, and market monitoring, ANEC considers that, while Regulation (EU) 2019/1020 was a significant step forward in strengthening the EU’s market surveillance framework, for example by introducing the requirement for an EU-established economic operator, the Regulation has not delivered the level of consumer protection originally intended.

Since the MSR entered into application in July 2021, the market context has evolved rapidly. The exponential growth of e-commerce, the dominance of online marketplaces, the increasing complexity of products (notably connected, AI-enabled and software-dependent products), and the surge in imports from third countries have all placed unprecedented pressure on national market surveillance systems.

We argue that the current framework is structurally unable to cope with these developments without deeper reform and stronger EU-level coordination for stronger enforcement capacity and deterrence.

For ANEC, the revision of the Market Surveillance Regulation is an opportunity that must not be missed. While subsidiarity constraints may limit certain actions, there is a clear and urgent need for stronger EU-level coordination, centralised expertise, more effective sanctions, and a rebalancing of responsibilities. Without such reforms, consumers will continue to bear the risks and costs of unsafe and non-compliant products in an increasingly digital and globalised market.

1 | Implementation of the Market Surveillance Regulation

1.1 Insufficient scale and effectiveness of market surveillance

Based on data from the EU Safety Gate, coordinated enforcement actions, and mystery shopping campaigns conducted by consumer organisations, ANEC concludes that non-compliance remains widespread and persistent across product sectors.

Joint actions such as EEPLIANT and JAHARP consistently reveal low compliance rates, often repeating the same failures when similar products are tested again years later. This recurrence demonstrates, in ANEC's assessment, that non-compliance is not accidental or marginal, but systemic, and that many suppliers do not face sufficient incentives to improve compliance.

Market surveillance efforts vary significantly across Member States due to differences in resources, expertise, and national priorities. As a result, consumer protection is uneven across the Single Market, creating enforcement gaps that can be exploited by non-compliant economic operators.

In ANECs' view, widespread, recurring non-compliance across product sectors is systemic rather than accidental, driven by insufficient incentives for suppliers and uneven market surveillance across EU Member States that leaves exploitable enforcement gaps in the Single Market.

1.2 Inadequate adaptation to new risks

ANEC stresses that MSAs are not adequately equipped to address emerging risks such as cybersecurity vulnerabilities in connected products, AI-related safety risks and algorithmic unpredictability

Many MSAs lack the technical expertise, tools, and training necessary to assess these risks effectively. This undermines the ability of authorities to intervene early and prevent harm, particularly for products sold online and imported from outside the EU.

ANEC finds that many market surveillance authorities lack the expertise, tools, and training to effectively address emerging risks such as cybersecurity, AI-related safety issues, and online imports, weakening early intervention and consumer protection.

1.3. Role of customs authorities and border controls

ANEC thinks that customs authorities play a critical role in preventing dangerous and non-compliant products from entering the EU market but we consider their current capacity insufficient. Limited human, technical, and financial resources, combined with the sheer volume of parcels entering the EU through e-commerce, make comprehensive controls unrealistic under the current system.

Information sharing between customs and market surveillance authorities is often slow, incomplete, or fragmented, allowing dangerous products to pass through borders and remain on the market long after risks have been identified.

ANEC believes that customs authorities are critical but under-resourced for controlling the flood of e-commerce parcels, and that weak, fragmented information sharing with market surveillance bodies allows dangerous and non-compliant products to enter and persist on the EU market.

1.4 Ineffective corrective actions

Corrective actions—such as withdrawals and recalls—are not applied consistently or effectively, particularly for products sold online by third-country sellers. Because online marketplaces are generally not designated as economic operators under current product legislation, responsibility falls on sellers or authorised representatives who are often unreachable in practice.

Joint investigation by consumer organisations in Germany, France, Belgium and Denmark show that 69% of tested products from Temu and Shein were illegal or unsafe. A study by the UK consumer organisation Which? also found that hundreds of unsafe products remained available months after official safety alerts, with 98% posing serious or high risks to consumers.

Corrective actions like recalls are inconsistently enforced—especially for online sales by third-country sellers—leaving responsibility with often-unreachable operators, as shown by consumer organisations studies finding that 69% of products from Temu and Shein were illegal or unsafe and that unsafe products flagged by Which? frequently remained on sale months after safety alerts.

1.5 Weak penalties and lack of deterrence

In ANEC's view, penalties under the MSR are not dissuasive. Illegal profits from selling non-compliant products often far exceed the financial consequences of enforcement actions.

Penalty regimes vary widely between Member States, creating opportunities for regulatory arbitrage.

ANEC calls for the introduction of EU-level fining powers for the European Commission, similar to those applied in other sectors (e.g. automotive market surveillance) and harmonisation of penalty frameworks across the EU.

ANEC challenges the assumption that the costs of compliance and enforcement are distributed fairly. While economic operators often complain about administrative burdens, ANEC emphasises that consumers bear significant hidden costs when non-compliant products reach the market such as financial losses from defective or unsafe products

According to ANEC, weak, uneven penalties under the MSR fail to deter non-compliance and hamper enforcement, calling for EU-level fining powers and harmonised sanctions while stressing that consumers ultimately bear the hidden costs of ineffective enforcement.

2 | How to improve the system in the current market context

2.1 The challenges of e-commerce

ANEC agrees that the MSR's objective of ensuring that only compliant products reach the EU market remains fully relevant. However, we think that the current market surveillance system is not fit to meet the challenges posed by e-commerce.

The requirement for an EU-established economic operator is seen as conceptually sound, but weakly enforced in practice, particularly with regard to authorised representatives.

We note that enforcement mechanisms exist in theory but are incomplete, uneven, and often ineffective for cross-border cases.

ANEC strongly supports EU-level action in market surveillance, arguing that national enforcement alone cannot address cross-border, online and third-country risks effectively. Market surveillance is identified as the weakest pillar of the Single Market, and one where EU-level coordination can deliver significant added value.

ANEC thinks that while the MSR's goals remain valid, the current market surveillance system, especially for e-commerce and cross-border trade, is poorly enforced and fragmented, making stronger EU-level coordination essential to address online and third-country risks effectively.

2.2. Forward-looking practical measures

ANEC supports enhanced guidance and training for MSAs and customs authorities, particularly on tracing dangerous products sold via online marketplaces and clarifying responsibilities of economic operators and platforms.

We also support improved IT tools, better interconnection of databases, and the use of AI tools such as web crawlers to detect non-compliant products online. However, ANEC cautions that technical improvements alone will not solve structural problems.

ANEC supports better guidance, training, and digital tools, including AI, to help authorities trace dangerous products sold online, while cautioning that technical fixes alone cannot resolve the underlying structural weaknesses in market surveillance.

2.3. Need for a systemic reset of market surveillance

ANEC calls for a fundamental rethinking of market surveillance. ANEC questions whether incremental improvements—more staff, better cooperation, additional training—can ever be sufficient given the scale of the EU consumer market.

ANEC proposes a shift in responsibility whereby suppliers bear a greater share of the financial and resource burden of demonstrating compliance and authorities focus on intelligence-led enforcement, high-risk products, and systemic actors. This approach is presented as necessary to address the mismatch between market size and enforcement capacity.

ANEC proposes several concrete legislative amendments, including a pan-European database of accidents and injuries to support enforcement prioritisation and inform consumers and powers for all Member States to shut down websites selling illegal products.

Mandatory laboratory testing of a higher proportion of products under real-use conditions and EU-level rules specifying minimum surveillance resources and competencies in Member States could also improve the effectiveness of market surveillance.

ANEC supports the exploration of an EU Authority for Market Surveillance, either focused solely on market surveillance or with broader responsibilities covering notified bodies and accreditation. However, ANEC stresses that such an authority would only be effective if customs infrastructure is adequately resourced and the authority has the power to impose penalties.

ANEC argues that market surveillance needs a fundamental overhaul, shifting more responsibility and costs to suppliers while empowering authorities with intelligence-led enforcement, stronger EU-level tools, resources, and potentially a dedicated EU authority to address the structural mismatch between market size and enforcement capacity.



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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