Council of the European Union
General Secretariat

Interinstitutional files:
2021/0170(COD)

Brussels, 18 October 2021

WK 12349/2021 INIT

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NOTE

From:	Delegation of Malta
To:	Working Party on Consumer Protection and Information
Subject:	Proposal for a Regulation on general product safety -Written comments on Chapters I, II and V from Malta

MT Comments re Chapters I, II & V – Proposal for a Regulation on General Product Safety

Article 2

- A common approach on both harmonized and non-harmonized products in the scope is an improvement, as it will help both public authorities and economic operators. The simplicity of the scope for GPSR is a step in the right direction, nevertheless it would be better if the scope would be more clearly defined.
- A clarification on the definition or a reference where "Antique" and "reconditioned products" are defined would be very welcome.

Article 3

- Concerns related to market surveillance subsist with regard to the definition of 'safe product', and the reference to misuse. How would the definition of 'safe product' affect market surveillance since it now includes reference to misuse? Would this require market surveillance authorities to adopt a wider view when investigating products for their safety, in such a way as to also consider scenarios of misuse? It would be appreciated if the Commission can clarify whether the term 'misuse' will apply for all products falling under the GPSR?

Article 4

- The Commission clarified that the criteria stated in Article 4(2) do not have to be met concurrently. However, as previously noted by MT, if the criteria in 4(2) are not to be met simultaneously, then the use of the term 'shall' should be reconsidered, as the current drafting gives the impression or demands concurrent applicability.
- While the clarification by the Commission, made with respect to Article 4(2) is positive, it may be better if the text is inserted with the recitals. Moving the provision to the guidelines, would also be acceptable.
- Moreover, the issue concerning languages should also be taken into account, as many languages are shared with third countries.

Article 6

- The understanding of Article 6(2) is that the Commission will be adopting implementing acts to determine which clauses of European standards shall be applicable to demonstrate product safety. If this is the case, these implementing acts are envisaged to facilitate the work of market surveillance authorities and provide enhanced support to economic operators to fulfil their obligation under Article 5. Could the Commission confirm the above and/or provide further clarifications?
- It would be preferable to change the term 'evidence' within Article 6(3) to 'reasonable doubt'. We await the opinion of the legal services.

Article 7

- Could the Commission provide clarifications on Article 7(1)(a) and (b) as these are expected to significantly increase the complexity of investigations undertaken by market surveillance authorities.
- How would the inclusion of the term "maintenance" under Article 7(1)(a) affect the work of market surveillance? It would be appreciated if the Commission could confirm if this implies the need for market surveillance authorities to assess products for their safety throughout their lifetime even if not covered by national legislation and despite being lawfully placed on the market?
- It would be appreciated if the Commission can elaborate on the type of risks that are being envisaged in Article 7(1)(h). Much like for Article 7(1)(a) and (b), this type of assessment substantially increases the complexity of market surveillance investigations, raising issues related to availability of resources and capacity and the associated administrative and financial burdens.

Article 21

In relation to Article 21(2)(a) and in general terms regarding the interplay and application of Regulation (EU) 2019/1020 and the GPSR:

- Article 10(2) of Regulation (EU) 2019/1020 requires Member States to designate market surveillance authorities and inform the Commission and other Member States using ICSMS. It would be appreciated if the Commission can clarify how this will work under the GPSR, as the areas of competences are not clearly defined under this Regulation.
- Are Member States expected to appoint another Single Liaison Office (SLO) for the purpose of the GPSR? Can the SLO for Regulation (EU) 2019/1020 and the GPSR be different?
- Can the Commission confirm whether it intends to establish different uniform conditions of checks for the GPSR when compared to those established under Regulation (EU) 2019/1020 [Article 11(4) of Regulation (EU) 2019/1020]?
- It would be appreciated if the Commission can confirm whether it expects Member State to develop two market surveillance strategies, one for the GPSR and another one in line with Article 13 of Regulation (EU) 2019/1020?

Article 22

- Article 22 is burdensome on Member States especially when considering that market surveillance indicators have already been introduced by the EUPCN. It is suggested that a single set of indicators is maintained and that information is extracted automatically from systems used by the market surveillance indicators.