



Council of the European Union
General Secretariat

**Interinstitutional files:
2017/0353(COD)**

Brussels, 14 January 2019

WK 471/2019 INIT

LIMITE

**ENT
MI
CONSOM
COMPET
UD
CHIMIE
COMER
CODEC**

WORKING PAPER

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

WORKING DOCUMENT

From:	Presidency
To:	Working Party on Technical Harmonisation (Goods package)
Subject:	Regulation on market surveillance - the proposals for art.8

	Commission Proposal	EP Mandate	Council General Approach	Draft Agreement
CHAPTER III				
129	Article 8 Memoranda of understanding with stakeholders	Article 8 Memoranda of understanding with stakeholders <i>Cooperation between market surveillance authorities and economic operators</i> AM 68	Article 8 Memoranda of understanding with stakeholders <u>Joint awareness raising and information campaigns</u>	Article 8 <u>[Cooperation for awareness raising and information campaigns with stakeholder]</u>
ARTICLE 8 - PARAGRAPH 1 - SUBPARAGRAPH 1				
130	1. Market surveillance authorities may enter into memoranda of understanding with businesses or organisations representing businesses or end-users for the carrying out, or financing, of joint activities aimed at identifying non-compliance or promoting	Market surveillance authorities may enter into memoranda of understanding with businesses <i>economic operators</i> or organisations representing businesses <i>economic operators, other relevant authorities</i> or end-users for the carrying out, or financing, of joint activities aimed at <i>raising awareness,</i>	1. Market surveillance authorities may, <u>in compliance with national legislation,</u> enter into memoranda of understanding <u>agree</u> with businesses <u>other relevant authorities,</u> or organisations representing businesses <u>economic operators</u> or end-users for <u>on</u> the carrying out, or financing, of joint activities aimed at identifying non-compliance or	<u>[1. Market surveillance authorities may, in compliance with national legislation,</u> agree with other relevant authorities, <u>economic operators, groups of economic operators or organisations representing economic operators</u> or end-users on carrying out joint activities aimed at promoting compliance, <u>raising awareness, providing advice and guidance</u> and identifying non-compliance in relation to the Union harmonisation

	Commission Proposal	EP Mandate	Council General Approach	Draft Agreement
	compliance in specific geographical areas or with respect to specific categories of product.	<p><i>providing advice and guidance in relation to the Union harmonisation legislation, promoting voluntary actions, identifying non-compliance or promoting compliance in specific geographical areas or with respect to specific products, including the products sold online, or categories of products, in particular the ones that are often found to be presenting a serious risk.</i></p> <p>AM 69</p>	<p>promoting compliance, <u>raising awareness and providing advice and guidance in relation to the Union harmonisation legislation</u> in specific geographical areas or with respect to specific categories of products, <u>in particular the ones that are often found to be presenting a serious risk, including the products sold online.</u></p>	<p><u>legislation, with respect to categories of products, in particular the ones that are often found to be presenting a serious risk, including the products sold online.</u></p>
ARTICLE 8 - PARAGRAPH 1 - SUBPARAGRAPH 1 a (new)				
130A		<p><i>Where a memorandum of understanding is concluded with economic operators directly, it shall not preclude other economic operators who make available on the market products of the same category to request</i></p>		<p>[1a. Where an agreement is concluded with a group of economic operators, it shall be open to be joined by other economic operators who make available on the market products of the same category.]</p>

	Commission Proposal	EP Mandate	Council General Approach	Draft Agreement
		<p><i>to join that memorandum.</i></p> <p>AM 70</p>		
ARTICLE 8 - PARAGRAPH 1 - SUBPARAGRAPH 2				
131	The market surveillance authority in question shall make the memorandum available to the general public and shall enter it in the system referred to in Article 34.	<p>The market surveillance authority in question shall make the memorandum available to the general public, <i>the Commission and Member States</i> and shall enter it in the system referred to in Article 34-, <i>along with the details of the scope of the memorandum and the names and the addresses of the parties involved.</i></p> <p>AM 71</p>	<p>The market surveillance authority in question shall make the memorandum available to the general public and shall enter it in the system referred to in Article 34.</p>	<p>[1 b. The market surveillance authority in question and the parties referred to in paragraph 1 shall ensure that any such agreement does not create unfair competition between economic operators and does not contain provisions that affect the objectivity, independence and impartiality of the market surveillance authority concerned.]</p>
ARTICLE 8 - PARAGRAPH 1 - SUBPARAGRAPH 2 a (new)				
131A		<p><i>The Network established under Article 31 shall, at the request of a Member State, assist in the drawing up and</i></p>		<p>[2. The market surveillance authority in question shall make available to the general public any agreement it concluded, including the names of the parties involved,</p>

	Commission Proposal	EP Mandate	Council General Approach	Draft Agreement
		<p><i>implementation of the memoranda of understanding.</i></p> <p>AM 72</p>		and shall upload such agreement in the system referred to in Article 34.]
ARTICLE 8 - PARAGRAPH 1 a (new)				
131B		<p><i>A market surveillance authority and the parties referred to in paragraph 1 entering into memoranda of understanding, shall ensure that such memoranda do not create unfair competition between economic operators and contain provisions so as to safeguard the confidentiality, the objectivity, independence and impartiality of the parties, the information and the activities concerned. Where any of the parties breach any of these provisions, a memorandum of</i></p>		[Maintain GA]

	Commission Proposal	EP Mandate	Council General Approach	Draft Agreement
		<i>understanding shall be terminated.</i> AM 73		
ARTICLE 8 - PARAGRAPH 2				
132	2. A market surveillance authority may use any information resulting from activities carried out or financed by other parties to a memorandum of understanding entered into by it under paragraph 1 as part of any investigation undertaken by it into non-compliance, but only if the activity in question was carried out independently, impartially and without bias.	2. A market surveillance authority may use any information resulting from activities carried out or financed by other parties to a memorandum of understanding entered into by it under paragraph 1 as part of any investigation undertaken by it into non-compliance, but only if the activity in question was carried out independently, impartially and without bias.	2. A market surveillance authority may use any information resulting from activities carried out or financed by other parties to a memorandum of understanding entered into by it under paragraph 1 as part of any investigation undertaken by it into non-compliance, but only if the activity in question was carried out independently, impartially and without bias.	[Maintain GA]
ARTICLE 8 - PARAGRAPH 3				
133	3. Any exchange of information between market surveillance	3. Any exchange of information between market surveillance	3. Any exchange of information between market surveillance authorities and	[3. Any information provided to the market surveillance authorities by any stakeholders for the purposes of

	Commission Proposal	EP Mandate	Council General Approach	Draft Agreement
	<p>authorities and businesses or organisations referred to in paragraph 1 for the purposes of preparing or implementing a memorandum of understanding entered into by them under that paragraph shall be deemed not to infringe the requirements of professional secrecy.</p>	<p>authorities and businesses or organisations <i>the parties</i> referred to in paragraph 1 for the purposes of preparing or implementing a memorandum of understanding entered into by them under that paragraph shall be deemed not to infringe the requirements of professional secrecy.</p> <p>AM 74</p>	<p>businesses or organisations referred to in paragraph 1 for the purposes of preparing or implementing a memorandum of understanding entered into by them under that paragraph shall be deemed not to infringe the requirements of professional secrecy.</p>	<p>preparing or implementing an agreement as referred to in paragraph 1, shall be deemed not to contain or disclose professional and commercial secrets.]</p>