

# EGMF Position Paper

## ‘Blue Guide’ on the implementation of EU products rules: EGMF comments for its revision

Brussels, 29 January 2020

EGMF, the European Garden Manufacturing Industry federation, represents major manufacturers of garden, landscaping, forestry and turf equipment. Through its 30 European corporate members and 7 National Associations, EGMF represents over 18 million units placed on the European market, accounting for around 80% of garden machinery, and EGMF members employ over 120,000 people in the EU.

First, EGMF welcomes the opportunity to provide suggestions for improvements on the revision of the ‘Blue Guide’ on the implementation of EU products rules published by the European Commission ([2016](#)). We strongly support the key goal of further improving market surveillance in the EU internal market to make sure that only compliant products are placed on the market. Equally, it is of utmost importance that the EU institutions continue their efforts towards a paperless European industry by embracing the available technologies to supply information to product users.

### 1. Clarification of legislation overlaps

As a first objective, the revision of the ‘Blue guide’ should clarify the scope and application of the new Regulation 2019/1020 on market surveillance and compliance of products with the existing EU acquis.

Regarding the provisions related to market surveillance and enforcement, it seems that different EU acts which will apply at the same time: the recently published Regulation 2019/1020, the existing Regulation 765/2008 on market surveillance and accreditation, the General Product Safety Directive 2001/95/EC, and the different product-specific “New Approach” legislation.

This situation increases the legal complexity for manufacturers who may be confused about whether their corresponding obligations under product-specific legislation, such as the Machinery, Low Voltage, Electromagnetic Compatibility, and Radio Equipment Directives, are replaced or are added to this new Regulation.

In addition, in line with the **Lex Specialis** principle included in Article 2(2) of Regulation 2019/1020, there is a need for further clarity as to which provisions and articles in the existing legislation are considered more specific and therefore override the new Regulation on compliance and enforcement.



Moreover, EGMF welcomes the possibility for market surveillance authorities (MSAs) to set up Joint Initiatives with trade associations as provided for under Article 9 of Regulation 2019/1020. The European Commission should however clarify in the 'Blue Guide' how to avoid any conflict of interest or risk of favourable treatment for an economic operator who has entered such a joint initiative.

Therefore, EGMF welcomes the drafting of **application guidelines to support the use of Article 9** as a transparent and unbiased framework for voluntary cooperation between trade associations (or other stakeholder groups) and MSAs. We believe that the Union Product Compliance Network could facilitate this as it can improve market surveillance coordination at the EU level. In addition, it can also increase and improve the dialogue with business representatives, where the latter can be involved in separate or joint administrative coordination groups.

## 2. Improved definitions

Responsible manufacturers take compliance very seriously and want to avoid market restrictions, recalls, safety issues and injuries to their customers that would affect their reputation. Frequently allegations of non-compliance are confined to an interpretation of requirements for documentation rather than defective or dangerous equipment.

Therefore, EGMF believes that several definitions and concepts in Regulation (EU) 2019/1020 should be clarified in the 'Blue Guide' which is currently addressing the application of Union harmonisation legislation.

In particular, the 'Blue Guide' should be more specific to address:

- The **concept of 'serious risk'** when the product is likely to be used by consumers and to provide the grounds for a rapid intervention by Market Surveillance Authorities. How will it take the concepts of formal or substantial non-compliance into consideration?
- The concept of a **'reasoned request'**, as it is referred to in Article 4.3(b) of Regulation (EU) 2019/1020, because it regards the obligation the manufacturer to provide the MSAs with all the necessary information to demonstrate the conformity of the product. In our view, a reasoned request should be based on a justified non-compliance.

These distinctions and clarifications are necessary to prompt a harmonised interpretation and thereby avoid the undue recall of a product where the non-conformity to the applicable requirements only relates to an administrative mistake.



### 3. Allowing the electronic availability of the Declaration of Conformity

We think that the provision on the Declaration of Conformity (DoC) in the Radio Equipment Directive is an appropriate model that the 'Blue Guide' should promote wherever there is no formal contradictory requirement in the law. As an example, the 'Blue Guide' should allow MSAs to consider the requirement in the Machinery Directive for the Declaration of Conformity to accompany the product as fulfilled whenever the machine is accompanied by a simplified Declaration of Conformity, with the full declaration provided on the manufacturer's website.

EGMF suggests revising the text of the Blue Guide to allow "e-labelling" as a possible and voluntary alternative to mandatory printed requirements. Such "e-labelling" would allow manufacturers to print a machine-readable coded pattern (e.g. a QR code) onto the product data label with the specification that the code would contain sufficient embedded data or internet links, required to create a Declaration of Conformity for the product.

The QR code can be read by a dedicated software programme, running on modern smartphones or tablets that generally are available to relevant authorities. The software would read the embedded data and populate fields in a document template, thus creating a Declaration of Conformity that could be stored, printed, etc. The main advantage of this code is that, by definition, it cannot be applied retrospectively to products already sold. Furthermore, on-going maintenance of web-pages is not necessary. The information printed in the code is applicable to the date of production. This software could be a universal system that is independent of manufacturers and covers all equipment and all EU Directives requiring Declarations of Conformity.

Were such a solution acknowledged in the 'Blue Guide', it would provide market surveillance authorities with all the information necessary to make further enquiries to manufacturers and notified bodies when such investigation is required. It would also have the advantage that it remains with the product throughout its lifetime and overcomes the problem of paperwork that originally accompanied the product becoming separated or lost.

### 4. Permitting digital instructions (e-documentation)

EGMF suggests revising the 'Blue Guide' section concerning the accompanying user instructions to allow the use of digital instructions. This aims to take into consideration the dramatic changes in the means of communication that have developed since the adoption of product-specific legislation, notably the Machinery Directive in 2006.

The wide use of internet and its many applications currently available have made it common practice to have an internet-based platform to communicate and to share information with actual and potential future users.

The Machinery Directive (annex I, 1.7.4) requires that all machinery must be accompanied by **instructions for use**, when placed on the EU market. Unfortunately, the Machinery Directive



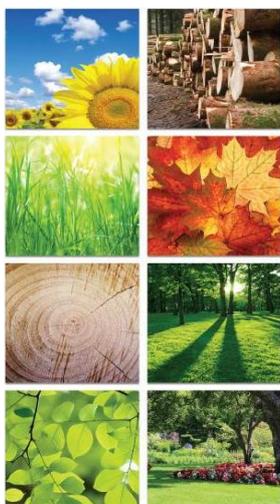
guideline (§255) requires that the instructions are supplied to the end-user in paper form, even though it confirms that the Directive does not specify a specific format for the instructions. This has led that no other method/technology to supply the instructions has been accepted by European Member States authorities.

EGMF expects the following main benefits if the requirement of delivering instructions on paper would not be considered a mandatory requirement anymore:

- A major reduction of paper usage by the machinery industry: The total volume of paper used for printing per manufacturer can range between 70 million to 2.2 billion pages (2200 m<sup>3</sup>, depending on page size) on an annual basis, depending on the company structure, complexity of the product, and market size of the company.
- A significant reduction in costs for the manufacturer: The average costs for printing manuals is between 950.000 and 5.5 million EUR per year, per manufacturer.
- Giving machinery manufacturers the possibility to swiftly update the instructions, where necessary and in an economical way; It improves user's safety and convenience as the user will therefore always have access to the latest version of the instructions.
- The market surveillance authorities of each Member State would be able to review manufacturers documentation from a remote location, without the obligation to purchase products to get access to those documents.

Therefore, EGMF believes that an adaptation of the text of the Blue Guide would be needed and could serve as a model for the revision of product legislation guide, facilitate the application of Union harmonisation legislation, particularly regarding the format of documentation transmitted to the end-users and authorities.

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*The European Garden Machinery Industry Federation – EGMF – has been the voice of the entire garden machinery industry in Europe since 1977. With 31 European corporate members and 7 National Associations representing manufacturers of garden, landscaping, forestry and turf maintenance equipment, we are the most powerful network in this sector in Europe.*

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