



AUSTRALIAN COMPETITION
& CONSUMER COMMISSION

2020 Product Safety Priorities

March 2020

Product Safety Priorities 2020

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 2020, the ACCC's key areas of focus include:



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



Pursuing regulatory options to prevent injuries and deaths to children caused by **button batteries**.



Implementing strategies to prevent injuries and deaths to infants caused by **sleeping products identified as unsafe**.



Improving **product safety in e-commerce** through enhanced compliance commitments from online platforms.



Scoping more effective risk controls for potential intervention to prevent injuries and deaths caused by furniture falls, including **toppling furniture**.

The ACCC may also 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.

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.

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

State and territory ACL regulators have endorsed the 2020 Product Safety Priorities as national priorities. The ACCC will work closely with state and territory ACL regulators on many of these priorities.

The ACCC issues an annual Compliance and Enforcement Policy outlining the ACCC's approach to its enforcement functions under the CCA and other legislation. The Product Safety Priorities expand on the Compliance and Enforcement Policy by setting out how the ACCC approaches its product safety role under the ACL.

Core functions

The Product Safety Priorities are key areas of focus that are set annually in addition to the ACCC's core functions.

Core functions are product safety regulatory activities that the ACCC will also prioritise. These include:

- Negotiating, assessing and monitoring the effectiveness of voluntary recalls and communicating product safety risk to consumers
- Reviewing and updating mandatory safety standards and bans, and conducting surveillance
- Conducting hazard assessments of emerging product safety issues, including monitoring safety hazards associated with new technologies
- Engagement with key stakeholders on product safety, focusing on education about any new safety standards introduced
- Advocating for reform to improve the effectiveness of the product safety framework, including through a new safety duty
- Improving product safety data by exploring short and long-term data solutions, including examination of a national product safety incidents database.

When carrying out its core functions, 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 surveillance to identify non-compliant or unsafe products
- information from other ACL regulators
- networks of consumer, business, government and other organisations including injury surveillance groups
- monitoring of media and other publications
- international networks, including through active participation in the OECD Working Party for Consumer Product Safety, which is chaired by Australia, and in International Product Safety week, a biennial forum, hosted by the European Commission, which brings together product safety expertise from across government and industry worldwide.

Risk prioritisation

The ACCC cannot pursue all product safety matters that come to its attention. The ACCC uses data to identify the most significant product safety risks and uses priority factors to determine the nature and timing of interventions to manage those risks.

The priority factors are:

- there is a high risk to public safety due to the severity or number of injuries that may result from the product (such as an unsafe product likely to cause death or significant harm, or being widely available to consumers)
- users are unable to perceive or safeguard against the risk of the product, such as 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 enquiries to assess whether the product safety risk meets the priority factors.

In assessing the likelihood and severity of injury, the ACCC considers reports of past incidents in Australia and overseas.¹ The ACCC also draws on market surveillance and expert technical advice to identify emerging risks and respond quickly to prevent deaths and injuries.

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.

Risk management

A range of strategies are used to manage risk:

- Regulation 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 under the ACL. The ACCC and ACL regulators are responsible for:
 - educating traders about the ACL provisions relating to the consumer guarantee of acceptable quality as to safety and liability for products with safety defects
 - enforcing ACL provisions prohibiting false or misleading representations which include representations as to the safety of a product
 - ensuring compliance with regulatory interventions under the ACL, such as compulsory recalls, mandatory safety standards and product bans.
- Working with other Australian regulators. Different government agencies are responsible for regulating the safety of specific types of products such as motor vehicles, 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 below.

How the ACCC addresses product safety risks

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

- working with industry to manage risk, including through voluntary recalls
- 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 resolutions, 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 should be efficient and effective in managing the risk.
- The ACCC's response, including the compliance burden imposed on business, should be proportionate to the 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 restricting 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.

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, and are outlined in further detail below.

Implementing the priorities

This section outlines some of the important work that the ACCC will undertake this year to implement each of the priorities. However, these projects may need to be adjusted if serious new risks are identified.



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

The ACCC will continue to monitor compliance with the compulsory recall of defective Takata airbags, with a focus on:

- assisting suppliers to meet their airbag replacement deadline by 31 December 2020
- working with state and territory ACL regulators on initiatives to support completion of the compulsory recall, including through surveillance and outreach programs, and registration sanctions
- taking appropriate compliance or enforcement action to address instances of non-compliance with the recall.



Pursuing regulatory options to prevent injuries and deaths to children caused by **button batteries**.

The Button Battery Taskforce will continue its investigation into the safety of button/coin cell batteries and consumer goods that use them, with a focus on:

- undertaking a regulatory impact assessment to develop a mandatory safety and information standard
- consulting with industry participants and health professionals on safety measures that could be implemented under the ACL
- providing a recommendation to the responsible Minister by late 2020 on how to address button battery safety.



Implementing strategies to prevent injuries and deaths to infants caused by **sleeping products identified as unsafe**.

The ACCC will continue to work with state and territory ACL Regulators on improving the safety of sleeping products for infants, with a focus on:

- conducting a market review in the first half of 2020 to assess the potential safety risks associated with infant inclined products
- continuing to work with an external working group of key stakeholders to develop industry guidance on infant safe sleeping environments
- taking action where we find evidence of a serious safety risk with individual products sold in the market.



Improving **product safety in e-commerce** through enhanced compliance commitments from online platforms.

The ACCC will continue work to improve product safety in e-commerce, with a focus on:

- establishing formal commitments with online platforms to strengthen product safety policies and processes within their marketplaces
- working with online platforms to establish specific communication programs to address the issue of non-responsive third-party sellers, including developing materials in languages other than English
- developing accessible and engaging supplier education materials for dissemination by online platforms
- collaborating with ACL regulators through a community of practice that facilitates input from online platforms and other regulators.



Scoping more effective risk controls for potential intervention to prevent injuries and deaths caused by furniture falls, including **toppling furniture**.

The ACCC will work to address the issue of furniture falls on children and improve the safety of toppling furniture, with a focus on:

- consulting stakeholders and working with state and territory ACL regulators to develop a full injury and fatality picture of Australian incidents
- gaining a better understanding of the exposure and extent of potentially unsafe furniture on the market
- exploring the costs and benefits of mandating relevant portions of Australian and overseas voluntary standards in the second half of 2020.

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](#)

ACCC's [2019 Product Safety Priorities Policy](#)

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