



Mrs Liliana Brykman
Director, Regulatory Policy
DG Enterprise & Industry
European Commission
rue de la Loi 200
1049 Brussels

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CE Marking – ‘a mark Europeans can trust’

Dear Mrs Brykman

The positioning of CE Marking towards consumers has been of much concern to ANEC and our sister consumer associations at national and European level since the adoption of the New Approach in 1985.

Our particular concern has been implicit or explicit reference to CE Marking as a mark of safety for consumers. Although we have had to come to an acceptance that CE Marking helps to confer benefits and obligations on economic operators and market surveillance authorities, we remain insistent that CE Marking has no meaning for consumers.

Given the lack of obligation on manufacturers to carry out an independent check on the conformity of the product to the essential requirements of a directive, CE Marking can be no indication or otherwise that a product is safe.

Moreover, as the Commission itself acknowledges, not all products are required to bear CE Marking. Hence does the absence of CE Marking mean that a product taken at random is exempt or unsafe? This also raises some curious examples. A cot for a baby is exempt from having to bear CE Marking and yet a toy cot, being covered by the Toy Safety Directive, is expected to carry CE Marking. Does this mean a toy cot is safer than a cot for a baby? How is the consumer to know?

Then there is the problem of falsely-affixed CE Marking. The present system of market surveillance & enforcement, organised at national level by each Member State, is inadequate for policing the modern Internal Market. Even if the Member States respond positively and fully to Regulation 765/2008 – despite pessimism expressed in the European Parliamentary Study of October 2009¹ – surveillance activities will still be defined differently from Member State to Member State.

¹ “Market surveillance in the Member States”: <http://tinyurl.com/ydujk7h>

We are not alone in calling for the creation of a European framework for surveillance and enforcement, able to guarantee co-ordinated and properly-funded activities across the EU. Indeed, we were joined by Orgalime (the European Engineering Industries Association) in a position paper of April 2009².

With these issues in mind, we were more than astonished to read the article 'a mark Europeans can trust' to which there is a link in the Enterprise & Industry e-Newsletter of 17 March. Although we accept the later paragraphs do hint at the weaknesses of the present system behind CE Marking, the first four paragraphs – which provide the overview and are what most people will read – describe CE Marking as a benefit to consumers in the boldest and most unashamed manner:

We've all seen the arch-shaped 'C' and 'E' that adorn many products sold in the EU's single market, as well as the European Free Trade Association (EFTA) countries. But what does this 'CE' marking mean? Well, it means that the product in question conforms to all the relevant safety, health, environmental and other requirements outlined in harmonised EU legislation (see box).

CE Marking does not mean a product is in conformity. It is instead a declaration of conformity as stated on the Dolceta website, funded by the Commission to be an on-line source of education (although we regret that Dolceta lists CE Marking under 'Safety Labelling').

All products in certain categories – those for which EU-wide requirements exist and provide for CE marking – must carry the CE label to be sold in the EU. These include computers, phones, toys and electrical products. Of course, there are product groups that are not required to carry the CE marking, such as automobiles.

True to a point but how is the consumer to know which products are required to carry CE Marking and which are exempt (as mentioned earlier)?

The CE marking is good for consumers, enterprises and national authorities. For consumers, it indicates, in a clear and easily identifiable fashion, that the product is safe and healthy. For European industry, the mark provides EU enterprises with access to the entire single market without having to acquire 27 individual approvals from national authorities, thereby reducing the cost and burden of conformity while maintaining high standards. For national authorities, it facilitates controls to be handled by each agency at a time when the range of goods available on the EU market is growing exponentially, without compromising standards.

CE Marking does not indicate a product is safe. At best, it associates a product with safety. Healthy? This is a new claim for CE Marking and is quite absurd. And does absence of CE Marking mean a product is exempt, unsafe or unhealthy?

The main role of the CE marking is to verify that a product conforms to safety and other requirements laid down in the relevant legislation. It is by no means a certification of origin and certainly does not mean that a product has been made in the EU; it only means that it may be sold in the Union's single market.

'Verify' implies the conformity of a product with essential requirements has been independently assessed. This is not true for most products bearing CE Marking.

² "Call for an effective pan-European market surveillance system": <http://tinyurl.com/cx73dw>

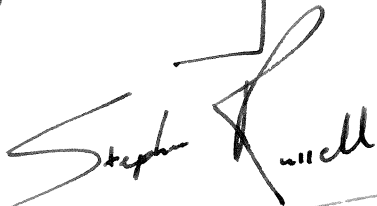
Noting these observations and concerns, we urge the Commission to delete the on-line article or amend it so that it both accords with the Dolceta webpage and loses some of the more contentious claims (e.g. CE Marking = healthy).

Finally, we know the Commission is preparing an information campaign aimed at explaining CE Marking to economic operators. We endorse the wish to promote CE Marking to this audience as each player in the retail chain – manufacturer to exporter to importer to retailer- needs to know his or her obligations under the New Legislative Framework. However, for the reasons discussed in this letter, we also urge the Commission not to focus a part of its campaign on consumers. CE Marking has never been intended for consumers and cannot be a safety mark as we have attempted to explain. It is better to let sleeping dogs lie.

Of course, we would be pleased to discuss our concerns with you or colleagues.

Please note we have included members of the European Consumer Consultative Group (ECCG) in the circulation list of our letter. The ECCG has expressed its concerns at CE Marking on several occasions during recent years.

Yours sincerely

A handwritten signature in black ink that reads "Stephen Russell". The signature is written in a cursive style with a long horizontal line extending to the left and a vertical line extending upwards from the end of the name.

Stephen Russell
Secretary-General

cc: Mr Pedro Ortún, Director, NA Industries, Tourism & CSR, DG ENTR
Mrs Jacqueline Minor, Director, Consumer Affairs, DG SANCO
Mr Jacques McMillan, Regulatory Strategy, DG ENTR
Mr Stefano Soro, Head of Unit, Product & Service Safety, DG SANCO
Mrs Renate Weissenhorn, Head of Unit, Standardisation, DG ENTR

Members of the European Consumer Consultative Group (ECCG)