Competition, Consumption & Prices, Regulation, Company Law

Product Safety in Online Retail: Strengthening Enforcement Without the "Swiss Finish"

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At a glance

- economiesuisse supports the goal of better enforcing product safety in cross-border online trade.
- However, the bill goes beyond European law in some respects and does not meet the requirements of the rule of law with regard to the new sanctions.
- economiesuisse can support the proposed supervisory levy, provided it is designed to be simple, cost-covering, and strictly earmarked for its intended purpose.

The public comment period for the partial revision of the Product Safety Act (PrSG) ends on September 28. This revision is prompted by new EU regulations, but above all by a fundamental shift in distribution models. More and more products are reaching consumers in Switzerland directly from abroad via online marketplaces and direct orders. This raises the question of how to ensure that the safety standards applicable here can actually be enforced for such products. This involves striking a delicate balance. Switzerland depends on open markets and cross-border trade and should not protect consumers from foreign offerings through unnecessary isolationism. At the same time, a functioning market requires personal responsibility—on the part of both suppliers and buyers. However, when products systematically enter Switzerland through new distribution channels without the responsible parties being subject to local safety requirements or being effectively held accountable, a regulatory imbalance arises. Companies that comply with Swiss regulations must not be disadvantaged compared to suppliers who circumvent them through direct sales from abroad. The bill aims to close this loophole. The intent is sound. However, it is crucial that this does not create new trade barriers or introduce special rules that go beyond what is actually necessary to enforce existing safety standards.

No Swiss Finish

The amendment is intended to align Swiss law with that of the EU. However, the draft goes further when it comes to online marketplaces: platform operators are to be considered economic operators across the board, whereas the EU imposes specific obligations on them tailored to their role. This special Swiss solution is not justified. Another problem is that digital products such as software are to be covered in the future without this being clearly regulated in the law. As a result, even enterprise software could fall under the PrSG—raising questions about manufacturer obligations, conformity, recalls, and market surveillance in the event of software errors or updates. Such a far-reaching expansion of the PrSG must be clearly rejected.

Guidelines Based on the Rule of Law

Violations should be subject to penalties of up to 10 percent of Swiss revenue—even in the absence of fault. The fact that no clear procedural safeguards are provided poses a problem under the rule of law for sanctions of this magnitude. At the same time, it remains unclear who is actually considered an economic operator; the Federal Council could expand this group by ordinance. The law itself must clearly define who is subject to such a high risk of sanctions. Furthermore, the sanction must be contingent on fault.

Regulatory Fee: Simple and Earmarked

To finance the additional inspections, the Federal Council is to be able to levy a fee of up to five francs per product that is delivered via online retail directly from abroad to end users in Switzerland. In principle, this is correct: whoever causes the additional expense should also bear it. However, the draft proposal seeks to classify products into categories, each with its own rate. This is an unnecessarily complicated approach that creates burdens for all parties: companies must file declarations, authorities must conduct inspections, and there is a risk of difficult questions regarding the delineation of categories. The business community therefore calls for a uniform fee per shipment as a simple and efficient tool. Furthermore, the fee must not exceed the costs of the inspections, and its proceeds must be allocated entirely to market surveillance rather than replacing existing federal funds. Ultimately, economiesuisse supports the bill's objective. Swiss safety standards must be effectively enforced even under the conditions of new digital distribution models. However, the solution must not lie in isolating the Swiss market or in a "Swiss Finish" regulatory approach. Rather, what is needed are rules that apply equally to comparable products regardless of the distribution channel, meet the requirements of the rule of law, and can be enforced with as little administrative burden as possible.

The full list of concerns and justifications can be found in the statement by economiesuisse.

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