



NOTE

10. October 2016

Danish response to the open consultation on market surveillance

General remarks

The Danish government supports the ambition to strengthen efforts in the area of market surveillance. Globalisation, new technologies and the increasing complexity of products challenge current market surveillance practices. In addition, increasing e-commerce creates more import activity from third countries and potentially long supply chains from manufacturers to end users. Therefore, a number of concrete actions and a renewed commitment of Member States and the Commission are necessary to ensure a level playing field for businesses and protection of health, safety and environment. At the same time, it should be made easier for businesses to ensure and demonstrate product compliance.

The Danish government welcomes the Commission's initiative to present a broader goods package covering both the harmonised and non-harmonised area as the two areas are, in practice, increasingly interlinked. Regarding regulation 765/2008, it is to be considered whether the regulation constitutes an up to date framework with clear definitions and obligations reflecting actual conditions, i.e. the growing importance of the internet and exchange of data between MSAs.

Regarding future priority areas, the Danish government would like to point to the following key elements:

Information about product legislation

Based on a Danish context, both authorities and business organisations in general point to lack of knowledge as a core cause of non-compliance. Businesses mainly demonstrate a willingness to comply but do not always understand their obligations in practice, e.g. their roles in the supply chain as fabricant, importer and distributor. This appears to be particularly problematic in the field of e-commerce.

Strong priority should be given to initiatives aimed at providing more user friendly guidance and application oriented information. Such information should target all businesses but particular focus should be put on the

needs of small businesses. Information should be developed through co-operation and involvement of all stakeholders. The Danish government supports the considerations of the Commission to make use of the ‘Single Digital Gateway’ to make relevant information available to citizens and business. The option of including the product contact point may also be fruitful. While focusing on businesses, it should also be considered which kind of information one can present to consumers.

Digital solutions

The Danish government supports the aim to make it easier for businesses to ensure and demonstrate product compliance. In general, a development toward digital solutions is desirable. However, it is crucial that procedures create simplification for businesses in practice and that there is a strong focus on data quality and security, both for businesses and authorities. New tools should first and foremost be introduced as a supplement to existing procedures and the physical market surveillance activities carried out by MSAs.

A study examining the possibility of developing an international standard with focus on product compliance

The Danish government proposes that the Commission looks into the possibility of developing an official, international management system standard that can be used by businesses in the product area. A potential standard should help businesses ensure the quality and compliance of products by focusing on their internal purchase and import procedures. Management system standards in the areas of e.g. food safety, environment and work environment may be used as inspiration. A study to identify possibilities and needs should be carried out and involve the Commission, MSAs, customs authorities, businesses and standardisation organisations.

Strengthened efforts towards third countries

Due to the increasing import of products from third countries, the Danish government believes that enforcement initiatives targeting third country businesses should be given high priority. Today, it appears difficult for MSAs to identify third country businesses and make them respond to requests. In addition, the businesses are often not familiar with their obligations. The Commission should focus on more cooperation with third country authorities, including better possibilities to sanction businesses in these countries. In addition, stronger coordination with customs authorities across the EU is also crucial. In this respect it is important that levels of customs supervision are comparable across Member States so that certain countries do not become unintended loopholes for products to enter the EU.

Quality and coordination of market surveillance

The Danish government agrees with the Commission that there is a need for more uniform procedures, better coordination and exchange of information across the EU. Nationally, MSAs in Denmark already work risk based and different kinds of coordination between MSAs are in place. More use of data and the involvement of private partners in developing market surveillance initiatives are elements that could be strengthened in a national context. At EU level, there are a number of well-functioning practices and systems. However, the use of existing fora should be optimised and the commitment and obligations of Member States should be more clear, e.g. in the IMP-MSG expert group and especially the ADCO groups which could be used more to discuss matters of uncertainty in specific sectors. As for formal decisions, Member States should have the right to make such decisions in their own country.

Resources and training for MSAs

Regarding training of MSAs and market surveillance inspectors, education could be more standardised across Member States. The Commission should seek to develop a number of modules covering fundamental principles. In addition, e-learning facilities and an effective platform for video conferences should be made available to MSAs. It should be possible to carry out more tests, share testing facilities and results at EU level, and MSA's should be encouraged to commit to such activities. In the light of limited resources, programmes at EU level should ensure and support sufficient laboratory capacity.