



**ONLINE MARKET PLACE – ENSURING FAIR COMPETITION  
CLOSING LEGAL LOOPHOLES FOR EFFECTIVE EU ENFORCEMENT**

Wednesday 4 December 2024

18h00 Cocktail – 18h30 Roundtable Dinner & Debate  
Members' Salon, European Parliament

*Organised in partnership with LightingEurope*



## INTRODUCTION BY PARLIAMENTARY HOST

Ana VASCONCELOS MEP (RENEW EUROPE, Portugal) Environment, Public Health and Food Safety Committee

Thank you all very much for being here this evening. I would like to begin by expressing my gratitude to the European Forum for Manufacturing for organizing this event. It is a pleasure to host it, and I am delighted to welcome everyone. I would also like to extend a warm welcome to our representatives from the European Commission, the European Parliament, European manufacturers, and civil society.



Economic competitiveness has been a key topic in recent weeks, particularly during hearings with Commissioners. It is encouraging that this focus on competitiveness has been recognized as a priority for this mandate. However, we now need to ensure that these words are translated into meaningful actions.

We are currently undergoing a transition to a society built on new technological models. Many of Europe's challenges stem from new technologies, but, equally, new technologies are also the answer to those challenges.

There is a pressing need for legislators and technology stakeholders to come together and exchange information. In many cases, there has been a disconnect with the rapidly changing and complex technological reality that hinders our ability to regulate effectively. Those involved in the field want to know how to operate and address challenges. With the rapid pace of change, staying attuned to these developments is essential.

As recent legislation begins to be implemented, we must consider how to ensure it works for consumers, businesses, and society as a whole, especially during these challenging times. We know that Europe is falling behind in certain areas, and fostering events like this one is vital to address that.

I would personally love to see more opportunities for this kind of dialogue. Connecting on these issues is crucial. While much legislation is well-intended, it often creates obstacles, unforeseen contradictions, and loopholes. These are topics that we will surely discuss tonight. I am eager to hear more about these issues and understand them better.

Now, to provide some context for our discussion this evening, I would like to briefly touch on the main objectives of the Digital Services Act. This legislation aims to regulate online intermediaries and platforms such as marketplaces, social networks, content-sharing platforms, app stores, online travel sites, and more. It seeks to prevent illegal and harmful activities online, such as disinformation, while fostering a fair and open environment for online platforms.

Online marketplaces play an increasingly significant role in consumers' lives, with a growing number of people engaging in online commerce. However, they are not yet considered economic operators, and this is one of the key issues we must address if we are to ensure fair competition in Europe. Addressing this issue is critical to tackling the major challenges we face, including geopolitical concerns.

For instance, a report from the European Chemicals Agency in 2021 highlighted that 95% of products sold via online marketplaces did not comply with EU chemical laws. This is just one

example of the many compliance issues we face, and it should raise serious concerns about product safety and consumer protection.

Fair competitions must be a priority in this mandate. We need to hear more about how legislation is impacting day-to-day operations and, most importantly, consumer rights. I look forward to tonight's discussion, and I hope this will be the beginning of many more conversations on these issues. We truly need to hear your perspectives.

Now, without further ado, I would like to introduce Ms. Isabelle Pérignon, Director for Consumer Policy at the European Commission.

#### EUROPEAN COMMISSION KEYNOTE SPEECH

Isabelle Pérignon, EUROPEAN COMMISSION, DG JUSTICE & CONSUMERS, Director for Consumer Policy

Just before Christmas, when so many products are sold online, many of which are not always compliant or truly safe, I was checking this morning to see where we stand on product safety. In my Services, we have a very useful tool called the Safety Gate Portal, which is available and accessible to everyone, including all companies.

This morning, once again, the statistics were very clear. The data comes from the National Market Surveillance Authorities, which report daily, sometimes, twice a day, about all the unsafe products they find—whether in local stores or online. This morning's figures were particularly striking: more than 50 % of the unsafe products reported were from China. These statistics are clear, and from this perspective, as the Director for Consumer Policy, my goal is to figure out how we can support you—companies across all sectors—in competing on an equal footing and ensuring genuine competitiveness within Europe.



You may have seen that the mission and vision of Commissioner von der Leyen, President of the European Commission, for the next five years is to increase competitiveness in Europe. It is very important to keep in mind that we need to strike the right balance when it comes to regulation and the standards that you must comply with.

We are very aware of the situation, and finding the right balance is crucial. For the first time, as you may have seen in the 27 Mission Letters for each of the 27 Commissioners, there are five lines indicating that we must ensure that “our rules are simpler, more accessible to citizens and more targeted.” We need to consider the administrative burden on companies and work to alleviate unnecessary administrative requirements, especially for small and medium-sized enterprises (SMEs). There will be a new SME and competitiveness check.

These five lines outlined in the mission letters of all 27 Commissioners, reflect our guiding principles. With this in mind, I would like to share some guidance and vision for the next five years, highlighting three key aspects.

First, effective enforcement is essential. We already have a significant amount of legislation in place, particularly from the previous mandate, including the Digital Services Act (DSA) and the Digital Markets Act (DMA), as well as other regulations that you must comply with when placing products on the market.

These rules are already applicable, so our priority now is to ensure that all competitors, particularly companies from third countries outside the EU, comply with these regulations when placing their products on the EU market or offering services in Europe.

Enforcement is a key priority, and this was clearly emphasized during the Hearings in the European Parliament with various Commissioners designate. As you know, in November, the Commissioners appeared before the European Parliament, where they all committed to ensuring a level playing field for all companies and boost competitiveness.

However, this commitment must be backed by real action. So, how do we achieve this? We do it through strong enforcement. For instance, consider the actions taken in collaboration with my colleagues working on the Digital Services Act (DSA). On 31 October, the DSA team launched an investigation into TEMU.

TEMU was designated as a very large online platform a few months ago. Following this designation, they sent a letter requesting more information about how they operate. However, after reviewing the information, it became clear that a formal investigation was necessary. TEMU currently has over ten million references on its platform.

To give you a sense of scale, AliExpress, which is also classified as a very large online platform, has around 100 million references. Of course, these numbers need to be broken down by size, categories, etc., but you can imagine the massive scale we are dealing with.

Additionally, we are talking about ten million small packages shipped daily to consumers within the European Union. The volume is enormous. When I refer to small packages, I mean those valued at less than €150. These packages are flooding the European market.

This underscores the clear necessity for enforcement and the political commitment expressed by all the commissioners during their confirmation hearings in the European Parliament last November. But how do we address this? We know that at the national level, each country has its own market authorities and competition regulators.

In my area of responsibility, we also have national consumer authorities. For example, in France, the DGCCRF (Directorate General for Competition Policy, Consumer Affairs and Fraud Control) plays a crucial role. They are the ones with the authority to check product compliance, ensuring that products are safe, not counterfeit, and that the EC marking is legitimate, not just a pair of letters on a box.

This is the daily work carried out by national authorities in the field. However, action also needs to be taken at your level. Why? Because, given the vast number of products entering the EU, it is difficult for national authorities to inspect everything, and customs also face challenges in doing so.

At the EU level, we strive to help by coordinating actions. That is why, together with my colleagues, we helped coordinate a Consumer Protection Cooperation [CPC] action against TEMU on 8 November. My team of investigators is actively involved in verifying the compliance with EU consumer laws. We are dealing with issues such as misleading rebates, fake reviews, and even gamification.

However, is it enough? Of course not. While we are doing our best with the tools available to us, we recognize that more needs to be done. For example, checking the safety of products can only be done by the national customs authorities, but how can they do their job when there are 10 million small packages entering the EU market every day?



So, how do they manage this? For instance, when I reviewed the inspection process, I saw the scale of the challenge. There are so many containers and shipments every day – which ones should they inspect? If you want to check whether a jacket is completely safe and does not contain hazardous chemicals, a thorough inspection is required. But you cannot block containers for five days for such checks. This makes enforcement extremely difficult.

We are doing the best we can with the tools at our disposal, but we need to be even more effective and stronger in our enforcement efforts.

That is why a strategy will be presented by the President of the Commission and the College in February. This strategy will focus on e-commerce products sold through platforms and those coming from third countries. This has already been publicly announced as one of the key measures to be introduced within the first hundred days. As you know, having flagship initiatives within the first hundred days are highly symbolic.

This strategy is something we must develop together with my colleagues, considering various factors, such as customs, consumer law, trade, and competition. We also need to involve colleagues from other services to ensure product conformity, and work closely with colleagues overlooking the DSA and DMA.

It is truly a collective effort. We all agree that more enforcement and support are necessary, but we also recognize how challenging it is to implement enforcement across 27 different national authorities. This is why I believe it is crucial to continue pushing for more EU-level powers through the Commission.

However, this will be a political decision that Commissioners, including Commissioner McGrath, will have to make.

The second point I want to highlight is product safety. Starting from 13 December, new legislation will come into effect with the General Product Safety Regulation. This will make it mandatory for all products to display the name, address, and contact details of the responsible person. This individual will be fully accountable for all products shipped to and entering the EU.

We hope that this requirement will help identify the responsible party, as there will be an obligation for platforms to verify that this information is provided. National authorities will be responsible for ensuring compliance, and the designated responsible person will be held liable if there is a safety issue with the product. This is a significant step toward improving product safety, but I acknowledge that it is not enough.

I agree that national authorities will be responsible for conducting checks. But with the high volume of goods being shipped, it remains challenging to ensure full conformity. That is why we are also pushing for additional measures, which you will see outlined in our regulation, that will address this concern.

I agree that we need to check and scan products, and this is where the SWEEP actions performed on online market platforms come into play. As of 14 December, we should have a clearer understanding of which products are safe by using these SWEEP scans on the online market platforms. This is a starting point, but still a valuable one.

The third point I want to address is the ongoing discussion about whether we should regulate more or less, but at the same time, what I hear is that for companies, it is easier to have one unified piece of legislation that applies across Europe, rather than 27 different legal regimes. That is why I consider that we should strive towards more harmonisation at EU level.

However, I assure you that we are striving to do this in a balanced manner. We are focused on ensuring that our regulations are strictly necessary, taking into account all the work that has already been done. You mentioned the existing loopholes, and once we have clarity on what is needed, whether through legislation, enforcement, or guidelines and explanations, we will address it. And I am aware that it can be very challenging to navigate all the existing rules when you want to put products on the market.

In conclusion, I would like to express my gratitude and emphasize that competitiveness remains a top priority. This year, we had two major reports from Enrico Letta and Mario Draghi, both underscoring the importance of this issue. As reflected in the Mission Letter of the Executive Vice-President Sejourné, a horizontal Single Market Strategy will be presented in June next year. We are all working towards strengthening the EU single market and we need you together with us to achieve it!

## KEY PRIORITIES FOR MANUFACTURERS

Elena Scaroni, LIGHTINGEUROPE, Secretary General  
Jean-Marie Croué, SYNDICAT DU LUMINAIRE, General Manager &  
Chair of the LightingEurope Working Group on Better Enforcement

LightingEurope is the voice of the lighting industry, based in Brussels and representing 33 companies and national associations. Together these members account for over 1,000 European companies, a majority of which are small or medium-sized. They represent a total European workforce of over 80,000 people and an annual turnover exceeding €15 billion. LightingEurope is committed to promoting efficient lighting that benefits human comfort, safety and wellbeing, and the environment. LightingEurope advocates a positive business and regulatory environment to foster fair competition and growth for the European lighting industry.

LightingEurope has carried out a new Mystery Shopper Exercise through 2024. This year's results reveal alarmingly high rates of non-compliance among lighting products sold on online marketplaces in the EU. Of the 275 products surveyed, 100% of those inspected online were found to be non-compliant.

Using a risk-based approach, 36 of the 275 products were also physically inspected for their packaging information requirements; 81%, ie. 29 of the 36 products, were again found to be non-compliant. In addition, 20 of the 29 products, including children's night lights and LED strips, were selected and tested against the relevant safety standards in an accredited laboratory and all were found to be non-compliant.

These findings raise serious concerns for consumer safety, EU industry competitiveness and the effective enforcement of EU legislation, confirming a worrying trend already identified by LightingEurope in its previous assessments in 2021 and 2023. The presence of unsafe, non-compliant products continues to undermine law-abiding manufacturers and jeopardises consumer confidence. We therefore need a harmonized EU approach to the issue of non-compliance online. For these reasons, we call on all relevant policy makers to put in place ambitious EU legislation to clarify the responsibilities of online marketplaces for non-compliant products sold through their platforms.



## Call For Ambitious EU Legislation for Online Marketplaces

Online sales have been increasing at a rapid rate. A recent fitness check on EU consumer law on digital fairness carried out by the European Commission highlights that B2C ecommerce market revenues grew by 85% between 2017 and 2023 from €187.7 billion to €347.3 billion. Whilst online sales provide customers with quick and easy access to products, LightingEurope is concerned by the significant number of non-compliant and dangerous (lighting) products sold on online marketplaces.

The availability of non-compliant products not only puts customer's safety at risk, but also distorts the level playing field between the law-abiding companies that invest in compliance – up to 25% of annual turnover for some of LightingEurope members - and the free-riders that profit from not complying with the EU legislation. The investments required by companies to ensure their products comply with EU rules are significant, demanding substantial financial and human resources.

Among manufacturers, environmental NGOs and consumers' associations the lack of compliance online is a well-known fact. Market Surveillance Authorities are also aware of this issue, as the recently concluded EEPLIANT3 project demonstrated. And now, even more stakeholders are taking note of this. LightingEurope launched not too long ago an informal gathering on enforcement which today counts 74 participants among trade, environmental and consumers associations, both at national and EU level. Together, with 59 of them, we published a joint statement on why we need to ensure that what is illegal offline is also illegal online, and on effective enforcement and how it can be achieved.

## Unfair Competitive Advantage

Non-compliance affects both customers and manufacturers. The safety aspect was already mentioned, but the market also suffers from unfair competition by non-compliant products:

- **Cost Disparity:** Companies that invest in compliance incur significant costs that non-compliant competitors avoid, resulting from:
  - Research and development to meet safety standards
  - Quality control processes
  - Certification and testing fees
  - Ongoing compliance monitoring
  - Monitoring regulatory changes
  - Adapting packaging and product marking and labelling; preparing and maintaining the required documentation
  - Maintaining legislation-prescribed product databases
  - Legislation-prescribed fees and reporting
- **Price Undercutting:** non-compliant products can be sold at lower prices, attracting cost-conscious customers, and potentially driving compliant companies out of the market.
- **Reduced Profit Margins:** compliant companies may be forced to lower their prices to compete, reducing their profit margins and potentially their ability to invest in further innovation and safety improvements.

## Urgent Recommendations

The results of this year's LightingEurope Mystery Shopper Exercise warrant special attention and concern, not only because we proved that unsafe and non-compliant products are being marketed on online marketplaces, but also because some of these products are intended for use by European children.

It is also relevant to stress that, one of the major legal loopholes is linked to the fact that online marketplaces are not considered economic operators for products sold on their platforms, unless they themselves place products on the EU market, thus acting as a supplier or importer.

Additionally, it is worth noting that these platforms benefit financially from the sale of these non-compliant products.

The Digital Services Act, the General Product Safety Regulation and the Market Surveillance Regulation do not address this issue. This means that online marketplaces have no responsibility nor liability when they are profiting from the sale of a product sold on their platform placed/made available to EU customers on their platform by a non-EU manufacturer that has no authorised representative in the EU. Non-EU manufacturers should be liable, but in practice this is not enforceable as they fall under the jurisdiction of a non-EU country.

Based on this year's Online Mystery Shopper findings described above, LightingEurope would like to urge the European Commission to consider implementing the recommendations listed below.

- Liability for all product requirements: our Mystery Shopper Exercise showed that products are non-compliant and/or unsafe. When there is no EU-based representative, online marketplaces should be held liable. Just as with products sold in physical stores, there must be someone legally liable for every product sold online.
- Stricter Enforcement: implement more rigorous checks and penalties for noncompliant products, including online.
- Enhanced Obligations for online marketplaces: online marketplaces should have clear obligations to accurately verify the information provided by traders selling on their platform and to identify fraudulent traders.

### Conclusions

This year's LightingEurope findings underscore the urgent need for action to protect customer from non-compliant and unsafe lighting products sold online. The complete failure of online inspections and the high physical non-compliance rate for nightlights is a serious concern that demands immediate attention from regulators, manufacturers, and online marketplaces alike. The results show that we need a harmonized EU approach to the issue of non-compliance online. The EU needs a coordinated strategy to address noncompliance in online sales; what is illegal offline should be illegal online, and we need to allocate liability where it matters.

Paolo Falcioni, APPLiA – Home Appliance Europe, Director General

Home appliances reach the homes of millions across Europe.

Whether it is a fridge, washing machine, iron, or air conditioner, these are everyday essentials that each of us interacts with in our daily lives. Online marketplaces have had a significant impact on our industry, particularly for small appliances like kitchen blenders, coffee machines, and irons, which are most affected by these platforms.

Today, an increasing amount of retail sales are conducted online, but our product safety legislation has not kept pace with changes in our shopping habits. Cheap, counterfeit goods and dangerous products are increasingly being imported and sold through online marketplaces, often not contributing to the system (eg. no payment of VAT or recycling fees).

One of the primary concerns is the ease with which non-compliant products can enter the EU market through these platforms. I have recently found a kitchen blender on an online marketplace for €15.71, including free shipping directly from the far-east manufacturer. Such a low price should be a red flag, as it raises concerns about whether the blender complies with EU safety





standards and whether the manufacturer fulfils its obligations regarding waste management and recycling. This example highlights the risks consumers face when purchasing products from online marketplaces.

According to the European Commission's Safety Gate data for 2023, a significant 63% increase in the number of serious risk alerts has been registered compared to the previous year. 280 dangerous products were identified in the electronic equipment and appliances category in 2023. The hazards they caused were most often related to an increased risk of electric shock and chemicals harmful to the environment.

This poses a significant risk to consumers and undermines the efforts of responsible manufacturers who invest heavily in ensuring their products meet all applicable regulations.

Another challenge is the lack of clarity regarding the responsibilities of online marketplaces in ensuring compliance. Existing legislation often fails to adequately address their role, creating loopholes that allow non-compliant sellers to operate with impunity.

To address these challenges, APPLiA calls on EU policymakers to:

- Strengthen the obligations of online marketplaces: They should be held responsible for ensuring that products sold on their platforms comply with all relevant EU legislation. This could include obligations to verify seller information, proactively monitor product listings, and cooperate with market surveillance authorities.
- Enhance enforcement mechanisms: Market surveillance authorities need to be equipped with the resources and tools necessary to effectively monitor and enforce compliance in the digital marketplace. This includes investing in digital tools and expertise and strengthening cross-border cooperation.
- Clarify the liability of online marketplaces: Clear rules are needed to establish the liability of online marketplaces for non-compliant products sold on their platforms. This will help to ensure that consumers are protected and that responsible businesses are not disadvantaged.

APPLiA believes that by closing legal loopholes and strengthening enforcement, we can ensure that online marketplaces remain a valuable platform for both consumers and businesses. We look forward to working with EU policymakers and other stakeholders to achieve this goal.

Lars Vogt, TIE – Toy Industries of Europe, Director of Policy

Toy Industries of Europe represents the reputable toy manufacturers in Europe. Our members make fun and safe toys. I am delighted to be here – and on such an important topic which is close to our heart. I will talk specifically about challenges related to toy safety on online marketplaces.

The end-of year season is of course very important season for our sector. It is also the part of the year most of the toys are offered. It starts tomorrow in Netherlands and Friday in Belgium with St Nicolas, followed by Christmas – and then Epiphany in Spain.

In the Netherlands, St Nicolas will place a bag with gifts in front of people's front doors tomorrow evening. There are usually quite some toys inside and we see more and more that St Nicolas – but also Father Christmas and virtually everyone - does some of their shopping online. That is not a



bad thing. It is convenient and you might find exactly the fun toy that you are looking for. It is a good thing if there is healthy competition.

But, of course, we want the toys under the Christmas tree and in the bag of St Nicolas not only to be fun, but also be safe!

I have also brought along this evening a bag with some toys inside, as we also went shopping online.

We bought over 100 toys on 10 different online marketplaces. This includes a wide range of marketplaces. The ones already mentioned here tonight but also for European and American marketplaces. We assessed the toys and they were tested by an independent accredited lab for some of the requirements for toys. As you can imagine, toys have a lot of requirements and very strict rules – I think it is the strictest regulated consumer product. Just as an example – a doll's dress is more strictly regulated than a real dress for a real child.

So, of the over 100 toys we found 80% with safety risks. (see TIE website link: 80% of toys bought from third-party traders on online marketplaces fail EU safety standards and could be a danger to children - Toy Industries of Europe)

That is a big number, but unfortunately not a surprise. We did a similar exercise where we assessed almost 200 toys in 2020 – from four online marketplaces- and had similar results (see TIE website link: Europe assessed a small sample of 19 toys just from Temu and found 95% of toys with a safety risk). Earlier this year we assessed a small sample of 19 toys just from TEMU and found 95% of toys with a safety risk (see TIE website link: 95% of toys bought from the new online platform break EU safety rules – Toy Industries of Europe). It is not just a problem with only one or two marketplaces.

These toys are available because it is possible to offer them on sale. We see it unfortunately offline, but online it is even easier, and there are no to very little consequences when selling them or when facilitating and enabling the sale.

I will now show some examples:

- The first toy is a toy for babies - we bought this toy from a European seller on a European marketplace. What's wrong with this toy? A lot actually – for example:
  - It broke easily in small parts that a small child can choke on
  - A strangulation risk when the cords came off
  - Important safety warnings were missing
  - No EU address

Under the DSA - for certain online platforms there is a seller traceability requirement. Article 30 addresses the platform's obligations to verify reliability and completeness of trader information prior to allowing traders to use their services.

If that is adequately applied, we and market surveillance authorities can know who the seller is, so there is somebody to enforce against. It is then crucial that the toy safety rules are actually enforced – that there is enforcement of the rules.

- The second toy: We bought this set with slime toys from a seller outside the EU. It seems it was shipped from a fulfilment centre inside the EU. What is wrong with it? The content of Boron is almost three times the legal limit. This is a risk for reproductive health. If you think that is a lot – we even found another product with thirteen times the limit.

There is an EU address – an EC representative. However, we have no guarantees this is a genuine address (we saw some clearly fake addresses), nor that the company with that address is actually officially appointed as the responsible person, nor that the company will not cease to exist.

In this case with the fulfilment service provider, it seems that in specific cases, the fulfillment service provider could become the responsible person. However, the responsible person is not responsible for ensuring compliance of the toy with safety rules in the same way as an importer or EU manufacturer. Also here, we need market surveillance authorities to have the means and resources to act and there might be somebody to enforce against.

- Now the third toy – is a teddy bear with light inside. We purchased this from a seller from outside the EU – and it was shipped directly to the consumer in the EU. We had a lot of toys shipped directly from the seller outside the EU, or from a fulfillment centre outside the EU. Responsibilities for products safety might apply to EU-based fulfilment service providers, but not to those outside the. There were numerous things wrong with this one:
  - o small parts a small child could choke on came off during the tests
  - o stuffing material is accessible
  - o the battery box broke easily

Just to highlight some other dangerous examples: – a bullet from a toy gun that can get stuck in a throat; a small coin cell easily accessible. These types of risks already caused deadly accidents. And a rattle for babies with bells that come off or can get stuck in the throat. In the end we have situations where nobody can be held accountable in these cases of non-EU sellers.

We don't want these in the hands of children!  
So, what can we do?

A lot! But there is no single solution. Several actions are needed.

Within the time constraint, I give some main actions that can help to re-balance the situation and avoid safety risks for children and decrease unfair competition for companies that play by the rules:

- First, we do have some new rules in Europe, in particular the Digital Services Act (DSA). Some speakers rightfully highlighted some shortcomings, but it also contains some important elements that give very good tools to address illegal content such as dangerous toys.

But it needs to be enforced vigorously. I will mention two examples:

- o The seller traceability requirements need to be effectively enforced. Marketplaces should verify reliability and completeness of trader information prior to allowing traders to use their services (Art 30).
  - o Very Large Online Platforms should be thoroughly scrutinized regarding their risk assessment and -mitigation duties under Articles 34 and 35 of the DSA. to ensure these kinds of toys are not so easily available.
- Second, we need enforcement, enforcement and enforcement. The strictest product rules are useless if they are not enforced or if they cannot be enforced. Market surveillance needs to be stepped up – including resources – but for that we also need:
    - o More responsibility for online marketplaces – in particular when there is nobody responsible for the safety. When there is nobody to enforce against – this loophole needs to be closed. The DSA requires all platforms to have a representative in the EU. The EU can built on that and hold responsible, as a last resort, the marketplace that was instrumental

to get the toy in the hands of European consumer. So, the rules can be equally enforced in this case as in other cases.

- Speed-up the update of the EU customs rules. We see benefits for example in better digital tools and infrastructure and better data sharing and collaboration. But we know this adoption process and the implementation will take a lot of time. And you cannot test everything that comes in the EU. The blue teddy bear came back from the testing lab - completely deconstructed to reveal its dangerous elements. No consumer wants to receive this!



Kathrin Jaenecke, EURATEX – The European Apparel & Textile Confederation, Senior Policy Officer

### Introduction

Ensuring fair competition in online marketplaces is both a necessity for the integrity of the EU's internal market and a matter of consumer safety. The European Commission's recent actions to investigate platforms like Temu demonstrate a welcome commitment to tackling unfair practices and unsafe products. Such efforts are crucial to restoring trust in e-commerce and protecting compliant businesses.

The challenges are highlighted by the REACH for textiles project, where 16% of 400 tested products failed compliance with EU legislation, and 2% of 2,000 chemical tests revealed hazardous non-compliance. These figures reflect the critical need for robust enforcement mechanisms and systemic reform.

- Enforcing the Digital Services Act (DSA)

The DSA is a vital framework to ensure accountability in online marketplaces. However, to fully address the challenges, e-commerce platforms must be formally recognized as economic operators. This would place a legal obligation on them to ensure that the products sold on their platforms comply with EU regulations, including safety and labelling requirements. Without this recognition, platforms can evade responsibility, leaving consumers vulnerable to unsafe products.

Moreover, effective enforcement of the DSA requires uniform implementation across Member States, sufficient regulatory oversight, and penalties to ensure compliance. Platforms must proactively monitor listings and require full traceability from sellers. These measures will level the playing field for compliant businesses while protecting EU consumers.

- Abolishing the De Minimis Rule in the Union Customs Code

The de minimis rule, which exempts imports valued under €150 from customs duties, has become a glaring loophole. Non-compliant operators exploit this rule to flood the EU market with unchecked, low-cost goods, harming European industries like textiles and undermining safety standards.

While the Union Customs Code (UCC) revision is not expected to be completed until 2028, this timeline is far too slow to address the urgent needs of the European textile sector. Faster, interim solutions are essential. For instance, targeted measures to impose stricter scrutiny on goods below the de minimis threshold could be implemented while the broader revision



progresses. A swift response is necessary to protect the competitiveness of European textile manufacturers.

- Developing the Digital Product Passport to Regain Consumer Trust

A Digital Product Passport can serve as a key tool for rebuilding consumer trust in e-commerce. By providing detailed information on a product's origin, compliance status, and environmental impact, this passport empowers consumers and regulators alike. It also fosters accountability throughout the supply chain, making it harder for non-compliant products to slip through. Such a system aligns with the EU's broader objectives of transparency and sustainability in trade.

- Strengthening Customs Authorities

Customs authorities must be better equipped to manage the growing complexity of online trade:

- Increased workforce capacity is critical to addressing the volume of imports.
- Specialized training is needed to help customs officials identify hazardous or non-compliant goods effectively.
- Enhanced coordination among Member States will ensure consistent enforcement and efficient sharing of intelligence.

These measures are essential to bolster the frontline defences of the EU market, ensuring that unsafe products are intercepted before they reach consumers.

## Conclusion

To ensure fair competition in online marketplaces, we must act decisively on multiple fronts. Enforcement of the DSA, recognition of e-commerce platforms as economic operators, elimination of the de minimis rule, faster interim solutions for the UCC revision, development of the Digital Product Passport, and strengthening customs authorities are all critical steps. Together, these measures will create a safer, fairer, and more competitive trading environment for EU businesses and consumers.

## VIEWS OF MEPS

Tomáš ZDECHOVSKY MEP (EPP, Czechia), Budgetary Control & Civil Liberties, Justice & Home Affairs Committee  
*(Points noted from the presentation)*

I had prepared a lengthy speech to share many thoughts with you, but I will refrain from repeating what has already been said, as much of it has already been addressed. Tonight, I am here to listen to you, as your perspectives are incredibly valuable to us.

As Members of the European Parliament, we are deeply committed to listening and responding to your concerns. For me, I have three primary priorities: security, budgetary control, and consumer protection. Allow me to address these briefly.

First, regarding security, it is crucial that we take a firm stand against certain practices that threaten our interests. We will not tolerate the influx of substandard products, particularly from China. This will put immense pressure on the new European Commission, but I must stress that from the very first moment, we must be clear: we will not accept this behavior.



It is a recurring frustration that the European Commission often claims that we "cannot act." There are 27 Member States, yet little is being done. Instead, more and more legislation is being introduced to regulate producers in Europe, while we fail to take action against companies from China, India, or elsewhere, that seek to destroy our markets.

Do we want to wear only textiles from China or Bangladesh? We all know the reality: satellite images show the grim conditions in Bangladesh factories, where thousands of workers, often in appalling circumstances, produce goods for us. And yet, we do nothing.

The situation in China is just as critical. I have been a Member of this Parliament for ten years, and I have repeatedly raised concerns about the use of forced labour in factories that produce goods for us, including toys for children, which are sold during the holiday season. I do not want any Christmas gifts from a regime that uses forced labour, and I do not want goods produced in concentration camps. This must be a strong message, one that we send loudly and clearly.

Unfortunately, we are systematically supporting perpetrators who undermine democracy, rule of law, and human rights. We are allowing people who have no regard for standards, quality, or the well-being of workers to thrive. This must stop.

Finally, colleagues I ask you: how many of you know that we were on the front lines during the COVID-19 pandemic? How many of you were in hospitals, helping doctors and nurses? After this meeting, you will know that there was just one person who wore a mask and went to the hospitals to help, while others merely talked about the issue. And let me tell you this: the masks we used from China during that time were of terrible quality. They cost five euros each, but the quality was subpar. Meanwhile, the masks from the European Union, which cost just 20 cents, were of excellent quality. Yet, we chose not to use them. We have systematically undermined our own market, and we cannot continue down this path.

Let us work together to take real action. From this moment on, let us unite to change this situation. If you do not support us, no one else will. Trust me, no one.



Matej TONIN MEP (EPP, Slovenia), Industry, Research & Energy Committee

As a Member of the ITRE Committee, I would like to address a critical issue: safety and responsibility within the digital marketplace. It is our responsibility to protect consumers and ensure that the online market is both secure and transparent.

The internet is an amazing resource that lets us access a world of information and services with just a click. In recent years, particularly due to the pandemic and the acceleration of digitalisation, we have witnessed significant growth in the online marketplace. It is important to understand that not all online sources can be trusted. This is especially true for products from third countries with different regulations and quality controls. We must be careful, as they might be imitations or cheaper versions and do not meet European safety standards.

Let us talk about toys. Many of them can contain toxic substances. This is really concerning because it can have serious effects on children's health. In some countries, safety regulations are

not as strict as they are in Europe. This can create dangerous situations for kids. That is why it is so important that every toy should be tested for safety before being sold.

Now, let us move on to clothing. This industry also needs a lot of attention. Some products made in certain third countries have chemicals that exceed the safety limits set by the EU. This is not just an issue of safety; it can even pose cancer risks. But it does not stop there. There are many other sectors we need to look at, too: electronics; cosmetics; food and more – these all require careful examination.

Many countries outside of Europe do not have safety regulations that match ours. And despite that, products from these countries often enter the European market through online shopping. We must take action to ensure that every product sold in the EU meets our strict safety requirements.

I want to clarify that I am not here to criticize the internet. It offers many benefits and innovation. However, we must ensure the respect of the EU regulations and fair competition.

It is important to understand that European companies selling products online often deal with higher production costs because they are committed to following European legislation and safety rules.

For this reason, it is vital that we implement the following three points:

- First, we must establish safety regulations to ensure that products sold online meet the same safety and quality standards as those sold in physical stores, in accordance with EU legislation.
- Second, we need to promote transparency by requiring e-commerce platforms to provide clear information about the origin of products.
- Last, it is essential to introduce sanctions by including strict penalties for sellers who fail to comply with these regulations.

In conclusion, although the online market presents incredible opportunities, it also presents significant risks that we must address. By implementing the three points: safety regulations, ensuring transparency, and enforcing strict penalties for noncompliance, we can create a safer online environment for consumers.

#### EUROPEAN COMMISSION, DG ENERGY

Ronald Piers De Raveschoot, EUROPEAN COMMISSION, DG ENERGY  
Policy Officer, Energy Efficiency – Buildings and Products

I work in the ‘products team’ within DG ENER Unit B3, where we actively collaborate with other DGs to elaborate, maintain and enforce the ecodesign and energy-labelling requirements that apply to energy-related products.

With respect to enforcement, effective market surveillance is key to ensure that:

- rules are complied with;
- the expected benefits materialise to the benefit of end-users and the environment;
- the level playing field for businesses is secure
- reliable product information is supplied to consumers,
- and the framework is trusted by citizens, regulators and businesses alike.



Market surveillance is a national competence, while the Commission has a supporting and coordination role (Regulation (EU) 2019/1020 on market surveillance and compliance of products). Based on abundant evidence, including through EU-funded testing projects, and as confirmed by the European Court of Auditors 2020 ecodesign audit. non-compliance is a significant problem.(<https://www.eca.europa.eu/en/publications?did=52828>) As indicated by previous speakers, online sales are particularly challenging in that respect.

In the last years, the Commission has deployed significant efforts to improve the functioning of market surveillance in the EU. The 2019 Market Surveillance Regulation, the Digital Services Act and the General Safety Product Regulation [GSPR] all contain provisions that increase the powers of market surveillance authorities and give them more tools vis à vis non-compliance including online-non-compliance.

Since 2021, the EU Product Compliance Network [EUPCN] aims at structuring the coordination and cooperation between market surveillance authorities, as well as and streamlining of market surveillance practices ([https://single-market-economy.ec.europa.eu/single-market/goods/building-blocks/market-surveillance/organisation/eu-product-compliance-network\\_en](https://single-market-economy.ec.europa.eu/single-market/goods/building-blocks/market-surveillance/organisation/eu-product-compliance-network_en)). With respect to energy labelling, the establishment of the European Product Registry for Energy Labelling, the well-known EPREL database ([https://energy-efficient-products.ec.europa.eu/suppliers\\_en#what-is-eprel](https://energy-efficient-products.ec.europa.eu/suppliers_en#what-is-eprel)), is also intended to facilitate market surveillance.

In parallel, in its Ecodesign and Energy Labelling Working Plan 2022-2024 ([https://energy.ec.europa.eu/publications/ecodesign-and-energy-labelling-working-plan-2022-2024\\_en](https://energy.ec.europa.eu/publications/ecodesign-and-energy-labelling-working-plan-2022-2024_en)) the Commission signified its intention to “step up its support to Member States to contribute to a more effective and uniform application of market surveillance in the field of ecodesign and energy labelling”. During that period, significant achievements have been accomplished.

Our work can be divided into six different angles of attack:

- Support to economic operators:
  - The Launch of the “efficient products portal” ([https://energy-efficient-products.ec.europa.eu/index\\_en](https://energy-efficient-products.ec.europa.eu/index_en)), a one-stop-shop portal targeted at different stakeholders, with the aim to support compliance with the applicable rules.
  - The establishment of an EU-funded ‘complianceservices’ facility aiming at actively supporting suppliers and retailers regarding compliance with ecodesign and labelling legislation.( <https://www.energyagency.at/en/translate-to-english-complianceservices>)
  
- Support to market surveillance authorities:
  - The funding of several concerted actions [EEPLIANT3, EEPLIANT4 (<https://eepliant.eu/>)] where national MSAs are jointly testing product and develop tools and best practices together. This includes checking compliance of products offered on-line, the development of a web-browser for semi-automatic detection of possible non-compliance, as well as cooperation with customs.
  - Launching of other EU-funded testing projects such as the testing campaigns ENERTP1 and ENERTP2, (<https://prosafe.org/index.php/en/enertp2020>), while a possible ENERTP3 in 2025-26 as well as the JACOP Joint Actions on Compliance of Products.

Designation of an EU testing facility for ecodesign and energy labelling. (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024D1456>)

- EU collaboration
  - Funding and supporting the ecodesign and energy labelling ADCOs ([https://single-market-economy.ec.europa.eu/single-market/goods/building-blocks/market-surveillance/organisation/adcos\\_en](https://single-market-economy.ec.europa.eu/single-market/goods/building-blocks/market-surveillance/organisation/adcos_en)), the informal administrative cooperation groups where national MSAs and the



Commission collaborate to ensure efficient, comprehensive and consistent market surveillance.

- Yearly organisation of dedicated of thematic consultation forums on market surveillance, where Member States, national authorities, economic operators and the civil society exchange views and elaborate possible solution for better compliance.
- EU Tools:
  - New features in EPREL and ICSMS (<https://webgate.ec.europa.eu/single-market-compliance-space/market-surveillance>) to make these tools more efficient. These include:
    - The possibility given to anyone to report in EPREL models that appear to be non-compliant.
    - Electronic verification of suppliers in EPREL, ensuring that suppliers are economic operators established in the EU.
    - Provision of APIs to economic operators including online platforms, enabling them to collect EPREL data (including the energy label) based on the EPREL identification number of the supplier. Close collaboration with one of the platforms allowed to significantly improve its online compliance through the use of supplier's identification number.
    - New "safeguard clause" feature in ICSMS, allowing MSAs to share information on products presenting a risk (Art 69 of ESPR ([https://commission.europa.eu/energy-climate-change-environment/standards-tools-and-labels/products-labelling-rules-and-requirements/ecodesign-sustainable-products-regulation\\_en](https://commission.europa.eu/energy-climate-change-environment/standards-tools-and-labels/products-labelling-rules-and-requirements/ecodesign-sustainable-products-regulation_en))).
- Dialogue with the Member States:
  - Engaging with the Member States with a view of a better application of their legal obligations.
- Political Engagement
  - Raising awareness at political level about the negative effects of non-compliance including on competitiveness of EU industry. Here the support from other stakeholders is most welcome!

Although we are proud of these achievements, we are aware that this will not suffice. And we are not the only ones.

In April this year, a high-level a report, 'Much More Than a Market' was presented to the Council by Enrico Letta, a distinguished former member of this Assembly. He reminded us that "The Single Market is the cornerstone of the process of EU integration" and "our most valuable asset". While alerting us on the "detection of significant infringements", he called upon on "strengthening enforcement to uphold market integrity".

The more recent Draghi report on 'The Future of European Competitiveness' is even more specific, recognising that "Insufficient market surveillance and, as a result, poor enforcement (and potentially compliance) are continuously cited as a major shortcoming in the implementation of the EU Eco-design and Energy Labelling Directives", It recommends "The EU should better support Member States in ensuring appropriate market surveillance and the effective implementation of EU rules", citing the "limited resources of national market surveillance authorities" and "a lack of effective coordination between them" among the causes of the problem.

All these considerations are all the more relevant as new challenges to market surveillance and compliance will emerge under the ESPR (the new ecodesign framework), as new products and new types of requirements will be embraced.

Within DG ENERGY we are convinced that market surveillance and compliance of products deserve more attention and effort, both at the Commission and Member States level. In this

respect, it worth to note that “better enforcement” and “ensuring a level playing field” are among the political priorities of our president Ursula von der Leyen, with a specific mention of “tackling challenges with e-commerce platforms” (Europe’s Choice – Political Guidelines for the Next European Commission). Putting these forward will clearly require a cross-DG collaboration. Talks with other DGs are already ongoing. Within DG ENER, we are determined to bring our contribution, especially considering that our Commissioner’s mission letter includes “Support the implementation of the existing legal framework” as well as drawing on the recent reports of Letta and Draghi.

([https://commission.europa.eu/about-european-commission/commission-2024-2029/commissioners-designate-2024-2029\\_en](https://commission.europa.eu/about-european-commission/commission-2024-2029/commissioners-designate-2024-2029_en)).

But the Commission cannot resolve this alone, and the involvement of all of us in this room, and many others, will be essential!

## VIEWS OF MANUFACTURERS

Dennis Kredler, DOW, Senior Director Government Affairs Europe

- The following remarks take a broader perspective beyond online marketplaces but rather look at market surveillance more broadly because the enforcement challenges we encounter are not limited to online marketplaces.
- As a speaker from the chemicals industry, you would probably expect me to speak about REACH, and this is what I will do. But I will also address a few other areas where enforcement is a challenge.
- In the chemicals industry, we see significant gaps in enforcement, particularly with REACH compliance. This is detrimental to companies that invest heavily in compliance efforts, so European companies and global companies such as Dow.
- Data from Member States reported to the Commission shows a worrying trend: the level of REACH and CLP compliance in imported goods has been decreasing, reaching a low of 71% in 2018. A CEFIC recent study (analysing data for 2019) found that 92% of consumer products that contain chemicals that are not compliant with REACH come from outside the EU Single Market.
- One major challenge is of course the limited resources available to customs authorities. ECHA data indicates that customs authorities only actively control about 2% of all shipments, with 98% being processed automatically. This opens the door for non-compliant products to enter the EU.
- We believe that enforcement should be a central consideration in EU decision-making on chemicals. Elevating the ECHA Enforcement Forum to a true Committee status, delivering opinions on proposals for restrictions and authorisations, would be a practical step forward.
- There is a real opportunity to make progress in this space, through the REACH simplification initiative and the ECHA Founding Regulation. At a time when European industry’s competitiveness is challenged and global overcapacity of chemicals and plastics is increasing, the time is ripe to show EU producers that investing in compliance pays off.
- But enforcement is not only an issue related to REACH. Many policies across the EU are not designed with enforceability in mind.



- For example, the Spanish plastics packaging tax that was supposed to promote the use of recycled plastics has led to increased imports of plastic films claiming high amounts of recycled content that cannot be verified. But industry experts believe that the technical performance of these films is impossible to achieve with that amount of recycled content. So, there is a suspicion of fraudulent behaviour that cannot be verified but that means that the policy objective is likely not being reached because effective enforcement is not possible.
- This is not only an issue in Spain: the plastics industry has warned (<https://plasticseurope.org/media/falling-eu-competitiveness-threatens-circular-plastics-transition/>) that there has been a sharp increase in imports of plastic resins and finished goods from regions with less stringent environmental standards, while the plastics recycling industry (<https://www.plasticsrecyclers.eu/news/stagnation-in-plastic-recycling-capacities-latest-market-data-shows/>) highlighted imports of recycled plastic from outside the EU – which are often unverified. Because these imports are much cheaper than European recycled plastics, this is making the transition to a circular economy unviable in Europe.
- Effective enforcement is essential for achieving the transformation we seek in Europe. Without it, we risk being undercut by unverifiable imports. We must ensure robust certification requirements and regular audits to maintain a level playing field.



Marc Guiraud, EucoLight, Secretary General

#### EucoLight

- EucoLight is the European Association of lighting WEEE compliances schemes
- Its members in 17 countries are Producer Responsibility Organisations (PROs) that collect and recycle lighting products on behalf of their producers' members
- The network is over 100.000 collection points, and in 2020 it has been recorded that EucoLight members had recycled more than 2 billion lamps.

Online free riding, the scale of the issue:

- Extended Producers Responsibility has been recognised by the EU institutions as a vital tool in the implementation of the circular economy
- In the field of waste management, free riding is a big issue
- Legal obligations are applicable to manufacturers, distributors or sellers of Electrical Equipment (eg. registration with authorities, reporting of products placed on the market, organising and finance the collection, treatment and recycling)
- E-commerce has represented both an opportunity and a challenge: what is the issue?
  - Producers (often located outside of the EU do not register, join a PRO, appoint an authorised representative.
  - Online market does not systematically check if their sellers (ie producer proposing their products online) are respecting those obligations
  - The risks:
    - PROs will have to collect and treat WEEE that are not financed
    - Inaccuracy of data
    - Absence of fair competition with compliant producers
- According to the OECD (2018) 5-10% of EPR fees remain unpaid for electronics
- According to the EucoLight multinational study of end 2022 (in 8 participating countries) 65% to 100% of LED lightbulbs sold on online marketplaces were non-compliant with WEEE requirements.

- Since 2017, EucoLight and its partner associations have raised awareness on the issue through conference, participation in EU studies, to raise awareness on the issue. This have been well recorded by the EU but still is in need of a definite solution.

#### Legislative Works in the Member States:

- 7 Member States have adopted legislation (AT, DE, ES, FIN, FR, GR, RO) and 2 more are working on it (BE, CZ) generally as part of their national amendments to waste framework or EPR laws (batteries, packaging, WEEE)
- In general, they foresee the “compulsory approach”:
  - Sellers located outside of the country need an authorised presentative and a number at the national register before selling online (DE)
  - Obligation to participate in a collective scheme (AT)
- One country (FR) has implemented the concept of liability by default or (marketplaces deemed the producer) in their 2020 AGEC law: online marketplaces
- Positive Impacts:
  - Strong increase of registration recorded in the Members States (30.000 more registration in DE, 50% more producers registered in Spain)
  - Some online marketplaces try to be compliant.
  - Increase of enquiries to joint PROs
  - In France:
    - Marketplaces systematically ask tier vendors to display their identification umbers
    - Non-compliant sellers are redirected towards the PRO
    - Increase number of small producers compliant (2,5% more contracts between the PRO and lamp producers)
- Reported setbacks:
  - Enforcement /control of non-compliant sellers by authorities not always visible and in many cases non existing
  - Loopholes noticed: sellers that come and go and not accounted liable (financial risk for PROs)

#### Developments at EU level: The Digital Services Act:

- Foresees the traceability of traders, online platforms to:
  - Collect specific information from traders, e.g. registration numbers
  - Assess whether the information is reliable and complete (best efforts/duty of care)
  - Suspend services if the information in not corrected or completed
- Foresees compliance by design; online platforms to:
- Randomly check illegal products on official online databases or interfaces (best efforts/duty of care)
- But failed to address liability for lack of Extended Producer Responsibility obligations.

#### Avenues For Solutions at EU Level:

- Address the loopholes in the upcoming revision of the WEEE Directive, since the Commission evaluation of the WEEE Directive (2023) highlighted that the current Directive was not effective to solve the online free riding issue.
  - Elements to foresee:
    - Introduce elements at least elements of the Digital Services Act and of the compulsory verification model (obligatory registrations, obligatory checks, takeback obligations)
    - Revisit legal concepts (Placed on the Market, Obligated actors, Authorised Representative)
    - Possibly combine the compulsory verification with the fall-back liability (online marketplaces deemed the producer in case of noncompliance with EPR requirements)
- Revise the Digital Services Act
- Link registration and check systems to existing regulatory systems eg. VAT registration and customs, the Digital Product Passport

#### Some Suggestions to Go Further:

- Geoblocking for non-compliant marketplaces



- Public tenders to include an obligation for bidders to show registration(s) numbers of economic operators placing equipment on the market
- Collaboration of EU Member States on imports from third countries and on intra-EU flows
- Negotiating with major online marketplaces to stop allowing their use without a minimum of compliance conditions from their sellers.

Juliette Beaulaton, ECOMMERCE EUROPE, Policy Director

Ecommerce Europe is the united voice of the European Digital Commerce sector, representing the interests of companies selling goods and services online to consumers in Europe.

I believe everyone gathered here today shares the same objective and ambition for the European Union:

- Ensuring that consumers can benefit from the diversity of the European market and from the access to safe and compliant products.
- Striving for a level-playing field and fair competition for all companies, which is also contingent on a competitive, dynamic EU-market where all can thrive and grow;



The last EU mandate has seen the development of a strong legislative framework for safer and greener products (across horizontal and product-specific legislations)

In an unprecedented speed, these new rules have been adopted and are entering into applications gradually:

- Mentioning maybe first an important piece of legislation inherited from the previous mandate, the Market Surveillance Regulation which has taken meaningful steps to ensure compliance of products since it entered into application in 2021 –
- and now complemented by the important General Product Safety Regulation – which will enter into application at the end of next week. Strengthening requirements for responsible operators in the EU for product place on our market. It also notably recognises the role of a marketplace in enabling seller compliance through their interface and regulates responsibilities to promote compliance.
- The Digital Services Act, which entered into application in February of this year,
- On sustainability, the Ecodesign for Sustainable Product Regulation
- The Packaging and Packaging Waste Regulation, and ongoing discussion on the Waste Framework Directive, with new and upcoming rules on compliance with Extended Producer Responsibility for all actors including sellers selling through online marketplaces.

The gradual implementation of this framework has and will continue to strengthen the responsibility and cooperation for the safety and compliance of products in the EU. Looking at the efforts which have been deployed across the EU for the past years to address existing issues – with a key takeaway being the importance of cooperation across the whole ecosystem, and continued exchange of information and data.

This includes, for all legitimate players operating in the EU, consistent checks of the Safety Gate Portal, and acting when products are flagged. The mystery shopping exercise performed by manufacturers' representative are being acted on by online marketplaces, demonstrating the efficiency of cooperation and the dialogue among actors. Legislation mentioned above will continue to strengthen these existing activities and cooperation.

A major challenge today is the issue of implementation and enforcement of existing rules and their application to all actors. While we see potential for great progress in the legislations mentioned above, they will only be effective if:

- The necessary tools and resources are made available to streamline and simplify compliance for all actors.
  - The discussion on level-playing field should indeed be linked to the discussion on the competitiveness of companies in the EU, and making business easier.
  - Taking the example of Extended Producer Responsibility which is particularly relevant here – but could also apply to the issue of product safety:
  - We have seen the consequences of continuously increasing requirements, scope of products and rules – without accompanying these changes with any supportive measure, any sort of harmonisation across EU markets or simplification efforts. This has been driving small companies away from certain national markets – and putting a lot of pressure on those who decide or have to stay.
  - Similarly, on the issue of compliance, new legislation is placing increasing responsibilities on online marketplaces to verify compliance with EPR in Member States, without the necessary tools (eg. availability of well-functioning, machine-readable registries to actually verify this compliance).
  - There needs to be a focus on simplification and digitalisation – which we hope to see in the Circular Economy Act.
- Authorities and actors are given the necessary resources to implement and comply with new laws. This starts of course in Brussels, where we already see important bottlenecks in preparing guidance for key pieces of legislations such as the General Product Safety Regulation, creating important concern and pressure on companies:
  - This also directly concerns Member States – where the resource allocation is scarce and unequal across markets too apply the law.
  - We specifically call for a focus on enforcement as we believe re-opening and producing more rules always carry the risk of further expanding the gap between legitimate and non-legitimate players and creating further pressure on legitimate companies complying with EU rules – when we are to a large extent already equipped from a legislative point of view, to deal with existing challenges.

As a last word, I also wanted to go beyond the EU and mention the issue of global level-playing field, encompassing a wider range of challenges that Ecommerce Europe has highlighted in an Open Letter on a level playing field and effective enforcement of EU law towards all e-commerce players active in the EU Single Market.

Considering the increasing pressure and impact of the arrival of new e-commerce players from outside of the European Union, we are working together with our national associations, partners and policymakers to explore the different leverages available to the EU, from consumers to competition policy to start tackling this challenge – in line with the points I have mentioned above. We look forward to continuing engaging with stakeholders in these important issues in this new mandate.

## VIEWS OF MEPS

Paulius SAUDARGAS MEP (EPP, Lithuania), Economic and Monetary Affairs Committee & Industry, Research & Energy Committee

With the rapid growth of digital platforms, ensuring a level playing field has become a priority for fostering innovation, protecting consumers, and supporting smaller businesses. Online marketplaces in the European Union are regulated under a comprehensive legal framework designed to ensure fair competition, transparency, consumer protection, and accountability such as: Digital Markets Act (DMA), Digital Services Act (DSA), EU Competition Law, E-Commerce

Directive, General Data Protection Regulation (GDPR), and other Consumer Protection, or Product Safety and Liability laws.

The Union Customs Code is currently under the revision. European Parliament adopted its position in 1st Reading, the dossier is still discussed in Council. The new regulation places a bigger responsibility on online platforms. Online platforms will be obliged to submit information to EU customs authorities within one day about purchased goods to be shipped to the EU. This should lead to a better overview of incoming shipments and focusing on goods that might not comply with EU norms. The Council is quite slow in this process; we should speed this up, considering the urgency of the problem.

However, the existing enforcement faces several challenges and legal loopholes.

Digital marketplaces continuously innovate, creating hybrid or entirely new models (eg. combining content creation, social media and e-commerce features). These hybrid models may not fit neatly into existing legal categories. The pace itself of technological advancement often outstrips legislative processes, leaving gaps in coverage. Rapid advancements, such as artificial intelligence (AI) and block chain, present new challenges.

Many large platforms operate globally, hence enforcement against non-EU platforms operating in the EU can be challenging, especially when they are headquartered outside the jurisdiction. While the European Commission coordinates actions under the DSA and DMA, enforcement relies on national authorities, which may lack financial and technical resources to match the sophistication of dominant platforms. For instance, platforms may use advanced AI systems that regulators cannot fully analyse. Difficulties in dealing with situations in third countries creates tendency to concentrate on European economic operators, who are closer and easier to pursue, only reinforces the uneven playing field. Additionally, Member States may interpret and enforce EU laws differently, leading to inconsistent application across the Union.

The DMA applies to platforms that meet specific thresholds of market capitalization, user base, and influence. However, determining whether a platform qualifies as a gatekeeper can be contentious. Platforms may adjust their business models to fall just below regulatory thresholds.

There were many cases in the past for example with Amazon, Google shopping, Apple App Store, Meta (former Facebook), eBay, Alibaba, Booking.com etc. These cases reveal existing loopholes.

In June, the Commission started the investigation on Temu and Shein regarding how the two Chinese e-commerce giants have implemented various DSA obligations, specifically the Notice and Action mechanism. The Consumers Protection Cooperation Network, coordinated by the European Commission, has also taken action against Temu and Shein for potential violations of EU consumer laws, mainly practices that include fake discounts, pressure selling, missing and misleading information, fake reviews etc. Case is still ongoing.

These examples demonstrate why the EU introduced the DMA and DSA to address specific practices in digital markets. However, ongoing challenges remain. The possible recommendations to address these loopholes would consider the following:

- Revise the DMA broadening the definition of Gatekeepers, to include platforms with significant influence in niche markets or emerging technologies, even if they do not meet general thresholds. Develop a dynamic classification system that can adapt to new business models.
- Strengthen cross-border enforcement mechanisms, for example establishing a specialized EU Digital Competition Authority to oversee cross-border cases, reducing reliance on fragmented national enforcement.

- Develop AI-powered tools to monitor compliance in real-time, particularly for large platforms categorized as very large online platforms under the DSA.
- Increase fines (or introduce other measures) for non-compliance, particularly for repeat offenses, to ensure they act as effective deterrents.
- Foster fair competition for SMEs. Enforce data portability requirements to enable smaller businesses to compete effectively by transferring their user data between platforms. Develop incentives for smaller or alternative marketplaces to enter the market. Mandate fair and affordable access to critical platform services, such as payment systems, for SMEs.
- Mandate standardized labelling for products and services on online marketplaces to ensure consumers can make informed decisions. Require platforms to disclose clearly, when rankings or search results are influenced by payments or partnerships.
- Collaborate with international bodies like the World Trade Organization (WTO) or the Organization for Economic Co-operation and Development (OECD) to create global standards for fair competition in digital markets. Partner with regulators in other regions to tackle anti-competitive practices by global platforms.



### Conclusion

In conclusion, while the EU has laid a robust foundation for fair competition in online marketplaces, addressing these legal loopholes requires continuous adaptation, investment in enforcement capabilities, and stronger cooperation both within and beyond the EU. By enhancing transparency, adapting to technological advancements, strengthening enforcement mechanisms, and fostering global cooperation, the EU can ensure that its digital markets remain competitive, inclusive, and fair for businesses and consumers alike.

### CIVIC SOCIETY AND OTHER STAKEHOLDERS

Sonja Leyvraz, EUROPEAN ENVIRONMENTAL BUREAU, Associate Policy Officer for Circular Economy

Online shopping has revolutionised the retail landscape: It has made shopping more convenient and provides consumers with better access to a wide range of goods and services. Online marketplaces, in particular, play a very positive role in offering consumers access to more sustainable and affordable second-hand and refurbished products.

At the same time, however, the massive volume of cheap and low-quality new products that are bought online is deeply concerning: in 2023, 2.3 billion products below the threshold value of €150 were imported into the EU – this figure is expected to increase to €4 billion this year.



Legal loopholes regarding product compliance in online sales are one concerning aspect in this context. These loopholes not only harm consumer health and safety but also negatively impact the environment, undermine the effectiveness of European legislation, and create an uneven playing field for European businesses. I would like to highlight two examples that are particularly relevant to our work:

- Since 2017, the EEB and Zero Mercury Working Group have uncovered that skin lightening creams containing high levels of mercury are still widely available globally and also to European consumers through online platforms. Despite mercury being banned from cosmetic ingredients under the Cosmetic Products Regulation, around half of the creams we tested, ordered from Europe, contained high levels of mercury, posing a very serious threat to human health and the environment.
- The EEPLIANT3 Project has revealed that non-compliance with Ecodesign requirements and energy labelling for products sold online is widespread. This problem is likely to persist with new Ecodesign requirements, which, for instance, enable product repair. This non-compliance not only infringes consumer rights, but it also undermines the competitiveness of European manufacturers and circular economy businesses, such as repairers and refurbishers, vis-à-vis non-European manufacturers.

These examples show that it is crucial to take action. Even with improved enforcement of current EU rules on online sales, we are still expecting a growing number of non-compliant products entering the EU market. This is due to structural issues: On one hand, considering the sheer volume of products entering the EU via online sales, it is no surprise that market surveillance authorities are overwhelmed by the flood of cheap products.

On the other hand, the current legal framework itself still does not adequately address new supply routes via online sales. It allows online marketplaces to facilitate the sale of products from sellers worldwide to EU consumers without holding them responsible for proactively checking the compliance of these products. Instead, this obligation falls only on economic operators, while online marketplaces are not recognised as such.

This failure to hold all relevant parties responsible for ensuring product compliance is a key factor in enabling the distribution of illegal and unsafe products to EU consumers. As such, it is crucial that online platforms are held accountable and are subject to the same responsibilities regarding compliance and liability for the products they put on offer—just like it is the case for European traders.

Legislation needs to ensure that for all avenues of online sales, there is an EU-based economic operator liable and responsible for the compliance of products sold in the EU. To achieve this, online marketplaces should be included in the definition of economic operators. Then, in cases where there are no other applicable EU-based economic operators, online marketplaces should take on the same responsibilities as importers. These responsibilities focus specifically on verifying whether other economic operators have fulfilled their legal responsibilities.

Lastly, I want to draw attention to broader issues surrounding online sales. As I mentioned before, online sales are radically changing the retail landscape – in some ways for the better. However, certain actors are exploiting this evolving landscape to manipulate consumers into spending money on unwanted purchases, promoting overconsumption, harming mental wellbeing, and undermining honest competition between businesses. The Digital Services Act takes a step in the right direction, but rules against practices stimulating overconsumption must be well enforced and expanded.

In an era where spending our savings is just a few clicks away, and social media shapes our desires and purchasing decisions without us even being aware, it is crucial that we implement clear and effective rules to maximise the benefits of e-commerce while minimising its negative impact to health and the environment.



Esben Geist, DANISH CONSUMER COUNCIL (Forbrugerrådet Tænk),  
Deputy Director

The consumer perspective on enforcement of online marketplaces in the EU is of great importance for us at the Danish Consumer Council. I will start with an overview of our tests that show the severity of the problems with these marketplaces.

Our test results are alarming

In 2024 alone, we have conducted several tests of products primarily from Temu, but also from other online marketplaces like Wish, Shein and Amazon.



- Our largest test showed that 30 out of 38 products we bought from Temu did not comply with EU safety regulations. This included phone chargers that could electrocute the user, and children's products that could suffocate children.
- In another test, we bought 40 different types of plastic toys from online platforms and tested the products for the most problematic phthalates which can cause infertility. These harmful chemicals have been banned in toys sold in the EU for almost 20 years. 1 in 5 products we tested contained an illegal amount of phthalates (endocrine disruptors). A shocking example was a plastic ball we tested which consisted of 33 pct. phthalates.
- In another test we compared slime toy products from Danish stores and from online marketplaces. 60 pct. of the products from marketplaces had too high migration of the harmful chemical borate, while this was only the case with one of the products bought in Danish stores, which exceeded the limit marginally. The study showed a huge difference between product sold in Danish shops that are generally compliant, and products sold on online marketplaces where the borate level in several cases were ten times higher than the EU-limit. The legal loophole needs to be closed.
- And finally, we found PFAS in 9 out of 10 types of disposable tableware from Temu. When we find unsafe products, Temu for example removes them from their site at once but keep on selling hundreds other unsafe products. At the moment we feel that we in the Danish Consumer Council act as the Compliance Department of Temu. Not a job we have a great interest in.

In general, online marketplaces such as Temu, Shein and Wish pose exacerbated risks to consumers in several areas such as product safety, harmful chemicals, aggressive marketing, unfair commercial practices, and lack of traceability of traders.

We believe, this is the case because marketplaces currently take advantage of a legal loophole which means that the marketplaces aren't sufficiently responsible of ensuring that the products are safe and live up to EU standards before the products enter the European market. From our perspective, this is the key problem which needs to be addressed as it entails unfair competition for the European companies as well as an unacceptable risk to European consumers.

We believe that the solution is to legally define online marketplaces as economic operators and give them the same obligations and responsibility as other economic operators on the European market. The current wording of the DSA and the GPSR is not sufficient in that sense.

The implications of this would be that there would be no doubt that marketplaces would be legally responsible of ensuring that the products sold on the marketplaces are safe and comply with EU regulations before the products are entering the European market. Enforcement is key until the loophole is closed.

Unfortunately, it seems like there is still a long way to go before the loophole can be closed in the EU. Therefore, I will strongly urge the MEP's present here today to do everything they can to speed up this process.

Until the loophole has been closed, we urge the national and European politicians to ensure strong enforcement of existing legislation, which at least to some degree can help protect the consumers from unsafe products sold on online marketplaces.

In May 2024, together with The European Consumer Organisation BEUC and 16 other consumer groups, we filed a complaint with national and EU authorities against Temu for failing to protect consumers and for using manipulative practices which are illegal under the DSA. This complaint has led to the EU Commission opening formal proceedings against Temu for selling non-compliant products and using dark patterns.

We hope this brings positive results for the consumers. We need more initiatives like this to fight the current situation where the European market is swamped by illegal and unsafe products.

Later in December, the new General Product Safety Regulation enters into force. This implies that also GPSR products now must come with contact information of a European representative just like it is required for many of the harmonised areas like toys, machinery and electrical products. We know that the Danish authorities are very aware of this, and we know that the marketplaces currently do not comply with the current legislation at all.

Preliminary data show that the Danish authorities only identified a European representative in 30 pct. of the cases they pursued. Among the identified representatives the authorities were able to process a case in only half of these. The bottom line is that in just 15 percent of the cases, the authorities were actually able to receive documentation from EU representatives on online platforms. This is also an area that needs to be looked into.

At the national level, the Danish authorities are increasingly aware of the legal loopholes and have set up a task force of all the relevant authorities working with enforcement on online platforms plus the Danish Consumer Council and two branch organisations.

When it comes to online marketplaces, the enforcement effort laying ahead is in short huge. But we need to get started.

Non-compliance with EU regulations on behalf of online marketplaces leads to unfair competition. The victims of this are both honest and compliant European companies and consumers who can no longer trust that product are safe on the European market.

Hopefully – one way or the other – the online marketplaces will be forced to ensure the safety of the products sold.

CLOSING REMARKS



Antony Fell, EUROPEAN FORUM FOR MANUFACTURING, Secretary General

I hope you will agree with me that this has been an excellent EFM session on the Online Market Place, Ensuring Fair Competition and Closing Legal Loopholes. My warm thanks to Ana Vasconcelos MEP, our European Parliamentary host and to Isabelle Pérignon, leading from the Commission. My thanks also to our Commission Speaker from DG Energy for an additional perspective on the topic. The MEPs also had a variety of views to contribute – my thanks to them for these. Our manufacturers’ practical examples added colour and depth to the issues

under discussion.

Finally, I would like to thank EFM team, Chloë Matagne, Caroline Richmond, and Janice MacCormack for all their support and now formally close this European Forum for Manufacturing event.

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