

On the proposed Regulation in the area of Mutual Recognition:

- **Voluntary mutual recognition declaration** (Article 4) to demonstrate that goods are already lawfully marketed in another Member State. This could be helpful for economic operators as long as the declaration is voluntary.
- **Certificates and test reports** (Article 5(2)). It seems positive that the proposed regulation entails a provision emphasizing that Member States should in principle recognize certificates and test reports from conformity assessment bodies.
- **Communication when market access is denied** (Article 5(3) and 6(2)). It seems positive that all Member States will need to be informed of decisions to deny, restrict or suspend market access (not only the economic operator and the Commission, as before).
- **SOLVIT as a remedy for Mutual Recognition** (Article 8). It is disappointing there is no 'appeal' trajectory as was foreseen in previous proposals, but only a reference system for SOLVIT centres to obtain Commission input, which not directly available for companies.
- **Product Contact Points** (Article 9-10). It seems positive that the Commission wants to ensure a good functioning of the PCPs, including administrative cooperation between the PCPs in different Member States.

On the proposed Regulation in the area of Compliance and Enforcement / Market Surveillance:

- **EU responsible person** (Article 4). The proposal would introduce a 'responsible person' within the EU for products coming from third countries. It is disappointing that the proposal does not introduce a separate category for the fulfilment centre.
- **Product Contact Points** (Article 6). The proposal provides that Product Contact Points are extended to harmonised products. This could be a positive development, as it could allow for the provision of more integrated information to economic operators beyond the harmonised/non-harmonised divide and for better information to economic operators.
- **Possibility of agreements/MoUs between authorities and market operators** (Article 7 and 8). The proposal introduces the possibility of enhanced cooperation between market surveillance authorities and market operators through compliance partnerships and memoranda of understanding. In principle this is a positive development as it could allow for better cooperation with market operators. In the proposal there is however no financial EU support foreseen for these initiatives.
- **Activities and powers of market surveillance authorities** (Article 12 and 14). The proposal covers the activities and powers of market surveillance authorities. It seems positive that these are covered in the proposal and also explicitly include proportionality in Article 14(5).
- **Introduction of EU testing facilities** (Article 20). The proposal would introduce the possibility for the Commission to designate EU testing facilities. In principle this is a positive development as long as market surveillance authorities are obliged to recognize the test results from these facilities.
- **Administrative fees** (Article 21). The proposal makes clear that market surveillance authorities can charge administrative fees for the economic operator in case of non-compliance. It is key that paying fees by companies for market surveillance only applies to non-compliant cases, not for those products that are investigated but turn out to be compliant.
- **Customs and market surveillance authorities** (Article 26-30). Market surveillance authorities would have to inform border authorities about categories of high-risk products. The customs authorities would notify market surveillance authorities of suspended products, after which

the surveillance authorities can step in. These surveillance authorities would then inform customs authorities not to release products if they present a serious risk or if they do not comply with harmonisation legislation.

- **Network of market surveillance authorities** (Article 32-33). The establishment of an EU network (“Union Product Compliance Network”) could improve coordination, especially since Member States would also have to designate a single liaison authority (article 11).