

The European Tech Alliance Welcomes the General Product Safety Regulation Proposal

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Foreword

The European Tech Alliance (EUTA) welcomes the European Commission's revision of the General Product Safety Directive. The new proposal for a Regulation on General Product Safety (GPSR) aims at strengthening consumer protection by ensuring that only safe products are sold on the EU internal market. The proposal creates a modernised safety net for harmonised and non-harmonised products and more consistency within the EU in the way market surveillance authorities cooperate. We perceive the GPSR as an important element to complete modernisation of the EU product safety legal framework.



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Consistency with Existing and Upcoming Legislation

In this context we'd like to underline the importance of ensuring consistency with both existing policy provisions, especially those established by Regulation (EU) 2019/1020 on market surveillance, as well as with the proposals currently in the legislative pipeline, in particular the Digital Services Act (DSA).

In our opinion, the GPSR is the right legislative instrument to address product safety issues and codify the obligations online marketplaces should comply with to ensure adequate consumer protection. To do this, however, it is crucial for the DSA and the GPSR to build upon the general principles of the existing e-commerce directive, namely the liability exemption and general monitoring obligation prohibition for hosting service providers, including online marketplaces. On the importance of the liability exemption, in particular, we would like to stress that this provision remains an essential element for the functioning and development of online intermediaries -including online marketplaces, and it shall therefore not be undermined.

For this reason, we are strongly concerned about the changes that have been proposed by some co-legislators in the DSA legislative procedure, which would fragment the liability regime by establishing a special regime for online marketplaces, separate from that of other online intermediaries and contrary to the European Commission's approach in the DSA proposal, which we believe strikes a good balance on the obligations marketplaces should be subject to.

Balanced Approach

The EUTA supports the European Commission's balanced approach on the distribution of obligations between relevant economic operators and other actors in the GPSR proposal. We appreciate that the proposal assigns manufacturers, distributors and importers leading roles in ensuring product safety and acknowledges platforms' and fulfilment centres' auxiliary positions. It is important that obligations are proportionate to the level of engagement and capacities of a given actor in the supply and distribution chain.

Scope

We welcome the approach of the proposal, which follows the logic of the General Product Safety Directive by covering equally all consumer products, regardless of whether they are sold in bricks-and-mortar shops or online, while at the same time introducing new, tailored, explicit provisions addressing the specificities of distance sales via online marketplaces. Nonetheless, we believe it is important to ensure equal modernised enforcement mechanisms both for online and offline commerce.



We believe that the GPSR requirements should not apply to second-hand products, as it would be extremely difficult to check them to ensure that they meet the original safety standards. We are afraid that strict obligations in this area can hamper the development of second-hand commerce which helps to extend the lifespan of existing products and with that promote sustainability and a circular economy. We also believe that the GPSR should not apply to Consumer-to-Consumer (C2C) transactions.

Therefore we are also of the opinion that the definition of "online marketplace" should better take into account differences among our business models, as these result in different product oversight capabilities. We believe that the approach adopted in the Omnibus Directive, should be updated to take into account different specificities. However it is also important not to create any loopholes between the DSA and the GPSR approach.

Marketplaces' obligations based on the Product Safety Pledge commitments

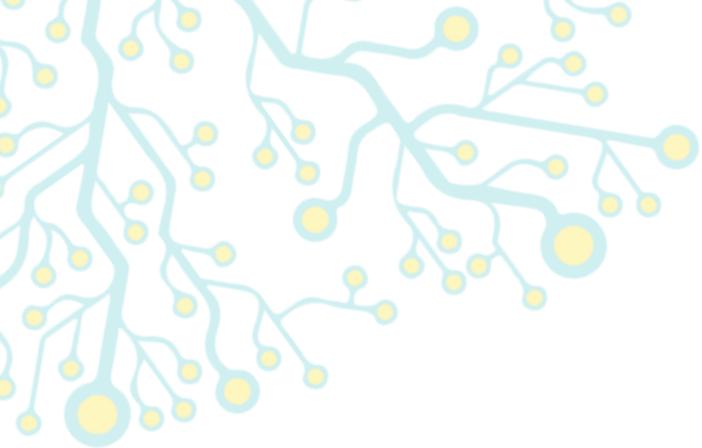
We agree that online marketplaces play an important role - allowing economic operators to reach a large number of consumers with their products - and should therefore play a role in the product safety legislative framework. We have established internally a number of measures beyond

direct legal obligations which aim at maintaining our platforms safe. We have also established good relationships with national and local competent authorities and participated in various cooperation mechanisms or voluntary agreements with local national authorities. In the EU context, we have also contributed to consumer safety through voluntary agreements and initiatives: the Product Safety Pledge, the Memorandum of Understanding on Counterfeit Goods and COVID-19 related consumer scams reporting. We appreciate that the online marketplaces' obligations (including deadlines) proposed in the GPSR, are largely based on the Product Safety Pledge commitments. We believe this demonstrates how this initiative's positive experience can serve as a standard setter for future regulation.

Safety of products from third countries and effective enforcement

In the global supply chain it is important to ensure that goods are safe for consumers and comply with EU rules wherever they come from. A situation (which also includes the 'drop shipping'¹ practice), where no official importer or distributor based in the EU is responsible for products coming from third countries, creates a series of compliance and safety risks. These risks should be mitigated by the solution from the Regulation (EU)

¹ Drop shipping is a form of retail business wherein the seller accepts customer orders but does not keep goods sold in stock. Instead, in a form of supply chain management, it transfers the orders and their shipment details to either the manufacturer, a wholesaler, another retailer, or a fulfillment house, which then ships the goods directly to the customer.



2019/1020 on market surveillance that products should only be placed on the EU market if there is an economic operator established in the EU. We support the idea, however it has to be acknowledged that regulation 2019/1020 has just entered into force and in practice it is still difficult for sellers of harmonised products to find economic operators in the EU.

Clarifications required on some of the operational obligations

We believe that some elements of the proposed obligations for online marketplaces in the GPSR may benefit from additional clarity:

- **Obligation to provide access to the interface:** we would like to receive more clarifications concerning the obligation for online marketplaces to provide access to interfaces and share data with market surveillance authorities, when requested. In our view, this lacks a clear rationale for why such far-reaching access is necessary and how this is connected with the GDPR principles. We advocate in favour of a case by case assessment;

- **Timeframe for action:** according to the proposal marketplaces should provide an appropriate answer to reports of unsafe or dangerous products within 5 working days. It is unclear to us what is meant by providing ‘an appropriate answer’. As an online marketplace, we are dependent on the information sellers provide us with.

Finally, we would like to encourage the Commission to **improve the Safety Gate system** in order to add necessary precision to the product safety notifications. Only with accurate data can we efficiently address notices related to product safety issues and dangerous products.

Final say



The EUTA will continue to analyse the text of the GPSR proposal in order to contribute to the ongoing policy debate and its members would be happy to provide use-cases and examples of product safety challenges in the online environment. Our ambition is to help to improve the general safety of products in the EU to the benefit of consumers.

