

Surveillance stalemate

Market surveillance faces being bogged down by bureaucracy, says BITA's technical consultant, **Bob Hine**.



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» I don't need to remind anyone within the industry how important effective market surveillance is. We are all well aware that operator safety is best protected by ensuring that every piece of materials handling equipment entering the EU is manufactured in compliance with the Machinery Directive 2006/42/EC and other relevant standards.

Failure to rigorously enforce compliance through market surveillance poses a secondary risk, of suppliers taking shortcuts in the interests of saving money when non-compliant machines are imported and made available at reduced prices. When this happens operator safety can be compromised for commercial gain – which is the very situation that the EU directives on safety, noise, electromagnetic compatibility and pollution seeks to prevent.

PROGRESS STALLED

To work effectively, market surveillance needs to stop non-compliant products from crossing the border of any EU state. Frustratingly, however, progress on the EU's Proposal for a Regulation on the Market Surveillance (MSR) of Products – announced on 13 February 2013 – has stalled.

It had been hoped that agreement could be reached among Member States and relevant industry bodies in order to get a first reading

agreement within the current legislative cycle of the European Parliament (2009-2014). At this stage however, a deal before the European Elections in May looks unlikely.

JOINT PROPOSAL

How has progress stalled to such an extent? One significant factor is the fact that the MSR has been bundled together with another proposal for regulation – on consumer product safety (CPSR).

These two proposals were submitted by the Commission as one package to the Council and the European Parliament in February. The cross-referencing of these two proposals has unfortunately hindered rather than helped progress through the European legislative process.

The two proposals have been examined by EU working parties, with the details of MSR looked at by the Working Party on Competitiveness and Growth (Internal Market) over the course of meetings throughout 2013. The Working Party on Consumer Protection and Information had a similarly thorough programme to examine the proposal on CPSR.

MANDATORY MARKING

Despite compromise being reached in a number of areas, there have been sticking points. The European Federation of Materials Handling (FEM), of which BITA is an active member, joined forces with its counterparts in the construction, machine tool, agricultural,

plastics and rubber machinery industries, to highlight specific areas where the proposed regulation could add “more confusion and legal uncertainty, ultimately going against the very purpose of the initiative”.

The primary sticking point has been the issue of mandatory ‘country of origin’ marking, which is part of the Consumer Product Safety Regulation (CPSR) – which, as mentioned above, is bound together in the same package as MSR. A number of Member States, together with the Commission, request mandatory origin marking in order to improve traceability. However, others argue that mandatory origin provision is not justified or meaningful in an age when component parts and products are sourced from many geographical locations. This second view is strongly shared by BITA and the FEM.

So progress has ground to a halt and the EU institutions have not yet even started with the informal but crucial trilogue negotiations (the process of hammering out a package of amendments acceptable to the Council and the European Parliament). As we kick-off another year, which promises much in terms of increased truck sales, the prospect of no further action – at a regulatory level – on market surveillance until the autumn is an extremely frustrating one for the industry. ■

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