

**EXPLANATORY MEMORANDUM TO
THE MAGNETIC TOYS (SAFETY) REGULATIONS 2008**

2008 No. 1654

1. This explanatory memorandum has been prepared by the Department for Business, Enterprise and Regulatory Reform and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations implement a Commission Decision requiring Member States to ensure that magnetic toys placed or made available on the market display a warning about the health and safety risks they pose. The warning requirement will come into force on 21st July 2008 and will apply both to toys newly placed on the market and to toys already in the supply chain (including on shop shelves).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The Commission Decision was introduced under Article 13 of Directive 2001/95/EC on general product safety, which allows temporary (comitology) action to be taken at the Community level when inconsistent use of normal product safety controls results in failure to remove a serious risk from the European consumer market. Such Decisions are valid for up to one year and are renewable.

4.2 An Article 13 measure was considered necessary because neither the Toys Directive 88/378/EEC nor the European toys standard EN 71 specifically address the risk posed by magnets when swallowed or inhaled (i.e. their ability to attract to each other through human tissue and to cause serious or even fatal injury) and were therefore not supporting consistent application of normal product safety controls in respect of this risk.

4.3 The warning requirement is a short to medium-term awareness-raising measure. The longer term objective is to revise the European standard to include requirements that would remove the risk of magnets coming loose from the toy. Once a revised standard has had the effect of removing the risk from the market the Commission Decision will be allowed to expire.

4.4 Directive 2001/95/EC provides the only means for introducing temporary emergency measures relating to consumer product safety.

4.5 Section 11 of the Consumer Protection Act 1987 provides the Secretary of State with powers to introduce safety regulations.

5. Territorial Extent and Application

5.1 The safety of consumer goods is a reserved matter and therefore this instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Commission Decision was adopted on 21st April 2008 and must be transposed by 21st July 2008, when the warning requirement is to come into force.

7.2 A consultation exercise on options for implementing the Decision ran from 2nd April to 16th May 2008. This complemented in-depth discussion BERR had been holding with the main toys stakeholders and Lacors since December 2007. Over thirty organisations were directly contacted about the consultation with most of these being coordinating or representative bodies that were in a position to represent the views of a large number of businesses (of all sizes and from all points of the supply chain), local authorities and consumers. The consultation document was also published on the BERR website at: <http://www.berr.gov.uk/consultations/page45528.html>

7.3 Only eight substantive responses were received to the consultation; none of which raised major issues.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

9. Contact

Steve Ringer at the Department for Business, Enterprise and Regulatory Reform, tel: 020 7215 0359 or e-mail: steve.ringer@berr.gsi.gov.uk can answer any queries regarding the instrument.

DEPARTMENT FOR BUSINESS, ENTERPRISE AND REGULATORY REFORM

24th June 2008

Summary: Intervention & Options

Department /Agency: BERR	Title: Impact Assessment of implementing the European Commission Decision on warnings for toys containing magnets	
Stage: Final	Version: 2	Date: 24 June 2008
Related Publications: Consultation documents and Government Response		

Available to view or download at:

<http://www.berr.gov.uk/consultations/closedwithresponse/index.html>

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What is the problem under consideration? Why is government intervention necessary?

There is no specific requirement in existing toy safety controls that could be used to counter the relatively new hazard seen to exist with toys containing magnets - i.e. magnets' ability, when swallowed, to cause injury by attracting through internal tissue. Government intervention is necessary to ensure the consistent use of warnings as a means of alerting consumers to a hazard they might not otherwise consider when buying magnetic toys. The intervention will also help to restore consumer confidence in toy safety following a series of high profile worldwide recalls in 2007.

What are the policy objectives and the intended effects?

The policy objective is to ensure consumers have adequate information about risks inherent in toys containing magnets so that they can make informed purchasing decisions and be able to take appropriate precautions to ensure the product is used safely.

What policy options have been considered? Please justify any preferred option.

- **Do nothing**
- **Reach agreement with the toys industry on self-regulation**
- **Issue a Ministerial direction under the General Product Safety Regulations 2005**
- **Make regulations**

The chosen option is to make regulations as the risk to consumers is deemed serious and in need of a precise mandatory control.

When will the policy be reviewed to establish the actual costs and

The policy will be reviewed on an on-going basis throughout the life of the Commission Decision, which is a temporary measure.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Gareth Thomas

24 June 2008

Summary: Analysis & Evidence

Policy Option: 2-4	Description: Implementing the Commission Decision on warnings for toys containing magnets
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Most of these costs will fall to SMEs, and mainly to small retailers. All costs will be one-off. There should be no costs after the first year. The costs identified apply to all three implementation options.	
	One-off (Transition)	Yrs		
	£ 90,000-140,000	1		
	Average Annual Cost (excluding one-off)			
	£ 0		Total Cost (PV)	£ 90,000-140,000
<p>Other key non-monetised costs by 'main affected groups' Implementing the Commission Decision will require (initially at least) increased focus from the local enforcement authorities (Trading Standards) but it is difficult to determine how this can be costed when it is assumed that there will be some re-ordering of local enforcement</p>				

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' We can identify no likely benefit to the health service as there is no data on injuries that we can expect to reduce.	
	One-off	Yrs		
	£ 0			
	Average Annual Benefit (excluding one-off)			
	£ 0		Total Benefit (PV)	£ 0
<p>Other key non-monetised benefits by 'main affected groups' There is an assumption that the implementing measure will help to restore consumer confidence in product safety controls but this is difficult to evidence as the toys industry report no adverse impact on sales.</p>				

Key Assumptions/Sensitivities Risks The main assumption is that most of the costs of compliance (particularly large business costs) will be met voluntarily regardless of whether we implement the Commission Decision, due mainly to the need to protect brand image and to be able to market products elsewhere in Europe.

Price Base Year 2008	Time Period Years 1	Net Benefit Range (NPV) £ -90k to -140k	NET BENEFIT (NPV Best estimate) £ -115k
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What is the geographic coverage of the policy/option?	UK
On what date will the policy be implemented?	21 July 2008
Which organisation(s) will enforce the policy?	Trading Standards
What is the total annual cost of enforcement for these organisations?	£ not known
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	No
What is the value of the proposed offsetting measure per year?	£ N/A
What is the value of changes in greenhouse gas emissions?	£ N/A
Will the proposal have a significant impact on competition?	No

Annual cost (£-£) per organisation (excluding one-off)	Micro 0	Small 0	Medium 0	Large 0
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of £ 0	Decrease £ 0	Net Impact	£ 0

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Introduction

1. This is the final Impact Assessment of the Government's implementation of the Commission Decision requiring magnetic toys to carry a warning about the dangers magnets pose when swallowed or inhaled. It takes account of comments received to the public consultation and confirms the Government's decision to implement the Decision by making new safety regulations.

Overview

2. Concern over toy safety grew during 2007 as a result of several worldwide product recalls. This prompted the European Commission to initiate a thorough examination of product safety legislation (and its enforcement) to discover whether there were any deficiencies that needed to be addressed.

3. Although the Commission was in conclusion able to confirm that product safety legislation was generally fit for purpose it was nevertheless found that the ingestion hazard inherent in magnetic toys (the ability of magnets, when swallowed or inhaled, to cause injury by attracting to each other through internal tissue) was not specifically addressed. The Commission concluded that a lack of clarity on how to assess magnet-related safety was preventing the removal of this risk from the Community market.

4. The Commission and Member States agreed that the medium to long term solution to the problem was to revise the European Toys standard EN71 to set improved design requirements that would ensure magnets could not come loose from toys. In June 2007, the European Committee for Standardisation (CEN) was mandated to take this work forward, and to complete it by summer 2009. As an interim measure to reduce the risk until a revised standard has had the intended effect the Commission has introduced a temporary requirement for all toys containing magnets to carry a warning highlighting the danger presented by magnets when swallowed. The requirement will come into force on 21 July 2008.

The Issue

5. Child safety is a highly emotive issue, which has ensured that toy safety controls are among the tightest of any product area. However, confidence in these controls suffered as a result of several worldwide toy recalls during 2007.

6. In August 2007, Mattel announced a worldwide recall of over 450,000 'Sarge' toy cars because of excessive levels of lead in the paint, and 18 million toys (including Polly Pocket sets, Barbie Doll and Tanner play sets) containing small magnets because it was thought the magnets might come loose and pose an ingestion hazard. In September, the company also announced a recall of 700,000 Barbie pet and furniture play sets because of lead in paint. There were further recalls in October and November, with 12,000 Fisher Price 'Go Diego Go Animal Rescue Boat' toys recalled in the UK and Ireland because of lead in paint and 7,000 samples of the Fisher Price 'Laugh and Learn Learning Kitchen' recalled because of concerns over small parts breaking off and causing choking hazards. Fortunately, there were very few recorded injuries linked to these products, and none in the UK.

7. None of these recalls were triggered by market surveillance intervention, which raised the question whether European product safety controls were being properly enforced. The general conclusion from the Commission's examination of product safety controls was that existing legislation, when properly applied, was capable of ensuring a high level of consumer protection. Nevertheless some shortcomings were identified including a lack of clarity on how to assess the safety of toys containing magnets in respect of their inherent ingestion hazard.

The hazard presented by magnets

8. The unique hazard presented by magnets when swallowed is their ability to attract to each other, or to other metal parts, through human tissue. When this happens in the intestine the strength of many magnets used today could very quickly result in

damage to the intestine wall and even perforation. Where magnets attract through tissue inside the human body surgery is usually required to remove them.

9. There has been no systematic collection of data relating to such incidents. The data that is available is often not clear on whether it was a magnet or a non-magnetic component of the toy that was swallowed, or even whether a toy was involved.

10. Research conducted by CEN found that in a seven year period up to March 2007 the American Consumer Product Safety Commission (CPSC) had issued 43 incident reports involving children between 11 months and 12 years, which included one fatality and 19 cases where medical attention was needed. At least 24 of these cases were related to magnetic building sets where magnets had come loose. In Europe, Greece reported 25 accidents between December 2003 and June 2005 where non-magnetic metal balls were swallowed from a magnetic building toy. Denmark reported that over an eight year period up to 2005 approximately 70 children were known to have swallowed either metal balls from a magnetic building toy or a magnet. Isolated incidents were also reported in Sweden, the Netherlands and Switzerland.

11. There is no recent record of similar incidents involving toys happening in the UK. However, in 2000 a number of children in Sheffield acquired several small but powerful industrial magnets which they used to mimic body-piercing on various parts of the body. This led to 24 referrals to the Sheffield Children's Hospital, 9 of which involved swallowed magnets.

The UK market for toys with magnets

12. Estimating the number of UK businesses involved in the manufacture, importation and retail of toys has been difficult. We understand that collectively the British Toy and Hobby Association, Toy Importers Association, Toy Retailers Association and The Toymakers Guild have around 900 members, although this figure could include an element of double-counting. There may well be several hundred more businesses that are not represented.

13. The number of toy products containing magnets is not a statistic routinely collected by the toy industry, nor is the number of businesses manufacturing, importing or selling these products. However, one of the world's largest producers has said that it expects to have to over-label up to 10 million of its products across the EU, although this estimate was based on the requirement coming into force in June. The same manufacturer advised that about 5% of its product range would be covered by the Decision.

14. The specialist toy sector (including department and mixed stores with a strong toy section) represents around 55-60% of toy sales by value. Internet sales account for much of the remainder. We estimate there are around 600-700 specialist toy retailing businesses, with all but four or five of these having less than 250 employees and more than 500 retailers having less than ten. In addition, there are probably around 10-20 departmental or mixed stores that have strong toy sections. Around 350 of all these businesses are single outlet. We assume that the vast majority of toy retailers supply some toys containing magnets.

The solution to the problem

15. Toy safety in Europe is controlled by the Toys Directive (88/378/EEC) with support from the General Product Safety Directive (the GPSD). The latter sets the general safety requirement for consumer products, the former sets the essential safety requirements for toys. The main European standard supporting the Toys Directive is EN 71.

16. The Commission has already mandated CEN to revise EN 71 to include design requirements that will prevent magnets coming loose from toys. To reduce the risk in the interim the Commission has introduced a temporary mandatory warning requirement for toys containing magnets, which will come into force on 21 July 2008.

17. The requirement will be for all toys containing magnets of an ingestible shape and size, and accessible to children, to contain the following warning (or something very similar):

"Warning! This product contains magnets or magnetic components. Magnets sticking together or becoming attached to a metallic object inside the human body can cause serious or fatal injury. Seek immediate medical help if magnets are swallowed or inhaled."

18. The requirement will apply to new toys and to those already on the market on 21 July 2008.

Identifying the extent to which the Commission Decision interacts with other legislative provisions

19. The Decision has some interaction with the following existing legislative provisions:

- **The General Product Safety Regulations 2005 (the "GPSR") (implementing Directive 2001/95/EC):** These set the general safety requirement that no-one can place on the market or supply an unsafe product. They apply to all consumer products that are not otherwise and to the same extent covered by product-specific legislation. As European toy safety

legislation contains no provision for introducing temporary Community measures the power to do so contained within Article 13 of the GPS Directive is made available for the control of toy safety.

- **The Toy (Safety) Regulations 1995 (implementing Directive 88/378/EEC)**: These set the essential safety requirements for toys, which together with European standard EN 71 set the basis for identifying and taking action on unsafe toys.
- **Council Regulation 339/93**: This Community legislation obliges Customs to inform local authorities when they come across products they suspect are unsafe.
- **The Consumer Protection Act 1987 (the “CPA”)**: This provides the legal basis for much of the UK’s consumer safety legislation, including the Toy Regulations. Infringement of the Regulations would constitute an offence under the CPA.

20. These provisions overlap with the Commission Decision in terms of the groups of society they affect and the extent to which the groups are affected. There are two ways in which this interaction takes place:

- By ‘overlapping’: The Decision replicates other legislative provisions. For instance, without the Decision the general safety requirement in the GPSR and the essential safety requirements in the Toy Regulations would still require toys containing magnets to carry adequate warnings.
- By ‘partnering’: Other legislation may increase or decrease the ability of the Decision to fulfil its intended purpose. The GPSR impose obligations on businesses and provide enforcement powers over and above those contained within the CPA. For example, providing the authorities with the power to order product recalls and obliging distributors to cooperate with producers and the authorities.

Identifying the unique aspects of the Commission Decision

21. Existing legislation and technical standards set no specific requirements for warnings on magnetic toys. The Decision would do this. Such Decisions are temporary twelve month (renewable) measures.

Rationale for Government Intervention

22. This intervention addresses the asymmetry of information between consumer and supplier. Consumers are generally unaware of the hazard presented by magnets when swallowed.

23. Full implementation of the Commission Decision is seen as essential to restoring consumer confidence in toy safety following the damage caused by the 2007 recalls.

Objectives of Intervention

24. The Decision aims to address the asymmetry of information by alerting consumers to the risk presented by magnets if swallowed. Placing warnings on packaging should re-assure consumers that they are being presented with sufficient information upon which to base an informed purchasing decision.

Options Identified

25. Four implementation options were considered.

Option 1 – Do nothing (the baseline)- Rejected

26. This option would breach the UK’s legal obligation to implement the requirements of an Article 13 Decision and would invite infraction.

Option 2 – Reach agreement with the toys industry on self-regulation - Rejected

27. Many businesses disapproved of the Decision covering all strengths of magnet and products already on the market at coming-into-force. We felt this left little prospect of reaching a satisfactory agreement in the time available. There was also some reason to doubt that an agreement would fully bite given the patchy take-up of the BTHA-recommended warning in autumn 2007.

Option 3 – Issue a Ministerial Direction (under Regulation 35(2) of the General Product Safety Regulations 2005) to local authorities on how to enforce the requirements using powers already available to them under the GPSR - Rejected

28. Although this option was seen to be effective in implementing a previous Commission Decision, on this occasion we agreed with Lacors that it was not appropriate to the greater risk and the wider range (and greater number) of businesses associated with magnetic toys. It was also felt the absence of a strict liability for distributors under the GPSR would encourage many small non-specialist retailers (not forewarned by local authorities) to delay compliance until told to comply by Trading

Standards.

Option 4 – Make regulations (either separately or via amendment to The Toys (Safety) Regulations 1995)

29. Regulations would make compliance mandatory. Non-compliance would automatically constitute an offence under the CPA. We have considered both amending the Toy (Safety) Regulations 1995 and making standalone regulations. The former course may appeal to the toys sector as this legislation is already familiar to them but we feel the latter would be more appropriate for temporary regulations. This is confirmed as the chosen option.

Benefits and Costs of Options

30. Benefits are hard to identify. There is no obvious saving to the NHS as there is no evidence of related incidents happening in the UK (which we might expect to reduce as a result of our intervention). Although it is reasonable to believe warnings would have some beneficial impact on consumer confidence it is difficult to evidence this in any tangible way as the toy industry reported no adverse impact on Christmas sales.

31. Estimating costs has been hampered by the absence of industry data specific to magnetic toys. Our figures are based on a number of working assumptions.

32. Industry will have had a little over four and a half months notice of the warning requirement (more than the four months assumed at consultation), which should ensure that by 21 July 2008 the majority of magnetic toys on the market will already have redesigned packages or carry labels as a result of producer/importer action. Such costs have not been included in this Impact Assessment as we maintain that they are not a consequence of Government intervention. However, there would be some unrepresented small manufacturers (particularly micro, craft and occasional manufacturers) who would not know about the requirement and it is right that we include the cost of their compliance, which would probably be triggered by local authority intervention.

33. We have assumed that small to medium size retailers will have to do their own re-labelling of non-compliant stock held on 21 July 2008, but also that many will have received labels free of charge from their representative body.

34. All costs would be one-off transition costs.

35. There is very little expectation of costs being passed on to consumers.

The baseline (do nothing)

36. We went to consultation suggesting that if the UK did not implement the Decision it was still very likely that all large and most medium size manufacturers and importers would voluntarily comply with the requirement in respect of stock they still held, as well as over-labelling stock already supplied to some of their large retail customers. The motivation for doing this would be protection of brand image against the backdrop of a fully compliant Europe and/or because some large retailers would require it under 'terms and conditions'. The commercial benefits of producing multiple-language packaging for marketing elsewhere in Europe would also argue for voluntary compliance. We thought it less likely that small to micro size manufacturers would voluntarily comply. We received no consultation responses challenging these assumptions.

37. Our consultation Impact assessment assumed that many large retailers would voluntarily comply, particularly if they were in a position through terms and conditions to require their suppliers to do the re-labelling work. However, one large retailer responding to the consultation said that it would not comply without Government intervention as it was not usual for this type of requirement to apply to products already on the market. Taking into account counter-balancing comments received from stakeholders we remain of the view that the majority of large retailers would voluntarily comply. However, we feel it unlikely that small to medium size retailers would voluntarily comply.

38. Although it is for Trading Standards and ultimately the courts to decide, it is further assumed for the purpose of calculating costs a variety of similar worded warnings already in use will be accepted as meeting the Decision's requirements.

39. Lacors would have to instruct local authorities on how they should take into account the European requirement when assessing product safety. It is likely that local authorities would undertake some awareness-raising activities, such as writing to or visiting toy retailers.

Option 2 – Reach agreement with the toys industry on self-regulation

i) Benefits

40. This option could have a positive impact on **consumer** confidence compared to doing nothing but would still leave many consumers concerned, particularly those who saw the Channel 4 programme 'Dispatches' (shown in November 2007) which reported finding little evidence of compliance with the British Toy and Hobby Association recommendation to its members to include warnings on magnets.

41. An industry agreement would encourage more micro to medium size **producers** to comply with the warning requirement.
42. Represented micro to medium size retailers would similarly be encouraged to comply. However, the timing of compliance, for most retailers, would likely be driven more by convenience than by an agreed deadline.
43. This option would require a significant **public sector** exercise with BERR needing to identify and negotiate with key businesses and representative bodies. There would then be an ongoing requirement to monitor the effectiveness of the agreement which would need to involve Trading Standards. Trading Standards would also need to ensure that all relevant local businesses knew about the agreement.

ii) Costs

44. There would be no significant costs additional to baseline for medium and large size **Producers**. Generally, the cost of redesigning packaging should be negligible. We would expect to see 5-10 micro manufacturers spend between £100-£150 each on producing and attaching labels, giving a national cost in the range £500-£1,500. Medium size importers might face costs of £1,000-£2,000 per product in respect of handling container consignments. However, given the effective four and a half month notice period (half a month more than was assumed for the consultation Impact Assessment) we would not expect this to happen often and would not expect costs to exceed £15,000 nationally. We suggest that compared to baseline the additional national costs for producers would be in the region £25,000 (down from the £30,000 estimated at consultation).
45. It is likely that all the 1,000+ micro to medium size **retail** outlets (including department stores) would have to attach labels themselves to the non-compliant stock they hold (at an equivalent staff time cost of £10 per retailer), though it is assumed many would receive sticky labels free of charge from their representative body as well as advice on what toys needed to be labelled. Unrepresented retailers would face the additional cost of producing their own labels and seeking advice from suppliers concerning products to be labelled, which together might amount to an additional cost in the range £20-£50 per retailer. One consultation response suggested we should assume some large retailer costs compared with baseline. On reflection, and taking into account the slightly longer notice period, we feel the national cost estimate (equivalent to the staff time needed to attach labels) would fall in the range £65,000-£115,000.

46. There could be additional costs for the **public sector**. Trading Standards would need to be involved in monitoring the effectiveness of the agreement but we have been unable to obtain any data that would indicate an additional cost. It is more likely than not that related Trading Standards activity would be provided for by other work temporarily giving way. There would be an impact on BERR staff resource in establishing contact with appropriate businesses and then negotiating the agreement.

Option 3 - Issue a Ministerial Direction (under Regulation 35(2) of the General Product Safety Regulations 2005) to local authorities on how to enforce the requirements using powers already available to them under the GPSR

i) Benefits

47. This option would have a positive impact on **consumer** confidence.
48. Although not a regulatory measure many **producers** would nevertheless see this option as giving the requirements a legal context, which should make decision-making (and compliance) easier for them. BERR and local authorities would have to ensure that all businesses known to be active in the toys supply chain were made aware of the requirements and that non-compliance would invite enforcement action under the GPSR.
49. The legal context given to this option should also encourage **distributor/retailer** compliance.
50. This option would provide a good basis for Trading Standards to take action if goods were found to be non-compliant. However, the disadvantage would be that in the absence of a strict liability on distributors under the GPSR not to supply non-compliant goods, no offence would be committed unless Trading Standards could not prove *mens rea* (guilty mind or intention). This would not be a problem with specialist toy and large retailers who would have been forewarned of the requirement by Trading Standards, but many small non-specialist retailers will not have had this communication and there may be a temptation to delay compliance until visited by Trading Standards.

ii) Costs

51. The cost for **producers** and **distributors/retailers** would be the same as that indicated for Option 2.
52. There would be no significant cost for central government. The local authority situation would be similar to that described for Option 2.

Option 4 - Make regulations (either separately or via amendment to The Toys (Safety) Regulations 1995)

i) Benefits

53. This option would have a positive impact on **consumer** confidence.
54. Having a specific legal requirement would maximise encouragement to **producers** and to **distributors/retailers** to comply.
55. There would be no impact on central government. Having a specific legal requirement would place the burden of proof more on to businesses which should relieve some of the pressure on local authority resources and make for more consistent enforcement.

ii) Costs

56. The cost for **producers** and **distributors/retailers** would be the same as that identified for Option 2.
57. There would be no costs for central government. Local authorities would expect to do some market surveillance focused on the requirements and we will consult further with them about this.

Small Firms Impact test

58. Given the assumption that large businesses would incur the cost of compliance voluntarily under the ‘do nothing’ baseline, and that many small to medium size businesses would not, the conclusion must be that most of the additional cost burden resulting from any of the three implementation options would fall on SMEs, and mostly on small retailers.
59. Our assumptions concerning SMEs were heavily influenced by our meeting and on-going correspondence with the four main toy representative bodies (the BTHA, British Toymakers Guild, Toy Retailers Association and the Toy Importers Association). All of these bodies have a large SME membership.
60. Given the notice period of over four and a half months, and the very small number of small businesses who produce toys containing magnets (and the very small volumes involved), the impact on small producers from these requirements would be insignificant. Costs for those few micro producers who would be affected (no more than 5-10 businesses) should be little more than £100. However, some of this we might expect to be offset by, for example, representative bodies making suitable sticky warning labels available to their members free of charge. Costs for medium sized producers (and particularly importers) might rise to £1,000-£2,000 per product depending on levels of stock held, but we do not expect these costs to greatly exceed £15,000 nationally. When taking into account our estimate of costs for small retailers, who represent the vast majority of retail outlets, we estimate the overall national cost for small businesses to be in the range £75,000-£125,000.

Competition Assessment

61. There would be no impact on competition from full compliance with the requirements. Costs would typically be proportionate to the size of business and are not considered by stakeholders to be unduly burdensome. No one sector, size or type of business would be at a disadvantage compared to other businesses.

Enforcement

62. Regulations implementing the Commission Decision would be enforced by local authority Trading Standards. As part of the ongoing policy development process, the Department will consult with the local authorities to determine whether there are likely to be an impacts not hitherto identified.

Legal Aid

63. There is no impact.

Sustainable Development

64. There is no impact.

Carbon Assessment

65. There is no impact.

Other Environment

66. There is no impact.

Health Impact Assessment

67. There is no impact.

Race, Disability and Gender Equality

68. After initial screening as to the potential impact of this regulation on race, disability and gender equality it has been decided that there will not be a major impact upon minority groups in terms of numbers affected or the seriousness of the likely impact, or both.

Human Rights

69. There is no impact.

Rural Proofing

70. There is no impact.

Contact Point

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Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

	Yes	No
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Annexes

The Magnetic Toys (Safety) Regulations 2008

Transposition Note for Commission Decision on Magnetic Toys

This Transposition Table shows how the Department has implemented *Commission Decision of 21/IV/2008 requiring Member States to ensure that magnetic toys placed or made available on the market display a warning about the health and safety risks they pose* (OJ L114, 26.4.2008, p. 90).

The Department for Business, Enterprise and Regulatory Reform has lead responsibility for implementing the Decision. The table below shows how the Decision has been implemented.

The Regulations do no more than is necessary to implement the Decision.

Article	Objective	Implementation	Responsibility
2.1	Requires Member States to ensure that a warning advising of the dangers presented by magnets when swallowed or inhaled is displayed on magnetic toys (as defined) or their packaging.	This has been implemented by Regulation 3(1) of the Magnetic Toys (Safety) Regulations 2008.	Secretary of State
2.2	Requires that the warning is legible and clearly visible to the consumer at the point of purchase.	This has been implemented by Regulation 3(2) of the Magnetic Toys (Safety) Regulations 2008.	Secretary of State
2.3	Requires the warning to be in the official language of the Member State in which the product is placed or made available on the market.	This has been implemented by Regulation 3(1) of the Magnetic Toys (Safety) Regulations 2008.	Secretary of State
3.1	Requires Member States to ensure that magnetic toys are prohibited from being placed or made available on the market unless they display the required warning.	This has been implemented by Regulation 3 of the Magnetic Toys (Safety) Regulations 2008.	Secretary of State
3.2	Requires Member States to ensure that magnetic toys are withdrawn from the market if they do not display the required warning, and that consumers are adequately informed of the risk.	This is implemented by sections 13 and 14 of the Consumer Protection Act 1987.	Secretary of State