

**Implications of the Machinery, Cyber Resilience and AI Regulations for  
market surveillance**

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## SOME HINTS ABOUT MARKET SURVEILLANCE

- **What's market surveillance? And a market surveillance authority (MSA)?**
- **Which are the objectives of market surveillance and who does it protect?**
- **Where is it regulated?**
- **Which are the tasks entrusted to MSAs?:**
  - To plan enforcement activities.
  - To carry out on-site inspections and documentary/physical checks of products.
  - When products that pose a risk or that do not conform to the EU legislation are detected, to require the relevant economic operator to take action to correct the situation and if he doesn't do it, to take action themselves.



## HOW IS MARKET SURVEILLANCE INTEGRATED IN?

**Regulation (EU) 2023/1230 on  
machinery**

**Cyber Resilience Act**

**Artificial Intelligence Act**



# MARKET SURVEILLANCE IN THE MACHINERY REGULATION



## MARKET SURVEILLANCE IN MACHINERY REGULATION

### Adaptation of the machinery regulation to the new legal framework

- Definition of legal obligations of economic operators.
- Establishment of the procedure for dealing with products presenting a risk and of the Union safeguard procedure.
- Treatment of formal non-compliances.

### Incorporation of new essential requirements and consequences for MSAs

- Integration of Cyber-safety related provisions for safety control systems and compliance related software and data.
- Integration of Artificial Intelligence related provisions for safety functions.

**Power of the MSAs to ask for the source code of machines.**



# MARKET SURVEILLANCE IN THE CYBER RESILIENCE ACT



## MARKET SURVEILLANCE IN THE CYBER RESILIENCE ACT

### Market surveillance procedures

- Aligned with the new legal framework.

### New tasks for MSAs

- Supervision of procedures established by manufactures to monitor and handle cyber-vulnerabilities.
- To receive the communications of those manufacturers that cease their operation.
- To provide guidance and advice to economic operators on the implementation of the Cyber Resilience Act.
- To collaborate with other regulatory bodies (the Commission, authorities supervising Union data protection law and ENISA).



## MARKET SURVEILLANCE IN THE CYBER RESILIENCE ACT

### Other novelties

- The introduction of the ‘simultaneous coordinated control actions’ (‘sweeps’).
- The establishment of fines and penalties for non-compliance, similar to the General Data Protection Regulation (GDPR).





# MARKET SURVEILLANCE IN THE AI ACT



## MARKET SURVEILLANCE IN THE AI ACT (I)

### Market surveillance procedures

- Aligned with the new legal framework.

### New tasks for MSAs

- To receive annual reports submitted by deployers on their use of post-remote biometric identification systems.
- To receive assessments submitted by deployers on how high-risk AI systems could impact people's fundamental rights.
- Under a justified reason, to allow high-risk AI systems to be used for a limited time while they're being assessed.
- To create and monitor "AI regulatory sandboxes".



## MARKET SURVEILLANCE IN THE AI ACT (II)

<b>New tasks for MSAs</b>	<ul style="list-style-type: none"><li>➤ To approve testing activities of high-risk AI systems in real world conditions outside AI regulatory sandboxes.</li></ul>
<b>Interaction with other official stakeholders</b>	<ul style="list-style-type: none"><li>➤ The AI Office.</li><li>➤ The European Artificial Intelligence Board.</li><li>➤ National authorities who oversee the respect of fundamental rights.</li></ul>
<b>Other novelties</b>	<ul style="list-style-type: none"><li>➤ The establishment of infringements and penalties for non-compliances, similar to the ones included in the General Data Protection Regulation (GDPR).</li><li>➤ The granting of power to the MSAs to ask for the source code of high-risk AI systems.</li></ul>



# CHALLENGES and SOLUTIONS



## CHALLENGES



**Technical Complexity:** Understanding and evaluation of software and AI is something new for MSAs.

**Rapid Technological Change:** Keeping up with fast-paced advancements in technology requires constant learning and adaptation.

## SOLUTIONS

**Update and reallocation of the MSAs resources:**

- Recruit specialized personnel to get multi-disciplinary expertise.
- Adapt their facilities and create new specialized ones.
- Regular training and updates on technological developments.

**European Union Agency for Cybersecurity (ENISA)**

**Scientific Panel of Independent Experts**

**Union AI Testing Support Structures**



## CHALLENGES



### **Implementation of the new regulation:**

Interpretation and implementation of the essential requirements included in the new regulation.

**Enhanced responsibilities for MSAs:** The convergence of these three regulations significantly enhances the responsibilities and tasks of MSAs.

**Coordination:** Collaborating across borders and with various stakeholders.

## SOLUTIONS

**Standardization:** Development, update and promotion of harmonized EU standards for cybersecurity and AI.

**Put the focus on market surveillance at national level:** Political support and bigger public budgets for their activities.

**Fast selection of the MSAs at national level**  
**Loyal and effective cooperation between the different public bodies**



# SAFE PROJECT

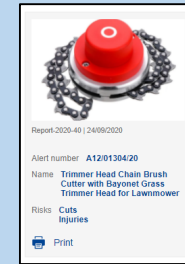
## making AI an asset for market surveillance



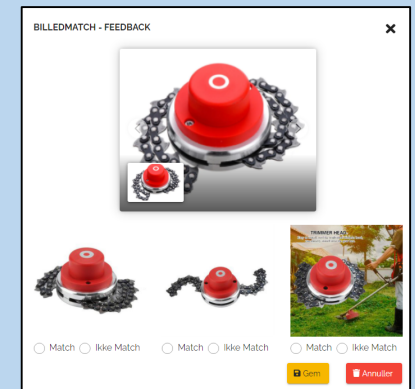
**1** A dangerous or non-compliant product is discovered



**2** The product is notified in the EU databases (ICSMS and RAPEX)



**3** SAFE crawls the web with image recognition and machine learning



**4** Results are sent to the national authorities

Country	Product Name	Reference No.	Status	Actions
Denmark	Trimmer Head Chain Brush Cutter with Bayonet Grass Trimmer Head for Lawnmower	194520	Notified	Details
Denmark	Trimmer Head Chain Brush Cutter with Bayonet Grass Trimmer Head for Lawnmower	194520	Notified	Details
Denmark	Trimmer Head Chain Brush Cutter with Bayonet Grass Trimmer Head for Lawnmower	194520	Notified	Details
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**5** SAFE initiates follow-up searches automatically





# CONCLUSIONS

Challenging times are coming for MSAs and they will have to adapt swiftly to this new world if they don't want to become overwhelmed by the new technology wave

Market surveillance has to be put in the spotlight of Member States policies

AI can become an important asset for market surveillance



# Thank you

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