COMMISSION DECISION

of 30 July 2001

on the publication of the reference of standard EN 71-1: 1998 'Safety of toys — Part 1: Mechanical and physical properties', Clause 4.20(d) in accordance with Council Directive 88/378/EEC

(notified under document number C(2001) 1905)

(Text with EEA relevance)

(2001/579/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 88/378/EEC of 3 May 1988 on the approximation of the laws of the Member States concerning the safety of toys [1], as amended by Directive 93/68/EEC [2], and in particular Article 6(1) thereof,

Having regard to the opinion of the Standing Committee established by Article 5 of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations [3], as amended by Directive 98/48/EC [4],

Whereas:

(1) Article 2 of Directive 88/378/EEC states that toys may be placed on the market only if they do not jeopardise the safety and/or health of users or third parties when they are used in a foreseeable way, bearing in mind the normal behaviour of children.

(2) Under Article 5 of Directive 88/378/EEC, toys are presumed to conform to the essential safety requirements referred to in Article 3 of that Directive if they are declared to be in conformity with the harmonised standards whose references have been published in the *Official Journal of the European Communities*.

(3) Member States are required to publish the references of national standards transposing the harmonised standards.

(4) Pursuant to Article 6 of Directive 88/378/EEC, Germany and Austria sent notifications invoking a safeguard clause concerning Clause 4.20(d) in standard EN 71 'Safety of toys — Part 1: Mechanical and physical properties' — 1998 edition: they did so on the grounds that a peak emission sound pressure level of 140 dB, measured at a distance of 50 cm from the ear, was too high and could damage children's hearing.

(5) The Commission, after examining the information submitted by Germany and Austria and after receiving the opinion of the Standing Committee set up by Directive 98/34/EC, decided on 20 July 1999 to exclude from the publication in the *Official Journal of the European Communities* Clause 4.20(d) of standard EN 71-1: 1998, in respect of which it grants no presumption of conformity with the provisions of Directive 88/378/EEC.

(6) The Commission published a communication [5] in the framework of Directive 88/378/EEC, listing a number of European harmonised standards approved on 15 July 1998 by the European Committee for Standardisation (CEN). That communication includes standard EN 71-1: 1998 concerning the safety of toys, but it excludes the C-weighted peak emission sound pressure level produced by a toy using percussion caps.

(7) The reason for the exclusion was that Clause 4.20(d) of standard EN 71-1: 1998, could not ensure the safety of toys when used in a foreseeable way, bearing in mind the normal behaviour of children, as was required by Article 2 of Directive 88/378/EEC.

(8) Pursuant to standard EN 71-1: 1998, Clause 4.20(d), the C-weighted peak emission sound pressure level, $L_{pc\ peak}$, produced by a toy using percussion caps may not exceed 140 dB: 140 dB at the measurement position corresponds to 150-160 dB at a distance of approximately 2,5 cm. The limit-value of 140 dB remains in force until 31 July 2001, after which date the limit-value is set at 125 dB,

HAS ADOPTED THIS DECISION:

Article 1

The publication in the *Official Journal of the European Communities* of the reference to harmonised standard EN 71 'Safety of toys — Part 1: Mechanical and physical properties', as adopted by the European Committee for Standardisation (CEN) on 15 July 1998 and as shown in the Annex, shall be accompanied by the following information note:

'Clause 4.20(d) of standard EN 71-1: 1998 will allow presumption of conformity to the provisions of Directive 88/378/EEC only as from 1 August 2001. Clause 4.20(d) states that, from that date, the C-weighted peak emission sound pressure level, $L_{pc\ peak}$, produced by a toy using percussion caps, shall not exceed 125 dB, measured as specified in the standard.'

[1] OJ L 187, 16.7.1988, p. 1.
[2] OJ L 220, 30.8.1993, p. 1.
[3] OJ L 204, 21.7.1998, p. 37.
[4] OJ L 217, 5.8.1998, p. 18.
[5] OJ C 340, 27.11.1999, p. 69.

Article 2

Where, pursuant to Article 5(1) of Directive 88/378/EEC, Member States publish the reference of a national standard transposing harmonised standard EN 71-1: 1998, they shall accompany that publication by a note identical to that provided for in Article 1.

Article 3

This Decision shall apply from 1 August 2001.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 30 July 2001.

For the Commission
Frederik BOLKESTEIN
Member of the Commission

ANNEX

Publication of the references of European harmonised standards pursuant to Directive 88/378/EEC

European standardisation body	Reference	Title of the harmonised standard	Year of ratification
CEN [1]	EN 71-1: 1998	Safety of toys Part 1: Mechanical and physical properties	1998

[1] Comité européen de normalisation; www.cenorm.be.

INFORMATION NOTE:

Clause 4.20(d) of standard EN 71-1: 1998 will allow presumption of conformity to the provisions of Directive 88/378/EEC only as from 1 August 2001. Clause 4.20(d) states that, from that date, the C-weighted peak emission sound pressure level, $L_{pc\ peak}$, produced by a toy using percussion caps, shall not exceed 125 dB, measured as specified in the standard.

Note:

— Any information concerning the availability of the standards can be obtained either from the European standardisation organisations or from the national standardisation bodies listed in the Annex to Directive 98/34/EC of the European Parliament and of the Council [1], amended by Directive 98/48/EC [2].

— Publication of the references in the *Official Journal of the European Communities* does not imply that the standards are available in all Community languages.

[1] OJ L 204, 21.7.1998, p. 37.
[2] OJ L 217, 5.8.1998, p. 18.