

**ICPHSO – 18 November 2008**

## **Convergence of Regulatory Requirements**

**Intervention by Stephen Russell, ANEC Secretary General**

This morning, I spoke about the balance between regulation and consumer protection and the challenge which faces all governments in achieving an optimal balance. But the problem is that few governments (be they national or regional) take such initiatives in concert with one another. Each sets a series of regulatory measures designed to achieve the optimum for its national or regional stakeholders. As a result, some legislation will be stricter in its terms than others; the implementation of legislation in some countries will be supported by standards. And in some countries, the use of standards will be voluntary, in others it will be mandatory. Where standards are mandatory, there may also be a requirement for third-party certification. Or there may not.

What all this leads to is a fragmented global system which forces manufacturers to meet a mountain of different rules and regulations if they want to export around the world. This can lead to a problem of compliance, especially where a manufacturer is having to contend with not only several regulatory systems but regulations in several languages.

Perhaps I could use toys as an example. In response to the infamous summer of recalls, the European Commission conducted a stocktaking exercise to review the strengths and weaknesses of the product safety framework in the European Union. This included an evaluation of the measures that businesses throughout the supply chain were taking to ensure product safety. To facilitate the evaluation, an ad hoc group of stakeholders was assembled to research the issues involved and make recommendations. ANEC provided an expert to the group and we were very pleased to do so.

One conclusion of the report of the 'Marco Polo' project (as the Commission initiative became informally known) was a concern of exporters that the European legislation for toys and the supporting harmonised standards (mostly falling in the EN 71 series) were perceived to be complex.

Furthermore, the European system for toy safety is only one of several followed around the world. The Consumer Product Safety Improvement Act of 2008 in the United States has made use of the ASTM standard for toys, ASTM F963, compulsory. Moreover, all toys on the US market will need to have a third-party certification of compliance to the ASTM standard. Major toy markets such as Australia, Brazil, Canada, China, and Japan all have their own regulations and standards. Indeed, I understand that the International Council of Toy Industries has listed fifteen different sets of regulations and standards being in force around the world.

The message is simple.

The more regulations and standards there are, the more likely it is that a product will not be compliant with the regulations or standards in one or more markets. And if a product is not compliant, then it will not offer the level of protection the consumer expects or deserves to benefit from.

Of course, standardisation does take place at international level in ISO and IEC. There is even an ISO standard on toy safety, ISO 8124. Some of the 15 regulatory systems I mentioned a moment ago even reference ISO 8124, albeit with other national standards.

The problem is that the ISO standard does not have a global relevance despite being an international standard. It does not respond adequately to the needs of the leading global markets for toys. Hence it is not properly recognised and it is not used as it should be.

I do not want to enter the age-old argument about whether the national implementation of ISO standards should be mandatory in the same way as European Standards. But I do believe the lack of compulsion to adopt ISO 8124 has affected its market relevance. If the ISO standard does not meet the needs of a particular country then that country can simply ignore it and maintain (or even introduce) its own national standards.

ISO 8124 is now being revised but my experts doubt whether the revision will improve its international recognition.

Despite this difficult background, the ANEC Board decided ANEC should play a role in facilitating a potential streamlining of the international framework for toys. In August 2008, the Board agreed a research project to examine the legislative environments for toys in the European Union (both taking into account the existing Toy Safety Directive and its proposed revision) and in several other major markets for toys; including the US, China and Japan. The study will assess the modifications that need to be made to the international standards for toys in order to achieve both the highest level of compliance possible and the highest level of consumer protection practicable. We trust the results of the study – which we hope to be available in mid-2009 – we help to reinvigorate debate on a globally-relevant toy standard.

You may think such a study has been conducted before. If it has, we in Europe are not aware of it. And why hasn't it be done before? Well, standardisation may not be a sexy subject but it is political. And there are competing definitions of what a international standard can be, certainly in Europe and the United States.

Although international standardisation has the main role to play in helping to achieve a global convergence of regulatory requirements, European standardisation can make a important contribution. Once again, it is easiest to use an example.

Within Europe, we have a major series of harmonized European Standards on the safety of household electrical appliances, the EN 60335 standards. These standards cover all of the electrical items commonly found in the home – from refrigerators and freezers to ovens, dishwashers, vacuum cleaners and so on. The problem for us consumers was that each standard featured a limitation or exclusion clause. The effect of this clause was to omit certain categories of people from the safety provisions of products manufactured in accordance with the standard UNLESS they operated it under supervision.

These certain categories of people were not narrow in scope but included young people, elderly people and people with disabilities. In the views of ANEC, the exclusion of these people was a clear example of discrimination. Hence we began a campaign to revise the standards which won the support of the then CENELEC President, Dr Ulrich Spindler. Under his instruction, CENELEC/TC 61 established a Working Group to undertake revisions of twelve key standards. ANEC has contributed over 100.000€ already to this work to help define technical requirements which permit a high degree of accessibility to each domestic appliance for all users while seeking the highest level of safety practicable. The revision of the standards is a significant undertaking with the work not expected to be complete until 2012.

But the story does not end here. The EN 60335 series are adoptions of IEC standards. Our wish as Europeans is that the modifications we have agreed are necessary to meet the European legislation are reflected in amendments to the original IEC standards. In this way, all consumers around the world will be able to benefit from the changes that we have taken to improve safety and accessibility.

Thank you for listening.

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