

Consumer Safety Package – IFIA Position Paper

23rd August 2013

IFIA, The International Federation of Inspection Agencies¹, is a trade association that represents more than 40 of the world's leading international testing, inspection and certification companies, with a combined turnover of over €14 billion and over 220,000 employees. Their activities encompass every aspect of inspection, certification and related testing.

In February 2013, the Commission proposed the product safety and market surveillance package to update rules in line with market developments, with the goals of creating greater safety for consumers and greater certainty for economic operators. IFIA supports these objectives and expresses its general support for the package but would like to make some suggestions on how to improve certain provisions so as to reach the stated goals.

1. Consumer Product Safety Regulation

CE/CE+ mark

IFIA is concerned that the current CE marking system does not provide adequate information and protection to consumers. It commonly leads to the misconception among consumers that products have been tested for safety purposes before being released onto the market. In reality CE marking only requires manufacturers to declare that a product is in conformity with EU law or standards. Additionally, because the CE mark has no owner, there is no entity to pursue in instances of fraudulent use by manufacturers or suppliers of products, (some of which may be counterfeit) bearing CE marks. As a result, counterfeited CE marking on products is a fact of life in Europe.

IFIA therefore supports the idea to reform the CE marking system. The Parliament Rapporteur, Ms Schaldemose MEP proposes an additional CE marking system, named 'CE+', (**Amendment 52/Article 6a**), which IFIA understands would be similar to the German *Geprüfte Sicherheit* (GS) mark – only products which have been tested and certified by a body recognised by ZLS receive a GS mark. IFIA would however like to offer a variation, which we have termed an 'enhanced' CE mark and which we believe will address the core problems of the current CE marking system.

Rather than creating a CE and a CE+ system, IFIA proposes the following:

1. After a deadline for implementation, the application of the CE mark alone, as we know it today, would not be permitted on products and packaging.
2. At the same time, the Declaration of Conformity supported by CE marking would continue to be a requirement as part of the product's technical file and remain as a demonstration to the authorities of the product's compliance. The Declaration of Conformity would continue to be inclusive of all applicable directives and regulations that pertain to the product – as is currently the case (i.e. no change).
3. However, a visible CE mark on the product and packaging itself will be permitted, but only once that product has been found compliant with all the applicable directives and regulations by a recognised

¹ Founded in 1982, IFIA aims to improve the methods, standards, safety procedures and rules used by its members for the benefit of both them and their stakeholders. IFIA members' activities encompass every aspect of inspection, certification and related testing. IFIA members agree to uphold the highest standards of quality and integrity by applying appropriate technical and professional standards for all aspects of their work, implementing quality assurances programmes throughout their organisations, implementing appropriate methods of technical training and assessment, adhering to all applicable safety conventions and IFIA's guidelines and adhering to IFIA's Compliance Code. Please see www.ifia-federation.org for further information about the wide range of IFIA's activities.

independent and accredited certification body. This CE mark should be accompanied by the mark of the certification body. The enhanced CE marking would be applied on a voluntary basis.

IFIA believes this proposal would have several significant advantages:

1. It would reform the CE marking system without introducing a new layer of CE marking or new marking altogether. The continuation of a single-tier system would prevent any confusion that could arise from using a parallel system of CE and CE+ marks.
2. An 'enhanced' CE mark would benefit consumers and is likely to restore trust in the credibility of the CE mark over time, since only products which have been subject to independent testing and certification would bear the enhanced CE mark.
3. By linking the CE mark with the name or mark of the certification body, that organisation will have a vested interest in ensuring that its reputation is not negatively impacted through the misuse of the mark. The active interest of a mark owner would result in enhancing the traceability of the product over its full lifecycle and enforcing stronger anti-counterfeiting measures, which would be of value to the entire supply chain.

Concern is often expressed that the use of third party testing, inspection and certification imposes an additional cost burden on manufacturers, particularly SMEs. However, the cost of testing to ensure compliance is the same regardless of whether the testing is performed by a first party or an independent third party, since the same amount of time, engineering expertise and capital investment in testing equipment is required. Both competition and the economies of scale that independent third parties can achieve can drive down costs. When calculating the costs of testing for compliance it is necessary to consider the volume of those products that benefit from the fees for testing and certification services for complete product categories. The per product cost for independent testing and certification in these cases is so small it is virtually impossible to calculate.

IFIA has data, collected through third party surveys performed over the last three years that reveal the extent to which CE marking, where not supported by independent testing, appears on large numbers of actively unsafe products. In several product areas, the marking appears on non-conforming products in a majority of cases.

Scope

IFIA supports the Rapporteur's proposed **Amendment 37/Article 2.4** to extend the application of Chapters 2 and 3 to harmonised products for those aspects and risks not covered by the sectoral legislation. This would create a more level playing field and greater certainty for economic operators. IFIA also supports the inclusion of the concept of an enhanced CE marking as part of Chapter 1 to apply to all products.

Standardisation request

IFIA supports the Rapporteur's proposed **Amendment 69** which would mandate the Commission to consult 'all relevant stakeholders' before making a request to draft a European standard. IFIA recommends that the term 'all relevant stakeholders' is defined to include third party testing, inspection and certification body representatives, as parties who can contribute specialist expertise to decisions on how standards can be developed that will effectively contribute to product safety.

2. Market Surveillance of Products Regulation

Compulsory third party auditing

IFIA supports Parliament Rapporteur Sirpa Pietikäinen's proposed amendment calling on the Commission to look at compulsory third party auditing schemes (**Amendment 9/Recital 29a; Amendment 65/Article 33**). However IFIA believes that the amendment would be enhanced by reference to third party conformity assessment schemes as opposed to simply 'auditing', which would link market surveillance activities to IFIA's proposed introduction of an enhanced CE mark, in relation to the Consumer Product Safety legislation. The use of third party conformity assessment schemes would provide enhanced pre-market surveillance and reduce the frequency requirement for post-market surveillance, thereby increasing the effectiveness of surveillance authorities while reducing the cost of post-market activities.

EU reference laboratories

IFIA supports the Rapporteur's proposed amendment to require EU reference laboratories to be accredited in the same way as independent third party conformity assessment bodies (**Amendment 59**). Additionally, IFIA believes that there should be provisions for reference laboratory activities to be sub-contracted to competent independent third parties, as for example are food reference laboratory activities in certain European countries, thereby saving authorities time, money and other resources.

Sub-contracting

IFIA believes it is important to specify that market surveillance authorities can sub-contract technical tasks to independent third party conformity assessment bodies with the necessary expertise, in order to prevent any bottleneck due to lack of expertise or resources and to ensure that market surveillance authorities can leverage the expertise available in the private sector to help them achieve their mandate for the protection of health, safety and the environment. IFIA proposes the introduction of a new amendment to **Article 5**, Market surveillance authorities to specify this, which would align it with the current 'Blue Guide': 'The surveillance authority may subcontract technical tasks (such as testing or inspection) to another body.'

Sample checks

IFIA proposes the introduction of a new amendment in relation to **Article 6**, General obligations of market surveillance authorities to specify the criteria for sample checks:

'To ensure equivalent and adequate levels of market surveillance activities throughout the entire European internal market, the criteria for deciding the number of check samples should be specified.'

European Market Surveillance Forum

IFIA supports the establishment of a European Market Surveillance Forum and the establishment of sub-groups (**Art 25.5**). IFIA proposes the introduction of a new amendment in relation to **Art 25.5**:

'The EMSF should invite representatives of conformity assessment bodies to attend meetings and provide written contributions as full participants',

in order to provide relevant practical assistance to the market surveillance authorities.

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