

To Coreper

20 November 2018

Re: Compliance and Enforcement proposal (Goods Package)

Dear Ambassador,

This letter concerns the proposal for a regulation on Compliance and Enforcement from the 'Goods Package', which is scheduled for discussion in Coreper on 23 November. While we fully subscribe to the need for a new regulation on market surveillance in order to ensure a level playing field in the Single Market, we find that two main elements need further assessment.

The first element relates to the additional requirements for goods entering the EU from third countries, including through online sales channels.

These additional requirements considered by the Council for Article 4 would add far-reaching obligations for economic actors that are not established in the Union and therefore establish a de facto barrier to trade. Intense discussions on this Article in the Working Party seem to not have been conclusive and indicate that the issue is not ready for a general approach. BusinessEurope supports the Commission's proposal on Article 4 and recommends that Council does not make significant changes to the Article.

The second element relates to the presumption of non-compliance of products, according to which any decision on non-compliance by one market surveillance authority is accepted by all market surveillance authorities throughout the EU.

This presumption would occur without validation of the non-compliance decision through a second opinion and independently of the risk posed by the non-compliance - so even for minor instances of non-compliance or administrative errors. This opens the way for proliferation of potentially disproportionate and most restrictive measures. That is particularly problematic as there is no mechanism foreseen where differences of opinion between two or more different surveillance authorities and economic operators can be discussed and resolved. BusinessEurope finds that the presumption of non-compliance needs to be removed from Article 12 in order to achieve a proportionate outcome.



We therefore urgently call on the Council to address these issues thoroughly before proceeding to a general approach, so that disproportionate or unintended consequences are avoided. We stand ready to discuss these issues with you.

Yours sincerely,

Markus J. Beyrer