



STORIES

COVID: DIY retail perceived as essential

The Covid pandemic is the global defining health crisis of our time. Its outbreak represents an unprecedented disruption to the global economy. Many sectors are deeply affected (tourism, catering, aviation,...). Retail also had to struggle, and in particular non-food retail. Indeed, while food retailers were permitted to open, for obvious reasons, non-food retailers like DIY stores had to close their shops at the beginning of the lockdown, triggering a massive cashflow shortage.

Interestingly, the authorization to open or not was based on a single criterion: is the service provided by the store essential in a time where social contact has to be avoided as much as possible in order to curb the spread of the pandemic? At the beginning of the lockdown the vast majority of DIY stores in Europe were not allowed to open on the grounds that they were not deemed essential by Member States and the Commission.

This situation offered us a rare opportunity to remind that DIY retail is an essential sector.

This is what EDRA did. EDRA circulated a press release¹ and spread our message to Commission officials. This message was also conveyed by EDRA members at national level. A few weeks after the beginning of the lockdown, slowly but surely, the perception of the essential character of our sector changed as an increasing number of EU countries allowed DIY stores to reopen. Indeed, our stores sell essential items such as electric, heating and plumbing equipment that customers require access to. In addition, they also sell products that are currently in high demand (bleach, cleaning products/disinfectants, face masks, etc...).

¹ <http://www.edra-ghin.org/wp-content/uploads/2020/03/Covid-19-The-Essential-Role-of-Home-Improvement-Stores.pdf>

To maintain this momentum, EDRA took to write a Manifesto² entitled “Rediscovering Your Home in a Pandemic”. **Purpose: Raise the profile of our industry by highlighting how the lockdown forced us to rediscover our home and the need to take great care of it.** This Manifesto was translated in 8 languages and published in many newspapers (specialised and non specialised) in Europe and across the world.



This reminder of our importance will undoubtedly improve our image, not only with customers but also lawmakers in Brussels and national capitals.

Already several surveys highlight how people rediscovered DIY:

- <https://www.diyinternational.com/home/news/article/romanians-discover-diy-in-the-pandemic/>
- <https://www.diyinternational.com/home/news/article/diy-remains-popular-in-europe>

Online marketplaces: EDRA is ready for legislative battle

During the summer, the Commission has launched a series of public consultations on online marketplaces, the most important of these being the official consultation on the Digital Services Act. Objective: collect feedback from stakeholders on the revision of the rules governing online marketplaces.



² <http://www.edra-ghin.org/communications/manifesto-rediscovering-your-home-in-a-pandemic/>

This marks the start of a long legislative battle to upgrade the liability framework of online marketplaces.

There are many ways to tackle this issue. Some of them are vertical (e.g. environment, product safety, competition and taxation) but this issue can also be tackled in a horizontal manner via a revision of the overall liability regime of online marketplaces (e-Commerce Directive).

The Commission intends to tackle this issue through product safety and competition (vertical) and the overall liability regime (horizontal).

On environment, nothing major is to be expected this year since the EU revised the Waste Directive only a couple of years ago. However, the Commission is finalizing its guidance document on Extended Producer Responsibility (EPR) where the problem of free-riding of EPR rules by online market places and their sellers will be covered. EDRA shared detailed feedback with the Commission on this (*see e-mail from June 19th*)

On taxation, the situation is a bit more complex as it is debated at a global level via the OECD where heated discussions between the US and EU members are taking place. The OECD members agreed to discuss this topic until December 2020. After that several EU member states (including France and Spain) announced they would apply their own domestic rules on taxation of digital services.

What's EDRA doing?

During the summer EDRA finalized its position on the crucial issue of online marketplaces and replied to the Commission's consultations on the matter (*see e-mail from September 8th*). EDRA also finalized its reply to a survey on the revision of the General Product Safety Directive (GPSD). EDRA is now working on its reply to the official consultation of the GPSD and on its lobbying strategy.

During the summer, EDRA also met with half a dozen MEPs and their cabinets to share our position on this strategic file. MEPs show a great interest in our position.

What's EDRA's position?

EDRA is tackling the issue from 2 angles, i.e. product safety/consumer protection and level playing field.

In a nutshell:

- A significant number of non-compliant and unsafe products are sold via online marketplaces (*see studies from various stakeholders mentioned in the paper*) at

the expense of competitors (non-compliant products) and consumers (unsafe products).

- Today, rules governing online marketplaces provide that if online marketplaces are *passive* (mere hosting of information), they are exempt from being liable regarding the third-party information they host. Conversely, if it appears that online marketplaces have taken an *active* role in the handling of the information provided by the third-party seller, then they rightly become liable for it.
- However, the vast majority of marketplaces today take a very *active* role and offer services that go far beyond the mere hosting of information (they actively promote the website, they decide on the pricing (promotions,...), they profit from the sales,...).
- Nevertheless, despite the *active* role taken by online marketplaces in the sales process, today's rules are still interpreted, implemented and enforced to exempt them from legal liability towards products sold to EU customers by third party sellers via their platforms (!)
- As a result, rules must be revised to guarantee that online marketplaces become liable for the products sold by third party sellers.

For more details on the obligations of *passive* online marketplaces and cases in which they act as importer, distributor and manufacturer, consult our position paper.

What's next?

- 8/10: deadline to reply to the official consultation on product safety ("New Consumer Agenda")
- Early October: EDRA will share its lobbying strategy on online marketplaces

Construction Products Regulation: EDRA raises awareness on flaws to MEPs

The Construction Products Regulation (CPR) is one of the worst pieces of EU legislation. Not so much because of the text itself but because of the poor quality of its implementation (e.g. the standardisation system behind it).

What's EDRA doing?

EDRA has met with the MEPs in charge of the report on the implementation of the Construction Products Regulation to highlight the challenges it raises for DIY retail:

- The lack of level playing field between omnichannel retailers and online marketplaces (Amazon, Alibaba,...). Because of the absence of a clear liability regime for

products sold by third party merchants via online platform and the lack of enforcement these marketplaces enjoy a significant advantage over omnichannel retailers. This situation also may lead to a high rate of unsafe products.

- The poor standardization system behind the CPR. Because a significant amount of norms do not comply with the basic requirements set out in the Regulation and therefore do not get published in the Official Journal of the EU, some Member States took to create their own certification scheme (e.g. B-mark in Poland). This led to fragmentation of the EU market of construction products and less harmonization of marketing rules for construction products
- Sustainability is not really taken into account in practice by the standards. For instance, such criteria like reuse/recyclability of construction materials or use of materials with lower impact on the environment do not concretely appear in the standards.

Pushing for tax deduction for our sector

EDRA also introduced its idea of a tax deduction for the purchase of DIY items designed to improve energy performance of residential buildings. Given the significant contribution of residential buildings to overall energy consumption, this tax deduction will be a major driver to cut down energy consumption and greenhouse gas emissions. MEPs were interested.

What's next?

- October/November 2020: EDRA to continue to meet MEPs on the report
- 25/12/20: deadline to reply to Commission's consultation on review of CPR (EDRA to reply)
- January 2021: vote on the Parliament report on the implementation of CPR

Brexit: what does the new UK marking for goods look like?



On 31 January 2020, the UK officially left the EU and ceased to be a member of the political institutions of the EU. As a result, since then there have been no UK MEPs in the European Parliament, no UK commissioner and UK ministers no longer

attend meetings of the Council. This date also marked the beginning of the so-called transition period in which the UK continues to be subject to EU rules and remains a member of the Single market and customs union. The transition period is designed to provide time for a new relationship between the EU and UK to be agreed while ensuring that business will only need to adapt to non-EU rules once the future deal is agreed. This period will last until 31 December 2020.

Against this background, the UK recently decided on a new UK product marking that will be used for goods being placed on the market in Great Britain (England, Wales and Scotland), i.e. the UKCA (UK Conformity Assessed). It will replace the CE marking in most cases as well as aerosols (in the EU aerosols are marked with the specific mark, i.e. the inverted epsilon "3" symbol).



Concretely speaking, it means:

- You need to use a conformity mark if you're placing certain goods on the UK market. Before 1 January 2021 you can do this using the CE mark or other appropriate mark (such as the wheel marking or Pi mark).
- From 1 January 2021, the UKCA mark will be the conformity assessment marking for Great Britain for most goods currently subject to CE marking.
- The CE marking will be accepted in the UK until 1 January 2022 for certain products³. You must be ready to use the UKCA marking from 1 January 2022 at the latest.

Warning!

The UKCA will not be recognized by EU member states. However, a product with dual marking (CE and UKCA) will be accepted by EU Member states.

For more information on this issue, consult this webpage⁴.

FLASH NEWS

SCIP database: EDRA and EuroCommerce are finalizing their guidance. As you know, EuroCommerce and EDRA have been working on a guidance document on the

³ <https://www.gov.uk/guidance/placing-manufactured-goods-on-the-market-in-great-britain-from-1-january-2021#legislation>

⁴ <https://www.gov.uk/guidance/using-the-ukca-mark-from-1-january-2021>

upcoming SCIP database. Purpose: lifting all ambiguities arising from the implementation of the database. Intertek has been hired for the actual drafting. We are entering the final stage of the discussion. Last Tuesday, EuroCommerce and its members met to discuss the final details. A new version will be shared with you next week. The final guidance will be ready late October.

France introduces tax credit for energy saving renovation. MaPrim'Rénov' is a new French tax credit that allows owner of residential buildings to finance their renovation work on the condition that they create energy savings (isolation, heating,...). *For more information, consult this:* <https://www.primesrenov.fr/>

IN THE MEDIA

- EU considers allowing more state aid to boost green projects

<https://www.euractiv.com/section/energy-environment/news/eu-considers-allowing-more-state-aid-to-boost-green-projects/>

- Trust has increased in the EU but dropped in national governments: survey

<https://www.politico.eu/article/survey-trust-in-eu-has-increased-while-trust-in-national-government-has-dropped-coronavirus-pandemic/>

- Breton: Online platforms are no longer just 'hosts' in the digital economy

<https://www.euractiv.com/section/digital/news/breton-online-platforms-are-no-longer-just-hosts-in-the-digital-economy/>

AGENDA

- 29-30/09 • EuroCommerce IMCO Committee
- 1/10 • EuroCommerce Supply Chain Committee
- 6/10 • EuroCommerce meeting on consultation to the roadmap on Sustainable Product Policy
- 8/10 • Deadline to reply to Commission consultation on "a New Consumer Agenda"
- 22/10 • European Commission Advisory Group on Constructions Products
- 27/10 • Commission meeting on late payment: "A blueprint for the EU Observatory of payment delays in commercial transactions"
- 28/10 • EuroCommerce Environment Committee
- 29/10 • EuroCommerce Non-Food Committee