# The Cost of Compliance - Unlevel Playing Field in the EU

2025



### **Table of Content**

### SH

#### 1 | Background

- 1.1 Background and Summary
- 1.2 Methodology

#### 2 | Current state

- 2.1 Retailers Facing Compliance Challenges
- 2.2 Costly compliance Gap between EU-retailers and 3rd country online marketplaces
- 2.3 Costly Compliance Process for EU retailers
- 2.4 Advantages For Non Compliant Third-Country Online Marketplaces
- 2.5 Caught Between Compliance and Competitiveness

#### 3 | Long term risks

- 3.1 Rising Compliance Costs In A Changing Regulatory Landscape
- 3.2 Long Term Risks Of Unlevel Playing Field
- 3.3 Stifled Growth of Small and Medium-sized Businesses
- 3.4 Non-Compliant Products Put Consumers At Risk

#### 4 | Conclusions

4.1 Summary Retailers' Key Request to Ensure A Fair Market

#### **Appendix**

#### **Ensuring Level Playing Field And Robust Consumer Protection**

The European retail industry is facing significant challenges from inadequate legislation and unfair competition. Dangerous, non-compliant products continue to enter the market, threatening consumer safety and distorting competition. Retailers call for urgent reforms to create a level playing field and secure a sustainable future.

In today's globalized marketplace, the rules governing trade and competition have never been more critical. Yet, the current legislative framework is proving insufficient to safeguard the integrity of European retail. Despite stringent regulations within the EU, dangerous products continue to enter our markets—products that lack traceability, fail to meet safety standards, and often contain hazardous substances. The presence of these non-compliant goods poses serious risks not only to consumer safety but also to the long-term sustainability of the retail industry.

For retailers, the consequences are profound. Compliant businesses face increasing costs to adhere to rigorous regulations, only to find themselves undercut by actors from third countries who exploit loopholes or ignore these rules entirely. This distorted competition jeopardizes the growth of small and medium-sized enterprises, undermines trust in the second-hand market, and disrupts efforts to create a truly circular economy in addition to the threats towards consumer safety.

To secure the future of European retail, legislators must strengthen enforcement, harmonize legal frameworks, and ensure that rules are both clear and consistently applied. Only through decisive action can we build a fair and sustainable market that benefits businesses, consumers, and the environment alike.

Sofia Larsen, CEO Swedish Commerce



## 1 | Background

### 1.1 Background and Summary

The current EU legislative framework fails to adequately address the role of online marketplaces in facilitating the sale of goods from third-country sellers. While traditional importers have to make sure they comply with EU product safety and environmental standards before they are placed on the market, online marketplaces are not categorized as economic operators and are largely exempt from these responsibilities. This regulatory gap leaves consumers as the de facto importers, undermining decades of EU consumer protection and environmental regulation.

This loophole exists because product safety and environmental legislation have not adapted to the realities of digital commerce. Key terms such as "importer," "placed on the market," and "economic operator" have retained definitions that predate the rise of online marketplaces, excluding platforms like Temu and Shein from the responsibilities traditionally associated with commercial importers.

Swedish Commerce has conducted interviews with representatives from the apparel and shoes, toys, cosmetics, and electronics industries to demonstrate the consequences of the unlevel playing field. These interviews highlight how distorted competition negatively affects individual businesses while also hindering the overall growth and sustainability transformation of the retail sector.

The consequences of this regulatory inadequacy are:

- 1. Consumer Risks: Non-compliant products—ranging from toys and cosmetics to electronics—are often unsafe, containing hazardous substances or being poorly constructed. These products pose direct risks to health and safety.
- 2. Unlevel Playing Field: European companies, which must comply with stringent product safety and environmental regulations, face unfair competition from online marketplaces that bypass these obligations. This undermines their efficiency and competitiveness, particularly on the global stage.
- 3. Undermining the Green Transition: By failing to integrate online marketplaces into the supply chain as economic operators, a significant portion of products and packaging entering the EU are excluded from environmental regulations. This weakens the EU's efforts to achieve the ambitious goals of the Green Deal and transition to a circular and sustainable economy.

### 1.2 Methodology

This study follows a qualitative method, with findings based on interviews with Swedish retailers operating in the European market.

Retailers were selected based on size and sector, covering apparel and footwear, toys, home electronics, and beauty. Collectively, the participating companies accounted for a turnover of approximately 6 billion euros (70 billion SEK) from their Swedish operations in 2023.

Nearly 20 interviews were conducted from December 2024 to January 2025 with retailers in the mentioned sectors. The participants either manufactured products under their own label and distributed them, or solely distributed products from other brands.

The interviewees held roles such as CEO, Purchasing Manager, Sustainability Manager, Quality and Compliance Manager, as well as other key positions related to operations, supply chain management, corporate social responsibility, and regulatory compliance.

While this study is based on a qualitative approach with a limited number of interviews, the conclusions drawn by the interviewees provide meaningful reflections of industry perspectives.

The legal definitions in the report have been sourced from the European Commission's official website.

#### About the report:

This report is produced by HUI Research on behalf of Swedish Commerce.



### 2 | Current State

### 2.1 Retailers Facing Compliance Challenges



#### • The European Green Deal initiative impacts retailers

The European Green Deal significantly impacts the retail sector, leading retail companies to adapt their operations to comply with new and updated regulations. Swedish and European companies are already at the forefront of sustainable efforts, and proactive adaptation to forthcoming laws can provide a competitive edge. However, retailers pose challenges with legal implementation due to the extensive number of regulations being introduced simultaneously in different fields.

- For example, new product regulations addressing product safety, waste management, due diligence, and eco-design are coming into effect, alongside the enforcement of updated regulations. These changes expand retailers' responsibilities within the product value chain, extending their obligations to the entire product lifecycle.
- Existing product regulations adequately address the European retail sector
  Retailers in the cosmetics, electronics, toys, apparel and footwear industries find current
  product safety regulations to adequately address their industry. Those regulations cover
  The Regulation on the Registration, Evaluation, Authorisation and Restriction of
  Chemicals (REACH), Restriction of Hazardous Substances in Electrical and Electronic
  Equipment (RoHS), and General Product Safety Regulations (GPSR), which set strict
  requirements for chemical safety, restrictions on hazardous substances, and general
  product safety to ensure that goods placed on the market are safe for consumers and the
  environment.
- Regulations that will be enforced within the product area in the next five years include the
  Corporate Sustainability Due Diligence Directive (CS3D), the Eco-design for Sustainable
  Products Regulation (ESPR), and the Digital Product Passport (DPP), aimed at
  increasing transparency, sustainability, and circularity across mentioned industries.

### Overview Of Product Regulations Impacting Retail 2024-2030



## 2.2 Costly Compliance Gap Between EU-retailers And 3rd Country Online Marketplaces

#### Identified compliance gap challenging a green transition in the EU

Swedish retailers find current product safety legislations to be highly adequate for them (4,1 on a scale from 1 to 5). However, they point to the fact that the legislation is inadequate when it comes to third-country online marketplaces (1,3 on a scale from 1 to 5), as presented in the graph to the right.

Although regulations such as the GPSR apply to online marketplaces in third countries, regulatory authorities are not able to oversee all shipments and prevent unsafe products from entering the market due to high order volumes.

Online platforms are primarily responsible for removing products only after authorities detect an issue, a process that often takes a considerable amount of time. During this period, there is a risk that non-compliant products may flood the European market, posing a threat to the green transition.

#### An unlevel playing field in the European retail market

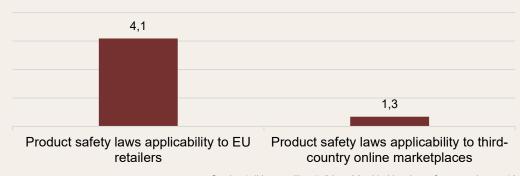
Swedish retailers are positive towards current product safety legislation, though it falls short in addressing all companies equally. Adhering to these regulations requires substantial resources, a responsibility that online marketplaces are not obligated to bear. This creates an unlevelled playing field and unsustainable situation for compliant retailers, as they compete under unequal terms.

#### Compliance requirements significantly impacts the retail price

Many retailers believe their prices could be **reduced with at least 40 percent** if they were exempt from compliance responsibilities. Retailers in the apparel, toys, electronics, and beauty sectors claim that fewer resources would be required to provide products without the need for compliance, reducing the cost of production, transportation, markups, potential tariffs and taxes. This apparent price difference between compliant and non-compliant companies address the significant advantage third-country online marketplaces have currently.

#### Compliance gap with current product safety legislations

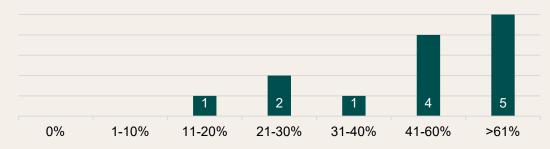
Average rating (1-5) of EU legislation applicability to EU retailers and 3<sup>rd</sup> country online marketplaces



Scale: 1 (Not at all) – 5 (Very Much). Number of respondents: 16

#### Retail Price Reduction if Compliance was Disregarded

How much less the retail price would be if retailers disregarded compliance, in %



Number of respondents: 13

### 2.3 Costly Compliance Process for EU retailers



#### Compliance costly for retailers

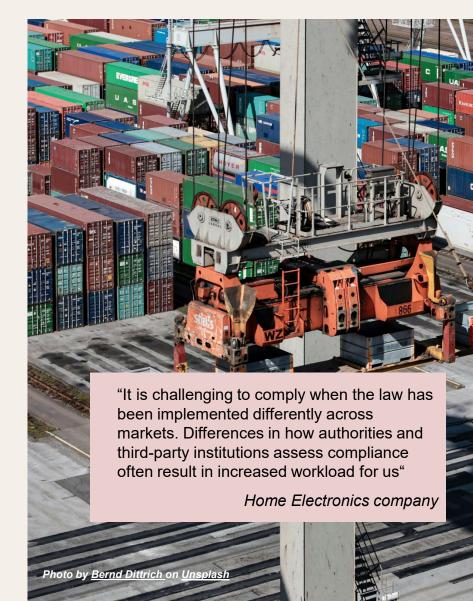
Existing product legislations require companies to ensure product safety before placing products on the EU market. This process is costly, as companies face costs at various stages of the value chain. Companies are responsible for testing materials and products for hazardous substances and maintaining documentation for supervising authorities. Additionally, the national implementation of EU directives means that laws can vary between member states, requiring companies to comply with country-specific regulations. For instance, electronic products are subject to specific taxation in Sweden.

Retailers find that over-implementation of laws in member states is highly resource-demanding. National implementation adds complexity, making it more difficult for companies to adhere to regulations, and forcing European businesses to allocate significant resources to ensure compliance. Added costs are anticipated, as new and more comprehensive laws will be enforced in the coming years. These laws will extend European companies' responsibilities across the entire product lifecycle, likely increasing the cost of compliance.

#### Compliance costs anticipated to grow with extended legal responsibilities

Stages where compliance cost may arise in the product value chain and lifecycle





## 2.4 Advantages For Non-Compliant 3rd Country Online Marketplaces



#### 1. Lower Costs of Raw marketplaces Products:

By working with suppliers that disregard product safety requirements, these marketplaces can source raw materials and finished goods at substantially lower prices. This enables them to offer products at prices that compliant businesses cannot match.

#### 2. No Production Controls or Testing:

Non-compliant suppliers are not required to conduct the rigorous controls or testing mandated under EU product safety regulations. This saves both time and money, eliminating quality assurance processes that are standard for compliant businesses.

#### 3. No Labelling or Certification Requirements:

Products sold through these platforms often lack the legally required labelling, certifications, or documentation. This further reduces production costs and speeds up the supply chain by avoiding administrative and compliance-related delays.

#### 4. Avoidance of Customs Duties and Local Taxes:

Many non-compliant actors avoid paying customs duties, VAT, and other local taxes, further lowering their operational costs. This places compliant retailers, who must meet these obligations, at a significant disadvantage.

#### 5. Faster Time to Market:

With fewer regulatory requirements and no need for product safety or environmental compliance checks, these marketplaces can react much faster to consumer trends. Shorter lead times allow them to introduce new products to the market quickly, gaining an edge over compliant competitors.

#### 6. Frequent Use of Air Freight:

3<sup>rd</sup> country online market-places rely heavily on air-freight for fast delivery. This contrasts with compliant companies that invest in more sustainable shipping methods, such as sea freight. The vast volumes of packages from chines online marketplaces has sent air freight costs through the roof, as confirmed by several news sources (Reuters, Forbes, WSJ).

#### 7. No Consumer Protection or Accountability:

These marketplaces assume no responsibility for the safety of their products, shifting all risks to consumers. Without obligations for testing, traceability, or supply chain transparency, they avoid the costs associated with ensuring consumer safety and legal compliance.

In addition to frustration over non-compliancy there is a growing concern about the rise of fraud and counterfeits especially in apparel, shoes and cosmetics.

#### 8. Fraud, Counterfeit and Disregard for Intellectual Property Rights:

Many of these marketplaces fail to address intellectual property issues, such as trademark infringement, design rights, and patent violations. Counterfeit products or unlicensed replicas are sold, often without repercussions, undermining legitimate businesses.

"Our products have a relatively low safety risk, but the new legislations affect us and bring an administrative burden and increased compliance costs. We take our responsibility, but to create a fair playing field, it is important to make sure that all businesses that sell or distribute products to consumers in the EU are compliant, regardless of their business model."

Apparel and Footwear company

"They can offer lower prices and catch up with the latest trends quicker."

Home Electronics company

"They have lower costs in production and are not required to pay shipping fees when they export cheap products directly to consumers" Home Electronics company

"We have discovered that they copy our products and sell them for only a tenth of the price. They often don't comply with intellectual property regulations either."

Cosmetics company

## 2.5 Caught Between Compliance and Competitiveness

#### Third-country online marketplaces compete with retailers on unequal terms

Retailers find it increasingly difficult to compete with companies that do not have to comply with the same regulations. As some third-country online marketplaces offer products at an ultra-low price point, what once was considered low-price is now positioned as medium or premium segment. It becomes impossible to compete with ultra low prices while remaining compliant with current regulations.

#### Short-term survival versus long-term sustainability

The current market landscape has forced retailers to adjust marketing strategies in response to competition from third-country online marketplaces. As these entities dominate social media marketing and search engine marketing (SEM), it has become increasingly expensive and challenging for retailers to achieve visibility. Retailers have noticed their brand names being purchased in search engines, directing consumers to third-country online marketplaces instead. Moreover, they provide misleading information, pressure into hasty purchase decisions and makes it difficult for consumers to file complaints and ask questions. This marketing strategy could potentially violate consumer rights legislation and maliciously compromise the principles of a free market economy.

Retailers across all industries face a growing threat. If the ultra-low price shift continues, retailers believe they will be forced to compromise with compliance to survive. This creates a paradox: efforts to meet sustainability goals are undermined by the necessity to cut corners in areas such as product safety and environmental responsibility. Instead of making progress, retailers' risk being locked in a cycle where short-term survival comes at the expense of long-term sustainability ambitions.

"We have placed greater emphasis on the advantages of being a retailer with physical stores and real people. Customers can contact us, and we are available when needed. This is something we highlight more than price, as our pricing structure is entirely different than theirs."

Home electronics company

"We have received criticism from customers for charging freight costs. Consumers are becoming accustomed to ultra-low prices and free shipping, which adds to the pressure of staying competitive in this environment, although on unfair terms."

Apparel and Footwear company



### 3 | Long-Term Risks

## 3.1 Rising Compliance Costs In A Changing Regulatory Landscape

#### European retailers positive towards second-hand legislations

Although Swedish retailers anticipate higher compliance costs due to new legislations coming into effect, which will add to the administrative burden, they believe that these policies are essential for ensuring safe products in the EU.

They all agree that transitioning towards greener practices is crucial, and safe products should become the standard for consumers. However, they recognize that the current playing field risks becoming more unlevelled as their compliance requirements increase, while the advantages of non-compliant online marketplaces remains.

#### **Growing compliance requirements demand investments**

Retailers strongly emphasise the need for clear guidance on how to navigate and interpret the new regulations, as they may require significant investments and implementation of new work processes. Many retailers who have started investing in data systems have encountered interoperability challenges, making it difficult to efficiently track compliance data across multiple platforms. Retailers have also found it challenging to gather detailed information about the origin of raw materials and other specific parameters.

#### Increasing threat to circular initiatives

Companies that have implemented circular services, such as second-hand sales, aim to continue these efforts to meet growing consumer demand. Consumers are increasingly selling goods they no longer want, making scaling second-hand initiatives more relevant. However, logistical and financial limitations hinder companies from scaling quickly. <sup>1</sup>

Another threat to the success of second-hand platforms is the infiltration of unsafe products in EU. When items lacking traceability and containing hazardous substances circulate on the second-hand market, they compromise consumer safety and contaminate recycling and waste management streams. This hinders environmental efforts and undermines circular models.

"We support competition, but the market conditions need to be fair"

Home electronics company

"ESPR will probably be the most financially demanding for us, covering many different legislations. We expect to invest in internal systems, implement digital solutions and assess our supplier's capacity to meet the needs driven by ESPR"

Apparel and Footwear company

"We think that legal requirements are necessary, and we welcome them. However, we want everyone to follow them, which is not the case today."

Home electronics company

### 3.2 Long Term Risks Of Unlevel Playing Field



While current product safety legislation and initiatives as the Green Deal aim to promote sustainability, fair practices and consumer safety they create unintended consequences. These challenges give rise to several long-term consequences:

- 1. Unsafe products entering the market: Weak enforcement and insufficient controls allow unsafe products that fail to meet EU standards to enter the market. These products pose serious risks to consumer safety, particularly in categories such as toys, electronics, and cosmetics, where non-compliance can lead to direct harm.
- 2. Price dumping and competitive imbalance: Non-compliant actors from third countries can offer ultra-cheap products, forcing European retailers into a premium position. This dynamic drives low-cost European players out of the market, leaving low-income consumers with few alternatives other than potentially unsafe products from third countries. These unsafe goods may carry risks not covered by insurance, posing both financial and safety hazards.
- 3. Stifled growth of small and medium-sized businesses: Excessive regulatory requirements, coupled with uneven enforcement globally, disproportionately affect smaller retailers, limiting their ability to scale and compete effectively.
- **4. Limited cross-market expansion**: The lack of harmonization in regulatory frameworks between different European countries complicates retailers' efforts to establish a presence in new markets.
- **Destruction of the Second-Hand Market**: The second-hand market is severely undermined when products that lack traceability and contain hazardous substances enter circulation. These non-compliant products not only compromise consumer safety but also contaminate recycling and waste management streams, threatening the integrity of both the circular economy and environmental efforts.
- **Race to the Bottom:** Inadequate control and enforcement, coupled with distorted competition, are eroding the effectiveness of existing legislation. This creates a serious risk of a race to the bottom, where market leaders committed to compliance are pressured to lower their standards to compete with actors who entirely disregard regulations. Such a development stands in direct opposition to the goals and ambitions of the Green Deal, which seeks to foster sustainability, fairness, and accountability across markets.
- 7. Fraud, Counterfeits And The Burden of Compliant Brands: In the wake of actors disregarding product safety and sustainability legislation, other illegal activities also emerge, such as counterfeit products and outright fraud. This creates an additional burden as consumers often turn to the brands they believe they purchased from to seek compensation or file complaints, further complicating the situation for compliant businesses.

## 3.3 Stifled Growth of Small and Medium-sized Enterprises

#### Challenging times for the Swedish retail industry

The Swedish retail sector have faced challenging economic conditions in recent years. In 2024, 967 companies in the Swedish retail sector filed for bankruptcy, which highlights the pressure in the retail market. 

<sup>1</sup> In addition to this, the increasing competition from non-compliant companies pose a threat, as 1 out of 3 companies report that competition from third-country marketplaces have impacted their sales in 2024. 

Since Temu launched a Swedish website, the volume of international packages has increased significantly. 
From January to September 2024, international packages increased by 37,3 percent compared to the same period the previous year. 

<sup>3</sup>

#### Decreased product selection consequences of a growing regulatory burden

As the legal responsibilities continues to grow, the entry barriers for retail companies may become too high. Large and established companies can acquire the necessary resources and competencies to comply with the coming EU legislations, while small and medium-sized enterprises will have a harder time to keep up which could lead to more bankruptcies in the retail sector. This could result in fewer companies in the market, as small and medium-sized enterprises struggle to maintain competitiveness in an unlevel playing field. Those who manage to remain may still face challenges in bringing new products to market, as they would be vulnerable to counterfeiting. Consequently, retailers might limit product selections to manage compliance costs, which could hinder innovation within the industry.

#### Race to the Bottom if Temu and Shein are allowed to continue

If online marketplaces from third-countries continue to operate without adhering to EU regulations, retailers in EU may need to adopt similar strategies to stay competitive. In an evolving regulatory landscape, retailers may only do the bare minimum to be compliant. This can lead to compromised product quality and impact long-term profitability negatively.

"We would not have been able to start our company today with the regulatory burden that exists now."

Cosmetics company

"We have decided to stop the production of children's shoes with batteries due to the increasing costs associated with complying with battery regulations."

Apparel and Footwear company

"Only large companies will have the resources to comply with all new regulations. The midtier segment will disappear. In the long run, that will lead to less competition and a poorer selection of products."

Cosmetics company

## 3.4 Non-Compliant Products Put Consumers At Risk

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#### 71% of Swedes shop at Temu and Shein

Only 15% of consumers believe that Chinese online retailers meet the EU requirements for sustainability. <sup>1</sup> Despite this fact, 71% of Swedes have shopped from Temu or Shein. The majority of consumers shop at Shein and Temu because of the low prices and the wide selection of products. <sup>2</sup> Retailers have observed that price sensitivity and a lack of knowledge among consumers are the main factors why consumers decide to shop at Temu or Shein.

#### The risks of shopping from third-country online marketplaces

Toy retailers are frustrated over the fact that consumers buy toys from Temu even though they claim that they want safe products. In October 2024, Toy Industries of Europe performed product tests on more than 100 toys bought from online marketplaces from third countries. The results showed that 80% of the products were unsafe and did not comply with the safety standards set by the EU. The tested toys could pose serious risks to children, including choking hazards and dangerous chemicals. <sup>3</sup>

One toy retailer stressed that price sensitivity is an important factor and that some parents can only afford to buy toys from Temu, leaving the most vulnerable to face dangerous and unsafe products. Another toy retailer explained that parents often visit their physical stores to complain about faulty and dangerous toys their kids received as gifts, only to discover that these products were purchased from platforms like Shein or Temu. This highlights the fact consumers can be exposed to unsafe products unknowingly when they are received as a gift or bought second hand.

65% of the consumers are not aware of the fact that they become responsible importers when they purchase a product from Temu or Shein. <sup>2</sup> This could have serious consequences when it comes to electrical products. If a mobile charger from Temu catches fire, the consumer is considered the importer and is therefore responsible. This means that the consumer may not be eligible for compensation from their insurance provider.

#### Consumer education is critical, but authorities need to step in and protect consumers

Retailers stress the importance of educating consumers about product safety risks to protect the consumers, but they don't believe that consumer education is enough to stop the increasing number of unsafe products on the market. Consumers cannot drive the transition on their own. Retailers believe that too much blame and responsibility is placed on consumers when they are the ones that need to be protected from these products. It should not be possible to buy unsafe products in Sweden. While raising consumer awareness remains a priority, retailers argue that authorities must take a bigger responsibility.

"Some groups can only afford to buy toys from Temu, leaving the most vulnerable to face dangerous and unsafe products."

Toys company

"When consumers purchase a product, they shouldn't even have to think about whether it contains toxic substances. We fail if we place that responsibility on our consumers. Consumers should be able to expect that companies comply with the rules and laws in place."

Home electronics company



### 4 | Key Requests

## 4.1 Summary Retailers' Key Request to Ensure A Fair Market

Retailers emphasize the critical role of effective legislation in ensuring a fair and well-functioning market. To tackle the challenges posed by regulatory burdens and unfair competition the following is requested:

- 1. Ensure Level Playing Field: Urgently address the legal loophole that currently enables 3<sup>rd</sup> country online market-places to avoid EU product safety and environmental laws without any repercussions.
- 2. Harmonization of Legal Frameworks: Align legislation across different markets and regions to avoid conflicting or contradictory regulations. Retailers need consistency to operate efficiently and expand into new markets without being hindered by varying or overlapping rules.
- **3. Avoid Gold-Plating**: Prevent over-interpretation or over-implementation of EU legislation at the national level. Such "gold plating" creates additional burdens and inconsistencies, putting local retailers at a disadvantage compared to competitors from third countries.
- **4. Improved Monitoring and Enforcement**: Strengthen market surveillance, enforcement, and control mechanisms to ensure that all players—especially those from third countries—comply with the same standards. This will help eliminate unfair competition from non-compliant actors and protect both retailers and consumers.
- **5. Implementation Guidelines**: Provide clear, actionable, and timely implementation guidelines well in advance of new regulations coming into effect. Last-minute or vague instructions create uncertainty and additional costs for retailers striving to comply.
- **6. Interoperability**: Facilitate so that systems across regions and markets are interoperable, enabling seamless tracking, reporting, and compliance. Without unified systems, retailers face inefficiencies, increased costs, and difficulties in meeting regulatory requirements.

"What becomes very resourceintensive is when directives are issued that need to be implemented in different ways within the EU. Harmonize the laws at the EU level so that it becomes easier to follow regulations in different countries."

Apparel and Footwear company

"Good examples and guidelines on how to comply with the laws are needed. It must be easy to do the right thing."

Home electronics company



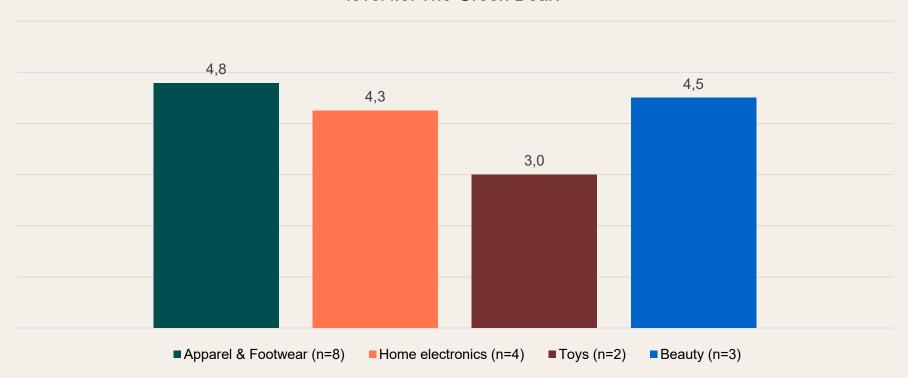
## **Appendix**

## Appendix I. High Familiarity with EU regulations and Regulatory developments



Average rating (1-5) of retailers' familiarity with regulatory developments on EU level, by retail industry

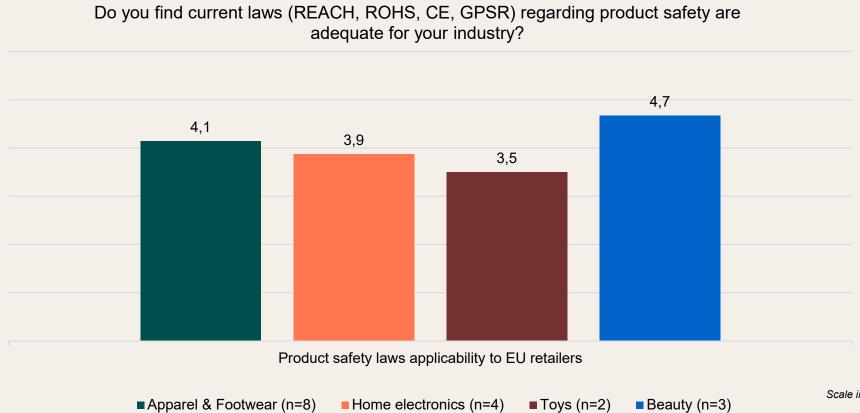
How familiar are your company with regulations and regulatory developments on EU level i.e. The Green Deal?



## Appendix II. Current Product Safety Legislation Applicability to Retailers



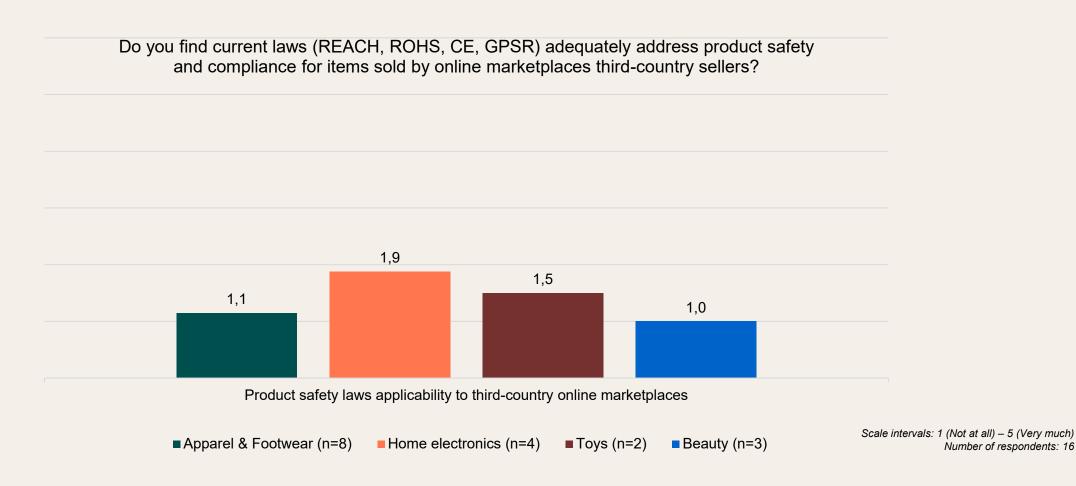
Average rating (1-5) of EU legislation applicability to EU retailers, by retail industry



## Appendix III. Current Product Safety Legislation Applicability to 3<sup>rd</sup> Country Online marketplaces



Average rating (1-5) of EU legislation applicability to 3<sup>rd</sup> country online marketplaces, by retail industry



## Appendix IIII. Retail price difference Compliant and Non-Compliant companies



How much less the retail price would be if retailers disregarded compliance, in %

How much less would the retail price be if your products were not compliant with EU product safety requirements?



## Appendix V. Reduced Competitiveness due to Unlevel Playing Field



Average rating (1-5) on the Unlevel Playing Field's impact on EU retailers' competitiveness against 3<sup>rd</sup> country online marketplaces, by retail industry

Has the fact that third country sellers not have to comply with current product safety laws affected your ability to compete with third-country online marketplaces?

