



ANEC-CHILD-2008-G-040

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ANEC/BEUC Fact sheet

Introduce specific requirements for toys in food

→ Background

It has become common for food manufacturers to include toys or other non-food items as a marketing device to encourage consumers and especially children to buy their products. Unfortunately, this practice has led to injuries and some fatalities. The problem does not necessarily lie with the toy itself, but rather with the combination of a food product (e.g. chocolate egg) and a non-food items (e.g. toy) being offered to a child at the same time. The child may indeed swallow (a small part of) the toy while eating the food product due to a lack of attention which may present choking risks.

Toys embedded in food are prohibited in many countries including the United States. Despite fatal and near fatal accidents, food products containing toys continue to be sold in the EU.

In this context, the prohibition in the Commission's proposal of toys attached to the food product in such a way that the food needs to be eaten first in order to reach the toy is a step in the right direction. However, other requirements for toys in food in the Commission's proposal should be strengthened. In particular, the inner packaging must not present any asphyxiation risk for children, by being swallowed and/or inhaled or by being lodged in the rear part of the oral cavity thereby blocking the child's airways.

→ Our proposals for amendments

ANNEX II **PARTICULAR SAFETY REQUIREMENTS**

I. PHYSICAL AND MECHANICAL PROPERTIES

4. Toys and their parts must not present risk of asphyxiation caused, in particular, by strangulation or suffocation.

The packaging in which toys are contained for retail sale must not present risk of strangulation or asphyxiation caused by airway obstruction **internal and external** to the mouth and nose.

Justification:

Children use products in all conceivable ways and also play with and explore the packaging. It is known that accidents have occurred with spherical, oval or egg-shaped toys which, given their form, have become tightly lodged in the rear of the child's oral cavity forming a seal over the airways, thereby causing suffocation or near-suffocation. It is not defensible to allow toy containers/capsules to be shaped in this way, whether the toys are sold together with food, in automatic dispensers or are sold in shops. As the above mentioned accidents represent cases of internal airway obstruction, the risk of asphyxiation should not be caused by internal airway obstruction either.

Toys, which are clearly intended for use by children under 36 months, and their component parts and any of their detachable parts must be of such dimensions as to prevent their being swallowed and/or inhaled. This also applies to other toys which are intended to be put in the mouth, **to toys which functions will be improved if the toy is wetted in saliva**, and to their component parts and any of their detachable parts.

Toys contained within food or co-mingled with a food must have their own packaging. This packaging, in its supplied condition, must be of such dimensions as to prevent it being swallowed and/or inhaled **and must not present any other risk of asphyxiation, strangulation, external or internal airway obstruction or choking.**

Toys in food should distinguish themselves clearly by colour, consistency and size from the food;

Justification:

Toys in food are being offered to a child at the same time. While playing with the toy, the child will eat the food without always paying attention to what it is putting in its mouth (e.g. a small part of the toy).

Warning labels on food products containing toys must not be distorted, in particular folded or crumpled, or be easily distorted.

Justification:

This could impair the legibility of the warning.

Toys firmly attached to a food product at the moment of consumption, in such a way that the food product needs to be consumed in order to get direct access to the toy, shall be prohibited.

Parts of toys attached to a food product which does not need to be consumed in order to get access to the toy should be of such dimensions that they can not be swallowed, inhaled or cause internal airway obstruction.

Justification:

This is the case for candy lipsticks in a plastic socket and with a plastic cap, or for candy pacifiers with plastic shields. When the child sucks the candy there is a risk that the socket or the shield will be inhaled, without having to consume the whole lipstick. There was a fatality with such a candy lipstick in Ireland where a child (older than three) swallowed the cap. The cap has now been perforated in order to allow air passage but we know that the product is banned in some Member State e.g. in Sweden.

The assessment of the hazard inherent in toys in food shall be done on the basis of the precautionary principle.

Justification:

This is mentioned in the Explanatory memorandum of the Commission's Proposal, under point 3.1.4 Toys in food, where reference is made in a footnote to "Commission Communication COM (2000) 1, 1.2.2000". See also separate ANEC/BEUC factsheet on the precautionary principle.

ANNEX V WARNINGS

(Article 10)

PART B – SPECIFIC WARNINGS AND INDICATIONS OF PRECAUTIONS TO BE TAKEN WHEN USING CERTAIN CATEGORIES OF TOYS

7. Toys in food

Toys contained in food or co-mingled with food shall contain the warning:
“Adult supervision recommended”.

Food products containing toys must bear the following warning, irrespective of the age of the child: “Warning: contains a toy”, or, in case the toy is packed in a hazardous container: “Warning, contains a toy in a container which may present a choking hazard. Remove these items before giving the food to the child”

Justification:

Some products simply indicate that there is a “surprise inside”, without mentioning whether the surprise is edible or not. In such case, a child could confuse e.g. a little ball (inedible/toy) with a chewing gum shaped like a ball (edible). The proposed wording therefore offers a better protection to children.

END.