Traceability requirements in EU regulations
the industry perspective

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Orgalime:
34 Member associations, 22 countries

Metal articles 7%
Mechanical engineering 9.5%
Electrical & electronic engineering 10.5%

130,000 companies, €1,510 billion of annual output, 9.7 million people employed
Orgalime industries
28% of the EU manufacturing output
= A link in industry value chains

- Our industry, mostly composed of SMEs, produces all sorts of electrical, mechanical and metallic products for professional users and consumers

For instance in:
- Buildings
- E-mobility
- Home appliances
Traceability in EU legislation for technical products:

- A **tool** for efficient market surveillance:
  - Feasible risk assessment
  - Proportionate risk management

Legal framework:

- Harmonised legislation
  - Regulation 765/2008/EC
  - + Dec. 768/2008/EC
  - + General product safety Directive
What traceability in EU legislation?

- **Mandatory traceability**
  - Manufacturer
  - Importer
  - Export
  - Production
  - Supply
  - Design

- **Voluntary traceability**
  - Risk management
  - Compliance checks

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Traceability needs vary according to the product / business model

- Industrial installation
- High added value
- On-demand production
- Reduced supply chain*
- Direct B2B relationship
- Contractual management of postmarketing pbs
- Consumer good
- Low added value
- Mass production
- Spread supply chain*
- Multiple distrib. channels
- Standard conditions Consumer protection law

* in majority of cases

MSA & Labour inspection

Market surveillance

* in majority of cases

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B2B and traceability
an example: earth moving machinery

- product and parts are ID tagged

**Product identification number**
→ Below left-hand door on chassis

- Cab serial number
  → Left-hand side of front console
- Rops canopy serial number
  → Right-hand side of canopy
- Engine serial number
- Loader bucket part number
- Backhoe bucket part number
- Three-point hitch serial number
- Transaxle serial number
- Front drive axle serial number
Dangerous consumer products of unknown origin are decreasing in proportion.

Data from EC DG Sanco/Rapex
Consumers and traceability of “non-food” products

- Legitimate expectation of consumers with technical products:
  - That the product is **safe** (i.e. $\neq$ CE $\neq$ certified)
    - $\neq$ food sector: Traceability info about all components irrelevant
    - Indication of the country of origin $\neq$ often irrelevant (too complex supply chain) $\Rightarrow$ Brand matters more
  - That **recourse is possible** in case of problems (product liability laws) to get compensated
Challenges of an effective regulatory traceability

Traceability without enforcement is pointless

How effective the enforcement?

Spread of dangerous products

Incentive to cheat

Risk of unfair Competition

High compliance cost

Traceability needs flexibility and the least administrative cost

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Challenges of an EU single market surveillance instrument

- Compliant producers are overwhelmed by legislative requirements
- Weak market surveillance and enforcement across the EU
  - Scarcity of resources but duplication of controls
  - Poor cooperation between Member States

Problems arise from weak enforcement, not from lack of traceability

EU proposal of alignment of the GPSD with NLF should not add more legal requirements to lawful manufacturers
Solution 1: Unification of Traceability Requirements?

- All products to bear the same ID/traceability requirements
  - Name and address of manufacturer, importer…
  - Declaration of Conformity + Customer/supplier registers
  - Technical file/evidence of Risk Assessment

- Consequences
  - No proportionality between level of danger and level of traceability requirements
  - Unnecessary administrative burden for manufacturers
  - Consumer overwhelmed with unnecessary information

Streamlining the requirements for all products would ease the administrative burden, unifying can be detrimental
Solution 2: National Registers?
The experience of WEEE Directive

- **Problematic for enforcement Authorities**
  - Difficulties to make use of national registers at EU level
  - High administrative and financial cost

- **Problematic for companies**
  - Legal uncertainty due to different requirements in each member state
  - Generates administrative burden: need to register in 27 countries
  - Fee imposed for registration in some Member States

- **Consumers**
  - Still need to bring back the waste at specific collection points (out of control of market operators)
Solution 2: an EU Register? 
The experience of Reach

- Facilitating to Market Surveillance Authorities
  - Replacement of the different rules and regulations
  - More information is available
  - Volume of information registered created problems to IT tools

But…
- Complex for companies
  - Downstream users who have to contact suppliers and negotiate the right registration of a substance and its uses

- Non transparent to consumers
  - REACH heavily criticised by consumer organisations
Solution 2: an EU Register?
Review of the R&TTE Directive

- European Commission considers the possibility to introduce in the revision of the Directive a register of either
  - Producers or
  - Products

- **However**: such a register would
  - Not solve hard non-compliance issues: rogue economic operators will simply not register or forge the registration number
  - Add burden on lawful companies (encoding, additional IT…)
  - Remove authorities resources from focused surveillance actions in order to “administer” the register
  - Create legal uncertainty as to common requirements for the marketing of CE-marked products (Decision 768/2008/EC), which do not require a registration.
Conclusions: Recommendations to policy makers

1. Keep traceability requirements…
   - Cost effective and flexible
     - Identification of the market operator could make use of modern means ➔ Web address (url)
   - Technology neutral – interoperability is key
   - Affordable to economic operators esp. SMEs
     (no mandatory management system standards with third party conformity assessment)
   - Proportionate to
     - The added-value of the product
     - The level of risk / severity of harm

2. …combined with effective controls
Industry supports pro-active market surveillance

- Newly launched of a searchable Industry Support Platform

http://machinery-surveillance.eu/
Thank you for your attention!