

BEUC position – contact Pelle Moos (Pelle.MOOS@beuc.eu)

As outlined in the Inception Impact Assessment (IIA) EU toy safety rules fail to adequately safeguard children's health and well-being. Thus, BEUC welcomes the Commission's plan to revise the Toy Safety Directive (TSD) by building on its evaluation and Chemicals Strategy for Sustainability (CSS). In particular, the revision must:

- **ENABLE CHEMICAL SAFEGUARDS TO BE SET FOR ALL TOYS** as proposed in the IIA. The Commission should also be empowered to establish protective requirements for other essential safety aspects, such as mechanical or physical risks: for instance while impulse noise limits should be revised, visibility and legibility requirements should be set for warnings. Introducing a fast-track mechanism to address sudden emerging risks is also a priority.
 - **REDUCE CHILDREN'S EXPOSURE TO HARMFUL CHEMICALS**, including by extending the generic risk management approach in line with the CSS and by substantially reducing the generic limits for derogated CMR substances, as proposed in the IIA. This should include known, presumed or suspected EDCs as children are more vulnerable to their negative effects. The outlined option to consolidate and further strengthen existing chemical limits should be explored, along with the possible creation of positive lists drawing, e.g. on the Cosmetics or Plastic Food Contact Material Regulations. Options to protect children against possible combination effects are missing in the IIA but must be identified. See further recommendations bit.ly/3ncHlw6
 - **MAKE TOY LABELS WORK FOR CONSUMERS**, e.g. by exploring how an obligation to declare the chemical content of toys should be introduced as proposed in the IIA. This could help consumer to make informed purchasing choices while also facilitating enforcement efforts. Digital labelling can complement but must however never replace on-product labels.
 - **ADDRESS NEW RISKS FOR CHILDREN'S WELL-BEING**. Updating the concept of safety in line with what has been proposed in the draft General Product Safety Regulation (GPSR) would allow to cover threats from connected toys or toys that include artificial intelligence (e.g cybersecurity or psychological risks) and this during their entire lifespan. Introducing EC-type examination for such products and other categories of toys should also be explored, in combination with additional measures to improve the traceability and accountability in the supply chain.
 - **PROTECT CHILDREN FROM DANGEROUS TOYS SOLD ONLINE**: in line with our recommendations for the GPSR, the definition for economic operators must be revised to acknowledge the role of online marketplaces in the supply chain: as the concept of authorised representative won't solve all the issues posed by the online sales of non-compliant and dangerous toys, clear obligations must be created for online marketplaces to detect, remove and prevent the reappearance of such products. Consistency must be ensured in the different legislative frameworks so marketplaces can be addressed with all enforcement measures and be held liable when no other responsible economic operator can be identified/takes action.
 - **IMPROVE MARKET SURVEILLANCE AS WELL AS COMPLIANCE AND ENFORCEMENT**, e.g. by converting the TSD into a Regulation and ensuring that it will work well with the Market Surveillance Regulation and other horizontal or sector specific legislation that are either under development (AI Act) or revision (Radio equipment Directive, GPSD, etc). In this context, it is also key that Member States significantly increase their capacities to enforce the TSD and that cooperation at different level is fostered, i.e. between national authorities and with the EU, across sectors, with consumer organisations and at international level. Ensuring more consistency in the reporting obligations of Member States and allowing for a systematic collection of EU accidents and injury data are also important to consider. Provisions on penalties should be aligned with those in the proposed GPSR.
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ANEC reply to the European Commission Inception Impact Assessment on Protecting children from unsafe toys and strengthening the Single Market – revision of the Toy Safety Directive 2009/48/EC

ANEC **welcomes the EC's inception impact assessment (1)**, which contains many points we agree with. **We agree** the **aim of this initiative** should be to further strengthen the protection of children against possible risks in toys, in particular from chemicals, and to further complete the Single Market for toys. We do not support the baseline scenario, which would be not to act (no change). Although the Toy Safety Directive certainly brought improvements to child safety in Europe, we are of the opinion that **a revision of the Directive is necessary to improve different aspects**.

We agree that the main aspects to be tackled are chemical risks, internet-connected toys (new risks), and compliance & enforcement.

ANEC welcomes the conclusion of the Commission's evaluation **(2)** with respect to **deficient chemical provisions**. Chemical requirements for toys need to be strengthened significantly. A key point in this context is to broaden the scope of Art 46 to allow for the establishment or amendment of provisions for all kinds of chemicals and all kinds of toys (not only for children under 36 months) using a comitology procedure. The extended Comitology should be used to specify, where appropriate, also essential requirements for safety aspects other than chemicals (i.e. mechanical and physical requirements, e.g. to set noise limit values). We welcome the proposed measures to be assessed, in line with our ANEC position paper '[Toy Safety Directive evaluation and Chemicals Strategy for Sustainability \(CSS\): Which way forward?](#)' (April 2021).

ANEC welcomes the intention to address risks posed by **internet-connected toys**. It is essential to address the issues we brought to the attention of the European Commission in 2016 & 2017 about unsecure smart toys (Cayla the spying doll). As more and more toys are now connected to the Internet or other communication networks/protocols, new rules are needed to effectively protect children. New technologies can pose risks not only because they can have a direct impact on the health and safety of children and their personal data protection, but also because of connectivity, they can be indirectly used as a tool to put at risk their personal security (e.g. kidnapping). The safety obligations of producers need to cover the entire lifespan of the connected toy, not only when it is placed on the market (e.g. software updates). Market Surveillance authorities must have the means and resources to check this evolving aspect of safety and Harmonised Standards have to also reflect it. EU Safety Gate notifications show that the toy market is far from clean and that there is a continued need for increased **market surveillance** actions. Necessary resources (budget and staff) shall be made available; the European Commission shall organise & finance joint market surveillance actions on toys.

In the interest of legal certainty, specific requirements for **visibility & legibility of warnings on toys** (e.g. minimum letter size) need to be introduced, in order to enable Member States to enforce these requirements in a uniform way (there are no

specified requirements in the Directive and belonging standards). Warnings on toys are often too small, hidden by other text or under crumples in the packaging, etc. It is sometimes difficult to discover and read the warning(s).

We welcome the intention to improve reporting obligations by Member States on unsafe toys. In this context, we reiterate the need to revitalise the European Injury Database (EU-IDB) and to **create a legal basis for the collection of accidents and injury data in the EU**. The Single Market Programme could provide a sound financial base for this.

ANEC **fully supports** to convert the Directive into a **Regulation**.

Finally, ANEC asks for the following aspects to be tackled: better regulate **noise levels** in toys (set the limit to what is allowed for adults in industry according to Directive 2003/10/EEC, there is no safety-based reason to expose children to higher levels than is allowed for adults); introduce **EC-type examination** for certain categories of toys (applying the principle 'the higher the risk, the higher the conformity assessment procedure', already applied for PPE or Medical Devices); remove **CE Marking** from the toy or its packaging and relegate it to the technical file.

(1) https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13164-Protecting-children-from-unsafe-toys-and-strengthening-the-Single-Market-revision-of-the-Toy-Safety-Directive_en

(2) SWD(2020) 287 final, COMMISSION STAFF WORKING DOCUMENT, EVALUATION of Directive 2009/48/EC of the European Parliament and of the Council on the safety of toys, 19.11.2020

ENDS.