

**CECAPI position on the Goods Package  
and Commission proposal for a Regulation laying down rules and  
procedures for compliance with and enforcement of Union harmonization  
legislation on products COM(2017) 795**

Cecapi, the European Committee of Electrical Installation Equipment Manufacturers, have analysed the Goods Package presented by the European Commission at 19<sup>th</sup> December 2017 and wants to submit the following opinions and comments on the Commission proposal for a Regulation COM (2017) 795 final laying down rules and procedures for compliance with and enforcement of Union harmonization legislation on products:

**I. An appreciate step towards a better Market Surveillance in Europe**

- 1) CECAPI warmly welcomes the initiative of the European Commission which aims to reinforce the **fight against non-compliant and dangerous products** that represent a great risk for consumers' safety and **to ensure a level playing field** between economic actors.

In that sense, CECAPI supports the efforts of the European Union to foster the *“robust enforcement of these requirements”* which *“is essential to the proper protection of these interests and to create the conditions in which fair competition in the Union market for goods can thrive. Rules are therefore necessary to ensure this enforcement throughout the internal market, including on products entering the Union from third countries.* (whereas 2, Proposal for a regulation COM (2017) 795 final).”

- 2) As a consequence, **our organization appreciates several provisions** of the proposal for the Regulation COM (2017) 795 that can help going forward in this direction, especially:
  - The **inclusion of fulfillment centers in the definition of economic operators** as article 3 12) h) quoted *“any other natural or legal person established in the Union and other than a distributor, who warehouses, packages and ships products to or within the Union market”*.
  - The possibility of **memoranda of understanding** (article 8) between Market surveillance authorities and *“businesses or organisations representing businesses or end-users for the carrying out, or financing, of joint activities aimed at identifying non-compliance or promoting compliance in specific geographical areas or with respect to specific categories of product.”*

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This is a major improvement calling for **a stronger cooperation between public authorities and private stakeholders** in order to improve the effectiveness of actions regarding market surveillance and to answer to the objectives defined in the proposal.

- The establishment of a **Union Product Compliance Network** (article 31), which will include **joint administrative coordination groups** gathering representatives of the competent national market surveillance authorities, representatives of the single liaison offices and representatives of the relevant business associations and of consumer associations (article 32).

## **II. A place to improve the effective implementation of the requirements in the EU**

In order to fully reach the shared objectives of Commission proposal for a regulation COM (2017) 795 final, CECAPI would like to make the following **suggestions**:

- 1) **The articulation of this draft Regulation with other existing European legislations could be clarified in order to better ensure legal certainty.**

If the requirements of the proposal will be applicable to the different harmonized directives and substitute for corresponding references of European regulation n°765/2008 (setting out the requirements for accreditation and market surveillance relating to the marketing of products), specific requirements coming from Directive 2001/95/EC concerning consumers' safety and from European decision n°768/2008 (on a common framework for the marketing of products) remain applicable.

- 2) Furthermore, the mandatory nomination of a person responsible for compliance information (article 4) could ease the cooperation with Market Surveillance authorities. However, producers would be obliged to make public on their website and on the products the identity of the responsible person. It would be more appropriate to foresee **a website address on the product with a generic contact point**. In the existing regulation, the notion of "authorized representative" exists. Instead of creating a new category of actor, it could be appropriate to enlarge its scope and tasks to fulfil this idea. This solution could efficiently satisfy the intended requirement and will not add more complication.
- 3) Further, if the fact that manufacturers would be requested to make the declaration of conformity systematically publicly available on their website or by any other means that allows the declaration to be readily accessed by the general public in the Union free of charge (article 5) is laudable, this should **not lead to disproportionate cost for companies**, especially SMES.

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- 4) The power of MSA, as described in article 14, seems disproportionate regarding the issues at stake and could lead to an unbalanced situation between European and Third Country economic operators, as the Authorities will not be able to perform duties such as the “system audit” outside of their own jurisdiction, and mainly in third countries.
  
- 5) Finally, the provision described in article 27 “suspension of release for free circulation” does not make any distinction between formal non-conformity and serious risk. This could lead to see only checks based on formal non-conformity, without taking into account the true risk for the users, the citizens and other stakeholders.

CECAPI remains at the disposal of relevant institutions in the framework of a **stronger public-private cooperation for improving the effectiveness of market surveillance within the EU.**

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