

## **Observations by the European Sunlight Association on the notification to the European Commission of the Draft Royal Decree defining the conditions for the operation of tanning salons in Belgium**

The European Sunlight Association (ESA), representing national indoor tanning associations and leading manufacturers of indoor tanning equipment in Europe, takes note of the notification and hereby submits its comments to it.

ESA has always actively engaged with EU policy-makers to define and implement common operating standards in sunbed services across Europe, ensuring the highest possible level of safety. As a continuation of this engagement, we deem it important to highlight some legal problems and issues created by the Belgian decree 2017 0209. In fact, several elements create barriers to trade.

- 1. Article 18, paragraph 5, sets a barrier to trade.** It states that tanning beds “shall be automatically disabled when the manufacturer’s technical instructions indicate that the ultraviolet lamps or other parts need to be replaced”. This would necessitate that the tanning bed and the control system exchange technical data on the device, a feature which is not available in existing tanning beds. As the provision creates an additional technical requirement not covered by the existing product standard EN60335-2-27, manufacturers would be forced to create a specific Belgian version of their tanning devices. This is a clear trade barrier limiting the freedom of movement of goods and an obstacle to the single European market for sunbeds.
- 2. Article 18, paragraph 6, sets a barrier to trade.** It states that the “tanning bed shall be automatically disabled in case of any malfunction”. As argued above, additional technical requirements not covered by the existing product standard EN60335-2-27 would force manufacturers to produce a specific version of their tanning devices, thus hindering the freedom of movement of goods. Furthermore, as the word “malfunction” is not defined, this vague provision would be hard to implement in practice. Would a mechanical problem preventing the lid from closing properly but not affecting the irradiance be considered a malfunction? Or a ripped plastic cover that may be irrelevant whilst the sunbed is in operation but could incommode the user when opening or closing the device. Such problems surely ought to be repaired. However, devices may not be able to automatically detect such “malfunctions” and switch off automatically.

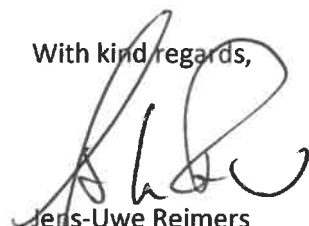
3. **Article 18, paragraph 2, sets a barrier to trade and is not fact-based.** According to the article, “the intensity and duration of exposure are controlled automatically based on the consumer’s skin type after reading the personal means of identification and taking account of the features of the tanning bed and the lamps used”. However, the standard EN60335-2-27 does not require adapting the intensity and irradiation duration to skin types, since this is not a valid criterion to determine the appropriate exposure to UV light. The standard already states that people with skin type I – the most sensitive one – should not use tanning devices. On the other hand, darker skin types (II, III, IV) are all approved for tanning. Finally, manufacturers would need to adapt tanning devices to the Belgian market, as the decree requires their products to be able to change irradiation according to the skin type of the customer. This additional technical requirement, once again, constitutes a barrier to trade.

In conclusion, we would like to highlight that ESA stands for harmonised solutions at EU level. This is why we regret that the European standard EN 60335-2-27 limiting UV radiation to 0.3W/m<sup>2</sup> and the new European Standard on training and service provision (EN 16489) have not been taken into account in the elaboration of the decree. These standards have been created through a process of close collaboration between the EU, the national Market surveillance authorities, ESA, and CENELEC, and they already provide for the necessary measures to ensure the safety of consumers and regulate the industry.

We hope that the European Commission will take account of the arguments we set out in this letter. ESA stands ready to further collaborate with the European Commission and the Federal Government of Belgium to ensure that tanning facilities respect applicable regulations and are safe.

*Brussels, 11/07/2017*

With kind regards,



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Chairman of ESA