

# EEB Attachment to the Market Surveillance Regulation Consultation

## Focus on e-commerce liability

February 2026

The growth of e-commerce has a huge impact on how products are placed on the EU market. It leads to regulatory and enforcement gaps that are increasingly enabling the influx of non-compliant and dangerous products, particularly in high-risk sectors such as cosmetics. The European Environmental Bureau (EEB) calls for a strengthened Market Surveillance Regulation (MSR) that explicitly and effectively addresses online sales, assigns greater responsibilities to online marketplaces, and strengthens enforcement capacities across the EU.

The revision of the MSR is therefore a critical opportunity to ensure that what is illegal offline cannot be sold online, to close existing loopholes, and to restore a level playing field for compliant economic operators.

### Challenges of e-commerce: consumer, environmental and market risks

Consumers increasingly purchase products online, including through online marketplaces or web shops based outside the EU. This trend presents new risks, especially given the surge in non-compliant and often dangerous products sold online and imported into the EU:

First, it disrupts the market surveillance schemes, leading to additional **consumer safety concerns**. Cosmetics sold online clearly illustrate these challenges. Illegal cosmetics, including mercury-added skin-lightening products, remain widely available on major online platforms despite being banned in the EU, as our reports<sup>i</sup> have shown for several years now. The huge flow of new products entering the market everyday combined with weak traceability and limited enforcement in online sales allow these products to bypass controls, directly undermining EU chemicals, water and zero-pollution objectives. [EEB's work on cosmetics](#), including skin-lightening products sold online, shows the scope and prevalence of this issue. Products that do not comply with EU safety requirements continue to be readily available on major online platforms and are delivered directly to consumers in the EU, demonstrating that current arrangements do not sufficiently address the realities of e-commerce-driven trade.

Second, poorly regulated e-commerce is increasingly **undermining EU environmental legislation**, as exemplified in the [study](#) commissioned by the EEB on the role and responsibility of online platforms in the Ecodesign for Sustainable Products Regulation (ESPR). The rapid growth of online sales has a substantial environmental footprint, driven by overproduction, long-distance transport, excessive packaging, and increased waste, and runs counter to the MSR's objective to ensure that products placed on the EU market comply with Union legislation protecting health, safety and the environment.

Third, the availability of non-compliant products not only puts customer's safety at risk but also creates an **uneven level playing field between the companies that comply with the EU legislation, and**

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**the free riders that benefit from ignoring the EU legislation.** This puts EU-based companies at a disadvantage while allowing unsafe products to persist on the market. EU legislation should ensure that all operators (on the ground and online) putting products on the EU market comply with EU standards, fostering a fair and competitive European market. The need for the online platforms to have responsibility for the products they sell is a wider EU stakeholder request. The EEB signed in September 2025 a [joint statement](#) together with NGOs and European industries warning that a number of online sellers are escaping the EU's product sustainability and chemical safety requirements using the e-market loopholes.

Finally, limited resources remain a key challenge for customs and market surveillance authorities, as noted in a [study](#) on market surveillance for effective consumer protection in the EU requested by the IMCO Committee of the European Parliament. Some authorities had to reallocate resources to address e-commerce, while others lacked sufficient capacity to tackle its specific challenges. This aligns with EEB's experience in Belgium, where authorities had limited capacity for enforcement and post-market surveillance relating specifically to cosmetics. Yet, it is important to recognise that the current legal loopholes around e-commerce are responsible for saturating the market and border controls, as it allows for huge flow of cheap, often uncompliant and potentially harmful products to enter the market. True efforts to relieve and improve market surveillance need to be thought in conjunction with environmental considerations and consumption reduction.

## Our recommendations

### 1. Specific obligations for online marketplaces

To preserve the integrity of the EU internal market and ensure the effectiveness of EU legislation, it is essential that online marketplaces are assigned clearer and stronger obligations. By addressing this legal loophole, the EU can create a more coherent, enforceable, and future-proof regulatory framework that ensures that all actors giving products access to the internal market - regardless of their physical location or business model - adhere to the same high standards of safety, sustainability, and fairness. This should include:

- Clear recognition of online marketplaces as economic operators under Article 4 of the MSR, and alignment of the Digital Services Act (Section 4), so that marketplace obligations are consistent with those of importers under legislation such as the GPSR, Ecodesign Regulation (ESPR) and the New Legislative Framework (NLF).
- Linked to the above, increased liability for non-compliant or dangerous products sold online. Online platforms should play a proactive and preventive role, reducing the enforcement burden on authorities without adding unnecessary obligations for compliant manufacturers.
- Online marketplaces should ensure that the products they offer for sale have a designated responsible person. If there is no responsible person, the marketplaces should be designated as responsible person.
- Marketplaces should verify, through documentation checks and targeted sample testing, that products sold via their platforms comply with EU rules or are linked to a registered economic

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operator in the EU/EEA; and should be held liable in case no other responsible operator is present or reachable in the EU.

- Seller identification and traceability requirements should be strictly implemented to enable enforcement and corrective action.

## 2. More resources and coordination for authorities

- Strengthened enforcement of existing EU rules: given the substantial volume of products entering the market through online marketplaces, it is essential and high priority to allocate significantly more resources to market surveillance and customs authorities and encourage further cooperation between these entities. We support the EU's proposal to explore the establishment of a dedicated EU-level enforcement body.
- A strong focus should be put on the enforcement of non-EU sellers and online marketplaces who sell directly to EU consumers, with the potential to block parcels and/or the interface of online marketplaces and vendors' sites that demonstrate non-compliance.

## 3. Better traceability of products

- Strengthened product traceability mechanisms to reflect increasingly complex e-commerce supply chains, including through better use and integration of existing EU databases (e.g. SCIP, EPREL, ICSMS).
- The development of the Digital Product Passport should prioritise interoperability with existing systems rather than creating additional standalone databases, to reinforce market surveillance, compliance checks and enforcement efficiency.

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<sup>i</sup> The EEB/ZMWG has gathered [extensive evidence](#) over the years at EU and global levels, related to the online sale of illegal mercury-added cosmetics. Searches of online platforms for suspect mercury-added skin-lightening products (SLPs) previously sold mainly in local informal markets and beauty stores, have shown that the availability and sales of these products have risen sharply worldwide, particularly online. From 2017–2024, 65 creams were purchased from Belgian local markets and online platforms (amazon.co.uk, befr.ebay.be, best.aliexpress.com, bol.com, amazon.com.be). Among these, 31 creams contained mercury levels above 1 ppm, with an average of 5,828 ppm. According to product labelling, most were manufactured in Pakistan, China, and Thailand. Other product types are also found unsafe, as reported by many organisations, but notably consumer organisations. (need source here). skin

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