

2008/0018(COD) - 06/11/2008 Vote in committee, 1st reading/single reading

The Committee on the Internal Market and Consumer Protection adopted a report drafted by Marianne **THYSSEN** (EPP-ED, BE), and amended the proposal for a directive of the European Parliament and of the Council on the safety of toys. The amendments seek to tighten restrictions on the use of chemicals and perfumes, clarifying the rules on warnings and totally banning the use of heavy metals in toy manufacture.

The main amendments - adopted in the framework of the consultation procedure - are as follows:

General purpose: a new clause clarifies that the Directive is based on the principle that manufacturers are obliged to ensure that toys, and any chemicals they contain, are neither harmful to children's health nor toxic, in accordance with the provisions of the Directive.

Scope : Annex I is amended so that children's books designed or clearly intended for use by children that are made only of cardboard or paper and that do not contain any elements other than those made of cardboard or paper, are not regarded as toys.

Precautionary principle : Members inserted a clause stating that when competent authorities of the Member States take measures as provided for in this Directive they shall take due account of the precautionary principle.

Safety: manufacturers, importers and distributors must ensure that the toy is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users, as determined by the Member State concerned. Members added that the lack of a history of accidents shall not automatically be considered as evidence of low risk.

Importers' obligations: when deemed appropriate with regard to the risks presented by a toy, importers shall, to protect the health and safety of consumers, carry out sample testing of marketed toys, investigate, and, if necessary, keep a register of complaints, non-conforming toys and toy recalls, and shall keep distributors informed of such monitoring.

Warnings: Members clarified and strengthened the rules regarding warnings on packaging and on toys themselves: warnings on packaging must be preceded by the word "Warning". Toys for children under 36 months must meet higher safety standards. The warnings must not be used for toys which, by virtue of their functions, dimensions or other characteristics, with the exception of weight, are intended for use by children of under 36 months. Members also inserted a definition of the term "warning" which means special wording drawing the end user's or a supervisor's attention to the conditions for use or assembly of a toy. Warnings shall be worded in an accurate, visible, clearly legible and easy to-read manner so that they may be understood by the users or their supervisors and shall be affixed to the toy or, where this is impossible for technical reasons, on a label affixed to the toy or on the consumer packaging. They shall also appear on the instructions for use which accompany the toy. Warnings shall be written in the official language or languages of the Member State where the toy is placed on the market.

Safety Notification Points: the notifying authority shall establish Safety Notification Points at which childcare professionals and consumers may report the non-conformity of toys or accidents related to the use of a toy.

Allergenic fragrances: the Commission proposal contained a list of prohibited allergenic fragrances and a list of fragrances subject to labelling. The committee added to the first list of banned substances 17 more substances including musk ambrette and treemoss extracts. However, the presence of traces of these substances shall be allowed provided that such presence is technically unavoidable in good manufacturing practice and does not exceed 10 ppm. In addition the committee added certain substances to the list of allergenic fragrances which, if added to toys, as such, at concentrations exceeding 0,01 % by weight, shall be listed on the packaging and in instructions attached to the toy. However, the use of certain of these fragrances from both lists shall be allowed in olfactory board games, cosmetic kits and gustative games under certain circumstances. Such olfactory board games, cosmetic kits and gustative games shall not be permitted to be used by children under 36 months.

Chemicals: the use of arsenic, cadmium, chromium (VI), lead, mercury and organic tin in toys will be prohibited. Traces of those substances may be allowed unless their presence is technically unavoidable in accordance with good manufacturing practice.

CMR: certain uses of substances or preparations shall be exempt from the prohibition on CMR category 1 and 2 under Directive 67/548/EEC. The Commission will mandate the relevant Scientific Committee to re-evaluate these substances or preparations as soon as safety concerns arise and at the latest every 5 years. Toys or parts of toys, irrespective of the age of the children for which they are intended, must comply with the provisions on the release of nitrosamines and nitrosatable substances from elastomer or rubber teats set out in Commission Directive 93/11/EEC.

Risk of choking: toys and their parts must not present any risk of closing off the flow of air as a result of airway obstruction external to the mouth and nose. Specific requirements shall be adopted for toys or toy parts that are designed to be placed in the mouth, regardless of the age group for which the toy is intended, based upon the packaging requirements for food as laid down in Regulation (EC) No 1935/2004.

Hazardous substances: the Commission shall establish a programme aimed at systematically and regularly evaluating the occurrence of hazardous substances or materials in toys. The programme shall take into account reports of market surveillance bodies and concerns expressed by Member States and stakeholders. The committee noted that the use of hazardous substances in toys is not limited to CMR substances, fragrances or substances containing certain elements. All hazardous substances should be subject to regular evaluation by the Commission. In case this evaluation reveals an unacceptable risk, the Commission should be empowered to take appropriate action in comitology.

Noise: the Commission proposal had stated that toys which are designed to emit a sound should be so designed and constructed so that the sound from them is not able to impair children's hearing. The committee added that this shall apply to all toys irrespective of the age group targeted. The limit for toys with impulse noise should be 115 dB LpC peak at the ear. The limit for toys with prolonged noise should be 80 dB LpC peak at the ear.

Transitional periods: in order to allow toy manufacturers and other economic operators sufficient time to adapt to the new requirements, Members provides for a transitional period of two years after the entry into force of the Directive during which toys which comply with Directive 88/378/EEC may be placed on the market. In the case of chemical requirements, this period is set at four years so as to allow the development of the harmonized standards which are necessary for compliance with those requirements.

Lastly, the committee amended the provisions of the text so that the latter conformed with the good package.