BIS | Department for Business Innovation & Skills

Red Tape Challenge: Retail and Manufacturing Consultation. Response Form

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is 23/05/2012

[redacted]
Organisation (if applicable): **East of England Trading Standards Authorities**
Address:

[redacted]

Please return completed forms to:

[redacted]
Department for Business, Innovation & Skills
Business Environment
1 Victoria Street
3rd Floor, Spur 2
London
SW1A 0ET

[redacted]
Email: retailandmanufacturing@bis.gsi.gov.uk

Please tick a box from the list of options below that best describes you as a respondent.

	Business representative organisation/trade body
	Central government
	Charity or social enterprise
	Individual
	Large business (over 250 staff)
	Legal representative

X	Local Government
	Medium business (50 to 250 staff)
	Micro business (up to 9 staff)
	Small business (10 to 49 staff)
	Trade union or staff association
	Other (please describe)

Please note we have only listed those questions, where we have provided a response.

Question 1 Do you agree with the amendment of the Pyrotechnic Articles (Safety) Regulations 2010?

Yes

Question 9. Do you agree with the revocation of the Children's Clothing (Hood Cords) Regulations 1976?

No. Please see reasons below.

Question 10. Are there any other consequences to the revocation of the Children's Clothing (Hood Cords) Regulations 1976 not outlined in this document?

In 2009 Essex County Council discovered children's hooded tops being sold by a large multiple retailer (375 outlets in UK), and containing a hood cord drawn through the hood. The business' conduct and attitude during the investigation resulted in a prosecution case being taken and on 5 October 2009 the company pleaded guilty to sample charges under the 1976 Regulations, finally accepting in court that the 'hoodies' were in fact outer garments within the meaning of the Regulations and accepting that the garments were in breach of the Regulations. The company was fined a total of £4175 including costs. Essex CC took action to remove garments from sale and took formal action against the business because of the belief of the strangulation risks posed to younger children by the garment design. The garments were branded with a well known registered trade mark, used for adult and children's sports clothing. Essex CC considered using GPSRs and the European Standard EN14682, but in the final analysis were forced to use the 1976 Regulations because the expert they went to with a view to getting a statement that the product was dangerous under GPSRs refused to say the hoodies were unsafe within the meaning of GPSRs – despite the garments failing the European Standard. This was a person who might be considered the obvious choice as an expert in this area, namely the convener of CEN committee TC/248 working group 20 on the safety of children's clothing; it was her committee that produced the relevant standard EN14682. Notwithstanding

the clear failure of the 1976 Regulations this national expert would have in effect given evidence against Essex CC if required in the argument about the safety of the hooded garment. This of course doesn't mean that the hoodies were safe, rather that Essex CC identified an expert who would not commit to saying they were unsafe, despite the clothing failing the relevant standard under which EU colleagues assess the safety of similar garments. This raises the wider point around reliance on GPSRs of hidden costs of enforcement to local authorities. It can frequently be difficult to source a suitable expert and when one does find one they can often be very expensive.

In this case had Essex CC not had access to the 1976 Regulations they would have had to give the garments back and they would not have been able to safeguard children. In our view this was not because the garments were in fact safe under GPSRs, but just because of the difficulties around proving a product is a dangerous product to the criminal standard of proof required in GPSRs.

In addition to their own case, Essex County Council is aware of another Magistrates' Court case in which hood cords featured in a conviction, namely Sunderland v New Look (3/3/2004). In the Sunderland case the District Judge ruled that the hooded tops with hood cords were outer garments and were subject to the 1976 Regulations.

Question 11. What benefits will the revocation of the Children's Clothing (Hood Cords) Regulations 1976 have? Can you quantify these?

We believe the 1976 Regulations can co-exist with GPSRs.

Question 13. Do you agree with the revocation of the Imitation Dummies (Safety) Regulations 1993?

No: the situation regarding the safety of children's dummies is getting worse not better; there are now "bling" dummies circulating with small detachable parts that have come from China. If these Regulations are revoked we may see the return of the imitation dummies with flashing lights.

Question 15. What benefits will the revocation of Imitation Dummies (Safety) Regulations 1993 have? Can you quantify these?

Comments: There will be no impact in keeping the Regulations. They cover a very small market consisting of cheap end products. Retention of the Regulations will not affect the quality products that reputable childcare article manufacturers are producing.

Question 17. Do you agree with the revocation of the Pencils and Graphic Instruments (Safety) Regulations 1998?

Yes

Question 21. Do you agree with the revocation of the Wheeled Child Conveyances (Safety) Regulations 1997?

Yes

Question 25. Do you agree with the revocation of the Gas cooking Appliances (Safety) Regulations 1989?

Yes

Question 29. Do you agree with the revocation of the Heating Appliances (Fireguards) Regulations 1991?

Yes

Question 33. Do you agree with the revocation of the Gas Catalytic Heaters (Safety) Regulations 1984?

Yes

Question 37. Do you agree with the revocation of the All-Terrain Motor Vehicle (Safety) Regulations 1989?

Yes

Question 41. Do you agree with the revocation of the Cooking Utensils (Safety) Regulations 1972?

Yes

Question 45. Do you agree with the revocation of the Indication of Prices (Beds) Order 1978?

Yes

Question 49. Do you agree with the removal of the Child Resistant Packaging and Tactile Danger Warning (Safety) (Revocation) Regulations 1992 from the statute book?

Yes

Question 50. Do you agree with the removal of the Stands for Carry-cots (Safety) (Revocation) Regulations 1996 from the statute book?

Yes

Question 51. Do you agree with the removal of the Magnetic Toys (Safety) (Revocation) Regulations 2009 from the statute book?

Yes

Question 52. Do you have any other comments that might aid the consultation process as a whole?

We are in general agreement with the proposals with the exception of those relating to children's hood cords and dummies. We believe that the revocation of these specific regulations will lead to a significant increase in the risks posed to babies and children by unsafe products, from which the GPSRs will not adequately protect them.

What happens next?

Responses to this consultation will be used to finalise decisions regarding the removal or retention of these regulations. A government response to this consultation, outlining which regulations are to be removed and which are to be retained as a result of evidence gathered through this consultation, will be published within three months of this consultation closing. This will be available from the BIS website. Paper copies will be available on request.

Where regulations are to be removed, this will have effect from 1 October 2012.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply ☒

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

☐ Yes ☒ No