

# EUROPEAN UNION PUBLISHES THREE GUIDANCE DOCUMENTS ON THE APPLICATION OF TOY SAFETY DIRECTIVE 2009/48/EC (TSD)

Updated version of the TSD Explanatory Guidance Document - Rev 1.4 of 18 January 2012 (replaces previous version Rev 1.3 of 5 April 2011)<sup>1</sup> and two new guidance documents No.14<sup>2</sup> and No.15<sup>3</sup> were published.

**EXPLANATORY GUIDANCE DOCUMENT VERSION 1.4 INCLUDING** (direct links to the changes can be found on page 12 & 13)<sup>1</sup>:

### 1. CLARIFICATION TO OBLIGATIONS OF DISTRIBUTORS - WHAT IS MEANT BY THE OBLIGATIONS FOR DISTRIBUTORS?

The new version (rev 1.4) of the explanatory guidance document further clarifies the obligation of distributors.

- The distributor has no specific obligations to draw up or keep the EC declaration of conformity and technical documentation. However, when making a toy available on the market, the distributor must ensure that the toy bears the appropriate conformity marking(s) and is accompanied by the required documents and instructions and safety information in the appropriate language. The conformity marking under the TSD is the CE marking;
- The distributor is not required to hold the technical documentation;
- Moreover, when in doubt for products falling in the "grey area" the distributor can always request the importer or manufacturer the explanations for the absence of any marking.

### 2. CLARIFICATION OF ROLE OF ECONOMIC OPERATORS

The previous version (rev 1.3) has listed definitions in Explanation I to determine the role of each economic operator. In the new version, it emphasizes that economic operators have to be careful when choosing their business model so that they can

comply with the directive's requirements. The legal framework sets up obligations economic operators have to comply with, but does not enter into the private sphere of commercial and business related negotiations that economic operators may conduct between them.

### 3. CLARIFICATION ON THE VISIBILITY REQUIREMENT

Two additional paragraphs to interpret further the visibility requirement

- The visibility requirement covers only the warnings (which determine the decision to purchase);

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<sup>1</sup> [Toy Safety Directive 2009/48/EC: An explanatory guidance document – Rev 1.4, dated January, 18<sup>th</sup> 2012](#)

<sup>2</sup> [Guidance Document n°14 on the application of the Directive of the Safety of Toys](#)

<sup>3</sup> [Guidance Document n°15 on the application of the Directive of the Safety of Toys](#)

- The brief indication of the specific hazard is considered to be additional information for the consumer and therefore not covered by the visibility requirement, it may appear in the instructions for use accompanying the toy;
- If the toy is sold on a website, the warnings determining the decision to purchase have to be clearly visible on the website.

#### 4. CLARIFICATION ON DECLARATION OF CONFORMITY

The Declaration of Conformity does not have to be an exact copy paste of the wording in annex III of the Toy Safety Directive.

#### 5. CLARIFICATION ON LABELLING FOR HYGIENE

Adds more paragraphs to restrict manufacturers' misuse of the washing label. The manufacturer shall not label "surface washing" on textile toys which, under the TSD, need to be soak washable.

### THE NEW GUIDANCE DOCUMENTS PROVIDE INTERPRETATION FOR SPORTS EQUIPMENT AND WRITING INSTRUMENTS AND STATIONERY.

Guidance 14<sup>2</sup> on sports equipment versus toys - Sports equipment intended for learning and coaching casual or organised sport activities are not toys. The following criteria may help to distinguish between sports equipments and toys:

- Intention from the manufacturer – Sporting equipment is often sold in dedicated stores. Packaging and advertising highlighting and emphasizing the fact that a product is built and has features suitable for sport use and the physical challenge of using it successfully would indicate that the product is more likely to be considered as sport equipment, while packaging, display and advertising designed to attract children would indicate that the product is more likely to be considered as a toy.
- Distinctive characteristics of the product – Child size equipment is not the unique determining factor in distinguishing between sports equipment and toys. When the same product is manufactured in a smaller form but the material and look remain the same as the full-sized product it is not a toy. However, when that product is not only reduced in size, but is changed with respect to material, look or a particular component that makes it different from the original product, it could be considered as a toy.
- Special criteria for product use – Sporting equipment often requires specific instructions or conditions for use, such as learning and coaching, use of protective equipment, specific rules, and practise of the sport in places specifically dedicated for this purpose.
- Price – Toys may be sold at a lower price than sporting equipment as sporting equipment has distinctive criteria and characteristics to enhance proper use and protection.



Guidance 15<sup>3</sup> on writing instruments and stationery:

- Colouring and painting articles are toys, provided that they are not intended for artistic use.
- In general, writing instruments are not toys unless they have additional play value like attached figurines, blowing bubbles head, etc. Pens and pencils having additional elements (such as decoration, smell, etc.) are not considered as toys, provided that the additional elements do not incite play.
- Stationary items generally have an educational and functional purpose, they are not toys. However, when a play value is intentionally introduced by the manufacturer in addition to the function and education value of stationary items, they fall in the grey zone and can be considered to be a toy that has to comply with the TSD.

## SGS SOLUTIONS

In order to help you to comply with the New EU Toy Directive, SGS has developed dedicated services to assist you.

INFORMATION AND CONSULTANCY: for any questions regarding the New Toy Directive, please consult your local SGS contact.

TESTING: We can provide comprehensive testing at the earliest possible stage.



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