



ANEC-CHILD-2008-G-037

12 June 2008

ANEC/BEUC Fact sheet

Comitology should help quickly adapt the Toys Directive

→ Background

There are currently two ways to adapt the toy safety legislation to market changes (new products) or newly identified risks:

- through standardisation as used in the case of magnetic toys. This route is a slow process with unbalanced participation of stakeholders and do not provide an adequate level of protection. It is also not adequate for solving highly political issues, such as the setting of emission limits for dangerous chemicals;
- through a revision of the Toy Safety Directive via co-decision procedure as it has been done for phthalates in toys. It is a long process which cannot provide the necessary level of safety in urgent cases.

The introduction of the comitology procedure is therefore needed to allow reacting quickly to market changes (e.g. new products) or new identified risks by adapting certain requirements of the Toy Directive in a timely and convenient manner, without having to revise the whole legislative text. This only would ensure that the highest level of safety for our children.

The essential safety requirements of the Toy Directive are general principles which are by nature relatively vague and cannot be directly enforced. These requirements can only be set or revised by European legislators in the context of a cosmetics-decision procedure. Where needed, specifications are established in the technical annexes to the Directive. Some of these specifications are essential requirements but not all. Those specifications which are considered as non-essential are *inter alia* the requirements for chemicals in toys.

→ The need for a Comitology procedure

The **Comitology procedure with scrutiny** may serve to add the necessary level of details to certain non-essential specifications, by establishing new or quickly updating them when necessary. It has been introduced in the Commission proposal to this aim, but is limited to the approval of carcinogenic, mutagenic and reprotoxic (CMR) substances, and to changes to the list of allergenic fragrances and to migration limits for metals.

In our view, the Comitology procedure should also be used for the **establishment of limit values that have a direct impact on children's health and safety**. Indeed, setting limit values is a highly political issue which should be solved at political level and not shifted to standardisation bodies. This is particularly true for the

establishment of **limit values for chemicals**, and other limits that are directly linked to the health and safety of children, such as **noise or speed limits**.

In addition to establishing limit values that have a direct impact on the health and safety of children, we believe that the comitology procedure with scrutiny should also be used to determine the products which fall inside or outside the scope of the Toy Directive and to determine those toys for which an EC-type approval (third-party testing) is needed.

→ Our proposal for amendments

CHAPTER VIII COMMITTEE PROCEDURES

Article 45

Amendments and implementing measures

1. The Commission may, for the purposes of adapting them to technical and scientific developments, amend the following:

- (a) Annex I;
- (b) Points 7 and 8 of Part III of Annex II;
- (c) Annex V.

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 46 (2).

Justification:

It should be made possible to use the comitology procedure with scrutiny to adapt the list of products that should not be considered as toys. This would ensure that the scope of the Directive can be quickly adapted to new market developments i.e. new toys.

2. The Commission shall, where necessary to ensure the health and safety of children, specify, in details, the essential safety requirements defined in annex II (e.g. establish limit values or other restrictions for certain chemicals other than listed in points 7 and 8 of part III of Annex II, limit values for noise, limit values for speed etc.) and shall establish a list of toys requiring EC-type-examination according to part II of annex I.

Those specifications should be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 46 (2).

Justification:

Decisions relative to highly political issues necessary to ensure the health and safety of children should not be left to standardisation bodies. For such issues, it is also necessary to benefit from a procedure that is quicker than co-decision. Limit values for e.g. chemicals in toys, noise or speed should therefore be set via the comitology

procedure with scrutiny. In addition, the comitology procedure could be used to set up and adapt a list of toys that should undergo a mandatory EC-type examination.

3. The Commission may decide upon the use in toys of substances or preparations classified as carcinogenic, mutagenic or toxic for reproduction, of category 1, 2 and 3, under Annex I to Directive 67/548/EEC.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 46 (2).

ANNEX II

PARTICULAR SAFETY REQUIREMENTS

I. PHYSICAL AND MECHANICAL PROPERTIES

7. Toys conferring mobility on their users must, as far as possible, incorporate a braking system which is suited to the type of toy and is commensurate with the kinetic energy developed by it. Such a system must be easy for the user to operate without risk of ejection or physical injury for the user or for third parties.

The maximum design speed of electrically driven ride-on toys must be limited so as to minimise the risk of injury.

The Commission may set the maximum design speed of electrically driven ride-on toys in accordance with the regulatory procedure with scrutiny referred to in Article 46 (2).

Justification:

Defining a maximum design speed limit for electrically driven ride-on toys is a political issue that should be decided upon at political level via the comitology procedure with scrutiny. It should not be left to standardisation bodies.

10. Toys which are designed to emit a sound should be so designed and constructed so that the sound from them is not able to impair children's hearing.

The Commission may set the limit value for these toys in accordance with the regulatory procedure with scrutiny referred to in Article 46 (2).

Justification:

Defining a maximum noise limit for toys that emit a sound is a political issue that should be decided upon at political level through the comitology procedure with scrutiny. It should not be left to standardisation bodies.

END.