JOINT MARKET SURVEILLANCE ACTIONS 2015 ON PRODUCT SAFETY

GPSD 2001/95/EC

LAYMAN'S REPORT

Joint Market Surveillance Actions On General Product Safety Directive (GPSD) 2015, Chafea Operating Grant No: 705038 – JA2015

PROSAFE Joint Actions Best Practice

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INTRODUCTION

The European Single Market is one of the greatest achievements of the European Union (EU). The Single Market envisages the EU as one territory without any internal borders or other regulatory obstacles to the free movement of goods and services. Market surveillance ensures that non-food products placed on the EU market do not endanger European consumers. It also ensures the protection of other public interests such as the environment, security and fairness in trade. It includes actions such as product withdrawals, recalls and the application of sanctions to stop the circulation of non-compliant products and/or bring them into compliance.

Why market surveillance is important

Market surveillance is crucial for the smooth functioning of the Single Market. It helps protect:

- European consumers against unsafe products and general non-compliance;
- Businesses from unfair competition coming from those who ignore the rules.

Implementation of the market surveillance in Europe

Manufacturers are supposed to place only safe products on the market according to the EU law, but experience shows that this sometimes fails for a number of reasons. To flag up, restrict or remove unsafe products from European markets, all EU Member States have designated national Market Surveillance Authorities (MSAs) who are responsible to regularly check the situation on their market.

They do this by sampling potentially unsafe or not compliant to the EU legislation products. These products will be examined and probably also tested at expert test laboratories to verify whether they are indeed unsafe. If a product is found to be unsafe, the authority will get back to the business in case and ensure that the risk is removed so that the consumer can be safe.

The Joint Action 2015 (JA2015) was about coordinating a number of projects where 35 MSAs from 27 Member States cooperated to identify and remove unsafe products from the EU market. The project targeted five product categories:

- Soothers and soother holders;
- Plasticised toys;
- Playground equipment;
- Power Tools, circular saws;
- Blenders, mixers and toasters.

Member States send information about dangerous products found on the market to the European Rapid Alert System for non-food dangerous products (Safety Gate)[1]. Safety Gate is a cooperation tool developed to enable rapid communication between EU and European Economic Area (EEA) authorities about dangerous products, allowing them to be traced everywhere on the European market. Third countries like China and international institutions are also involved.

[1] Safety Gate: the rapid alert system for dangerous non-food products: https://ec.europa.eu/consumers/consumers_safety/safety_products/rapex/alerts/repository/content/pages/rapex/index_en.htm

Figure 1 - Number of alerts received in the EU Rapid Alert System and follow-up actions in 2017 - Source: European Commission

The EU Added Value of pan-European market surveillance

Joint Market Surveillance Actions stimulate efficiency via a more effective pooling of resources and act as key drivers for generating sustainable EU added value and impact. They boost coordination, cooperation, information exchange and competence among MSAs across Europe.

Through Joint Actions on market surveillance:

- Objectives are shared by all participating MSAs in their daily work on their national markets;
- Problems identified in one Member State will be solved for the entire EU market in one sweep;
- An EU-wide attention from the businesses' side is established;
- This, in turn, helps increase businesses' responsiveness based on previous experience;
- In turn, this helps to harmonise competition inside the EU;
- MSAs in different countries can cooperate to solve cross-border issues where products sold in one country are manufactured in another country;
- Cooperation with customs authorities supports streamlined market surveillance procedures for controlling products within the EU and at its borders (import controls);
- MSAs can share good practices and learn from each other.

All in all, cooperating in Joint Actions, such as the JA2015 project, means that the safety for the European consumer is better safeguarded through a more efficient, comprehensive and more uniform procedure compared to fragmental work done individually by the respective authorities in Member States.

THE PROJECT

Joint Market Surveillance Actions on GPSD Products 2015 (JA2015)

Duration: 26 months (April 2016 – June 2018)

Beneficiaries: **35** Market Surveillance Authorities (MSAs) from **27** countries across Europe (Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom).

Coordinating beneficiary: PROSAFE

Total Budget: €3.121.751

Co-financing: €2.185.044 funded by the European Commission (EC)

Contracting authority: Consumers, Health, Agriculture and Food Executive Agency (Chafea).

Five Product Activities:

- Soothers and soother holders;
- Plasticised toys;
- Playground equipment;
- Power Tools, circular saws;
- Blenders, mixers and toasters.

About the GPSD:

The aim of the General Product Safety Directive (GPSD) 2001/95/EC is to ensure that only safe products are made available on the market. The GPSD applies in the absence of other EU legislation, national standards, Commission recommendations or codes of practice relating to safety of products, complementing sector-specific legislation. Specific rules exist for the safety of toys, electrical and electronic goods, cosmetics, chemicals and other specific product groups.

It establishes obligations for both businesses and MSAs. Economic operators should place on the market only safe products and inform consumers of any associated risks. They have to make sure that dangerous products present on the market can be traced and removed.

THE OBJECTIVES

The primary objectives of the action were to continue creating the conditions, whereby Member States can cooperate effectively on product-specific market surveillance activities, while generating impacts to be exploited by as many Member States as possible.

In particular, **JA2015 primary goals were to:**

- Build on the work undertaken within previous Joint Actions and thereby increase the safety of products;
- Ensure that products examined are safe in use and remove from the market those that were found to be unsafe;
- Take corrective actions if and where necessary;
- Ensure that instructions for use, technical files and declarations of conformity (DOC) are adequate;
- Continue to support and enhance the harmonisation of market surveillance across the European Economic Area (EEA) within various product sectors.

How we achieved these goals? By:

- Researching national markets and other sources to determine criteria for sampling;
- Sampling from online retailers, brick and mortal shops with intelligence or assistance from customs;
- Testing products at accredited laboratories in the EU;
- Carrying out risk assessments using the EC's Risk Assessment Guideline (RAG) tool;[2]
- Following up on non-compliant products with proportionate enforcement measures;
- Reporting on follow-up actions taken to improve safety for consumers across Europe and beyond.

[2] The Risk Assessment Guideline (RAG) is the European Commission's c
the risk assessment of products notified through the rapid alert syste
safety/rag/#/screen/home).

MAPPING THE PROCESS

JA2015 comprised of **three** groups of activities:

1. Product-specific, or vertical: increasing safety of a specific product or product category;
2. Horizontal: building capacity and developing methodologies, including:

- Risk assessment;
- Continuous Improvement of Market Surveillance;
- Development of E-learning tools;
- Methods of addressing new and emerging Issues;
- Impact Improvement of the Joint Actions;
- Further development of best practices, e.g. Rapid Advice Forum, Knowledge base;
- Cooperation with Customs;
- Organisation of Market Surveillance Workshops.

3. Project management ensures delivery of results according the statutory requirements and contractual obligations. It is responsible for encouraging a consistent and effective approach throughout the entire project development.

All JA2015 product-specific activities went through the following **six** stages:

1. Risk and market analysis:

An analysis was carried out on each product-specific group with regards to the nature of the market and the risks posed by the products.

2. Deciding on sampling criteria:

This phase included the development of checklists to guide the Member States sampling of products that were most likely to fail, encompassing the best practices regarding the sampling of a particular product.

3. Sample products:

The MSAs acquired products according to the criteria defined at the previous stage. They visited manufacturers, importers, wholesalers and retailers to collect products. Their actions were coordinated and reported at Action level.

4. Test products at a laboratory:

The Joint Action decided which of the sample products had to undergo tests at an accredited laboratory selected through a call for tender. The Member States were advised how to send their products for testing.

5. Risk assessment:

The participants discussed a common set of principles for carrying out risk assessment ensuring that the results are harmonised to the largest extent possible. Risk assessment templates were built and are available at the Risk Assessment e-Library on PROSAFE's website[3].

6. Follow-up on non-compliant products and exchange information:

MSAs followed up towards the economic operators in their countries, i.e., they consulted the economic operators on the results, agreed on appropriate measures and ensured that these measures were implemented.

The findings were reported to the Joint Action and shared with all participating MSAs — not only with those involved in the particular product-specific activity. A range of actions can be seen in

Figure 4.

Figure 2 - JA2015 Process

1,041

products have been sampled and tested in total

[3] PROSAFE: Risk Assessment e-Library: http://www.prosafe.org/index.php/Risk_assessment_library

JA2015 KEY STAGES

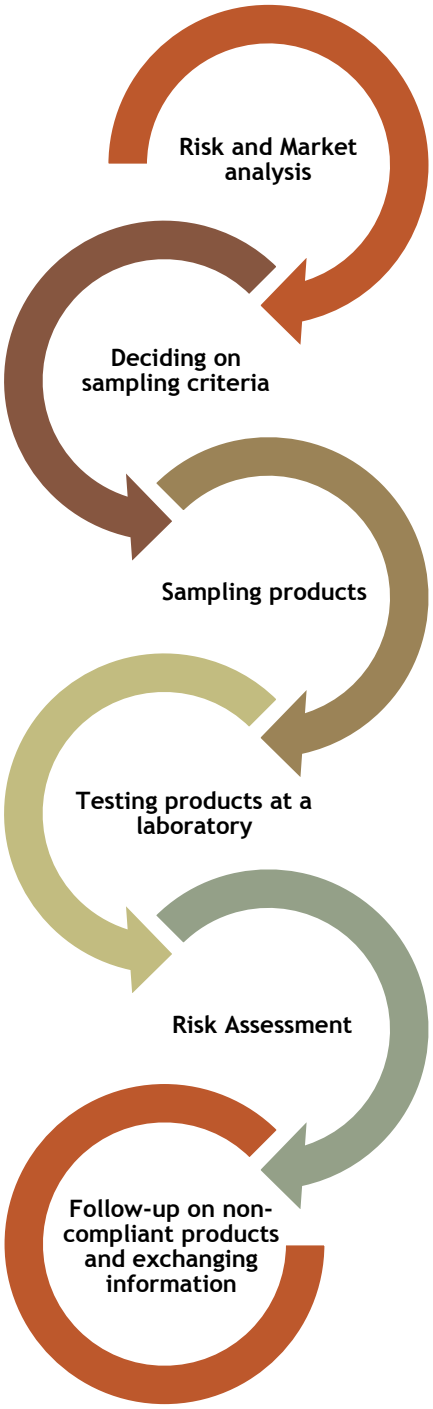


Figure 3 - Key stages

FOLLOW-UP ACTIONS AVAILABLE TO THE MSAs

No action

- When no safety issues were identified.

Postliminary acceptance of compliance

- The products failed the test, but were later proven to be compliant by the Economic Operator.

Minor measures

- An Economic Operator takes measures against (future deliveries of) a product in line with the directions from the MSAs, e.g. minor design changes, minor changes in production or quality control, minor update of marking, etc.

Sales ban

- The product is prohibited from sale permantly or until certain conditions are met.

Withdrawal from market

- The distribution, display and the offer of a product which is dangerous to consumers are stopped.

Recall from market

- Any means for achieving a return of a product that has already been supplied or made available to consumers.

RAPEX notification

- The product has been placed on the EU's Safety Gate Rapid Alert System for non-food dangerous products, as a product that represents a serious risk, or posing a risk classified as less than serious.

Figure 4 - Available follow-up actions

ACTIVITY RESULTS

The Joint Actions provide added value in many different ways. With so many Member States working together the Activity reflected a truly pan-European survey of the marketplace.

Overall, JA2015 made a significant contribution to achieving a high level of consumer protection and a level playing field for all Economic Operators across Europe. The sheer volume of tests delivers economies of scale that drive unit test costs down, thus stretching the resources further.

SOOTHERS AND SOOTHER HOLDERS

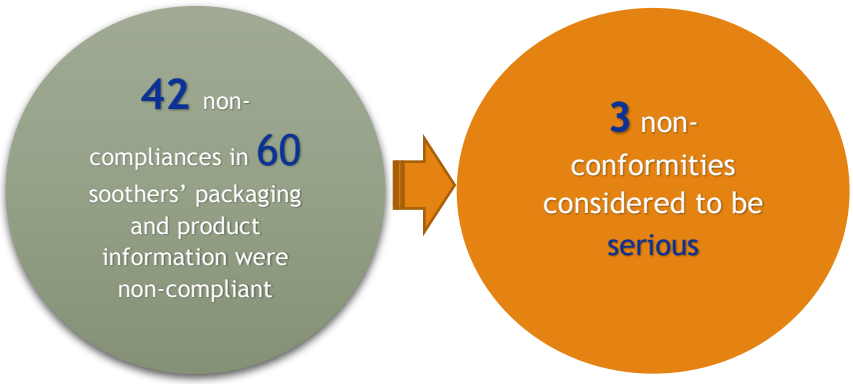
Thirteen participating market surveillance authorities were involved in this specific Activity. These were Belgium, Bulgaria, Cyprus, Denmark, Germany (2 authorities), Greece, Iceland, Latvia, Lithuania, Malta, The Netherlands and Romania.

The participating authorities sampled 195 products that were tested at an accredited laboratory. They divided on 73 soothers and 122 soother holders. 77 of the 122 soother holders were traditional soother holders comprised of a strap with a soother holding device at one end and the garment clip at the other. The remaining 45 soother holders also contained a toy or play element (i.e. they were either regarded as a toy or considered to have significant play value and therefore required to also meet the requirements of the Toy Safety Directive).

73 soothers tested

29% found to be non-compliant in relation to the shield, the ventilation holes, impact resistance, tear resistance, bite endurance and lack of mechanical strength in the teat protector

Extra action



122 soother holders tested

78% found to be non-compliant in relation to ventilation, the length of the string on the soother holder and mechanical strength

The test results were subjected to risk assessments using the European Commission's Risk Assessment Guidelines tool. Following the results of this exercise, the participants took enforcement actions on many of the models tested. The results of the enforcement activities are presented in Figure 5.

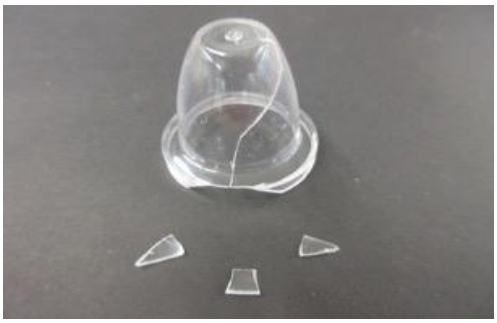
Figure 5 - Enforcement activities taken

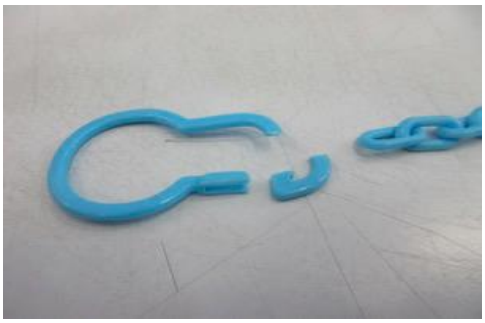
Detailed feedback concerning the standard was conveyed to the CEN Working Group TC 252/WG 5 for Feeding, Drinking, Sucking and Similar Functions Committee.

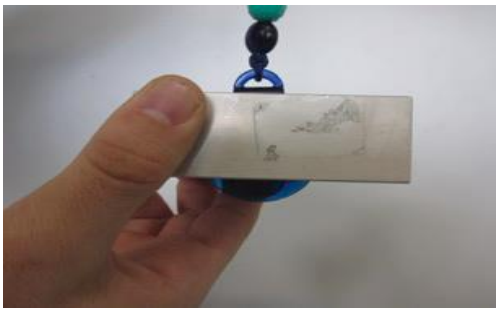
"As a consumer, you should look out for soother holders with small parts that are not sufficiently attached or soother holders longer than 220 mm. Also check the RAPEX overview at the European Commission's website for unsafe products[4]"

[4]http://ec.europa.eu/consumers/consumers_safety/safety_products/rapex/alerts/main/index.cfm?event=man.listNotifications

Photographs from JA2015 inspection and testing activities







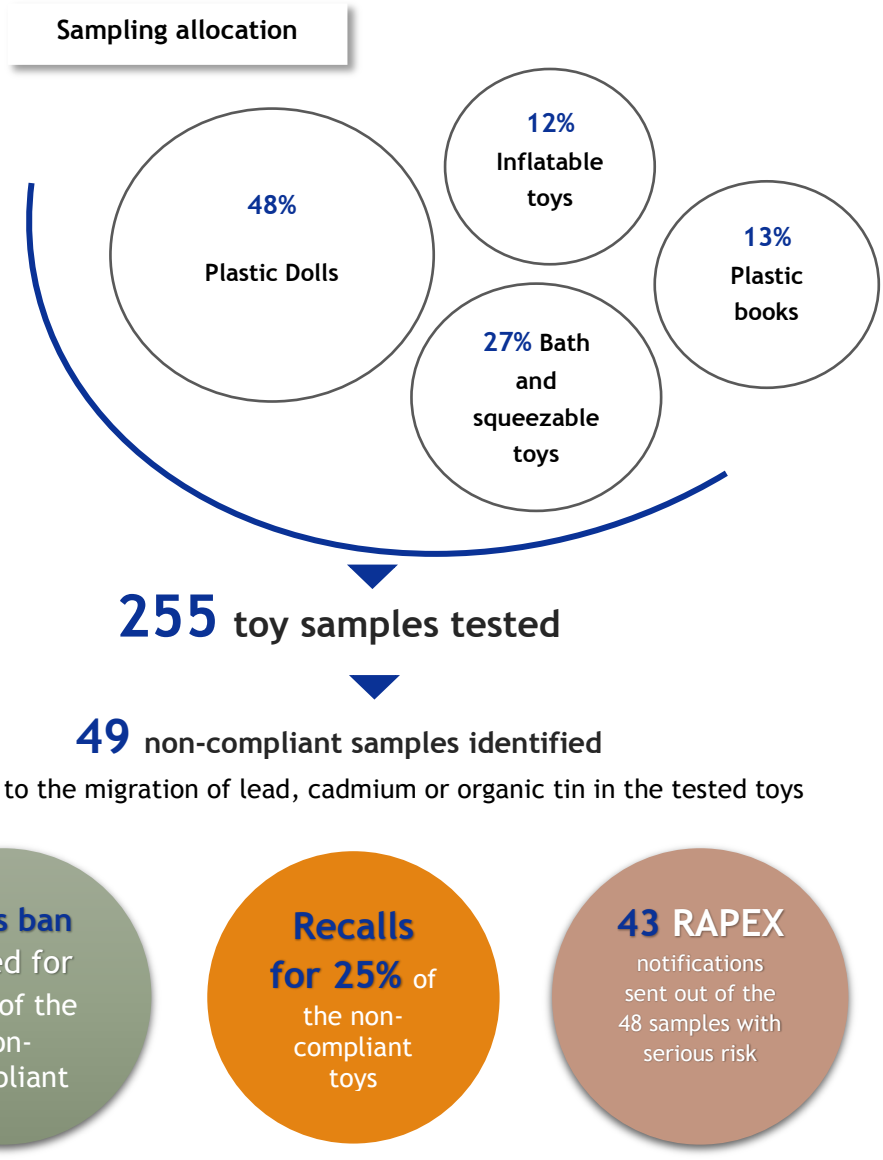
PLASTICISED TOYS

Plasticised toys are toys made out of soft plastic. Different types of chemicals can be added during the manufacturing process for various reasons. The chemicals include:

- Phthalates;
- Short chained chlorinated paraffins (SCCPs);
- Polycyclic aromatic hydrocarbons (PAHs);
- Bisphenol A (BPA);
- Certain elements, such as lead, cadmium and organic tin.

These chemicals can all be very dangerous to children if they are present and exceed the limit values as laid down in legislation. All types of economic operators were inspected including manufacturers, importers and all kinds of distributors. All types of economic operators were inspected including manufacturers, importers and all kinds of distributors. Special attention was given to low-cost toys and toys without proper markings and warnings. Experience from previous Joint Actions on Toys has indicated that these present the highest levels of risk.

In total, 130 samples (51%) were collected via traditional market surveillance activities, another 47 samples (18%) were collected with assistance from customs authorities, and 78 samples (31%) were collected from online traders.



The positive results from testing show that there were no detected non-compliances related to the migration of lead, cadmium or organic tin in the tested toys. Additionally, the testing did not reveal any non-compliances related to PAH. However, the testing also identified several toys with contents of phthalates, SCCP and BPA. The level of non-compliance with regards to these chemicals is concerning and still needs to be better controlled so as to ensure that economic operators only place safe toys on the European market.

Some difficulties were faced with regards to risk assessment. However, the guidance issued by the European Commission in October 2017 helped the authorities with a much simpler approach to risk assessment for future surveillance actions. Risk assessment showed that 48 out of the 49 non-compliant samples posed a "serious risk" to the consumer.

The activity was undertaken by seventeen market surveillance authorities from the following countries: Belgium, the Czech Republic, Estonia, Germany, Greece, Latvia, Lithuania, Luxembourg, Malta, Norway, Poland, Portugal, Romania, Slovakia, Spain, Sweden, and The Netherlands.

PLAYGROUND EQUIPMENT

The purpose of the activity was to focus on playground equipment that is already installed in playgrounds in the participating Member States, rather than new equipment being placed on the market. One of the consequences of this was that some of the equipment that was inspected had to be checked against previous editions of standards in the EN 1176-series.

Two major market surveillance inspections were organised during the course of the project. The first, undertaken during the Spring 2017, reviewed the safety of indoor playground equipment, whereas the other inspection, which took place during the Summer/Autumn of 2017, focussed almost exclusively on equipment in outdoor playgrounds.

A wide variety of different types of playground equipment have been inspected in the indoor playgrounds. Some were complex items, which contained playground equipment designed to give children a wide variety of play experiences, whereas others consisted of a single item of equipment, such as a ball pool or a slide.

The range of equipment in the outdoor playgrounds inspected was more limited and, for the most part, consisted of cableways, carousels, climbing units, combined play equipment rocking equipment (seesaws), slides, and swings.

357 indoor (91) and outdoor (266) playgrounds were inspected

1,016 items inspected

78% (790 items) of the inspected equipment found to be non-compliant

A total of 677 (67%) of the items were non-compliant with regard to the information that should be on the equipment in order to conform to EN 1176, e.g. name and address of the manufacturer, importer or their authorised representative, year of manufacture, the "basic level mark" on the equipment, reference number, date of the standard to which the equipment conforms and type or serial number. The bulk of the items had three or more of the five pieces of information missing.

549 (54%) items did not comply with one or more safety requirements related to structural integrity, fall protection, the entrapment of parts of the body, "falling space" and surfacing issues.

Risk assessment – INDOOR equipment

Non-compliance risks and issues found	Number of non-compliances	
Structural integrity	7	3%
Fall protection	47	21%
Entrapment of various parts of the body	101	44%
Inadequate falling space	47	21%
Surfacing issues	27	12%
Total	229	100%

Table 1 - Risk assessment - INDOOR equipment

Risk assessment – OUTDOOR equipment

Non-compliance risks and issues found	Number of non-compliances	
Structural integrity	113	11%
Fall protection	112	11%
Entrapment of various parts of the body	230	23%
Inadequate falling space	181	18%
Surfacing issues	382	38%
Total	1.018	100%

Table 2 - Risk assessment - OUTDOOR equipment

In cases where non-compliances found to present a serious risk, the inspector required from the operator of the playground to stop using the equipment immediately. On such occasions, the equipment was taken out of use or modified so that it will no longer present a risk to children. If the equipment presented a high, medium or low risk, the inspector provided the operator of the playground with details of the non-compliances found, and asked the operator, within the next few days, details to the MSA regarding the corrective action they would be undertaking to bring the equipment into compliance.

The results of the inspection give cause for real concern as a high proportion of the items inspected were found to be non-compliant with regards to their markings or the technical requirements specified in EN 1176 and EN 1177. The authorities advise owners of playgrounds to ensure that they are properly maintained and inspected on a regular basis by the operator of the playground. They also have to be checked by a properly qualified inspector for any dangerous shortcomings on an annual basis.

Overall, the results from this project, and the previous 2007 Joint Action on playgrounds,[5] show that there is a continuing need for MSAs to inspect this type of equipment on a regular basis.

The activity was undertaken by eight countries: Belgium, The Czech Republic, Germany (Baden Württemberg), Iceland, Latvia, Norway, Slovakia and Slovenia.

[5] http://prosafe.org/index.php/gpsd-actions-joint-actions-2008/gpsd-actions-playground-equipment

Photographs from JA2015 inspection and testing activities

POWER TOOLS – HANDHELD ELECTRICAL CIRCULAR SAWS

Prior to testing, the participating MSAs had examined the markings and instructions, as well as the DOC for the collated samples.

Comments to the harmonised standards have been sent to the relevant Technical Committee and the Administrative Cooperation group (AdCo) on Machinery Directive.

100 saws tested

20 samples from online traders

50% of the sampled items found to have non-conformities

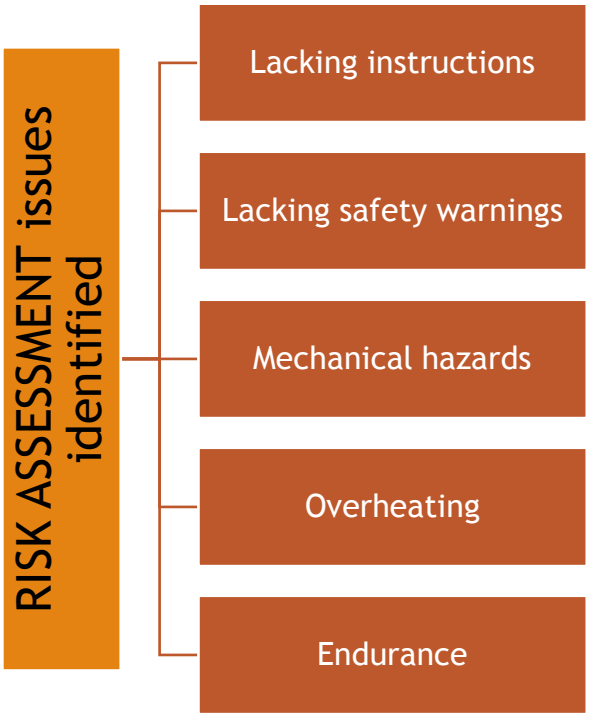


Figure 6 - Risk issues identified

The stakeholders were informed, the concerned economic operators were visited, and appropriate enforcement measures have been taken. Comments to the harmonised standards have been sent to the relevant Technical Committee and AdCo Machinery.

The Activity was carried out by ten MSAs from nine countries (Belgium, Bulgaria, the Czech Republic, France, Germany (Baden Württemberg and Bavaria), Latvia, Luxembourg, Malta and Portugal). Turkey participated outside of the financial scheme.

SMALL HOUSEHOLD ELECTRICAL APPLIANCES

This was the first activity on small household electrical appliances in a Joint Action coordinated by PROSAFE. It focussed on **household blenders**, **mixers** and **toasters**.

The participants undertook the following tasks:

- *Study their national markets and use the data for determining sampling criteria.*
- *Sample from online retailers as well as shops with intelligence or assistance from customs.*
- *Submit products for testing at an accredited testing laboratory in the European Union.*
- *Carry out risk assessments using the European Commission's RAG tool.*
- *Undertake follow-up actions including administrative activities on nonconforming products.*
- *Report on the follow-up actions taken to improve safety for consumers.*

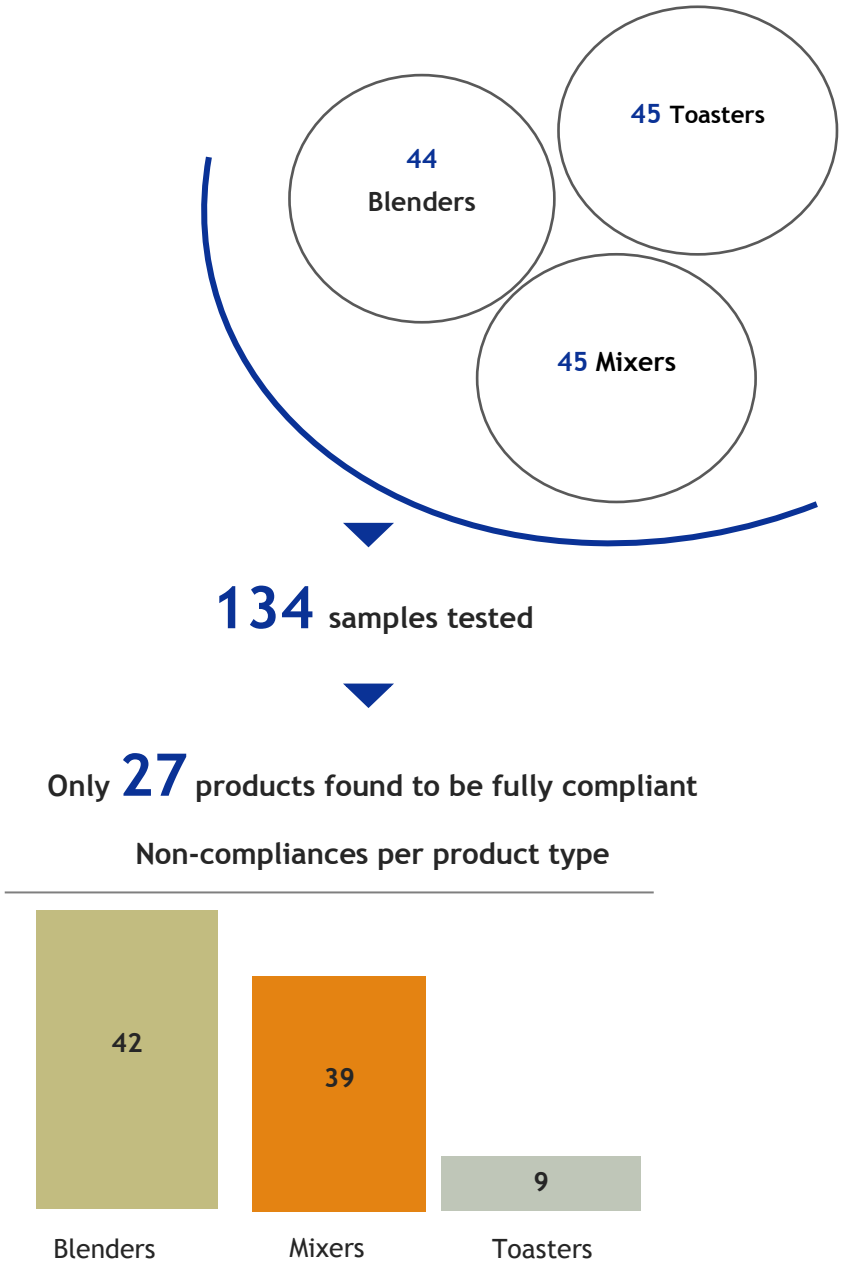


Figure 7 - Non-compliances

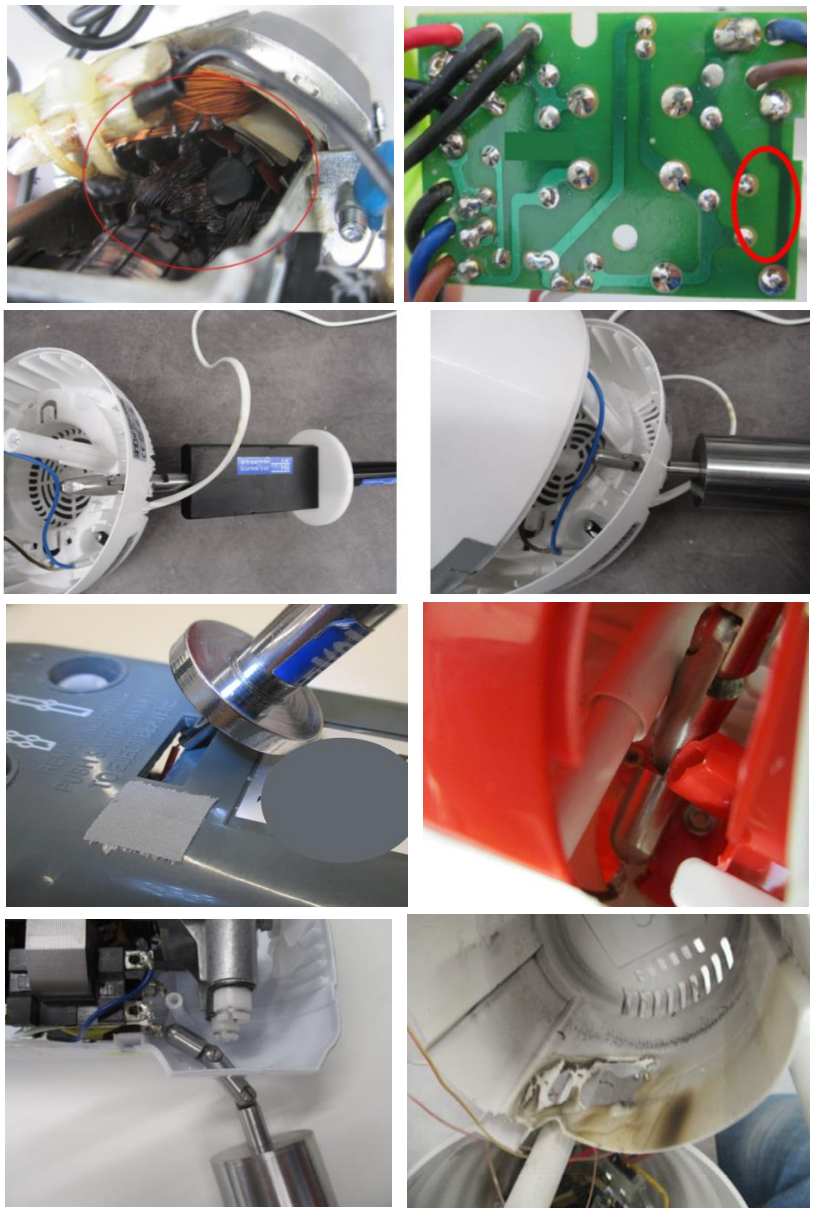
The test results for products failing the testing requirements were subject to a risk assessment using the EC's RAG tool and the EC document 2015-IMP-MSG-15[6].

The group requested DOC for the tested products. A high proportion of the documents requested were received from Economic Operators, but approximately half were not drawn up in accordance with the EU Low Voltage Directive (LVD).

Test reports were requested from economic operators for those products that failed the test programme. None of the test reports received for blenders was compliant with the checklist with assessment criteria that the group had drawn up. Approximately 20% of the test reports received for blenders and toasters were compliant, however, overall, the compliance rate is considered to be very low.

The Activity was carried out by nine MSAs from nine countries (Bulgaria, Cyprus, the Czech Republic, Finland, Latvia, Malta, Portugal, Sweden and Slovakia). Turkey participated as an observer.

Photographs from JA2015 inspection and testing activities



[6] EU general risk assessment methodology (Action 5 of Multi-Annual Action Plan for the surveillance of products in the EU (COM(2013)76) retrieved from: http://ec.europa.eu/DocsRoom/documents/17107/attachments/1/translations/

METHOD & OTHER HORIZONTAL ACTIVITIES

In addition to the product activities, the Joint Action continued the development of methods that facilitate the work and cooperation between European market surveillance authorities, such as:

RISK ASSESSMENT

The Risk Assessment Activity had 16 participants from 14 countries, Belgium, Bulgaria, the Czech Republic, Denmark (two MSAs), Finland, France, Germany (two MSAs), Lithuania, Malta, Poland, Portugal, Romania, Slovakia and Slovenia. In addition, Austria, Latvia, Sweden and Turkey participated in at least one of the meetings or seminars outside the financial scheme.

The main achievements during JA2015 were the following:

- Continued development of risk assessment templates for products that had been targeted by Joint Actions coordinated by PROSAFE meaning that templates for 17 products plus a guideline for assessing the risks from acoustic toys were available on PROSAFE's website when the Joint Action ended;
- The commencement of the development of a draft guideline for risk assessment of chemicals in consumer products. The aim was to produce a guideline that would help non-expert market surveillance authorities decide whether a chemical in a product would present a serious risk for the consumer;
- Organisation of the Risk Assessment Seminar 2016. Some 40 representatives from market surveillance authorities and the European Commission attended. The seminar included the beginning of the work with the risk assessment templates for the products targeted by JA2015.

CIMS

Seven Member States participated in the Continuous Improvement of Market Surveillance (CIMS) activity, Bulgaria, Estonia, Finland, Latvia, Malta, Slovakia and the Netherlands. Moreover, France took part in the second CIMS review by invitation from the host authority from the Netherlands.

Two CIMS review were organised and hosted each by the Bulgarian State Agency for Metrological and Technical Surveillance and the Netherlands Food and Consumer Product Safety Authority.

The reports from the reviews are available in the closed part of the knowledge base on PROSAFE's website.

E-LEARNING

Seven Member States took part in the work, Bulgaria, Iceland, Lithuania, Portugal, Romania, Slovakia, and The Netherlands.

The Activity undertook the development of an e-learning module on children's cots and folding cots. The module is divided in two parts:

- Part One mainly dealt with background information and includes an introduction to the concept of children's cots and folding cots and the respective standards;
- Part Two went into more detail with the European standard EN 716 and explained the scope, definitions and safety requirements in detail.

It was decided to implement a simpler e-learning module because the standard on cots was being amended and hadn't been finalised when the module was created. Therefore, an update of the module might be necessary in the near future following the final setting of the standard.

The module can be accessed via PROSAFE's website.

NEW AND EMERGING ISSUES

Four countries participated in this Work Package, France, Iceland, Latvia and the Netherlands. Malta also participated in one meeting outside the financial scheme.

The aim of the Activity was to develop recommendations for leveraging the Joint Actions to help the Member States deal more efficiently with new and emerging issues.

The Work Package came up with the following recommendations:

- Promote more systematic information exchange to identify new and emerging issues as early as possible;
- Encourage broader and enhanced international collaboration to share information and knowledge to promote the development of effective approaches to deal with specific new and emerging issues;
- Develop appropriate methodologies for the Joint Actions to build capacity to deal with new and emerging issues;
- Improve priority-setting in the Joint Actions again to address new and emerging issues in a

more systematic fashion across different product sectors.

IMPACT IMPROVEMENT

With regards to impact improvement, JA2015 has identified and proposed **six** recommendations of best practices:

- Organise national seminars for business associations before the beginning and/or after the end of a Joint Action to inform the sector about regulations, risks, the project, etc.;
- Prepare a project factsheet before the beginning and/or after the end of an Activity;
- Design simple e-learning tools with basic guidance to other market surveillance authorities and officials after the end of a WP;
- The PROSAFE Knowledge Base should provide easy access of all documents produced in all Joint Actions coordinated by PROSAFE to all participants;
- Each WP in a Joint action should draw up an action plan upon completion to explain what should be done next;
- Promote the use of the Safety Gate in all Joint Actions.

The idea of using digital tools in combination with an online database to coordinate sampling seemed very promising, so it was also included in JA2015 as a best practice.

The economic operators need to have increased focus upon the warnings, markings and instructions regarding their products. In particular, the Power Tools Activity has noted that economic operators selling power tools must be made aware of the importance of the required instructions and safety warnings in the instruction manual to reduce the remaining risks for non-professional operators.

This is particularly important for popular electric handheld tools like the circular saws, where professional products have migrated during the last decades into the consumer market.

JA2015 also highlighted the need for more awareness on ensuring the proper availability of DOC to MSAs.

Furthermore, manufacturers need also to pay more attention to the design and testing of their products to ensure that they are in conformity with the safety standards.

A significant number of suppliers found that does not ensure that their equipment is conforming to the requirements of the GPSD and the relevant safety standards at the time of its manufacture. Likewise, the economic operators clearly need to pay much closer attention to the verification of test reports used as a basis for demonstrating conformity assessment and regulatory compliance.

Based on the JA2015 results, combined with the risk analysis undertaken, the following points have been concluded:

- The participating MSAs have improved their knowledge of the market;
- The participants now better understand the technical requirements and testing of such products;
- Overall, the sampling process was very effective, the inspectors were able to identify potentially non-compliant products in their sampling process;
- An increasingly uniform approach was used to evaluate and follow up on test results;
- Numerous risk assessments templates were developed for future use by all EU Member States;
- In cases where the samples failed the laboratory testing according to the relevant standards, but were not found dangerous according to the MSAs risk assessments, the products/samples were simply considered as being of poor quality;
- Low, medium and high-risk non-compliances have been identified per product type and follow-up enforcement actions have been taken.

OTHER HORIZONTAL ACTIVITIES

The Joint Action organised an Annual Market Surveillance Workshop from 29 to 30 November 2016 in Brussels. It was very well attended and had the over-arching theme "Building on ten years of Joint Actions".

The next horizontal is quality management. The first major activity was the planning and the launching of the project, but it also included regular reviews of a quality plan undertaken by the PROSAFE Project Management Team as well as promotion and maintenance of the library of best practices.

Furthermore, the operation of the Rapid Advice Forum registered thirteen questions from the MSAs about dangerous products, legislative aspects or emerging issues during the period 8 April 2016 to 7 May 2017. Twelve of the questions were answered by other MSAs (with somewhere between 1 and 19 replies each). The average was 4,5 replies per question. The average response time was 2,8 days.

Finally, the project undertook the maintenance of the Knowledge Base with JA2015 documents.

CONCLUSION & LESSONS LEARNED

The Joint Action model is well-established and continues to provide an excellent platform for the cooperation between the Member States on market surveillance.

Overall, the Joint Actions make a significant contribution to achieving a high level of consumer protection and a level playing field for all economic operators throughout Europe. They provide a platform for building a network amongst the participating MSAs that they can use to share knowledge and learn from each other's expertise. Almost all Member States participate and work together which means that the product activities reflect a truly pan-European survey of the market place.

Moreover, the European Commission's generous funding ensures that a large number of samples can be tested. The sheer volume of tests delivers economies of scale driving unit costs further down.

JA2015 provided added value in many different ways, including in the following areas.

SAMPLING AND TESTING

Joint tendering for testing of samples continued to prove itself advantageous for the MSAs. Pooling all the testing gave economies of scale that lead to very competitive quotes from the laboratories. These price reductions meant that the participating authorities could perform more tests and focus on a much larger number of samples.

In return, this raises new issues, such as the limiting capacity of the test laboratories. The administration of the sampling and testing also takes up more resources for the authorities and for the coordinator (PROSAFE). The chance of double sampling (>2 items of the same product) increases.

The sampling process has been successful in avoiding these cases so far, but there seems to be scope for using an online tool giving live updates rather than relying on each MSA providing a table via email.

DOCUMENTARY CHECKS

The checklists developed by the Joint Action for the assessment of products, the DOC and test reports provide an excellent basis for future Joint Actions. However, there is scope for refining the checklist by consolidating or removing some of the criteria to ensure greater efficiency in the reporting of results. It is important to note that good documentary conformity is not necessarily a reflection of a compliant product.

The documentation review project for blenders and mixers conducted by Bulgaria in 2015 identified noncompliant user instructions and suggested the need for a wider product testing project. This Joint Action reinforced the need for product testing, as 60% of the samples from Bulgaria were noncompliant resulting in two Safety Gate notifications.

RISK ASSESSMENT

MSAs have increased their risk assessment knowledge in the application of the European Commission document 2015-IMP-MSG-15. This document builds on the Rapid Alert System Guidelines and assists MSAs when they assess the compliance of products that are subject to Union harmonisation legislation such as the LVD.

It does, however, require the use of abstract levels of severity of harm when evaluating damage to property, which was necessary in this project. It would be helpful if the RAG tool included harm levels.

The European Commission RAG tool could be further improved by having a dedicated area to cover sensitivity analysis, at present the risk assessment has to be repeated after adjusting the probability of injury figures.

Risk assessment of chemicals in consumer products has presented challenges to many MSAs. The JA2015 Plasticised Toys initially developed an internal proposal for risk assessment based on the original spreadsheet of the Toys Sub-Group on Chemicals. In October 2017, the European Commission issued an outline recommendation on how to establish the level of risk based on existing legislative limits of certain chemicals. This recommendation was very much welcomed by the participants and was taken into account in the activities of the project.

STANDARDISATION

Feedback given to the standardisation bodies is considered to be a very important task for the Joint Action.

The Activity on Soothers and Soother Holders found that they were in a unique position to provide feedback, as never before have 195 soothers and soother holders been examined together. This enabled the group to give detailed feedback on the current versions of EN 1400 and EN 12586.

The Activity on Electrical Household Appliances was able to provide further evidence for debate within CENELEC/TC 61 and stakeholders such as ANEC, as the accessible metal surfaces of several of those toasters that were tested by the Joint Action exceeded the burn threshold in CENELEC Guide 29.

Furthermore, the non-standard testing for blenders revealed the absence of an interlocking device in 75% of the samples, thereby allowing the cutting blade to rotate when the lid was removed, and the mains switch was in the "ON" position. This has provided further evidence for debate within CENELEC/TC 61, a timely result given the differences between the two standards EN 60335-2-14:2006 prAD:2017 and EN 60335-2-14:2017.

LIAISON WITH STAKEHOLDERS

As in previous Joint Actions, technical input from stakeholders during meetings proved to be extremely valuable.

Maintaining a healthy dialogue between all stakeholders helped to identify and prevent possible safety issues and identify practical solutions. JA2015 recommends that European organisations, such as businesses, manufacturers, importers and traders participate and give feedback throughout the project duration.

The Administrative Cooperation Groups (AdCos) are key stakeholders and JA2015 involved the various AdCos on Toys, Machinery, LVD and kept them continuously updated. For instance, close cooperation with the Toys Safety AdCo Working Group on chemicals in toys (E01360)[7] helped the involved MSAs to better understand the complexities behind the proposed approach for risk assessment of chemicals.

Many of the participating MSAs in the JA2015 Electrical Household Appliances were also members of the LVD AdCo and Working Party. This was largely beneficial and stimulated dialogue at various stages of the project.

MSA'S VERSUS MANUFACTURER'S TEST

Testing in a market surveillance context differs from product certification testing. The former aims at checking if a product is unsafe. The latter's goals to prove that the product is safe.

This difference allows a laboratory to skip some expensive tests which are less relevant for market surveillance purposes. Experience from the Power Tools Activity can illustrate this. The standard foresees more than one sample to be tested for some critical clauses.

However, the MSAs gained good experience with testing only one sample per model by applying an intelligent sequence of the required tests and an intelligent undertaking of the individual tests.

As an example, the drop test requires three samples to drop from three different orientations. Minding that for a saw with a heavy electric engine it is predictable which orientation will lead to the worst damages, one sample would suffice for this test. Furthermore, economies in samples are achieved by carrying out the non-destructive tests before undertaking the potentially destructive drop test.

BUSINESSES, WARNINGS AND DOCUMENTATION

Economic operators need to have an increased focus upon the warnings, markings and instructions of their products. JA2015 noted that economic operators selling power tools must be made aware of the importance of the required instructions and safety warnings in the instruction manual because they will reduce the remaining risks for non-professional users. This is relevant for popular electric handheld tools like the circular saws, where professional products have migrated during the last decades into the consumer market. Given the high number of products with missing or incomplete warnings or instructions found in this project, further surveillance activities seem necessary.

The JA2015 highlights the need for more awareness on the side of business operators to ensure the proper availability of DOC to MSAs.

Additionally, the project finds value in further analysing how the MSAs act when a toy lacks the DOC, with the goal to harmonise the approach.

Furthermore, the Joint Action recommends that manufacturers apply enhanced checks on the design and testing of their products so that they are in conformity with the safety standards.

Apparently, a significant number of suppliers do not ensure that their equipment, at the time of its production, is conforming to the requirements of the GPSD and the relevant safety standards. Likewise, economic operators need to pay much closer attention to the verification of test reports used as a basis for demonstrating conformity assessment and regulatory compliance.

[7] Register of Commission Expert Groups and other similar entities, retrieved from: http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=1360

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