The General Product Safety Directive
2001/95/EC (‘GPSD’)

Octavian Vasile
European Commission
Directorate General Health and Consumers
Product and Service Safety Unit
Main topics

- Application of GPSD
- Revision of GPSD
- Business Application
- International cooperation
- Directive 87/357/EEC
- Relationship between GPSD and NLF
1. The application of the GPSD


- Adopted on 3 December 2001
- In force since 15 January 2004
- Replaced Directive 92/59/EEC on general product safety
- Legal pillar of consumer product safety
Harmonised products

Non-harmonised products

SAFETY REQUIREMENTS

TOYS

LVD

PPE

COSMETICS

GPSD

ENFORCEMENT RULES

Regulation 765/2008

Decision 768/2008

2010
Content

- Objective / scope / definitions – Chapter 1
- General safety requirements – Chapter 2
- European Standards – Chapter 2
- Obligations of producers and distributors – Chapter 3
- Obligations and powers of Member States – Chapter 4
- Exchange of information / RAPEX – Chapter 5
- Committee procedures – Chapter 6
Objectives - Chapter 1

- Consumer products placed on the market are safe

- Proper functioning of the internal market

Scope - Chapter 1

- Applies to consumer products (migrated from professional use, supplied within a service)
  - its entirety to consumer products not covered by “sector” legislation
  - partially to consumer products covered by “sector” legislation
Relevant definitions - Chapter 1

- **Product**
- **Safe product**
- **Dangerous product**
- **Serious risk**
- **Producer**
- **Distributor**
- **Recall**
- **Withdrawal**
General Safety Requirements - Chapter 2

Products placed on the market have to be safe

Assessment criteria:
- Specific Community provisions
- National legislation
- Harmonised European standards published in the OJ
- European standards
- National standards
- Recommendations, guidelines, codes of good practice
European standards - Chapter 2

- Presumption of conformity for EU standards published in the OJ
- Voluntary nature of EU standards
- Procedure
  - Specific requirements for products
  - Mandate from the Commission
  - Adoption of mandate
  - Publication in the OJ

- Decision on childproof locking devices for windows and balcony doors (2010/11/EC)
- Decision on bath rings, bathing aids, bath tubes and stands for infants (2010/9/EC)
- Decision on personal music players (2009/490/EC)
- Decision on reduced ignition propensity cigarettes (2008/264/EC)
Obligations of producers and distributors - Chapter 3

Article 5 (1) - producers

• To place only safe products on the market
• To ensure proper labelling of products
• To inform themselves about risks:
  • To take appropriate actions when risks are discovered

Article 5 (2) - distributors

• To supply only safe products
• To pass on information on product risks
• To keep and provide the documentation necessary for tracing the origin of products
• To cooperate in the actions taken by producers or authorities to avoid risks

Article 5 (3) and (4) - producers and distributors

Producers and distributors

• Notification obligation
• Obligation to cooperate with competent authorities on actions taken to avoid risks posed by products sold or supplied by them

authorities to avoid risks
Obligations and powers of MS - Chapter 4

- MS ensure that producers and distributors comply with their obligations
- MS perform market surveillance (authorities, powers, resources)
- Different national market surveillance networks and procedures
- Preventive and restrictive measures (sales ban, withdrawal from the market, recall from consumers)
- Customs authorities
Dangerous products

Information exchange mechanisms - Chapter V

- **Article 11** - products posing non-serious risks
- **Article 12** - products posing serious risks (RAPEX)
- Mandatory participation
- **Aim** - to ensure equal and consistent high level of consumer health and safety protection
Commission’s tasks

- Monitor that Member States meet their obligations
- Support countries and business in making sure that only safe products are put on the market in Europe
- Recognise standards
- Joint Surveillance projects (Article 4)
- Take emergency measures (Article 13)
Emergency measures - Article 13

- Commission has powers to adopt a decision obliging MS to ban dangerous products on the EU market.

- Necessary conditions:
  - serious risk to the health and safety of consumers
  - MS differ significantly on the approach to deal with the risk
  - urgency (thus normal procedures cannot be applied)
  - risks can be eliminated only by measures adopted at EU level

- Validity - 1 year (possible extensions)

- Export to third countries prohibited - unless decision provides otherwise

- Examples: a) Decision on child resistant and novelty lighters (2006/502/EC)
Dermatitis from DMF

GPSD Committee - Article 15

- Committee under the GPSD
- Representatives of MS + observers from candidate countries and consumer organisations (ANEC, BEUC)
- Discussion on product safety issues (mainly market surveillance, standardisation, RAPEX, international cooperation)
- Voting powers (requirements for products, Article 13 Decisions)
2. The revision of the GPSD

- **IMPACT ASSESSMENT**
  - Based principally on questionnaires to all stakeholders
  - **Economic operators (including SMEs):** estimates of cost/benefit analysis of uniform product safety rules for non-harmonised and harmonised consumer products
  - **Member States:** questions on the impacts of single and uniform rules on enforcement and enhanced cooperation and notification mechanisms
  - **Consumers:** possible impacts of the new uniform regime on safety perceptions
Alignment with New Legislative Framework

- **Alignment of definitions and competences of market surveillance authorities (Reg. (EC) No. 765/2008)**
  - Extension of enforcement and reporting mechanisms to the non-harmonised area (e.g. the power to enter business premises for inspection purposes, the obligations to establish market surveillance plans, the obligation to monitor accidents and harm to health which are suspected to have been caused by those products)

- **Alignment of obligations of economic operators (Decision 768/2008/EC)**
  - Extension of product safety obligations of economic operators to non-harmonised area (e.g. the obligation of manufacturers, importers and distributors to accompany the product with safety instructions; obligation of manufacturer and importer to identify themselves and the product etc.)
Simplification of EU legislation

- **Standardisation**
  - Modernise standardisation machinery within the GPSD
  - Ensure faster adoption of European standards
  - Provide for easier takeover of international or widely recognised standards

- **EU “emergency” measures (Novelty Child Resistant Lighters, DMF Decision)**
  - Provide for more flexibility to avoid existing confusion
  - Make the period of validity dependent on a certain pre-determined condition subsequent
  - Direct effect on economic operators

- **Food-Imitating Products Directive (87/357/EEC)**
  - Move the food-imitating product under the general product safety regime
Market surveillance cooperation/coordination (1)

- Market surveillance cooperation
  - Provide permanent platform for cooperation among market surveillance authorities, e.g. for performance of joint actions
    - Extend positive effects impacts of joint actions (such as sunbeds, childcare articles, lighters)
    - Provide for better coordination of Member States in the field of checks and inspections

- Market surveillance coordination
  - Avoid and/or resolve divergences in testing, risk management and risk assessment
    - Prevent divergent safety evaluations of an identical product in different Member States
Market surveillance cooperation / coordination (2)

- **RAPEX**
  - Enhance functioning of RAPEX
    - Align with the notification criteria in the NLF
    - Ensure better fulfilment of obligation of Member States related to RAPEX obligations

- **Unsafe products sold online**
  - Tackle unsafe consumer products sold on the Internet
    - Explore the necessity for providing guidelines on how to apply enforcement measures against dangerous products sold online more effectively (or even specific provisions in general product safety rules)
Thank you for your attention