

# UK consumer product recall

An independent review

by Lynn Faulds Wood

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# Foreword

My thanks to the Department of Business Innovation & Skills (BIS) for inviting me to chair this Review – it's an honour and a privilege to be asked to conduct an appraisal of an area where I have been a "friendly critic" on and off for 30 years.

First the good news. Over the last two decades government, manufacturers, suppliers and retailers in the UK are to be congratulated on making safety and quality of consumer products a top priority. Our lives have never been safer. Every day we use millions of products which are safe, affordable and enhance our lives.

The professionals charged with protecting us (Trading Standards, Fire Services, Police, Coroners etc are also to be thanked for their contributions to making our lives safer – and also the many consumer organisations and individuals working on our behalf.

But unsafe products still blight too many lives with thousands of unnecessary injuries, accidents, fires and even deaths every year. An overhaul of the consumer product recall system in this country was long overdue.

BIS invited a wide range of stakeholders to be involved in this Review – from manufacturers and retailers to consumer representatives and professional societies. I was not surprised to see that their views ranged from strongly believing the recall system is '*broken*' to '*needs improvement*'. None thought it is working adequately in its present form, to the considerable disadvantage of the UK economy, good business and consumers.

Stakeholders share a strong consensus on what needs to be done. Their replies to official questions and calls for evidence and my own enquiries show the product recall system in the UK is not working as well as it should. Many businesses don't take this issue seriously enough. There is a lack of trust and interest on the part of consumers. Local Councils are increasingly reluctant to prioritise and fund market surveillance. Enforcement authorities struggle to do their jobs. There isn't a widespread culture of information sharing between them and other public bodies.

I believe this Review is timely and could provide the leadership and tools to give business a boost and deliver better consumer protection.

It could also show UK leadership in addressing the failings of the current system across the European Union.

In many ways it was brave of BIS to invite me – a consumer 'champion' & investigative journalist - to chair a Review into product recalls. My initial reaction was to say "No – this is not what I do". But I was convinced by the then Consumer Affairs Minister before the election in May and by BIS officials since, that this is not a review to be kicked into the long grass.

BIS see the present situation on unsafe products as detrimental to good, ethical business and so do I. Increasingly so.

On breakfast TV in the 1980s followed by nearly 10 years presenting the BBC's Watchdog programme, I developed an interest in dangerous, unsafe products through a mailbag of thousands of letters a week. If we featured one story about a child dying in a drop-sided cot or a glass oven door literally exploding in a viewer's kitchen, the next week our mail was full of similar stories.

At that time, manufacturers and suppliers often said "*safety doesn't sell.*" Looking back, it is amazing how many products with serious design flaws found their way into our homes and onto our roads. Indeed "*potential deathtraps*" was how they became known through my BBC work in the 1980s and 90s. And too often that's what they were.

Babies died in their cots, their clothing caught on the protruding knobs for lifting and lowering the sides. Children suffocated in front of their classmates after inhaling a pen top – the solution - a breathable air hole in the top. Others strangled in their sleep, slipping under the railings on bunk beds.

These were products made with unintended consequences, design flaws which cost the manufacturers many millions of pounds in recalls and safety improvements, hazards which could have been avoided with greater knowledge, research and emphasis *on* safety in the first place.

Problems at the time seemed to include a lack of proper risk assessment and in-house testing - people who work for companies often seemed to have a lower index of suspicion than the independent testing houses and university boffins I consulted.

The then Department of Trade & Industry (DTI) had an expert Consumer Safety Unit which regularly invited me to meet manufacturers to help change the culture of the times.

The DTI and Department of Health also funded the Home & Leisure Accident Surveillance System (HASS & LASS - injury databases based in hospital accident departments) where we were able to discover which products might be harming people, especially young children.

The DTI's Consumer Safety Unit was regarded as a helpful resource by manufacturers and suppliers, as was the injury database with the ability to spot avoidable accidents and anticipate problems. In my opinion it was a mistake to stop funding the database in 2002 rather than update it for the 21<sup>st</sup> Century. Every year the insurance industry pays out huge sums on accidents - especially tragic where they involve small children - where the products could be identified or modified to prevent similar accidents in the future. Currently, I know of two catastrophically injured small children who are likely to cost the insurance industry in excess of £30million over their devastated lifetimes for similar accidents involving the same danger.

I would like to suggest, through this Review, how much better it might be to spend money on preventing harm in the first place?

Over the years the UK has been credited with showing leadership in Europe on product safety and British business has justifiably built a reputation for supplying trusted, quality products. The legal framework around recalls is recognised to be robust and well-

constructed. Most of us don't think about potential dangers – until they happen to us or we see alarming reports in the media.

In my view, one particular death – and one coroner's recommendations – became the catalyst for BIS deciding to commission this review. The appliance involved was a well-known brand of fridge freezer which caught fire during the night and killed a 36 year old father of two small children in North London. There had been other fires before and other deaths since concerning the same product. The family believe that the appliance involved should have been recalled before his death. The company had cited 'Commercial confidentiality' and insufficient evidence for a recall, highlighting deficiencies in the recall system which allegedly caused the delay and certainly caused terrible suffering.

Now we have an opportunity both to change the system here and to influence European discussions on improving the General Product Safety Directive ([GPSD](#)), which is currently under review as part of a wider consumer safety and market surveillance package ([The Package](#)).

The recall system also needs to catch up with the way that times have changed. Online sales are predicted to reach £50billion this year. Reportedly most unsafe products – often linked to counterfeiting – come into the country via corner-cutting suppliers and 'rogue' operators. Throughout Europe the emphasis is rightly, in my opinion, on stopping unsafe products from entering the market in the first place. But this gatekeeper role needs to be boosted.

It is not in the main the household name companies which are the problem with unsafe products. Good business is undercut by poorer quality products sourced, assembled, shipped from who knows where, with little chance of being discovered and detained by depleted market surveillance authorities – in this instance Trading Standards Officers.

Suppliers using shielding agencies and fulfilment houses (storing and shipping a wide range of goods to us on behalf of suppliers) are becoming harder to trace and virtually impossible to catch, which is now having a serious effect on the UK economy and good business.

I have considered the product recall system carefully, looking for linkages between the different elements of the system, to see where improvements might be made.

I have tried to be practical, taking into account the government's deregulatory agenda and the austerity conditions in which we find ourselves. But where greater government commitment might seem necessary – both central and local – I have said so.

There is an urgent need to improve the processes involved in dealing with unsafe products and recalls in the UK. My recommendations follow with thanks to all the stakeholders and others who gave their views and wishes to be involved in these improvements, to BIS for being the first government department I can remember to encourage serious development of a better system, and to the people who have spoken out to help prevent the suffering of others from an inadequate system in the future.

**Lynn Faulds Wood**

# Summary of Recommendations

My Recommendations follow the logic of the current system as viewed by stakeholders and other interested parties – with the rationale behind them. The Review covers everyday consumer products – from toys to make up, from domestic appliances to vehicles and the recommendations should be seen in that context:

- 1. There is a need for the creation of an official national product safety agency or 'centre of excellence' to show leadership and coordinate the system, promoting, protecting, informing and empowering business and consumers**

This is my central recommendation, linking to the majority of the others, creating a coherent system which I believe will bring trust and an effective recall system with enhanced safety outcomes. Stakeholders showed a strong consensus for a coordinating agency, with the necessary resources and competence, endorsed by central government.

There are examples of this kind of 'national product safety agency' in other countries; at home there is also the UK's Food Standards Agency. We should learn from these examples when developing this 'centre of excellence'.

- 2. There should be an official trusted website - for business and the public – for everyone - with the central product safety agency its guardian**

Stakeholders called for a new central government-backed website that will offer clear interactive, interrogative up-to-date information about unsafe products and recalls. This again exists in other comparable countries and is a vital ingredient of leadership & gaining the trust of business and consumers. Confusingly at present many websites offer information on recalls in the UK and Europe, some with dubious information and even more dubious advertising.

This is arguably unfair to good business because effective recalls, product changes and improvements, progress with innovation and design, safety issues etc are not reported and not credited to companies which should receive a benefit from behaving properly. Problems are also not removed from websites once solved etc. The official website I am recommending will directly address these issues, with clear government backing and the product safety agency its guardian.

- 3. There is an urgent need to improve funding, training, resources and procedures for Market Surveillance - the enforcement authorities whose job it is to make the system work effectively**

Stakeholders consider the lack of adequate market surveillance to be a major problem in the UK, possibly the biggest problem. Trading Standards are at present the main Market Surveillance Authorities (MSAs) for consumer products. Their job includes preventing unsafe products from entering the country, sampling and removing products already on the market, dealing with recalls, plus offering business advice.

Local Authority Councils, which mainly fund Trading Standards, have suffered austerity cutbacks. Trading Standards have been seriously affected locally, with staffing levels cut by 50%, budgets by 40%, with more cuts to come.

As a result there are few – if any - resources in parts of the country for market surveillance. Some Councils are understandably reluctant to get involved in recalls as, if a supplier goes into liquidation or disappears, local taxes may end up carrying the cost of a recall.

MSAs in third countries (USA, Canada, Australia) have funding from central government – and industry pays towards the cost of recalls.

In the UK MSAs responsible for other activities, like the Health & Safety Executive (HSE) for products used in the workplace, are central government funded and paid for managing recalls.

There is an urgent need to examine - nationally and regionally - how market surveillance of consumer goods should be organised and funded as, at present, the lack of nationally coordinated market surveillance means the UK could be at risk of not fulfilling its EU market surveillance responsibilities.

**4. Alternative funding solutions to improve the recall system should be explored, solutions which could bring enormous benefits to good business and the insurance industry**

I believe we should think creatively about how to fund improvements as outlined in these Recommendations. One model already exists. Data controllers in every business & organisation handling personal data pay a nominal sum (£35) for annual registration & associated benefits to the Information Commissioner's Office. Millions of pounds a year are raised to fund the service which is deemed to be working well across Europe at extremely low cost.

It is surely in the interest of businesses supplying products in the UK to consider funding a similar system, paying a modest fee to bring beneficial improvements to a system which is currently losing them trade? It could also help with the traceability of suppliers of products into the European Union.

I am also exploring with the insurance industry beneficial opportunities for helping to fund part of the system as outlined in Recommendation 7.

**5. Business could lead Europe with more reliable, detailed guidance on product recall (templates, British Standards etc.) – guidance under consideration for the European General Product Safety Directive**

My next recommendation would greatly help business with step-by-step guidance on “*what does good look like*” in a product recall, including clear definitions of “corrective actions” for recalls and checklists, who to contact, again widely requested by stakeholders.

Business often has no need, nor knowledge, of the system until they become involved in a recall. Standards or templates, developed by industry, British Standards Institution (BSI) and other stakeholders, could set out how to assess the safety of a product, how to

conduct a recall, including consideration of levels of risk, conducting a proper risk assessment, life span of products and the documentation required to complete etc.

Language use needs defining too – e.g. terminology like “immediately” and “know” for reporting of recalls should be reviewed as too open to interpretation; also “over-heating” and “thermal event” to describe a ‘fire’, even those involving considerable damage. Manufacturers, retailers, TSOs and fire services state that they regularly do not hear about fires which have caused damage as the result of a consumer product, making tracking unsafe products difficult across the country. Guidance should be national, European and globally facing.

Christel Shaldemose MEP, rapporteur on product safety to the European Parliament, is extremely interested in my guidance suggestion. Current Prosafe guidance in Europe and the International Standard for product recall are useful pointers but more detailed leadership from the UK would be welcomed.

**6. There is an urgent need for a ‘mapping’ of organisations involved in product recall and better data & information sharing to prevent injury, damage and death**

I was surprised to find how little data & information sharing exists between the different professions involved in potentially unsafe consumer products. So my Recommendations include ‘mapping’ better ways of working together.

Where links do exist, they can sometimes be prohibitively expensive in the current climate. Data privacy laws can be inadequately understood and commercial confidentiality a barrier for investigations. Data protection concerns should not prevent the sharing of personal data if needed to avoid injury or death but there is some evidence that – at present – it does.

Interoperability guidance and piloting ways of working together are overdue. There should be a focus on how systems used in different organisations can be made technically compatible, using non-proprietary, standardised data formats.

**7. There is a need to re-introduce a national Injury database with wider benefits beyond providing information & evidence for the recall system**

Good data on injuries and accidents, according to stakeholders, is vital for an effective product recall system – as well as benefiting the wider use of NHS resources and future injury prevention strategies in general.

For recalls it would enable better prioritising of enforcement activities and decision-making for appropriate corrective actions. It would also make it harder for unscrupulous manufacturers and importers to conceal product safety issues.

The UK could show a lead in Europe by creating a state of the art injury database, already thought vital by the US CPSC and other comparable countries.



Any new system would also need to be interoperable with the official website and the information systems of other authorities, as noted in Recommendation 6.

Fresh funding could be explored through the ICO-style suggestion above, plus beneficial funds generated by the insurance industry with possibilities including public liability insurance and/or a 'penny' levy on insurance policies. The Swedish Folksam mutual insurance company is world renowned for having used data on everyday accidents to provide preventative solutions which have benefited people and businesses globally.

Is the British insurance industry missing an opportunity to interrogate its data resources to improve our lives?

**8. There is a need to improve consumer interest and involvement in the recall process – to research evidence-based ways to reach consumers and influence their behaviour**

Consumers' trust in handing over their personal data is low. They worry about how their details will be used and at present they do not see filling in cards for new purchases, nor registering, as a safety bonus which outweighs the possible disadvantages.

In a recent survey 51% of industry professionals said they would not give their personal details, so how can we expect consumers to be more trusting? Once trust is lost, evidence shows it is hard to recover.

There is no magic wand.

The system which I have outlined – led from the top by a national product safety agency – could immediately promote trust. The agency would be charged with examining what works in other countries (like the [US CPSC](#)), and monitor how rapidly changing consumer behaviour can be detrimental to good business. They could implement evidence-based change.

The organisational skills of the people chosen to lead a national product safety agency will be key to improving the system.

## University Challenge?

Lastly, I also recommend tapping into our world class creative talent in Colleges and Universities to benefit both consumers and business. As the Department for **Business, Innovation & Skills**, BIS is well placed to use its collegiate contacts to promote 'University Challenges' to seek creative workable solutions from students of design, media, engineering etc. on some of the problems and issues I've mentioned in this review.

The Challenges could include:

- creating cross department modules on product safety and consumer behaviour
- developing a fire-resistant method of permanently marking products, as called for recently by the North London coroner – with global application
- competing to create and fund a Research Institute for Product Safety

None of these suggestions needs to be expensive – I have discussed the potential costs with university leaders – but the benefits in publicity and innovative thinking could be huge.

# BIS Introduction

The Department for Business, Innovation & Skills (BIS) negotiates, implements and transposes a range of consumer product legislation both national and European. The various pieces of legislation lay down the minimum requirements for a product recall. However, feedback from industry, regulators, consumers and the media suggests that consumers and business find it difficult to negotiate consumer safety legislation, the registering of products, and what to do in a recall; they say that the current landscape is complex and confusing.

The review of the UK product recall system was announced by Baroness Neville-Rolfe in the House of Lords ([Consumer Rights Bill](#)) on 19 November 2014. The Review was launched ([BIS Press Release](#)) on 13 March 2015, where it was announced that Lynn Faulds Wood would lead the Review.

The purpose of the review was to focus on the effectiveness of consumer product recalls in the UK and consider the key issues that directly impact it. It was set up to explore the existing mechanisms in place that assist Market Surveillance Authorities, business and consumers and how well they're understood. In particular, Lynn was asked to highlight the strengths and weaknesses of the current system and develop a list of recommendations on how the system could be improved. The Terms of Reference for the Review can be found at [Annex C](#).

The Review was based on a set of questions, which we aimed at all stakeholders whether they were business, enforcement authorities or consumers and a list of the questions is provided in [Annex D](#).

A total of 40 responses were received and (a list of the respondents is at [Annex E](#)) ahead of the deadline of 30 April 2015. In addition to these responses Lynn met with many stakeholders herself, attending seminars and holding face-to-face meetings. This engagement and open dialogue with stakeholders has proved invaluable in collating views that may not usually have come across through responses to a list of questions presented by government officials.

During the Review, two focus groups were held at BIS. The first took place in April 2015 to discuss the review questions and involved members of the national Product Safety Focus Group (PSFG) which is made up of regional representatives of Trading Standards Officers. This initial discussion helped to set the direction of the review. The second focus group, made of a group of 15 representatives from industry and enforcement bodies, met in September 2015 to discuss Lynn's initial recommendations.

Overall, we have been impressed by both the quantity and quality of stakeholder input, and the willingness to engage in open dialogue during the course of this review. We believe this demonstrates a genuine willingness from all sectors to initiate change in order to improve the safety of products, to support business and to improve consumer protection. We are grateful for this engagement, and hope that this is reflected in the resulting report.

**Single Market Product Safety Team, BIS**

# 1. The Current System – fit for purpose?

I have consulted widely for this review with a range of stakeholders (asked for their views by BIS in a detailed questionnaire) plus consulted with many interested parties who wished to comment. I have chaired meetings, given speeches, attended many briefings since my appointment in March and I have found widespread agreement that the recall system needs a complete overhaul. However there is no need to re-invent the wheel when looking at new ways to achieve this. We need only look at the recall systems in the US, Canada and Australia for guides to best practice.

What I have not produced – for this Review - is an encyclopaedic tome on unsafe products and recalls – rather I have chosen to provide many links for those who would like to delve deeper.

In brief, this is how the recall system is meant to operate at present: producers, importers and sellers of goods in the UK are required to put products which are safe on the market. If they become aware that a product they are trading is not safe, that there is a risk of serious injury, damage or death, they should institute “*corrective action*”. It should “*immediately*” be removed from sale or recalled in some way, which might mean a modification, repair or other process which removes the potential harm.

Industry (which includes manufacturers, importers, distributors, etc.) is required to make checks to ensure consumer products are safe – this is a requirement under European general product safety legislation ([GPSD](#)) see Annex I. These duties are enforced by Market Surveillance Authorities (MSAs). With consumer goods we buy in the high street, online or second-hand, it is Trading Standards Officers who are the main MSAs. Their job is to stop unsafe products entering the country at ports, remove products already on the market, conduct random sampling, offer advice and assistance to business, investigate reports of unsafe products – generally keep us safe.

So far so good.

On paper it looks like a good system – our robust laws in the UK and Europe are among the strongest in the world, potential penalties and fines have been increased, thousands of products are withdrawn from sale or recalled every year. But the system is out of date. It isn't working well enough to protect us. Trading Standards Officers have suffered severe cutbacks and find it difficult, if not impossible to catch businesses cutting corners and behaving badly. Only one company across Europe has been fined. Many unsafe goods come from outside the European Union through entities which are hard – if not impossible - to trace. Traceability is a major issue.

## 2. What stakeholders said about the current product recall system

The Review was launched on 13 March 2015 with a questionnaire to a range of Stakeholders from manufacturers and online retailers to distributors and high street names, from trading standards chiefs to fire and rescue services, from trade associations and consumer representatives to government and beyond.

Over 60 stakeholders were invited to respond to the BIS questionnaire and over 40 responses were received. Plus I had many meetings with 'critical friends' and interested parties. The list of Stakeholders and others consulted are included in [Annex E](#).

The respondents to the BIS questionnaire overwhelmingly welcomed the review with the general feeling that it was long overdue. They endorsed the view that the UK has some of the most robust safety legislation with specific reference to recalls but reported that there was widespread confusion amongst industry (manufacturers, distributors, etc.) and the public on what constitutes a "good recall".

This was further hindered by the lack of a single point of reference such as a website with clear guidance. The overall impression was that the entire system 'could - and should - do better'.

The Questions were grouped into 5 areas:

- enforcement of the current recall system
- effectiveness of information sharing systems
- role of business
- consumer understanding
- use of future technology

The answers presented me with a good overview of the current system and an idea of what respondents considered to be a 'good recall system'. Some respondents provided very detailed answers while others gave more general statements and evidence specific to themselves. These are the 'general themes' from across the replies which ultimately influenced my recommendations.

### Enforcement of the current regime

While acknowledging the robust legal framework, most replies focused on the lack of adequate resources, training and funding for enforcement and market surveillance.

*"Unless these legislative instruments are correctly enforced, there is no protection of consumers or reputable manufacturers such as our members"* (Association of Manufacturers of Domestic Electrical Appliances - AMDEA)

Electrical Safety First (ESF) strongly believes *“the current system fails to meet the expectations of the public and business. Recalls are under-performing, poorly organised and under resourced resulting in consumers being put at risk and serious brand reputation problems for affected manufacturers”*

*“Product safety is a low priority for many local authorities”* (Chartered Trading Standards Institute - CTSI) *“This situation, where some residents are more at risk of unsafe goods, rogue traders and scammers than others because of where they live is not acceptable.”*

Others pointed out that, although penalties and fines had been boosted, in practice the increased fines had not been tested and only one company across Europe had actually been fined for failing to act on a timely recall.

The Royal Society for the Prevention of Accidents (RoSPA) cited *“lack of resources”* to be *“the biggest barrier in part due to sweeping cuts.. Also, due to the lack in priority given to market surveillance by some local authorities.”*

Many, like the Baby Products Association (BPA), called for *“increased funding for MSAs”*.

*“We believe the law is sufficient but recognise the MSAs require the resources and skills to enforce it”* echoed the British Retail Consortium (BRC) which encouraged *“learning lessons.. built with enforcers through the Primary Authority Scheme.”*

Recognising it was *“non-compliant”* companies which were the biggest problem, the British Toy & Hobby Association (BTHA) called for *“approved”* status for companies or product sectors and *“more engagement with industry, training and communication.”*

There were requests for *“higher fines for repeat offenders”* (BTHA) and *“a trader list of companies with repeated multiple recalls, whether voluntary or not”* (Munchkin) – *“this won’t stop bad traders because we know they simply close their company and start again under a different name, but it may help.”*

Trading standards cited many difficulties with local council austerity cutbacks, which have disproportionately affected their ability as MSAs. Buckinghamshire Trading Standards agreed with many of their colleagues: *“consumer product safety recalls do not benefit from a single coordinated central government agency approach in the same way as food.....”*

Others also called for more input from central government, namely BIS, who could produce guidance templates/standards/codes to each party in the supply chain - consumers, industry and enforcement authorities.

*“[there are] merits in further discussion across industry to consider if there are standardised approaches to ensure a consistent approach to recalls”* (BRC),

*“there is a lack of clarity on how to assess degrees of risk”* (AMDEA).

Law firm Baker & McKenzie called for *“more enforcement.. undertaken in a centralised manner in the UK”*.

Others called for the establishment of a ‘*centre of excellence*’ for unsafe products and recalls. This ‘*centre of excellence*’ would be charged with the powers to seek out new funding streams and impose higher fines on non-compliant producers to fund an effective recall system away from the constraints of local authorities.

Some called for tightening up of the wording of the legislation. The system is voluntary but businesses are required to notify MSAs “*immediately*” when they “*know*” products are or become unsafe, posing a risk to consumers. Calling for these terms to be better defined, ESF said they can lead to “*unnecessary delays in reporting to authorities*” and “*there is no standard or consistent protocol applied to determine the adequacy of the corrective action being proposed.*”

## Effectiveness of information sharing systems

The feeling from stakeholders was a need for more information sharing and more consistency between the main players involved in a product recall.

Take consumers - there are confusingly many websites (over 30 in some form or another, small selection below) which list consumer product recalls.

- [Chartered Trading Standards Institute](#)
- [OECD Recall Portal](#)
- [RAPEX](#)
- [Electrical Safety First](#)
- [UK Association of Fire Investigators](#)

Some other websites carry dubious content and even more dubious advertising, adding to the confusion.

*“Consumers have told us – unless they have registered an item – they simply don’t know if a product is subject to a recall and wouldn’t know where to start looking to find out if it were”* Chief Fire Officers Association

Many stakeholders called for a central official database of recalls (CTSI, BRC etc) for industry and consumers.

But Baker & McKenzie cautioned “*while this has a laudable aim, it would need to be managed carefully to ensure accuracy of information, and confidentiality... whilst investigations are still ongoing...*”

There were calls for more effective sharing of information between Trading Standards and other bodies such as A&E, Fire Services and Coroners etc. The private sector should also be invited to contribute, including banking, the insurance industry and credit card companies, which hold data on products bought with their cards, involved in the process.

All these bodies have at their fingertips a wealth of information which could give a more complete picture of product recalls - the consumer who bought the product, the risk the product presented, the number of incidents reported, the number of products on the market etc.

Hampshire Arson Task Force & Fire Investigation said *“greater cooperation and sharing of information and best practice should result in enhanced, more efficient enforcement, swifter detection of trends and threats to public health and safety and improved dissemination of recall information...”*

Product registration schemes can be useful in improving traceability in contacting consumers directly but their scope is limited to specific types of product. The AMDEA [“Register My Appliance”](#) scheme is a good attempt at this but Which? called for *“clear guidance that consent for marketing practices should always be separate from consent for other business practices”*

There was also some interest in the development of a UK accident and injury database to identify potential harms and trends. Such a database, funded by the then Department for Trade and Industry, was stopped in 2002. BTHA encouraged its re-development as *“an important source of data. Since then there have been many significant new product innovations and potential hazard sources may have been overlooked”* (BTHA)

Hertfordshire Trading Standards said *“the lack of appropriate accident/injury data to assist with the effective assessment of the likelihood of an incident when undertaking a risk assessment.. could be a barrier to enforcement under the current recall regime...”*

Furthermore techniques of data analysis have vastly improved with IT based data mining systems and ‘big data’. If properly utilised and made available to manufacturers, then product safety in general could be improved, reducing the need for recalls. It would also help with the development of Safety Assessments required under product specific legislation. However it is important that the data is accurate and correctly linked to a product.

Hampshire Trading Standards were keen to point out *“when manufacturers conduct a recall, they provide any retailers they have supplied with a recall notice to display in-store and online. Often the manufacturer then requests customer details held by the retailer in order for them to contact the purchasers directly to inform them of the recall....retailers are unable to provide this customer information because of the data protection act. As a consequence the recall is not as successful as it could be”*.

In the past the Trading Standards community has had effective means and the right culture to facilitate effective information sharing. However with the proliferation of linking systems and resources being cut, many involved in enforcement are losing access to such information sharing sites, as they may be costly for shrinking budgets.

A centralised free, one-stop intelligence database is desirable for effective information sharing, not just for MSAs but also for other enforcement and protection agencies, such as Fire & Rescue Services, the Police and to include Coroners’ court inquest information on product safety.



## Role of business

This review is clear that businesses are not all the same. The industry respondents were swift to point out that they are aware of their duty of care, and want to protect their brand images and reputation – most problems with unsafe goods are from less careful importers and distributors.

AMDEA: *“Members who have experience of conducting recalls still find there is a lack of clarity on how to assess degrees of risk.”* Others also called for more guidance on levels of risk and how to conduct a proper risk assessment.

Baker & McKenzie said *“the better the knowledge manufacturers and retailers have of their own supply chains and where risk is most likely to occur, the better they can plan for, and act to prevent risk..”*

The view from business and trade associations is that the regulatory regime is robust enough to ensure overwhelmingly most products are safe through specific product safety regulations, harmonised technical standards and the general safety requirement in our laws.

Low cost, poor quality goods can be a major issue with the number of recalls. Solving this will require a change in the culture of some small businesses that see compliance measures, testing, continuous product risk assessments as time consuming and a financial burden when their key motivation is to compete on price alone. Trading standards reported that some low end importers will even admit (off the record) that the cost of a compliance system is far greater than the likelihood of being caught and any penalties which might be imposed. Therefore they don't bother. Focus should be on those businesses that are unwilling to take adequate steps to show compliance.

Electrical Safety First said *“manufacturers should make more use of pre-market risk assessment methodology to adopt a ‘get it right first time’ approach reducing likelihood of a recall due to a design flaw...”*

Where business can help is with the sharing of best practice to raise standards with regard to the specification of products, process of manufacture and good diligence measures - having good Quality Assurance systems to prevent unsafe products entering the market in the first place. If there are unforeseen faults in the manufacture process, having clear and concise guidelines on the obligations of each step (producer, importer, distributor and retailer) of the supply chain would go some way to ensure greater business compliance.

Companies that comply with the law and instigate product recalls sometimes feel stigmatised. This should not happen; otherwise responsible companies may refrain from issuing a recall or at the very least down play the level of risk.

A major industry trade association said there may be merits in industry having further discussions to investigate any scope for developing standardisation approaches to ensure a consistent approach to recalls. Such a Code of Practice would benefit business, including SMEs and would also assist MSAs when agreeing any corrective action being proposed.

## Consumer understanding

When BIS asked *“how well public facing sources of recall information work in keeping consumers informed of dangerous products and what actions they could take..”* many answers demonstrated an urgent need for change: *“Poorly”* (Association of British Health Industries), *“largely ineffective”* (Baby Products Association”).

There is agreement among stakeholders that consumers are generally unaware of or uninterested in the recall system within the UK.

*“Consumers are confident that products are safe and statistically they are correct”* (AMDEA) *“There is a need for a sea change in public behaviour. The necessary education process will require constant reiteration by all stakeholders.”*

There are some consumers who think, if a product is sold in a shop or on-line, then it is safe....because the government wouldn't allow otherwise.

The *“key issue should be how they are made aware if a product is recalled on safety grounds”* (Which?)

Communication about recalls has to be direct, clear and concise - and the amount of action required by consumers has to be minimal. Returning a product, making a telephone call, logging a product onto a website all require an effort from the consumer which can lead to non-engagement.

Successful recalls need to be targeted, have maximum clarity and require the minimum effort from and disruption to the consumer. An unclear or wrongly risk assessed recall notice may lead consumers to develop an *“it won't happen to me”* mentality, *“it seems safe so I'll just carry on using it”* or that it is simply cheaper, easier and more convenient to buy a new product or ignore the recall altogether.

Consumers are distrustful of giving personal details to any company for fear of being bombarded with marketing material. Companies need to state clearly that they require the information solely for any safety corrective action and not to be used for other purposes.

BTHA said: *“not sure consumers are aware of the current system.. they may choose to register expensive items”* but *“at low prices would just not be practical .. also wary of registering products because they perceive this is yet another marketing tool.”*

The Fire Services are particularly keen to see greater consumer engagement. Statistics provided by the Chief Fire Officers Association show that in 2013/14 there were 22,962 electrical fires of which 4,989 were due to faulty appliances and leads. Although it's not always known whether the electrical goods that caused the fire were subject to a recall, they feel this is greatly under reported by the inadequacies of the current recall system.

## Future technology

The respondents answering this question agree that advances in social media and digital technology can improve consumer product safety, increase traceability and increase interest in product recalls. But on the flipside there are also concerns:

*“There is huge potential created by digital technology. The problem is the proliferation of concerns about intrusion, privacy and data security” (BRC)*

Various suggestions were offered including microchips and other tracing devices making it easier for products to be located once purchased – even when de-activated in the event of a product being identified as having a defect. Large electrical products could have an automatic data feedback to the company cloud – but there would have to be consumer choice if they wished to override it.

Whilst many respondents championed the use of social media – texts, emails, pop-up screens, alerts – to reach consumers they cautioned the need to remember vulnerable people, those without the latest technology, literacy levels and the range of languages spoken.

Various trading standards respondents were looking forward to a future with simplified registering of products at the point of sale, tracker devices and faster means of disseminating advice on unsafe products.

Hertfordshire Trading Standards said *“the use of product tracker devices could help locate items and allow recall resources to be effectively managed...”*

QR (Quick Response) codes were suggested (Omega PLC) as able to hold more information than a barcode, to take consumers to the manufacturers’ website for product updates & information on recalls, even alert consumers to any recalls at the point of purchase, important for old stock or second-hand goods.

### 3. Market Surveillance Authorities and enforcement – stakeholders’ key cause for concern

It’s already been said that there is wide agreement that the UK and Europe have among the best drafted legislation in the world on unsafe products and recalls. In theory. But I’m returning to it in this section because stakeholders repeatedly emphasised that the lack of resources for effective enforcement was putting good business at a disadvantage.

In the UK the main MSAs are Trading Standards Officers, who are 90% *locally* council funded and directed. They should be commended for the work they have done (and continue to do) in many areas, despite major cutbacks in their budgets, to protect the public from unsafe goods - for example Suffolk Trading Standards ‘Safety at Ports and Borders’ work is recognised as a centre of excellence. But increasingly *national* product safety work is piecemeal and dependent on short term funding from central government.

Councils have suffered huge cutbacks to their budgets during this continuing period of austerity and thus are having to choose which services to prioritise and fund. Childcare and emptying bins have tended to be at the top of lists for protection.

Trading Standards, at public meetings I chaired across the country in 2013-4, were often suffering the greatest cuts, with a 40% drop in funding since 2010. *“Staff numbers have halved, leaving some services with only one or two officers to cover the entire trading standards remit.”* (CTSI). More cuts may be in the pipeline.

As a result in many areas of the country, there is little or no ability to fulfil their statutory requirements on unsafe products and recalls. Stakeholders report this has already opened the door to an increase on the market of cut price, less safe products through a variety of arms-length agencies, shielding companies and commercial collect and deliver fulfilment houses.

There are many reasons why these deficiencies will get worse. Risk averse local councils legally responsible for recalls initiated in their area are reluctant to get involved, in case a business goes bust. HSE and MHRA (Medicines & Healthcare products Regulatory Agency) receive central funding for the cost of recalls (through a payment & refunding system) – Trading Standards Officers and local councils do not. There are also concerns about reputational damage, lack of adequately trained product safety professionals, pressure on resources and individual officers, lack and cost of access to data & links to sources of information etc.

AMDEA: *“It is imperative that the UK has adequate market surveillance: indeed, it seems odd that for other legislation this activity is funded by central government yet for safety the MSA is expected to share a budget from local taxation being used to fund an immense range of other local services and priorities.*

*“This funding arrangement would be an issue even without what appears to be the current decimation of Local Government Trading Standards bodies. Therefore we would welcome*

*a review that led to a central point for knowledge, funded directly and wholly by central government, backed by local enforcement with a defined proportion of ring-fenced budget again directly funded by central government.”*

MSAs are key to the recall process working effectively in the UK and across Europe.

Under the General Safety Regulations ([GPSR](#)) producers and distributors are obliged to tell the relevant market surveillance authority if they discover that they have put an unsafe product on the market - and what action they have taken to remove the risk. They are supposed to reach a voluntary agreement with their MSA on how to remove the risk. If agreement cannot be reached then compulsory measures are taken:

- a “Suspension Notice” can be issued, temporarily removing the product from sale while tests are carried out
- a “Requirement to Mark and Requirement to Warn” (marking the product with warnings)
- a “Withdrawal Notice” (permanently to prevent the further supply of a product) or
- a “Recall Notice”. A Recall Notice is issued when a product is already on the market and there is reasonable evidence that it is dangerous

If corner-cutting companies choose to ignore all of that or can't be found, then the MSAs (& their local councils) can become liable for the cost of the recall. But what if MSAs are not warned about potentially serious problems with products and companies continue trading regardless?

It seems those which have failed to notify have effectively been rewarded in the past with various outcomes to the possible detriment of good business and consumers – i.e. no action, far lower fines than the cost of a recall or, if it does get to court, with such infringements being seen as technical, low level offences.

Distributors are also obliged to keep information which would help traceability through the supply chain and monitor the safety of products they provide. But – as we've seen – there are too few safety trained officers to provide checks on what is happening in practice and, even if the system works and Customs Officers receive useful information about products coming into the country, it may not be compatible with Trading Standards' technical resources.

Shareholders called for many improvements in market surveillance, for the ultimate benefit of businesses which trade responsibly and fairly, including more funding, more trained product safety officers, more primary authorities, better resources and data sharing systems.

They called for traceability to be improved, if market surveillance is to be more effective. For example: fulfilment houses are increasingly used – and suppliers using them are often untraceable to MSAs. It's an area of law which would surely benefit from review across Europe. Under the definition for business - 'economic operators' in the product safety regulations - it seems fulfilment houses (at present) do not have any enforceable product safety obligations.

## 4. Third country product safety and recall regimes – we should learn by example

There is no need to re-invent the wheel when looking for better ways to organise the UK recall system – third countries such as the US, Canada, Australia and New Zealand (see [Annex F](#)) have tried and tested guides, handbooks, templates, recall checklists, tips, examples in easy navigable sites, considerable learning on how to reach consumers through social media. It would not take much for BIS and its partners to develop something very similar.

There are also requirements for more mandatory reporting of products which can do serious harm. Suppliers are variously required by law to advise enforcers when they become aware that their goods might have caused death or serious injury or illness to any person. They are also required to report if customers think that their products might have serious safety issues. There are punitive penalties for failing to report and comply.

These countries also have injury databases which they believe are important to the success of their systems. Example: the Consumer Product Safety Commission (CPSC), an independent agency of the US government, funded by the federal government. It operates the National Electronic Injury Surveillance System (NEISS), described as “a probability sample of about 100 [hospitals](#) with 24-hour [emergency rooms](#). NEISS collects data on consumer product related injuries treated in Emergency Rooms and can be used to generate national estimates.”

CPSC use NEISS in conjunction with other data sources including death records, MSA intelligence and consumer complaints to develop a better understanding of product safety issues. The UK could achieve similar results if we align our coroner data, complaints systems, ICSMS (European web based information system), fire and other product statistics with any new injury system.

The Public Health Agency of Canada has a similar product-related injury surveillance and risk assessment system CHIRPP - Canadian Hospitals Injury Reporting and Prevention Program - and is expanding the number of participating hospitals.

These ‘third country’ operations are tried and tested and the UK can learn from them.

## And finally...

Firstly may I repeat my thanks to BIS for inviting me to chair this Review of consumer product safety and recalls. Officials have been most helpful in involving me in meetings and access to stakeholders and other contacts.

Deficiencies in the report are my own.

From the start there seemed a consensus among stakeholders that the current recall system was viewed as 'broken' and 'not working' as it should. In this rapidly changing world, what was needed was to start afresh with a clear yet flexible official structure, backed by BIS, with enforcement adequately funded and planned nationally. What was not needed was a list of minor changes to the law and tweaks to the present system, which might not achieve the desired results.

In my career as a consumer 'champion', I've believed that people often don't do things because they don't know how to do them, that there is no substitute for good guidance and mapping – and that there should be, where possible, an evidence basis for business and behaviour change.

That's why, in my recommendations, I've called for logical processes:

- an official centre of excellence/product safety agency to lead & coordinate, backed by government
- an official website for business & consumers, with the safety agency as its guardian
- better organisation, funding and training of market surveillance authorities
- better easy-to-follow guidance for businesses & consumers who don't know where to find information and who to contact
- more mapping of data/information for services involved in the system & easier access to that data
- more research into codes of practice on registering people and products plus the traceability of components
- more learning from other countries' tried and tested methods

I believe there are beneficial, creative discussions about funding to be had with industry, insurance companies and with the European Commission – for example: on guidance & templates, the website and the injury database.

I have no wish to increase red tape and put hurdles in companies' way – trading is difficult enough as it is. But I hope I have made a convincing argument that we need a better system for dealing with unsafe products and recalls for consumers and business alike and we need to start putting it in place now.

# Annex A: Glossary of abbreviations

**A&E** – Accident and Emergency

**AMDEA** – Association of Manufacturers of Domestic Electrical Appliances

**BIS** – Department of Business Innovation & Skills

**BPA** – Baby Products Association

**BRC** – British Retail Consortium

**BSI** – British Standards Institution

**CHIRPP** – Canadian Hospitals Injury Reporting & Prevention Programme

**CPSC** – Consumer Product Safety Commission

**CTSI** – Chartered Trading Standards Institute

**DTI** – Department of Trade and Industry

**ESF** – Electrical Safety First

**GPSD** – General Product Safety Directive

**GPSR** – General Product Safety Regulations

**HoL** – House of Lords

**HSE** – Health & Safety Executive

**ICO** – Information Commissioner's Office

**MHRA** - Medicines & Healthcare products Regulatory Agency

**NEISS** – National Electronic Injury Surveillance System

**NLF** – New Legislative Framework

**MSAs** – Market Surveillance Authorities

**QR** – Quick Response (codes)

**RoSPA** – The Royal Society for the Prevention of Accidents

**UK** – United Kingdom

**US** – United States of America



# Annex B: BIS Press Release 13th March 2015

## LAUNCH OF PRODUCT SAFETY REVIEW

BIS Minister Jo Swinson announced today that broadcaster and leading consumer campaigner Lynn Faulds Wood will lead a review of the UK's system for the recall of unsafe products.

The independent review will focus on how we can make enforcement more effective and explore consumer understanding of the process. The Terms of Reference for the review are attached for your reference and full details of the press release are available at;

([BIS Press Release 13th March 2015](#))

We would like to encourage you to contribute to the review and also to share this message more widely to help maximise stakeholder awareness.

The attached questions provide further information on the contributions being sought and the topics the review will cover, which include;

- Enforcement of the current regime
- The effectiveness of information sharing systems
- The role of business
- Consumer understanding
- Future technology

All stakeholders are encouraged to get in touch about their experiences of consumer product recalls covering both the topics above and also any other observations and views.

Views should be sent by email to [productrecallreview@bis.gsi.gov.uk](mailto:productrecallreview@bis.gsi.gov.uk).

The closing date for responses is 30th April 2015.

# Annex C: Terms of reference of the Review

The purpose of this review is to focus on the effectiveness of the enforcement of consumer product recalls in the UK and also the effectiveness of the recalls themselves and to identify any aspects which might be improved.

The review should consider the key issues that directly impact on the effectiveness of the UK's consumer product recall systems and how those systems interact with the wider EU RAPEX system.

It should explore the existing mechanisms in place to assist Market Surveillance Authorities (MSAs), business and consumers and how well these are used and understood by all of the relevant parties and what currently works well and what does not. It will consider any regional variations on how well the recall regulations are being enforced around the UK. It should look into the procedures used by business to allow consumers to register products and the impact of their approach to the use of data for marketing purposes on this. In doing this it should consider it from the perspectives of the consumers, business, and market surveillance authorities.

The review will consider the systems in place for consumer goods beyond the scope of Trading Standards e.g. vehicles, which are covered by other MSAs. The review will not consider the recall systems for industrial goods.

The output of the review will be a report to BIS Ministers highlighting the strengths and weaknesses of the current system and making a series of recommendations on how it might be improved.

# Annex D: Questions posed to stakeholders

## Enforcement of the current regime by UK Market Surveillance Authorities (MSAs)

- What do you consider to be the main barriers to enforcement of the current recall regime by UK MSAs?
- What priority is recall given amongst the other responsibilities of MSAs?
- Do you think the recall system is sufficiently transparent and accountable? Please give examples to evidence your view.
- What changes should be made to increase the level of effective enforcement

## Effectiveness of information sharing systems

- How well do you believe that the public facing sources of recall information work in keeping consumers informed of dangerous products and what actions they should take?
- What improvements do you think could be made to the sharing of information between different local authorities?
- What would be the benefits of more information sharing between trading standards and other public sector organisations such as the fire and health services?
- What role can private sector organisations play in increasing the effectiveness product recalls?

## Role of business

- What could manufacturers and retailers do to reduce the number of product recalls that are necessary and how could those recall that are still required be made more effective.
- How widely used and understood are third party recall services?

## Consumer understanding

- How well do consumers understand the current system for product recall in the UK and the choices they have registering products?
- What do you believe are the main barriers to consumer engaging with registration and any recalls.
- What further information should consumers have access to from business and MSAs on the risks of particular products and methods of buying e.g. making purchases from unfamiliar web retailers?

## **Future technology**

- What opportunities will forthcoming technology advances give for improving how product recall operates?

# Annex E: List of Review Respondents and additional contacts by Lynn Faulds Wood

AMDEA  
Approved Cables Initiative  
Arson Task Force & Fire Investigation, Hampshire  
Association of British Healthcare Industries  
Baby Products Association  
Baker and McKenzie  
Beko Plc  
British Adhesives and Sealants Association  
British Furniture Confederation  
British Toy and Hobby Association  
British Retail Consortium  
BSI  
Buckinghamshire Trading Standards  
Chartered Trading Standards Institute  
Chief Fire Officers Association  
Cheshire Fire and Rescue Service  
CPC (distributor electrical products)  
Driver and Vehicle Standards Agency  
East of England Trading Standards Association  
EEESafe  
Electrical Safety First  
Furniture Industry Research Association  
Hampshire Trading Standards  
Health & Safety Executive  
Hertfordshire Trading Standards  
Home Retail Group  
IKEA  
Intertek  
London Fire Brigade  
MHRA  
Munchkin  
National Landlords Association  
Omega Plc  
RoSPA  
Safety Assessment Federation  
Society of Motor Manufacturers and Traders  
Society of Chief Officers of Trading Standards in  
Scotland Telford and Wrekin Trading Standards  
Tyre Industry Federation  
West Midlands Fire Service  
Which?

**BIS-hosted meetings included:**

Product Safety Focus Group x 2 (Trading Standards officers)  
 MSAs (all)  
 US CPSC (Richard O'Brien)  
 Seminars/meetings included:  
 The Association of Personal Injury Lawyers (speaker)  
 BSI Consumer & Public Interest Strategy Advisory Committee  
 BSI Coordinators meeting  
 BSI Standards Development Group  
 European Parliament Product Safety Debate: "Keeping Us Safe or Red Tape" (speaker)

**Stakeholder visits included:**

AMDEA  
 BSI  
 CTSI  
 ESF  
 London Fire Brigade  
 Which?  
 Worldstores

**Face to face meetings/consulted:**

ABI (Director General Huw Evans)  
 ABI (Ben Howarth) & (Royal Sun Alliance) Phil Bell  
 Baroness Hayter, House of Lords  
 Brunel University (Deputy Vice Chancellor, Directors Corporate Affairs & Design)  
 Consumers International (Sadie Homer)  
 DTI Consumer Safety Unit 1980s-90s (Dr Gordon Hayward/Malcolm Barrow – Hass/LASS)  
 Information Commissioner 2002-9 (Richard Thomas)

**Law firms:**

Hogan Lovell (Rod Freeman & Valerie Kenyon)  
 Leigh Day (Jill Paterson & Thomas Jervis)  
 Slater & Gordon (Richard Langton)  
 National Consumer Federation (Arnold Pindar Chair & President ANEC)  
 Recall Database (Martin Squires)  
 Christel Schaldemose, MEP  
 Spiers Engineering Safety  
 Stericycle (Steve West)  
 Worldstores (Jeremy Mace)

# Annex F: Third country Consumer Protection Agencies for recalls

These are a brief outline of each country's consumer agency and links to recall information sites.

## USA

The US Consumer Product Safety Commission (CPSC), is an independent federal regulatory agency charged with reducing unreasonable risks of injury and death associated with consumer products. The CPSC achieves that goal through education, safety standards activities, regulation, and enforcement of the statutes and implementing regulations. The first link is to the Regulated Products Handbook, chapter 5 is on recalls; the second link is the public facing page of the CPSC for list of consumer product recalls; third link is for all product recalls.

- [www.cpsc.gov/Global/Business-and-Manufacturing/Business-Education/RegulatedProductsHandbook.pdf](http://www.cpsc.gov/Global/Business-and-Manufacturing/Business-Education/RegulatedProductsHandbook.pdf)
- [www.cpsc.gov/en/Recalls](http://www.cpsc.gov/en/Recalls)
- [www.recalls.gov](http://www.recalls.gov)

## Canada

The *Canada Consumer Product Safety Act* (CCPSA) [sets out duties in the event of an incident](#) in relation to potential health or safety concerns with consumer products (section 14). Reportable incidents submitted by companies will help serve as an early warning and detection of health or safety issues with the purpose of reducing the number of unsafe or potentially unsafe consumer products on the Canadian market. This information can help Health Canada to work with industry to proactively and efficiently respond, where appropriate, to consumer product health and safety incidents. The first link is the CCPSA; the second link is guidance on how to complete a form; the third link is the public facing product recall notices.

- [www.hc-sc.gc.ca/cps-spc/pubs/indust/2011ccpsa\\_incident-icspc/index-eng.php](http://www.hc-sc.gc.ca/cps-spc/pubs/indust/2011ccpsa_incident-icspc/index-eng.php)
- [www.hc-sc.gc.ca/cps-spc/advisories-avis/incident/index-eng.php](http://www.hc-sc.gc.ca/cps-spc/advisories-avis/incident/index-eng.php)
- [www.hc-sc.gc.ca/cps-spc/advisories-avis/index-eng.php](http://www.hc-sc.gc.ca/cps-spc/advisories-avis/index-eng.php)

## Australia

The Australian Consumer Law (ACL) replaces previous Commonwealth, state and territory consumer protection legislation in fair trading acts. The provisions will be contained in Part XI and Schedule 2 of the *Competition and Consumer Act 2010* (formerly the *Trade Practices Act 1974*). Relevant provisions are also mirrored in State and Territory fair trading legislation. The ACL introduces a new nationally consistent system to regulate the safety of consumer goods and product related services. Instead of each State and

Territory and the Commonwealth all having their own system for regulating product safety, there will be a single harmonised framework that is the same throughout Australia. This will reduce red tape for businesses and enhance safety for Australians.

Under the ACL, Australian governments can regulate consumer goods and product-related services by: issuing safety warning notices; banning products, either on an interim or permanent basis; imposing mandatory safety standards; issuing a compulsory recall notice that requires suppliers to recall a product.

The Australian Competition and Consumer Commission site provides guidance to consumers and business regarding product safety.

- [www.recalls.gov.au/content/index.phtml/itemId/952923](http://www.recalls.gov.au/content/index.phtml/itemId/952923)
- [www.recalls.gov.au/content/index.phtml/itemId/1000103](http://www.recalls.gov.au/content/index.phtml/itemId/1000103)
- [www.consumerlaw.gov.au/content/Content.aspx?doc=home.htm](http://www.consumerlaw.gov.au/content/Content.aspx?doc=home.htm)

## New Zealand

Trading Standards (within Ministry of Business, Innovation and Employment) supports responsible suppliers in recalling products which fall below quality or safety standards, or where a safety issue has been identified. They publish all notices that are brought to their attention and fall into the general category of product safety.

Trading Standards oversees consumer product safety in New Zealand. They regulate the safety of a wide range of consumer products, excluding food, medicines, energy or vehicle products (which are handled by other government agencies). Their work includes investigating national and international emerging product safety issues. They also work to reduce significant risks and hazards that products may pose to New Zealand consumers.

The Minister of Consumer Affairs has specific powers (under the Fair Trading Act) to implement mandatory recalls, ban products with Unsafe Goods Notices, and set Product Safety Standards. These measures are enforceable by the Commerce Commission and New Zealand Customs. This is very similar to the UK. The first link is to the recall site; the second link is to Trading Standards and further information on product safety.

- [www.consumeraffairs.govt.nz/for-consumers/goods/product-safety/product-recall-notices](http://www.consumeraffairs.govt.nz/for-consumers/goods/product-safety/product-recall-notices)
- [www.mbie.govt.nz/tradingstandards/about-consumer-product-safety](http://www.mbie.govt.nz/tradingstandards/about-consumer-product-safety)



# Annex G: General Product Safety legislation – UK and Europe

## European Level

The UK and Europe probably have the strictest product regulations in the world. European Union Member States are all bound by the General Product Safety Directive as well as other EU-wide sector-specific product safety laws. These include a common principle - enforcement authorities of Member States must communicate closely on products with a potential or actual risk. There is evidence this is not happening adequately in practice.

The EU's rapid alert system for dangerous non-food products (known as [RAPEX](#)) is one way of making this happen – in theory it ensures that information is quickly circulated around Member States about products that pose a serious risk to consumers and that are found in more than one Member State. Member State MSAs must show that they have taken measures, whether voluntarily by the producer or compulsorily by the MSA, against the product to protect consumers.

RAPEX covers everything from clothing and cosmetics to toys and vehicles.

Every Friday the European Commission issues a report on the products which pose a risk to consumers, as reported by the relevant national bodies:

### [RAPEX Weekly Listings](#)

RAPEX is a good attempt to protect Europe's consumers from unsafe products and many in industry, media, legal practice and enforcement authorities find it useful. The following link to the Commission's [RAPEX](#) website provides some useful statistics for 2014.

But it is not without criticism – comments include “not consumer friendly”, “hard to find what you are looking for”, “uneven: products with serious risks are juxtaposed with seemingly minor problems”, “some countries report lots of apparent recalls and others virtually none”, “when a defect is put right RAPEX has no means of reflecting good behaviour by ethical companies and reassuring consumers”.

To improve the internal market for goods and strengthen the conditions for placing a wide range of products on the EU Market, the New Legislative Framework ([NFL](#)) was adopted in 2008. It is a package of measures that aim to improve market surveillance and boost the quality of conformity assessments. It also clarifies the use of CE marking and creates a toolbox of measures for use in product legislation. It is intended to make legislation consistent so that similar provisions have compatible text **such as for recalls**.

## National Level

The main piece of UK legislation for product safety and recalls is the General Product Safety Regulations 2005 ([GPSR](#)). These implement the European Union's General Product Safety Directive 2001/95/EU.

## Annex H: Product Recalls – one family’s experience

The recall system is voluntary but suppliers are supposed to alert the appropriate market surveillance authority which for most consumer products is trading standards ‘immediately’ they ‘know’ there is a potentially serious problem and take ‘corrective action’. Stakeholders consider this is currently not adequately happening in practice.

Here is one illustration of why this is so important, how the Recommendations should guide and tighten up procedures in the future:

The Davidson family bought a tumble drier online from a leading supermarket chain on 24 October 2012. Within four weeks of the delivery of their tumble drier in November 2012 the manufacturer issued a recall of their machines made between May and October of that year (which included the Davidsons’). The recall stated that there was a potential risk with an electrical component which could overheat and catch fire.

The family was not contacted by the seller – who clearly had their contact details as they had just sold and delivered the machine to their home, nor by the manufacturer, who could have obtained those details from the supermarket chain.

On December 29 2012 the tumble drier, installed in their garage, caught fire, virtually destroying the building and damaging their neighbour’s garage. It took nearly 2 years for the family’s claim to be settled.



The Davidsons say: “There is nothing pleasant about having a fire in your home. Trying to project-manage the reinstatement of the garage and getting payment for the damaged contents has taken a long time. There were two loss adjusters, two solicitors, a building surveyor, the manufacturer’s agent, a cleaning company plus others to deal with. Creating the ‘beyond economic repair’ (BER) list alone took in excess of twenty hours, not to mention the distress of compiling it.

“The inside of our house was also affected. There was the original smoke and soot that lasted for weeks, then dust and debris when the builders were on site.”



None of this needed to have happened. If the manufacturer had contacted the purchasers of the tumble drier, the supermarket chain had facilitated this and passed on warnings, if the recall warnings were explicit about the possible dangers, and if consumers took such warnings seriously. The Davidsons say they would gladly have contacted the manufacturing company, the supermarket chain – if only they had known.



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