Brussels, 4 February 2026

The European Product Act

10 proposals to upgrade market surveillance

Executive Summary

An effective system of market surveillance is essential for ensuring that only compliant products are made available on the EU market. It has a crucial role to play in ensuring fair competition for European businesses, notably regarding imported products, as well as the protection of European consumers. Whilst the EU has made some progress towards achieving these objectives, the EU's market surveillance system is still not working as it should.

The Commission is currently evaluating and considering a revision of the Market Surveillance Regulation (EU) 2019/1020. Orgalim stands ready to engage with policymakers on this important topic, particularly in view of the expected proposal of a European Product Act in 2026.This paper outlines 10 concrete proposals we would like to see reflected in the European Product Act to strengthen the market surveillance system. We call on policymakers to:

1. Adopt a coherent legal framework
2. Present a new definition of "product presenting a risk"
3. Establish an EU Market Surveillance Authority
4. Set minimum criteria for checks to increase their number and quality
5. Verify the information provided about the EU representative
6. Harness the potential of a Digital Product Passport (DPP) in support of market surveillance
7. Clarify the obligations of online marketplaces
8. Encourage the use of harmonised guidelines by Market Surveillance Authorities and Customs Authorities
9. Explore further investment in EU testing facilities
10. Prioritise enforcement

Annex 1 lists a selection of case studies that provide concrete examples of specific areas in which market surveillance must be strengthened, EU-level action is needed, and joint activities (according to Art. 9, Market Surveillance Regulation) have been successful.

Introduction

Although the current market surveillance framework offers a broad range of tools whose potential remain largely untapped due to a lack of enforcement, recent developments, most notably the surge in online sales, have prompted policymakers and stakeholders alike to start considering further measures that could be introduced during the revision of the Market Surveillance Regulation (EU) 2019/1020. Below Orgalim makes 10 concrete proposals for the revised Market Surveillance Regulation as part of the European Product Act.

Address gaps in the current regulatory framework by proposing a European Product Act

1. Adopt a coherent legal framework

The Commission has announced its intention to carry out the revision of the Market Surveillance Regulation (EU) 2019/1020 as part of wider efforts to strengthen and simplify product legislation, culminating in a European Product Act. The European Product Act is broadly expected to cover the revised Market Surveillance Regulation, the revised New Legislative Framework (NLF), and the revised Standardisation Regulation. However, for now, its precise structure remains unclear, with various options under discussion, including merging the three into a single legal act.

Our view is that it would be unwise to include the Standardisation Regulation in the same act, as its scope and the actors involved are quite distinct. Whether two, or even three acts are presented, **coherence between them will be paramount**. In order to ensure this, **we would like to see a package presented, which foresees their alignment**, including on timelines. From the side of the co-legislators, we would also welcome **a single rapporteur in the European Parliament**, responsible for overseeing the entire package and ensuring its coherence. If not possible, one political group being responsible for the package would help to achieve coherence.

2. Present a new definition of "product presenting a risk"

The issue of market surveillance has moved up the political agenda, largely due to the striking increase in the number of low-value consignments being directly imported by consumers from third countries. Yet this greater prioritisation is not evenly distributed across all product categories. Instead, European and national authorities appear to focus exclusively on business-to-consumer (B2C) products and consumer safety. **Business-to-business (B2B) products and checks on general compliance e.g. with sustainability legislation**, such as ecodesign requirements on energy efficiency, are overlooked.

This is due in part to the lack of resources many Market Surveillance Authorities (MSAs) face and based on the **mistaken assumption that B2B products are more likely to be compliant** than B2C products. In fact, numerous non-compliant B2B products are regularly made available on the EU market. As a consequence, employees are put at risk by the use of non-compliant work equipment and B2B products, especially as machines have a long life cycle, and their non-compliance increases de facto the occurrence of incidents. For EU Member States, this means additional social costs stemming from accidents. For European industry, this also leads to significant distortions of competition and the loss of orders over a long period of time. What's more, the absence of checks on sustainability requirements prevents the EU from reaching its net-zero goals.

In order to more accurately reflect the risks that exist in relation to non-compliant products, the Commission should **amend the definition in Art.3(19) of the Market Surveillance Regulation on "product presenting a risk"**. The current definition does not acknowledge the economic harm that is caused by the availability of non-compliant products on the EU market and the competitive disadvantage under which compliant businesses operate. Revising the definition to include this would more accurately reflect the risks and put Member States and the EU Market Surveillance Authority in a better position to identify and address them. In this context, Orgalim would welcome the increased use of risk assessments and targeting economic operators with poor track records.

3. Establish an EU Market Surveillance Authority

Within the European Product Act, one of the proposals the Commission is said to be considering, is the establishment of an EU Market Surveillance Authority that would be complementary to national MSAs. Orgalim's view is that this presents a significant opportunity to strengthen and better integrate the EU's market surveillance system. However, its **mandate would need to be clearly defined** to avoid duplication with the responsibilities of national authorities. In addition to improving coordination between Member States, it should seek to address some of the issues stemming from current market surveillance practises. For example, as checks by national MSAs prioritise business-to-consumer products and consumer safety, the **EU Market Surveillance Authority could be tasked with the business-to-business sector and general non-compliance**, in particular with sustainability requirements. Nevertheless, it is clear that Member State

authorities will remain the ones responsible for performing the majority of market surveillance activities, and the activities of an EU Market Surveillance Authority should be understood as complementary to their work.

We also see a role for the newly established EU Market Surveillance Authority in **the promotion of joint activities** (**Art.9 Market Surveillance Regulation)**, which allows stakeholders, including organisations representing economic operators, to work together with authorities to carry out initiatives in support of enforcement on the ground. Orgalim believes that joint activities provide the opportunity for authorities to draw upon the expertise of industry to understand and properly check state of the art technology. One good example is MSSI Electrical, a CECAPI initiative supported by Orgalim, which brings industry representatives together to jointly raise awareness of the risks of non-compliant electrical installation products and support MSAs in their efforts for more effective enforcement.[1]

This EU Authority could also have competences related to other parts of the product cycle, for example, it could act as a centralised process owner responsible for the drafting of standardisation requests. This would reduce complexity, streamline processes and coordinate the input of all stakeholders involved. For similar reasons, the same centralised process owner could also be tasked with evaluating the degree of fulfilment of the standardisation request by the developed standard(s). A process owner would be particularly beneficial in cases where more than one Directorate General of the Commission is involved to provide a consistent process. Its responsibilities should be limited to criteria validation, drafting and managing Standardisation Requests (SReq), overseeing Common Specifications' development, reviewing existing Common Specifications, and assessing existing technical rules for their suitability.

4. Set minimum criteria for checks to increase their number and quality

The current legal framework clearly stipulates that the responsibility for conducting checks lies with the Member States, via their national MSAs. However, available data shows that **many EU Member States perform less than 500 checks per year**, with some showing no signs of improvement since 2019.[2] In 2024, customs controlled only 82 items per million.[3] Within these unsatisfactory numbers, there are also significant **discrepancies between the Member States**. The uneven performance of market surveillance checks threatens to undermine the EU's greatest source of future prosperity: the EU's Single Market.

Member States with a low investigation rate need to significantly increase the number and quality of checks they are conducting. To conduct more checks, **Member States need to ensure that their MSAs are properly resourced**, particularly in light of the fact that recent EU legislation concerning sustainability and digitalisation (for example the Ecodesign for Sustainable Products Regulation, the Cyber Resilience Act and the AI Act) will require additional market surveillance efforts. The conditions and minimum criteria for checks outlined earlier would also be helpful for increasing their number, quality, and uniformity across the EU27.

In order to further harmonise market surveillance activities across the EU, the **Commission should determine the uniform conditions of checks, criteria for determination of the frequency of checks, and number of samples to be checked**. This possibility already exists under Art.11(4) of the current framework, where specific risks or serious breaches of applicable EU harmonisation legislation have continually been identified**. Similar benchmarks should be set for checks carried out by customs authorities related to imported products.** The EU Market Surveillance Authority discussed earlier could also play an active role in setting these criteria.

5. Verify the information provided about the EU representative

One of the clear failings of the current framework relates to Art. 4 "Tasks of economic operators". This article was introduced to address a fundamental challenge: ensuring that every product placed on the EU market, especially those sold online or imported from third countries, has a responsible economic operator established within the Union. It was designed to guarantee that only compliant products reach European businesses and consumers, regardless of their origin or sales channel, provide market surveillance authorities with a clear point of contact for compliance and enforcement and level the playing field for European manufacturers, ensuring that all products are subject to the same rules and

[1] MSSI Electrical Further examples of successful joint activities to promote compliance is available in Annex 1.
[2] Single Market Scoreboard, Market surveillance (non-food products), 2022
[3] Report on controls on products entering the EU market with regard to product compliance in 2024

standards.

However, the Commission's evaluation report confirmed the view of industry that **Art.4 is only partially effective**.[4] Furthermore, MSAs have to carry out **painstaking work** to verify the accuracy of the information. Often, additional information provided by the EU representative does not address all outstanding issues and requires further time-consuming checks by the authorities. This "cat and mouse game" must stop so that **limited resources** can be used more effectively. The revised Market Surveillance Regulation should include a method for **verifying the information provided by the EU representative**, i.e. the importer, the authorised representative, or the fulfilment service provider, with regard to **their existence, their mandate, and the accuracy of the information provided**. This might be achieved by way of digital tools and – if so – could be linked to the Digital Product Passport (DPP).

The Commission's report also highlighted that in the case of products entering the EU from third countries, Art. 4 information is not directly provided or made available to customs authorities in customs declarations or in any other manner.[5] We support proposals to make Art.4 information directly available to customs authorities. Of course, as indicated above, this information must be verifiable.

6. Harness the potential of a Digital Product Passport (DPP) in support of market surveillance

The DPP represents a pivotal advance in enhancing circular economy practices and compliance within the European Single Market. However, the expected complexities of its implementation in practice demand a balanced approach that takes into account stakeholders' needs, operational feasibility and regulatory requirements.[6]

Recently, the Commission has indicated its intention for the DPP to become a "digital container" for product-related information such as the EU Declaration of Conformity (DoC). Orgalim strongly supports the move towards a data-driven society and sees potential for improving the efficiency of market surveillance activities in the EU by way of this newly conceptualised DPP. However, our view is that policymakers should distinguish this newly conceptualised DPP from the DPP established under the Ecodesign for Sustainable Products Regulation (ESPR). That is to say, the **same data carrier should be used, but there should be different information requirements**. For example, it should not by default include the technical file. This restriction is necessary to protect the manufacturer's know-how effectively and to make these documents available to the authorities in direct contact with the manufacturer. Furthermore, it is our view that, whilst we welcome potential efficiency gains due to MSAs having access to digital documentation such as the digital DoC by way of the DPP, **market surveillance activities should not be limited to these administrative checks and entirely neglect physical checks**.

As outlined in more detail in Orgalim's response to the consultation on DPP service providers[7], this newly-conceptualised DPP must protect confidential business data and ensure interoperability and technology neutrality without vendor lock-in. A staged implementation of the DPP for NLF should also be envisaged, similar to our proposal for a staged implementation of the DPP in the context of the EPSR[8], given that repurposing the DPP system for this new use is likely to bring many new economic operators into its scope. During the implementation phase, disruption to business operations due to technical issues with the DPP system needs to be minimised. MSAs must ensure that this does not prevent the flow of goods or disrupt other business activity, such as introducing products to the market. As a guiding principle, policymakers should ensure that digitalisation benefits the industry, rather than harms it. That is to say, it should not result in additional requirements or an increased administrative burden.

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[4] Report on the implementation of Article 4 of Regulation (EU) 2019/1020, 2025
[5] Report on the implementation of Article 4 of Regulation (EU) 2019/1020, 2025
[6] Orgalim recommendation for a staged implementation of the Digital Product Passport (DPP) system in the context of the Ecodesign for Sustainable Products Regulation (ESPR), 2025
[7] Orgalim's response to the Commission's public consultation on Digital Product Passport (DPP) service providers
[8] Orgalim recommendation for a staged implementation of the Digital Product Passport (DPP) system in the context of the Ecodesign for Sustainable Products Regulation (ESPR), 2025

7. Clarify the obligations of online marketplaces

Online marketplaces play an increasingly significant role in the buying and selling of products. They have responsibilities under multiple pieces of EU legislation (DSA, GPSR, E-Commerce Directive, Toys Regulation, to mention a few), and they may also have responsibilities under the Market Surveillance Regulation, beyond those of information society service providers, *if* they themselves place products on the EU market. Doing so could make them an "importer" or a "distributor" and therefore subject to the obligations of economic operators under Article 4. However, this array of responsibilities scattered across different pieces of legislation is not well identified and this lack of clarity makes it difficult to fully understand and enforce the existing obligations. Before considering changes to the obligations of online marketplaces, their existing obligations must first be clarified. We would therefore support **the responsibilities of online marketplaces being further clarified** by way of the European Product Act and this being complemented by **additional guidelines on marketplaces' legal obligations**. The MSAs and the Commission should also jointly develop and implement effective communication aimed at end-users and others to make market surveillance activities more transparent, together with other initiatives that raise public awareness of the potential consequences of using non-compliant products, including those bought online.

Digital tools such as AI-enabled webcrawlers provide innovative new methods of identifying, flagging and issuing automated take-down requests of non-compliant products on online marketplaces. Orgalim supports their use as a way to boost the efficiency of market surveillance activities and welcomes, in particular, the development by the Commission of an EU-wide tool that can be used by MSAs across the EU27[9].

8. Encourage the use of harmonised guidelines by Market Surveillance Authorities and Customs Authorities

The current market surveillance framework includes provisions on products entering the EU market. However, to further address the issue of non-compliant products being imported, **the Commission should develop guidelines on information sharing between Market Surveillance Authorities and Customs Authorities**. These guidelines would have the added benefit of harmonising the interpretation of rules across the EU27 and facilitating communication between the authorities of different Member States. However, guidelines are voluntary, which limits their effectiveness. Orgalim proposes that the revised Market Surveillance Regulation should include an **"explain or comply" mechanism** for guidelines aimed at national authorities, meaning that if they opt *not* to use them, they should explain why – in that particular instance – it was not appropriate to do so.

9. Explore increased investment in EU testing facilities

The Market Surveillance Regulation (EU) 2019/1020 states that the Commission may designate one of its own testing facilities as an EU testing facility if testing capacity is missing or is insufficient. The purpose of this is to enhance laboratory capacity, and to ensure the reliability and consistency of testing for the purposes of market surveillance. Orgalim believes **Member States should make full use of EU testing facilities, where necessary. Further investment into these testing facilities should be explored** during the revision process if the evaluation concludes there is still insufficient capacity after this option has been utilised.

10. Prioritise enforcement

Orgalim believes that the current framework, whilst incomplete, includes many valuable tools that have been sorely underutilised. Going forward, **enforcement must be prioritised**. Without it, even the most ambitious and well-considered proposals will be meaningless.

Greater political ownership at national level could be helpful in this regard. Orgalim urges Member States to appoint a **high-level Single Market Sherpa** in their Prime Minister or President's office, as proposed in the Single Market Strategy.[10] These Sherpas should be involved in the preparation and dissemination of the **Progress Reports on**

[9] Esurveillance Portal, European Commission
[10] The Single Market: our European home market in an uncertain world, 2025

Enforcement and Implementation, which the Commission has committed to present on an annual basis to the European Parliament and Council.[11] Market surveillance activities should constitute a cornerstone of these reports and this would increase transparency and accountability. If Member States do not meet their obligations under the revised Market Surveillance Regulation, the **Commission must be prepared to launch infringement proceedings**.

About Orgalim

Orgalim represents Europe's technology industries, comprised of 770,000 innovative companies spanning the mechanical engineering, electrical engineering, electronics, ICT and metal technology branches. Together they represent the EU's largest manufacturing sector, generating annual turnover of over €2,835 billion, manufacturing one third of all European exports and providing 11.7 million direct jobs.

Links to Orgalim publications

Orgalim Policy Agenda and key recommendations for the upcoming EU legislative period 2024-2029

- Orgalim Policy Agenda for a European high-tech manufacturing base
- Orgalim Key Recommendations on the Single Market

Relevant position papers, joint letters and joint statements

- Orgalim recommendation for a staged implementation of the Digital Product Passport (DPP) system
- Orgalim position on enhancing EU manufacturing competitiveness with a future-proof approach to placing products on the Single Market
- Orgalim position on securing Europe's industrial competitiveness
- Orgalim position on the Machinery proposal – mandatory third party certification is a step backwards
- Orgalim's Response to the European Commission's public consultation on Digital Product Passport (DPP) service providers

[11] The Single Market: our European home market in an uncertain world, 2025

Annex 1: Case studies on challenges for market surveillance and best practises from industry

Case study 1: MSSI Electrical

MSSI Electrical is a CECAPI initiative, with the support of major industrial players including ABB, Benedict, Eaton, Hager, Legrand, Schneider Electric and Siemens. MSSI Electrical, a not-for-profit initiative, is serviced by the Orgalim Partnership in Brussels.

MSSI Electrical's goal is to eliminate the availability of unsafe and non-compliant electrical products in Europe to help protect people, goods and property. Working together, with trade bodies, market surveillance and law enforcement authorities, MSSI Electrical provides information and training to support efforts to help ensure 100 percent of products used in Europe are safe and compliant.

The objectives are twofold:

1. The first goal is to bring together manufacturers to agree and develop proactive, industry driven actions such as the Product Safety Guides. These guides offer clear, practical instructions for importers, resellers, installers and local authorities to verify that only compliant electrical installation products are placed on the market. Covering six safety-critical electrical product categories, they explain key functions, applicable standards, essential safety characteristics, required markings and indicators of non-conformity. These actions demonstrate the value of coordinated industry efforts to raise awareness of product safety and compliance, and support cooperation under Article 9 of the Market Surveillance Regulation. The aim is to strengthen customer safety, ensure compliance with European legislation, promote fair competition among market operators, and provide a framework that enables more effective market surveillance by national authorities across Europe.

2. The second goal is to foster the widest application of this new framework, as defined above, including through reporting unsafe or otherwise non-compliant products to the relevant national authorities. In particular, this initiative would strive to:

- Improve market surveillance effectiveness and efficiency by contribution of all economic operators in European countries
- Consolidate national reporting of unsafe or otherwise non-compliant products to national authorities under the umbrella of a European organization

Case study 2: capacity building for ecodesign requirements

The INTAS (Industrial and tertiary product Testing and Application of Standards) initiative ran from March 2016 to February 2019, funded by the EU's Horizon 2020 programme. It was created to empower Market Surveillance Authorities (MSAs) across Europe in enforcing ecodesign requirements for large industrial products, specifically power transformers and fans, by addressing gaps in expertise, experience, and resources. The project offered technical and cooperative support, capacity-building activities and developed comprehensive tools, such as a database of testing laboratories, standardised testing methodologies and policy recommendations, to ensure consistent compliance approaches. It also facilitated strong collaboration among MSAs, industry representatives, and standardisation bodies, promoting a common Europe-wide framework for market surveillance. By 2019, INTAS had delivered detailed testing protocols, cost–benefit analyses, policy guidance and training materials, laying the groundwork for improved energy savings through enhanced regulatory enforcement.

Executive summary of findings:

Over three years, INTAS analysed market surveillance practices for large industrial products, specifically fans and transformers, to improve compliance with ecodesign energy-efficiency regulations.

The first finding is that market surveillance of large industrial products covered by the Ecodesign Directive is a particularly

challenging endeavour. This is due to the size and power of the products, the costs of transport and testing, but also the fact that they are mostly sold business-to-business (B2B), and therefore largely "invisible" to market surveillance authorities (MSAs).

Standard laboratory testing is often impractical for these large products; instead, factory acceptance tests or in-situ checks in the presence of MSAs are more cost-effective.

A major issue is that MSAs are frequently not notified early enough about new products entering the market, limiting their ability to perform timely checks.

To address this, INTAS recommended establishing a dedicated EU-wide task force (and specific definitions for "large fans" and "transformers"), supported by better coordination, resources (€0.5–2 million/year), and mandatory notification from manufacturers.

The report also includes a cost-benefit analysis showing that the long-term energy savings achieved through improved surveillance outweigh the costs, especially for transformers.

Finally, INTAS proposes pragmatic, policy-aligned measures, such as leveraging existing regulations, enhancing cross-border cooperation and developing new testing methodologies, to strengthen ecodesign enforcement across the EU.

Case study 3: Europacable's CPR Cable Compliance Communication Campaign

Europacable has created a dedicated platform to promote awareness and responsibility among all actors in the cable supply chain. The main objective is to strengthen compliance with the Construction Products Regulation (CPR) and raise awareness of the risks of installing non-compliant cables. The campaign specifically supports the principles of Regulation (EU) 2019/1020 on market surveillance and aims to safeguard the integrity of the internal market through greater knowledge and industry collaboration by:

1. Raising awareness of CPR requirements among stakeholders such as distributors, installers, specifiers, and Market Surveillance Authorities.

2. Promoting best practices for cable compliance, including how to properly read and interpret the CE label and the Declaration of Performance (DoP).

3. Supporting enforcement authorities by highlighting common indicators of non-compliance and encouraging a culture of market responsibility.

To achieve these goals, Europacable developed and widely disseminated a series of educational resources, available in multiple languages on the dedicated website cpr.europacable.eu. These include:

- A practical guide to verifying CPR compliance through cable labels and DoPs.

- Visual materials and checklists illustrating compliant and non-compliant markings.

- Sector-specific messaging aimed at ensuring that stakeholders can quickly and confidently identify products that meet legal and safety standards.

As an outcome, the platform has successfully empowered 50,000 professionals in the field to take proactive steps to verify product conformity and enhanced collaboration between industry and authorities by providing practical tools that support inspection and enforcement efforts.

Europacable's campaign illustrates how industry-led communication initiatives can complement national and EU-level surveillance frameworks. By promoting a culture of compliance and accountability, the campaign supports a safer and more transparent market for construction cables across the EU.

Case study 4: joint activities in Spain

In Spain, under Article 9 of Regulation (EU) 2019/1020 on "Joint activities to promote compliance", the Market Surveillance Observatory (OVM) of the Spanish Association for Standardisation (UNE) has been established to strengthen public-private collaboration in this area and raise awareness of the importance of compliance with legislation and the technical requirements of standards.

The composition of the OVM is multisectoral: currently, more than 50 entities participate, including Spanish business organisations, the Ministry of Industry and Tourism, the Ministry of Social Rights, Consumer Affairs and the 2030 Agenda, as well as several authorities with competence in market surveillance.

The Market Surveillance Observatory (OVM) of UNE is notably mentioned in Spain's National Strategic Framework for Market Surveillance 2022–2025 (MENVIME), in line with Article 13 of Regulation (EU) 2019/1020, which requires each Member State to design a comprehensive national market surveillance strategy.

The OVM is tasked with preparing reference documents that serve as a basis to ensure that actions meet the requirements of objectivity, independence, and impartiality; producing framework reports on the status and evolution of market surveillance in Spain and carrying out outreach and communication activities in the field of market surveillance.