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# REPORT

on addressing product safety in the single market  
(2019/2190(INI))

Committee on the Internal Market and Consumer Protection

Rapporteur: Marion Walsmann

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on addressing product safety in the single market (2019/2190(INI))

*The European Parliament,*

- having regard to Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety<sup>1</sup>,
- having regard to Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC<sup>2</sup>,
- having regard to Regulation (EU) 2019/515 of the European Parliament and of the Council of 19 March 2019 on the mutual recognition of goods lawfully marketed in another Member State,
- having regard to Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council<sup>3</sup>,
- having regard to Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011<sup>4</sup>,
- having regard to Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union<sup>5</sup>,
- having regard to Regulation (EU) 2019/881 of the European Parliament and of the Council of 17 April 2019 on ENISA (the European Union Agency for Cybersecurity) and on information and communications technology cybersecurity certification and repealing Regulation (EU) No 526/2013 (Cybersecurity Act)<sup>6</sup>,
- having regard to its resolution of 12 February 2020 on automated decision-making processes: ensuring consumer protection and free movement of goods and services<sup>7</sup>,

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<sup>1</sup> OJ L 11, 15.1.2002, p. 4.

<sup>2</sup> OJ L 218, 13.8.2008, p. 82.

<sup>3</sup> OJ L 316, 14.11.2012, p. 12.

<sup>4</sup> OJ L 169, 25.6.2019, p. 1.

<sup>5</sup> OJ L 194, 19.7.2016, p. 1.

<sup>6</sup> OJ L 151, 7.6.2019, p. 15.

<sup>7</sup> Texts adopted, P9\_TA(2020)0032.

- having regard to its resolution of 12 February 2019 on a comprehensive European industrial policy on artificial intelligence and robotics<sup>8</sup>,
- having regard to its resolution of 13 December 2018 on Blockchain: a forward-looking trade policy<sup>9</sup>,
- having regard to its resolution of 12 December 2018 on the single market package<sup>10</sup>,
- having regard to its interim report of 14 November 2018 on the multiannual financial framework 2021-2027 – Parliament’s position with a view to an agreement<sup>11</sup>,
- having regard to its resolution of 3 October 2018 on distributed ledger technologies and blockchains: building trust with disintermediation<sup>12</sup>,
- having regard to its resolution of 4 July 2017 on European standards for the 21st century<sup>13</sup>,
- having regard to its resolution of 4 July 2017 on a longer lifetime for products: benefits for consumers and companies<sup>14</sup>,
- having regard to its resolution of 26 May 2016 on the single market strategy<sup>15</sup>,
- having regard to its position adopted at first reading on 15 April 2014 with a view to the adoption of Regulation (EU) No .../2014 of the European Parliament and of the Council on consumer product safety and repealing Council Directive 87/357/EEC and Directive 2001/95/EC of the European Parliament and of the Council<sup>16</sup>,
- having regard to the Commission Work Programme 2020 - A Union that strives for more (COM(2020)0037),
- having regard to the Commission report of 19 February 2020 on the safety and liability implications of artificial intelligence, the internet of things and robotics (COM(2020)0064),
- having regard to the Commission white paper of 19 February 2020 on artificial intelligence - A European approach to excellence and trust published (COM(2020)0065),
- having regard to the Commission communication of 19 February 2020 on shaping Europe’s digital future (COM(2020)0067),
- having regard to the Commission communication of 10 March 2020 on a long-term

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<sup>8</sup> Texts adopted, P8\_TA(2019)0081.

<sup>9</sup> Texts adopted, P8\_TA(2018)0528.

<sup>10</sup> Texts adopted, P8\_TA(2018)0511.

<sup>11</sup> Texts adopted, P8\_TA(2018)0449.

<sup>12</sup> OJ C 11, 13.1.2020, p. 7.

<sup>13</sup> OJ C 334, 19.9.2018, p. 2.

<sup>14</sup> OJ C 334, 19.9.2018, p. 60.

<sup>15</sup> OJ C 76, 28.2.2018, p. 112.

<sup>16</sup> OJ C 443, 22.12.2017, p. 722.

action plan for better implementation and enforcement of single market rules (COM(2020)0094),

- having regard to the Ethics Guidelines for Trustworthy AI of the Commission’s High-Level Expert Group (HLEG) on Artificial Intelligence published on 8 April 2019,
  - having regard to the Commission communication of 8 April 2019 on building trust in human-centric artificial intelligence (COM(2019)0168),
  - having regard to the report entitled ‘Policy and Investment Recommendations for Trustworthy AI’ by the Commission’s HLEG on Artificial Intelligence published on 26 June 2019,
  - having regard to Rule 54 of its Rules of Procedure,
  - having regard to the report of the Committee on the Internal Market and Consumer Protection (A9-0207/2020),
- A. whereas the single market for goods is one of the most important economic cornerstones of the EU, and trade in goods currently generates around a quarter of the EU’s GDP and three quarters of intra-EU trade;
- B. whereas the General Product Safety Directive (Directive 2001/95/EC, GPSD) was adopted in 2001 and whereas consumer purchasing habits have changed due to the growth in e-commerce sales; whereas a previous attempt to reform the GPSD presented by the Commission in 2013 was not successful;
- C. whereas it is unacceptable that EU consumers are exposed to products that do not comply with EU safety requirements or are otherwise illegal, with issues ranging from the use of dangerous chemicals in products to unsafe software and other safety hazards; whereas there is a need for a horizontal legislative framework to act as a safety net and to enhance consumer protection in order to achieve a high level of protection of the health and safety of consumers;
- D. whereas the trade in goods in the single market is linked to the dynamics of the global trade in goods and the efficiency of supply chains; whereas it is therefore essential to ensure that the EU’s external borders are further equipped with more effective and harmonised tools to detect unsafe products coming from third countries and prevent their circulation in the single market, to benefit businesses that respect the rules and to properly and effectively protect consumer rights;
- E. whereas due account should be taken of the precautionary principle by the competent authorities when taking measures to ensure the safety of consumers, in particular with regard to products that have new digital technologies embedded in them and that could be dangerous;
- F. whereas emerging technologies transform the characteristics of products and need to be addressed so as to ensure consumer protection and legal certainty without hindering innovation; whereas the Commission’s report on the safety and liability of artificial intelligence (AI), the internet of things (IoT) and robotics paves the way to achieving

this;

- G. whereas the number of dangerous products notified through the European Safety Gate (RAPEX) remains very high, as do sales of dangerous and non-compliant products, and whereas compliance with the EU regulatory framework, in particular with product safety rules, also during the manufacturing process, contributes to the safety of products;
- H. whereas product safety by design and by default is fundamental because safety during the design phase can improve the safety of products on the market;
- I. whereas the EU's market surveillance system mostly focuses on economic operators present in the single market, and whereas developments in e-commerce result in high numbers of products from third countries being directly placed on the market; whereas many of these products do not, however, respect European Union safety requirements and therefore risk harming consumers, who are often unaware of such hazards;
- J. whereas the level of consumer protection should not depend on whether a consumer shops online or in a physical shop and whereas voluntary initiatives introduced by some digital platforms and online marketplaces should be further promoted; whereas other actions are still needed to sufficiently protect consumers, since many products sold on online marketplaces do not comply with EU safety rules, and whereas a more extensive regulatory framework is therefore needed to ensure platform responsibility and liability;
- K. whereas the traceability of products along the supply chain is essential for improving safety and protecting consumers;
- L. whereas in the EU, a high number of counterfeit goods have been reported as dangerous and have posed a serious risk to the health and safety of consumers;
- 1. Stresses that the COVID-19 crisis has shown that it is of paramount importance for the protection of people in the EU that the safety of all products needed to tackle this emergency and all the crises that might challenge the EU in the future is the highest, especially for medical and protective equipment, products sold online and offline, and products from outside the EU; stresses, to that aim, the need for online platforms and online marketplaces to take proactive measures to tackle misleading practices and disinformation regarding products sold online; calls on the Commission to pay particular attention to the safety of medical devices when procuring crisis equipment supplies; notes that products based on AI, IoT or robotics can offer solutions which can help to combat current and future crises that might undermine the EU's strategic position; calls, therefore, on the Commission and the Member States to strengthen their coordinated actions within the product safety framework and its relevant networks;

### ***Safety of all products***

- 2. Welcomes Regulation (EU) 2019/1020 on market surveillance but highlights that, with the exception of checks on products entering the Union market, the regulation only applies to products subject to Union harmonisation legislation, while around one third of all products circulating in the EU are non-harmonised products; urges the Commission to update and establish aligned market surveillance rules for both

harmonised and non-harmonised products placed on the market offline or online, and to make them fit for purpose in the digital age in order to ensure a level playing field and improve product safety;

3. Points out the need to adapt product safety rules to the new market realities and the digital transition by tackling emerging risks and threats to the safety of consumers, addressing the related security concerns of consumers and protecting their rights; asks the Commission to address the challenges of emerging technologies such as AI, IoT, robotics, 3D printing and others in its revision of the GPSD, and to identify and close gaps within existing legislation, such as the Machinery Directive and the Radio Equipment Directive, avoiding duplicating legislation and ensuring a consistent approach towards product safety in all sectoral legislation, such as the Toy Directive and other product-specific legislation, in order to achieve the highest level of consumer safety while removing potential barriers to the development of disruptive technologies;
4. Calls on the Commission to redefine the terms ‘product’ and ‘safe product’ as part of its revision of the GPSD, in coordination with the possible revision of other legislative acts such as the Product Liability Directive, so that they reflect the complexity of emerging technologies, including products with AI, IoT and robotics embedded in them, stand-alone software and software or updates which entail substantial modification to the product leading to a de facto new product; urges the Commission to prioritise consumer rights and legal certainty for consumers when revising the GPSD;
5. Is convinced that AI and other emerging technologies embedded into products can modify the purpose of products and have an impact on their safety after they have been placed on the market, in particular as a result of software updates or in the case of self-learning technology; urges the Commission to consider whether ‘placing on the market’ being the decisive moment for the economic operator to guarantee the safety of the product is an approach still fit for purpose and outlines that continued conformity of the product with the relevant product safety legislation, including after the installation of software, could be more fit for purpose in the digital age;
6. Agrees that AI systems should be safe in order to be trustworthy, as outlined by the HLEG in its Ethics Guidelines for Trustworthy AI, asks the Commission to take the recommendations of the HLEG fully into consideration and agrees that consumers have to be informed about the safety and security of AI and products in which it is embedded; is convinced that an EU-wide approach to AI is crucial for the development of this technology in the EU; stresses the need for a common definition, which should be periodically revised in order to adapt it to new technological developments, and for safety-related requirements for AI in order to avoid further fragmentation of the single market resulting from differing national legislation; underlines that the EU needs to take action to create a framework for investment, data infrastructure, research and common ethical norms that would enhance the trust of consumers and businesses, ensure a more effective and fairer form of consumer protection, create legal certainty, improve the EU’s economic competitiveness and incentivise the founding and development of start-ups and businesses that carry out and use research into AI; stresses that the Commission should assess how AI technology and blockchain could be used to enhance product safety through, for instance, the development of interoperable databases on injuries caused by unsafe products circulating in the single market;

7. Considers that AI systems, whether stand-alone or embedded in a product, offer many opportunities and that they should use high-quality and unbiased data sets in order to be trustworthy and promote consumer protection; welcomes, therefore, the Commission communication on building trust in human-centric artificial intelligence, which takes into account the seven key requirements set out in the guidelines of the HLEG; outlines that these guidelines should also be considered on an international level; stresses that the Commission should screen the existing AI standards and consult with relevant stakeholders to assess which new standards are needed, that it should carry out a periodic assessment of the EU regulatory framework related to AI in order to ensure product safety and consumer and data protection, and that it should intervene in areas where it is necessary to promote legal certainty and ensure the harmonisation of rules within the EU;

### ***Compliance with product safety rules***

8. Stresses that a harmonised risk-based assessment framework designed according to clear and transparent criteria will not only be efficient from an administrative point of view, in particular for micro-enterprises and small and medium-sized enterprises (SMEs), because it will avoid disproportionate burdens, but also in terms of enhancing consumer safety; urges the Commission, therefore, to further harmonise the methodology and, together with the relevant stakeholders, to thoroughly assess the feasibility of risk-based assessment schemes, adapting their application for products with a high risk level, and conformity assessment mechanisms, where they do not yet exist, to ensure the safety and security by design or default of products with embedded emerging technologies; underlines the need to ensure a consistent approach to the enforcement of product safety legislation and notes that significant asymmetry may arise between the development of products with embedded emerging technologies and the ability of public authorities to assess them; emphasises, therefore, that the Member States should coordinate – with the support of the Commission – their risk management strategies for AI in the context of their national market surveillance strategies to ensure a level playing field for all economic operators;
9. Is of the opinion that the current gaps in the existing legal framework negatively affect the rights of EU consumers and the competitiveness of EU companies, in particular SMEs and micro-enterprises; urges the Commission to also take into account the ‘think small first’ principle when assessing the impact of future legislation, which should take due account of the need to provide support to SMEs to reduce the burden these measures can create and to ensure a stable, predictable and properly regulated environment in which SMEs can run their businesses;
10. Urges the Commission to consider EU benchmarks for ‘regulatory sandboxes’, without abandoning the precautionary principle, since they can enhance the safety of products by giving expert input on how to assess the compliance of a product with the applicable legislation in a modern way; points out that creating a single environment for testing and improving technologies such as AI, will help EU businesses to overcome the fragmentation of the single market and effectively exploit growth potential throughout the EU; recognises the significant role that Digital Innovation Hubs can play in simultaneously acting as intermediaries between regulators and companies, helping assisting start-ups and SMEs to adapt to new legislation, and facilitating market entry;



11. Asks the Commission and the Member States to take into account the autonomous self-learning behaviour of AI throughout a product's lifetime and assess the feasibility of setting up mechanisms to avoid emerging risks; calls for mandatory human oversight to be the default option for high-risk AI products and for the development of effective checks on high-risk AI products throughout the supply chain with reliable and impartial procedures to ensure product safety and the right of consumers to demand personal communication instead of communication with automated systems; stresses that strong consumer rights support the development of safe and innovative AI products;
12. Encourages providers of emerging technologies to integrate safety and security mechanisms in these technologies, including self-repair mechanisms, to prevent the upload of software that can potentially endanger the safety of consumers, to raise awareness of the safety problems of their products, and to ensure and improve safety throughout their lifecycle; asks the Commission to analyse whether the durability, reusability, upgradability and reparability of products can influence their safety; notes, however, that many economic operators do not always exercise effective control over their products through their entire lifecycle, and that several other parties may be responsible for various product components;
13. Calls on the Commission and the Member States to ensure that in connectivity infrastructure, including new communication technologies such as 5G, security and privacy is embedded by design and by default in order to improve the safety of connected products; highlights that the risks derived from software updates, faulty data and loss of connectivity can result in risks to safety and health and urges the Commission to update the current product safety legislation in order to address those risks;
14. Is convinced that a lack of or the weak cybersecurity of connected devices and interlinked services can compromise product safety, and that this needs to be addressed in the horizontal revision of the relevant rules and recommendations; therefore calls on the Commission to ensure that the scope of the revision of the GPSD also takes into account cybersecurity challenges and emerging trends by ensuring all devices remain up-to-date with continuously evolving industry web standards;
15. Highlights the fact that the EU Cybersecurity Act is one of the main tools for enhancing cyber security at EU level but is based on a voluntary certification scheme only; calls on the Commission to assess the need both for an EU cybersecurity certification scheme covering products with embedded emerging technologies, such as AI, IoT and robotics, in accordance with the EU cybersecurity framework, always taking into account sector-specific aspects, and the need to develop corresponding mandatory certification schemes for consumer products that can be quickly updated to adapt to current risks without hindering innovation; accordingly calls on the Commission to assess the need for legislation on mandatory cybersecurity requirements and proper market surveillance mechanisms;

### ***Effective market surveillance***

16. Underlines the lack of financial and human resources many market surveillance authorities in the EU have faced over the last few years and encourages the Commission

and the Member States, to the extent that their respective competences allow them, to increase the resources and expertise of their market surveillance authorities, to enhance cooperation among them and develop joint actions, including at cross-border level and for online markets, to improve the efficiency and effectiveness of checks, and to properly staff market surveillance authorities, including customs authorities, so as to be able to identify unsafe products, in particular from third countries, and prevent their circulation in the internal market; stresses, in this context, the particular importance of providing modern equipment to the relevant authorities, as well as ensuring they use innovative technologies, and stresses that access to relevant documentation, such as product-safety-related software documentation and data sets, is key to enabling market surveillance authorities to perform their activities and assess the compliance of products with relevant safety rules;

17. Underlines the importance of the single market programme, in the context of the 2021-2027 multiannual financial framework (MFF), in supporting and strengthening effective market surveillance authorities in their tasks across the internal market and ensuring the uniform enforcement of product safety rules throughout the EU, so that only safe and compliant products that offer a high level of consumer protection are made available in the internal market; reiterates, in this regard, its call on the Commission and the Council to increase and provide adequate resources and a dedicated budget line and further calls on the Member States to also allocate sufficient resources to their customs services; urges the interinstitutional negotiating parties to prevent the budgets for the MFF single market programme and customs programmes from decreasing;
18. Underlines that although market surveillance activities are aimed at protecting general public interests, while counterfeited products relate to the protection of private intellectual property rights, there is a relation between counterfeited products and risks to the health and safety of consumers; urges the Commission, therefore, to get a better and clearer picture of the counterfeiting phenomenon and of the possible role that market surveillance authorities and online marketplaces could play in better protecting the health and safety of EU consumers, including through the effective enforcement of customs legislation and the harmonisation of customs controls throughout the EU; encourages the use of new technologies such as AI and blockchain by market surveillance authorities to ensure that data analytics can be used to mitigate risk, improve compliance with product safety legislation and protect consumers against counterfeited products;
19. Urges the Commission and the Member States to set minimum sampling rates; asks market surveillance authorities to carry out sector-specific mystery shopping, including on online shopping marketplaces, on a regular basis or during sweep days like the ones carried out by the Consumer Protection Cooperation Network (CPC); adds that particular attention should be given to product categories most notified on RAPEX, taking appropriate restrictive measures if a risk is identified; recommends that these measures are soundly grounded in data analytics tools; stresses the importance for Member States to impose effective penalties on infringers;
20. Calls on the Commission to swiftly adopt implementing acts in accordance with Regulation (EU) 2019/1020, and in particular Article 25 thereof, laying down benchmarks and techniques for checks on harmonised and non-harmonised products,

and to include minimum requirements on checks for products entering the Union market so as to ensure consistent, effective and uniform enforcement of Union law;

21. Stresses that products directly purchased by consumers from non-EU economic operators must be subject to effective controls to ensure their compliance with the EU regulatory framework; calls on market surveillance authorities, including customs authorities, to undertake adequate checks on these products; calls on the Commission to explore the option of requiring non-EU economic operators to designate an economic operator in the EU for non-harmonised products that would provide information or documents relating to the safety of the product to the market surveillance authorities and cooperate with them to make sure that corrective action is taken to remedy cases of non-compliance;
22. Asks the Commission to cooperate with the regulatory authorities of third countries, to exchange market-surveillance-related information on dangerous products with them, and to include provisions related to market surveillance and enforcement in all EU free trade agreements, so that companies from outside the EU which sell goods in the internal market are subject to the same product safety requirements as EU companies;
23. Urges the Commission to increase, at EU and international level, cooperation between consumer protection, market surveillance and customs authorities and other relevant competent authorities so as to guarantee harmonised and uniform controls at all points of entry into the Union, to enable the swift transfer of information on unsafe products, and to enhance coordination of enforcement measures, such as checks on compliance with the EU regulatory framework and penalties; in this context, calls on the Commission and the Member States to strengthen the interaction between EU and national public databases on illegal products; urges the Commission, within the framework provided by Regulation (EU) 2019/1020, to enable the use of the Information and Communication System on Market Surveillance, which should run in parallel with the Common Customs Risk Management System, in order to increase the level of cooperation and exchange of information between the Member States and the Commission;
24. Urges the Commission to prioritise product safety in its action plan for customs;

#### ***Safe products on online marketplaces***

25. Stresses that consumers should be offered equally safe products whether buying online or offline and acknowledges the Product Safety Pledge<sup>17</sup> for online marketplaces, while highlighting its voluntary character, the limited participation of market operators and the lack of detailed key performance indicators (KPIs) to ensure a meaningful assessment of the signatories' efforts; calls on the Commission to encourage other online marketplaces to join the initiative and display clear information to consumers regarding their rights and the retailer, and to evaluate the role online marketplaces could play in limiting the circulation of unsafe products and to propose mandatory rules on obligations and the responsibilities of marketplaces established in and outside the EU as part of the Digital Services Act, the revision of the GPSD and any other relevant

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<sup>17</sup> Product Safety Pledge is a voluntary commitment made by online marketplaces with respect to the safety of non-food consumer products sold online by third-party sellers from June 2018.

legislation;

26. Highlights the need for a level playing field between EU and third-country platforms when it comes to compliance with EU rules on product safety; calls on the Commission, together with the market surveillance authorities, to conduct research on the safety of products from third countries, to scrutinise online marketplaces more actively and to increase their responsibility; urges the Commission, in cooperation with consumer organisations and the Member States, to better inform consumers about the possible dangers of non-compliant products from third countries purchased on online marketplaces; invites the Commission to require online marketplaces to apply the same rules to all entities that offer products to consumers in the EU, including those established in third countries;
27. Notes that while online platforms, such as online marketplaces, have benefited both retailers and consumers by improving choice and lowering prices, at the same time an increasing number of sellers – especially from third countries – are offering unsafe or illegal products in the single market; therefore urges online marketplaces to react as quickly as possible to notifications from RAPEX, and to cooperate effectively and proactively with the Member States' competent authorities, immediately withdrawing unsafe products and taking measures to stop them reappearing; asks the Commission to establish obligations requiring online marketplaces to react effectively to unsafe products, including by informing consumers if they have purchased an unsafe or otherwise non-compliant product; encourages online marketplaces, when contacted by consumer organisations to issue an alert about an unsafe product and to cooperate with them to assess the potential risk;
28. Asks the Commission and the Member States to ensure that online marketplaces enhance their cooperation via joint activities between themselves and the competent authorities, consult the RAPEX system before placing products on their websites, remove products identified as unsafe by RAPEX immediately, exchange information on sellers that break the rules, take effective and dissuasive measures against them and their supply chain, put in place a robust business user authentication system, and develop an easily accessible EU-wide tool for consumers to report unsafe products;
29. Urges the Commission to assess how online marketplaces could improve their interconnection with the RAPEX system, provided that the latter is modernised and made compatible, for example through an application programme interface, in order to receive alerts that a product has been notified in the system and to ensure that products offered for sale are safe, and urges the Commission to require online marketplaces to introduce a link to RAPEX on their websites so as to raise awareness about this platform;
30. Asks the Commission to evaluate the requirement for online platforms to put in place effective and appropriate safeguards to tackle the appearance of advertisements for unsafe products that are not compliant with the EU regulatory framework including advertisements or misleading guarantees and statements made by suppliers or customers, and to accompany this evaluation with a thorough assessment of the impact of such provisions, including a cost efficiency analysis based on proportionality for online platforms;

31. Calls on the Commission to negotiate an ambitious WTO e-commerce agreement in order to improve respect for product safety rules online at EU and international level;

#### ***2020 Commission standards programme and traceability***

32. Welcomes the fact that the EU standardisation programme for 2020 addresses the challenges emerging within the digital single market, such as AI, IoT, protection of data, including health data, cybersecurity and automated mobility; asks the Commission to mandate the European Committee for Standardization, the European Committee for Electrotechnical Standardization and the European Telecommunications Standards Institute to support the process of shaping harmonised standards, including for traditional sectors that did not previously use IT, in order to ensure the safe use of new and interoperable digital technologies on a uniform basis throughout the EU; underlines that standards, in particular regarding certain categories of products such as personal protective equipment, should be developed so as to ensure the highest level of safety for men and women; calls on the Commission and the Member States to support the participation of all relevant stakeholders, including consumer and business associations, in standardisation activities;
33. Emphasises that effective and efficient traceability along the supply chain is key to improving the safety and quality of products in compliance with the EU regulatory framework and the protection of EU consumers, since clear and reliable information on products prevents uncertainty for consumers, including persons with disabilities, empowers them to make informed choices on the basis of relevant information and allows market surveillance authorities to carry out their activities; asks the Commission to update the rules for the traceability requirements of non-harmonised products accordingly;
34. Asks the Commission to evaluate how distributed ledger technology such as blockchain could enhance the safety of products by improving product traceability throughout the supply chain, including through their standardisation; outlines that the development of solid and reliable electronic information would make checks by market supervisory authorities simpler and more effective;

#### ***Recalls***

35. Notes that consumers respond poorly to recalls, and that unsafe products continue to be used even though they have been recalled; asks the Commission to publish guidelines in plain language on recall procedures, including a check list with concrete requirements, and to provide clear information about the benchmarks used by the market surveillance authorities, in order to increase the number of consumers reached while taking into account that SMEs and in particular micro enterprises might need additional help in order to cope with the guidelines;
36. Asks retailers, online marketplaces and consumer associations to play a greater role in recalls of unsafe products purchased online or offline by providing adequate and reliable information to consumers, and calls on retailers and online marketplaces to ensure that products are withdrawn swiftly from online marketplaces and shelves and recalled from consumers; asks the Commission and the Member States to require online marketplaces to put in place effective mechanisms to make sure they can reach their

users, buyers and sellers, whether they are individuals or businesses, in order to inform them as quickly as possible when recalls are necessary; asks the Commission to assess how new technologies and algorithms can make this process more effective and to ensure that a larger number of affected consumers are reached;

37. Urges the Commission and the Member States to enhance cross-border exchange of best practices on recalls and consider increasing product registration rates so that affected consumers can be more easily identified and actively informed, even for cross-border purchases, and to enable economic operators to use data – such as loyalty schemes – to reach consumers without infringing General Data Protection Regulation rules; calls on consumer associations to strengthen their cooperation with market surveillance authorities on recall procedures by listing products identified as unsafe in RAPEX on their websites;
38. Calls on the Commission and the Member States to draw up a simple and harmonised feedback report on recalls by economic operators to be submitted to the market surveillance authorities in order to assess the effectiveness of the recall;

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39. Instructs its President to forward this resolution to the Council and the Commission.



## EXPLANATORY STATEMENT

The single market makes it possible for millions of products to be traded within the European Union. We need to ensure that these products are safe, and in this way protect consumers' health. The rapporteur is convinced that greater efforts are needed to improve the safety of products and to ensure a high level of consumer protection. Existing product safety rules need to be evaluated and adapted to take account of the digital transformation. This applies both to sector-specific legislation, such as the Machinery Directive<sup>18</sup>, the Radio Equipment Directive<sup>19</sup>, the Low Voltage Directive<sup>20</sup> and the Toys Directive<sup>21</sup>, and to the General Product Safety Directive<sup>22</sup>. The revisions of these rules which are now required must ensure that consumers can count on a high level of safety for all products and that this safety is effectively monitored.

### *Safety of all products*

In 2021, the regulation on market surveillance and conformity of products (Regulation (EU) 2019/1020) will come into force. This will bring about significant improvements to market surveillance, such as closer cross-border cooperation between market surveillance authorities. However, these improvements relate only to products subject to EU harmonisation legislation. The so-called non-harmonised products will remain unaffected, except as regards certain provisions concerning inspection. This will lead to the unacceptable situation that, for example, a doll's bed, which is subject to harmonised rules as a toy, is covered by stricter provisions than a child's bed, which, as an item of furniture, is one of the so-called non-harmonised products. The rapporteur is therefore proposing that the existing rules be adapted so that non-harmonised products also enjoy a high level of protection.

Adjustments are also needed to extend existing safety rules to cover products using new technologies such as Artificial Intelligence (AI), the Internet of Things (IoT) and robotics. As a result, there is a need to clarify existing rules and to fill regulatory gaps. For example, existing product definitions should be revised. The question as to whether software or updates could be regarded as products in their own right if they are safety-relevant needs to be clarified, as does that of whether the decisive moment to assess the safety of a product is still when it is placed on the market. This is particularly important given that, for example, the ability of the product to develop itself further in terms of its properties may change its functions over time.

### *Compliance with product safety rules*

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<sup>18</sup> Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC (recast), OJ L 157, 9.6.2006, p. 24.

<sup>19</sup> Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC, OJ L 153, 22.5.2014, p. 62.

<sup>20</sup> Directive 2014/35/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits, OJ L 96, 29.3.2014, p. 357.

<sup>21</sup> Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys, OJ L 170, 30.6.2009, p. 1.

<sup>22</sup> Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety, OJ L 11, 15.1.2002, p. 4.

The rapporteur believes that products should be safe throughout their life cycle. Product safety rules covering new technologies must take account of the specific characteristics of these technologies. There is a need to create a uniform EU-wide legal framework governing AI that differentiates between low-risk and high-risk AI in line with the risk-based approach in order to achieve a comprehensive level of safety while preventing fragmentation of the internal market. The rapporteur is proposing that the existing conformity assessment criteria be examined and appropriate measures taken to close gaps. She believes that, for products using AI, the IoT or robotics that present only a low degree of risk, a simplified conformity assessment should suffice. It is also important that the measures to be proposed do not unnecessarily burden businesses in general and SMEs in particular, which are the backbone of the European single market.

### ***Effective market surveillance***

The best product safety rules serve little purpose if compliance is not monitored effectively. The enforcement of product safety and market surveillance rules is a matter for the Member States. The national market surveillance authorities, whose role is enhanced under Regulation (EU) 1020/2019, play a crucial role in this regard. They do a good job, but their efficiency could still be improved; for that reason, the rapporteur believes that sufficient resources and staff should be made available to market surveillance authorities to enable them to perform their important task effectively. In the rapporteur's view, closer cooperation between the individual market surveillance authorities and between market surveillance authorities and customs authorities is also necessary. Minimum sampling rates and systematic mystery shopping could increase the likelihood of identifying unsafe products and ensure consistent enforcement of European product safety rules.

Above all, the rapporteur expects that products purchased online and imported from third countries will be treated with the same vigilance by market surveillance authorities. This is not yet the case, and therefore more effective monitoring is needed to improve the safety of all products.

### **Safe products on online marketplaces**

Sixty-nine per cent of internet users shopped online in 2018. The number of products sold online is increasing every year. This 'new' market must not lead to the principle of product safety being undermined. In the rapporteur's view, the issue of whether a product was purchased online or offline should have no bearing on the protection that consumers enjoy against unsafe products.

On the one hand, online marketplaces offer quick access to a wide range of products; on the other, however, they pose a risk, as they take no responsibility for the products on sale. The rapporteur takes the view that online marketplaces should be required to accept greater responsibility. This could include, for example, proactive recognition of unsafe products by online marketplaces, or a requirement to check products for matches with those identified by the Rapid Alert System for Dangerous Non-Food Products, the Safety Gate (Rapex). This could be achieved by creating an appropriate interface. Today, unsafe products that have been removed from one online marketplace reappear on another. Stepping up the exchange of information between online marketplaces could counteract this.

In addition, market surveillance authorities should also focus their work on online



marketplaces in order to strike a balance with stationary trading, thereby not only increasing product safety, but also ensuring fair competition on the EU market.

### ***Traceability and recalls***

Traceability along the supply chain is crucial for improving product safety. Whether a blockchain or other technologies are used is not particularly important. It is essential that these technologies should be interoperable and have the potential to make a significant contribution to improving product safety, in particular for products which use AI, the IoT or robotics.

Last but not least, the rapporteur would like to improve the effectiveness of recalls. Consumers are unaware of most recalls of non-food products, so that dangerous products remain in use. This problem needs to be addressed as soon as possible, and she is therefore proposing a number of measures to increase the effectiveness of recalls.

In the rapporteur's view, the measures proposed in this draft report will enhance the safety of products and thus increase EU citizens' trust in the common European internal market, including in times of crisis.

## **ANNEX: LIST OF ENTITIES OR PERSONS FROM WHOM THE RAPPOREUR HAS RECEIVED INPUT**

The following list is drawn up on a purely voluntary basis under the exclusive responsibility of the rapporteur. The rapporteur has received input from the following entities or persons in the preparation of the report:

<b>Entity and/or person</b>
Independent Retail Europe
Plastics Europe
European Telecommunication Network Operators' Association
Deutsches Institut für Normung (DIN)
Bureau Européen des Unions de Consommateurs (BEUC)
European Commission (DG JUST, DG GROW and DG CNECT)
BIC
DEKRA
Bitcom
Digital Europe
Verband neutraler technischer Dienstleister (VdTÜV)
Der Mittelstandsverbund
Bundesverband deutscher Industrie (BDI)
Toy Industrie
Eurochamber
Facebook
Finnish Commerce Federation
French Retail Federation
Markenverband (German Brands Association)
EuroCommerce
Amazon
European DIY Retail Association (EDRA)
Swedish retailer federation
European manufacturers of absorbent hygiene products (AHPs)

## INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

<b>Date adopted</b>	26.10.2020
<b>Result of final vote</b>	+: 45 -: 0 0: 0
<b>Members present for the final vote</b>	Andrus Ansip, Pablo Arias Echeverría, Alessandra Basso, Brando Benifei, Adam Bielan, Biljana Borzan, Vlad-Marius Botoș, Markus Buchheit, Dita Charanzová, Deirdre Clune, David Cormand, Carlo Fidanza, Evelyne Gebhardt, Alexandra Geese, Sandro Gozi, Maria Grapini, Svenja Hahn, Virginie Joron, Eugen Jurzyca, Arba Kokalari, Marcel Kolaja, Kateřina Konečná, Jean-Lin Lacapelle, Maria-Manuel Leitão-Marques, Morten Løkkegaard, Adriana Maldonado López, Antonius Manders, Beata Mazurek, Leszek Miller, Dan-Ștefan Motreanu, Kris Peeters, Anne-Sophie Pelletier, Miroslav Radačovský, Christel Schaldemose, Andreas Schwab, Ivan Štefanec, Róza Thun und Hohenstein, Kim Van Sparrentak, Marion Walsmann, Marco Zullo
<b>Substitutes present for the final vote</b>	Marc Angel, Pascal Arimont, Marco Campomenosi, Salvatore De Meo, Claude Gruffat

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

45	+
ECR	Adam Bielan, Carlo Fidanza, Eugen Jurzyca, Beata Mazurek
EPP	Pablo Arias Echeverría, Pascal Arimont, Deirdre Clune, Salvatore De Meo, Arba Kokalari, Antonius Manders, Dan-Ștefan Motreanu, Kris Peeters, Andreas Schwab, Ivan Štefanec, Róza Thun und Hohenstein, Marion Walsmann
EUL/NGL	Kateřina Konečná, Anne-Sophie Pelletier
GREENS/EFA	David Cormand, Alexandra Geese, Claude Gruffat, Marcel Kolaja, Kim Van Sparrentak
ID	Alessandra Basso, Markus Buchheit, Marco Campomenosi, Virginie Joron, Jean-Lin Lacapelle
NI	Miroslav Radačovský, Marco Zullo
RENEW	Andrus Ansip, Vlad-Marius Botoș, Dita Charanzová, Sandro Gozi, Svenja Hahn, Morten Løkkegaard
S&D	Marc Angel, Brando Benifei, Biljana Borzan, Evelyne Gebhardt, Maria Grapini, Maria-Manuel Leitão-Marques, Adriana Maldonado López, Leszek Miller, Christel Schaldemose

0	-

0	0

Key to symbols:

+ : in favour,

– : against

0 : abstention