

## 2008/0018(COD) - 25/01/2008 Legislative proposal

**PURPOSE:** to repeal the 1988 Toy Safety Directive.

**PROPOSED ACT:** Directive of the European Parliament and of the Council.

**CONTENT:** one of the first new approach Directives to be adopted, the 1988 Directive on the approximation of the laws of the Member States concerning the safety of toys (88/378/EEC) has proven, by and large, to be a success. It is, however, in need of updating.

Adopted in the context of the Internal Market the main objective of the Toy Safety Directive is twofold. Firstly, to offer consumers, especially children, safe products and secondly, to remove a plethora of national rules and regulations that stifle free trade across the Community. One of the key concepts of the New Approach Directives is to lay down, in legislation, the essential safety requirements. The technical product specifications are left to the standardisation bodies CEN and CENELEC to regulate.

Since its adoption, however, a number of deficiencies have been identified, which have triggered the need to assess the existing legal framework. The most pressing needs are to:

update and complete existing provisions;

address safety issues that were unknown at the time of the TSD adoption;

improve implementation and enforcement;

clarify the Directive's scope; and

offer greater consistency with provisions set out in other legislative acts concerning the marketing of goods

The purpose of this proposal, therefore, is to repeal the 1988 Toy Safety Directive and to replace it with a more updated version. The overall objective is to improve the quality and efficiency of toy safety regulations and to simplify current legislation for both economic operators and market surveillance authorities.

The main elements of the proposal, in summary, are as follows:

**Chemical substances used in toys:** Current provisions require that toys must comply with the Community's general chemicals legislation, including Regulation EC N° 1907/2006 (REACH). This will remain the same particularly as far as CMRs 1 or 2 are concerned. One of the main innovations of the revised Directive will be the introduction of specific rules on **CMR** (carcinogenic, mutagenic, or toxic for reproduction) in toys. Further, in order to take account of new scientific knowledge, the Directive provides for an update of certain chemical substances to be used in toys and to raise the limit values for these substances.

**Warnings:** The proposed revision will require warnings to specify, where appropriate, user limitations (such as minimum and maximum ages) the maximum or minimum weight of users, and whether or not a toy is to be used under adult supervision.

**Choking and suffocation:** The revised Directive will extend provisions on "toys placed in the mouth" (such as toy instruments) to children above 36 months. Similarly, the revised Directive, will extend provisions concerning the external and internal obstruction of the mouth and/or nose (suffocation risk) to cover all toys - and not just toys intended for children under 36 months, as is currently the case.

**Toys in food:** Currently no specific provisions exist for toys in food. The revised Directive proposes a set of new requirements: i) toys should be marketed in a package separating them from the food items they are attached to, ii) the packaging itself should not present any choking hazard (namely that it passes the safety 'small parts cylinder test') and iii) to ban toys that are firmly coupled with foodstuffs in such a way that prior consumption of the food item is necessary to access to the toy itself.

**Definition of the general safety requirement:** Clarifying the general safety requirement is essential because it is the only legal basis for taking dangerous toys out of the market in cases where a new risk is discovered, that is, a risk which was previously unknown and which is therefore, not covered by specific standards. The Commission proposes to amend the general safety requirement to refer to the "behaviour" of children to take account of their, often unpredictable, behaviour.

**Reinforcement of the Member States market surveillance measures:** The proposal reinforces market surveillance obligations under the General Product Safety Directive by granting certain specific powers to the market surveillance authorities such as: the right of access to the premises of economic operators; the right to request information from Notified bodies; the right to give instructions to the Notified bodies; and the right to obtain mutual assistance from other Member States.

**Information on chemicals in the technical file:** The proposal contains an update of the documentation which toy manufacturers and importers have to keep available for inspection purposes.

**Information on chemicals in the technical file:** A completely new provision requires that the CE mark must always be affixed on the packaging even if the marking on the toy is not visible from outside the packaging.

**Safety assessment:** A new obligation will require an analysis of the hazards that the toy may present, and to make it available - as part of the toy's technical file - to the market surveillance authorities for inspection.

**Clarifying scope and definitions:** The scope of the Directive has been clarified, by completing the list of products which are not within its scope. This concerns, in particular, certain new products, such as videogames and peripherals. Certain new definitions are also foreseen specific to the toys sector including: functional toys, activity toys, trampolines, hazard, risk, harm, suffocation and design speed.