

PRODUCT RECALL — A GUIDE FOR SUPPLIERS

WHY RECALL?

It is in the best interest of suppliers and consumers to make sure that unsafe consumer products are effectively removed from the marketplace. Consumers may suffer serious injury from such products and, if they do, suppliers can be liable under the product liability provisions of the *Trade Practices Act 1974* or at common law.

Under the Trade Practices Act, the Minister responsible for consumer affairs (currently the Minister for Competition Policy and Consumer Affairs) can order the recall of a product that will or may cause injury if the supplier has not taken satisfactory action to prevent the product causing injury to any person. However, most recalls are initiated voluntarily by manufacturers and suppliers when they become aware of a defect in a product that makes it unsafe.

This guide aims to help you, as a supplier, to recall such an unsafe product. Remember that it is important to treat a recall as a positive experience — as a chance to enhance your reputation with consumers and other key clients.

AIMS OF A VOLUNTARY RECALL

Your aims in voluntarily recalling an unsafe consumer product should be to:

- minimise the risk of injury or death to consumers by removing an unsafe product from use;
- retrieve or repair as many of the defective products as possible;
- minimise the cost and inconvenience to consumers and the company; and
- minimise the need for involvement by government authorities by voluntarily complying with the law.

WHEN TO RECALL?

You should consider a recall as soon as you become aware of a possible defect in a product that may make it unsafe. To decide if a recall is necessary:

- gather all available information on the suspected defect (eg, arrange testing, talk to consumers who have complained) and assess the reliability of that information;
- undertake a comprehensive risk analysis;
- identify how the problem occurred — consider the possibility of tampering after the product left your premises, or misuse or abuse of the product;
- look at all possible ways of addressing the defect and decide whether you can repair or modify the product; and
- decide what needs to be done.

HOW TO CONDUCT A RECALL? — A CHECKLIST

√ Nominate one person, or a team, to examine the problem, assess the risk and coordinate the recall.

√ Identify the steps that need to be taken to address the problem.

√ Decide what recall action you should take, based on the risk associated with using the product. If a product is likely to cause injury, you should ask consumers and other suppliers to return the product for a refund or replacement, or for modification. If a product is unlikely to cause injury in the short term, you should invite consumers to contact the company for a replacement product or part. You should also offer to send an agent to the consumer's home to repair or modify a product that is difficult to transport.

√ Identify which models or batches of the product are affected (eg, by serial numbers, batch marking), when these were produced and where they have been distributed.

√ Arrange to provide refunds, or replace or repair the defective product.

√ Notify the Minister for Competition Policy and Consumer Affairs (the Minister) in writing within two days of taking recall action. Legally, this notification must state that the goods are subject to recall and provide details of the nature of any defect.* Address the notification to the Minister, care of the Australian Competition and Consumer Commission (ACCC) and deliver it by post, fax or email to the ACCC at the address given below:

The Hon Chris Bowen MP
 Minister for Competition Policy and Consumer Affairs
 c/o: Australian Competition and Consumer Commission
 GPO Box 3131
 CANBERRA ACT 2601

Fax: (02) 6243 1073
 Email: recalls@recalls.gov.au

√ Prepare a notification containing:

- a clear description of the product, including the name, make, model and serial number, with a photograph or drawing, if available**;
- complete contact details of the supplier including contact name and company street address, postal address, e-mail address, web site address, telephone and facsimile numbers;
- a statement of the hazard and the associated risk;
- dates when the product was available for sale;
- the number of products affected;
- where the product has been distributed and / or exported;
- what action the supplier proposes to take (including copies of any proposed recall advertisements) ;
- what action the other suppliers and consumers should take; and
- detailed information about using or storing the product .

*** Suppliers should note that the legal notification to the Minister is an official and formal requirement under S 65R of the *Trade Practices Act 1974*. For this reason, the notification must include the requirements listed above. Sending only a copy of a proposed/actual recall**

advertisement, for example, will not be considered a sufficient official/formal notification under the Trade Practices Act.

**** Suppliers should also note that recalls are more effective if a photo or other image is added to our Product Recalls Australia web site entry for your recall. The ACCC therefore requests that digital images (where relevant) be provided with all recall notifications via email to recalls@recalls.gov.au**

√ Notify overseas recipients of the recalled product in writing. If you have supplied the product overseas, you have a legal obligation to notify the recipients within a reasonable time and provide the Minister with a copy of this notification within 10 days. Address the notification to the Minister, care of the ACCC, and deliver it by post, fax or email to the ACCC at the address given above.

√ Liaise with relevant government agencies on the recall action:

[Food Standards Australia New Zealand](#) (FSANZ) for food recalls;

[Department of Infrastructure, Transport, Regional Development and Local Government](#) (INFRASTRUCTURE) for motor vehicle recalls;

[Therapeutic Goods Administration](#) (TGA) for therapeutic goods;

[Australian Pesticides & Veterinary Medicines Authority \(APVMA\)](#) for agricultural and veterinary chemicals;

[State and Territory electrical regulators](#) for electrical goods;

[State and Territory gas regulators](#) for gas appliance products; and

the ACCC and [State and Territory consumer affairs agencies](#) for other consumer products.

Check with the responsible authority to make sure you are aware of the correct procedures.

√ Notify distributors, wholesalers, importers, agents and retailers quickly and in writing. If the risk is particularly serious you should, if possible, notify them directly by email, fax or telephone.

√ Notify appropriate [State and Territory authorities](#).

√ Notify other companies or organisations (eg, trade associations) likely to be affected by the recall.

√ Prepare and undertake a publicity campaign to ensure all users of the product are aware of the recall.

√ Arrange to destroy the defective products, or store them securely until you can modify them.

√ Keep a record of returned products, modified products, or replacement products or parts sent to consumers. Record consumer details, dates and any known injuries, damage or complaints associated with the use of the recalled good.

√ Monitor the recall using your records of returns. If the recall has not achieved a satisfactory rate of return, you will need to develop new publicity strategies. Analyse your records to see which suppliers, or which regions, have a low return rate and choose suitable methods to inform these suppliers of the recall.

√ Keep relevant authorities informed of the progress of the recall.

√ Review the effectiveness of the recall procedures once the recall has finished. Put in place any changes you consider appropriate.

WHAT TYPE OF PUBLICITY IS BEST?

The traditional way of publicising recalls is to advertise in newspapers. However, you may need to consider alternative types of publicity depending on the risk associated with using the product, where the product has been distributed, and the particular consumers you want to reach. In some cases (eg, where only a few products have been sold and they can all be traced) there may be no need for a general media notice.

The best guide is to use the type of publicity most likely to get the message across to the relevant consumers quickly enough to minimise the risk of injury. You can:

- advertise in daily or community newspapers;
- display signs in retail outlets for the product;
- issue a media release to newspapers, radio and television;
- write to known customers, including by registered mail;
- advertise on radio and television;
- advertise in retail flyers (eg, supermarkets, retail chains and department stores often send flyers to householders);
- ask relevant industry and community organisations to publicise the recall in their newsletters;
- advertise in special-interest publications if appropriate;
- advertise prominently on your web site; and/or
- contact known customers by email or facsimile.

GUIDELINES ON TYPES OF PUBLICITY

Media release

A media release can result in free publicity about the recall on radio, television and in newspapers, with coverage on television news or current affairs programs being particularly effective. A media release should be short, clear and written in simple language. It should contain the names, address, phone numbers and email addresses of people who can be contacted for further information.

Newspaper or magazine advertisement

Advertise the recall in newspapers published in areas where the product has been distributed.

It is important to place recall advertisements where consumers are most likely to see and read them. Place advertisements in the first five pages of newspapers, if possible.

In all instances you should use the example hatched border with the safety triangle below and the recommended minimum dimensions. The ACCC recommends that recall advertisements also

contain a clear description of the product, including the name, date product sold, the potential risk, and what action the consumer should take.

Note: If the recall is a consequence of an identified breach of a Trade Practices Act mandatory standard, or of a hazard identified by the ACCC, the conduct of the recall should be negotiated with the ACCC. Such negotiation would include: placement of recall advertisements; form and content of advertisements; and the corrective action to be taken by the supplier/s and by affected consumers.

The following is the example of the format for a recall advertisement:



The recall advertisement should:

- be at least two columns in width, with a suggested minimum size of 10 by 12 centimetres;
- use the example hatched border with the safety triangle in the upper left-hand corner—this is an internationally recognised safety symbol;
- use a font size of at least 10 point for the print in the advertisement;
- include the words ‘Product Safety Recall’ prominently at the top of the advertisement; and
- include the words ‘See www.recalls.gov.au for Australian Product Recall Information’ at the base of the advertisement.

GUIDELINES FOR PREPARING PUBLICITY MATERIAL

All publicity material should include the following information:

- a clear description of the product, including the name, make, model, distinguishing features, batch or serial number;
- a drawing or photograph of the product if available;
- clear identification of the supplier, including logo, trademark or letterhead, street, postal, e-mail and web site address, fax and telephone number;
- a statement of the hazard and the associated risk;
- dates when the product was available for sale;
- what immediate action consumers should take (eg, cease use, store safely);
- who consumers should contact to receive a refund or have the product repaired or replaced (eg, manufacturer, wholesaler, agent or retailer);
- business and after hours telephone numbers for further information, preferably toll-free; and
- advice that the recall is at the expense of the supplier.

HOW THE ACCC CAN HELP WITH YOUR RECALL

The ACCC can help you by providing guidance on recall procedures, advising on the type of publicity suitable for your recall, and posting your recall to the Product Recalls Australia web site at www.recalls.gov.au.

While the ACCC can assist suppliers with such recall matters, the ACCC is not able to provide legal advice to suppliers. In relation to this, suppliers should obtain their own separate legal advice on recall matters, if required.

FOR FURTHER INFORMATION CONTACT:

Australian Competition and Consumer Commission
Infocentre
GPO Box 3131
CANBERRA ACT 2601
Phone: 1300 302 502
Email: recalls@recalls.gov.au