



WECF

Problems with the Toys Safety Directive and Recommendations to Policy Makers

Position Paper WECF

Women in Europe for a Common Future, January 2012

Children have the right to a safe and healthy environment. Since newborns and very small children spend most of their time indoors, this safe and healthy environment is also a synonym for indoor environment. Products surrounding the baby at this early stage of its development, and in particular their chemical content, and baby's exposure to it, determine to a large extent how healthy these surroundings are. Toys are developed and sold solely for the education and entertainment of children. A toy is not a necessity for a child, no compromises on health and safety should therefore be made.

After the US, Europe is the second biggest market for toys, a total market estimated to 62 billion Euros a year. As much as 60% of all toys on the market are newly developed each year, with more than 86% of toys being manufactured in China. Despite claims that toys sold in European stores are safe, a number of harmful substances like heavy metals, carcinogens or endocrine disruptors are still allowed. Whereas toxicologists agree that there is no safe limit for lead, the limit for lead is very high in the new Toys Safety Directive (TSD). In addition, the law is broken on numerous occasions. This is evident from the EU RAPEX alert system: 30% of the items to be removed from the market are toys, many of these for 'chemical reasons': even customs departments recognize that they hardly can control the quality of products entering the European market. Results of a sample toy test that WECF did recently, matching the results of a recent test by Stiftung Warentest in Germany show heavy metals in children's jewelry and wooden pizza pieces, banned phthalates in children's painting aprons, formaldehyde in wooden toys. Time and time again, harmful substances are found in toys. Parents obviously cannot assume that children's toys are healthy and safe.

Eight problems with TSD

1: When is a toy a toy?

Walk into any toy store and you will see shelves full of dolls, games, jewelry, action figures, cars and depending on the season: sleds, skates, skateboards and water wings. All toys! Not so. The TSD provides rules for the safety of toys. In first instance the TSD defines a toy just as most 'normal' people would think:

toys are products, whether or not exclusively, designed or intended for use in play by children under the age of 14 years. But there are many exceptions. A small selection of what is not a toy, though many may think so:

- Children's accessories like jewelry.
 - Swimming learning (but not if smaller than 1.20m in length).
 - Children's make-up, even in toy like packaging .
 - Products for collectors, as some kits, dolls and replicas
 - Roller skates, inline skates, intended for children over 20 kg, bikes above a certain saddle height, and
 - Puzzles with more than 500 pieces
 - Game consoles and computer games.
 - Toys intended to support education.
- and so on and so forth. For these articles, less stringent chemical safety requirements apply than for toys.

2: What is safe?

Not only is the term 'toy' open to interpretation, this is also true for the term 'safe.' Carcinogenic, mutagenic and reprotoxic (CMR) substances are banned in the new TSD, but for certain CMR categories (which are possibly endocrine disruptors) as heavy metals, there is a derogation. Do we want the brighter colors at the expense of children's health? The choice is obvious to any parent, but not to law makers in determining the limits of harmful substances in toys. And that just goes for the substances that have been well researched and of which we know they are harmful; what about the substances

that urgently need to be investigated for their effect on a child's development and health in general? Not to mention hormone disrupting substances, that can cause harm to a developing child even in very small quantities; as yet they are not provided for in the TSD.

Most chemicals limits in toys are based on or derived from adult data (or derived from these). Limits for small children are often determined by choosing a percentage of the limits for adults. Limits for chemicals are based on the 'single article' not the environment usually surrounding the infant, without taking into consideration the so called cocktail effects, children's inability to perceive risks, differences in use of the same chemicals (now it is possible that more carcinogenic PAH occur in bike handle bars than in car tires), and there is a lot of discussion on how to set these limits (how much surface is the child in contact with).

In general, a case can be made that they are too high.

3: Safer at 36 months than at 37 months

There are different rules for children under 3 years and over. The idea is that children under three years behave differently and play with other toys than older children, and therefore should be better protected. This 36 months boundary is shown on the safety warning on the packaging (not suitable for children under 3 years). This means in practice that a child of three years minus one day is much better protected than two days after its birthday. And that little brothers and sisters should not play with the toys of their older sibling. In toys for over 3 year olds, certain harmful plasticizers are allowed, whereas they are forbidden in toys for below that age. The development of a child is a sliding scale, in many cases more determined by body weight and motor development than the age in years.

Now the same safety rules apply for toys intended for children of 13 years of age

as do for a toy for a 3 and a half year old: an absurd situation. Where parents can reasonably estimate whether toys are appropriate for their child in the mechanical sense, regardless of age, they will not be able to do so for the chemical safety of the toy

4: Don't put it in your mouth!

There are different rules for products that can be placed in the mouth by children and those that cannot.

For the first group stringent requirements rightly apply, banning a number of harmful plasticizers. But cannot nearly all toys 'be taken in the mouth?' Many children suck their bear or chew on their pencils. Childcare articles such as a teething ring or a pacifier also face stricter requirements than other articles. But how about that well-known bunch of colorful plastic keys, that each child puts in its mouth, but is considered a common toy?

5: Who pays the piper calls the tune

Many toys are made in China. This is often used as an excuse when a toy is found to contain harmful substances, sometimes in quantities over the legal limits. Big brands, however, determine exactly how their product should be put together, and what substances are added; they have no excuse if the law is broken. But for (small) importers and buyers it can be difficult to figure out the exact composition of the toys they import. However that does not relieve them of their responsibility to provide consumers with safe products. Toys are subject to checks by the authorities in an ad hoc manner, and then only if they are already for sale on the EU market: for example, customs authorities would test imported toys only if they "suspect the product not to be safe".

The CE label which all toys must have is no guarantee that the toy has been tested and found safe, it is an "assumption of compliance". Compliance tests of national and EU authorities show that manufacturers and importers do not always stick to the rules. But not every toy can be tested by national and EU authorities.

6: Green, sustainable economics and eco-design

The toy industry so far is not a front runner in sustainable production. Its arguments, and B to B, as well as B to C communication is very bad, as a recent UN survey showed. How come? Is a toy by nature a too complex product? Are manufacturers and designers lacking the skills and materials to change production patterns? How is it that a product that is so ideally suited

to promote safety, does not? With growing demands from parents and consumers to get safer toys, only a few initiatives towards eco-designed toys are emerging, whereas there should be a large scale and definitive shift in that direction.

7: Let's look it up

How does the average consumer who wants to buy safe toys go about finding the right information?

In several countries consumer magazines (like Stiftung Warentest in Germany and 60 millions de consommateurs in France) regularly test toys and publish the results. National bodies, such as the new Food and Consumer Goods Authority in the Netherlands also perform tests, but do not publish results that name brands. All of them test only limited amounts of toys, usually no more than 60 at a time. The European Union's central warning system, RAPEX, bans consumer products from the market on an almost daily basis and publishes the reasons and the pictures (www.rapex.eu), but who knows where to find it? Nearly one quarter of all items recalled by RAPEX are toys, and 30% for reasons of containing harmful substances that are either banned or dangerous to public health. None of this, however, informs the general public on the composition of toys, just like the detergents industry is obliged to do, nor do they put the ingredients on a label, as is obligatory for the cosmetics industry.

8: Who cares?

One of the biggest challenges is the consumer. "What you don't know cannot hurt you, if it is sold it must be safe." Laws are made for ordinary people. Politicians, legislators, are sensitive to the opinion of the general public. Consumers, citizens, should make a fuss and would exert pressure, demand change. But who will tell them that the toys they let their children play with may harm their child's development? Get busy, get angry, ask and demand that toys are safe!

Contacts:

Germany: alexandra.caterbow@wecf.eu

France: elisabeth.ruffinengo@wecf.eu

Netherlands: ingrid.elbertse@wecf.eu

Recommendations for policy makers:

Broaden the Definition

- cover all product categories children –and their parents – see as toys, such as jewellery, make up and other items intended for use in play by children

Ban all harmful Substances

- no CMR-substances in toys, especially heavy metals
- no allergens or sensitizing substances in toys
- no other hazardous substances (endocrine disrupting substances, PBT, vPvT)
- no manufactured nanomaterials until proven safe
- at a minimum level, adoption of the standards for food and food-packaging, as well as cosmetic for all toys

Introduce Labelling

- implementation of a label for safe toys, controlled by independent laboratories

Penalize irresponsible Producers

- Implement the precautionary principle and producers liability
- High penalties for placing on the market of unacceptable products

Get Global!

- No double standards
- Harmonizing of EU- and US-regulations (where possible)
- No selling of recalled toys in other countries



WECF The Netherlands

PO Box 13047, 3507 LA, Utrecht

The Netherlands

Phone: +31 - 30 - 23 10 300

Fax: +31 - 30 - 23 40 878

WECF France

BP 100, 74103 ANNEMASSE

Tel/fax: + 33 450 49 97 38

Website: www.wecf.eu

WECF Germany

Sankt-Jakobs-Platz 10, D – 80331

MünchenGermany

Phone: +49 - 89 - 23 23 938 - 0

Fax: +49 - 89 - 23 23 938 - 11

wecf@wecf.eu

www.wecf.eu