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WORKING PAPER

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From:	BG delegation
To:	Working Party on Technical Harmonisation (Goods package)
Subject:	BG comments on Article 9 (following the WP meeting on 21 January)

14 January 2019

134	Article 9 Publication of voluntary measures	Article 9 Publication of voluntary measures	Article 9 Publication of voluntary measures	Article 9 Publication of voluntary measures
ARTICLE 9 - PARAGRAPH 1				
135	1. The Commission shall develop and maintain an on-line portal on which economic operators may publish information about measures voluntarily taken by them in relation to a product as defined in Directive 2001/95/EC or a product made available by them on the market, where the risks posed by the product go beyond the territory of one Member State.	1. The Commission shall develop and maintain an on-line portal on which economic operators may publish information about measures voluntarily taken by them in relation to a product as defined in Directive 2001/95/EC or a product made available by them on the market, where the risks posed by the product go beyond the territory of one Member State.	1. The Commission shall develop and maintain an on-line portal on which economic operators may publish information about measures voluntarily taken by them in relation to a product as defined in Directive 2001/95/EC or a product made available by them on the market, where the risks posed by the product go beyond the territory of one Member State.	1. The economic operators may publish information about measures voluntarily taken by them in relation to a product as defined in Directive 2001/95/EC or a product made available by them on the market, where the risks posed by the product go beyond the territory of one Member State, through the Product Safety Business Alert Gateway which already allows them to fulfil their obligations under Article 5(3) of Directive 2001/95/EC. The Commission shall further develop and maintain this digital interface for this purpose.

Commented [A1]: BG has no strong position on this Article. Since it stays optional, BG could be flexible on these provisions.

Basically, we consider that providing for such an option is not a bad idea. Although there could be some duplication with Business Alert Application, it is not so known since it is not included in any act. To our understanding it is the idea of the initial EC proposal to promote the use and publication of such voluntary measures to the public by direct reference in that Regulation.

Only SK supported that Article before!

Commented [A2]: Maybe some clarification is needed what is meant by digital interface. Is it interface or tool (as mentioned in row 137)?

ARTICLE 9 - PARAGRAPH 1				
136	The on-line portal shall be one to which end-users and market surveillance authorities are able to have access.	1. The on-line portal shall be one to which end-users and market surveillance authorities are able to have access.	The on-line portal shall be one to which end-users and market surveillance authorities are able to have access.	<i>To be discussed if this information can be made public</i>
ARTICLE 9 - PARAGRAPH 2				
137	2. If an economic operator chooses to publish information on the portal referred to in paragraph 1, it shall ensure that the product can be precisely identified from the information published and that the risks are explained such that end-users can assess what action it might be appropriate for them to take in response to the risks. The information published shall be provided in all of the official languages of the Member States where the products are made available on the market and the economic operator shall be responsible for the	2. If an economic operator chooses to publish information on the portal referred to in paragraph 1, it shall ensure that the product can be precisely identified from the information published and that the risks are explained such that end-users can assess what action it might be appropriate for them to take in response to the risks. The information published shall be provided in all of the official languages of the Member States where the products are made available on the market and the economic operator shall be responsible for the provision and accuracy of the information.	2. If an economic operator chooses to publish information on the portal referred to in paragraph 1, it shall ensure that the product can be precisely identified from the information published and that the risks are explained such that end-users can assess what action it might be appropriate for them to take in response to the risks. The information published shall be provided in all of the official languages of the Member States where the products are made available on the market and the economic operator shall be responsible for the provision and accuracy of the information.	2. If an economic operator chooses to publish information via the tool referred to in paragraph 1, it shall ensure that the product can be precisely identified from the information published and that the risks are explained such that end-users can assess what action it might be appropriate for them to take in response to the risks. The information published shall be provided in all of the official languages of the Member States where the products are made available on the market and the economic operator shall be responsible for the provision and accuracy of the information. The economic operator may

Commented [A3]: If not made public, then what will be the added value? It's senseless in that way. The idea is to have a positive disciplinary effect. The authorities will anyway have such information.

Commented [A4]: Se above

	provision and accuracy of the information.			make use of an automated translation tool available in the existing digital interface referred to under paragraph 1.
ARTICLE 9 - PARAGRAPH 3				
138	3. Publication referred to in paragraph 1 is without prejudice to any obligations of economic operators under the applicable Union harmonisation legislation or under Directive 2001/95/EC.	3. Publication referred to in paragraph 1 is without prejudice to any obligations of economic operators under the applicable Union harmonisation legislation or under Directive 2001/95/EC.	3. Publication referred to in paragraph 1 is without prejudice to any obligations of economic operators under the applicable Union harmonisation legislation or under Directive 2001/95/EC.	3. Publication referred to in paragraph 1 is without prejudice to any obligations of economic operators under the applicable Union harmonisation legislation or under Directive 2001/95/EC
ARTICLE 9 - PARAGRAPH 3 a (new)				
138A		<i>3a. Consumers must be informed, through an online portal, of rights relating to non-compliant products which they have acquired, such as the right to obtain a replacement for a product or to receive compensation, the right of recourse and contacts from which all appropriate information can be obtained.</i>		<i>This part already covered by adopted regulation on Single Digital Gateway</i>
		AM 75		

Commented [A5]: Wording in para 1 sounds differently – “further develop and maintain”.

Commented [A6]: Considered correct.