

EXECUTIVE SUMMARY

This report by Toy Industries of Europe (TIE) exposes a dark side of toys sold online. Children's safety is being put at risk by high numbers of unsafe toys being sold by rogue traders, third-party sellers, on popular online marketplaces such as Amazon, eBay, AliExpress and Wish. Online platforms host third party sellers as part of their business model but those platforms do not assume enough responsibility for the safety of the consumers that they ultimately make money from.

The report details a project undertaken by TIE, with the support of independent toy safety experts, to assess the safety and the legal compliance of toys bought from operators who sell on four of Europe's most popular online marketplaces: Amazon, eBay, AliExpress and Wish. The assessment was conducted on toys bought in seven EU markets - Denmark, France, Germany, Italy, the Netherlands, Spain and Sweden.

The report demonstrates that the current system to ensure toy safety on online marketplaces does not work. It shows weaknesses at all levels where economic operators should be held accountable:

- **Proactive measures to avoid that dangerous toys are for sale:** More than 97% of the 193 toys assessed did not comply with strict EU toy safety rules and 76% of 134 that were safety- tested had defects that made them dangerous for children. These toys should not have been placed on the market.
- **Traceability requirements:** 83% of the toys bought as part of the project did not include necessary traceability information.
- **Reaction by marketplaces:** All online market places were notified in October 2019 of the dangerous and illegal toys on their platforms. But their reactions to the notification of dangerous and illegal toys were not effective enough:
 - o Only one out of four marketplaces (Amazon) contacted national market surveillance authorities to notify the toys and discuss an effective reaction
 - o Whereas three out of four marketplaces removed the notified unsafe and illegal toys within five working days (AliExpress, Amazon & eBay), listings that appear identical remain widely available. On three of the four marketplaces (AliExpress, Amazon & Wish) in June 2020 we still found seemingly identical listings for more than half of the notified dangerous toys -albeit by another seller

- Listings of seemingly identical toys as the products notified on RAPEX (the European Commission's alert database for unsafe products) as a result of this project can still be found on the three online marketplaces that signed the EU Product Safety Pledge. Of 18 toys notified on RAPEX we found of 16 (Amazon), 15 (AliExpress) and six (eBay), listings of seemingly identical toys back on these marketplaces.
- Our national associations had bought the toys and were consumers. They were not informed they had bought unsafe or illegal toys for two of the marketplaces (AliExpress & eBay). One member indicated that whereas they were not notified that the listing of the dangerous toy they purchased was taken down, the online marketplace was able to send e-mails regarding offers on toys that appeared identical to the dangerous ones. One marketplace provided unclear and confusing information for 12 out of 31 dangerous toys and no information on the others (Wish). One marketplace provided detailed information offering reimbursement for some of the dangerous toys, but only once they were listed on RAPEX (Amazon).

In terms of possibilities for authorities to act, the project also showed weaknesses:

- Customs: Customs officials face the challenging task to control billions of small packages. None of the illegal and dangerous toys bought as part of this project was intercepted by customs. All of the toys were shipped directly from China. The results of the projects have led TIE to make several recommendations for concrete action.

Policy Recommendations

Our short-term proposal is simple: the EU should clarify in guidance documents that online marketplaces are importers if the seller and manufacturer is based outside the EU and that they are distributor if there is an EU importer or manufacturer. There are clear responsibilities for importers and distributors in EU and national legislation. This can be done through the revision of the Blue Guide on EU Product Rules and the Guidelines for Article 4 of Regulation (EU) 2019/1020 on market surveillance and compliance of products.

However, since the rules are not clear-cut on this, we believe the Digital Services Act and the revision of the General Product Safety Directive should provide further clarity. The new and revised rules must make sure online marketplaces are required to:

- **prevent** dangerous toys to be offered for sale on their platforms (proactive measures)
- **react** effectively when unsafe toys are discovered (reactive actions), including:
 - **Operate a 'notice, take-down & stay-down' policy**. There should be a short timeframe (for example two days) specified by law for the removal of any unsafe toys notified by public authorities. This should also apply to identical listings;
 - **Recall unsafe products and inform consumers**. Marketplaces know which consumers have already bought which product. Platforms should have an obligation to inform consumers in case they bought a product that is unsafe or illegal.
 - **Cooperate with and inform Market Surveillance Authorities**. Online marketplaces should be required to collaborate with market surveillance authorities and inform them as soon as they are aware of dangerous or otherwise illegal products being sold on their platform.
- **screen** toy sellers and collect verified contact information (traceability requirements)

Detailed Findings of the Project

Over 76% failed safety testing

Of the full sample size of 193 toys across the seven markets, 134 toys were sent to an independent safety testing laboratory for further testing. 76,8% of them failed to comply with the required safety standard. This means they are dangerous toys that could pose a risk to children. It's worth noting that the 134 did not go through a complete safety assessment so those toys that passed the partial safety assessment may have other safety risks for which they were not tested.

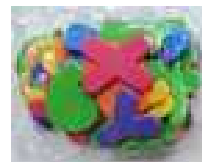
The six most common tests the toys failed were:

1. Small parts release: To avoid choking, toys for children under 36 months and their components parts must be of such dimensions to prevent being swallowed or inhaled.



Example: A baby rattle purchased in France from AliExpress had, amongst other safety risks, unsafe small parts that easily detached when the toy was received. This is a serious choking risk.

2. Packaging thickness: Plastic packaging made of flexible material should be of a certain high level of thickness to prevent a possible risk of suffocation from packaging that can cover the mouth and the nose.



Example: A baby bath toy purchased in Germany from eBay had, amongst other safety risks, plastic packaging that posed a suffocation risk if the bag covered the mouth.

3. Unsuitable shape and size for babies: Toys intended for children under 36 months should have a shape and size that avoids the risk of impaction (pressing the back of the throat) for children too young to sit unaided (under 10 months).



Example: A musical toy purchased in Italy from Amazon suffocation was of a shape that enabled a baby to push it against the back of his/her throat.

4. Excessive levels of Phthalates: Used are used to make certain plastics more flexible and harder to break, Phthalates presence in toys, especially for those meant to be put in the mouth, is highly limited in the EU due to their potential endocrine disruptor properties.



Example: Bath toys purchased in the Netherlands from Wish has 321 times the EU-permitted level of permitted phthalates, posing a serious chemical hazard

5. Access to stuffing material: Soft toys should not allow children to have access to the stuffing material. There is a risk that a child might put a small part of the stuffing material in the mouth and choke.



Example: A glove puppet bought in Sweden from AliExpress had, amongst other risks, easy access to its stuffing material.

6. Sharp points: Toys or their components should not present sharp edges or points that could puncture the skin of the children.

Example: A teddy bear bought in Spain on Amazon had amongst other risks, metallic sharp points that could easily injure a child.

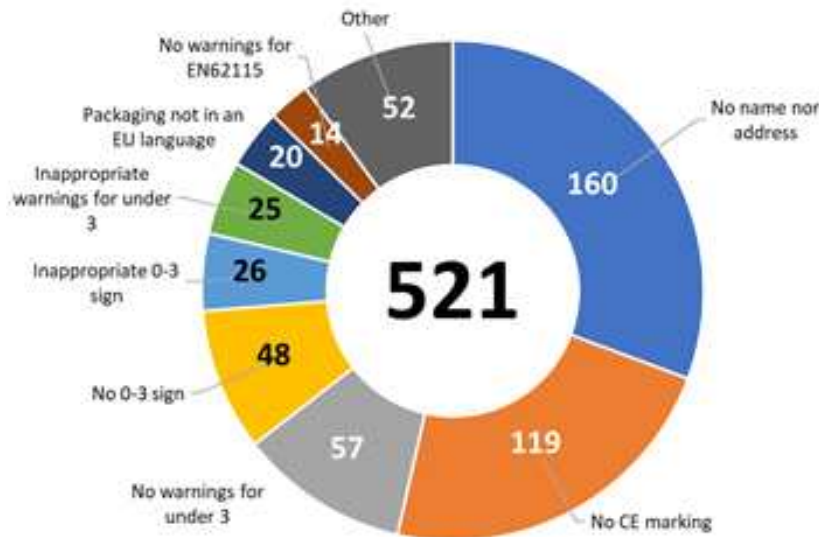


97% of full sample non-compliant with EU law

The full sample of 193 toys was assessed for compliance with EU Toy

Safety Directive. 97% of them were classed as non-compliant with the law and are therefore illegal products on the EU market. There were at least 547 reasons for non-compliance: the most common were the lack of compliance with traceability obligations (e.g. no name and/or address of manufacturer on packaging) and the lack or inappropriateness of the safety warnings displayed on the toy or its packaging (e.g. no warnings for children under three).

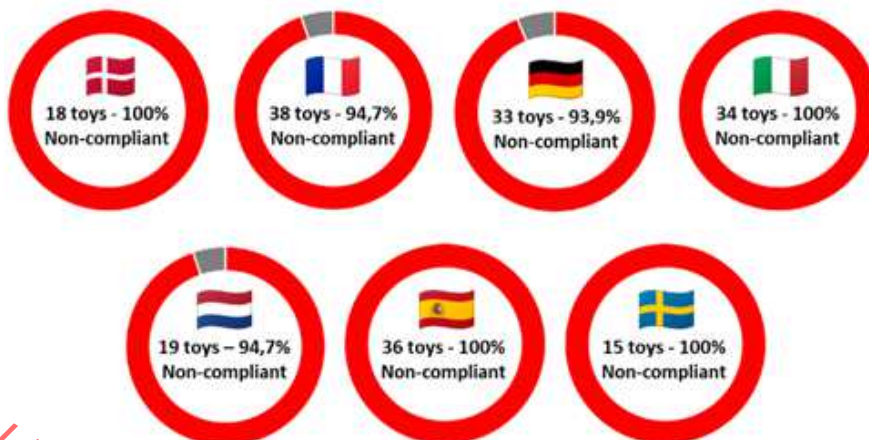
Compliance issues




Similarities in (non-) safety rates between countries and between marketplaces

The number of non-compliant and unsafe toys detected was similar across the seven countries and across the four online marketplaces.

Non-compliant toys per country





Toy testing results per online marketplace			
AliExpress	Amazon	eBay	Wish
43 toys tested 69,7% failed	24 toys tested 83,3% failed	27 toys tested 81,5% failed	40 toys tested 77.5% failed

Other issues were identified such as misleading advertising, counterfeit goods and inadequate customs declarations.

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www.toyindustries.eu

