EU SHOULD ENFORCE MARKET SURVEILLANCE TO PROTECT SINGLE MARKET

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The EU needs to take market surveillance more seriously. This is not only about spending more money, but also about creating more coherent and less complex single market legislation, writes Naemi Denz.

Naemi Denz is a member of the executive directorate of the Mechanical Engineering Association (VDMA). VDMA represents more than 3,200 member companies in the SME-dominated mechanical and systems engineering industry in Germany and Europe.

The single market is one of the major achievements of the EU. Unfortunately, it is not working as well as it should in the field of free movement of goods. Member states have certainly created a detailed framework of common rules that immensely facilitate cross-border business for European companies.

However, EU countries have been sloppy when it comes to enforcing these common rules. The lack of market surveillance is increasingly undermining the EU single market for products, which in the end harms the European economy.

This is particularly obvious in the mechanical engineering industry which VDMA represents. Mechanical engineering covers a broad range of an extremely diverse set of products, from big machine tools or harvesters to small pumps and drives, most of which are sold to business clients.

For the vast majority of these products, there are common EU requirements, and controlling them is primarily a national responsibility. But member states do not meet their obligations to effectively monitor that engineering products circulating in the EU actually comply with these rules. For companies that do take European legislation seriously, this is a clear competitive disadvantage.

This week, the European Parliament Committee on Internal Market and Consumer Protection had a final exchange on new Compliance and Enforcement regulation, with the vote coming on 3 September. The good news is that there are positive elements in the proposal to beef up European market surveillance.

Strengthening control at the EU border, for example, is a reasonable measure, considering that many products not in line with regulation are from outside the EU and their importers have found it easy to evade controls up to now.

However, the additional measures alone will not be sufficient, and they are partly missing the

point. To really take a step forward, the EU must facilitate the physical checking of products by introducing clear and easy-to-follow requirements. Adding bureaucracy will not lead to a functioning market surveillance; it will worsen the problem.

Too little money, too many rules

One reason why EU market surveillance is flawed is simply that member states do not spend enough money on it, and existing funds are used inefficiently. Between 2010 and 2013, many member states actually decreased budgets for surveillance authorities. Yet the number of products coming into the European market from third countries is steadily increasing, which can be explained by the growing importance of online sales.

Given the fact that there are more than 500 surveillance authorities in place that often have expertise in special products or specific local areas, it is only reasonable to foster collaboration, pool forces on European level and adapt the legal framework to the new realities of online trade.

But at the same time, rules for products are often complex and sometimes even contradictory. A high-pressure cleaner, for instance, is subject to the machinery directive and its rules. However, such a cleaner is also a consumer product, and must therefore comply with consumer product safety law.

In total, there are 70 regulations and directives that companies need to keep an eye on when developing new products for the EU single market. It is a challenge for companies to comply with all regulations, but it also makes the task harder for market surveillance authorities.

Each of these constantly evolving 70 legal instruments has its own specific methodology for market surveillance to follow when checking products, which requires expertise, resources and training. To ensure that the rules of the single market are properly enforced requires limiting bureaucratic and regulatory complexity and legal uncertainty.

This is why solutions such as an EU conformity database, where companies would have to enter all kinds of details concerning their products, are bound to fail. Importantly, we would increase the work for companies and authorities tasked with maintaining and controlling such a database. But administrative solutions will not solve the problem of non-compliant goods, which need to be controlled and withdrawn from circulation by physical checks of the product itself.

Europe has identified a lack of market surveillance as a threat to the single market and has taken action to fix that problem. But to find truly effective solutions, the EU needs to recognise that insufficient market surveillance is not a stand-alone problem and that we also need to focus on better regulation in the first place.

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