

STRENGTHENING COMPLIANCE WITH EU PRODUCT RULES

The new Regulation on market surveillance and compliance of products



European Commission, DG GROW B.1
Free movement of goods

MARKET SURVEILLANCE IN THE EU

- Specificity of EU Single Market
 - Free movement of goods: EU harmonisation legislation, national rules (mutual recognition)
 - Member States are responsible for the enforcement of EU product legislation; Common market surveillance framework
- Market surveillance for non-food products
 - New Regulation (EU) 2019/1020 on market surveillance and compliance of products, replacing Chapter III of Regulation (EC) N° 765/2008
 - General Product Safety Directive 2001/95/EC
 - Product-specific rules in EU sector legislation



NEW REGULATION 2019/1020

Two major parts:

- **Market surveillance and compliance**

- Covers harmonised non-food products: legislation in Annex
- Art. 4 has narrower scope (tasks of economic operators for products covered by certain EU legislation)

- **Controls at the external borders**

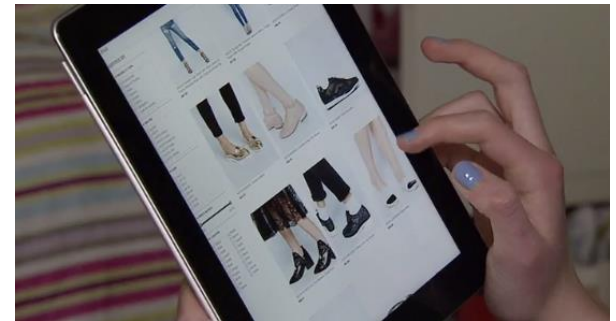
- Covers all products, unless there are more specific provisions in other EU legislation

→ **Replaces the existing market surveillance chapter of Reg. 765/2008 (Articles 15 to 29)**



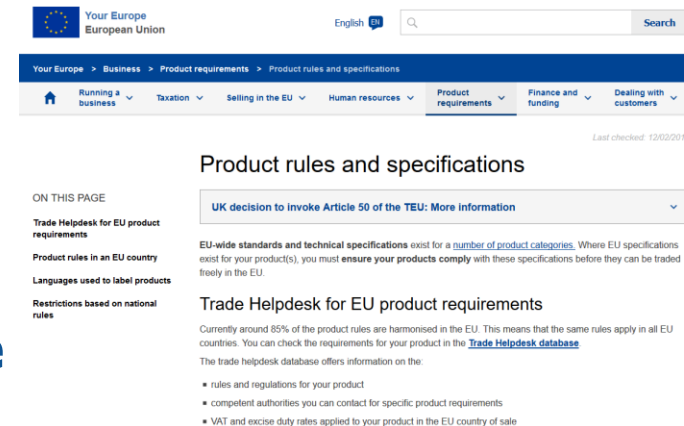
OBJECTIVES

- **Improve compliance**
 - **Strengthen market surveillance**
 - **Organise controls at the external borders**
- + **Update the framework to cover modern supply chains, in particular on-line sales**
(throughout the Regulation)



IMPROVE COMPLIANCE

- **Free of charge information to businesses**
 - Single Digital Gateway: product requirements and obligations derived from EU legislation
 - National Product Contact Points: information on national transposition and implementation
- **Joint activities: market surveillance authorities & business/consumer organisations**
 - Raising awareness, providing guidance
 - Identifying non-compliance: results of joint activities may be used for investigations



The screenshot shows the 'Your Europe' website interface. At the top, there is a search bar and a language selector set to 'English'. Below the search bar is a navigation menu with categories: 'Your Europe', 'Business', 'Product requirements', and 'Product rules and specifications'. The 'Product requirements' category is selected. The main content area is titled 'Product rules and specifications' and includes a dropdown menu for 'UK decision to invoke Article 50 of the TEU: More information'. Below this, there is a section for 'Trade Helpdesk for EU product requirements' which states that EU-wide standards and technical specifications exist for a number of product categories and that users must ensure their products comply with these specifications before they can be traded freely in the EU. The page also lists 'ON THIS PAGE' with links to 'Trade Helpdesk for EU product requirements', 'Product rules in an EU country', 'Languages used to label products', and 'Restrictions based on national rules'.

STRENGTHEN MARKET SURVEILLANCE – AT NATIONAL LEVEL

- **Single Liaison Office**
- **National market surveillance strategies**
 - Every 4 years – considering all sectors – set priorities
- **Powers**
 - Updated set of powers, particularly to deal with online sales (use cover identity, require removal of online content)
- **Risk-based approach and measures**
 - Targetting products more likely to be non-compliant
 - Requiring economic operators to correct, otherwise restrictive measures

STRENGTHEN MARKET SURVEILLANCE – SUPPORT EACH OTHER

- **Cross-border mutual assistance**

- Requests for information and for enforcement measures
- Requesting authority should first attempt to obtain information or resolve the case itself
- Refusal only allowed in exceptional cases

- **Peer reviews**

- For authorities wishing to participate
- EU Product Compliance Network will develop methodology



STRENGTHEN MARKET SURVEILLANCE – EU-WIDE COOPERATION

- **EU Product Compliance Network**
 - Permanent structure for coordination & structured cooperation
 - Single Liaison Offices, ADCOs and Commission
 - Horizontal issues, support joint actions
- **Administrative Cooperation Groups**
 - Sector-specific issues
- **Union testing facilities**
 - Enhance laboratory capacity for specific sectors/tests
- **Data sharing**
 - Linking IT systems



STRENGTHEN MARKET SURVEILLANCE – INTERNATIONAL

- **Cooperation and exchange of information**

- Between authorities of third countries and Commission, on the basis of international agreement

- **Systems of pre-export controls**

- Commission can approve specific systems for some or all products from a third country
- Requires efficient verification system in third country, and audit to demonstrate that products comply
- Result: taken into account in customs and market surveillance risk assessments



CONTROLS AT THE EXTERNAL BORDERS

- **Risk analysis and information sharing**

- Customs controls based on risk analysis
- Market surveillance authorities indicate product types or operators with higher risk of non-compliance
- Link national customs systems with EU market surveillance information system (ICSMS)

- **When customs suspect non-compliance**

- Consult market surveillance authorities, 4 days to react
- When found non-compliant, documents tagged to prevent entering the EU in different ways; destruction allowed
- Information in customs systems and ICSMS





ON-LINE SALES

- **Emphasis throughout the Regulation**

- necessary resources for market surveillance of online and offline
- ensuring the same effectiveness for all distribution channels

- **New tools & powers**

- Offers targeting EU end-users are placing on the market
- New powers: mystery shopping, removal of online content
- Obligations on information society service providers & fulfillment service providers to cooperate and facilitate actions by market surveillance authorities
- Person in the EU with responsibility to cooperate and provide information: interlocutor for market surveillance authorities

BUSINESS IN THE EU AS INTERLOCUTOR

- **Applies to 18 EU laws on products**
 - Including electrical and electronic equipment, machinery, toys, ..
- **When placing a product on the market**
 - i.e. in case of on-line sales when targeting end-users in the EU
- **Manufacturer, importer, authorised representative or fulfillment service provider**
 - Identity indicated on or with the product
- **On request of market surveillance authorities**
 - Provides information (declaration of conformity, technical documentation)
 - Cooperates with authorities

IMPLEMENTATION ACTIVITIES STARTED

- **Set-up of the Product Compliance Network**
 - Preparatory actions started; cover many areas of the Regulation
 - Formal set-up to be prepared in 2020
- **Consultations on guidelines:**
https://ec.europa.eu/growth/news_en
 - Article 4: published 22/01/2020; deadline 17 April 2020
 - Blue Guide: published 28/11/2019
- **Adaptations to ICSMS**
- **Implementing acts on controls at customs (statistics, benchmark/techniques)**

FURTHER READING

25.6.2019 EN Official Journal of the European Union L 169/1

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(Legislative acts)

REGULATIONS

REGULATION (EU) 2019/1020 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 20 June 2019
on market surveillance and compliance of products and amending Directive 2004/42/EC and
Regulations (EC) No 765/2008 and (EU) No 305/2011
(Text with EEA relevance)

Provisions start applying from 16 July 2021
except new European Product Compliance Network starting Jan. 2021