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NOTE

From:	Presidency
To:	Delegations
Subject:	REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council, and repealing Council Directive 87/357/EEC and Directive 2001/95/EC of the European Parliament and of the Council - Presidency compromise proposal

In document ST 5211/3/22 , on page 54, article 11 should read as follows:

“Article 11

Obligations of distributors

1. Before making a product available on the market, distributors shall verify that the manufacturer and, **where appropriate**, the importer have complied with the requirements set out in Article 8(6), (7) and (8) and Article 10(3) and (4), as applicable.

2. Distributors shall ensure that, while a product is under their responsibility, storage or transport conditions do not jeopardize its conformity with the general safety requirement laid down in Article 5 and its conformity with Article 8(6), (7) and (8) and Article 10(3) and (4), as applicable.
3. Distributors who consider or have reason to believe, on the basis of the information in their possession, that a product is not in conformity with the provisions referred to in paragraph 2, shall not make the product available on the market ~~until~~ **unless** it has been brought into conformity. Furthermore, where the product is ~~not safe~~ **dangerous**, the distributor shall immediately inform the manufacturer or the importer, as applicable, to that effect and shall make sure that, through the Safety Business Gateway referred to in Article 25, the market surveillance authorities are informed.
4. Distributors who consider or have reason to believe, on the basis of the information in their possession, that a product which they have made available on the market is ~~not safe~~ **dangerous** or is not in conformity with Article 8(6), (7) and (8) and Article 10(3) and (4), as applicable, shall ensure that the corrective measures necessary to bring the product into conformity are adopted, including withdrawal or recall, as appropriate. ~~Furthermore, where the product is not safe dangerous, distributors shall immediately inform the manufacturer or the importer, as applicable, to that effect and shall make sure that, through the Safety Business Gateway referred to in Article 25, the market surveillance authorities of the Member State in which they made the product available to that effect are informed giving details, in particular, of the risk to health and safety and of any corrective measure taken.~~

4a. When the product referred to in paragraph 4 is dangerous, distributors shall immediately inform the manufacturer or the importer, as applicable, and shall ensure that the market surveillance authorities of the Member States in which the product has been made available are immediately informed, via the Safety Business Gateway referred to in Article 25, with the appropriate details available to them of the risk to health and safety of consumers, of the number of products involved and of any corrective measure already taken.

4b. When the product referred to in paragraph 4 is dangerous, and without prejudice to the obligations laid down by Articles 33 and 34, distributors shall ensure that consumers are immediately alerted of the risk.

The Commission shall ensure that the information meant to alert consumers can be provided by distributors via the Safety Business Gateway referred to in Article 25 and is made available to consumers on the Safety Gate Portal without undue delay.”
