

Internal Market for Goods – Enforcement and Compliance

Fields marked with * are mandatory.

*Name

Simon Harpin

*Email

simon.harpin@beama.org.uk

INTRODUCTION

Preliminary remark: The following questionnaire has been drafted by staff in the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs. The questionnaire does not reflect the views of the European Commission and will not prejudge its future decisions, if any, on this issue.

Purpose of the consultation and background information

The Single Market relies on EU harmonisation legislation. The objective of this legislation is twofold:

- ensuring non-food products placed on the European market guarantee high levels of protection for health and safety and the environment
- ensuring the free movement of non-food products by replacing national rules with a single harmonised set of conditions for supplying these products on the market.

Unfortunately there are still many products on the EU market that do not comply with the rules.

Through this consultation Commission would like to receive stakeholders' feedback on the relevance, the reasons and the consequences of the problem of product non-compliance with EU harmonisation legislation and the options available to tackle the problem. More information on the preliminary analysis carried out by the Commission can be found in [background document](#).

General remarks regarding the consultation

Any interested citizen or stakeholder organisation is invited to participate in the consultation. In particular, stakeholders active in market surveillance matters, including businesses, their legal and economic advisors, consumer and industry associations and members of the academic community are invited to respond to the questionnaire. Replies can be submitted in any of the EU's official languages.

Any other comment or information is welcome, in particular, other documents, reports, studies, etc. which may be relevant.

The questionnaire is divided into the following parts:

A. About you

B1. Product compliance in the Single Market and Deterrence of existing enforcement mechanisms

B2. Compliance assistance in Member States and at EU level (optional)

B3. Businesses' demonstration of product compliance (optional)

B4. Cross-border market surveillance within the EU (optional)

B5. Market surveillance of products imported from non-EU countries (optional)

C. Conclusion and submission

We encourage respondents to the questionnaire to reply to as many sections as possible.

The deadline for replies is 31.10.2016.

You can send any additional information that you consider relevant to this consultation to the mailbox grow-b1-compliance@ec.europa.eu.

A. ABOUT YOU

*** 1. Are you replying as:**

- EU / EEA national market surveillance or customs authority
- EU / EEA national regulatory authority (other than market surveillance or customs authority)
- International organisation (public nature)
- Company / SME / micro-enterprise / sole trader / EEN member on behalf of an SME
- Industry association
- Trade union
- Consumer organisation
- Consumer/Citizen, other individual user of products
- Academic/Law firm not replying on behalf of a client
- Other

If industry association, you are representing:

- Product Importers / Distributors
- Product Manufacturers
- Product users
- Online intermediaries
- Conformity assessment bodies

*** 2. Which product sectors do you deal with? (multiple choice possible)**

NB: Questions will often refer to your experience in the sector(s) you select; if you deal with more than one sector and your replies might significantly differ between sectors, please consider filling in the questionnaire separately for each sector.

The expressions "sector you deal with" or "your sector" used in the questions (here and in following sections) should be understood as meaning:

- "sector of activity" for businesses supplying products and for conformity assessment bodies,
- "sector of responsibility" for national authorities,
- "sector in which they purchase products" for citizens, consumers, end users,
- "sector for which studies have been conducted or expertise gained" for academics or other legal experts.

- Cableways
- Chemical substances, biocides, fertilisers
- Construction products
- Eco-design and Energy Labelling
- Electrical appliances and equipment
- Equipment and Protective Systems Intended for use in Potentially Explosive Atmospheres
- Measuring instruments, Non-automatic weighing instruments, Pre-packaged products and Units of measurement
- Radio and telecommunications equipment
- Other

*** 3. Where are you based?**

United Kingdom

*** 4. In which countries, other than the country of your primary establishment, are you active ?**

All EU / EEA countries

In the interests of transparency, the Commission asks organisations who wish to submit comments in the context of public consultations to provide the Commission and the public at large with information about whom and what they represent by registering in the Transparency Register and subscribing to its Code of Conduct. If an organisation decides not to provide this information, it is the Commission's stated policy to list the contribution as part of the individual contributions. (Consultation Standards, see COM (2002) 704; Better Regulation guidelines, see SWD (2015)111 final and Communication on ETI Follow-up, see COM (2007) 127). If you are a registered organisation, please indicate below your Register ID number when replying to the online questionnaire. Your contribution will then be considered as representative of the views of your organisation. If your organisation is not registered, you have the opportunity to [register](#) now . Then you can return to this page, continue replying the questionnaire and submit your contribution as a registered organisation.

5. For registered organisations: indicate your Register ID number here

*** 6. Please choose from one of the following options on the use of your contribution:**

- My/our contribution can be directly published with my personal/organisation information (I consent to publication of all information in my contribution in whole or in part including my name/the name of my organisation, and I declare that nothing within my response is unlawful or would infringe the rights of any third party in a manner that would prevent publication).
- My/our contribution can be directly published provided that I/my organisation remain(s) anonymous (I consent to publication of any information in my contribution in whole or in part (which may include quotes or opinions I express) provided that this is done anonymously. I declare that nothing within my response is unlawful or would infringe the rights of any third party in a manner that would prevent publication. I am aware that I am solely responsible if my answer reveals accidentally my identity).
- My/our contribution cannot be directly published but may be included within statistical data (I understand that my contribution will not be directly published, but that my anonymised responses may be included in published statistical data, for example, to show general trends in the response to this consultation) Note that your answers may be subject to a request for public access to documents under Regulation (EC) No 1049/2001.

B. QUESTIONS

To continue with the questions, please click Next

B1. Product compliance in the Single Market and Deterrence of existing enforcement mechanisms

NB 1 -The expression "your sector" used in the questions (here and in following sections) should be understood as meaning:

- "sector of activity" for businesses supplying products and for conformity assessment bodies,
- "sector of responsibility" for national authorities,
- "sector in which they purchase products" for citizens, consumers, end users,
- "sector for which studies have been conducted or expertise gained" for academics or other legal experts.

NB 2: Some of the questions below refer to typical concepts of New Approach legislation (e.g. declaration of conformity). When the terminology used in specific sectoral legislation (e.g. Construction Products Regulation 305/2011/EU) is different, the concepts referred to in the questionnaire should be understood in the context of that legislation (e.g. declaration of performance).

*** 1. Are the products in your sector(s) affected by non-compliance with product requirements laid down in EU harmonisation legislation?**

- Yes, most of them
- Yes, some of them
- Yes, a few of them
- No
- I do not know

*** 2. What is the approximate proportion of non-compliant products for your sector (product volumes)?**

- 0 to 5%
- 6 to 10%
- 11 to 20%
- 21 to 30%
- 31 to 40%
- 41 to 50%
- More than 50%
- Unable to estimate

*** 3. Does the problem of non-compliance negatively affect consumers and other end-users in your sector?**

- Yes, to a significant extent
- Yes, to a moderate extent
- No
- I do not know

*** 4. Do businesses complying with legal obligations experience negative effects on sales and/or market shares due to the presence of non-compliant products?**

- Yes, to a significant extent
- Yes, to a moderate extent
- No
- I do not know

5. [Question for businesses only:] What is the approximate loss in sales for your company due to competition from non-compliant products?

- 0 to 10% of company turnover
- 11 to 20% of company turnover
- 21 to 30% of company turnover
- 31 to 40% of company turnover
- 41 to 50% of company turnover
- More than 50% of company turnover
- Unable to estimate
- Not applicable

6. What is the main reason for product non-compliance in the Single Market? (Please rank from 1 to 5, 1 being the most important reason)

	1	2	3	4	5
*A deliberate choice to exploit market opportunities at the lowest cost	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*A lack of knowledge	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*A technical or other type of inability to comply with rules	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Carelessness	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
*Ambiguity in the rules	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

*** 7. Do you have experience/knowledge of instances where a market surveillance authority lacks /lacked sufficient financial resources to carry out specific tasks in your sector?**

- Yes
- No
- I do not know

*** Please provide details**

We have presented evidence from an independent third party to authorities demonstrating that a product placed on the market was unsafe and that its performance did not match the claims made by the supplier - but little action appears to have been taken. Feedback direct from authorities to us has also confirmed that their shortage of resources has restricted their ability to take effective action.

*** 8. Do you have experience/knowledge of instances where a market surveillance authority lacks /lacked sufficient human resources to carry out specific tasks in your sector?**

- Yes
- No
- I do not know

*** Please provide details**

Meetings with authorities have shown that there is a lack of knowledge and understanding of products in the electrical sector. As regards to the enforcement of product safety legislation, it is often limited to consumer products, while market surveillance of business to business products is often relatively poor.

*** 9. Do you have experience/knowledge of instances where a market surveillance authority lacks /lacked the technical means (notably testing facilities) to carry out specific tasks in your sector?**

- Yes
- No
- I do not know

*** Please provide details**

Manufacturers have funded independent third party testing as there is no provision for this work to be carried out by authorities. For some sectors, for example motors, they have no laboratory facilities in the UK at all to test products against requirements of the Ecodesign Directive. In our experience we are unaware of any testing conducted in the UK on suspect products by authorities.

*** 10. What is the approximate financial resource gap of the national authority in your sector?**

- 0 to 5%
- 6 to 10%
- 11 to 20%
- 21 to 30%
- 31 to 40%
- 41 to 50%
- More than 50%
- Unable to estimate
- Not applicable

11. How could the resources for market surveillance activities be increased in your sector?

	Strongly agree	Agree	Disagree	Strongly disagree	No opinion
<p>*Revenues obtained through sanctions should be allocated to market surveillance activities</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>*Market surveillance authorities should levy administrative fees on operators in their sector to finance controls</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
<p>*Programmes at European level should finance sufficient laboratory capacity in each Member State</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

12. Would you like to add any comments or suggestions on how to increase resources for market surveillance authorities?

While sanctions should be strong for effective deterrent and enforcement, there should be safeguards to ensure that these are not wildly excessive or that decisions are excessively strict for the rules that are in place. Manufacturers already contribute significant funding to market surveillance efforts, whether by complying to Directives and Standards themselves, or funding market surveillance initiatives including third party independent testing.

As explained in our answer to Q9 there is a shortage of adequate lab facilities in the UK.

Revenues obtained through sanctions should be allocated to market surveillance activities.

Market surveillance authorities should more often request the complete technical construction file of a suspicious product, including EMC test reports. Any clearly established case of non-compliance should be sanctioned, but in a proportionate manner.

13. How could the resources for market surveillance activities be used more efficiently in your sector?

	Strongly agree	Agree	Disagree	Strongly disagree	No opinion
*Market surveillance authorities should have more knowledge about the relevant sector (type and number of economic operators, market trends, etc.)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Market surveillance authorities should have stronger powers	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Market surveillance authorities' inspectors should receive better training	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Market surveillance authorities' inspectors should receive more standardised training across the EU	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Market surveillance authorities within a Member State should share more intelligence	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Market surveillance authorities of different Member States should share more intelligence	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

<p>*Market surveillance authorities within a Member State should better coordinate action</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>*Market surveillance authorities of different Member States should better coordinate action</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>*Market surveillance authorities within a Member State should share capacity of testing laboratories</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>*Market surveillance authorities of different Member States should share capacity of testing laboratories</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

* 14. Do you think that market surveillance in your sector provides sufficient deterrence?

- Yes, to a significant extent
- Yes, to a moderate extent
- No
- I do not know

15. How could the deterrence of market surveillance action be improved in your sector?

	Strongly agree	Agree	Disagree	Strongly disagree	No opinion
*Giving authorities more resources	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Through more efficient use of existing resources	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Giving authorities more powers	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Imposing higher fines for serious non-compliance	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Giving more publicity to restrictive measures adopted against non-compliance (reputation effect)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

16. Would you like to add any comments or suggestions on how to increase the deterrence of market surveillance action?

Market surveillance measures should be carried out more regularly and thoroughly, and these should be publicised. Participants throughout the supply chain should be aware of their responsibilities. The industry, through trade associations, is willing to contribute and increase its support in publicising message to the supply chain. A stronger public-private partnership between market surveillance authorities and industries could improve the effectiveness of market surveillance actions.

17. What powers do you think market surveillance authorities need in order to carry out more effective and deterrent action in your sector?

	Strongly agree	Agree	Disagree	Strongly disagree	No opinion
*Power to issue requests for information	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Power to take temporary measures against products when relevant economic operators do not reply to requests for information	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Power to inspect business premises	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Power to sanction economic operators that do not submit to inspections of business premises	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Power to take samples for free	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Power to do mystery shopping	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Power to take interim restrictive measures (e.g. seize products, ban sales) pending compliance assessment	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Power to take restrictive measures against economic operators to stop infringements	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

<p>*Power to take restrictive measures against economic operators to prevent future infringements</p>	<input type="radio"/>				
<p>*Power to impose dissuasive fines for non-compliance</p>	<input type="radio"/>				
<p>*Power to conduct sector inquiries to gain more specific knowledge of the market</p>	<input type="radio"/>				
<p>*Power to carry out an inspection on behalf of another EU Member State's authority upon request</p>	<input type="radio"/>				
<p>*Power to notify acts on behalf of another EU Member State's authority upon request</p>	<input type="radio"/>				
<p>*Power to enforce fines on behalf of another EU Member State's authority upon request</p>	<input type="radio"/>				

18. Divergences exist in the methodologies applied by market surveillance authorities in different Member States to sanction non-compliant businesses. Which measures do you think should be taken to address this issue?

	Strongly agree	Agree	Disagree	Strongly disagree	No opinion
<p>*Establish a set of minimum core elements to be taken into account by all market surveillance authorities in calculating fines</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>*Establish a more detailed common methodology to be taken into account by all market surveillance authorities in calculating fines</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>*None, this is not a priority</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>*None, different methodologies are not an issue for market surveillance in the Single Market</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

19. Would you like to add any comments or suggestions on methodology to be applied by market surveillance authorities to sanction non-compliant businesses?

More active market surveillance is more important than changing the level of sanctions.

B2. Compliance assistance in Member States and at EU level (optional)

1. Have you had difficulty in finding the correct information on the technical rules that products need to meet:

	Always	Very often	Sometimes	Rarely	Never	Not applicable to me
before they can be placed on the domestic market?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
before they can be placed on other EU markets?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

2. Have you had difficulty understanding the correct information on the technical rules that products need to meet:

	Always	Very often	Sometimes	Rarely	Never	Not applicable to me
before they can be placed on the domestic market?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
before they can be placed on other EU markets?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

3. What is the approach you most often use to look for support and information on technical rules that products need to meet?

- Refer to information available on Commission websites
- Contact the European Commission
- Refer to information available on the website of the relevant market surveillance authority
- Contact the relevant market surveillance authority
- Refer to information provided by the manufacturer
- Contact the relevant Product Contact Point established under Regulation (EC) No 764/2008 or Regulation (EU) 305/2011
- Liaise with Industry/Trade Association(s)
- Another publically accessible source of information
- Other

4. What is your opinion on the following approaches by national authorities to reduce the level of non-compliant products on the market?

	Very effective	Effective	Not effective	Do not know /not applicable
National authorities should focus exclusively on enforcement and leave it entirely up to the businesses to ensure compliance by developing their own approaches.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
In addition to enforcement national authorities should also provide information on product requirements.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
In addition to enforcement national authorities should also provide support to businesses through guidance on how to interpret product requirements.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
In addition to enforcement national authorities should also allow businesses to enter into agreements with authorities to receive binding advice from them on how to interpret product requirements in specific situations.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

B3. Businesses' demonstration of product compliance (optional)

1. [For businesses only] How do you supply information about product compliance?

	Always	Often	Sometimes	Rarely	Never	Not applicable to me
Declaration of conformity /technical documentation provided to the authority exclusively on paper	<input type="radio"/>	<input checked="" type="radio"/>				
Declaration of conformity available also on company's website	<input type="radio"/>	<input checked="" type="radio"/>				
Instruction for use or other information relevant to product users provided exclusively on paper	<input type="radio"/>	<input checked="" type="radio"/>				

Instruction for use or other information relevant to product users provided also on company's website	<input type="radio"/>	<input checked="" type="radio"/>				
---	-----------------------	-----------------------	-----------------------	-----------------------	-----------------------	----------------------------------

2. In your experience or understanding would a broader use of electronic means to demonstrate compliance help to:

	Strongly agree	Agree	Disagree	Strongly disagree	No opinion	Not applicable to me
Reduce the administrative burden for businesses	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduce administrative costs of enforcement for authorities	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Provide/allow information to be obtained faster	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Provide more information to consumers / end users	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Provide up-to-date information to consumers / end users	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

3. What is your view about the following options to better exploit the potential of electronic means for demonstrating compliance?

	Strongly agree	Agree	Disagree	Strongly disagree	No opinion
--	----------------	-------	----------	-------------------	------------

<p>Voluntary decentralised 'Digital Compliance' system: for instance the system could consist of information available on the websites of economic operators and notified bodies on a voluntary basis. They would be responsible for developing and maintaining information available.</p>	○	○	○	○	●
<p>Compulsory decentralised 'Digital Compliance' system: for instance the system could consist of information available on the websites of manufacturers, authorised representatives, notified bodies. They would be responsible for developing and maintaining information available.</p>	○	○	○	○	●
<p>Voluntary centralised 'Digital Compliance' system: for instance the system could have the form of an electronic repository of information; it would be developed, owned and maintained by the European Commission; manufacturers, authorised representatives, notified bodies could upload information regarding conformity of products.</p>	○	○	○	○	●

<p>Compulsory centralised ‘Digital Compliance’ system: for instance the system could have the form of an electronic repository of information; it would be developed, owned and maintained by the European Commission; manufacturers, authorised representatives, notified bodies would be required to upload information regarding conformity of products</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>Would an e-labelling system containing the address of the electronic repository be beneficial?</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>Would an e-labelling system containing the product identification and /or manufacturer contact details be beneficial?</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>Would resorting to an automatic identification and data capture system (*) to facilitate access to the repository be beneficial?</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

(*) *Methods of automatically identifying objects, collecting data about them, and entering that data directly into computer systems (i.e. without human involvement). Technologies typically considered as part of AIDC include bar codes, Radio Frequency Identification (RFID), biometrics, magnetic stripes, etc. Automatic identification and data capture systems are also commonly referred to as "Automatic Identification," "Auto-ID," and "Automatic Data Capture."*

4. Would you like to add comments or suggestions on how to facilitate businesses' demonstration on compliance?

The subject of Q3 is not a priority until there is more active market surveillance resource and support.
Authorities should not burden manufacturers with too much extra administration requirements, as there is no guarantee of benefit to market surveillance with these approaches. Some manufacturers may seek to avoid extra administration, and enforcement of this may not be carried out thoroughly.

B4. Cross-border market surveillance within the EU (optional)

1. What is the approximate proportion of products placed on the market by manufacturers or EU importers located in another EU Member State in your sector (based on product volumes)?

- 0 to 5%
- 6 to 10%
- 11 to 20%
- 21 to 30%
- 31 to 40%
- 41 to 50%
- More than 50%
- Unable to estimate

2. Based on your experience what is your view on manufacturers or EU importers being contacted by a market surveillance authority of another EU Member State?

	Strongly agree	Agree	Disagree	Strongly disagree	No opinion
I think it is useful in correcting the non-compliance for all products concerned in the Single Market	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
I think it is useful that authorities are able to discuss non-compliance directly with the business having the greatest level of responsibility and knowledge	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
I think it is useless as the authority cannot impose sanctions so the manufacturer or EU importer would not answer	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I think it is wrong as the authority is not entitled to contact a business outside its jurisdiction	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

3. In your experience what makes it difficult for a surveillance authority to take action against non-compliant products traded by businesses located in another EU Member State?

	Strongly agree	Agree	Disagree	Strongly disagree	No opinion / no experience
Authorities do not know how to identify and contact businesses located in another EU Member State	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Authorities find it more costly to contact businesses located another EU Member State	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Businesses contacted do not reply to requests for information /documentation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Businesses contacted do not reply to requests for corrective actions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Businesses sanctioned do not pay penalties	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
In particular in the case of goods traded online businesses contacted consider that they are not manufacturing, importing, distributing or making the product available on the market	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

4. National authorities in the EU Member States can currently exchange information on measures adopted to restrict the marketing of non-compliant products via several means (Rapid Alert System, notification procedures, common databases (ICSMS), expert groups, administrative cooperation groups). In your experience or knowledge in the relevant product category(-ies) how often do national authorities restrict the marketing of a product following the exchange of information about measures adopted by another authority in the EU against the same product?

- Always
- Very often
- Sometimes
- Rarely
- Never
- No opinion / no experience

5. What is your view about the possibility that a national authority uses information on measures adopted to restrict the marketing of non-compliant products by another EU authority to adopt restrictive measures against the same products supplied within its own jurisdiction?

	Strongly agree	Agree	Disagree	Strongly disagree	No opinion
I find it useful to ensure that restrictive measures are adopted in other jurisdictions on the same basis as that way they can be effective in a larger part of the Single Market	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I find it useful because the authority using information can be more efficient and focus its inspection on the specific product requirements likely to have been infringed	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I find it useful because using the evidence gathered by the foreign authority on non-compliance allows time and cost savings	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I find it wrong as the decision of the foreign authority may be based on an incorrect assessment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
I find it unfeasible as many authorities are unlikely to have the resources to follow up on decisions by foreign authorities	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

6. Would the following mechanisms make it easier to contact manufacturers or EU importers located in another EU Member State?

	Strongly agree	Agree	Disagree	Strongly disagree	No opinion
More explicit obligations on economic operators to answer requests from authorities located in other EU Member States	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Specific procedures for mutual assistance among authorities of EU Member States	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Stricter obligations for EU authorities to respond to requests for mutual assistance by other EU authorities	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Possibility for EU authorities to ask other EU authorities for mutual assistance to sanction businesses located abroad that do not respond to their requests	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

7. Would you like to add any comments or suggestions on how to make it easier for authorities to contact manufacturers or EU importers located in another EU Member State?

8. Do you agree that the following mechanisms would increase the effectiveness of market surveillance in the Single Market?

	Strongly agree	Agree	Disagree	Strongly disagree	No opinion
More exchange of information and discussion among EU national authorities prior to final assessment on product non-compliance and corrective action so as to prevent diverging conclusions among authorities	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Stricter rules on follow up to restrictive measures adopted by other EU authorities	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Legal principles to ensure easy replication of measures taken by authorities in other EU Member States (e.g. portability of test results, presumption that products found to be non-compliant in Member State A are also non-compliant in Member State B)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Procedure for the recognition of national decisions in other EU Member States	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Direct applicability of national decisions in other EU Member States	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

<p>Decisions against non-compliant products to be taken by authorities of various EU Member States in close coordination (e.g. via a Product Compliance Forum established at EU level) and being applicable simultaneously in all relevant jurisdictions</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Same as above plus appointment of a lead authority to facilitate coordination of national decisions</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Lead authority with powers to adopt decisions against non-compliant products applicable in different Member States (e.g. subject to consultation with relevant national authorities)</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Decisions against non-compliant products supplied in various EU Member States taken by the Commission</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
<p>Powers to the Commission to check the functioning of market surveillance in Member States</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

*** If you agree with the concept of a lead authority coordinating decisions to be taken simultaneously by authorities in different Member States, which criterion should be used to select the lead authority?**

- First authority opening a case
- Authority of same Member State as the manufacturer or EU importer
- Special expertise of authority
- Authority of market most affected by non-compliance
- Other

*** If you agree with the concept of a lead authority with powers to adopt measures applicable in different Member States (e.g. subject to consultation with relevant national authorities), which criterion should be used to select the lead authority?**

- First authority opening a case
- Authority of same Member State as the manufacturer or EU importer
- Special expertise of authority
- Authority of market most affected by non-compliance
- Other

8. Would you like to add any comments or suggestions on how to improve the effectiveness of market surveillance in the Single Market?

For questions 6 and 7 there may also be a case for option 3, and this may depend on the availability of expertise and resources of the first authority that opens a case.

B5. Market surveillance of products imported from non-EU countries (optional)

1. What is the approximate proportion of products imported from non-EU countries in your sector (based on product volumes)?

- 0 to 5%
- 6 to 10%
- 11 to 20%
- 21 to 30%
- 31 to 40%
- 41 to 50%
- More than 50%
- Unable to estimate

2. Are products in your sector imported from non-EU countries affected by non-compliance?

- Yes, most of them
- Yes, some of them
- Yes, a few of them
- No
- I do not know

3. Are the non-compliant products in your sector imported from non-EU countries supplied 'online'? (as opposed to through 'brick and mortar' shops)

- Yes, most of them
- Yes, some of them
- Yes, a few of them
- No
- I do not know

4. What is the country of origin of imported products you often found to be non-compliant (if any) (multiple choice possible):

China
Hong Kong
India
Korea, republic of (south)
Turkey
United states

5. In your experience what makes it difficult to take action against non-compliant products traded by businesses located in a non-EU country?

	Strongly agree	Agree	Disagree	Strongly disagree	No opinion
Authorities do not know how to identify and contact businesses located in non-EU countries	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Authorities find it more costly to contact businesses located in non-EU countries	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Businesses contacted do not reply to requests for information /documentation	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Businesses contacted do not reply to requests for corrective actions	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Businesses sanctioned do not pay penalties	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In particular in the case of goods traded online businesses contacted consider that they are not manufacturing, importing, distributing or making the product available on the market	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

6. In your experience or understanding would the following options help in taking action against non-compliant products traded by businesses located in a non-EU country?

	Strongly agree	Agree	Disagree	Strongly disagree	No opinion

<p>Obligation on businesses to appoint a responsible person or designate an importer located in the EU</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Broaden definition of EU importer to explicitly include possible EU based main contractors of the manufacturer in the absence of an another responsible person in the EU</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>More enforcement action addressed to EU importers placing non-compliant products on the market</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Power to national authorities to ban products when businesses contacted do not reply to queries or when they cannot be contacted</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Strengthen cooperation with authorities in non-EU countries to obtain corrective action from businesses</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Strengthen cooperation with authorities in non-EU countries to impose penalties on businesses</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Strengthen cooperation with authorities in non-EU countries to obtain information on businesses likely to export non-compliant products to the EU</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

More controls of products entering the EU	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
More controls of products purchased online	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Obligation to indicate the manufacturer's name and contact details in customs declaration	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
More coordination of controls of products entering the EU by customs (e.g. more exchange of risk information, alignment of measures)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
More coordination of controls of products entering the EU between customs and market surveillance authorities (e.g. common risk profiles, seamless workflow)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
More coordination of controls of products entering the EU (as in the previous option) targeting specifically products purchased online (e.g. via a pan-European Task Force of national authorities)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

7. Would you like to add any comments or suggestions on how to help to take action against non-compliant products traded by businesses located in a non-EU country?

8. Would you like to add any comments or suggestions on how to help to improve the effectiveness of market surveillance in the Single Market?

There should be close relationships between Governments, Market Surveillance authorities and industry, along with more resources for authorities.

C. CONCLUSION AND SUBMISSION

***1. What do you think about the relevance of the questions?**

Questions were mostly relevant, though some were more relevant for market surveillance authorities to answer.

***2. Were any important questions missing?**

Questions with tick boxes should all allow opportunities to explain reasons for the option chosen. Alternatively there should be opportunity to submit a more detailed response in some of these areas separately.

*** 3. Can the Commission staff contact you (e.g. for a short telephone interview) to improve our understanding of your answers?**

- Yes
 No

You may also provide additional information by e-mail to the functional mailbox GROW-B1-compliance@ec.europa.eu after having submitted your reply to the questionnaire indicating your Case-ID, email address and contact details.

Contact

GROW-B1-COMPLIANCE@ec.europa.eu