

# Market surveillance is not child's play



**BOB HINE**, BITA'S TECHNICAL CONSULTANT, PROVIDES AN UPDATE ON THE GLACIAL PROGRESS THROUGH THE EUROPEAN LEGISLATIVE SYSTEM OF THE HUGE IMPORTANT MARKET SURVEILLANCE REGULATIONS.

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At first glance shoes, radios and children's toys don't seem have to have a lot in common with a fork lift

truck. Unless it is a toy truck, of course, and even then a small toy and a truck weighing many tonnes are very different beasts.

Except that, at a European level, fork lift trucks find themselves seemingly inextricably linked with toys, footwear and electronic goods – not to mention domestic appliances, textiles and ceramics. How? Well might you ask.

It is all down to the passage – or non-passage – of a piece of legislation through the European Parliament that is crucial to the safety of operators who use materials handling equipment in this country and the other member states.

#### CRITICALLY IMPORTANT

Market surveillance plays a critical role in protecting operator safety 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. To be truly effective, market surveillance needs to stop non-compliant products from crossing the border of any EU state. Otherwise suppliers may take shortcuts in the interests of saving money when non-compliant machines are imported and made available at reduced prices – compromising operator safety.

But progress on the EU's Proposal for a Regulation on the Market Surveillance (MSR) of Products (2013/0048(COD)) – announced on 13th February 2013 – has stalled.

The MSR was bundled together with another proposal for regulation – on consumer product safety (CPSR) – with the two proposals submitted by the Commission as one package to the Council and the European Parliament.

The cross-referencing of these two proposals has not helped progress through the European legislative process to say the least.

Both proposals have been examined by EU working parties over the course of multiple meetings. Despite compromise being reached in a number of areas, there have been sticking points. As I mentioned in my intro, they are very different beasts, which is why the European Federation of Materials Handling (FEM), of which BITA is an active member, joined forces with counterparts in other 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". This should be a key point for any legislation.

#### WHAT'S NEW?

The issue which has prevented the Council from reaching a first-reading position after last year's vote of the European Parliament is mandatory 'country of origin' marking on non-food consumer products, as proposed in the article 7 of draft regulation on Consumer Product Safety.

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, that mandatory origin marking is simply too onerous a task for operators, is strongly shared by BITA and the FEM.

The Competitiveness Council met at the end of May this year and held a debate on the Consumer Product Safety and Market Surveillance Package to try to find agreement on a Council general approach. In order to restart

negotiations between the legislators on this topic, the Council requested that the Commission carry out a cost-benefit analysis of the mandatory country of origin labelling. The consultant mandated by the Commission narrowed down the scope to six product categories: toys, domestic appliances, electronic goods (consumer electronics), textiles, footwear, and ceramics.

Most of the national authorities consulted consider that the indication of origin on consumer products would have little impact on product traceability and safety – which begs the question, from both BITA and FEM, of why it should be made mandatory. What it is expected to do is generate additional costs for authorities, the scale of which depends on the extent to which controlling origin labelling is integrated in existing market surveillance practices.

For manufacturers the impact is believed to mainly translate into costs of adaptation to new requirements, or possible changes in their competitive position in comparison with other producers. The study also requested stakeholders' view on three alternative solutions to Article. 7, namely: indicating country of origin on product packaging or a document accompanying the product; alternative principles for determining origin; and a voluntary system to control origin labels. However, none of these options was considered to be a viable alternative to the current proposal.

And so we find ourselves back in the unfortunate position of stalled progress of trying to make materials handling equipment fit into the same box as consumer equipment such as toys, radios and shoes. It is a highly frustrating situation when any child could point out the differences. ■