



**Co-ordination of the Notified Bodies  
NB-TOYS  
under the Safety of Toys Directive 2009/48/EC**

**NB-TOYS/2011/  
32 Rev 1  
12 April 2011**

**Recommendation No. 3 Rev1  
Can EC type examination be carried out in  
case of failure of a safety limit?**

Agreed by:

NB-Toys group on: 10 March 2011

ADCO group on Toy Safety on: 4 April 2011

Expert group on Toy Safety on: 5 April 2011

Available at:

[http://ec.europa.eu/enterprise/sectors/toys/documents/recommendations/index\\_en.htm](http://ec.europa.eu/enterprise/sectors/toys/documents/recommendations/index_en.htm)

Question related to: Relationship between harmonised standards giving presumption of conformity to Directive 2009/48/EC (Article 13) and EC type-examination (Article 19 of the Directive 2009/48/EC).

*Note:*

*Recommendation No. 3 supersedes NB-TOYS/2003/05 issued under the old toy directive 88/378/EEC*

Question regarding Relationship between harmonised standards giving presumption of conformity to Directive 2009/48/EC and EC type-examination:

1. How should a Notified Body proceed when a toy presented for an EC type-examination fails the safety limit required by a harmonised standard?

## Answer to question 1

In principle, if a toy fails a safety limit value required by a harmonised standard, a Notified Body can NOT apply a different limit value, as the safety limit value in a harmonised standard has to be considered as a reference value.

A product that complies with a limit value is presumed to be safe in terms of the safety characteristics covered by this value. This assumption can be made because the risks of a product from its intended and reasonably foreseeable use are taken into account when establishing the limit value.

Non-compliance with limit values does not automatically mean that the product presents a risk.

Circumstances like foreseeable use, accessibility, specific toy characteristics, technical solutions have to be taken into account

In cases where the foreseeable use, accessibility, specific toy characteristics and/or the technical solution is different from those intended in a harmonized standard a Notified Body could apply a different but equivalent limit value after assessing that it satisfies the essential safety requirements of the Directive.

When the Notified Body has only partially applied the harmonised standard, he must justify and document in the test report the measures taken and their adequacy in order to comply with the essential safety requirements of the Directive.