

Joint Market Surveillance Action on Harmonised Products JAHARP2021-09

On E-commerce

Layman's report



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List of abbreviations

ADCO	Administrative Cooperation Group
CE	European Conformity (Conformité Européenne)
DG GROW	Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs
EEA	European Economic Area
EISMEA	European Innovation Council and SMEs Executive Agency
EN	European Standards
EPREL	European Product Registry for Energy Labelling
EU	European Union
GA	Grant Agreement
ICSMS	Information and Communication System for Market Surveillance
MS	Member State
MSA	Market Surveillance Authority
OJ	Official Journal of the European Union
RAPEX	The Rapid Alert System for Non-Food Products
WP	Work Package

Glossary

BASKET PAGE: page of a web-shop where customers gather and review their selected items, make changes, and prepare for checkout.

CE MARKING: CE stands for "Conformité Européenne", the French term for "European Conformity". The CE mark means that the manufacturer takes responsibility and declares that a product sold in the European Economic Area (EEA) has been assessed to meet all applicable safety, health, performance, and environmental requirements.

ECODESIGN REQUIREMENTS: any requirement in relation to the Ecodesign Directive 2009/125/EC for improving the environmental performance of energy-related products, such as household appliances, information and communication technologies or engineering.

ECONOMIC OPERATOR: the manufacturer, authorised representative, importer, distributor, fulfilment service provider, or any other natural or legal person who is subject to obligations in relation to the manufacture of products, making them available on the market or putting them into service in accordance with the relevant Union legislation.

ENERGY LABEL: graphic diagram affixed to products sold in the EU, either in printed or electronic form, including a closed scale using only letters from A to G, each letter representing a class and each class corresponding to energy savings, in seven different colours from dark green to red, to inform customers about energy efficiency and energy consumption.

CORRECTIVE ACTIONS: any action taken by an economic operator to bring any non-compliance to an end where required by a market surveillance authority or on the economic operator's own initiative.

EPREL DATABASE: The European Product Registry for Energy Labels (eprel.ec.europa.eu/screen/home) is an EU-wide database set up and operated by the European Commission that enables consumers to compare the energy efficiency class and other data of different household product models.

HARMONISED STANDARD: a European standard developed by a recognised European Standards Organisation defining the technical specifications used to assess/verify that a product complies with the mandatory ecodesign and energy labelling requirements.

ICSMS DATABASE: The Information and Communication System on Market Surveillance (webgate.ec.europa.eu/icsms/) is an IT platform set up and managed by the European Commission which enables the exchange of information between EU-27 market surveillance authorities on non-food product inspections and their results. ICSMS has an internal and a public area. Consumers can access ICSMS' public area to check whether a product model has been inspected and if it is compliant.

INSPECTION: any market surveillance activity aimed at verifying the compliance of products against the requirements and conditions as defined in the legislation and standards.

MARKET SURVEILLANCE: the activities carried out and measures taken by market surveillance authorities to ensure that products comply with the requirements set out in Union Regulation.

NON-COMPLIANCE: any failure to comply with any requirement under the Union legislation.

PRODUCT DOCUMENTATION: any type of (mandatory and/or non-mandatory) documentation made available in any form by the manufacturer/supplier of a product model and accompanying that model.

PRODUCT LISTING PAGE: a page on a website that presents a list of products based on a category or search query. This page is an essential element of the e-commerce experience as it funnels site visitors to product pages

PRODUCT PAGE: a product page is a page on a retailer or manufacturer website where potential customers learn about a product's features, pricing, and other product-related information, and through which they can buy the product.

Executive summary

Scope and objectives of JAHARP2021-09

The [JAHARP2021-09](#) project on e-commerce was a pan-European capacity building Joint Action coordinated by PROSAFE, with the purpose of developing capacity for undertaking market surveillance on e-traders.

E-commerce is growing rapidly, and it is important that Market Surveillance Authorities (MSAs) possess tools and skills to monitor this sector of the market and verify compliance of the products sold through this channel. Moreover, **websites operating from outside the EU present a unique set of challenges** as they are outside the jurisdiction of EU MSAs.

The project focused its case study on **washing machines**, giving that they fall under several Union legislations, such as the Ecodesign¹ and Energy labelling² Regulations, the Low Voltage Directive³, The Electromagnetic Compatibility Directive⁴, the Restriction of Hazardous Substances in Electrical and Electronic Equipment Directive⁵, and in some cases, the Radio Equipment Directive⁶.

The participating market surveillance authorities started by analysing the legal requirements and obligations for online shops to display information on the product listing page, the product page and the basket page, in order for consumers to be able make an informed choice when buying goods online.

The Joint Action targeted websites inside the EU as well as websites outside the EU to gain as much experience as possible.

Geographical scope

8 Market Surveillance Authorities (MSAs) from the following 8 Countries have participated in this Joint Action coordinated by PROSAFE: Belgium, Ireland, Italy, Latvia, Lithuania, Poland, Portugal, and Spain.

Participating EU Market Surveillance Authorities in JAHARP2021-09



Coordinated by



¹ <https://eur-lex.europa.eu/eli/reg/2019/2023/oj>

² https://eur-lex.europa.eu/eli/reg_del/2019/2014/oj

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0035>

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0030>

⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02011L0065-20160715>

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0053>

Highlights and key results

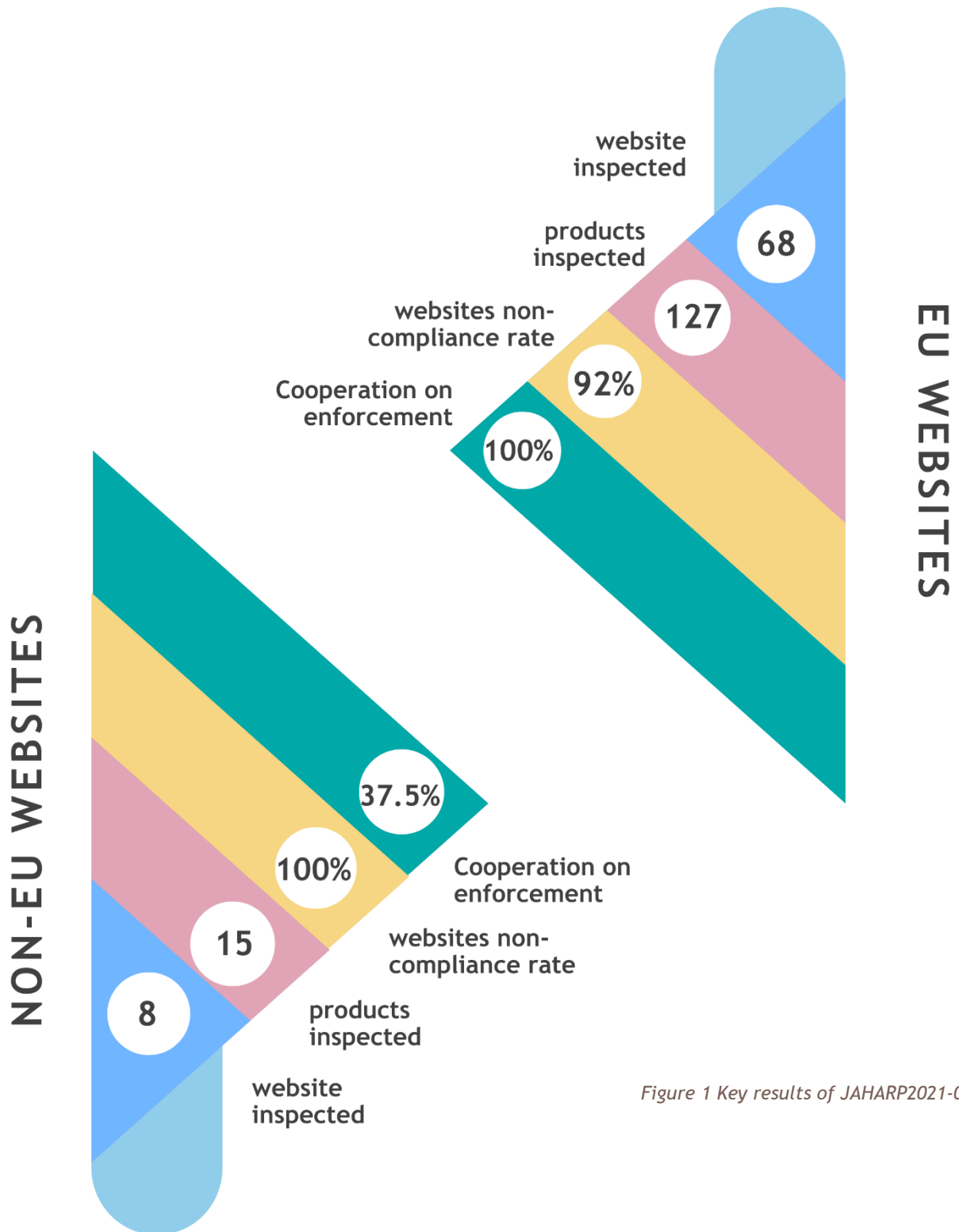


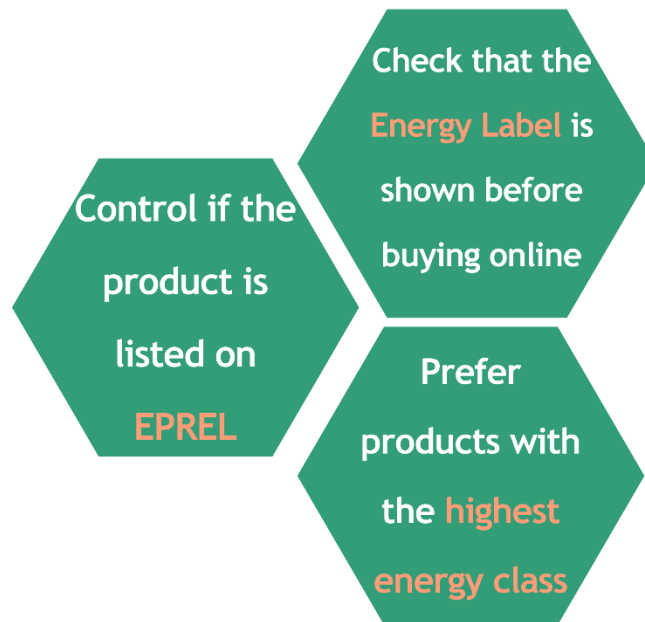
Figure 1 Key results of JAHARP2021-09

CAUTION!

These results are based on a selection of websites present on the markets of the participating countries. As in most market surveillance activities, the results represent the **targeted efforts** that authorities undertook to identify non-compliant products. Because of that, the results of this joint action do not present a statistically valid picture of the situation of the entire market.

Tips for consumers and Economic Operators

Tips for Consumers



Tips for Economic Operators



Figure 2 Tips for Consumers and EOs

Introduction: The JAHARP2021-09 Project

The importance of online trade is increasing rapidly and **e-trade accounts for a growing share of commercial transactions**. E-traders and legislation do a lot to make it easy for consumers to buy products even across borders, and the impacts of a single market in the European Union have become very visible for consumers that can buy the products they wish from anywhere in the EU.

It is also easy to buy from websites outside the EU. This, however, can be more problematic because of the practical problems in enforcing the European consumer protection legislation in third countries. This implies that it is (at least) very difficult for a European consumer to exercise his rights against an online shop outside of the EU.

Consumer protection regulation requires that certain information must be presented to the consumer at the point of sale so it can be taken into consideration before purchasing a product. Similar requirements are found in the legislation concerning energy labelling where the whole purpose is to help consumers to buy “greener” products when purchasing new ones.

In practice, **market surveillance of e-commerce is new to many market surveillance authorities**, and there is only little guidance available for market surveillance officers on how to do in practice. JAHARP2021-09 aimed at supporting MSAs with gaining experience and confidence in this field and ensuring consumers have access to all required information when purchasing products online.

Methodology



Figure 3 Project timeline

As a first step, the participating MSAs conducted a **mapping of the legislative requirements related to e-commerce and of the existing guidelines for MSAs and EOs on these legal requirements**.

Secondly, they developed a **checklist to support the market surveillance officers** in their online inspections. They additionally developed a guidance document to provide further clarification on the requirements. The project also regularly consulted with different ADCO groups to collect their inputs.

The MSAs then planned and executed a **market surveillance campaign**, starting with a pilot campaign aimed at testing and improving the checklist and guidance, and then moving to the full-scale campaign where they inspected EU and non-EU websites.

Based on the results of the campaign, the **MSAs contacted all non-compliant websites**, presented them with the findings and asked them to bring their e-shops into compliance.

The project group put together the **lessons learnt and their recommendations for MSAs, EOs and the European Commission**, and shared them with all stakeholders during the Final Conference, which was held on 28 May 2024.

Implementation and results

Mapping of legal requirements and existing guidance

The participants started by analysing the legal requirements, i.e. the obligation for online shops to display certain information to the consumer when they are about to buy a washing machine.

The analysis proved that the majority of the commonly used safety directives do not deal with online trade at all.

Consequently, the only requirements for online traders are given in the [energy labelling regulation](#) and the [consumer protection regulation](#).

[The Energy Labelling Regulation](#) requires that dealers (including online dealers) inform the customer about the product's energy consumption and other parameters that may influence the customer's decision on which product to buy. Annex VIII to the regulation, "Information to be provided in the case of distance selling on the internet" mentions the energy label for the product with the following contents:



- ✦ the supplier's name or trade mark;
- ✦ the model name;
- ✦ the energy efficiency class;
- ✦ rated capacity, in kg, for the eco 40-60 programme;
- ✦ duration of the eco 40-60 programme at rated capacity.

The dealer must also make a product information sheet available if the consumer wants to see it. It must contain the same information as the energy label plus additional information about the washing machine.

[The Consumer Rights Directive](#)⁷ also poses obligations on the dealers on what information they must give to the consumer, when they are purchasing a product. Article 6 in the directive contains a very detailed list of information which should be given to the consumer including:

- ✦ the identity of the trader;
- ✦ the trader's address, telephone number, fax number and e-mail address;
- ✦ the total price of the product inclusive of taxes;
- ✦ the arrangements for payment, delivery, performance, delivery time and the trader's complaint handling policy;
- ✦ information that the consumer will have to bear the cost of returning the goods in case of the consumer regrets his purchase.

In addition, the participants analysed [ten already existing national and international guidelines](#), in order to collect the information and instructions which were already available to MSAs and/or EOs.

⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0083>

Inspections

The market surveillance authorities inspected EU and non-EU e-trader websites selling washing machines, in order to verify the compliance of their product listing pages, product pages and basket pages primarily with the Energy Labelling Regulation (EU) 2019/2014 and, secondarily, also with the Consumer rights Directive 2011/83/EU, depending on the MSA’s powers.

The main results of the market surveillance campaigns are summarised in the graphs below:

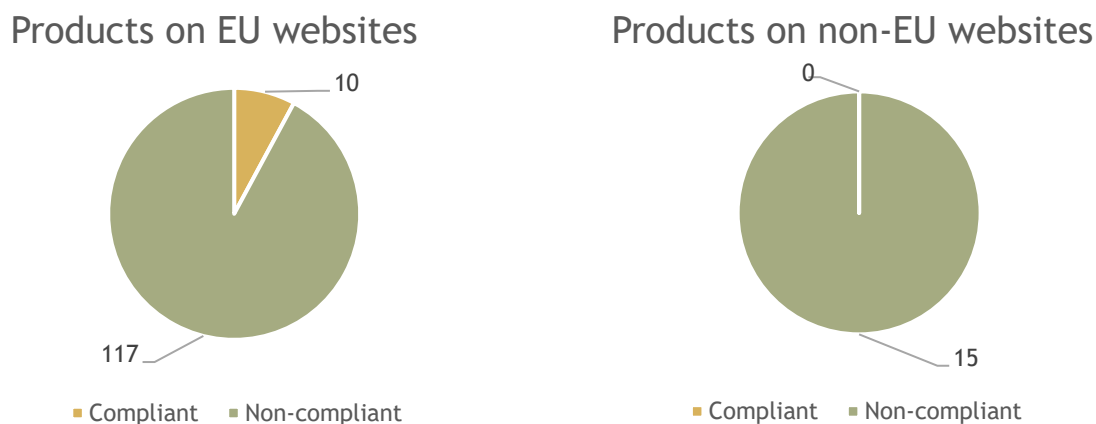


Figure 4 Main results

Results of inspections on EU websites:

The MSAs inspected **68 EU websites** and **127 products**, conducting in total **225 inspections** (with 117 products being inspected via a PC and 108 with a smartphone)

The results were poor. During the inspections **only 10 of the 127 products (8%) were displayed fully correctly**, with most of the products failing on more than one requirement.

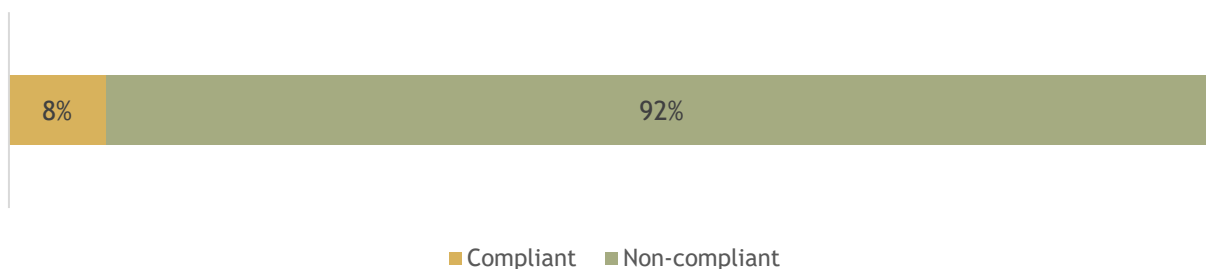


Figure 5 Compliance rate EU websites

The graph below shows where most errors were encountered:

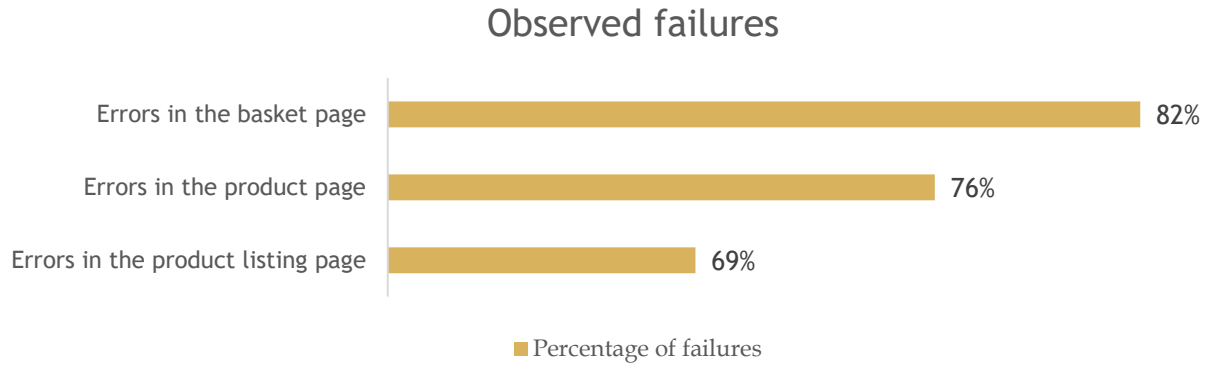


Figure 6 Observed failures

It is worth noticing that **the inspections did not reveal any substantial differences between PC-inspections and smartphone inspections**. The error rate for inspections with PC are lower than the error rates for inspections with smartphone, but the difference is very small.

The most common errors are also the most substantial ones, where energy information is completely missing from the webpage. The less common errors are more about errors in the design, wrong formats of labels and information, too small font sizes, wrong colours, etc.

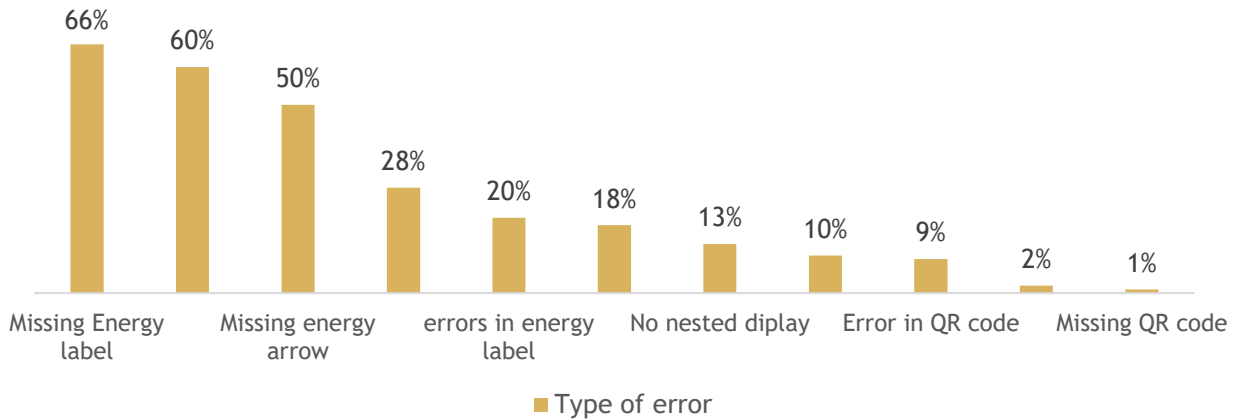


Figure 7 Type of errors

Results of inspections on non-EU websites:

The MSAs inspected **8 non-EU websites** and **15 products**, conducting in total **29 inspections** (with 15 products being inspected via a PC and 14 with a smartphone). **All websites failed to meet the requirements.**

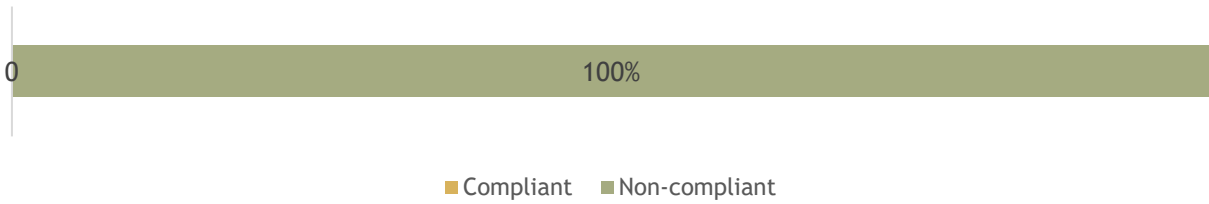


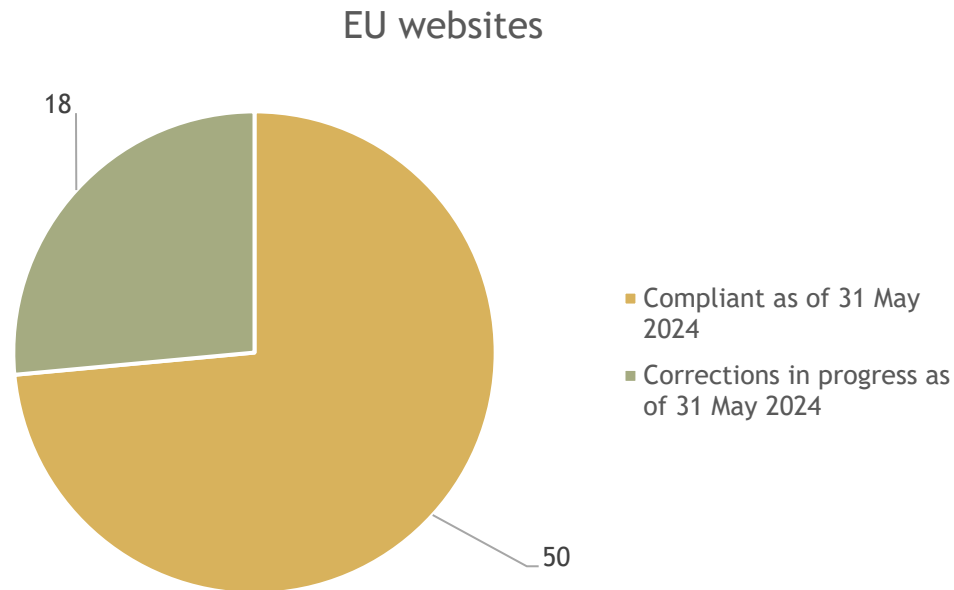
Figure 8 Compliance rate non-EU websites

As mentioned before, **third country e-traders represent the biggest challenge for MSAs**, given the MSA’s very limited authority outside the European Union and EFTA Countries.

Follow-up measures

The market surveillance authorities followed up on the non-compliances that they had identified. They contacted the website owners, presented them with the findings and asked them to bring their websites into compliance with the legislation.

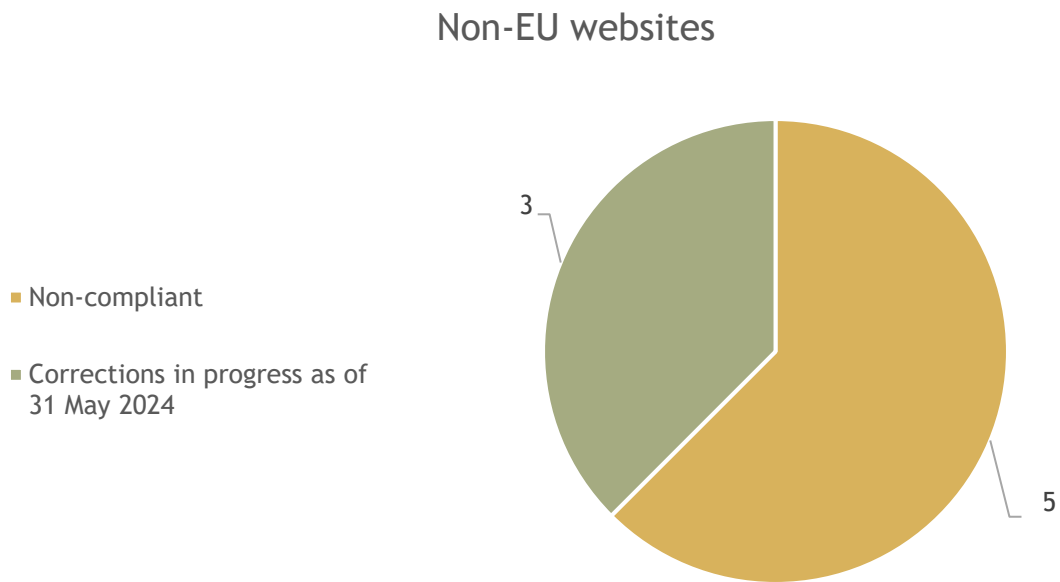
The reaction of EU websites was very positive. **All website owners agreed to bring their websites into compliance**, and at the end of the Joint Action in May 2024, **50 of the 68 websites had been corrected** (or were correct from the beginning). As regards the other 18 websites, work was going on to fix them.



This picture changed dramatically when the participants tried to engage with websites operated from countries outside the EU.

Again, the market surveillance authorities inspected the websites and recorded the non-compliances. Afterwards, they sent an overview of the non-compliances to the business behind the website.

The majority of the businesses never reacted, but three of the eight came back expressing their interest in cooperating with the market surveillance authorities to get things right.



Conclusions

The market surveillance authorities participating in the JAHARP2021-09 Joint Action on e-commerce found that the **non-compliance rate of e-traders was very high**, which represents a problem giving that consumers are more and more often choosing to purchase products online, due to their convenience in terms of times spent and the possibility to compare prices easily.

Most of the participants found that there was a **difference between small and big online shops**: In general, the big ones seem to be well aware of the legislation and they better know how to comply with the rules. In contrast, the smaller shops are generally less aware of the legislation and the requirements.

In addition, **the legislation appears to be complicated** for EOs to fully understand, which lowers the probability of compliance. For example, in some product groups, the energy label can have three different designs depending upon the type or the age of the product.

The campaign showed that all the inspected e-shops that were based in the EU were **very willing to cooperate with the MSAs** to bring their websites into compliance. Nonetheless, the participants observed that **the time to bring a website into compliance may vary a lot** - from a few weeks to several months. The reason is found in the software that is used to build the e-shop. In fact, while some of the software allow the e-shop to make the required modifications very easily, it appears to be much more difficult in other IT systems, which implies that these companies have to engage in more substantial IT development to resolve the issues identified.

It was also noted that **consumers should be more aware** of the information to look for when choosing to purchase a washing machine or any other energy related product. In fact, this would create higher pressure on dealers and manufacturers to comply with the rules.

The Joint Action demonstrated that **it is possible to do market surveillance of e-traders**, and it has devised a method that MSAs can use. Tangible results from the Joint Action were a checklist and a guideline for market surveillance of e-shops that can be used in general by other MSAs that want to check online traders.

Some policy recommendations were also drafted and shared with the European Commission and the team working on the review of the two regulations in scope of this project.

PROSAFE is coordinating a number of other projects and Joint Actions with the aim of contributing to the implementation of Regulation (EU) 2019/1020, together with other regulations concerning products safety and energy efficiency. We will keep working with market surveillance authorities, consumer and business associations to ensure a safe and healthy environment for all Europeans and for our planet.



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