

Här lägger du in författare
om du vill ha det

Position Paper on the Consultation of the Market Surveillance Regulation

Swedish Commerce is a business association with approximately 9 000 members in the Swedish retail sector, representing brick-and-mortar shops, e-commerce traders and wholesale. Most members are small- and medium sized enterprises.

Swedish Commerce is a member of EuroCommerce as well as of Ecommerce Europe, and part of the Nordic Retail Cooperation, which has been established for the purpose of working for level playing field for all traders.

General remarks

Overall, the Swedish Commerce welcomes the overview of the Market Surveillance Regulation (MSR) as it is a core instrument in safeguarding the integrity of the Single Market and European competitiveness. Today however, there are discrepancies in how the MSR is interpreted, how national strategies are executed and what activities that are performed by market surveillance authorities in the EU, which leads to fragmentation. To that effect, we believe that the revision of the MSR should be seen as an opportunity to ensure more harmonization in practices across the EU.

In 2024 alone, 4.6 billion low-value parcels were shipped from traders established in third countries to consumers within the European union. A large percentage came from online marketplaces in China and almost 80 per cent of the products have been proven unsafe and harmful, *i.e.* non-compliant with EU legislation. For 2025 the number is expected to rise significantly. Some reforms have to date been proposed to limit the number of unsafe products entering the EU, albeit these are not sufficient.

The model of responsibilities in the MSR is no longer fit for purpose considering the current situation. It is therefore crucial that we create a legislative model that will provide an incitement for the online marketplaces and similar intermediaries to only let reputable sellers into their platform that are able to document compliance with EU legislation.

Against this backdrop, Swedish Commerce therefore calls on swift amendments to the existing Regulation in the following ways:

A call for harmonised market surveillance rules as well as aligned EU-legislation

A harmonised market surveillance and understanding of the legal requirements should be key ambitions in the MSR revision. Performing market surveillance activities that targets both brick-and-mortar shops as well as e-commerce are important to sustain the legitimacy of the Regulation. Currently, there are discrepancies in how MSR is interpreted in the Member States and how market surveillance activities are prioritized and executed, which are at risk of creating situations where forum shopping may occur. These differences undermine the effective functioning of the Single Market.

Further to this, Swedish Commerce believes that the product scope of MSR with other legislative instruments need to be fully aligned to form a legislative coherence that is easy to understand and to comply with. Objectives of e.g. General Product Safety Regulation (GPSR) and MSR are partially overlapping although some obligations in GPSR are not yet incorporated in the MSR. Similarly, definitions associated with circular economy must be coherent (e.g. remanufacturing, refurbishment and repair) throughout all legislation, as it otherwise will create a fragmented understanding of concepts that are key in realizing the circular economy. Also, the notion on *substantial modification* must be fully aligned and uniform in all types of legislation, e.g. Product Liability Directive.

Better cooperation and centralised enforcement in certain cases

To fully support a harmonised approach, Swedish Commerce believes that it is fundamental that the revision supports and focuses on strengthening the cooperation between Member States' national surveillance authorities, by e.g. exchanging information on current issues and trends in surveillance practices or simply by sharing best practices.

Stemming from the high influx of low-valued shipments from non-EU online marketplaces is the so-called new phenomenon *black boxes or mystery boxes*. Recently it was discovered that lost parcels are being sold in multiple Member States in the European Union by a European trader, as a sort of lottery. Consumers purchase undisclosed goods, which is bought per weight, and cannot return the goods once opened should they want. This is a clear example of when cooperation between national market surveillance authorities is necessary, as well as cooperation with the Commission to ascertain that adequate level of measures have been taken.

We furthermore believe that the MSR should reflect a harmonised obligation for all EU national administrations to become responsible for making reports to the Commission and other Member States, with statistics indicating which cases that have been handled

and consequences in that specific case, e.g. sanctions. Similar reporting obligation to the Commission, entailing level of sanctions and fines should also be included.

Lastly, Swedish Commerce supports establishing an EU market surveillance authority with independent enforcement and investigative powers in certain large-scale and time lingering cases. Such cases would either be limited to a threshold, on the basis of estimated impact on consumer or business detriment in the internal market, or targeting certain online marketplaces of certain size or recurrent non-compliance practices. An EU market surveillance authority's main task would be to perform independent enforcement, albeit not excluded to this, wherefore a structure of this sort needs to have adequate enforcement powers and sufficient resources to be fully operational. To draw on the experiences of previous instruments of similar character, Swedish Commerce believes that enforcement efficiency is key for such an instrument to fix market disruptions effectively.

Obligations to make online marketplaces from third countries proactively responsible

The Swedish Commerce would like to stress that the problem related to the influx of unsafe products to the EU, first and foremost is not tied to the e-commerce sector as a whole. Overall, the problem is tied to the non-EU online marketplaces that does not take on proactive responsibility for ensuring product safety before placing a product on the market. This means that online marketplaces are currently escaping both remedies and legal responsibilities for the products sold on their platform. For a harmonised and coherent framework, it is therefore necessary to strengthen the obligations of these traders.

Thus far, it has not been practically possible to sanction non-EU online marketplaces for non-compliant products entering the European market. The Nordic retail organisations¹ have repeatedly called for legal amendments to make online marketplaces economic operators. By doing so, online marketplaces would be obliged to undertake proactive measures to safeguard that products are compliant before placing them on the market. Online marketplaces and similar platforms engaged in e-commerce that facilitate products from third country sellers should thus be included in the list of economic operators and it should be ensured that there is always a responsible economic operator under EU jurisdiction that is proactively obligated to ensure compliance and is fully accountable for the compliance of the products sold through these platforms.

However, other solutions may be considered, as long as the role and obligations of the online marketplaces is clear, enforceable and proactive. Swedish Commerce believes that for products placed on in the EU market without an EU based manufacturer or importer, there should be a certified Authorised Representative (AR) that is fully

¹ For more information, please see the [paper](#) on E-commerce from third countries – the role of the online marketplaces, June 2025

responsible for product compliance. All third-country products listed in platforms destined to EU consumers, should have a certified AR with an active mandate. Online marketplaces should be obliged to verify that the AR for the products listed is certified, via a central EU database. However, for the solution above to be functional and complete, Swedish Commerce believes that verification is to be done proactively to ensure product compliance before products are being placed on the market.

Simplification in how audits are executed

In the light of reducing unnecessary administrative and compliance burden for companies, it is imperative that audits are performed only when called for. Currently, companies can be audited for compliance with EU regulations at any time by any competent authority across the EU. This creates risks of duplicated checks, inconsistent interpretations, and an unnecessary administrative burden without delivering corresponding benefits for enforcement. To that effect, Swedish Commerce would like to recommend coordination mechanisms among Member States,

- When a company has been audited by the competent authority of one Member State within a given calendar year, the resulting audit report should be made available to all other Member States, who should recognize and take due account of its findings, and
- additional audits covering the same scope should only be carried out after a minimum interval, unless triggered by substantial new concerns or urgent circumstances that genuinely justify further intervention.

Specific remarks as regards the consultation

Swedish Commerce notes that there are certain questions in the Consultation that unfortunately are formulated in a very broad and generic way², with the risk of causing misinterpretation. Swedish Commerce would like to point to the fact that e-commerce as a whole is not putting strain on the integrity of the Single Market. It is rather apparent that the problematic lack of responsibilities in the value chain stems primarily from non-European online marketplaces only. Thus, Swedish Commerce believes that it is imperative that any future impact assessment or legislative proposal reflects that correctly.

² E.g. It is more likely that the products that I buy online are non-compliant with EU rules or more dangerous than if I buy them in store or through physical shopping.