



## **Comments by the European Tool Committee CEO on the EC proposal for a General Product Safety Regulation**

### **Preface**

CEO represents leading European manufacturers of hand tools and accessory tools for power tools. Most of them are SMEs.

Product safety is one of the most important issues for our members and our association.

The safety requirements for most of our products are defined by ISO standards or national standards.

In the past years, most of the questions raised by our member companies regarding the implementation of the General Product Safety Directive (GPSD) were about marking and user information, because both requirements lead to higher internal efforts and costs for the companies, while the additional value for the end user is not always clear.

Therefore, our comments on the proposal for a General Product Safety Regulation are focussed on those aspects. Some of the new or tightened requirements on marking and user information in the proposal could lead to higher costs for the end users, in addition to the recent cost increases caused by higher prices for material and energy.

Another issue with the GPSR are differences in the national implementation. Therefore, we welcome the proposed conversion of the present directive into a regulation.

We would also welcome to harmonise the proposal for the GPSR as far as possible with the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on machinery products (ref. COM(2021) 202 final, 2021/0105 (COD)).

Please find our detailed comments in the annexed table.

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## CEO comments on the European Commission's proposal for a product safety regulation

No	Article/sentence	Text proposed by the EC	Comment/arguments	Proposal for amendment
	General		The draft is very complex, unclear and less SME-friendly. Thus, the obligations of manufacturers are divided into several articles.	Restructure the draft to enable a quick overview on the obligations for manufacturers.
			Some new or tightened obligations for manufacturers will lead to increased prices for end users. The extended obligations regarding the marking of the product or the packaging and the user information will lead to higher consumption of packaging and paper. In opposite to the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on machinery products (COM(2021) 202 final,2021/0105 (COD)), this aspect is not taken into account in the proposal for a product safety regulation.	Harmonise definitions, requirements etc. between both legislative proposals.
1.	Title		The choice of a regulation as a legal form is to be welcomed in order to ensure uniform application in all Member States.	—

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2.	Article 3 2.	'safe product' means any product which, under normal or reasonably foreseeable conditions of use or misuse, including the actual duration of use, does not present any risk or only the minimum risks compatible with the product's use, considered acceptable and consistent with a high level of protection of health and safety of consumers;	The introduction of 'misuse' represents an unjustified tightening of the current legal situation and creates very high legal uncertainty for all economic operators.	'safe product' means any product which, under normal or reasonably foreseeable conditions of use <del>or misuse</del> , including the actual duration of use, does not present any risk or only the minimum risks compatible with the product's use, considered acceptable and consistent with a high level of protection of health and safety of consumers;
3.	Article 4: Distance sales		The explicit inclusion of distance sales of products is to be welcomed.	—
4.	Article 6 (1) (b)	...in the absence of European standards referred to in point (a), as regards the risks covered by health and safety requirements laid down in the law of the Member State where the product is made available on the market, if it conforms to such national requirements.	It should be clarified that such a product fulfils the presumption of safety in all Member States, see also Regulation (EU) 2019/515 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 March 2019 on the mutual recognition of goods lawfully marketed in another Member State.	...in the absence of European standards referred to in point (a), as regards the risks covered by health and safety requirements laid down in the law of <del>the</del> <b>one</b> Member State where the product is made available on the market, if it conforms to such national requirements.

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5.	Article 6 (2)	The Commission shall adopt implementing acts determining the specific safety requirements necessary to ensure that products which conform to the European standards satisfy the general safety requirement laid down in Article 5. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(3).	Such a power of the Commission may lead to an erosion of the established system of European standardisation and to legal uncertainty for economic operators.	Delete paragraph or establish clear and restrictive conditions under which the Commission can use this instrument.
6.	Article 7 (1)	Where the presumption of safety laid down in Article 5 does not apply,...	Incorrect reference to Article 5 instead of 6.	Where the presumption of safety laid down in Article 5 <b>6</b> does not apply,...
7.	Article 7 (3) (b) and (c)	(3) For the purpose of paragraph 1, when assessing whether a product is safe, the following elements, when available, shall be taken into account, in particular: ... (b) international standards; (c) international agreements;;	When applying international standards and international agreements, it shall be ensured that they are consistent with the protection objectives of this Regulation.	3) For the purpose of paragraph 1, when assessing whether a product is safe, the following elements, when available, shall be taken into account <b>in so far as they are consistent with the protection objectives of this Regulation</b> , in particular: ...
8.	Article 7 (3) (f)	(f) national standards drawn up in the Member State in which the product is made available;	see 4	(f) national standards drawn up in <del>the</del> <b>one</b> Member State in which the product is made available;

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9.	Article 8 (7)	<p>Manufacturers shall indicate their name, registered trade name or registered trademark and the postal and electronic address at which they can be contacted on the product or, where that is not possible, on its packaging or in a document accompanying the product. The address shall indicate a single contact point at which the manufacturer can be contacted.</p>	<p>The indication of the full postal address on the product gives rise to technical problems and increased costs for many products and, as the validity of this information is not verified, it does not provide a better basis for enforcement of the Regulation than an internet address.</p> <p>From the manufacturer's point of view, the indication of the registered trade name or trade mark together with an internet address (website) is sufficient.</p>	<p>Manufacturers shall indicate their name, registered trade name or registered trademark <b>or internet address (e. g. by a non removable QR code with geo location) or</b> <del>and</del> the postal and electronic address at which they can be contacted on the product <del>or, where that is not possible,</del> on its packaging or in a document accompanying the product. The address shall indicate a single contact point at which the manufacturer can be contacted.</p> <p><b>If only an internet address is provided, the website accessible below shall comply with this requirement.</b></p>

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10	Article 8 (8)	<p>Manufacturers shall ensure that their product is accompanied by instructions and safety information in a language which can be easily understood by consumers, as determined by the Member State in which the product is made available. This requirement shall not apply where the product can be used safely and as intended by the manufacturer without such instructions and safety information.</p>	<p>Manufacturers cannot ensure that this information actually reaches the consumer. As consumers cannot be expected to keep this information throughout the lifetime of the product, making them available on the internet is the better solution. However, the manner in which it is made available should not be specified.</p> <p>Drawings or pictograms have become common for many safety notices around the world.</p> <p>For accessories (e. g. grinding tools), safety information should be provided primarily by the manufacturer of the product for which it is intended (e. g. angle grinders).</p>	<p>Manufacturers shall ensure <b>that the consumers can access that their product is accompanied</b> by instructions and safety information in a language which can be easily understood by consumers, as determined by the Member State in which the product is made available. This requirement shall not apply where the product can be used safely and as intended by the manufacturer without such instructions and safety information. <b>The information may also be provided in the form of appropriate drawings or pictograms. In the case of accessories, duplication with the information already provided by the manufacturer of the product for which it is intended, shall be avoided.</b></p>

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11	Article 15 (2)	... the economic operator referred to in Article 4(1) of Regulation (EU) 2019/1020 shall periodically carry out sample testing of randomly chosen products made available on the market. ...	Such a general obligation leads to avoidable burdens on manufacturers. The objective of these rules may also be achieved through the internal measures referred to in Article 8.	Requirement to be deleted. ... <del>where justified by the potential risks posed by a product,</del> the economic operator referred to in Article 4(1) of Regulation (EU) 2019/1020 shall periodically carry out sample testing of randomly chosen products made available on the market.
12	Article 19, title	Obligations of economic operators in case of accidents or safety issues related to products	The article refers only to accidents and not to safety issues.	Obligations of economic operators in case of accidents <del>or safety issues</del> related to products
13	Article 19	(1) The manufacturer shall ensure that, through the Safety Business Gateway referred to in Article 25, an accident caused by a product placed or made available on the market..." (2) The importers and the distributors which have knowledge of an accident caused by a product...	It should be clarified that this obligation only applies in case of accidents caused by a lack of product.	(1) The manufacturer shall ensure that, through the Safety Business Gateway referred to in Article 25, an accident caused by a product <b>failure</b> placed or made available on the market..." (2) The importers and the distributors which have knowledge of an accident caused by a product <b>failure</b> ...
14	Article 30		The possibility of such coordinated control actions at European level is warmly welcomed.	—