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Legal Alert

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New “Blue Guide” published!

At the end of June, the European Commission (EC) published an updated “Blue Guide”, which, first published in 2000, has become crucial for entrepreneurs in many fields due to the guidance it contains.

This Guide is intended to contribute to a better understanding of EU product rules and to their more uniform and coherent application across different sectors and throughout the market. It is used not only by the authorities of the Member States and product law specialists, but also by entrepreneurs, trade and consumer associations, manufacturers, importers and distributors, looking for information on regulations ensuring the free movement of products throughout the Union.

In order to remain up-to-date, the “Blue Guide” has already been adapted twice to new legislation. The latest version builds on the past editions, but also reflects recent changes in the legislation and in particular the adoption of a new Regulation on Market Surveillance[1].

Many product groups are covered by the “Blue Guide”, including **toys, medical devices, personal protective equipment** and **fertilising products**. The guide does not cover for example **food**.

What interpretative guidance does the document provide? These are, among others, guidelines regarding:

- terms such as '*placing on the market*', '*making available on the market*', '*putting into service*';
- distance and online sales;
- the actors in the product supply chain and their obligations (including definitions of manufacturer, authorised representative, importer, distributor and end-user);
- traceability requirements;
- conformity assessment, EU declaration of conformity and CE marking;
- scope of Regulation (EU) 2019/1020;
- checks by market surveillance authorities.

Particular emphasis in the document is placed on the principle of the **free movement of goods**. This clause implies the elimination of trade barriers between EU Member States. As a rule, Member States may not prevent the making available on the market of a product which complies with all provisions of sectoral harmonization legislation.

However, situations where several EU legislations have to be taken into account for one product, pose a challenge. According to the “Blue Guide”, "*the product has to be designed and manufactured in accordance with all applicable Union harmonisation legislation, as well as to undergo the conformity assessment procedures according to all applicable legislation, unless otherwise provided for*". However, the EC has indicated that the issue of overlap might be resolved by giving preference to the more specific Union harmonisation act.

Although the document is not legally binding, it was drawn up after consultation with the EU Member States as well as Iceland, Liechtenstein and Norway[2] and should therefore be applicable in these countries.

We encourage to familiarize with the “Blue Guide”

If you have any doubts, please do not hesitate to contact us!

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[1] 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 204/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).
[2] „"Blue Guide" also applies to Switzerland and Turkey in certain cases.