



Position Paper on the proposed Regulation on rules and procedures for the compliance with and the enforcement of Union harmonisation legislation on products

LightingEurope calls for reinforced market surveillance

LightingEurope very much welcomes the initiative of the European Commission to reinforce market surveillance, fight against non-compliant and dangerous products, and thus ensure a level playing field among all economic actors on the EU market.

LightingEurope members are increasingly concerned about the number of non-compliant and unsafe products that are available on the EU market and the reduced capacity to swiftly enforce EU rules and hold non-compliant suppliers to account.

- 84 % of the 2017 RAPEX notifications for consumer lighting equipment were products that posed a serious risk of electrical shock or of burn / fire.
- The EEPIant 2014 project inspected 134 lamp models and found that 76 lamp models, or their packaging and / or documentation, were non-compliant with one or more EU Regulations on energy performance and the CE Declaration of Conformity.
- The massive development of e-commerce has increased the number of non-compliant products entering the EU. Online sales pose particular problems for tracing compliance with safety, performance, VAT and WEEE requirements and for holding non-compliant suppliers to account.

The lighting industry supports measures to secure safe and efficient products, and businesses and consumers alike deserve a functioning market surveillance framework. Compliance comes at a significant cost, and reputable companies that strive to provide quality and safe products should not be placed at a competitive disadvantage: not addressing non-compliance ultimately has an impact on jobs, cost to the consumer, and cost to authorities.

The effectiveness of market surveillance largely depends on market surveillance authorities (MSAs) and their capacity to regularly enforce the rules and swiftly address non-compliance. The aim of the legislative review should be to strengthen the role of these authorities, and not to create new burdensome requirements for manufacturers, e.g. in the form of a database.

Comments on the European Commission's proposal and Parliament's proposal (MEP Danti's draft report)

Memoranda of Understanding and Partnership Agreements

We particularly appreciate the possibility set by the Commission under Article 8, which would enable industry to share intelligence and tests with public authorities.

LightingEurope is already engaged in several projects to promote market surveillance activities around lighting products, cooperating with ProSafe and running a LightingEurope programme on market surveillance of lamps. Our experience from our lamps market surveillance programme was that this was a much-needed exercise, even though it requires companies to bear the cost of enforcement, but follow up of the programme's finding by authorities was limited due to procedural or resource restraints.

We believe that the opportunity for industry associations and companies to deepen the existing relations with MSAs with a specific Memorandum of Understanding (MoU) will contribute in an effective way to the fight against unsafe and counterfeited products placed on the EU market.

A new conformity database

Nicola Danti MEP (S&D-IT), the Parliament rapporteur on this topic, proposes an online 'conformity database' containing the contact details of the person responsible for compliance and the EU Declaration of Conformity (DoC) of manufacturers (Art. 5 is proposed for deletion).¹ This database will be fed by manufactures and other economic operators and will be freely accessible for MSAs and the general public in the EU.

Although we appreciate the efforts made by the Rapporteur to improve transparency in market surveillance, this proposal bears also the risk to increase compliance costs for companies, while in fact creating very little added value for market surveillance activities and consumers. On average, one-third of the catalogue of lighting product manufacturers is renewed on an annual basis. We estimate that more than 1 million models (counting lamps and luminaires) will have to be registered annually and maintained in such a market surveillance database.² This will result in an impenetrable mass of data that will be extremely challenging for MSAs and consumers to process.

Moreover, several DoCs may be uploaded for the same product in the database.³ This would create additional uncertainty and complexity for MSAs in their inspection activity through the database.

¹ Amendment 34.

² If in addition we consider the number of custom-made lighting products placed on the market (with slight differences, such as different colour, and a new product reference) and the number of changes necessary during the product life (due to standards changes, safety, EMC, performance, products improvements, technological improvements) then the number of files to be 'stored' for lighting products could be even larger.

³ Several DoCs may be uploaded for the same product: the first one by the manufacturer, others from custom authorities, a more updated version by the manufacturer due to standards changes, etc.

The need for proportionality remains key and we therefore call on policy makers to reject the introduction of another new database, as it constitutes a burdensome obligation for economic operators and in particular SMEs.

Market surveillance on e-commerce

As mentioned, we support the rapporteur's suggestion that each Member State has to organise effective market surveillance activities with regard to products sold online and ensure that there is an appropriate number of inspectors dealing with products sold online within their national MSAs.⁴

We believe that this is a positive development and we appreciate the efforts to increase market surveillance on a progressively growing market, especially in the lighting sector.

Contact

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LightingEurope is the industry association that represents the lighting industry in Europe. We are the voice of more than 1,000 lighting companies that employ more than 100,000 Europeans and create an annual European turnover of over € 20 billion. Our daily mission is to advocate and defend the lighting industry in Brussels, while reconciling it with ongoing EU policy aims. In doing so, we are dedicated to promoting efficient lighting practices for the benefit of the global environment, human comfort, and the health and safety of consumers. More information is available on: www.lightingeurope.org.

⁴ Amendment 61.