



Position Paper

Council Resolution of 28/10/99 on Standardisation in Europe

March 2001

Executive Summary

Following the *Council Resolution on Standardisation in Europe* of 1999 the European Commission is to report in June 2001 to the Council and the European Parliament on its political answers to fundamental issues and challenges standardisation is facing in Europe. The **ANEC Position Paper** addresses major concerns and requests consumers have with respect to the principles of standardisation, greater involvement of public authorities, efficiency, financing and international standardisation.

Provided that the standardisation process is transparent and open to participation of all concerned parties, European standards (EN) complementing in many areas European legislation are useful means of consumer protection and consumer safety. The recent crisis in the food sector has once again demonstrated the crucial importance of transparency to ensure that consumers have faith in the power of the internal market to benefit them as much as it does business.

To ensure democratic structures, ANEC calls for a **reform of the European standardisation system** that in its current shape primarily serves industry needs. Representatives of the public interest such as consumers or other non-industrial stakeholders are not able to participate in the process in an adequate manner to guarantee a high level of protection.

Such a revision of the European standardisation system is even more vital in the light of the wider discussion on alternative regulatory models (so called co-regulation). To protect the public interest, the European Commission proposes alternative regulatory models bridging between legislation and its binding nature and the more flexible self-regulatory approach. The success of alternative regulatory models like traditional and new standardisation, however, depends on effective monitoring, open access for consumers and effective dispute settlement procedures.

Therefore, ANEC urges the European Commission, the European Parliament and Member States to take actions on the basis of the following recommendations **to ensure a high level of consumer protection and transparent and democratic procedures** in future European and international standardisation.

ANEC RECOMMENDATIONS ON STANDARDISATION IN EUROPE

I. Principles of Standardisation

1. The European standards bodies shall develop a policy to ensure transparency, access of all stakeholders and balanced representation in the standardisation process.
2. A dispute settlement procedure open to European stakeholder organisations active in standardisation shall be implemented.
3. Industry agreements and *specifications* (e.g. *new deliverables*) other than European standards shall not be used to complement European legislation in the field of health, safety, environment and basic legal and economic interests of consumers.

II. Greater Involvement of Public Authorities in European Standardisation

4. To ensure that European standards are consensus-based and reflect the needs of all stakeholders including consumers, the establishment of a European standards monitoring system outside the standards bodies could be considered.
5. To ensure uniform application of European standards across Europe, ANEC calls for improved market surveillance and a single European certification mark.
6. Due to a negative experience in the field of environmental standardisation, ANEC cautions the application of the *New Approach* for environmental requirements of products, services and processes unless there exist adequate precautionary measures.

III. Efficiency

7. Whenever the European Commission launches mandates for standards of public interest, consultation of stakeholders has to be guaranteed.
8. The European standards bodies shall improve the transparency of decision-making by publishing the affiliation of the participants in their Technical Committees.
A transparent procedure for the recruitment and evaluation of consultants of the European standards bodies shall be established to ensure neutral and independent conformity checks of standards.

IV. Financing

9. To enable consumer involvement in European standardisation at all relevant stages, adequate resources are needed. The European Commission and the Council should reiterate and strengthen their recommendations addressed to EU Member States to provide sufficient financial support for consumer representation in standardisation.
At the European level, the European Commission should provide increased and stable funding for consumer participation in European standardisation.
10. Candidate countries in Central and Eastern Europe should be invited by the EU to ensure adequate funding at the national level for consumer representation in standardisation.

V. International Standardisation

11. ANEC calls upon the European public authorities and national standards bodies to take the necessary actions to introduce the principles of balanced representation, openness and transparency into international standardisation.
To ensure a better representation of consumers in international standardisation additional financial support has to be provided.
12. Safeguards have to be developed in order to ensure that European public policy issues are adequately taken into consideration in international standardisation, e.g. through a European mirror committee.

Introduction

Since 1995, ANEC represents and defends consumer interests in the European standardisation process. ANEC provides technical expertise based on a network of more than 170 experts in EU Member States, EFTA countries and the Czech Republic. These experts representing consumers participate in Technical Committees of the three European standards bodies CEN, CENELEC and ETSI. Areas of priority are child safety, safety of domestic appliances, information society, consumers with special needs, environment, and traffic safety.

Based on its experience in European standardisation work, ANEC calls for a **reform of the European standardisation** process along with the following recommendations in order **to ensure transparent and democratic procedures**. The latter are prerequisites to build and maintain consumer confidence in the Internal Market and the European integration process.

I. Principles of Standardisation

I.A. Balanced Representation of Interested and Concerned Parties in the Standardisation Process and Committees

In theory, standardisation at the European level is an open, transparent and consensus-driven process, which allows all stakeholders to participate and to safeguard their interests. Reality, however, is different. Industry representatives dominate many standardisation committees of the three European standards bodies. Thus, real balanced representation of all stakeholders is rather the exception in the standardisation world. As a consequence, standards do often not meet consumer requirements. In some cases, European standards had even been adopted against sustained opposition of consumer representatives.

Openness and transparency are important principles, to which the European standards bodies have committed themselves. These principles must be complemented by the principle of balanced representation of all interested parties in the standardisation process as far as public interests are concerned.

The standards bodies shall develop a policy to ensure balance in co-operation with public interest groups such as consumer organisations. This may include a set of measures, e.g. establishment of balanced project teams to draft standards,

obligatory written evidence of input and support by consumers for a standard and, a formal dispute settlement procedure.

ANEC Recommendation 1

The European standards bodies shall develop a policy to ensure transparency, access of all stakeholders and balanced representation in the standardisation process.

I.B. Dispute Settlement Procedure

In the current European standardisation system, consumers do not have adequate access to initiate and carry through new standardisation work, which we deem necessary and vital for consumer protection, but which might not be a priority for industry.

Therefore, ANEC calls for a mechanism at the European level in terms of a mediation procedure providing consumers and European stakeholder organisations active in standardisation with an instrument to articulate their proposals for standardisation.

At the same time, such a procedure should serve as an arbitration board both for conflicts arising from procedural issues and conflicts occurring as a result of a standardisation work. The composition of the body should be pluralistic and balanced in numbers and not only in terms of interested parties. In general, the standards bodies shall develop the terms of reference of such a dispute settlement in co-operation with the European stakeholder organisations.

ANEC Recommendation 2

A dispute settlement procedure open to European stakeholder organisations active in standardisation shall be implemented.

I.C. The Use of *New Deliverables* and *Specifications* in EU Policies

ANEC is concerned about the use of European Community documents other than standards to support European policies and legislation. This relates to both the so-called *new deliverables* of the three standards bodies and to *specifications* developed by industry or industry consortia. We believe that the use of such other documents in Community policy should be the exception and not the rule. In the very exceptional case that it is deemed necessary to refer to documents other than standards, specification-producing bodies should meet strict requirements to guarantee the transparency of the process and the involvement of consumers. Moreover, the lifetime of such documents should be restricted to a time period not exceeding three to five years, followed by an evaluation including the option of a formal European standard, with the latter involving the full consultation process.

As a matter of principle, documents or *specifications*, which do not comply with the criteria of a European standard, shall not be used in sectors covered by the New Approach and other legislation such as the General Product Safety Directive dealing with aspects of health, safety, environment and basic legal and economic interest of consumers. The recognition of *specifications* produced by pure industry fora would undermine the credibility of consumer protection policy in Europe.

ANEC Recommendation 3

Industry agreements and *specifications* (e.g. *new deliverables*) other than European standards shall not be used to complement European legislation in the field of health, safety, environment and basic legal and economic interests of consumers.

II. Greater Involvement of Public Authorities in European Standardisation

II.A. European Standardisation Monitoring System

In the European standardisation system as it is today, public authorities have to wait until a standard is completed before being able to trigger the safeguard clause if a standard is deemed insufficient and does not comply with the technical requirements set out in the respective directive. Interventions, however, should be made possible at an earlier stage, e.g. during the enquiry stage of the standards-making process.

For this purpose, the European Commission and Member States might consider the establishment of a European standardisation monitoring system outside the standards bodies providing evaluation of a mandated standard. Such a monitoring system could be based on a two-step approach. Whilst the first check would be carried out as soon as the draft standards are available, a second check would be involved once the standards have been finalised, but before their references are published in the Official Journal of the EU. Both steps would ensure that the (draft) standards are consensus-based, i.e. consumers or other groups representing the public interest do not fundamentally disagree with the standards. The standards bodies would be obliged to respect any decisions of the European Commission and the EU Member States resulting from the monitoring system.

In the same context, ANEC calls for free access of consumers to the various fora, which are already involved in monitoring the European standardisation process. Most notably, this applies to the European Commission's Committee on Standards and Technical Regulations, Committee 98/34, but also to the standing committees pertaining to the various directives, e.g. for toys and construction products.

Moreover, in some cases the European standards bodies failed to elaborate adequate standards in compliance with the essential requirements of directives. As a result Member States had to intervene by making use of the safeguard clause. Nonetheless, Technical Committees of the standards bodies were reluctant to revise the standards in an appropriate manner even though the European Commission supported Member States. Therefore, instruments are needed allowing for an alternative to standards as a last resort.

ANEC Recommendation 4

To ensure that European standards are consensus-based and reflect the needs of all stakeholders including consumers, the establishment of a European standards monitoring system outside the standards bodies could be considered.

II.B. Application of standards

The most stringent standards in the world serve no purpose unless they are applied in practice. Many elements help ensure that standards are respected. Market surveillance, market forces stimulated by the publication of consumer information, certification and labelling schemes all play their part. Developments at the European level are increasingly important to ensure that there is a uniform application of the European standards throughout the EU.

ANEC calls for improved market surveillance in the internal market and strongly supports a single European quality mark, which has to fulfil specific requirements such as third party testing and precise information in order to provide transparency on safety, performance and environmental aspects of the product.

ANEC Recommendation 5

To ensure a uniform application of the European standards across Europe, ANEC calls for improved market surveillance and a single European certification mark.

II.C. Caution with respect to wider application of the *New Approach*

ANEC sounds a note of caution with respect to wider application of the *New Approach*, as there are certain sectors where it would not be appropriate to apply the *New Approach*. Due to a negative experience with environment related standardisation¹, ANEC cautions the extension of the *New Approach* to environmental requirements for products, services and processes unless there are precautionary measures established. Unfortunately, the CEN Environmental Helpdesk (EHD), a forum intended to promote the integration of environmental aspects in product standards, does not seem to be an adequate instrument to significantly improve the situation.

As there is a fundamental difference between the areas of safety of products and of environmental requirements², it is deemed necessary to undertake preparatory measures such as feasibility studies and pilot projects before launching any *New Approach* directive in the environmental area. A permanent external monitoring, involving the European Commission, Member States and stakeholders should be implemented. Moreover, the European Commission and Member States should discuss what changes have to be introduced in order to enable the existing standardisation system to deal with environmental requirements in an appropriate manner.

ANEC Recommendation 6

Due to a negative experience in the field of environmental standardisation, ANEC cautions the application of the *New Approach* for environmental requirements of products, services and processes unless there exist adequate precautionary measures.

¹ For example: CEN standards in the field of packaging and environment including prevention, re-use, recycling and energy recovery of packaging and packaging waste.

² Whilst product liability legislation might be very cost intensive for the manufacturer in case of injuries or fatalities and thus seems to be an incentive to take safety issues into account, comparable incentives do not exist in the environmental sector.

III. Efficiency

III.A. Consumer Involvement in Drafting Mandates for Standardisation issued by the European Commission

A mandate is a political request by the EU and EFTA to develop voluntary standards based on consensus amongst all parties involved. In many cases, a mandate is given to support European legislation and to develop the technical specifications of the essential safety requirements. Mandates are mainly issued in the area of *New Approach* legislation, but may also be given for the elaboration of standards in other areas e.g. biotechnology.

ANEC is convinced that the drafting of standardisation mandates of public interest should be done in consultation with all stakeholders, especially consumer representatives and experts from consumer organisations across Europe.

ANEC Recommendation 7

Whenever the European Commission launches mandates for standards of public interest, consultation of stakeholders has to be guaranteed.

III.B. Transparency

As highlighted by the European Parliament and by the European Commission in a recently published report on the legal aspects of standardisation, ANEC is convinced that greater efforts could be made to provide more information on the opinions the various stakeholders elaborate during the standardisation process.

To improve transparency, ANEC suggests a listing of the participants of a Technical Committee and their affiliation. For this purpose, an attendance form could be used, in which participants indicate their affiliation and the interest group they belong to (i.e. industry, standards bodies, scientific community, test laboratories, consumer or environmental organisations). The lists of participants should be available for consultation by all stakeholders.

Moreover, ANEC would like to stress the importance of external consultants whom European standards bodies employ in order to verify the conformity of elaborated standards with the relevant directives. In general, these consultants have positively contributed to the work. Nonetheless, ANEC wishes to stress the importance of involving neutral and independent experts who critically review standards. It would be beneficial to establish a transparent and harmonised procedure for recruitment and evaluation of external consultants.

ANEC Recommendation 8

The European standards bodies shall improve the transparency of decision-making by publishing the affiliation of the participants in Technical Committees.

A transparent procedure for the recruitment and evaluation of consultants of the European standards bodies shall be established to ensure neutral and independent conformity checks of standards.

III.C. Training

Existing rights and rules must be known and respected. Inaccurate application of rules and procedures undermine standardisation work. Training and project management might contribute to render the standardisation process more efficient. Training for the secretariat of Technical Committees and Working Groups of the European standards bodies might be useful to improve the support provided to the group.

IV. Financing

IV.A. No Membership Fees for Consumer Organisations

In many countries, consumer organisations are confronted with the request to pay fees in order to be able to participate in the standardisation process. ANEC totally rejects demands that consumer organisations pay fees for participating in standards bodies as this represents a barrier to effective and comprehensive involvement of consumers in standardisation.

IV.B. Financial Support for Consumer Representation in Standardisation

ANEC welcomes the Council position that consumers and other interest groups should be fully involved in the standardisation process at all relevant stages. A prerequisite for such an involvement is adequate and stable funding – both at national and European level. The current situation, in particular in the southern European countries and Ireland, is far from being satisfactory and has to be improved.

The lack of adequate consumer representation in many EU Member States undermines the credibility of the consensus that should be a fundamental characteristic of the European standardisation process. ANEC calls on the Commission and the Council to reiterate and strengthen their recommendations addressed to the Member States to actively encourage consumer representation in standardisation through the provision of resources and financial support (88/41/EEC and 88/C 293/01).

As consumer organisations already suffer at national level from a lack of financial resources to represent their interests in standardisation, it is obvious that at the European level, ANEC is only able to play the role it is supposed to play as long as the European Commission provides a reliable source for funding.

ANEC Recommendation 9

To enable consumer involvement in European standardisation at all relevant stages, adequate resources are needed. The European Commission and the Council should reiterate and strengthen their recommendations addressed to EU Member States to provide sufficient financial support for consumer representation in standardisation.

At the European level, the European Commission should provide increased and stable funding for consumer participation in European standardisation.

ANEC also calls for continued support initiatives to improve consumer representation in standardisation in the Central and Eastern European countries. In particular, ANEC suggests that the candidates for EU membership are requested to provide adequate funding for consumer representation in standardisation and to ensure that national consensus building arrangements are respected.

ANEC Recommendation 10

Candidate countries in Central and Eastern Europe should be invited by the EU to ensure adequate funding at the national level for consumer representation in standardisation.

V. International Standardisation

V.A. Need for Balance, Transparency and Openness

Many standards used to be made at the European level, but are more and more subject to international standardisation in ISO and IEC. Whilst ANEC recognises the importance of international standardisation, we have to highlight the substantial difference between European and international standardisation as regards the participation of stakeholders, in particular the participation of consumers.

ANEC therefore calls upon the European public authorities and national standards bodies to take the necessary actions to introduce the principles of balanced representation, openness and transparency into international standardisation.

Consumer representation in international standards bodies is limited to participation in a few technical committees. *Consumers' International* is actually not allowed to participate in the political work of international standards bodies, which are thus highly industry dominated. Furthermore, consumer participation at the technical level is considerably hampered by a lack of financial resources. Participation in the standards making process of ISO and IEC involves considerable financial resources due to travels around the world.

In order to establish adequate consumer representation at the international level, and thus legitimacy of the international standardisation process, it is vital that additional funding is provided to the consumer movement.

ANEC Recommendation 11

ANEC calls upon the European public authorities and national standards bodies to take the necessary actions to introduce the principles of balanced representation, openness and transparency into international standardisation. To ensure a better representation of consumers in international standardisation, additional financial support has to be provided.

V.B. Safeguarding Objectives of European Public Policy

As already mentioned, European public authorities have the possibility to directly intervene in the European standardisation process if it is deemed necessary in the interest of the market or consumers. This possibility does not exist in international standardisation, where there are no procedures for national administrations to challenge international standards that insufficiently address consumer protection.

ANEC advocates that the European Commission reinforces its efforts to control and monitor the standardisation work complementing European legislation, which is a difficult task when standardisation is shifted to the international level. Moreover, non-European standards bodies will not always be prepared to take full account of the essential requirements of European Community legislation.

National and European standards bodies, as well as European public authorities should be aware of these drawbacks of international standardisation in comparison to European standardisation. Safeguards have to be developed in order to ensure that public policy issues are adequately taken into consideration in international standards. Whenever standardisation tasks linked to a standardisation mandate are transferred to an international standards committee, a European mirror committee should be set up. This group should elaborate a European view and ensure that European public policy, consumer, health and safety issues are taken into account.

As long as there are no safeguards in international standardisation, it may therefore be advisable to give priority to European standardisation whenever European public policy issues are at stake.

ANEC Recommendation 12

Safeguards have to be developed in order to ensure that European public policy issues are adequately taken into consideration in international standardisation, e.g. through a European mirror committee.

Annex I

Examples of Inadequate European Standards

Machine-readable cards

Smart or machine-readable cards are of major importance to consumers. They are used by all consumers, with or without disabilities, for purposes of identification and for payment in all types of applications. Standardisation did address the issue of tactile identifiers, which help consumers with visual impairments to introduce the card into the reader in the right direction. Unfortunately, two different standards were produced, one by CEN and one by ETSI, specifying the location and shape/size of these notches. In addition, the standard elaborated by CEN (primarily for banking cards) offers four options of which only one is considered suitable. ANEC calls for a practical solution.

Exclusion Clause in Standards in Electro-technical Products

For several years already, ANEC has expressed concerns about the degree to which child safety is addressed in electro-technical products, which are not specifically produced for children, but with which children inevitably come into contact like microwave ovens. Some of these standards for electro-technical products have an exclusion clause. Due to the exclusion clause, the standard does not take into account the use of the appliance by young children. It equally does not take into account the needs of older people or people with disabilities – thus excluding large parts of the society from using the appliances. ANEC feels that it is not acceptable to have such exclusion clauses in the standards.

Packaging

In 2000, CEN finished work on several standards concerning the manufacturing and the composition of packaging as well as their re-use or recycling. Unfortunately, the elaborated draft standards provide no clear-cut and product specific requirements and are thus of little use for enforcement. For instance, the standard dealing with prevention allows for excessive packaging if the manufacturer considers it necessary for marketing reasons. The standard on re-use does not even define a minimum number of trips or rotations and the standard on material recycling only requires compatibility with "known and relevant recycling technologies". ANEC has asked the European Commission not to recognise these draft standards.

High Chairs

At the moment, there is a draft European standard on high chairs for children out for vote, which was prepared by the CEN Technical Committee on Furniture. ANEC believes that the standard is inadequate and in contradiction to its counterpart on convertible highchairs developed by the CEN Technical Committee on Child Care Articles. Whereas the draft standard on convertible highchairs is acceptable to consumers' organisations, the draft standard developed by the Technical Committee on Furniture shows severe deficiencies. It also fails to meet the provisions of the Commission mandate M 264 related to the safety of child-care articles with respect to barriers and the restraint system. The requirements do not sufficiently prevent children from falling off the chair. The work item should be deleted from the work programme of the CEN Technical Committee on Furniture and the scope of the draft standard on convertible highchairs should be expanded to cover all types of highchairs.

Noise limits for toys

Impulsive sounds e.g. produced by toys using percussion caps such as cap pistols are of particular concern to consumers. Exposure to just one impulse can lead to an irreversible damage of the hearing capacity or to tinnitus (buzzing in the ears). Nonetheless, the CEN Committee on Toys set a threshold exceeding the one allowed at the workplace if one takes into account that children sometimes fire these toys very close to their ears. Consequently, Austria and Germany triggered the safeguard clause in accordance with article 6 (1) of the Toys Directive claiming that the standard did not comply with the essential requirements of the directive. Finally, the European Commission did not recognize the relevant part of the toys standard and recommended to fix limits "which are deemed to be safe during normal or foreseeable abusive use of sound-emitting toys".

Child Restraints

If correctly installed, child restraints can reduce child mortality by 75% and the number of seriously injured children by 67%. However, several studies show that 50-70% of child restraints are badly installed. ISOFIX – a universal mounting system - was originally developed to reduce the possibilities for incorrectly installed child restraint seats. In order to offer the best possible protection to children, ISOFIX should consist of two lower anchorages and a top tether. Industry favours, however, a two-stage process. The ISOFIX standard defines at present only the two lower anchorages of the child restraint system. Consumers are opposed to such a two-stage process, which first introduces the two lower anchorages and then at a later stage a top tether. The latest EuroNCAP car crash tests showed that there was a total ejection of a child from a VW ISOFIX seat, which consisted of the two lower anchorages only. The test illustrated that the two point, forward facing, shield type child restraint seats do not offer the best possible protection to children.

Annex II: Definitions

ANEC	European Association for the Co-ordination of Consumer Representation in Standardisation
CEN	European Committee for Standardisation whose main objective is to elaborate voluntary technical standards at the European level and for this purpose co-operates with its national counterparts and with international standards bodies.
CENELEC	European Committee for Electro-technical Standardisation, similar to CEN in purposes, membership, constitution and activity whilst the main difference is that CENELEC deals only with electrical products and services.
Co-Regulation	Alternative regulatory model bridging between legislation and its binding character and the more flexible self-regulation by industry
ETSI	European Telecommunications Standards Institute whose mission is to determine and produce the telecommunications standards. It is an open forum that unites more than 600 members from more than 40 countries, representing administrations, network operators, manufacturers, service providers, and users.
ISO	International Organisation for Standardisation: worldwide federation of national standards bodies from some 130 countries, one from each country. Its mission is to promote the development of global standardisation and related activities in order to facilitate international exchange of goods and services, and to develop co-operation in the spheres of intellectual, scientific, technological and economic activity. ISO work results in international agreements that are published as International Standards.
IEC	International Electro-technical Commission is the world organisation that prepares and publishes international standards for all electrical, electronic and related technologies. The membership consists of more than 50 participating countries.
New Approach	The introduction of the <i>New Approach to product regulation</i> is linked to the completion of the European Internal Market. In <i>New Approach</i> directives, the European legislator restricts himself to harmonise the essential safety requirements whereas the technical solutions are delegated to the three European standards bodies.
Standard	Standards affect the daily life of every citizen. Standards help to make the use of products safer and to prevent accidents (e.g. due to a technical standard, washing machines cannot be opened during operation). A standard is defined as a written document approved by a recognised body. It is available to the public and drawn up on a consensus basis involving all interested parties. The application of a standard, however, is voluntary.