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EU General Product Safety Regulation (GPSR) Changes for Marketplaces and New Technologies

The European Union's (EU) new general product safety Regulation is expressly taking into account the growing arena of digital and online marketplaces, as well as new considerations for the role of technology in both consumer good markets and regulation.

Published in the official journal of the European Union on 23 May 2023 and entering into force on 13 December 2024, the new EU general product safety Regulation includes the provision of new responsibilities for providers of online marketplaces as well as acknowledgement of the role of new technologies as both a subject and tool of market regulation and surveillance.

Economic operators looking to harness new technologies or online marketplaces to advance their business in the EU should be aware of the Regulation's new provisions and anticipate the measures to comply in due time with the new obligations put in place by the Regulation.

Changes for Marketplaces

Much of the Regulation serves to fill, what the EU Commission has identified, as gaps in EU consumer protection due to the emergence of new technologies and the growth of online marketplaces. Not only in acknowledgement of the risk that new technologies can pose to consumer safety, but in the capacity of new technology to aid in product safety regulation and market surveillance.

The Regulation uses the marketplaces as a tool to reach its objectives, through Article 22 dedicated to their role. The marketplaces will have to facilitate the cooperation with Market Surveillance Authorities and are now required to take active steps to not having content on their platform related to products presenting safety issues.

Regarding the cooperation with market surveillance authorities, the Regulation requires from the marketplaces to:

- Designate a single point of contact for direct communication with the market surveillance authorities in relation to product safety issues, and indicate this information on the Safety Gate Portal after registration. A single point of contact must also exist but for direct communication with consumers in relation to product safety issues.
- Take the necessary measures to receive and process, within two working days, the orders to remove content referring to dangerous products received from market surveillance authorities. This also applies to content with identical products of the one identified in the order. To comply with Article 16 of the DSA, marketplaces shall also process the notices received from consumers related to product safety issues within three working days from receipt.
- Take into account information provided by market surveillance authorities on dangerous products through the Safety Gate Portal to take voluntary measures that aim at detecting, identifying, removing or disabling access to their content offering dangerous products.
- To comply with Article 31 of the DSA by designing and organising their online interface in a way that enables traders to provide, at least, the mandatory information specified by the Regulation. The online marketplaces shall ensure that this information is displayed on the product listing or made easily accessible by consumers. This information is the name and address of the manufacturer or its responsible person in the EU; if the manufacturer is not established in the EU, information on the identification of the product, any warning of safety information to affixed on the product or to accompany it.
- Have internal processes with regards to product safety in order to comply without undue delay to the Regulation notably by enabling the traders to provide the above information required by the Regulation and the self-certification by which traders commit to offer only compliant products.
- Suspend their services to traders frequently offering non-compliant products.



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- Cooperate with market surveillance authorities to, at least, mitigate the risks presented by a product that was offered through the marketplace. This must be done by quite precise actions listed in the Regulation.

With the GPSR, marketplaces have a responsibility and a role to play in the EU product safety scheme.

However, it should be underlined that the Regulation does not put in place any confusion on the role and liabilities of each actor. Therefore, the marketplaces have only obligations relating to the design of their platform and its content, but not on the products directly which are under the liability of the manufacturer, authorised representatives, importers or distributors.

These elements of the Regulation introduce a multifaceted responsibility for product safety that the EU supports regardless of how the product is sold (in-store, online, direct, via marketplaces).

Emergence of New Technologies

The new Regulation acknowledges the need to revise and update existing market regulations to meet the growth of new technologies. A new tenet of product risk assessment outlined in the Regulation includes the consideration and analysis of the potential that software and technology updates or changes could have on the safety characteristics of existing products. In addition, economic operators will be asked to consider the potential of new technologies in the context of cybersecurity risks when conducting design and risk analysis of technology products.

In addition to this, the Regulation provides that the market surveillance authorities must constantly improve the technological tools they use. The new Regulation also establishes the Consumer Safety Network, which is "*A European network of the authorities of the Member States competent for product safety*" in which they exchange information, coordinate and cooperate with the European Commission about consumer product safety (Art. 30).

The new platform will also be a place for information exchange between its members on the recent scientific development of new technologies, as provided by the Regulation. Furthermore, the Regulation also highlights the use of new technologies and digital processes to improve the functioning of the Safety Gate, a key EU tool for product safety and surveillance.

To ensure a fair playing field at international level, the Regulation also provides that the EU Commission may collaborate with international organisations and authorities on many subjects, including the use of new technologies to improve product safety and traceability.

By December 2029, the EU Commission will release a report analysing whether the regulation has been able to face the challenges posed by new and emerging technologies.

Economic operators in the EU should therefore be prepared to meet the challenges of these advancements by taking steps to ensure internal compliance is in place with the new General Product Safety Regulation by December 2024.



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