Independent Retail Europe

GENERAL PRODUCT SAFETY REGULATION
- COMMENTS OF INDEPENDENT RETAIL EUROPE -

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EXECUTIVE SUMMARY

Independent Retail Europe is the voice of groups of independent retailers in the food and non-food sectors at EU level. Our members are groups of independent (SME) retailers that usually operate under one brand name while maintaining their independence as individual businesses. We represent 23 groups and their over 386.600 independent member retailers, who provide more than 6,6 million jobs in the EU.

The EU Commission has proposed several revisions of the product safety legislations. Besides initiatives on machinery products, toys, market surveillance and Artificial Intelligence, a proposal on product safety has been published on 30 June in 2021. We generally support the EU's ambition of an efficient product safety net and an increased level of product safety within the EU. However, we wish to raise some important considerations to ensure that the new obligations under the proposed General Product Safety Regulation (GPSR) do not translate into burdensome or contradicting obligations for economic operators and especially retailers, but truly and directly benefit EU consumers.

We are particularly concerned that:

- A multitude of separate revisions of product safety legislations may lead to legal incoherencies.
- The obligation to display the batch/serial number when offering a product online (Article 18-c) is unworkable in practice, and will make the maintenance of an online shop overly complicated for retailers, particularly for SMEs without bringing added safety or other benefits to consumers purchasing online.
- The definition of online marketplace should exclusively encompass third-party platforms, and not internal/closed platforms operated by cooperative retail groups under the group's brand.
- Using data from loyalty programs is not the most efficient way to reach consumers for product recalls. It should therefore not be mandatory.
- The publicly available features of the Safety Gate might lead to undesired side effects.
- Including all software and hardware updates without any exceptions within the scope of the GPSR might reduce a number of services especially important to vulnerable citizens.
- Provisions on traceability do not provide businesses with necessary legal certainty.
- The definition of a safe product should be clarified.

COMMENTS OF INDEPENDENT RETAIL EUROPE ON A PROPOSAL FOR A GENERAL PRODUCT SAFETY REGULATION

Coherence between different legal texts of the product safety acquis

The Commission has not only proposed a revised Regulation on General Product Safety, but is also revising the low voltage Directive, the Machinery Product Regulation and the Toy Safety Directive. All legislative texts are relevant for retailers who most often have a large variety of products that potentially fall under all the above mentioned texts.

Legal coherence between the different texts on product safety is of upmost importance for retailers. It is a fact that a retailers offer a multitude of products that most often fall within the scope of different legal texts. Retailers are willing to fulfil all their legal obligations to ensure a high level of product safety on the internal market. Diverging legal provisions on their obligations, however, will make the process overly complicated and prone tor error.

Reporting obligations for retailers should be streamlined between the different legal texts of the product safety acquis. All texts should distinguish cases where products are not yet available on the market, have been put on the market and cases where products already caused an incident. Disregarding the legal regime that applies for a product / machinery product / toy / AI product, the reporting obligations must follow the same procedure and address the very same actors (importers, manufacturers, national authorities). A situation where a retailer has to notify importer/manufacturer for machinery and other products but only the authorities for toys would be confusing. Those procedures need to be harmonised across the entire product safety acquis. The Safety Gate should be used for all notifications to simplify procedures.

Obligation to display the batch/serial number when offering a product online (Article 18-c)

Article 18(c) of the Commission proposal introduces new obligations for distant and online sales, namely the obligation to indicate information to identify the product including the batch/serial number if available when offering a product online.

We believe that this new obligation is unworkable in practice and fails to address correctly the problem of non-compliant products sold on third party marketplaces by non-EU traders. Contrary to the justification raised by the European Commission proposal (recital 36), it does not in practice restore a level playing field for products sold offline and offline. As a result, such obligation will mostly create major burdens, in particular for SME retailers based in Europe, while providing no actual benefits.

Retailers have limited stocks in their warehouses/shops. Many products sold are actually not in the warehouses/shops of the retailers at the moment they are made available on their online sales channels. Moreover, suppliers do not disclose the serial number to the retailer at the moment the product is ordered from that retailer, but only when the product is physically supplied to the retailer.

It is also doubtful that product manufacturers would be in the position to consistently provide in advance the precise batch/serial number of a product at the moment it is ordered by the retailer, as this would require highly elaborated anticipation of production process and needs across many different production lines (possibly across several countries). This is highly unrealistic across product categories.

Hence, in most cases the batch/serial number will not be available until it reaches the warehouse of the retailer (as the information is usually on the package of the product). Therefore, the individual product information is rarely available to the retailer, when a consumer browses online for a specific product and decides to purchase it. It will however, always be available when the product is received by the retailer (who must check it is there as per the existing GPSD) and either shipped to the consumer or collected in shop by the consumer.

Moreover, in the light of future developments in the retail sector, like drop-shipping, the provision to provide the batch number if available is already obsolete. In the case of drop-shipping the retailer is no longer in charge of shipping the product. Instead, the product never leaves the warehouse of the manufacturer and is directly shipped by the manufacturer to the consumer. This will further shorten and simplify supply chains and facilitate the market entry of start-ups and SMEs who do not have to provide expensive warehousing solutions. The EU's endeavours for more sustainable supply chains and economic recovery should take innovative developments like drop-shipping into account.

Even if such information is occasionally available, any such obligation to provide information to identify individually the product displayed online for sale, would be technically extremely burdensome to implement, since every single product from a given series would require a separate pop-up window. Brochures would need to cite every serial number of every individual product which would lead to extremely extensive and confusing brochures. The cost entailed would be disproportionately high for SME retailers.

Moreover, indicating the serial number online will be particularly hard to implement for groups of independent retailers, as every single retailer member of the group is an independent entrepreneur and hence manages his inventory differently. The inventory of each retailer is not maintained through the group structure's website.

Contrary to the assertion in the Commission proposal (recital 36), consumers would not benefit from being given at the time of the purchase the serial number of the particular product they order online. Indeed, what matters for consumers is that they have access to this information when they are physically supplied the product (i.e. when they collect it or receive it at home). In a physical retail shop, consumers also do not have this information when they purchase it (as there are limited number of products displayed in shelves) but only when they actually collect the individual product they bought (i.e. at the pick-up point of the store. This is often the case for electrical products or furniture). **The obligation of article 18(c) would therefore not restore a level-playing field between online and offline but, on the contrary, un-level the playing field and make online sales much more complicated.**

Finally, if the real aim of this obligation is to tackle the issues raised by non-EU traders failing to respect obligations of distributors when selling on third-party marketplaces, we believe that this obligation misses its target. Indeed, a rogue trader based outside the EU and unwilling to fulfil basic distributors' obligations linked to product safety is unlikely to display to consumers reliable individual product information. Other obligations should be considered in such a case.

In summary:

- ➔ The new obligation to display the batch number online is unworkable in practice.
- ➔ Consumers would not benefit from being given at the time of the online purchase the serial number of the particular product they order online.
- ➔ This obligation makes online sales more difficult and un-level the playing field between on- and offline sales channels. In some physical retail shops consumers also do not have this information at the moment of purchase but only when they actually collect the individual product at the pick-up point of the store.

Proposal for a Regulation **Article 18**	
Text proposed by the Commission	*Amendment proposed*
(c) information to identify the product, including its type and, when available, batch or serial number and any other product identifier;	***Deleted***

Obligation for marketplaces (art 3-14)

The rise of third-party/open marketplaces (e.g. Amazon, e-bay, etc.) has created a new set of safety and fair competition issues. Indeed, many retailers face unfair competition from non-compliant sellers often based outside of the EU who sell illegal/non-compliant goods to consumers via third-party online platforms/marketplaces. Moreover, since the sellers are based outside the EU, it is often difficult for consumers to exercise their rights. This is harmful for consumers and hurts legitimate traders complying with the product safety acquis, such as groups of independent retailers.

We therefore strongly welcome the Commission's intention to address the issue through specific targeted rules for online marketplaces in the GPSR proposal.

However, the definition of "online marketplace" should not be aligned with the definition in the Omnibus Directive, as it overlooks the crucial distinction between third-party/open platforms and internal/closed platforms such as those of groups of independent retailers operating under the brand name of the group.

While in the case of third-party platforms, the platform provider offers its services to any trader willing to sell products through the platform service (under its own name), in the case of groups of independent retailers, the (internal/closed) platform services operates under the band name of the group and is restricted to duly identified member retailers inside the group (which are shareholders of the group and therefore exerting control on the group's platform service).

This crucial distinction is overlooked by the Omnibus Directive and by the Commission proposal on the Digital Services Act. The Digital Services Act and the GPSR should take into account this distinction. **Platforms created by groups of independent retailers under their common brand and exclusively reserved to their members-shareholders are not marketplaces, and should not be considered as such.**

In summary:

- ➔ Clarify the notion of online marketplace: internal and closed platforms operated by a (cooperative) group of independent retailers to sell products under the group's name and exclusively open to the member-shareholders of the group should not be considered as marketplaces.
- ➔ Support the introduction of specific safety/information obligations for truly third-party/open platforms allowing any trader to sell products through the platform.

Obligation for retailers to use all available personal data for recall notices (Article 33)

The Commission proposes an obligation for retailers to use all available personal data for recall notices. They will have to design their loyalty programs in a way that data can be used for the purpose of contacting consumers in the context of a product recall. Furthermore, the proposal asks retailers to ensure the widest possible reach of the recall notice (including on website, social media, newsletters and retail shops, and mass media if appropriate) and also include consumers with reduced accessibility.

Using loyalty systems for informing customers about defective products is not as straightforward as it initially seems. The requirements for the IT system will increase, as the loyalty program would have to evolve from a marketing system to an emergency system. This might entail new unforeseen liabilities for the retailer. The consequences thereof should be clear in the legal text.

Using loyalty program for product recalls poses the following challenges.

The product data available in the loyalty system is not detailed enough to enable an effective product recall (e.g. it will normally not contain the production batch). This is the case in particular with fast moving goods (FMCG), but also other products. Article 33 would require the necessary data for a recall to be entered in the IT system, therefore requiring a massive overhaul of the entire IT-system and consequently of the loyalty program. This may force many retailers (especially the smallest) to reconsider their loyalty program in this case.

Data extraction for recalls needs time and widely depends on the quality of the recall notice. Deadlines should therefore not be too short as weekends and public holidays might slow down the process of extracting the data, that is not always available. Retailers need to know the utility requirements, for example maintenance breaks.

Many customers also do not provide retailers with their electronic contact details or/and do not keep them updated. Using the postal services will be too slow and is not a valid option. Besides, many customers do not adhere to loyalty programs. Data from loyalty programs is therefore in the end not as useful as expected to make product recalls more efficient. Other forms of recalls need to be complementary in any case, which will entail additional costs. Consumers with reduced accessibility will require additional completely new systems to enable sending voice messages.

The requirement to make the recall notice available in a language that is easily understood in the Member State, will reveal to be difficult to implement in some countries where several languages are widely used. (E.g. Finland's official languages are Finnish, Swedish and Sami, but Estonian and Russian are also widely used), many Member States now host considerable amounts of foreign inhabitants which may need to be addressed in other languages than the (main) national ones. Flexibility is needed as translation services in emergency situations might not be available

Moreover, using loyalty programs for product recalls will be particularly hard for Groups of Independent Retailers, as loyalty programs are not centrally managed, not even at national level. The group has no information about which stores have a loyalty program and how many consumers are included in them. Every independent member retailer will have to recall a product individually, which disproportionally increases the burden for SME retailers and indirectly overburden the business model of groups of independent retailers (therefore favouring large integrated chains).

In summary:

- ➔ Product safety and consumer protection should not depend on voluntary features like loyalty programs
- ➔ The necessary overhaul of the IT system linked to the obligation to use data from loyalty programs for product recalls might lead to SME retailers to reconsider their loyalty program.
- ➔ Using data from loyalty programs is not the most efficient way to reach consumers. The data is most often not updated or incomplete. Language and translation issues might lead to additional difficulties.
- ➔ SME Retailers, as members of Groups of Independent Retailers, would be disproportionally burdened by recalls via their loyalty systems.

Proposal for a Regulation **Article 33** **Information from economic operators to consumers**	
Text proposed by the Commission	*Amendment proposed*

1. In case of a recall or where certain information has to be brought to the attention of consumers to ensure the safe use of a product ('safety warning'), economic operators, in accordance with their respective obligations as provided for in Articles 8, 9, 10 and 11, shall directly notify all affected consumers that they can identify. Economic operators who collect their customers' personal data shall make use of this information for recalls and safety warnings.	1. In case of a recall or where certain information has to be brought to the attention of consumers to ensure the safe use of a product ('safety warning'), economic operators, in accordance with their respective obligations as provided for in Articles 8, 9, 10 and 11, shall directly notify all affected consumers that they can identify. Economic operators who collect their customers' personal data ***shall be allowed to make use*** of this information for recalls and safety warnings.
2. Where economic operators have product registration systems or customer loyalty programs in place for purposes other than contacting their customers with safety information, they ***shall*** offer the possibility to their customers to provide separate contact details only for safety purposes. The personal data collected for that purpose shall be limited to the necessary minimum and may only be used to contact consumers in case of a recall or safety warning.	2. Where economic operators have product registration systems or customer loyalty programs in place for purposes other than contacting their customers with safety information, they ***can*** offer the possibility to their customers to provide separate contact details only for safety purposes. The personal data collected for that purpose shall be limited to the necessary minimum and may only be used to contact consumers in case of a recall or safety warning.
3. The Commission, by means of implementing acts, shall set out requirements for registration of products or specific categories of products. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(3).	3. The Commission, by means of implementing acts and ***after consulting an expert group explicitly introduced for this purpose and including sector representatives***, shall set out requirements for registration of products or specific categories of products. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(3).

Reporting obligations - Safety Gate (Article 32)

The Commission proposes to improve the existing reporting system for safety alerts. RAPEX will be renamed safety gate and will have three different interfaces. Member States will inform the EU Commission through the Safety Gate. Economic Operators fulfil their reporting obligations through the safety business gate. In the Safety Gate Portal consumers can alert the Commission and Member States about products that present a risk.

The wording "consumers shall have the possibility of informing the Commission of products presenting a risk" (Art 32.2) is not clear enough. It does not allow consumers who do not have the technical knowledge about a product to auto assess whether a product should be notified. Certainly the Commission will assess whether a follow-up is necessary. We doubt that the EU Commission has sufficient technical knowledge of every product available on the EU Single Market. **SME Retailers fear that there might be a high number of dubious notifications that will be very harmful for businesses without proper justification.** In the worst case, the system could be used by unscrupulous traders to undermine their competitors without a legitimate basis. Hence, the place of sale should not be disclosed.

In summary:

- ➔ Consumers do not have the technical knowledge of a product to auto assess whether a product should be notified. Enhanced transparency might lead to abuse of the notification system, unnecessarily blacklisting certain companies. There is a need for a sound and well-functioning notification system.
- ➔ The information notified shall not be disclosed to the general public until its accuracy has been duly verified (to avoid irremediable damage to reputation and unscrupulous notification to blackmail competitors).
- ➔ The place of sale should not be disclosed.

Proposal for a Regulation **Article 32** **Safety Gate Portal**	
Text proposed by the Commission	*Amendment proposed*
2. Consumers shall have the possibility to inform the Commission of products presenting a risk to consumer health and safety through a separate section of the Safety Gate portal. The Commission shall take in due consideration the information received and ensure follow up, where appropriate.	2. Consumers shall have the possibility to inform the Commission of products presenting a risk to consumer health and safety through a separate section of the Safety Gate portal. The Commission shall take in due consideration the information received and ensure follow up, where appropriate. ***The information notified by the consumer shall not be disclosed to the general public until its accuracy has been duly verified.*** ***Information notified by the consumer shall include***: - ***Batch number*** - ***Name and contact details of the manufacturer*** - ***Description of the defect***

Including Software Updates within the scope of the GPSR (Article 12)

A distributor will be considered a manufacturer if he/she substantially modifies a product. A modification is substantial where the modification changes the intended functions, type or performance of the product in a manner which was not foreseen in the initial risk assessment of the product.

To our understanding this might apply for certain hardware or software updates.

Some stores sell computers as well as Anti-Malware software. They additionally offer as a service to install the software at the request of the customers. This is an optional service for customers who do not feel confident with installing the software by themselves and particularly important for certain vulnerable customers. If installing software falls under the GPSR and the retailer therefore becomes liable, retailers might reconsider to offer that service to their customers. Taking out a liability insurance would be too expensive to maintain the service.

In rare cases retailers also modify hardware of computers at the explicit request of consumers (who are willing to boost the performances of the hardware). Especially gamers ask for such adjustments, for example enhanced processing power. This might entail safety issues that the customer is well aware of and gave his/her consent to, as he is the one explicitly requiring such a change. The retailer should not be liable in that case as he/she simply executed the wishes of the customer.

In summary:

- ➔ Some stores sell computers as well as Anti-Malware software. Installing this software is an additional service that might not be financially viable anymore if retailers have to take out liability insurance.
- ➔ In rare cases retailers also modify hardware of computers at the explicit request of consumers and with its full consent and knowledge about possible safety implications.

Proposal for a Regulation **Article 12** **Cases in which obligations of manufacturers apply to other economic operators**	
Text proposed by the Commission	*Amendment proposed*
2. A modification shall be deemed to be substantial where the three following criteria are met: (a) the modification changes the intended functions, type or performance of the product in a manner which was not foreseen in the initial risk assessment of the product;	2. A modification shall be deemed to be substantial where the three following criteria are met: (a) the modification changes the intended functions, type or performance of the product in a manner which was not foreseen in the initial risk assessment of the product;

(b) the nature of the hazard has changed or the level of risk has increased because of the modification; (c) the changes have not been made by the consumer for their own use.	(b) the nature of the hazard has changed or the level of risk has increased because of the modification; (c) the changes have not been made by the consumer ***or a service provider explicitly tasked by the consumer to do so***, for their own use.

Traceability (Article 17)

The Commission proposes to set up a system of traceability for certain products that are highly likely to present a risk, based on the Safety Gate statistics. Retailers and manufacturers will have to adhere to this new traceability system. The system of data collection will be determined by the EU Commission through delegated acts. Considerations of compatibility with legacy systems and cost-effectiveness will be taken into account.

It is unclear whether retailers can continue to use existing legacy traceability systems under the proposal. The objective of Article 17 is not clear for businesses. This makes it especially difficult for SMEs to anticipate the possible new replacement. Businesses need more detailed information to be able to plan ahead. Article 17.4.a+b are insufficient in this context and do not provide a satisfying level of legal certainty.

In summary:

➔ Businesses need legal certainty with regard to a possible new traceability system. It needs to be technically sound and workable.

Proposal for a Regulation **Article 17** **Traceability of products**	
Text proposed by the Commission	*Amendment proposed*
3. The Commission is empowered to adopt delegated acts in accordance with Article 41 to supplement this Regulation by: (a) determining the products, categories or groups of products or components susceptible to bear a serious risk to health and safety of persons as referred to in paragraph 1. The Commission shall state in the delegated acts	3. The Commission, ***after extensive consultations with a dedicated expert group,*** is empowered to adopt delegated acts in accordance with Article 41 to supplement this Regulation by: (a) determining the products, categories or groups of products or components susceptible to bear a serious risk to health and safety of persons as referred to in paragraph 1 and ***thereby taking due account of the***

concerned if it has used the risk analysis methodology provided for in Commission Decision (EU) 2019/41741 or, if that methodology is not appropriate for the product concerned, it shall give a detailed description of the methodology used;	***recommendations of the expert group***. The Commission shall state in the delegated acts concerned if it has used the risk analysis methodology provided for in Commission Decision (EU) 2019/41741 or, if that methodology is not appropriate for the product concerned, it shall give a detailed description of the methodology used;
(b) specifying the type of data, which economic operators shall collect and store by means of the traceability system referred to in paragraph 2;	(b) specifying the type of data, which economic operators shall collect and store by means of the traceability system referred to in paragraph 2 and ***taking due account of the recommendations of the expert group***;
(c) the modalities to display and to access data, including placement of a data carrier on the product, its packaging or accompanying documents as referred to in paragraph 2.	(c) the modalities to display and to access data, including placement of a data carrier on the product, its packaging or accompanying documents as referred to in paragraph 2 and ***taking due account of the recommendations of the expert group***;
4. When adopting the measures referred to in paragraph 3, the Commission shall take into account:	4. When adopting the measures referred to in paragraph 3, the Commission shall take into account:
(a) the cost-effectiveness of the measures, including their impact on businesses, in particular small and medium-sized enterprises;	(a) the cost-effectiveness of the measures, including their impact on businesses, in particular small and medium-sized enterprises;
(b) the compatibility with traceability systems available at Union or at international level.	(b) the compatibility with traceability systems available at Union or at international level ***(c) the recommendations of the expert group.***

Definition of a "safe product" (Article 3 & 7)

The Commission proposes a new definition of a "safe product". A "safe product" means "any product which, under normal or reasonably foreseeable conditions of use or misuse (…) does not present any risk (…)". A retailer may make available on the market only safe products. Products that are conform with European standards or national requirements is presumed to be safe. When a retailer has to verify that a product is safe, Article 7 lays out different aspects and elements that need to be fulfilled.

The definition of a "safe product" is not clear. "Normal or reasonably foreseeable conditions of use" is rather subjective and cannot be verified by the retailer. However, the definition of a safe product must be as clear and objective as possible. We welcome the process of the safety assessment, giving retailers clear aspects and elements to be checked when making a product available on the market. However, Art. 7.3.h) and i) are rather subjective elements and should be deleted, as they cannot be verified by a retailer. Codes of good practice that are recognized within the sector do not give a retailer sufficient guidance, as a definition of "sector" is missing and it is not clear how many operators have to adhere to a code of practice for the code to be considered recognized. The element of "reasonable consumer expectations" is too vague to be able to be taken into account by a retailer when assessing whether a product is safe.

Furthermore, Article 7 includes aspects on Artificial Intelligence and Cybersecurity. We believe that these aspects should be regulated in the AI Regulation and the low voltage Directive. It is important to clearly determine the scopes of all respective legislative texts on product safety legislation to avoid a situation of divergent provisions on AI in the different texts.

In summary:

➔ The definition of a safe product is not clear. Some aspects of the safety assessment are subjective and cannot be verified by a retailer.

Proposal for a Regulation **Article 7** **Traceability of products**	
Text proposed by the Commission	*Amendment proposed*
1. Where the presumption of safety laid down in Article 5 does not apply, the following aspects shall be taken into account in particular when assessing whether a product is safe: […] ***(h) the appropriate cybersecurity features necessary to protect the product against external influences, including malicious third parties, when such an influence might have an impact on the safety of the product;*** ***(i) the evolving, learning and predictive functionalities of a product.***	1. Where the presumption of safety laid down in Article 5 does not apply, the following aspects shall be taken into account in particular when assessing whether a product is safe: […] **(h)** ***deleted***; **(i)** ***deleted.***
3. For the purpose of paragraph 1, when assessing whether a product is safe, the following elements, when available, shall be taken into account, in particular:	3. For the purpose of paragraph 1, when assessing whether a product is safe, the following elements, when available, shall be taken into account, in particular:

[…];	[…]
(***i) reasonable consumer expectations concerning safety;***	**(i)** ***deleted***
(j) safety requirements adopted in accordance with Article 6(2).	**(j)** ***deleted***

Isolated Cases (Article 19)

The Commission proposes in article 19.2 that in case of an accident or a safety issue the incident must be notified to the national authorities within two working days. Retailers and Importers that are aware of an incident must inform the manufacturer who can instruct the retailer or the importer to proceed with the notification to the national authorities.

We strongly welcome the proposed article 19 on isolated incidents/cases, as it will allow to ensure that there is a notification for every unsafe product without unnecessarily souring business relationships between manufacturers and retailers. It will also reduce the number of superfluous notifications.

An isolated case is where there appears to be a problem with only one sample of a product. In such a situation, a distributor is unable to determine with certainty whether a problem with a product is unique to that one product or caused by an inappropriate usage of the product by the consumer, or if the whole production line of the product is faulty.

The downside of using the RAPEX system for an isolated case is significant. Where a product is publicly named as problematic/dangerous via RAPEX, whereas this only concerned an isolated case, it is likely to unduly harm a manufacturer financially. The manufacturer may then seek damages from the distributor who notified the relevant competent authority, thereby also harming the retailer and souring the business relationship.

The current GPSD does not include a provision on isolated case. Certainly, the Guidance Documents for the General Product Safety Directive are clear on how operators should deal with isolated cases. However, those are not legally binding.

Under the General Product Safety Guidelines, manufacturers, importers and distributors are exempted from the general obligation to notify a supposedly unsafe product in situations where only a very limited number of products is concerned and the risk has been fully controlled. That means in practice that a distributor, in case he/she considers that the unsafe product may well concern an isolated case, only needs to warn the manufacturer. The manufacturer can then assess what follow-up is necessary and proportionate to control any further risk.

The provisions on isolated cases are very important for retailers-, particularly SME retailers, as, according to the evaluation of the TSD (SWD(2020)287, p.111), “half of the consumers indicated that

they contacted the distributor in case of an unsafe toy, and only few of them contacted a consumer association".

In summary:

- ➔ Article 19 ensures that there is a notification for every unsafe product without unnecessarily souring business relationships between manufacturers and retailers. It will also reduce the number of superfluous notifications.
- ➔ A similar article should either be included in all future legislation on product safety or it should be made crystal clear that Article 19 of the proposed GPSR applies as a safety net to all related product safety legislation if not specified otherwise.

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Established in 1963, ***Independent Retail Europe*** *(formerly UGAL – the Union of groups of independent retailers of Europe) is the European association that acts as an umbrella organisation for groups of independent retailers in the food and non-food sectors.*

Independent Retail Europe represents retail groups characterised by the provision of a support network to independent SME retail entrepreneurs; joint purchasing of goods and services to attain efficiencies and economies of scale, as well as respect for the independent character of the individual retailer.
Our members are groups of independent retailers, associations representing them as well as wider service organizations built to support independent retailers.

Independent Retail Europe represents 23 groups and their over 386.600 independent retailers, who manage more than 753.000 sales outlets, with a combined retail turnover of more than 944 billion euros and generating a combined wholesale turnover of 297 billion euros. This represents a total employment of more than 6.603.000 persons.
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