



Nordic Council
of Ministers

JOINT NORDIC CONTROL DROPSHIPPING AND OTHER E-COMMERCE

Nordic enforcement project 2024

Contents

Summary	4
1. Background	5
1.1 The Nordic Enforcement Group	5
1.2 Enforcement of e-commerce	5
1.3 Objectives of the project	6
2. Method	7
2.1 Chemical legislations in scope	7
2.2 Other relevant legislations	10
2.3 Responsibility – online actors	12
2.4 Selection of companies, products and substances	15
2.5 Communication between member states	18
3. Results	19
3.1 Restrictions	20
3.2 Precious metals	23
3.3 Authorisation pesticides (biocides and plant protection products)	23
3.4 Labelling	24
3.5 Actors	25
3.6 Enforcement measures	27
4. Discussion	28
4.1 Location of traders	28
4.2 Product types	28
4.3 Precious metals	29

4.4 Type of online actor	29
4.5 Labelling	29
4.6 Pesticides	30
4.7 Chemical products	30
Appendix I Definitions in this project	31
Appendix 2 – Responsibility in consumer legislation	33
About this publication	35

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Summary

The e-commerce is continuously growing and new ways to organise online trade has evolved. The enforcement authorities must keep up the pace with this development and continue to include control and monitoring of e-commerce as part of their enforcement activities.

This project was a joint enforcement project for the market surveillance authorities within the Nordic Enforcement Group. The aim was to check the compliance level of chemical legislation in e-commerce in the Nordic countries as well as collecting best practices to enhance our work regarding enforcement of e-commerce of consumer goods. We focused on three types of business models: online platforms, traders (web shops) and dropshipping traders. The products were purchased from companies located nationally, in other EU member states and in countries outside the EU/EEA. A total of 210 products and 87 online actors were controlled.

The overall results showed a high non-compliance rate; 147 (71%) of the 210 controlled products inspected were found to be non-compliant. This indicates that online trade needs to improve the proactive work with chemical safety.

When comparing the different types of e-commerce stores (marketplaces, dropshipping and web shops), the non-compliance rate was highest for the dropshipping stores, with a non-compliance rate as high as 81%, followed by 64% non-compliance for marketplaces and 59% for web shops. The knowledge of chemical legislations needs to improve in all types of actors, but especially for dropshipping traders.

Most non-compliant product types for articles were electronics (81% non-compliance) followed by jewellery (50% non-compliance). Products within the scope of the RoHS directive (electrical products) had most non-compliances. Other non-compliances were possible to detect on the website like biocides and plant protection products, whereas 100% non-compliances were found.

When a non-compliant product was found, the responsible actor for the product was contacted. Most actors removed the non-compliant offers but in some cases no action was done by the actor, especially from dropshipping traders.

Many non-compliances were found regarding the label requirements in the RoHS-, Toys directives and the CLP legislation. Chemical products did not have hazard information on the labels and for toys and electrical products there was a high non-compliance regarding CE-marking, contact details (including EU representatives) and documentation.

The results indicate that for all actors dealing with e-commerce, there is a lack of knowledge regarding the chemicals legislations or an unwillingness to comply with the provisions in these legislations.

1. Background

1.1 The Nordic Enforcement Group

The Nordic enforcement projects are run by the Nordic Enforcement Group, a subgroup of the Nordic Chemicals Group, under the Nordic Council of Ministers. The main purpose of the Nordic Enforcement Group is to exchange experience on control and enforcement of the European chemical legislations and to prepare and carry out common enforcement projects.

This project was started in January 2024 and was finalized in December 2024. The main responsibility for the project was allocated to the Swedish Chemicals Agency and the project leader was Karin Rumar. Participants in the project group were Daniel Ahlström, Jennifer Astorsdotter, Oskar Rosencrantz, Johanna Stigwall, Kristina Karlsson and Karina Zaluska from the Swedish Chemicals Agency (KEMI); Sanna Vartiainen, Anna Vuori from the Finnish Safety and Chemicals Agency (Tukes); Kenneth Ebert and Sarah Damsbo Jørgensen from the Danish Environmental Protection Agency; Ingvild Kvien and Loella Bakka from the Norwegian Environment Agency.

1.2 Enforcement of e-commerce

The e-commerce is continuously growing. According to a report by the trade association E-commerce Europe, it is expected that online sales will account for an average of 30% of the European retail turnover by 2030 (E-commerce Europe, 2022). In the Nordic countries, 87%^[1] of the internet users bought goods or services online in 2022, which is the highest share in Europe.

The enforcement authorities must keep the pace up with this development and continue to include control and monitoring of e-commerce as part of their enforcement activity. New IT-tools and programmes are developed, which can facilitate the monitoring and enforcement activities of surveillance authorities. One of the major challenges for the enforcement authorities is that companies can trade in a country without being within the jurisdiction of the national enforcement authorities. The companies can be located outside the EU/EEA or in another EU/EEA-countries. The latest requires a close cooperation between the national authorities.

1. Calculated from graphics regarding Finland, Denmark, Iceland, Sweden and Norway in the EUROPEAN E-COMMERCE REPORT 2022

In 2020 and 2023 the Nordic enforcement group published reports on control of internet trade.^[2] The work from 2020 and 2023 is continued in the current enforcement project. Since then, the number of e-commerce actors are continuously growing and new ways to organise the trade has grown in importance (platforms, dropshipping etc.). Dropshipping is a rapidly increasing business model and is presented as a low-risk and easy way to start a business.^[3] This model, which was not part of the previous Nordic joint enforcement project, had a special attention in this project and in this report.

New EU legislations like the Digital Service Act ((EU) 2022/2065), and the Market Surveillance Regulation (EU 2019/1020) give new provisions for the e-commerce actors and is investigated in this project.

1.3 Objectives of the project

The goal of this project was to do a check of the compliance level of e-commerce with special focus on dropshipping, explore and collect best practices of each country to enhance our work regarding enforcement of e-commerce of consumer goods and get a closer cooperation between the Nordic market surveillance authorities. We gathered experience on enforcement of different types of actors, explored the new legal framework as well as shared enforcement experiences, including the use of different IT-tools and enforcement strategies.

2. [Nordic project on enforcement of internet trade](#) and [Joint Nordic Control of E-commerce](#)
3. <https://www.shopify.com>

2. Method

2.1 Chemical legislations in scope

2.1.1 Reach regulation ((EC) No 1907/2006)

The REACH regulation stands for Registration, Evaluation, Authorization and Restriction of Chemicals. The REACH regulation covers requirements for chemical products and articles. Annex XVII of the REACH regulation sets out restrictions for certain substances. There are also rules restricting certain uses of substances posing an unacceptable risk.

2.1.2 POPs regulation ((EU) No 2019/1021)

The Regulation on Persistent Organic Pollutants (POPs^[4]) prohibits the placing on the market and use of several substances that are persistent and that can harm the environment and humans at low concentrations. Examples of regulated substances are short-chain chlorinated paraffins (SCCP) in plastic products and PFOA in different materials.

2.1.3 RoHS directive (2011/65/EU)

RoHS stands for Restriction of the use of certain hazardous substances in electrical and electronic equipment. The RoHS directive is a product-specific directive for electrical and electronic equipment that restricts the use of certain metals, flame retardants and phthalates. Among other things, the directive requires products to be labelled. The CE mark indicates that the manufacturer certifies that the requirements of specific EU legislation are met, and the contact details indicates which companies are responsible for the product.

2.1.4 Toy Safety Directive (2009/48/EC)

The EU Toy Safety Directive contains several requirements for the chemical content of toys. Among other things, there are limit values for how much certain metals may leak out, restrictions on the content of CMR substances (substances that can cause cancer, genetic mutations or damages to the reproductive system) and perfume substances. As in the RoHS Directive, the Toy Safety Directive contains labelling requirements.

4. Regulation (EU) 2019/1021 of the European Parliament and of the Council on persistent organic pollutants

2.1.5 CLP regulation ((EC) No 1272/2008)

The CLP Regulation contains rules on the classification, labelling and packaging of chemical substances and mixtures placed on the EU market. The CLP Regulation requires manufacturers, importers or downstream users of substances or mixtures to classify, label and package their hazardous chemicals appropriately before placing them on the market.

One of the main aims of the regulation is to determine whether a substance or mixture displays properties that lead to a hazardous classification. In this context, classification is the starting point for hazard communication.

The information about the hazards and how to protect oneself and the environment is communicated to users through package labelling with e.g. hazard pictograms, signal words and hazard and precautionary statements.

2.1.5.1 Article 48 - Display labeling when selling chemical products online

When advertising hazardous chemical products, customers shall be informed about the hazardous properties of the products. Selling products online is considered a form of advertising and is subject to these requirements. When selling chemical products online parts of the products hazard labeling shall be displayed on the website. The rules are in place so that customers can see what dangers are associated with the product and receive information before making a purchase.

2.1.6 Plant Protection Product Regulation (EC) No 1107/2009

Plant protection products are pesticides mainly used to protect plants and plant products in agriculture, forestry and horticulture.

The plant protection products regulation contains rules on placing plant protection products on the EU market. A requirement for placing a plant protection product on the EU market is that the product is authorised according to article 28 of the regulation. In the risk and efficacy assessments conducted within the authorisation process, national conditions such as environment, climate and occurring species are taken into consideration. Therefore, plant protection product authorisations are national. Hence, a plant protection product may be authorised in one EU member state but not in another.

2.1.1 Biocidal Products Regulation (EU) No 528/2012

The biocidal products that act in a chemical or biological way fall in the scope of the biocidal legislation. It can for example be disinfectants, a mosquito repellent, wood preservatives, rodenticides or antifouling paint for boats. Biocidal products that, on the other hand, act in a physical or mechanical way do not fall in the scope of the

regulation for biocides. A mechanical mousetrap is an example of such a product. Pesticides that are not plant protection products are biocidal products.

The biocidal products regulation contains rules on making biocidal products available on the EU market. A requirement for making a biocidal product available on the EU market is that the product is authorised according to article 17 of the regulation. In the risk and efficacy assessments conducted within the authorisation process, national conditions such as environment, climate and occurring species are taken into consideration. Therefore, biocidal product authorisations are most commonly national. Hence, a biocidal product may be authorised in one EU member state but not in another.

The biocidal products regulation contains rules on transitional measures (article 89) for biocidal products which were already on the EU market before the regulation came into force but where the active substances have not yet gone through the authorisation process. The transitional rules allow for the application of national jurisdiction for such biocidal products. Therefore, Swedish regulations on biocidal products concerning the requirement of authorisation of biocidal products have also been in scope of the project. Applicable Swedish regulations are Regulation (2014:425) on pesticides and The Swedish Chemicals Agency Regulations (KIFS 2022:3) on Pesticides.

2.1.2 Precious metals (Act on Articles of Precious Metals (Finland) (1029/2000))

According to Finnish national act on precious metals an article of precious metal is made of precious metal subject to hallmarking, that are as follows: gold, silver, platinum and palladium.

Products like jewellery, silverware, cutlery and watches are considered articles of precious metals if they contain precious metal subject to hallmarking. Products made of the metals mentioned above are considered articles of precious metals. Examples of such products include jewellery, silverware, cutlery and watches.

Precious metals are alloyed with other metals in order to lend the alloy a desired colour, to enhance its ability to be worked on and to provide lower material costs. In order to be able to market a product as an article of precious metal, its fineness must be, at a minimum of:

- gold 375
- silver 800
- platinum 850 and
- palladium 500 parts per thousand for each precious metal by mass.

If the product's fineness is below the fineness levels specified above, it must not be marketed as an article of precious metal and it must not bear any marks intended for articles of precious metals.

Watches and jewellery must not contain dangerous substances. For example, cadmium and lead are substances that are prohibited in jewellery. Articles of jewellery releasing nickel are also prohibited.

2.2 Other relevant legislations

In addition to chemical legislations, there are other EU-wide legislations that are relevant to e-commerce. These are general rules for e-commerce and rules for the control of trade.

2.2.1 Digital Service Act - DSA (EU) 2022/2065)

E-commerce in the EU is regulated, among others, by the so-called Digital Service Act,^[5] which came into force in February 2024. The DSA lays down certain obligations for online platforms. Among other things, there are requirements for online platforms to provide, name, place of establishment and e-mail address of the platform (Article 11), and name and contact details for the seller of each offer on the platform (article 30). The DSA gives limited liability to online platforms that facilitates sales to consumers (marketplaces). The basic idea is that marketplaces that only serve as an intermediary in sales should not have any proactive responsibility for products sold. However, they must remove offers for sale when illegal content is discovered, and thus they have a reactive responsibility (article 6). It is mandatory for platforms to give a single point of contact to enable communication with the market surveillance authorities, among others (article 11).

2.2.2 Market Surveillance Regulation (EU) 2019/1020

The Market Surveillance Regulation (EU) 2019/1020 (MSR) gives harmonised rules on market surveillance.^[6] The regulation addresses problems with e-commerce and introduces new provisions on measures concerning e-commerce. At the time being, the regulation is under implementation in Norway.

5. The Digital Services Act (DSA) - Regulation (EU) 2022/2065

6. Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011.

Placing on the market (article 6)

Article 6 in the Market Surveillance Regulation ((EU) 2019/1020), states:

"Products offered for sale online or through other means of distance sales shall be deemed to be made available on the market if the offer is targeted at end users in the Union [...]" In the introduction to the market surveillance regulation, it is stated (in section 15): For the case-by-case analyses, relevant factors, such as the geographical areas to which dispatch is possible, the languages available, used for the offer or for ordering, or means of payment, need to be taken into consideration. In the case of online sales, the mere fact that the economic operators' or the intermediaries' website is accessible in the Member State in which the end user is established or domiciled is insufficient."

Responsible economic operator (article 4)

The requirement that products may not be placed on the market without the existence of a responsible economic operator established in the Union (article 4) is new in the market surveillance regulation. That means that products placed on the EU market by actors outside EU/ EES needs to have so called EU-representative.^[7] However, this new requirement only applies to products covered by some regulations, such as RoHS and the Toy Safety Directive. The requirement does not apply to other chemical legislations such as the REACH, CLP and POPs. If there are no other responsible economic operators (manufacturer, importer or authorised representative), for RoHS and Toys Directive a *fulfilment service provider* will be the responsible economic operator. This is a new role, and it is defined in Article 3(11):

any natural or legal person who, in the course of a commercial activity, offers at least two of the services of storage, packaging, addressing and dispatch, without having ownership rights in the articles concerned

Marketplaces can have several different roles. In cases where they only display products for the sellers, they are not covered by the new provision. If, on the other hand, they take greater responsibility for the products as defined above, they become the responsible economic operator. The European Commission has issued a Notice of Guidelines on Article 4 (EUROPEAN COMMISSION, 2021).

Powers of market surveillance authorities (article 14)

The market surveillance regulation also gives the authorities the possibility to restrict access to a web page if no other effective means are available to eliminate a serious risk from a product (article 14).

7. an authorised representative who has a written mandate from the manufacturer designating the authorised representative to perform the tasks set out in paragraph 3 on the manufacturer's behalf

2.3 Responsibility – online actors

Below are some of the most common forms of business models when offering products online. There exist many different business models in the online world and this report will only present the most common ones. The responsibility for product safety differs between the different models and below is a summary:

Responsible for proactive chemical safety:

- "Classic" online traders that own and sell products and have their own inventory ("web shop")
- Online traders dealing with dropshipping
- Online traders selling on online platform (sellers)
- Online platforms that sell in their own name or that the traders' name is not clearly indicated - are then regarded as traders
- Online platforms that have fulfilment solutions (applicable for RoHS and Toys Directive).

Responsible for reactive chemical safety:

- online platforms in their role as intermediates.

Traders is a legal definition in the new framework legislation (MSR, DSA, GPSR) which can also be equated with web shop, seller, responsible operator etc.

Article 30 in DSA platforms need to give contact details of the trader (seller) of the offer on their platforms. Consumer legislation sets demands on inform consumers of who they are buying the products from – see annex 2.

2.3.1 Online trader (web shop) – classic supply chain

In the classic linear supply chain, the ownership of a product passes from one actor to another in a chain (figure 1). Ownership of the products (purchase and delivery) is transferred at each stage. Traders are all actors in the chain except the buyer.

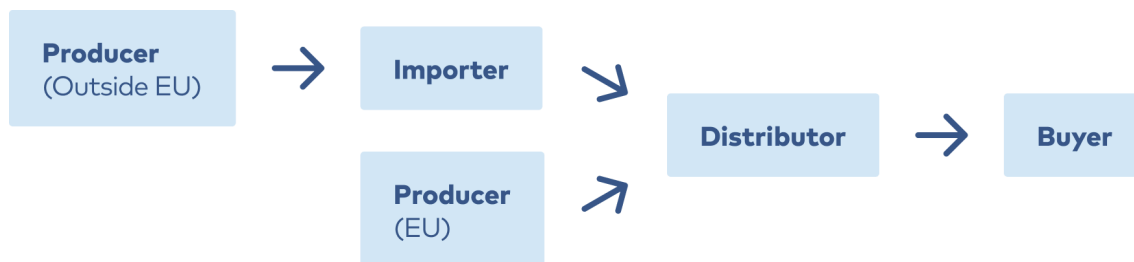


Figure 1. Traders in a classic supply chain.

2.3.2 Online trader - Dropshipping

The biggest difference for this type of a classic online trader is that they do not have their own inventory. Instead, the products are in the supplier's inventory and are sent directly to the buyer. The stock balance of a product can also be directly linked to the third-party supplier's stock status, which makes it look like the product is in the online trader's own inventory.

There can also be more complicated structures with more actors included. Below is a common example how dropshipping models works. The buyer orders a product, which the online trader orders in the buyer's name from the dropshipping supplier. The steps after are usually hidden from the buyer: the dropshipping supplier is often an online platform that also have traders, agents, manufacturers, importer or distributors who send the products directly to the buyer. The buyer perceives that the products are the dropshipping traders' "own" products because information about the actual trader (seller) is not given on the product's website online interface. The product is then sent directly to the buyer (figure 2). Prices are determined by the dropshipping online trader, unlike the online platform, where that trader sets the price.

The buyer gets the impression that it is the dropshipping trader that sells the product.

The consumer legislation also gives support for the interpretation that dropshipping traders are responsible operators.

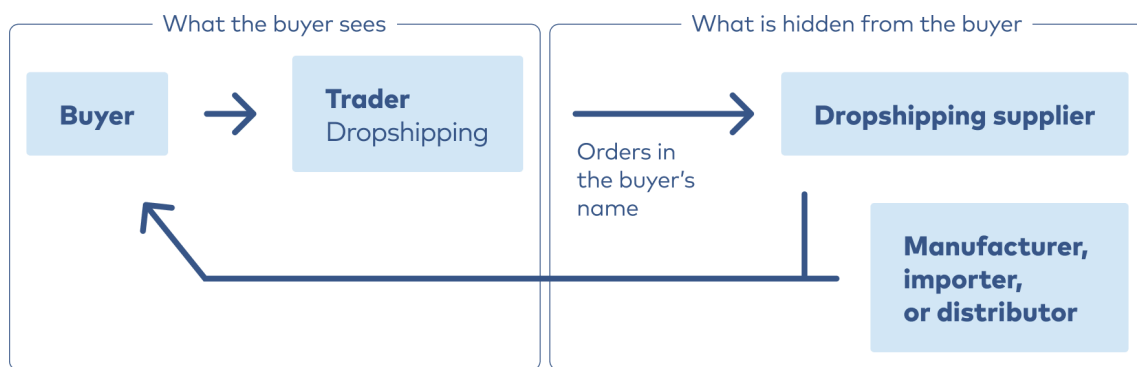


Figure 2. Common model for dropshipping. The steps after the dropshipping trader are usually hidden from the buyer

2.3.3 Online platform

A business model where the online platform acts as an intermediary between buyers and traders (figure 3). It can be similar to the online platform being equated with a shopping mall and the trader being equated with the shops in the mall. The online platform provides a platform and, for example, payment solutions (intermediaries), while the trader on the online platform is the one who sells the product to the buyer and sets the prices. As a general rule, the online platforms have no proactive responsibility regarding the compliance to chemical legislation. It is the trader that has this responsibility.

In most cases, online platforms are also working with dropshipping since the products are sent directly from a trader and not the online platform. Just note that in some cases online platforms can also be regarded as fulfilment service provider which have responsibility for the products. Some large online platforms can also sell products in their own name and then they are regarded as a trader and thereby responsible operator.

Nowadays there are rules in consumer law that state that it must be clear who the trader is. The Digital Services Act states that online platforms must clearly give information on who the trader is for each product. If such trader information is missing, the online platforms can be held responsible.

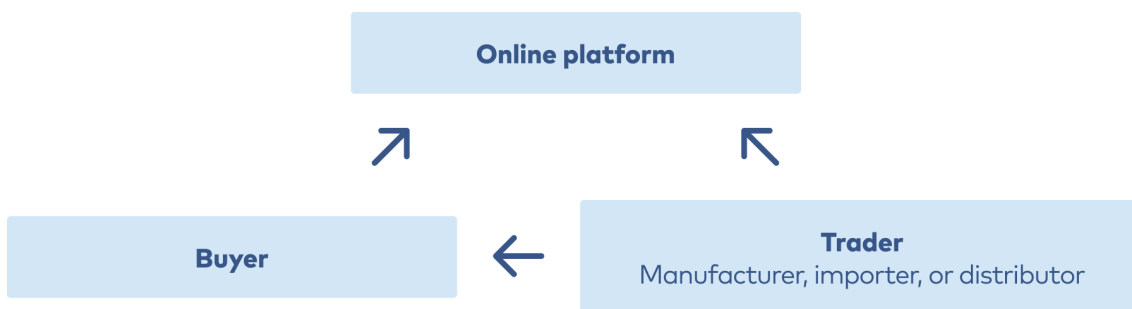


Figure 3. Model of sales using intermediary (online platform)

Examples of online platforms are Amazon (when acting as intermediate), AliExpress, Wish, eBay, Etsy, Joom and Rakuten.

2.3.4 Dropshipping suppliers

When a dropshipping store is establishing, it needs to be filled with products. Usually this is done through a dropshipping supplier. Here, the dropshipping trader gets access to different suppliers against payment and can choose which products they want to offer in their store, without having to seek out suppliers and negotiate prices, supplier terms, shipping, etc. They can also quickly exchange the products available in the dropshipping store.

With the increase of dropshipping traders, many traditional marketplaces now also operate as a dropshipping supplier, like for example Oberlo, SaleHOO, AliExpress (Alidropship), Droshti, Printful, BigBuy, DHGate, and Yakkofo.

2.3.5 Platforms specialised in helping dropshipping traders

The most common approach to setting up a dropshipping store is to use an e-commerce platform, such as Shopify, Quickbutik, Wix eCommerce, BigCommerce, SquareSpace and Volusion or WooCommerce. These platforms have ready-made concepts (domain name, appearance, design, etc.) with "click and drag function" to easily create online stores, and against payment, the dropshipping trader gets access to these concepts. The platforms also offer help with, for example, order management, payments, booking of shipping, etc., through built-in functions.

2.4 Selection of companies, products and substances

Selection of companies

The scope of the project was to inspect products sold from e-commerce actors. We chose to focus on traders (either as webs shops or dropshipping), or marketplaces, which were explained in section 2.3.

It was decided that the participating countries could choose to inspect products sold from companies located in their own country, in other EU member states and from outside the EU. Due to lack of information on the web sites, it was not always easy to know the business model of the e-commerce actor and where it was located before the product was purchased.

Selection of products

Each country decided which products to buy and control. The strategy for selecting products differed between the countries and between each national sub-project chosen to be a part of this joint project. Most of the products were chosen based on experience on where we often see deficiencies. In this project, the products were categorised in the following groups:

- Biocidal products and plant protection products
- Other chemical products
- Electrical product
- Electrical toy
- Fashion: Clothes, shoes and accessories
- Jewellery (also including precious metals)
- Sports and leisure
- Toy
- Other like: shower curtain, bathmat, thermos gloves, dishwashing gloves, package.

In appendix II, there is an overview with examples of products in each category.

In some cases, the products were only controlled regarding labelling and documentation, and there was no need for chemical analyses for these products. All products were chosen considering a risk-based approach based on experience. Some products were also selected due to the requirements in the regulations regarding labelling and documentation, mainly electronics and toys.

2.4.1 Restricted substances

Some products were first controlled with the authorities XRF screening instrument^[8] for metals on PVC. The products were then sent to external laboratories and analysed for restricted substances for confirmation. We controlled compliance with the substances that are restricted in the REACH regulation, the RoHS directive, the Toys directive and the POPs regulation. The substances tested for are shown in table 1.

Table 1. Substances analysed for in different legislations.

Legislation	Substances
REACH	Phthalates, PAHs, azocolorants, lead, cadmium and nickel
POPs	Short chain chlorinated paraffins (SCCPs)
Toys directive	Heavy metals * Only screened with XRF
RoHS directive	Phthalates, lead and cadmium

8. XRF stands for X-Ray Fluorescence and is a technology based on materials being irradiated with X-rays and then fluorescent radiation bounces back and is captured by the instrument. The instrument can then read which elements the material is made of. The technology gives an indication of which elements are present in the material and which concentrations are involved.

2.4.2 Biocidal products and plant protection products

Biocidal products and plant protection products were controlled by the Swedish Chemicals Agency. For this group of products, the selection of companies targeted drop shipping actors. For biocidal products the selection of products was made amongst products belonging to biocidal product-types which always require authorisation according to the biocidal products regulation or Swedish regulations in applicable cases and which were found in the selection process. The selected product-types were:

- Product type 8: Wood preservatives
- Product type 14: Rodenticides
- Product type 18: Insecticides, acaricides and products to control other arthropods
- Product type 19: Repellents and attractants
- Product type 21: Antifouling products.

As the control could be conducted simultaneously with the selection process, only non-compliant products were selected for inspection.

The control focused on checking if biocidal products and plant protection products sold online to the Swedish market were authorised according to applicable regulations. Because information regarding a products identity is the only information required to check if a biocidal product or plant protection product is authorised no products in this category were purchased for the purpose of control. The control was conducted online only.

2.4.3 Labelling for toys and electrical products

Electrical products and toys are obliged according to RoHS and Toys directive to have CE-marking, contact details for manufacture and importer and ID number for the products. This was controlled in the project

Furthermore, they are required to have been tested according to certain standards applicable for the product, on basis of which a declaration of conformity is made – which again is the basis for labelling the product with the CE-marking.

The obligation to produce and provide the declaration of conformity for the product was also controlled to some extend in the project – the provision is in some cases required to be done within the supply chain – and in all cases, it should be provided to the authorities upon request.

2.4.4 Labelling of chemical products (CLP regulation)

Chemical products were controlled by the Swedish Chemicals agency. For this group of products, the selection of companies targeted dropshipping traders who sold to Swedish consumers. The types of products which were controlled were typical consumer products e.g. cleaning products, car care products and paints. The controls focused on article 48.2 and article 17 of the CLP-regulation. The products were purchased from dropshipping traders. To be able to control the products classification and labelling the trader were also asked to declare information regarding the content of the products, e.g. via safety data sheets.

2.5 Communication between member states

The enforcement authorities use the database ICSMS^[9] to communicate with other member states and to the public information about non-compliant products. If a company located in a European country is not taking appropriate measures, the enforcement authority having found out about non-compliant products can use a function in the ICSMS-system to hand over the case to the responsible authority in the member state where the company is located. This function was used in cases to pass the responsibility for enforcement to another member state due to lack of response from the company.

If the non-compliance is considered serious risk for human health and the environment, the product is also reported to Safety Gate,^[10] which obliges the enforcement authorities throughout EEA to check if the product is available on their market and remove it. Products reported to the system are published to the public every week by the European Commission.

To communicate non-compliant products to the public, there are also different national solutions. In Finland, Denmark and Norway, products with serious risk are published on <https://vaaralliset tuotteet.fi/etusivu>, www.mst.dk/UlovligProdukter and www.farligeprodukter.no, respectively, which are webpages operated by several agencies to communicate to the public.

9. The Information and Communication System on Market Surveillance (ICSMS) is an IT platform to facilitate communication between market surveillance bodies in EU and EFTA countries: [Information and Communication System on Market Surveillance \(europa.eu\)](https://ec.europa.eu/information-communication-system-on-market-surveillance/)
10. Safety Gate: the EU rapid alert system for dangerous non-food products: <https://ec.europa.eu/safety-gate-alerts/screen/webReport>

3. Results

In this chapter, the results from control of the products are given. The non-compliance rate between different parameters is investigated.

In this project a total of 210 products were controlled for regulated substances and labelling. The products were purchased from 88 different actors, distributed between marketplaces (10), dropshipping traders (46) and web shops (32). The overall results when it comes to compliance for all products reveals that 71% of the products inspected were found to be non-compliant, as shown in figure 4.

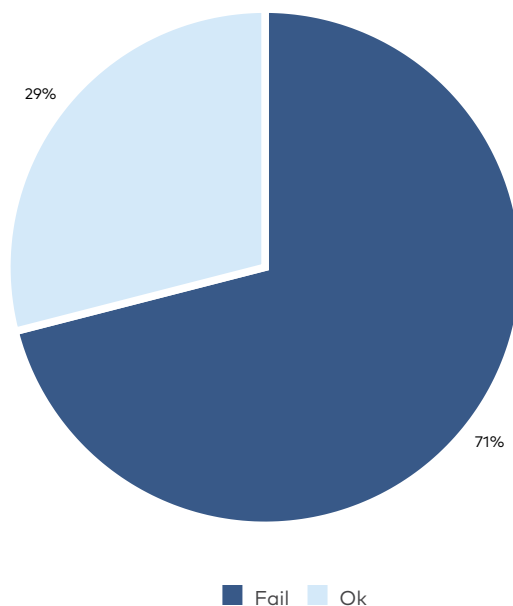


Figure 4. Overview of compliance and non-compliance for all the products controlled in this project (both restrictions and labelling)

Figure 5 shows a summary of all controlled product types. Overall, most controlled products were electrical products (50), jewellery (51) and biocides (34). In the next subchapters more details of the different product types and legislation compared to compliance is described.

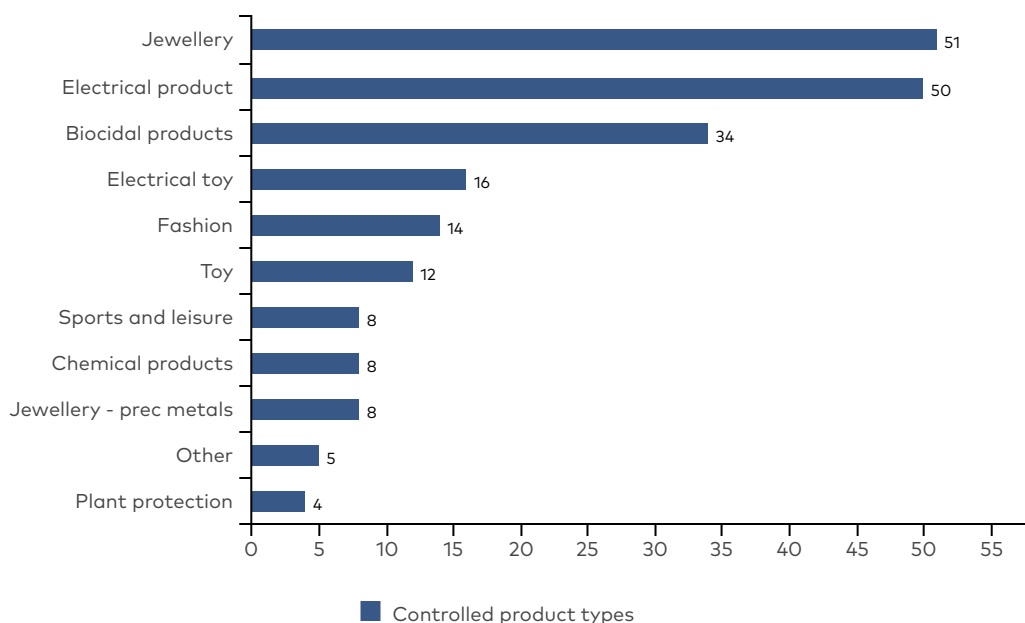


Figure 5. Number of controlled product types.

3.1 Restrictions

Restrictions laid down in Reach, POP and RoHS legislations is compared with non-compliance and product types

3.1.1 Product types

In this project several legislations about restrictions were controlled for different product types (fig 6). Restrictions were controlled for articles where the most non-compliant product type was electrical toys with a non-compliance of 81% (13 out of 15). The second most non-compliant product type was electrical products with 74% (28 out of 36) non-compliance, followed by jewellery 50% (24 out of 48) , toys 50% (2 out of 4), sports and leisure 38% (3 out of 8), fashion 25% (4 out of 16) and other 17% (1 out of 6).

Also note that electronic products and toys have labelling regulations – see [chapter 3.4](#).

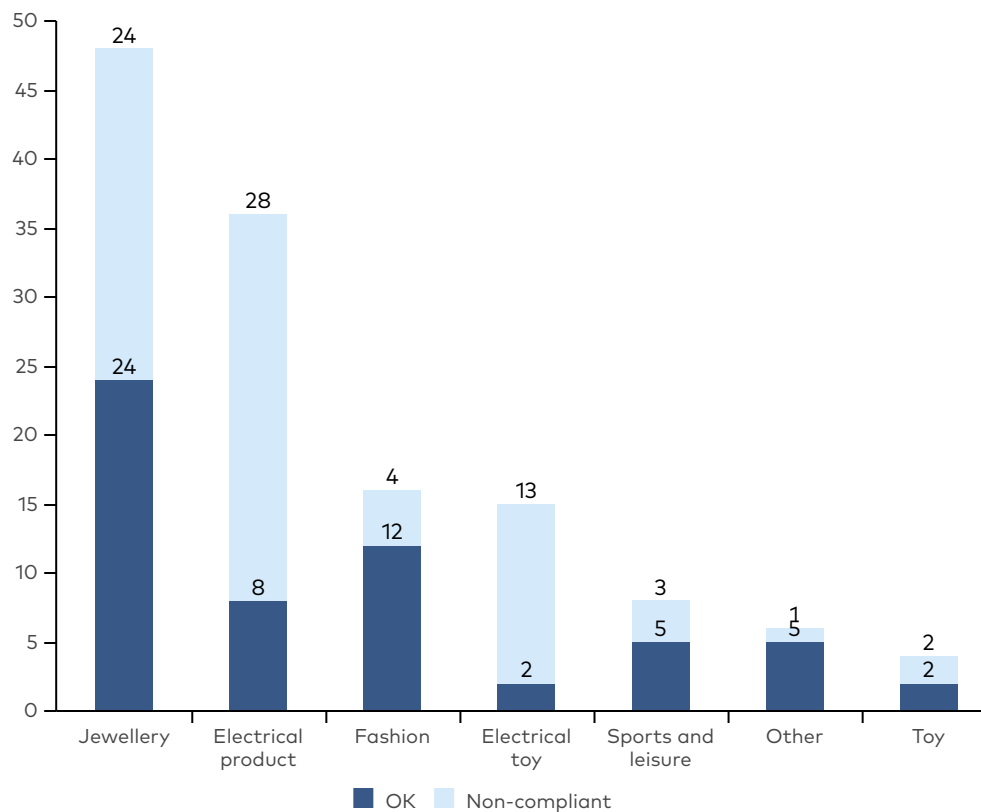


Figure 6. Non-compliance rate of restrictions per product type (articles).

Table 2 shows a more detailed list of examples of tested products.

Table 2. Examples of products that were tested:

Product type	Examples of tested products
Jewellery	Rings, necklaces, earrings
Electrical product	Chargers, lightning, beauty products, headphones, speakers
Fashion	Bags, sandals, shoes, pants
Electrical toy	Lamps, radio-controlled toys, music toys, games
Sports and leisure	Yoga ball, jump rope, apron, bicycle handle, inflatable chair
Other	Shower curtain, packaging, thermo gloves, dishwashing gloves, bathmat
Toy	Crawler mat, inflatable toy, fidgets

3.1.2 Legislation

In this project several legislations on restrictions were controlled (fig 7). Most non-compliances were in the scope of RoHS restrictions with 41 out of 64 products (64%), followed by Reach 34 out of 87 products (40%) and POP regulation 12 out of 42 products (29%).

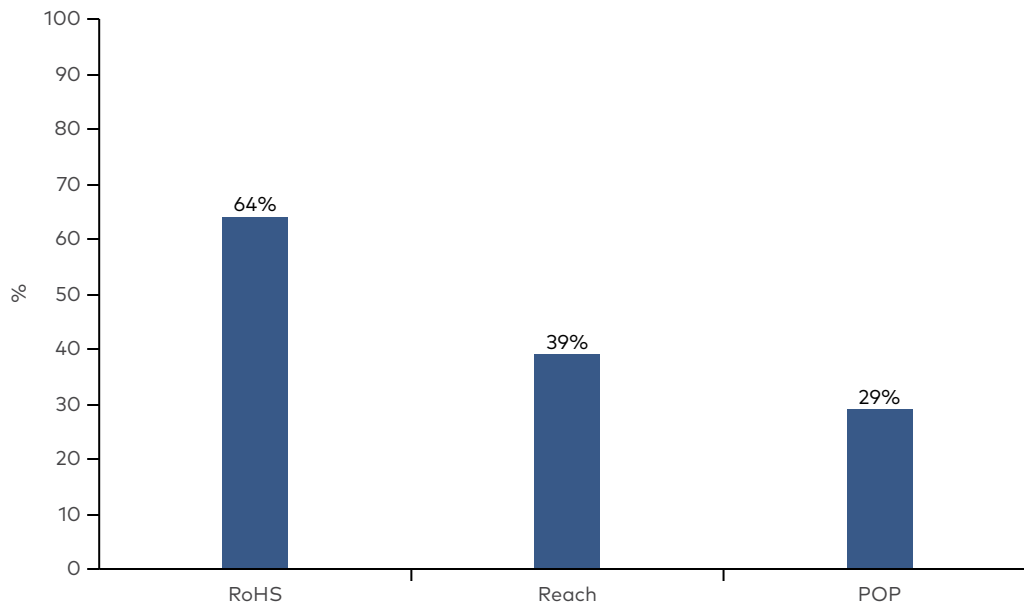


Figure 7. Percent of non-compliance per legislation

3.1.3 Restricted substances

In many cases, a product could be tested for several different substances, but also have several different materials or parts tested. In total 133 articles were controlled for restrictions. For example, for an electrical product, both the soft plastic parts and, the metal soldering point inside the product were tested. The restricted substances were predominantly found in metals and soft plastic. Lead, cadmium, phthalate (DEHP) and short chained chlorinated paraffins (SCCP) were the restricted substances most often found. The following substances were found above restriction limit in the project:

- **Lead:** in 32 of the products, 27 electrical products (solders) 5 jewellery
- **Cadmium:** in 27 products: 19 jewellery, 8 electronic products
- **Phthalates** (predominantly DEHP): in 25 products, mostly in PVC
- **SCCP:** in 20 products, mostly in PVC parts of electronics (19)

3.2 Precious metals

The results of precious metals showed 100% non-compliances for eight jewellery. Non-compliances were found by doing XRF analyses of the content of metals and by checking markings/stamps.

3.3 Authorisation pesticides (biocides and plant protection products)

For biocidal products it is possible to identify that a product lacks the necessary national authorisation directly from information on the website. As the control could be conducted simultaneously with the selection process, only non-compliant products were selected for inspection and therefore the non-compliance rate was 100%. All controlled actors used drop shipping for the controlled products. Several of the actors claimed they were not aware of that they were selling biocidal products and plant protection products. Their explanation was that they had downloaded an entire product category from a drop shipping supplier, for example Gardening products or Household products. The actors that have responded removed the non-compliant products. Some cases are still ongoing.

34 biocidal products and 4 plant protection products from 12 different actors were controlled. The most common type of biocidal product we found was insecticides. See Table 3 for the complete distribution. Most of the controlled products seemed to be authorised in other EU or EEA member states, but this was not explicitly controlled.

Table 3. Controlled product types for biocidal products

Product type	Number of products
8 - Wood preservatives	3
14 – Rodenticides	5
18 – Insecticides and acaricides	16
19 - Repellents and attractants	8
21 - Antifouling products	2

3.4 Labelling

Figure 8 includes labelling deficiencies. The CE-marking directives Toys- and RoHS directive has a non-compliance rate between 66–88%. Examples of non-compliances are missing CE-marking, ID number for the product and contact details for manufacture, importer/ EU representative. A dropshipping trader will be an importer if the product was sent directly from a non-EU company to the consumer. The dropshipping traders fully contact details then must be on the label, but it is often physically troublesome because the dropshipping trader will never possess or see the product.

None of the controlled chemical products were labelled according to article 17 in the CLP-regulation. But there is an uncertainty if all the controlled products actually were classified as hazardous and therefore should be labelled because the dropshipping trader did not send the necessary information. Four of the eight controlled products were of product types which normally are classified as hazardous (drain cleaner, oven cleaner, rust remover and stain remover) and were considered as non-compliant due to the lack of hazard information on the label. Three of the eight controlled products were of product types where we can't say that the products probably should be classified.

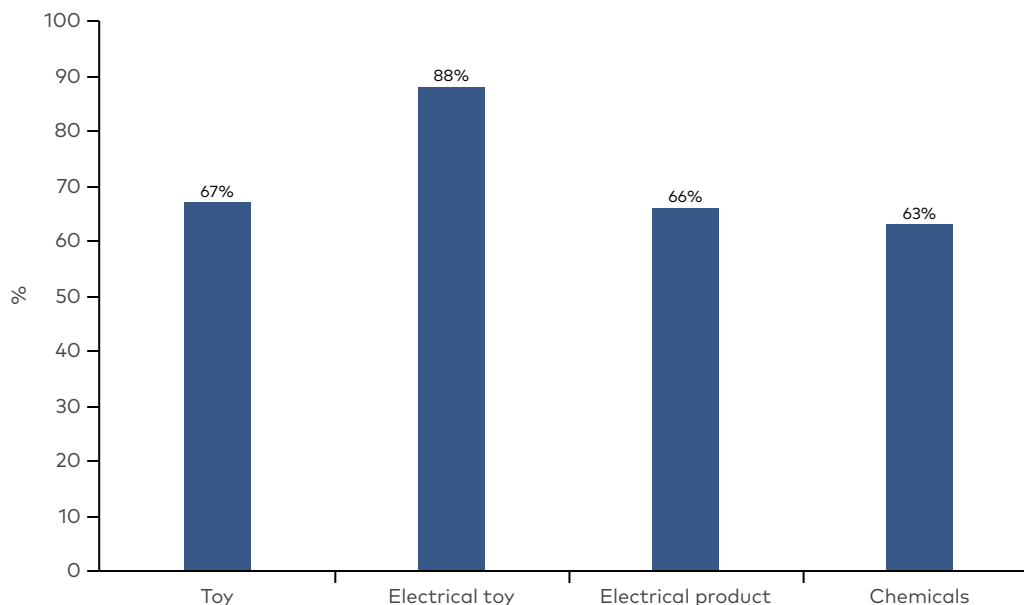


Figure 8. Non-compliance rate for the different product types (n= number of products controlled per product type).

3.5 Actors

In a comparison between different actors (Figure 9), dropshipping trader had the highest proportion of articles with restricted substances above the limit values in the legislation, 81%. This is followed by non-compliance rate for marketplaces with 72% and web shops with 59%.

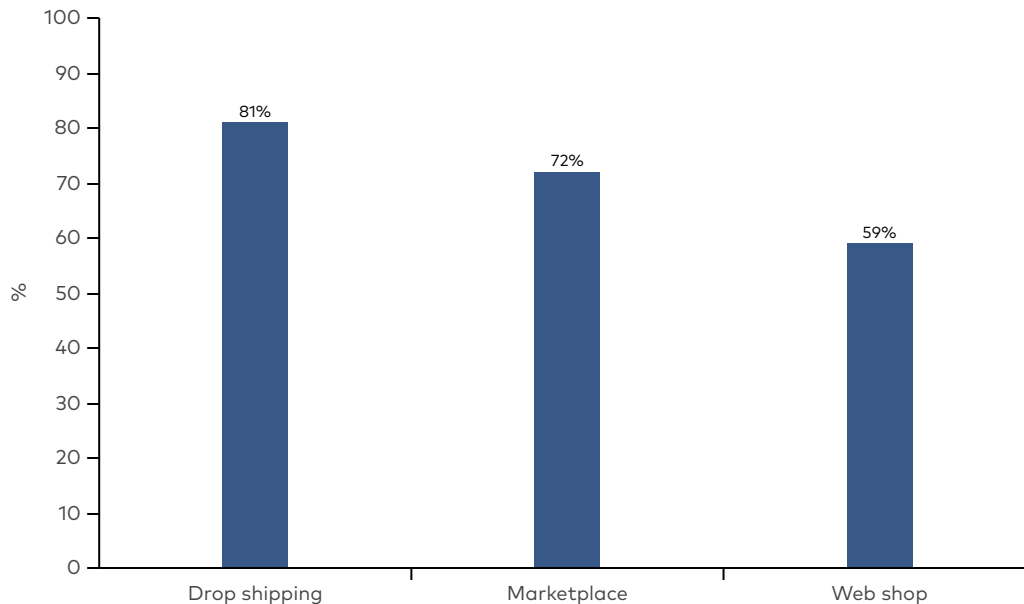


Figure 9. Percent of non-compliance per company type (n= number of products controlled).

For 39 products (electrical products and toys) controls were done if an EU representative (authorised representative) existed for the product, when information of an importer was missing. In 21 cases (54%) there were no information on the products label regarding an EU representative, and respectively 18 cases where it existed (46%). In eight of these cases the authority asked the EU representative if this was correct and in three cases (38%) the EU representative replied that this information was not correct.

Contact details of the trader is obligatory according to DSA. Consumer legislation regulates that the traders contact details must be given to the consumer. For 7 out of 44 dropshipping traders and 6 out of 64 traders on marketplaces contact details were not found. Only in one case out of 33 this was missing in web shops.

3.5.1 Location of traders

Depending on the trader's location the non-compliance varied with lower amount of non-compliance for traders within EU (45%), compared to non -EU 69% -(figure 10. A few products also had unknown origin of the trader's web shop. Note that biocidal products and plant protection products were excluded from figure 7 to avoid distorting the results. The reasons for excluding them where firstly that these products all appeared to have their origin within the EU, and secondly that non-compliance was detected simultaneous to the selection of online offers for inspection.

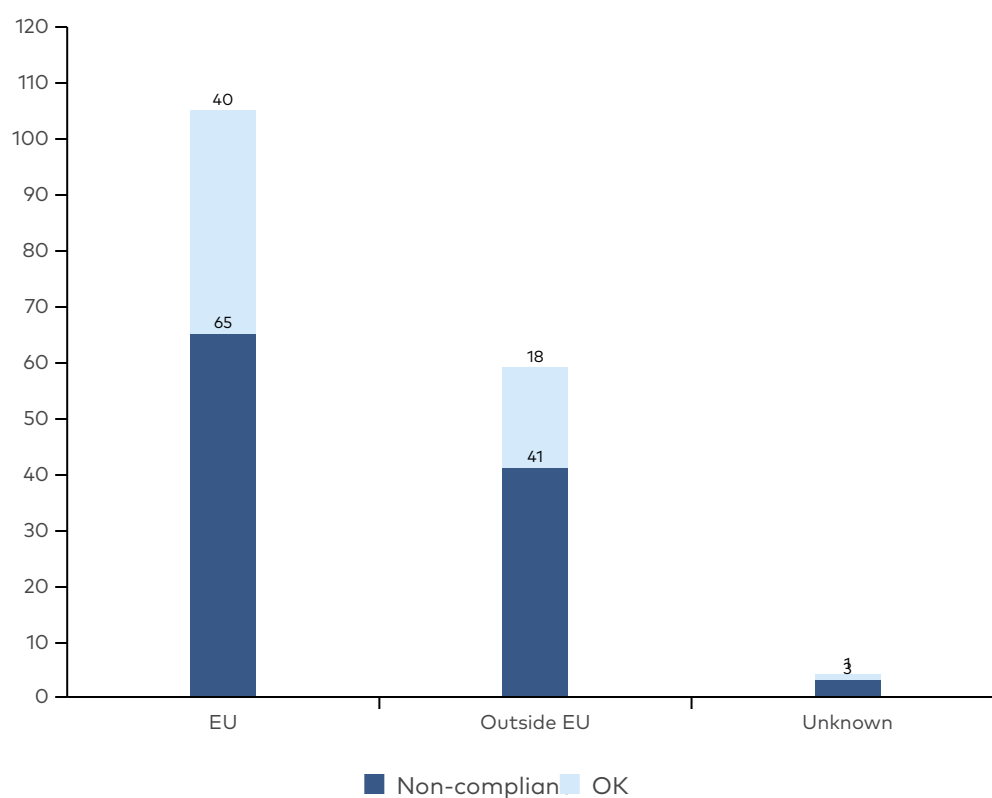


Figure 10. Non-compliance rate for different regions (pesticides excluded)

3.5.2 Location of manufacturers

A majority of the products were produced in China (155). In many cases (67) the production country was unknown, but it is a possibility that these products also were produced in China.

3.5.3 Measures by actors

This subchapter describes the measures taken by the actors after the authorities first contact about the non-compliant products. 17 actors did not answer at all. Eight actors did not remove the offer and in for four actors the offer reappeared after the first removal. Dropshipping traders had the highest amount of these results followed by web shop and then one marketplace. After this report there could be an improved situation, since authorities still has ongoing inspections.

3.6 Enforcement measures

The national authorities notified the actors about the non-compliance in writing. Most of the actors voluntarily withdraw the product from the market. Follow up actions varies within the countries and depending on the nationality of the trader. Measures could be reporting cases to police/prosecutor, sanctions fees, handing over cases to other member states, and notifying non-compliant cases in Safety gate.

4. Discussion

With a non-compliance rate of 71% of 210 controlled products, the overall situation of compliance appears to be unsatisfactory for online trade.

The national authorities involved in this project had different focus areas for the products they included in the project. Many of the products are regarded "high-risk"-products, like cheap electronics, jewellery and soft plastic products. For other categories of products, there is less risk to find restricted substances above limit, such as in fashion articles, sports and leisure and the category others (mostly articles in soft plastic PVC material). As we see from the results in [chapter 3.1.2](#), lead, cadmium, phthalates and SCCP are the substances more often found above restriction limit. This will influence the results and is important to keep in mind, when analysing the results. Generally, it is also important to highlight that our selection of products is not randomly chosen. But based on a risk approach and the results regarding non-compliance will therefore not represent a general selection of all products available on the market.

4.1 Location of traders

The results described in [chapter 3.5.1](#) regarding the location of the traders showed that it did not matter if they were located outside EU or not, which was a surprise compared to previous e-commerce projects.^[11] One explanation for this could be that many actors use dropshipping as their business model and, even though they are situated inside EU, the products are shipped directly from China to consumers. These dropshipping traders often have a lack of knowledge of the legislations and product safety. This is also common for many small web shops; they have the same knowledge gap regarding legislation and product safety as seen for dropshipping traders.

4.2 Product types

Non-compliance rates vary depending on product type. For biocides and plant protection products non-compliance can be controlled solely from the information found on a webpage advertising a product. Therefore, the non-compliance is always 100% for controlled products ([chapter 3.3](#)). When investigating articles with restricted substances, chemical analyses must be done before concluding non-compliances. Electronic products (including electrical toys) have the highest

11. Joint Nordic control on e-commerce 2023 - 2023 - <https://www.norden.org/en/publication/joint-nordic-control-e-commerce>

non-compliance rate (78% and 87%). Followed by jewellery 50%, sports and leisure 38%, fashion 25% and other 17% ([chapter 3.1](#)). The high non-compliance of electrical products follows the same pattern as previous enforcement projects.^[12]

4.3 Precious metals

The non-compliance rate for precious metals were 100% ([chapter 3.2](#)). There are some indicators which can show potentially non-compliant products for example too cheap price (expensive raw material), odd looking color to the specific precious metal. An explanation for the high non-compliance rate could be that control of precious metals often require a good knowledge of the raw materials and the industry. Also, sometimes new actors on the market are not always aware of the requirements which can give high rates of non-compliance.

4.4 Type of online actor

The non-compliance rate for different actors; dropshipping, web shops and marketplaces were quite high for all three types of actors ([Figure 9](#)). In the last Joint Nordic e-commerce project^[13] the non-compliance were lower for both marketplaces and web shops. The most likely reason is that the choice of products for control could have improved for the NEA: s and when choosing high risk products such as electrical products the non-compliance level increase as well. Another reason could be that the chosen web shops in this project were very small and seem to have less knowledge of the legislation

4.5 Labelling

In some cases the obligation for labelling products with an authorised representative for the manufacture (in many cases called EU representative) (Article 4 in Market Surveillance Regulation) were controlled. This obligation seems to have some deficiencies about labelling and correctness. Either the contact details of the EU representative were missing on the label, or the information given on the label were false according to the responding EU representative ([chapter 3.4](#)). EU Commissions solution in DSA, of giving platforms only a reactive responsibility and not a proactive responsibility as other actors, is to give EU representatives this proactive responsibility. This is done in the Market Surveillance legislation for RoHS and Toys Directive and the intention is to add it in other chemical legislations like CLP and Reach. We think this obligation needs to be improved. One way could be

12. <https://eur-lex.europa.eu/EN/legal-content/summary/enhancing-the-implementation-of-the-new-approach-directives.html>

13. <https://eur-lex.europa.eu/EN/legal-content/summary/enhancing-the-implementation-of-the-new-approach-directives.html>

that platforms should get an obligation to check the correctness of the EU representative for the offered products, and also give this information to authorities when asked for.

According to the new legislative framework, a CE-marking should guarantee^[14] compliance (manufacture responsibility) and should be accomplished with EU Declaration of conformity (DoC) and technical documentation. In the chemical area Toys- and RoHS directive is within this framework. Note that these “CE-marking directives” does not include other chemical legislations. The results show that CE marking, contact information on importer/ manufactures/EU representative and DoC were missing in many cases (see [chapter 3.4](#)). This indicates that the system of new legislative framework – where the manufacture shall ensure that the product is compliant by adding a CE-marking, contact information and having a correct DoC – are not efficient.

4.6 Pesticides

For biocidal products and plant protection products, it was easy to find products which did not have the necessary national authorisation ([chapter 3.3](#)). A reason for this was that the dropshipping actors were often unaware of both selling these products and that biocidal products and plant protection products normally require national authorisation. Several thought that as they sold products from other EU or EEA countries, the products would be compliant in all countries. In order for the compliance rate to increase, dropshipping actors need to increase their knowledge about the products they are selling and applicable legislations.

4.7 Chemical products

In order to control a chemical products classification and label according to the provisions in the CLP-regulation, you normally need to have information about the content of the product., e.g. in the form of a safety data sheet or information of the chemical substances in the product. A major problem in this project was the difficulty with getting in contact with the trader and receiving the necessary information from them. When contacting the traders, several never answered or just sent conformation that they have received our e-mail. In many cases, it was unclear where the trader behind the dropshipping store was located. Although the online actors were aiming for consumers on the Swedish market, it turned out that out of five traders, two were in the Netherlands and one trader was located outside of the EU.

14. <https://eur-lex.europa.eu/EN/legal-content/summary/enhancing-the-implementation-of-the-new-approach-directives.html>

Appendix I Definitions in this project

Term	Explanation
Online actors	
Online interface	A website or an app
Online platform	In this manual, "online platform" is a service using an online interface which allows buyers (consumers and professionals) to conclude contracts with traders (sellers) for the sale of products. Marketplaces and social media are included in the definition. An online platform can be equated with a mall where those who sell the products correspond to the traders. The online platform shall indicate who the trader is for each product. Unlike dropshipping traders, it is the individual seller who sets the price of the product.
Online marketplace	A marketplace is a platform who intermediates products to consumers
Online trader - Classic web shop - Dropshipping	Anyone that offers a product for sale online (i.e. places on the market). Online traders are responsible operators who either have their own inventory (classic web shop) or are dropshipping. This term can also be equivalent with supplier, seller or web shop. Note that a trader could be also selling in an online platform. In DSA: "traders means any natural person, or any legal person irrespective of whether it is privately or publicly owned, who is acting, including through any person acting in his or her name or on his or her behalf, for purposes relating to his or her trade, business, craft or profession."
Economic operator	The manufacturer, the authorized representative, the importer, the distributor, the fulfilment service provider or any other natural or legal person who is subject to obligations in relation to the manufacture of products, making them available on the market or putting them into service in accordance with the relevant Union harmonization legislation.
Responsible actor	Not a legal term. Used generally when an economic operator subject to obligations is not determined. It is used to refer to the company (or private person) behind the online platform/trader

Fulfilment service provider	Any natural or legal person offering, in the course of commercial activity, at least two of the following services: warehousing, packaging, addressing and dispatching, without having ownership of the products involved, excluding postal services
Manufacturer	Any natural or legal person who manufactures a product or has a product designed or manufactured and markets that product under its name or trademark.
Importer	Any natural or legal person established within the Union who places a product from a third country on the Union market.
Distributor	Any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a product available on the market
Others	
Article	The REACH definition of articles is: "an object which during production is given a special shape, surface or design which determines its function to a greater degree than does its chemical composition." Examples are dolls, clothes, electrical products, home styling products, sports equipment, bags, jewellery, gifts etc.
Chemical product	Chemical substances and mixtures
Proactive work	Actors can check documentation, test reports, labelling, declaration of Conformity (DoC) and also do random chemical analyses
Product	In this report, we use the word products as a collective term for all types of products investigated (chemical products and articles).
ICSMS	The Information and Communication System on Market Surveillance (ICSMS) is an IT platform to facilitate communication between market surveillance bodies in EU and EFTA countries. It quickly and efficiently shares information on non-compliant products, avoids duplication of work and speeds up the removal of unsafe products from the market.
Non-compliance	Failure to comply with any requirement in legislation.
Withdrawal	Any measure aimed at preventing a product in the supply chain from being made available on the market.

Appendix 2 – Responsibility in consumer legislation

Regulation (EU) [2018/644](#) on cross-border parcel delivery services

Article 7 Information to consumers

For contracts falling within the scope of Directive 2011/83/EU, all traders concluding sales contracts with consumers that include the sending of cross-border parcels shall, where possible and applicable, make available, at the pre- contractual stage, information about the cross-border delivery options in relation to the specific sales contract and charges payable by consumers for the cross-border parcel delivery, as well as, where applicable, their own complaints handling policies.

Directive [2005/29/EC](#) concerning unfair business-to-consumer commercial practices in the internal market

Article 6 Misleading actions

1 A commercial practice shall be regarded as misleading if it contains false information and is therefore untruthful or in any way, including overall presentation, deceives or is likely to deceive the average consumer, even if the information is factually correct, in relation to one or more of the following elements, and in either case causes or is likely to cause him to take a transactional decision that he would not have taken otherwise:

g) the consumer's rights, including the right to replacement or reimbursement under Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees (1), or the risks he may face.

Article 7 Misleading omissions

4 In the case of an invitation to purchase, the following information shall be regarded as material, if not already apparent from the context:

b) the geographical address and the identity of the trader, such as his trading name and, where applicable, the geographical address and the identity of the trader on whose behalf he is acting.

Directive [2011/83/EU](#) on consumer rights

Article 6 Information requirements for distance and off-premises contracts

1. Before the consumer is bound by a distance or off- premises contract, or any corresponding offer, the trader shall provide the consumer with the following information in a clear and comprehensible manner:

b) the identity of the trader, such as his trading name; and

c) the geographical address at which the trader is established and the trader's telephone number, fax number and e-mail address, where available, to enable the consumer to contact the trader quickly and communicate with him efficiently and, where applicable, the geographical address and identity of the trader on whose behalf he is acting.

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DK-1061 Copenhagen
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