



**Confederation of the European  
Bicycle Industry**

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Since 1960 Representing the European Bicycle Industry

## **CONEBI Feedback – Proposal for a General Product Safety Regulation**

CONEBI, the Confederation of the European Bicycle Industry, would like to hereby provide its comments on the European Commission’s proposal for a new General Product Safety Regulation (GPSR). For us this legislation is of particular relevance because bicycles as well as certain bicycle parts and accessories fall within the scope of this legislation.

We welcome the transformation from a Directive into a **Regulation** as it will further unify requirements across Member States thereby facilitating the placing of a safe product on the EU internal market.

Furthermore, we also appreciate the close alignment to Reg. (EU) 2019/1020 on **market surveillance** to ensure harmonisation with other legislations that are also of importance to the Bicycle Industry as well as create a level playing field for the EU industry. Here, the Bicycle Industry in particular appreciates the requirement that all economic operators selling products on the EU internal market need to have a contact person within the EU. This will further solidify that safe products are being placed on the EU internal market and that customers can have an easily reachable point of contact.

When looking at the **scope** of the new GPSR we have two comments:

- First of all, we were surprised to see that “equipment on which consumers ride or travel which is operated by a service provider within the context of a service provided to consumers”(Art.2.2.g) is explicitly excluded. This would in practice mean that shared bicycles would fall outside the scope of the new regulation while privately used ones remain inside even though the same type of bicycle might be used in both occasions. CONEBI would like to kindly inquire why this decision was taken and ask that all bicycles remain within the scope of the GPSR to guarantee a safe product as it is unclear under which other framework shared bicycles would fall.
- Closely linked to this, CONEBI would like to ensure harmonisation with other technical frameworks that affect the Bicycle Industry to ensure legal certainty for the industry and guarantee that safe products are being placed on the market. **E-Bikes** with an assistance up to 25 km/h and a motor with a max. continuous rated power of 250W, also called EPACS (electrically power assisted cycles) are currently regulated under the Machinery Directive<sup>1</sup>. This legislation is being reviewed right now as well and the European Commission is proposing

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<sup>1</sup> Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery

to exclude all means of transport from the future Machinery Regulation<sup>2</sup>. This came as a big surprise to the Bicycle Industry and is creating uncertainty under which EU regulatory framework e-bikes will fall in the future. CONEBI believes that the GPSR would not be a suitable place for e-bikes firstly, because it cannot naturally account for the specific requirements of the Machinery Directive, and secondly, because it is not intended to be a CE marking Directive so the harmonized standard for e-bikes, EN15194, could not simply be transferred and there would no longer be a direct connection to other relevant legislations such as the EMC Directive<sup>3</sup>.

In addition, to the definition of a 'product' (Art. 3.1) the regulation introduces the **definition of a 'safe product'** (Art. 3.2) stating that the product also has to be safe against misuse in addition to being safe for its foreseeable use. In the current wording, referring to the general term "misuse" creates ambiguity in regards to the intention. The producer shall indeed test against foreseeable risks in product use, but no producer can and shall be obliged to address "misuse" in the sense of a broad interpretation as it is basically impossible to test against all non-foreseeable risks. Making it compulsory to ensure that a product is safe against misuse entirely would put a disproportional burden on the industry. Therefore, the term "misuse" needs to be deleted in the draft; instead, the definition of a "safe product" must be linked to the intended and reasonably foreseeable use.

The Commission has newly introduced a reference to the WHO **definition of health** in recital 21. This represents a completely new approach to health and safety since the WHO definition includes "mental well-being". Applying this definition of health to all products that are covered by the GPSR seems a bit far reaching. While the overconsumption of sleep-depriving video content might be addressed in certain product categories, it is hard to understand how this concept applies to for instance bicycles. How can and should a manufacturer show and document that a bicycle or even a component like a brake or handlebar is safe in terms of mental health? There needs to be a clear distinction between potential health risks and risks for health and safety caused by a specific product. Health issues like depression, loss of sleep or altered brain function is not caused by the product itself, but by the consumed content through the product. The reference to the WHO definition of health introduces alien concepts to the current GPSD scope and systematic and is not inherently related to the safety of products.

Looking at **Art. 6 on presumption of safety**, in particular Art. 6.1.a it is unclear to us which European standards are referred to, perhaps harmonized standards published under specific harmonization legislation (i.e. CE regulation) or harmonized standards to be issued and published specifically for the purposes of the GPSR? CONEBI would welcome a clarification on this to be able to properly evaluate the impact on the Bicycle Industry and would support the continued application of harmonized standards within the GPSR. Moreover, we understand that national technical regulations might be required in case there is no European standard (see Art.6.1.b) but would like to encourage the development of EU harmonized standards where possible. Last but not least, the relevance of the implementing acts described in Art. 6.2 is unclear to us in addition to the already mandated general safety requirements as well as European standards mentioned previously. Here we should ensure that user friendliness is maintained and that there will be no overlapping requirements.

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<sup>2</sup> 2021/0105 (COD) Proposal for a Regulation of the European Parliament and of the Council on machinery products

<sup>3</sup> Directive 2014/30/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to electromagnetic compatibility

In regard to the **obligations of manufacturers (Art. 8.7 + 8.8)** we do believe Europe fit for the digital age must want to go digital and push digitalisation also in its legislation. More and more people get their information online, manufacturers should therefore also have the choice between the conservative approach (address labelling and manual in paper form) and the modern approach (website or QR code labelling/ manual in a digital format). Therefore choosing either option should be sufficient. It is currently unclear in what way instructions and safety information can be transmitted to consumers, e.g. are electronic means such as applications, chat bots, etc. possible? CONEBI would welcome a GPSR that is also digital since it would make the whole system more pragmatic, economic and ecological.

As a part of strengthening the market surveillance system Art. 17 referring to **traceability of products** was introduced. Here CONEBI would like to inquire what type of information, especially information in addition to the one already required according to Art. 8 on obligations for manufacturers, is required so that the industry may prepare itself in advance and ensure that reliable systems are set up without placing undue burdens on the economic operators. We would like to point out that these requirements should be in line with GDPR<sup>4</sup> which might make it difficult to implement full traceability from the original manufacturer to the end consumer.

Linked to this, we would also like to see some further clarifications in regard to the **obligations of economic operators in case of Accidents or Safety Issues (Art. 19)**. CONEBI welcomes that the safety of the consumers is the highest priority within the GPSR but we suggest against requiring a notification for any type of accident within 2 working days from the moment that the manufacturer knows about the incident. As long as the manufacturer has no evidence that the accident was caused by the product itself, this requirement seems exuberant. Therefore, Art. 19.1 and Art. 19.2 should be rephrased so that only serious infringements for life and limb instead of the undefined 'accidents' shall be notified otherwise the reporting obligations are without any limits. This also makes it easier for the consumer to understand relevant information and also allows the economic operator to focus on pertinent accidents as well as how to rectify them.

Last but not least, CONEBI welcomes the fact that it will also be possible for non-EU countries to participate in the EU Safety Gate according to Art. 36. There is a considerable overlap of goods in the Bicycle Industry that is also sold in neighboring countries such as the UK whose Product Safety Database is already closely aligned to that of RAPEX.

*CONEBI Secretariat*

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<sup>4</sup> Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)