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CCIA's feedback on the European Commission's inception impact assessment on the General Product Safety Directive's Review

The Computer & Communications Industry Association (CCIA) welcomes this opportunity to provide comments.

We support the European Commission's objective to tackle; (i) new challenges endangering consumers' safety when buying a product offline or online, and; (ii) safety risks linked to products incorporating new technologies, such as connected products and artificial intelligence (AI). Improving the implementation of the General Product Safety Directive (GPSD) will increase public trust, and ensure that the benefits of AI and e-commerce are fully realised.

CCIA believes that the European Commission should first improve the implementation and enforcement of the existing legal framework. We observe, indeed, several deficiencies in the implementation and enforcement of the GPSD. We agree with the European Commission's assessment stressing; (i) the lack of effective market surveillance rules, and; (ii) the lack of resources granted to enforcement authorities. While some of the challenges raised in the Inception Impact Assessment can be resolved through modest and practical improvements, others arise from structural deficiencies such as lack of harmonisation and coordination among EU Member State authorities.

The EU's existing safety and liability framework is both effective and technology neutral, making it flexible enough to cover new and emerging challenges. Changing this foundation should only be done in response to significant and demonstrable shortcomings with the current framework, and after thorough fact-finding establishing the failure of existing measures.

CCIA advocates for more resources to be dedicated to market surveillance authorities. The lack of funding and resourcing of market surveillance authorities is challenging their capabilities to be effective. Even if the financing of these authorities is a Member States matter, some coordination at EU level would be welcomed. Fragmentation causes legal uncertainty for businesses trying to cooperate with authorities. For instance, when it comes to e-commerce, some national authorities' notifications lack crucial information such as product name, brand name, internal product reference code, or model number. This makes it difficult for online marketplaces to take effective action.

We would also welcome further cooperation with regional, national or European authorities, but also among the different players of the value chain, to counteract jointly unsafe products. An undue focus on one actor in the value chain risks enabling rogue actors to play the system. In our view, the swift removal of unsafe products relies on easily accessible, consistent and actionable information from market surveillance authorities. Online marketplaces' access to national and EU databases of unsafe products and related information are currently either prohibited or too unreliable for distributors to take action. We note, for instance, that access to some key parts of the Rapid Exchange of Information System (RAPEX) is limited to government authorities.

CCIA invites the EU to improve and expand the access to EU-level databases (e.g. ICSMS and RAPEX databases) to all the partners of the value chain to improve the GPSD implementation. Indeed, one of the biggest shortcomings in everyday practice is that there is no way for market surveillance bodies to exchange information among themselves within a short space of time. It is still possible for an unsafe product taken off the market in one country to be on sale for a long time in another country. This EU-



level database would end such incoherencies as it would be accessible by public and private stakeholders.

The Inception Impact Assessment additionally suggests that the traditional concept of safety could be challenged by connected devices or the use of AI. CCIA believes that existing laws are sufficient, but that it would be useful to provide greater legal clarity as to their interpretation. If the EU identifies crucial gaps in AI and heightened risks to the health and safety of consumers, then a targeted approach would be the most appropriate. The EU's product safety framework should not become overly complicated by expanding it to other notions such as ethics, data protection or cybersecurity which are already addressed by other EU legal instruments.

When it comes to defining new risk assessments, these should only occur when the functionality of the product has been significantly changed. Generic over-the-air updates such as security fixes, software updates or simple improvements after a product is placed on the market, should not require a new risk assessment.

Finally, and in accordance with the EU 'better regulation' principles, we encourage the European Commission to consult stakeholders, conduct robust impact assessments, and then act based on clear evidence. It is essential to be consistent with other EU legislations such as the Regulation on market surveillance and compliance of products (EU 2019/1020), the Directive on better enforcement and modernisation of Union consumer protection rules (EU 2019/2161), and the forthcoming Digital Services Act and AI framework. Before adding another layer, and potentially creating confusion, we would urge legislators to wait for the implementation of these frameworks, evaluate their impact, assess potential gaps and propose proportionate responses building on existing measures.

To conclude, it is in companies' self-interest to remove unsafe products from their platforms, as soon as they have been notified. CCIA members continuously invest in human resources and technology to keep their services safe and trustworthy. Companies regularly review their policies and programmes to ensure that everyone can stay safe and informed, shop online or benefit from new technologies, e.g. AI or IoT enabled. We encourage the European Commission to first improve the enforcement of the existing measures before deciding on whether to reopen the General Product Safety Directive. We thank you for the opportunity to comment and we would be pleased to provide additional information if useful.

Kind regards,

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