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Joint industry call to close the liability gap online

Illegal, unsafe and counterfeit products are reaching EU consumers in growing numbers, and Europe urgently needs a stronger framework to keep them off the market.

Our organisations, representing European brand owners and manufacturers across sectors, are uniting to call on EU policymakers to close the gap that allows these products to reach European consumers.

Every day, dangerous and counterfeit products are listed, promoted and sold to EU consumers through online marketplaces, platforms and social media. The European Commission's 2026 product safety [sweep](#) found that market surveillance authorities issued 560 orders against non-compliant listings after screening almost 1,700 offers across 35 online marketplaces, while the Commission's 2025 Safety Gate report recorded more than 4,500 alerts for dangerous products, the highest number on record, with cosmetics and toys accounting for more than half of all cases.

For legitimate businesses operating across the single market, a coherent and enforceable legal framework is essential. Yet today, new online actors – including marketplaces, social media and live-streaming services, whether EU- or non-EU-based – are increasingly playing an active role in how products are advertised, promoted and sold online, while enforcement remains reactive and inconsistent across Member States. This puts consumers' health, safety and trust at risk while undermining legitimate businesses' investments and competitiveness.

A modern liability framework is needed to shift enforcement from reactive to preventive, and ensure that all online intermediaries who enable, promote or facilitate the sale of products bear responsibilities proportionate to their role.

With the forthcoming evaluation of the Digital Services Act (DSA), EU institutions have an opportunity to ensure that all online intermediaries are subject to clear, proportionate responsibilities, closing the persistent enforcement gaps that let non-compliant goods continue to circulate.

In line with the upcoming European Product Act (EPA), which will bring together the revision of the Market Surveillance Regulation (MSR) and the New Legislative Framework, the European Commission should take this opportunity to ensure that online intermediaries play a meaningful role in preventing counterfeit and other non-compliant products from reaching EU consumers.

To this end, we call on EU policymakers to urgently adopt the following changes:

1. **Tackle the problem at its source:** The EU needs to shift from reactive enforcement to prevention. Customs and market surveillance authorities should not be left to act only once non-compliant products have entered, or are already targeting, the EU market. These products must be stopped before they can be listed, promoted or sold to EU consumers.
2. **Ensure effective enforcement:** The DSA needs to be fully, consistently and effectively implemented and enforced across all Member States. Divergent interpretations and uneven compliance expectations create legal uncertainty, distort competition and allow non-compliant goods and content to continue circulating online. To ensure the rapid identification and removal of such illegal content, legitimate manufacturers should be recognised as trusted flaggers.
3. **Extend the scope of the current framework:** Obligations under existing legislation, including the DSA and the MSR, should be extended to cover all online intermediaries that enable, promote or facilitate the sale of products to EU consumers, including social media platforms and live-streaming services. This should ensure that appropriate responsibilities apply to all relevant actors, based on the role they play in enabling, promoting or facilitating the online sale of products to EU consumers. In doing so, legislators must ensure compatibility with existing sectoral legislation and avoid creating duplicative or conflicting obligations.
4. **Introduce an “Earn Your Exemption” principle:** Beyond enforcing the DSA, the framework should be updated to ensure that online intermediaries benefit from liability exemptions under the DSA only where they can demonstrate that they have taken appropriate, proactive measures to prevent non-compliant goods and content from appearing and reappearing on their services, mitigate identified risks and remedy any shortcomings.
5. **Reinforce the Know Your Business Customer (KYBC) principle:** KYBC obligations should be extended to all online intermediaries that enable, promote or

facilitate the sale of products to EU consumers. KYBC obligations should require all platforms and intermediaries facilitating the promotion or sale of products to EU consumers to verify, identify and ensure the traceability of the traders they serve.

To close these persistent enforcement gaps, we call for an ambitious and coherent liability framework in the EPA and the forthcoming evaluation of the DSA: one that ensures all online intermediaries are subject to clear, proportionate responsibilities, shifts enforcement from reactive to preventive, and gives consumers and market surveillance authorities confidence that non-compliant products are stopped before they reach the EU market.

Signatories

- **ECCIA** – European Cultural and Creative Industries Alliance
- **TAC Alliance** – Together Against Counterfeiting Alliance
- **AIM** – European Brands Association
- **TIE** – Toy Industries of Europe
- **EFA** – European Fashion Alliance
- **UNIFAB** – Union des Fabricants
- **Cosmetics Europe**
- **EURATEX**
- **FESI** – Federation of the European Sporting Goods Industry