

NOTAT

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Danish response to consultation on the General Product Safety Directive legislative initiative

The General Product Safety Directive provides for a high level of consumer safety across the European Union. Globalization and speed of technical developments within the area of consumer products now calls for a more modern and efficient legislative framework providing more uniform conditions for economical operators and national authorities as well as equal competitive conditions for businesses in all Member States while assuring a consistently high level of consumer protection throughout the European Union and a well functioning and effective internal market.

The Danish Government welcomes the Commission initiative in revising the General Product Safety Directive (GPSD) and supports the alignment with the New Legislative Framework to the highest possible degree, assuring common framework for the marketing of consumer products.

The revision of the GPSD aims to resolve identified problems within the framework of consumer safety legislation. The Danish Government is of the opinion that services, if they are to be regulated, are considered to be included in the scope of the Services Directive, and not as an integral part of the GPSD.

In specific terms, the revision should:

1. Optimize the speed of standardisation procedures while maintaining the political consensus on the safety requirements within the forum of Member States as well as a high level of consumer protection. Yet, it is crucial to keep in mind also that speed needs to be balanced against transparency, consensus and quality. Standardisation organisations should be encouraged to develop and improve their working methods, tools and processes, and the Commission's mandates to European Standards Organizations (ESOs) should be precise and sufficiently specific.

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2. Ensure that direct reference to documents that are not implemented in the ESOs are not pursued, in particular not for areas outside the ICT area. The strength of the European Standardisation System is the coherence and cohesion of the system and the openness to all stakeholders according to the WTO principles. Documents developed by fora and consortia should when necessary be implemented by the ESOs, and hence not referred to independently as documents with specific status of their own. However, more emphasis on cooperation between the ESOs and fora and consortia could be pursued, given that the views and interests of all stakeholders, including consumers, are taken into account.
3. Ensure a speedier and more uniform application of EU product safety “emergency” measures to benefit economic operators, who are active in more than one member state, by removing legal uncertainty regarding marketing of products as well as enhancing consumer protection. We therefore support the proposed Commission initiative of assessing the impact on making the emergency procedures directly applicable to economic operators. We also approve of the proposal of extending the period of validity of these measures, making it dependant on occurrence of a certain event; such as adoption of an EU standard or a permanent EU legislative measure with respect to an identified risk.
4. Improve harmonisation of safety evaluations of consumer products amongst member States. Diverging safety evaluations pose a problem for economic operators, as they thereby face inconsistent application of safety legislation towards their products in different Member States. It is, however, of utmost importance that remedying measures, which are chosen, take into account national and cultural differences and conditions of use of the products in question, while still aiming at supporting the free movement of goods and services across borders to the highest degree possible.
5. Considerably improve market surveillance cooperation and coordination. The change in market structure has raised a need for a new approach to market surveillance in order to continuously improve the protection of consumer safety and health. To create an improved and more uniform control of products, it is important that authorities of all Member States collaborate and share knowledge about how to plan to protection of consumers in an optimum manner.
6. Strengthen and ease market control enforcement of consumer products sold on the internet. As the amount of products sold on the internet is steadily increasing, it is important to better protect consumer interest in this area and remove the remaining barriers to cross border trade. We support the Commission initiative to create a specific market surveillance guideline containing a best practice on market

surveillance on products sold online.

7. Assure alignment with the New Legislative Framework (NLF) to the highest possible degree. Following the adoption of the Free Movement of Products package, two sets of rules on general product safety exist. Coexistence of these rules without a substantive and practical alignment of the GPSD with the NLF, will leave both economic operators and national market surveillance authorities with differing product safety obligations. Diverging obligations for economic operators, diverging competences of market surveillance authorities and different conditions for notification of measures tackling unsafe products should be avoided. These diverging requirements lead to higher administrative burdens in general for businesses and expectedly higher exposure of consumers to dangerous products. Consequently, the Danish Government strongly supports the alignment with the New Legislative Framework to the highest possible degree leading to fewer legislative differences in Member States while ensuring the independence of legislation not covered by the NLF. Providing a clear and uniform set of product safety obligations for economic operators for all kinds of products and ensuring effective and clear product traceability will also ensure better enforcement of existing product safety rules. Consumer products supplied within the context of a service should be subject to the same product safety legislation as products supplied directly to the consumer. Application of the legislation should also not depend on whether the product is operated by the consumer or by the service provider.
8. Introduce safety requirements that the product do not become dangerous in their expected lifetime. This requirement needs to take into account reasonable maintenance to be carried out by the consumer. Justification for the introduction of this requirement into the directive is that a wide range of products are not yet covered by standards, that normally takes aging into account. For the sake of consumer safety, this requirement is necessary for proper enforcement.

With these recommendations, we believe that a revised GPSD will provide for equal competitive conditions for businesses in all Member States and a market surveillance framework strengthening the collaboration between EU Member States with regard to surveillance and enforcement across the EU. Ultimately, this will increase the level of consumer protection as well as assuring consumer confidence.