

# RECALL INDEX

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GUEST CONTRIBUTION

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## NEW EU REGULATIONS MAKE NAVIGATING THE TOYS' INDUSTRY ANYTHING BUT CHILD'S PLAY

Toy manufacturers and other players in the supply chain should keep in mind that at the EU level, the regulatory framework for the industry is quickly evolving. Revised rules proposed by EU legislators are expected to have a major impact.

On 28 July 2023, the European Commission published its proposal for a [Toy Safety Regulation](#) that will replace the current [Toy Safety Directive \(2009/48/EC\)](#). The legislation will be revised to address perceived shortcomings in the current rules. The main changes are increased protection from potentially harmful chemicals, the requirement that all toys be required to have a Digital Product Passport, an expanded concept of "safety" to also cover mental health risks, a requirement that batteries in toys be made harder to access by children, changes to labelling rules and pictograms, and increased focus on giving consumers communication channels for complaints.

The proposed change of instrument from a Directive to a Regulation takes into account both the Commission's general objective to simplify the regulatory environment and the need to ensure uniform implementation of the proposed legislation throughout the EU. Inconsistent application is an issue that the Commission has previously noted as an area of concern.

### Increased protection from potentially harmful chemicals

The existing Directive already bans substances that are carcinogenic, mutagenic, or toxic for reproduction. The proposed regulation expands this ban to include other substances such as endocrine disruptors or substances that affect the immune, neurological, or respiratory systems that may be particularly harmful to children. To address stakeholders' concerns, the new rule allows for derogations to this ban when the use of a substance in toys is considered to be safe by the relevant scientific committee of the European Chemicals Agency and there are no alternatives available to manufacturers.

Under the current legislation, specific limit values for chemicals only apply to toys for children under 36 months of age and toys that are intended to be placed in the mouth. In response to evidence that those substances also pose a risk to older children who could be exposed by other means, such as via skin contact or inhalation, these limit values will apply to all toys under the revised rule.

### Digital Product Passport requirements

Under the new rules, the EU Declaration of Conformity will be replaced by the obligation for any toy presented at customs to have a Digital Product Passport (DPP). The DPP will declare that the toy complies with the requirements of the proposed Regulation. Importers will have to submit a Digital Product Passport to customs at EU borders, including for products sold online. The information in the DPP will be checked to prevent unsafe toys from entering the EU market.

### General safety requirement expanded to include mental health

The new regulation does not change the categories of particular safety requirements in Annex II. However, it goes beyond protecting the physical health and safety of users to include foreseeable risks to the "psychological and mental health, well-being and cognitive development of children."

### Battery regulations

Batteries in toys already need to comply with a wide range of EU rules, such as the Waste from Electrical and Electronic Equipment Directive 2012/19/EU (the WEEE Directive), the Restriction of Hazardous Substances in Electrical and Electronic Equipment Directive 2002/95/EC (the RoHS Directive), and the Registration, Evaluation, Authorisation, and Restriction of Chemicals (REACH) Regulation. The proposed rule adds a requirement that "toys that include batteries should be designed in such a way that the batteries are difficult for children to access."

### Labelling changes and pictograms

Manufacturers and importers will be required to indicate an "electronic address" in addition to their postal address. This is in order to facilitate communication between economic operators, market surveillance authorities, and consumers or other end-users. The address will need to appear on the toy itself. Where that is not possible, it will be required on the packaging or in a document accompanying the toy. Manufacturers will need to indicate a single point-of-contact for consumers and regulators.

In response to stakeholder demand, the word "Warning" that is required by the current Directive to precede any cautionary statement about the product can be replaced by a generic pictogram instead. It was felt such a move would simplify the measure without compromising the protection of children.

### Communication channels for consumer complaints

To allow consumers or other end-users to file complaints concerning the safety of toys and inform the manufacturer of any accident or safety issue they have experienced, manufacturers will need to publish a telephone number and an electronic address on a dedicated section of their website or another communication channel. Manufacturers will need to take into account accessibility needs for persons with disabilities.

The proposed Regulation does not address risks in toys linked to the use of digital technologies, such as cybersecurity or privacy concerns. These risks are addressed by other proposed legislation such as the forthcoming [EU AI Act](#) that will cover the use of artificial intelligence (AI) in toys.

### Next steps

To give the Commission time to prepare for the implementation of Digital Product Passports and allow manufacturers and Member States time to adapt to the new requirements, there will be a 30-month transition period for most provisions. After this time, all toys placed on the market will need to comply with the new requirements. This transition period should come as welcome news for manufacturers who will doubtless need time to adjust.

The [feedback period for the draft legislation](#) closed on 31 October 2023. All feedback received will be summarised by the European Commission and presented to the European Parliament and Council with the aim of feeding into the legislative debate. However, stakeholders across the toy industry should assume the rules will advance as they are in the draft and start assessing their operations to see where changes will need to be made.

For further insight on European product safety spanning the Toys, Consumer product, Medical device, Pharmaceutical, Automotive and Food and drink industries, download the full edition of the **Recall Index report**:

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