



Office for Product
Safety & Standards

Enforcement Annex: Product Safety

Annex to the OPSS Delivery Report 2019/20

December 2020



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Products supplied in the UK are regulated to ensure that they are safe for people to use. OPSS is the national regulator for product safety for all consumer products excluding food, medicines and vehicles, as well as some industrial products (e.g. lifts, personal protective equipment).

Enforcement of consumer product safety regulations is carried out primarily by local regulators¹ who have statutory duties to perform this function. OPSS's role is to add national capacity to local regulators by exercising a range of functions from policy development to enforcement.

OPSS can act on behalf of the Secretary of State to enforce product safety regulations where appropriate but does not seek to replicate the enforcement role of local regulators. Our enforcement work is focused on providing national capacity through, for example, providing technical and scientific capability to support local enforcement decisions or in some cases by leading enforcement interventions in circumstances where the issues can be considered either national, novel, or contentious.

This annex to the OPSS Delivery Report reports on how OPSS has protected consumers in 2019/20 by supporting and requiring compliance in respect of the obligations of businesses to supply safe products. It does not explain the totality of our product safety work, as described in the Delivery Report, but rather sets out examples of where we have led enforcement interventions on the basis of the criteria set out above. Checks on compliance by local regulators are not set out in this report.

National product recalls

OPSS provides national incident response on product recalls by businesses where issues are national, novel, or contentious. In 2019/20, using the principles contained in the published OPSS incident management plan, we dealt with two national recalls, both for Whirlpool products, one a tumble dryer and one a washing machine.

In June 2019 Whirlpool launched the second phase of a recall of tumble dryers² totalling 800,000 machines, following the then Consumer Minister announcing the intention to serve a recall notice. This has resulted in customers receiving the choice of a replacement or modification. By end of March 2020 an additional 121,000 customers had registered their appliance for action as part of the second phase of the recall. OPSS has used powers to issue statutory information notices requiring Whirlpool to provide regular data updates to OPSS and detailed data on the quality assurance processes used when carrying out field modifications of affected machines.

Our action in relation to the tumble dryer recall set a strong precedent and when Whirlpool identified a potential safety issue in certain models of washing machine they alerted OPSS in the early stages and, after further investigation, a full recall of the affected appliances was announced by Whirlpool in December 2019. By the end of March 2020 156,000 customers had registered their appliance for action, of an estimated 590,000 affected.³

¹ Local authority trading standards services in England, Scotland and Wales, and environmental health services within District Councils in Northern Ireland).

² Up to date figures are available at: <https://www.gov.uk/government/news/update-on-whirlpool-tumble-dryer-recall-progress>

³ Up to date figures are available at <https://www.gov.uk/government/news/whirlpool-washing-machine-recall-update>

As with the tumble dryer recall, we have been monitoring progress closely. Our engineers have scrutinised Whirlpool's root cause analysis of the fires and our analysts have assessed and provided challenge to Whirlpool's review of fire incident data and risk assessments. In addition, our behavioural scientists have reviewed the approach to getting recall messages out to consumers, with a particular focus on harder to reach groups. We have continued to use an expert panel, which included the Chief Scientific Advisers of BEIS, the Home Office and the Health and Safety Executive, for independent expert oversight and advice.

We have worked across other white goods manufacturers to establish whether there was an industry wide problem with washing machines and tumble dryers and have established monitoring protocols so that our enforcement team can monitor incident rates using a range of data including from manufacturers and fire services. Further information on our work on domestic appliances is in the main Delivery Report.

Safety of products sold through online platforms

The availability of unsafe products online, particularly from third-party sellers on online platforms, is one of the threat areas identified by OPSS's strategic intelligence assessment and has been raised with us by a number of stakeholders. Given the national aspect of this work, with no one local authority best placed to act where the seller is based outside the UK, OPSS has a dedicated enforcement team for online investigations.

Wider work by OPSS to tackle the issue of the availability of unsafe products online, including assessing online platforms' approaches to dealing with safety issues, raising consumer awareness on what to look out for when buying online and reviewing the wider regulatory framework, is in our Delivery Report. In 2019/20 our online investigations team conducted work looking at safety of toys and small electricals sold online.

Toys

As part of our working relationship with them, the British Toy and Hobby Association (BTHA) referred 166 toys to OPSS which they had purchased and their testing had found to be non-compliant. Non-compliance included missing conformity markings and warnings, small parts being present, access to button cell batteries, flammability of materials and risk of suffocation. OPSS assessed each test report, requesting further clarification from BTHA and the test house to ensure we had the information required for enforcement decisions. We made our own assessment of compliance and conducted a risk assessment of each product. All 166 were confirmed as non-compliant and we determined 31 of these to be a serious risk.

OPSS logged all the serious risk products on the UK Product Safety Database and RAPEX, so alerting local regulators, online platforms and European counterparts. OPSS also notified the online platforms of all the non-compliant products and ensured that the products were taken down, removing them from sale for UK markets. OPSS investigated the sellers for all the non-compliant products. Where UK sellers/importers could be identified we referred these to local regulators for appropriate action, including the recall of serious risk products. Local regulators and OPSS share updates on progress on these cases through the Product Safety Database.

Where sellers were based outside the UK, we contacted them directly and where there was a serious risk required them to recall the product. This had a limited response and so we alerted online platforms that we had required the seller to recall the product from end users which triggered their process for dealing with sales of recalled products. We also

continued to actively look for the reappearance of the product for sale online and reported this to the platforms.

Small electrical appliances

Intelligence shows that electrical appliances are one of the most frequently complained about products sold online, and safety alert and fire safety data highlight the variety of risks and harm associated with unsafe electrical products. We targeted small electrical products that are most likely to overheat and harm the user. We purchased and tested a total of fifty small electrical appliances from online sellers, focusing on products in the following categories:

- hair dryers
- hair straighteners
- electric shavers
- fan heaters
- toasters
- hand blenders
- irons
- deep fat fryers
- electric blankets
- kettles

The products were submitted to an appropriate test laboratory and tested for compliance with the Electrical Equipment (Safety) Regulations 2016. Examination of the 50 products identified two duplicate products, despite having different names, prices and pictures posted by the sellers, meaning that 48 different products were tested. Of these, 18 were confirmed as compliant with the regulatory requirements while 30 were found to be non-compliant. Eleven of the non-compliant products were identified as being unsafe with five of these considered to pose a serious risk. The remaining 19 non-compliant products failed to meet requirements in relation to labelling and marking.

We alerted UK and EU regulators to the five serious risk products (a hairdryer, an electric kettle, two shavers, and a steamer) through the UK Product Safety Database and RAPEX (EU Rapid Alert System for dangerous non-food products). Submitting these products to the safety alert systems enables retailers to identify affected stock and recall products. We informed online platforms of the recalls and requested that they remove other listings offering the same products.

We worked closely with local regulators to ensure that the sellers operating through the online platforms were aware of the requirements of the regulations and removed the non-compliant products from sale.

Out of the 30 non-compliant products, four were recalled due to the serious risk they pose to consumers, 11 were withdrawn, three were brought back to conformity, two product listings were removed and ten businesses were provided with compliance advice by local regulators.

18650 Batteries

Lithium-ion 18650 batteries are a type of high drain battery used in power tools, laptops and other high energy appliances including e-cigarettes. In June 2019 OPSS received notification of a consignment of unlabelled batteries imported into Felixstowe believed to be non-compliant with a (non-safety) regulatory requirement for which we are the

enforcement authority⁴. We visited the importer and identified 30,000 batteries which were non-compliant with the labelling requirement for a crossed out wheeled bin which indicates that they should not be disposed of as general waste. Removal of an over sticker on the battery showed they were Samsung batteries.

We contacted Samsung SDI who confirmed that the batteries were genuine but not intended for sale to individual consumers and that they were only suitable for use in power tools or items with a battery management system. This information was listed on Samsung SDI's website⁵ and they were taking 'cease and desist' action against any identified retail sellers. Our market analysis identified that, due to the high current generated, this was a very popular battery for vaping and was being sold throughout the UK by retailers and online sellers.

Whilst the batteries in question are a safe product for their intended use (in items such as power tools with a battery management system), some vaping devices do not have a battery management system and there is a danger of burn injuries to vaping users. Without adequate warning, consumers may be exposed to risk from use of these batteries in vaping devices.

To tackle the risk to consumers of inadvertently purchasing 18650 batteries for vaping devices we developed a comprehensive enforcement strategy. We identified the top 50 online sellers of 18650 batteries (based on popularity of their websites on search engine results) and sent them information on their obligations under product safety and battery regulations. We offered tailored advice on compliance if required and had a number of follow up phone calls to clarify requirements.

From a product safety perspective, we advised businesses that they are responsible for warning consumers of any conditions of safe use which the manufacturer stipulates. We also informed them that Samsung SDI were pursuing any retailers selling these batteries to consumers. We also alerted all local regulators to the issue and asked them to look out for retail sale.

Following our initial communication with businesses, 25 immediately agreed to stop selling the batteries. For the other 25 we assessed eight as compliant following our initial intervention and for the remaining 17 we test purchased batteries to ascertain compliance with the requirements on labelling and warning consumers. Nine businesses were non-compliant, and we visited these businesses, accompanied by the local authority regulatory services team and provided further advice. Seven of these businesses are now compliant, one is no longer trading, and we continue to investigate the remaining business for suspected continuing non-compliance.

The two largest businesses that OPSS has supported into compliance place over three million batteries on the market a year, including supplying high street vaping shops. In addition, eBay are now working with Samsung SDI to prevent sale of the batteries on their platform, Amazon already prohibits sale of 18650 batteries on their platform.

The business that imported the 30,000 batteries that highlighted this issue agreed to withdraw the products from sale. OPSS enforcement officers subsequently found that the business was selling the same batteries on eBay and we conducted a test purchase which confirmed that these were supplied with no warning about safe use. A compliance notice was served in relation to non-compliance with the Batteries and Accumulators (Placing on

⁴ The Batteries and Accumulators (Placing on the Market) Regulations.

⁵ <https://www.samsungsdi.com/lithium-ion-battery/safe-information.html>

the Market) Regulations alongside a further warning regarding the need to provide safety warnings to consumers.

We liaised with Samsung SDI in relation to raising awareness of consumers of these safety issues and ran a campaign across social media on safe use of vaping devices which had 760 contributors including national press and potential Twitter reach of over four million people. From August 2019 Samsung have labelled batteries with 'not for vaping' as part of production. We are continuing to work on safety issues with regards to vaping batteries and have begun a testing research project on other 18650 batteries looking at how batteries can fail and cause safety hazards with (foreseeable) misuse.

Domestic smoke alarms and carbon monoxide alarms

Following concerns raised by the consumer magazine *Which?*, OPSS conducted market surveillance and testing activity on smoke and carbon monoxide alarms that were available to purchase online to assess whether there was a national issue with safety in this market.

Domestic smoke alarms are widely used in the UK, with fire services recommending their use in all domestic properties. Early detection of smoke from a fire provides valuable time to alert the occupants, enabling them to escape the building. Similarly, carbon monoxide alarms perform an early detection role in respect of dangerous carbon monoxide emissions from gas appliances, alerting occupants to the presence of this colourless and odourless gas.

A number of low-priced products were purchased via online platforms and submitted to an accredited test laboratory for testing to establish if the product was safe under *General Product Safety Regulations (GPSR) 2005*⁶. This meant, in the case of a carbon monoxide alarm, that it activated when exposed to the test gases in the time required in the standard and that the alarm cancelled within a certain time limit once exposed to clear air. In the case of a smoke alarm, it meant that the alarm activated as expected when exposed to test smoke.

The testing did not identify any safety concerns in relation to any of the products. Most of the products tested met the requirements of the relevant clauses of the British Standards with just one product failing to meet the relevant clauses in full. This product, a carbon monoxide alarm that had been purchased via an online platform, was found to be too sensitive to the test gases, activating sooner than is required by the British Standard. This did not present a safety risk. The conclusion from testing was that this particular survey revealed no concerns that smoke alarms and carbon monoxide alarms sold at a low price point online are manifestly unsafe or dangerous products.

Cosmetics safety

Following intelligence alleging asbestos being found in cosmetics (for example, in the USA) and a referral from a local authority dealing with a similar allegation relating to a business in their area, we undertook a precautionary study to establish whether there may be an issue with asbestos in talc-containing cosmetics on the market in the UK. We focused on child-appealing and low-cost products. We purchased and had tested 84

⁶ Smoke alarms were tested for compliance with clauses 5.3, 5.4 and 5.15 of British Standard BS EN14604:2005 – Smoke Alarm Devices and carbon monoxide detectors were tested for compliance with clause 5.3.4 of British Standard BS EN 50291-1:2010 + A1:2012 - Electrical apparatus for the detection of carbon monoxide in domestic premises.

cosmetic products, 24 of which were child-appealing and 60 low cost. For 23 of the 24 child-appealing samples and 58 of the 60 low cost samples analysed, no asbestos fibres were found, and in one child-appealing product and two low-cost products only trace quantities less than 0.0004% of the total mass of the product were found, thus posing a negligible risk to consumers. We continue to monitor the market, conducting market surveillance testing in 2020.