

Position paper on the revision of the EU New Legislative Framework (NLF)

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 E-commerce Europe, and part of the Nordic Retail Coalition, which have been established for the purpose of working for compliance for all traders.

We welcome the revision of the New Legislative Framework (NLF). Changes in digitalisation, e-commerce, global supply chains and circular economy policy require a targeted and forward-looking revision of the framework.

For Swedish Commerce, the revision of the NLF is critical because it 1) will better enable free movement of goods across the EU through harmonised rules, 2) creates legal certainty for distributors and importers, 3) ensures fair competition by preventing non-compliant products from undermining compliant businesses and, 4) lays out important groundwork for the transition to a circular economy. The updated EU product legislation is therefore not only a safety tool, but a competitiveness instrument for the Single Market.

For Swedish Commerce it is important that the revision of the NLF should be guided by the following principles:

- 1. Target unsafe products and enhance market surveillance to ensure fair competition**
- 2. A digital product pass that reduces administrative burden and allows non-compliant products to be detected faster**
- 3. Enable the transition to a circular economy**

Ensure a level-playing field

An increasing number of unsafe and non-compliant products enter the EU Single Market through online marketplaces, often sold directly from third-country sellers to EU consumers. These channels were not foreseen when the original New Legislative Framework (NLF) was designed. As a result, enforcement gaps now exist, which gravely undermines consumer safety and distorts competition for compliant retailers. This is why Swedish Commerce believe the revised NLF should explicitly target e-platforms selling unsafe products via online marketplaces, bypassing traditional

importer and distributor controls. The NLF is a horizontal EU framework capable of aligning operator responsibilities, CE compliance, and market surveillance across product legislation.

Furthermore, without a clear NLF strategy for unsafe products, authorities may increase documentation checks on compliant retailers instead of targeting unsafe sellers. Therefore, tools such as the Digital Product Passport must be used to improve enforcement, not to shift compliance burdens onto retailers.

Finally, a new phenomenon of non-EU online marketplaces, so-called *black boxes or mystery boxes* is on the rise. 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 which you can read more about in our position paper on the MSR.

Reduce administrative burden

Today businesses face requirements of duplicated documentation across instruments (e.g. Declarations of Conformity, labels, instructions, sustainability reporting). Swedish Commerce therefore propose that the Digital Product Passport (DPP) should reduce this burden and replace existing information channels and align format and access rules across product laws.

The DPP will improve traceability, speed up market surveillance, and help exclude unsafe products. However, the DPP should, in its introductory phase include only the necessary information as laid out in product legislation, where any additional information must remain optional. Necessary support should be provided for SMEs when it comes to implementation ensuring conformity.

When it comes to e-commerce, digital inspections will never replace physical inspections, for example to test for chemical content, misalignment of digital product info and physical product attributes. The authorities will also need to check for the reliability and quality of data. The digital product pass will however speed up the automatization of formal checks and facilitate risk assessment/management and enable automatic flagging of issues across platforms leading to automatic withdrawal of product lists online.

It is necessary to ensure that compliance information and technical documentation is only available to authorities. The relevance of information regarding repair and refurbishment should be considered by product type. Repairs or modifications impact the product's compliance with legal requirements differently. Non-compliance warnings should be made visible in the consumer-facing DPP only once the severity of the risk has been assessed and a formal decision on corrective action (such as recall or withdrawal) has been taken. Products should not be flagged in the DPP based on preliminary notifications.

The CE label is universally recognised as label ensuring compliance for staff, inspectors, and consumers. We believe the DPP should complement CE marking, not replace it.

The DPP should also strengthen market surveillance enabling authorities to identify responsible EU actors and act swiftly, instead of increasing checks on compliant retailers. Furthermore, we are adamant that the DPP relating to NLF, GPSR, and the ESPR remain coherent to avoid any overlaps.

Enable circular business models

Swedish Commerce welcomes the aim to enable circular business models through harmonised rules for repair, reuse and product information. The NLF should be the horizontal enabler of circularity, not a source of fragmented or duplicative obligations. Circular economy requirements (repairability, reuse, refurbishment, recycled content and product information) are increasingly embedded in sectoral legislation, without a strong horizontal framework, these rules risk being implemented inconsistently across product categories. However, relating to demands on information regarding refurbishment and repair, safety information and safety checks need to be product specific. We believe that the choice of technology of the data carrier needs to be decided in close cooperation with the affected stakeholders and be adaptable to future technology developments.

Circular business models depend on knowing when a product becomes “new again” in legal terms, notably in the case of a *substantial modification*. The definition of substantial modification remains too vague and thereby creates legal risk and discourages scale-up of circular retail models. Also, there is a need for clear and common EU definitions of the roles and responsibilities of businesses and charity organisations selling used products. These definitions should provide legal certainty for the re-use sector across member states whilst also taking into account the limited access to data.