



AUSTRALIAN COMPETITION
& CONSUMER COMMISSION

2018 ACCC Product Safety Priorities

March 2018

ACCC's Product Safety Priorities 2018

Consumers expect the products they purchase to be safe. Each year, the Australian Competition and Consumer Commission (ACCC) identifies priorities to minimise the risks posed by unsafe consumer goods. In 2018, the ACCC's key areas of focus include:



the **compulsory recall of vehicles with Takata airbags**



improving the safety of **quad bikes**



developing strategies to support the voluntary recall of **Infinity electrical cable** and transitioning oversight to New South Wales Fair Trading



preventing children from swallowing **button batteries** from toys and other household products



reducing deaths and injuries of children from unsafe **baby walkers** and unstable furniture and televisions (**toppling furniture**)



ensuring better product safety outcomes for consumers in the **online marketplace**



continuing to review and update current **safety standards and bans**

conducting **surveillance** to ensure businesses are not selling products that are banned or fail to meet safety standards – with a focus on:



- products with interconnected devices (the internet of things) and that are covered by safety standards
- toys
- bunk beds
- prams and strollers
- decorative burners fuelled by alcohol (ethanol burners)
- corded internal window coverings e.g. blinds
- reducing the fire risk of cigarettes



progressing **reforms** to the product safety provisions in the Australian Consumer Law (ACL)

The ACCC also retains capacity to pursue other product safety risks which have the potential to cause serious harm to consumers. The following sections set out how the ACCC prioritises and addresses consumer product risks.

1. Introduction

The Australian product safety system relies on consumers, businesses and agencies working together to maximise the safety of goods. This policy sets out the principles adopted by the ACCC for prioritising and addressing product safety risks.

2. ACCC product safety strategy

The ACCC is an independent Commonwealth statutory authority responsible for enforcing the *Competition and Consumer Act 2010* (CCA) and other legislation to promote competition, consumer protection and the regulation of national infrastructure for the benefit of all Australians.

The ACL, set out in a schedule to the CCA, governs consumer protection and fair trading including the safety of consumer goods. Regulation is a shared responsibility between the ACCC and state and territory regulators (ACL regulators).

The ACCC issues an annual Compliance and Enforcement Policy outlining the ACCC's approach to its enforcement functions under the CCA and other legislation. This document expands on that policy by setting out how the ACCC approaches its product safety role under the ACL.

The ACCC employs three integrated strategies to direct the ACCC's resources so as to have the most impact on product safety risks: identification, prioritisation and management.

Risk identification

To identify product safety hazards and assess the size of the risk, the ACCC collects data from a range of sources, including:

- consumer reports made to the ACCC via the ACCC's Infocentre and webform
- mandatory injury reports made by businesses under section 131 of the ACL
- notice of voluntary recalls by businesses under section 128 of the ACL
- market surveys to identify non-compliant or unsafe products
- active dialogue with other ACL regulators
- networks of consumer, business, government and other organisations including hospitals
- monitoring of media and other publications
- international networks.

Risk prioritisation

The ACCC seeks to target its resources at the most significant product safety risks. Section 3 sets out the prioritisation factors considered by the ACCC.

Risk management

The ACCC addresses product safety risks through its:

- Regulatory function under the ACL. The ACCC is responsible for making recommendations to the Commonwealth Minister on safety standards, bans, compulsory

recalls, safety warning notices and information standards, and for administering voluntary recall notices.

- Compliance and enforcement function under the ACL. The ACCC is responsible for:
 - enforcing ACL provisions prohibiting false or misleading representations which include representations as to the safety of a product
 - promoting compliance with the ACL provisions relating to consumer guarantees and liability of the manufacturer for products with safety defects
 - enforcing the regulatory provisions.
- Work with other Australian regulators. Different government agencies are responsible for regulating the safety of specific types of products such as food, building materials, drugs and therapeutic goods, tobacco and electrical and gas appliances. When a product does not easily fit within the scope of a particular regulator, agencies will work together to find the best way to manage its safety.
- International cooperation. The ACCC works with international counterparts to identify and address emerging product safety risks.

The ACCC's strategy for addressing product safety risks is discussed in more detail in section 4.

3. How the ACCC prioritises consumer product safety risks

In deciding what action to take to minimise the risks posed by unsafe goods, the ACCC uses the following factors to prioritise safety issues:

- there is a high risk to public safety due to the potential number or severity of injuries e.g. where a product is widely available to consumers or may cause death or significant longer term harm
- users are unable to perceive or safeguard against the risk of the product e.g. where it is difficult to detect the safety risk or identify a link between the product and possibility of injury
- the product is targeted at vulnerable users such as children
- users of the product potentially expose other people to the risk of death or injury
- the product is subject to a safety standard, compulsory recall, ban or safety warning under the ACL
- ACCC action is likely to have a broader public benefit e.g. where action is likely to have a broader educative or deterrent effect or the source of harm is likely to become widespread if the ACCC does not intervene.

The ACCC also prioritises product safety risks where there is widespread community concern. For these matters, the ACCC undertakes initial inquiries to assess whether the product meets the priority factors.

In assessing the likelihood and severity of injury, the ACCC relies on reports of past incidents in Australia and overseas.¹ The ACCC also draws on market surveillance and

¹ As set out in the ACCC's Compliance and Enforcement Policy, while the ACCC relies on reports to identify risks, the ACCC is not a complaint handling body.

expert technical advice to identify emerging risks and respond quickly to prevent deaths and injuries.

The ACCC reviews its priorities each year as part of its Compliance and Enforcement Policy. Product safety areas of focus for this year are set out at the front of this policy although projects may need to be adjusted as new issues arise.

4. How the ACCC addresses product safety risks

As outlined in the Compliance and Enforcement Policy, the ACCC draws on a range of strategies including:

- compliance activities such as education and campaigns, industry engagement, research and advocacy, and working with small business to improve product safety awareness
- enforcement action such as administrative resolution, infringement notices, enforceable undertakings and court cases
- market studies
- working with other agencies.

For consumer product safety, the ACCC is also responsible under the ACL for administering voluntary recall notices and making recommendations to the Commonwealth Minister to:

- publish a safety warning notice that a particular product is under investigation or warning of possible risks of a product
- make an information standard requiring particular information to be supplied with the product
- make a safety standard setting out requirements for the product
- make an interim or permanent ban on the product
- require businesses to recall the product.

In performing this work, the ACCC is governed by the principles set out in the Compliance and Enforcement Policy: accountability; transparency; confidentiality; timeliness; proportionality; and fairness.

The appropriate strategy will depend on the particular product safety risk. In developing a strategy to address a product safety risk, the ACCC is guided by the following principles:

- The ACCC's response, including the compliance burden imposed on business, should be proportionate to the product safety risk.
- The ACCC generally uses more interventionist responses such as regulation and court action where lower levels of intervention such as education fail. In particular, the ACCC considers whether the risk is due to lack of information or understanding by a business motivated to 'do the right thing', or deliberate or careless disregard for the safety of consumers. However, a gradually escalating response may not be appropriate where there is a serious and immediate threat to public safety.
- A regulatory response should, in general, avoid pre-empting consumer choice or limiting technological solutions. However, in some cases, the most appropriate option to address a risk will be to ban the product or mandate standards for design or manufacture.

5. Further information

For more information and to remain up to date on product safety issues in Australia, see:

ACCC website www.accc.gov.au or call the ACCC's Infocentre on 1300 302 502

Product Safety Australia website www.productsafety.gov.au

ACCC's annual [Compliance and Enforcement Policy](#)

ACL regulators, [Australian Consumer Law: Compliance and Enforcement: How Regulators Enforce the Australian Consumer Law \(2010\)](#)