ZVEI position – Call for Evidence – Evaluation of the NLF

ZVEI believes that the NLF provides a lean and precise regulatory framework for the distribution of products and has proven to be very efficient in recent decades. The combination of basic (safety) requirements in harmonised product legislation and technical specifications, for example harmonised standards allows for the provision of safe and compliant products on the European single market in a technology-neutral and innovation-friendly manner. Rather, it is the deviations from the NLF and the inconsistent implementation of the individual product-specific legal acts that represent a much greater bureaucratic obstacle. In its contribution to the Call for Evidence, ZVEI focuses on the points that were addressed in the report of the NLF 2022 evaluation and in the Single Market Strategy 2025.

The NLF, the central pillar of the single market for goods

The *New Legislative Framework* (NLF) has established itself as a central and successful regulatory framework for the European single market for goods. It creates a uniform and reliable set of rules that guarantees the free movement of goods and ensures fair competition, while at the same time implementing a high level of protection for the relevant public interests, such as safety and health protection, environmental protection, protection of the radio spectrum, etc.
The NLF builds on the *"New* Approach" introduced in the 1980s and was further developed and legally enforced in 2008. This has provided the EU with a proven framework for product regulation for over four decades.
This framework combines binding legal targets with a technology-neutral design by focusing on fundamental protection requirements in legislation and enabling technical implementation through voluntarily applicable harmonised standards.
A key feature of the NLF is the horizontal, EU-wide definition of obligations and economic operators – from manufacturers and importers to distributors and authorised representatives. In addition, the NLF lays down uniform rules for the placing on the market and making available of products, their traceability, and conformity assessment. This ensures legal certainty for companies and authorities alike.
This structure enables companies to use state-of-the-art technical solutions to meet legal requirements. This enables the use of innovative technologies and strengthens the competitiveness of European industry in the long term.
The Market Surveillance Regulation is a cornerstone of the NLF and strengthens the overall system of product conformity based on manufacturer responsibility in order to ensure compliance with legal requirements checked by authorities and to ensure fair competition in the single market.

In order for the single market to continue to function efficiently and with legal certainty in the future, it is essential that new legal regulations are consistently aligned with the principles and reference provisions of the NLF. This is the only way to avoid inconsistencies between individual legal provisions and to ensure the long-term functioning of the single market.

The NLF is based on several interlinked legal acts:

- **Regulation (EC) No. 765/2008** – Regulation setting out requirements for accreditation and CE marking
- **Decision No. 768/2008/EC** – Common framework for the marketing of products
- **Regulation (EU) No. 1025/2012** – Rules on European standardization
- **Regulation (EU) 2019/1020** – Market surveillance and compliance of products

Consistent implementation of the NLF, removal of inconsistencies with Decision 768/2008/EC in product-specific legal acts

The framework itself provides a streamlined and effective structure; the biggest bureaucratic obstacle is the inconsistent implementation of the reference provisions of Decision 768/2008/EC in numerous product-specific legal acts. It is therefore necessary to review all harmonized legal acts and remove any provisions that contradict the 2008 decision. This is the only way to effectively reduce bureaucracy and ease the burden on economic operators. The EU Commission should also focus on this so that no new additional obligations arise, but rather that these are reduced.
Before new legal acts are adopted, the EU Commission, together with the member states, must check that the necessary competences and capacities are in place so that the intended requirements can be effectively implemented throughout the Union and ensure practicality (so-called "enforceability check": "No new laws without enforceability").
Within the framework of this practicality check, adequate transition periods must also be provided for the change between successive legal acts, as many economic operators cannot completely change their processes and documentation within a single day.
In view of developments in recent years, definitions that have been defined in other legal acts (e.g., "professional repairer" in Regulation (EU) 2024/1781) and apply to the entire NLF should be established horizontally; this is the only way to ensure consistent use of these terms.

Presumption of conformity

The "presumption of conformity" accorded to harmonised European standards whose titles are listed in the EU Official Journal is an important pillar of the NLF that must be maintained in order to provide legal certainty to companies, especially SMEs, and to save time and costs. To this end, it is important that hENs reflect the "state of the art." A procedure for joint and regular reassessment of hEN would be useful. The legal nature of hEN must be clarified, as hENs are not part of product law, but a technical specification. From ZVEI's point of view, it must be clear that the use of hEN must always be voluntary.[1]

Conformity assessment modules

From ZVEI's point of view, there is no need to introduce new conformity assessment modules for the purposes of the circular economy or advancing digitalization as part of the potential NLF revision. The existing modules are appropriate and sufficient; they can also easily cover sustainability requirements, such as those in the RoHS Directive through Module A. The Cyber Resilience Act, which regulates standalone software products with regard to cybersecurity requirements, also provides conformity assessment modules (A; B+C; H) already established in Decision 768/2008/EC for this regulatory context. Additional modules would only lead to unnecessary complexity without creating any added value.
Instead, ZVEI calls for strengthening of Module A, which clearly focuses on manufacturer responsibility. Manufacturers bear sole responsibility for placing their products on the market and thus also for their conformity. The manufacturer's internal production control (Module A) offers the same level of safety as other conformity assessment procedures involving a third party (e.g., a notified body), as these third parties carry out their assessments on the basis of the same harmonised standards and evaluate compliance with the essential (health and safety) requirements (EHSR) on the basis of the same legislation. There is no conclusive evidence that products certified by a third party are generally safer than those that have only been subject to manufacturer testing. On the other hand, the costs of using a third party for conformity assessment are real and substantial and include delays in placing on the market, which can affect the competitiveness of European manufacturers. In order to further strengthen the manufacturer's internal production control (Module A), ZVEI calls for its application not to be linked to the listing of harmonized European standards in the EU Official Journal, but to be based on the broader concept of harmonized standards in accordance with Regulation (EU) 1025/2012.

[1] ZVEI position paper on the revision of the Standardization Regulation

Horizontal exemption for spare parts

ZVEI is calling for a horizontal exemption for spare parts in the NLF in order to effectively promote repairability and circular economy. Spare parts are a central component of sustainable product use – especially in the area of durable goods and in the context of the "right to repair," where manufacturers are obliged to provide spare parts for their products.
A spare part should be understood as a 1:1 replacement component that replaces the originally installed product. Such spare parts must be subject to the same requirements as the original product at the time of placing it on the market – not new or stricter requirements that could make repairs economically unviable or even technically impossible. This is the only way to ensure reparability throughout the entire product life cycle, reduce additional bureaucracy for manufacturers and end users, and at the same time create legal certainty.

Substantial modification

ZVEI supports the concept of substantial modification established in the Blue Guide 2022. This allows the horizontal application of the concept, while at the same time leaving room for sectoral adjustments, such as those made in the Machinery Regulation or the GPSR. From ZVEI's point of view, it should be emphasized that not every product change is a substantial modification. The decisive factor is whether new or additional risks are already covered by the original risk assessment or are adequately addressed by appropriate protective measures. The concept itself has proven itself– supplementary guidelines for interpretation can be developed if necessary. From ZVEI's point of view, this established concept could also cover the requirements of the circular economy for conformity assessment and the obligations of the relevant actors without the need for new obligations or additional bureaucratic processes or certifications.

Horizontal DPP under the NLF / Digitalisation of information

ZVEI expressly welcomes the European Commission's proposal on the digitalisation of product information as part of the Omnibus IV package. From the industry's point of view, this step is crucial to strengthening the user-friendliness, sustainability, and competitiveness of European companies.
The Commission's decision to harmonise a wide range of legal acts, particularly those relating to the NLF, as part of an omnibus procedure is to be welcomed. This promotes the coherence of legislation and creates a level playing field in the single market.
Against this background, ZVEI advocates supplementing the proposal with missing harmonised legal acts.[2]
With regard to the Digital Product Passport (DPP), ZVEI believes it is crucial that the mandatory information be kept as lean as possible. The "Call for Evidence" suggests that the effort is only incurred during the introductory phase – this is incorrect. The DPP is expected to be mandatory for every product covered and will therefore entail ongoing costs for setup, maintenance, and updating – both for new developments and for resold existing products. In view of the expected very broad scope, efficient and resource-saving implementation is imperative.
In addition, ZVEI warns against making IP-sensitive and know-how-relevant information, such as certain parts of technical documentation (e.g., design drawings, test reports, etc.), supplier information, customer relationships, or market volumes, mandatory in the DPP. This competition-relevant information is subject to intellectual property and trade secret protection. It must therefore not be part of the mandatory information of a horizontal regulatory framework for the DPP, which always implies the risk of disclosure.

Notified bodies and their accreditation

ZVEI believes that the NLF requirements for notified bodies are generally fit for purpose, even if they should be clarified and sharpened in some areas. This applies in particular to the requirements relating to the protection of confidential data/protected information of manufacturers, e.g., in the case of takeovers of notified bodies by non-EU bodies. The protection of know-how that is part of the information provided by a manufacturer to the notified body during the conformity assessment must also be safeguarded in these cases. Manufacturers must be granted the right to switch to another notified body and transfer the information to it, with any resulting economic disadvantages to be borne by the acquiring body.

[2] ZVEI position paper on the EU Commission's Omnibus IV package

Furthermore, the current legal framework does not stipulate accreditation as a requirement for notified bodies (only a preferred option). Some Member States require this, while others do not. In some areas, this leads to considerable differences in the depth of competence assessment and confirmation of bodies in Europe and thus indirectly to unequal treatment of manufacturers depending on the notified body chosen. ZVEI believes that accreditation within the meaning of Regulation (EC) No. 765/2008 should be made a mandatory requirement for a notified body. Competence assessment and confirmation by the national designating authorities themselves should be limited to justified exceptional cases, which must be examined and approved by the EU Commission on a case-by-case basis. The requirements for the competence of the bodies should be in line with European and international requirements and based on the EN ISO/IEC 17000 series of standards.

Strengthening market surveillance

ZVEI emphasizes that consumer protection and end customers' trust in legally compliant products can only be guaranteed through effective and efficient market surveillance. This requires risk-based random checks, the amount of which is based on the number of products placed on the market. In view of the increasing import of non-compliant products from third countries, a significant expansion of controls is essential.
To make this possible, ZVEI is calling for more financial and human resources to be allocated to market surveillance authorities and customs. Only if a significant number of unsafe products are identified and withdrawn from the market a deterrent effect can be achieved and fair competition ensured.
In addition, market surveillance practices need to be harmonised across Europe. The ICSMS system offers a central tool for the exchange of information between authorities and for transparency towards the public. For this system to contribute effectively to consumer protection, all member states must participate on a mandatory basis. EU-wide coordination would be effective in this regard. In addition, ICSMS should be used to document reports of non-compliant products in a traceable manner. Currently, there are national differences in feedback to reports – from ZVEI's point of view, a uniform, transparent feedback practice is necessary to strengthen the traceability and effectiveness of market surveillance. A central EU market surveillance authority should be established to perform tasks such as coordinating national market surveillance programs, acting as a contact and networking point for national authorities for questions and coordination of uniform practices and methods. This central coordinating authority should also have the task of strengthening and intensifying cooperation with other authorities, such as customs. In addition, a stakeholder forum consisting of national authorities, representatives of manufacturers and industry, conformity assessment bodies, and consumer and environmental protection associations should be set up to facilitate exchange between the various stakeholders.[3]

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[3] ZVEI position on e-commerce