
Brussels, 16 November 2007

Product Safety and Consumer Confidence

EC Proposal for a Regulation of the European Parliament and of the Council
on accreditation and market surveillance COM(2007)37
and EC Proposal for a Decision of the European Parliament and of the Council
on a common framework for the marketing of products COM(2007) 53

Consumer confidence cannot be regulated

Consumer safety is not a matter of choice, but a mandatory legal requirement in existing EU health and safety legislation. Consumer confidence in product safety can only result from the legitimate expectation that safety, whether promoted or not, is a reality.

The promotion of safety and other product qualities through brand names, collective marks or certification marks should remain a private and voluntary activity without public support. Conversely, the effective drafting and efficient application of the internal market rules that contribute to consumer confidence are the responsibility of the Community regulator. The simpler the legislative framework, the easier it will be for market operators to comply with it and the smoother it will be for public authorities to enforce it effectively.

Consumer safety must be effectively enforced

To date, in a globalised and free trade market, no voluntary or mandatory mark, no legally supported or privately owned mark can alone provide assurance to consumers that the product they intend to buy is safe. Without adequate controls, whatever the certification procedure and the marks, the market is open to abuse.

Experience already provides a discouraging record of appalling examples of forged marks:

- the Impact Assessment study that accompanies the EC proposals on the “marketing of goods” package mentions that out of the 418 notifications of dangerous products received in 2005 by the Commission for products falling under the LVD Directive on electrical safety, “**Approx 50% of products have a certification mark from an organisation that is also a NB [notified body = certifier], which often proves to be a counterfeit mark or a different model was approved.**” Cf. Table 3, page 71: http://ec.europa.eu/enterprise/newapproach/pdf/impact_assessment_sec_2007_0173_en.pdf
- the RAPEX notifications of dangerous consumer products contain weekly and pictured examples of forgery of both the CE marking, as well as of the German GS/TÜV marks, and many other so-called safety marks: http://ec.europa.eu/consumers/dyna/rapex/rapex_archives_en.cfm
- the Finnish 2002 TUKES study states: “*According to many interviews, especially the TÜV-certificate carries very little trustworthiness. The statistics for 1999-2001 show that 25 % of notifications were directed towards products having certification mark(s). Of all the notifications having the mark, 69 % had the GS-mark and 50 % had the TÜV-mark.*” Cf. on page 65: http://www2.tukes.fi/julkaisut/9_2002.pdf
- Dishonest manufacturers can save on costly manufacturing steps required after type testing or the factory inspection whenever they wish it, e.g. using dangerous coating and reduced electrical insulation: Cf.: http://ec.europa.eu/consumers/cons_safe/prod_safe/gpsd/steam_iron_en.pdf

Orgalime, the European Engineering Industries Association, speaks for 35 trade federations representing some 130,000 companies in the mechanical, electrical, electronic, metalworking & metal articles industries of 23 European countries. The industry employs some 10.6 million people in the EU and in 2006 accounted for some €1,779 billion of annual output. The industry not only represents more than one quarter of the output of manufactured products but also a third of the manufactured exports of the European Union.

Therefore, the European engineering industry, which is subject to the vast majority of CE marking directives, overwhelmingly believes that effective market surveillance is the only efficient tool against unfair trading practices, which accounts by far as the main source of dangerous products for consumers and the environment.

Orgalime believes that the EC proposals COM 2007(37)EC and 2007(53)EC of 14/02/2007 on the marketing of products proposes the right steps and measures to reinforce the proven efficiency of the CE-marking and the applicable conformity assessment system it symbolises. Indeed, the EC proposal suggests to:

- build up on an existing record of 30 years successful experience for marketing products covered by the existing “New Approach” directives that already provide for a high level of safety (as called for by Art.95 of the Treaty).As such, the CE marking is well known and used by manufacturers – including SMEs, for which any other marking requirement would constitute supplementary competitiveness constraints without demonstrated benefits for consumers.
- extend the CE marking system to all Community-regulated products, whatever the risk for consumers, workers, the environment or other essential Community interests;
- make all market operators (manufacturers, their authorised representatives and importers) responsible for placing on the market products that are safe and comply with all applicable EU requirements;
- strengthen the operations and the co-ordination of market surveillance and customs controls and launch targeted market surveillance programmes Europe-wide.

Consequently, Orgalime makes the following voting recommendations on reinforcing market surveillance and customs controls tabled to the EP IMCO Committee:

On COM(2007)37 EC (BRIE Report):

- **Support of amendments IMCO** n° 113, 121, 123, 135, 163, 198, (which are the same as 199, 201 and 211), 212, 216, 218, 221 or 224 and 225, 241, 259; **ITRE** n°1, 3, 16, 22, 24, 26; **ENVI** n°5, 6, 8, 9, & 10.
- **Rejection of amendments IMCO** n°111, 153, 195, 197, 200, 203 and 247.

Orgalime is against any legally supported mark, should it be European or national.

Orgalime is convinced that public authorities should rather focus their limited resources on ensuring an efficient and equally high level of enforcement of the current CE marking system everywhere in the EU, instead of providing legal support to a pointless “European safety mark” or an artificial promotion of third-party testing with the institutionalisation of a “CE+ mark”. It will neither increase consumer safety nor consumer confidence, but will only add confusion:

- It sends the wrong signal that public authorities escape their duties by outsourcing the enforcement of legal requirements to private certification businesses, which are no more independent than any other market operator.
- If a new European safety or CE+ mark is established, it will have to compete with existing private brands and collective marks which cannot be forbidden by law. It will therefore add to the confusion of consumers, next to other European or foreign marks (e.g. the American FCC or the Chinese CCC for some world class products).
- It would not be more efficient than existing private European marks (Keymark, ENEC...), it would level down the quality driven competition among European certifiers.
- Experience shows that “voluntary” marks supported by the authorities risk becoming de facto mandatory (e.g. in public procurement) and would constitute barriers to trade, such as is the case with the German “Blaue Engel” or the Nordic “Swan” or many new eco-labels.
- Marks cannot improve the situation of products unlawfully placed on the market.

Consequently, Orgalime makes the following voting recommendations on a European safety and CE+ marks tabled for vote to the EP IMCO Committee:

On COM(2007)37 EC (BRIE Report):

- **Support of amendments IMCO** n° 30, 99 and 237
- **Rejection of amendments IMCO** n°100, 101, 125, 126, 127, 136, 137, 138, 238, 239, 257.

On COM(2007)53 EC (SCHALDEMOSE Report):

- **Support of amendments IMCO:** 26, 56, 57 & 58.
- **Rejection of IMCO** n°6, 52, 54, 55, **117, 118, 119, 120, 122, 124, 125 and 140** and JURI n°3, 4, 6 & 7