Department for Business & Trade

Smarter Regulation: UK Product Safety Review

Consultation

Closing date: 24 October 2023

02 08 2023

Any enquiries regarding this publication should be sent to us at:
productsafetyreview@beis.gov.uk

Ministerial Foreword

This consultation forms part of the Government's Smarter Regulation programme of regulatory reform announcements that began in May with publication of Smarter Regulation to Grow the Economy[1]. Smarter regulation is about improving regulation across the board, ensuring it is as clear as it can be and only used where necessary and proportionate. Through this consultation and further regulatory reform updates, the Government will take action to reduce the burdens on business; reduce the cost of living; deliver choice to consumers; turbocharge science and innovation; and drive infrastructure development.

Respondents to our Product Safety Review Call for Evidence in 2021 recognised that the UK's system of product safety regulation was facing a range of challenges and opportunities, from new technologies and rapidly changing business models, to how consumer products are made, supplied and used. The UK starts from a strong foundation and the Government remains fully committed to ensuring that consumers are protected. But we have an opportunity to design and implement an improved framework that can be more agile and able to adapt to emerging challenges quickly.

Fundamental reform is necessary, but we want to ensure that UK businesses can adapt smoothly to change and avoid any risk of stifling growth as businesses recover from the pandemic. This is not a quick fix, and we want to work collaboratively to build our new framework on a set of core principles, implementing reform progressively over time, tackling the most urgent challenges first and bringing businesses and consumers with us. The new framework will be clearer, smarter, more proportionate and responsive to consumer needs.

We should not shy away from considering the potential for ground-breaking options that show how the UK can drive forward smarter and less costly approaches. For example, by asking how proportionate, effective obligations should work in modern online supply chains, exploring the role the consumer can play in driving responsible business practices, looking at how product information can be digitised and examining how the framework can support innovation and free trade in safe consumer products.

It is essential that consumers are protected wherever they buy their products. We are already taking action under the current framework to ensure consumers are protected from unsafe products bought online and on the high street. However, some have suggested that there can be a lack of clarity about the responsibilities of those in the supply chain to ensure safety. While we consider that current obligations are clear, the Product Safety Review gives us the opportunity to go further to ensure consumers are protected, both now and in the future.

[1] https://www.gov.uk/government/publications/smarter-regulation-to-grow-the-economy/smarter-regulation-to-grow-the-economy

This consultation examines the fundamental tenets on which our product safety framework is built with a view to redesigning it so that it is agile, responsive, and fit for the 21st century. We want a framework that supports businesses to innovate and grow whilst ensuring consumers are kept safe. We want to revolutionise how we use and share data with business and the public, supporting targeted enforcement, both nationally and by local trading standards teams against those seeking to cut corners, putting UK consumers at risk. We are seeking views from all those with an interest and the evidence gathered from this consultation will be used to inform our future reform.

We want to design a modern, effective product safety framework and we encourage you to help us shape it.

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General information

Why we are consulting

Since 2018, the Office for Product Safety and Standards (OPSS) has led and coordinated the UK's product safety system. In that time, OPSS has intervened to prevent unsafe products from reaching consumers, coordinated large scale product recalls and invested in research and intelligence to improve work with local authorities, including checks on unsafe products at UK ports and borders. This has allowed for greater national leadership and more targeted interventions. For example, in 2022 there were 3,392 product safety and non-compliance notifications made to the Product Safety Database from market surveillance authorities; this included 242 recall notifications.

But from online marketplaces to connected devices, the way we buy products and the products themselves have gone through huge changes in recent years and the pace of change is accelerating. Supply chains are global, interconnected and complex. Internet sales have grown significantly over the past decade, and in October 2022, 26% of all UK retail sales occurred online compared to 8.9% ten years ago. In a digital world, data and information become a key tool in supporting consumers and enabling responsible businesses to comply with the law. Better use of data and powers can help us address the sale of unsafe and non-compliant goods online, a challenge witnessed across borders and shared by many countries.

This consultation presents us with an opportunity to think boldly about a new framework that is responsive to the challenges of the future, global in nature and better calibrated to the best evidence of risk. The Government also has the opportunity to regulate for the long term in a way that continues to ensure only safe products are available to consumers, reduces costs for business, encourages innovation, and meets our ambitions around Net Zero and clean growth, as well as supporting UK trade and taking account of proposals for the 2025 Border Strategy.

In response to this opportunity, the Government is undertaking a fundamental review of the product safety framework. In March 2021 the Government launched a Call for Evidence[2], inviting views on the long-term approach to product safety and how to ensure that the regulatory framework is fit for the future. Over 150 responses were received, with many suggesting that whilst the current framework has strengths, it faces significant challenges and requires change to deal with these and respond to future innovation. As with the Call for Evidence, this consultation is focused on regulations within the remit of OPSS that cover the majority of consumer products, including electrical equipment, cosmetics, toys and gas appliances, as well as those that go beyond consumers to protect users of, for example, machinery, lifts, equipment used in explosive atmospheres and pressure equipment.

[2] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1035916/uk-product-safety-review-call-for-evidence2.pdf

It includes cross-cutting regulations, such as the General Product Safety Regulations 2005, as well as product-specific rules. It does not cover food, chemicals, medical or healthcare products, construction products or vehicles, all of which are regulated separately.

OPSS continues to work closely with other government departments to ensure a joined-up approach wherever possible. Other countries and jurisdictions, including the EU, are also acting to simplify legislation, promote innovation and respond to emerging threats including reforming sector specific safety rules and we will consider these international approaches as part of our review.

The Government Response to our Call for Evidence[3], published in November 2021, outlined the immediate actions being taken, including the introduction of better tools to help businesses understand and meet regulatory requirements, improved support and training for enforcement authorities, and initiatives such as a 'Nil by Mouth' campaign which brought together voices from business and consumer groups to raise awareness of the dangers of ingesting button batteries. This consultation goes further, building on what we have heard and sets out an ambitious vision for change. It sets out a new and more proportionate approach, regulating only when necessary and directly focused on potential hazards and harm, whilst ensuring accountability throughout the supply chain. It sets out practical proposals to make better use of data and a simpler, more effective enforcement regime that allows enforcement authorities to take the right action, quickly and effectively. It will support business to innovate and grow in a smartly regulated framework whilst continuing to keep consumers safe, ensuring they enjoy the enhanced choice they have come to expect.

We want to ensure the new framework works well both for consumers and business, and so we are seeking views from all stakeholders to help develop and design the detail.

Consultation details

Issued: 2 August 2023

Respond by: 24 October 2023

Enquiries to:

Product Safety Review Team
Department for Business and Trade
4th Floor, Orchard 3
1 Victoria Street
London
SW1H 0ET

Tel: 0121 345 1201

[3] https://www.gov.uk/government/consultations/uk-product-safety-review-call-for-evidence

Email: productsafetyreview@beis.gov.uk

Consultation reference: UK Product Safety Review: Consultation

Audiences:

We want to hear from the broad range of individuals, businesses and organisations that interact with all aspects of product safety, including manufacturers, trade associations, consumers and consumer organisations.

We are particularly keen to hear from:

- consumers and consumer organisations, including those who work with vulnerable consumers or under-represented groups;
- small businesses and those in emerging sectors, such as artificial intelligence;
- businesses who have recent experience of bringing new or innovative products to market;
- businesses operating new or innovative ways of bringing products to consumers, including sharing economy models or eCommerce;
- conformity assessment bodies, particularly those who have recently worked with any of the above businesses;
- local authorities and national regulators that have enforcement duties under product safety and related legislation.

Territorial extent:

We are interested in gathering evidence on a UK wide basis. Final proposals will take account of devolved settlements and ensure international obligations are met.

How to respond

Your response will be most useful if it is framed directly around the questions posed, though further comments and evidence, in particular relevant data and analysis to support our assessment of the business impact, are also welcome. These can be attached as separate a document in the Qualtrics survey. You do not have to answer every question.

Respond online at: https://ditresearch.eu.qualtrics.com/jfe/form/SV_6LuebUDZSAolJdk

or

Email to: productsafetyreview@beis.gov.uk

Write to:

Product Safety Review Team
Department for Business and Trade
4th Floor, Orchard 3
1 Victoria Street
London
SW1H 0ET

When responding, please state whether you are responding as an individual or representing the views of an organisation.

Confidentiality and data protection

Information you provide in response to this consultation, including personal information, may be disclosed in accordance with UK legislation (the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please tell us, but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

We will process your personal data in accordance with all applicable data protection laws. See our privacy policy.

We will summarise all responses and publish this summary on GOV.UK. The summary will include a list of names or organisations that responded, but not people's personal names, addresses or other contact details.

Quality assurance

This consultation has been carried out in accordance with the government's consultation principles.

If you have any complaints about the way this consultation has been conducted, please email: beis.bru@beis.gov.uk.

1. Vision for a future framework

The UK's product safety framework has developed over decades and is a mix of legislation, technical standards and guidance that aims to ensure consumers are protected from products which, if unsafe or non-compliant, could cause them harm. It is a joint approach, built up over decades, with responsibilities for industry and government. A myriad of EU legislation has been added too, with dozens of statutory instruments that cover product safety and thousands of agreed standards published by the British Standards Institution. This has resulted in an unnecessarily complicated and disjointed body of law, setting different rules for different products. This can make it complex and costly for established businesses to get a product to market, let alone newcomers. As a result, now is the right moment for reform of a complicated, and fast becoming outdated, suite of product safety rules.

Whilst the Call for Evidence highlighted some areas that function well, it also highlighted how new business models, an increase in eCommerce and technological advances are testing the framework to its limits, acknowledging that these pressures will only increase over time. The very nature of risk and hazard is also shifting, with behaviours and technologies continuing to change and evolve as consumers and businesses make more use of data to inform their decisions. We will regulate where it is necessary to do so but will also look to make the most of the data we have to ensure that wherever possible we are supporting businesses and consumers in their choices and decisions. Leaving the EU creates the opportunity to develop a product safety framework that puts the UK at the cutting edge globally. We will take this opportunity to examine the fundamental tenets on which our product safety framework is built, bringing together retained EU law and domestic legislation into a single, coherent framework.

The Government recognises this is not a quick fix. A framework developed over decades cannot, and should not, be changed overnight. The existing framework is generally well understood by industry and as businesses recover from the pandemic and deal with the challenges presented by global energy prices, providing stability and certainty is a priority. After announcing the extension of CE recognition in November 2022, the Government committed to explore opportunities in the approach to conformity assessment. We have listened and are acting decisively in the interests of businesses and consumers, and on 01 August 2023, the Government announced its intention to introduce further legislation to continue to recognise the CE marking, indefinitely, beyond December 2024[4]. We also recognise that some businesses are already using the UKCA marking. They will continue to be able to do so, as businesses will have the flexibility and choice to use either the UKCA marking or the CE marking to place goods on the GB market. We will be developing a long-term strategy to test with industry which will form part of the wider considerations for a future product safety framework. We intend to implement our Review reforms progressively over time, tackling the most urgent challenges first, prioritising those changes that will benefit

[4] https://www.gov.uk/government/news/uk-government-announces-extension-of-ce-mark-recognition-for-businesses

businesses and consumers the most. This will help to maximise benefits to UK business and consumers whilst minimising transitional costs.

It is essential too that we consider how our new product safety framework aligns with other government ambitions, such as wider consumer protection, energy security and the transition to Net Zero. We need to avoid conflicts between our environmental and safety requirements and ensure clarity of liability, including for how safety is checked and maintained for repaired products. We also understand that navigating our way towards Net Zero can be challenging for some and this is why we have developed a new standard, a Publicly Available Specification (PAS), to help support industry's transition to Net Zero and empower businesses and consumers to make greener choices.

In addition, our proposals for voluntary e-labelling will allow us to develop a better understanding of the impact and risks of minimising paper documentation, as well as the cost savings to business. These proposals will help support Net Zero through waste reduction and resource efficiency.

Becoming a global leader in product safety

The Government is committed to developing a product safety framework that is proportionate, centred around hazard and transparent, using detailed product-specific regulations only if necessary. We want to ensure appropriate levels of accountability, whether trading in low-risk products or selling the most hazardous products, where the potential harms are greatest. Ultimately, we want to design a framework that supports business innovation and customer choice but gives everyone maximum confidence that what they are buying is safe, whether online or on the high street.

We believe there is significant merit in simplifying the legislative framework so that the fundamental principles that underpin product safety are set out in a single place, removing overlaps, duplication, inconsistency and unnecessary complexity where it exists. We will consider options to move away from the multiplicity of regulation and also look to make the best use of voluntary technical standards and guidance to ensure agility and flexibility in an ever-changing market, allowing businesses to innovate and take advantage of new technologies.

We want to support businesses who have ambitions to trade internationally, whilst also ensuring the UK is the best place to start and grow a business. Our approach should support new businesses to get a foothold in the market, without compromising consumer safety. We want to ensure that government intervenes only where it needs to, giving consumers the information they need to make informed choices.

Responsible businesses and consumers need to know that those who break the rules to gain advantage will be dealt with and so those who enforce the rules also need new powers. They need to be given the tools and information they require to undertake enforcement activities effectively in a global world and take proportionate action when necessary to protect business

and consumers. Changing supply chains and manufacturing processes mean the tools they currently have do not always provide that – both at a local and national level – and so we have made proposals to improve that framework. To support this, we need to make far better use of the data we have as market surveillance authorities. Since OPSS was set up, huge steps have been taken to establish close, supportive relationships at a national and local level – but we can go further and make more effective use of the data we collect. We must also be ready to share that data where necessary to make the most use of it, supporting consumers and businesses to keep unsafe products off the market.

We will consider how powers in the Retained EU Law (Revocation & Reform) Bill could present us with the opportunity to implement some proposals sooner, benefitting business and leading to greater choice and sustained protection for consumers. However, we will still need the necessary primary legislation to fully reform the product safety framework over the coming years. Legislation will be targeted and proportionate to ensure we can protect consumers and support business regardless of what the future brings, ensuring it is flexible and adaptable enough to changing future circumstances. We also believe the time is now right to adjust the existing legal requirements of those in the supply chain in a way that better meets the national interest. Through this legislation we will:

- Ensure business obligations are proportionate to the hazard presented by their products, exploring how to reduce compliance costs for lower-risk products and make the conformity process easier where possible.
- Shift the balance between regulations and industry-led standards to enable a more agile and responsive regulatory framework, allowing business greater scope to innovate when producing safe products.
- Use digital solutions, such as voluntary e-labelling, to reduce business costs and explore how digital options can be utilised to reduce business burdens.
- Address concerns regarding the ease with which unsafe products can be sold online, creating a fairer playing field so that shopping online is as safe as on the high street.
- Enhance the leadership and coordination role of OPSS alongside addressing identified enforcement gaps.

2. Bringing products to market

The complexity of the existing UK product safety framework means that it can be difficult to understand, particularly for new entrants and small businesses unfamiliar with their regulatory responsibilities, stifling innovation, hindering growth and potentially having a negative impact on consumer choice and safety. What is more, where regulation is overly prescriptive it can prevent businesses from trying new approaches. Some simplification of our system could be achieved by aligning legislative definitions and consolidating regulations that are currently split across the framework and seeking to remove any unnecessary, duplicative or obsolete requirements. Given our estimate that there are at least 220,000 UK businesses currently affected by product safety legislation, with an estimated market turnover of just under £280 billion, we believe our proposals have the potential to benefit thousands of individual producers across dozens of sectors from cosmetics and toys to heavy machinery and electrical goods.

However, the UK could go further and seek to take a more ambitious approach by shifting towards cross-cutting hazard-based legislation for the majority of products. This would have the aim of significantly reducing the need for, and quantity of, detailed or prescriptive product-specific regulations, whilst also ensuring the framework is more capable of supporting innovation and dealing with new and emerging risks. Taking this approach would be expected to reduce the regulatory requirements on businesses. In developing and implementing a new hazard-based framework, consumer safety would remain paramount.

The principles of how we could do this are set out in this consultation and we are seeking views on the benefits and risks of such a shift, and how it could best be implemented. This includes looking at the role that risk assessment and guidance could play in our future framework, and at how the framework could support the supply of critical products in emergency situations.

As already suggested, reform of the framework will take time to implement due to the complexity of the sector and supply chains, but we do not want to miss the opportunity to make more immediate changes that support business innovation and growth or increase the choice of safe, affordable products available to consumers. As such, we are keen to identify within the current framework whether there are changes that it would be beneficial to make more quickly, in advance of more fundamental reform of the framework. For instance, this could include products or components that you feel are currently over-regulated, maybe because they are captured by broad sector-specific legislation that does not reflect the reality of the risk presented. Alternatively, it could include specific requirements, such as safety instruction requirements or third-party conformity assessment that is considered disproportionate for a particular item. This is in line with our ambition to ensure the framework supports innovation, consumer choice and the use of technology, without compromising safety. It is also why, as set out later in this consultation, the UK will move quickly to allow the use of e-labelling as an alternative to physical marking and provision of product information for certain products.

1. **Are there any specific products where action within the current product safety framework could be taken to reduce business burden, encourage innovation and/or increase consumer choice without compromising safety?**

   Please provide evidence to support your suggestion.

Creating an agile, risk-proportionate and innovative framework

In our Call for Evidence, we heard that the product safety framework would benefit from greater consistency, coherence and clarity, helping businesses to understand their obligations, whilst also ensuring that regulation is always well aligned with real life levels of risk. And, as highlighted in the Government response to the Call for Evidence, whilst manufacturers often agreed with the principles of the current system, they '… noted that it was not always easy to identify the correct requirements for products that straddle multiple product sector regulations, and how regulations interact with each other.'

In addition to this challenge, there was an acknowledgement that the nature of risk is shifting, as behaviours, technologies and markets evolve, making it increasingly difficult to ensure that product-specific legislation keeps pace and continues to support innovation, safety and consumer choice. For example, the existing EU-derived regime sets out, in product-specific legislation, the conformity assessment requirements a manufacturer must meet before a product can be placed on the market. The Review presents an opportunity to consider whether those existing requirements remain fit for purpose.

There may also be product-specific legislation that specifies whether a manufacturer can self-declare that a product meets conformity assessment requirements or must involve an accredited third-party conformity assessment body. It is likely to become increasingly hard to keep these requirements in line with new types of products and technology (and the risks they pose), especially as products can develop throughout their lifecycle. Government believes that the framework needs to become more adaptable to changes in risk whilst better supporting innovation.

As a minimum, we expect to streamline the legislative framework to reduce duplication, remove inconsistencies and seek to identify and rebalance any conformity and testing requirements that are not proportionate, or do not adequately protect consumers or support businesses and innovation. However, we also propose to carefully consider a move away from the current multiplicity of regulation towards a cross-cutting hazard-based framework underpinned by risk assessment, using standards and effective guidance to ensure agility and flexibility in an ever-changing market.

Whilst we will develop the detail of the new system in partnership with business and consumer groups, the following proposals set out the potential for a system where differing levels of requirement would apply to demonstrate the product is safe according to the hazard it presents and potential harm it could inflict.

Proposal 1: Examine options for a new approach centred around potential hazard, cross-cutting risk-based safety requirements and transparency.

To underpin the future design of our framework, we intend to examine options for a simpler and fairer system that reduces compliance costs for lower-risk products and allows businesses to unleash innovation, whilst maintaining the high levels of protection enjoyed by UK consumers. As part of this we would work with business and consumer groups to conduct an extensive audit of current Essential Safety Requirements (ESRs) and common design features to identify core elements that could be applied to relevant products, and to eliminate duplication and inconsistencies. The audit would also consider whether any product-specific requirements needed to be retained.

Potential categorisation of products by hazard

We will examine approaches where products are categorised by their hazards and consequent risks, falling into one of several defined risk levels.

Categorisation criteria could include: the likely impact should harm be caused, the expected user group, the likelihood of harm being caused, the environment it is likely to be used in, and the cumulative effect of risks. For example, where products, or an element in them, could cause death or serious injury, a higher category would be allocated. The system would be agile and responsive to changes in a product's risk level over time and allow for re-categorisation of a product where evidence suggested this was appropriate. It would also encourage innovation to 'design out' hazards, with manufacturers thereby potentially benefitting from reduced regulatory requirements.

A more proportionate cross-cutting approach

Current product-specific regulations tend to include a comparable set of pre-market requirements; for example, sections on the use of standards, compliance markings, labelling and instructions, contact details and, in some cases, supply chain tracing. All contain essential safety requirements, which to an extent can be similar across various product safety regulations. We therefore want to examine the scope for a simpler and more consistent approach to be taken across all product types of a similar risk level.

This could extend to more explicitly linking marking and conformity assessment requirements, including any requirement for third-party testing, to the risk level of a product. Feedback to the Call for Evidence showed that whilst it was widely agreed that third-party assessments were needed for high-risk products, some smaller firms reported finding it relatively expensive and time-consuming.

The role of standards and the concept of Presumption of Conformity could also be re-examined as part of moving to a more risk-proportionate, hazard-based framework. Reshaping the UK's product safety framework presents an opportunity to ensure regulatory requirements are better aligned to risk and any unnecessary costs on business are removed or avoided, in turn facilitating innovation and benefitting consumers through increased choice and lower prices.

Guidance

As the quantity and length of product-specific legislation has grown over the years, it is becoming increasingly difficult to keep detailed product rules up to date. Legislative processes can also be slow to react to emergencies: for example, were new evidence to emerge on the risk posed by a chemical used in cosmetics, any minor change to the permitted substance level could only be made via an updated technical annex to legislation approved by Parliament and would be subject to available parliamentary time.

We will consider options for a more agile approach through improved guidance (potentially supported by industry-led guidance) to provide additional detail on the application of ESRs or more detailed product-specific rules if needed. In doing so, careful consideration would be given to how best to both support innovation and provide certainty to business that rules would not be unnecessarily changed at short notice.

Guidance could also be developed to support businesses to undertake proportionate pre-market risk assessment and provide clarity on meeting regulatory requirements. Whilst specifically required for some products, there is no explicit and generally applicable requirement to perform a pre-market risk assessment. However, the General Product Safety Regulations 2005 (GPSR) require businesses to only place safe products on the market and define a safe product as *"a product which, under normal or reasonably foreseeable conditions of use… does not present any risk or only the minimum risks compatible with the product's use".* For a business to be sure that their product is safe, they would need to undertake some form of a risk assessment, and we know that many manufacturers already do this.

Supporting pre-market risk assessment would encourage economic operators to consider more consistently how, when and by whom their products are used, thereby improving the safety of their products. It would also allow a business to consider designing out or replacing more hazardous components, potentially reducing their regulatory requirements further. Over time, we would expect more consistent use of pre-market risk assessments to form part of the product development process and improve the quality, reliability, environmental impact and safety of consumer products. If, as set out above, a new hazard-based framework is established, risk assessments could also help inform a business of their regulatory requirements under the new framework.

In responding to the following questions, please note that we are at this stage consulting on principles. The introduction of a new, proportionate approach would require primary and then

secondary legislation. We will work closely with stakeholders on the detail of the system going forward.

2. **Do you agree that we should examine options for a framework where regulatory requirements are more closely linked to the risks of the product in question?**

   Yes / No / Don't know

Please provide reasoning (including relevant evidence), considering risks and benefits, to support your answer, particularly any positive impacts or downsides on you or other stakeholder groups.

3. **What role should standards and testing requirements play in supporting businesses to comply with the new approach?**

Please provide reasoning (including relevant evidence) to support your answer, particularly any positive impacts or downsides on you or other stakeholder groups.

4. **What type and areas of guidance would most likely help you understand your requirements under any new framework? Please provide reasoning to support your answer.**

5. **Whilst anticipated costs and benefits would depend on the design of a new framework, what type of costs, quantified, if possible, would you anticipate in understanding a new framework?**

   Please provide relevant evidence to support your answer or clarify whether this is from your own experience.

   (For understanding, the process of familiarising yourself with a new framework and not the costs to comply with a chosen framework).

6. **Do you support the development of guidance to assist businesses in carrying out pre-market risk assessment?**

   Yes / No / Don't know

   Please provide reasoning to support your answer, including any views on the most effective way to support pre-market risk assessments in the UK.

   Please provide relevant evidence to support your answer, particularly in relation to any impacts on you or other stakeholder groups.

Supporting supply of critical products in emergencies

The Covid pandemic highlighted the importance of ensuring our future framework allows flexibility in times of national emergency. We plan to ensure that the new framework provides for an emergency derogation, so that essential products go through a swifter regulatory process that allows them to reach the market more quickly, whilst maintaining high, but proportionate, safety standards.

Proposal 2: Establish a derogation process, enabling businesses to apply for temporary regulatory easements to speed up supply of essential products in emergencies.

This proposal builds on the emergency measures that were introduced as part of the Government's COVID-19 response, to support the faster supply of essential Personal Protective Equipment (PPE) in certain circumstances. This is supported by views from the Call for Evidence and also the UK PPE Make Taskforce, which urged OPSS to establish a derogation process, similar to that of the Medicines and Healthcare products Regulatory Agency (MHRA) - see case study below.

Respondents to the Call for Evidence were supportive of a derogation process to support sufficient supply of products critical to an emergency. There were strong views that the derogation should be available in limited and exceptional circumstances and be tightly controlled with strong compliance and enforcement.

We plan to establish an application process for businesses to seek a derogation, in order to help ensure supply of products that are critical during an emergency, whilst continuing to maintain high safety standards. It is proposed that the derogation would only be available if the emergency situation meant that there was serious risk of harm to people, businesses or the environment, and would be in compliance with the UK's international obligations. It would only be granted for products deemed critical for the emergency response and where demand is outstripping supply. This would enable products to be placed on the market faster than would otherwise be the case.

In an emergency situation, businesses would be able to apply for a derogation, providing evidence to support their application. Regulatory requirements that could be temporarily eased including by allowing products to be placed on the market without a conformity marking, if the conformity assessment process was underway and the relevant market surveillance authority was content with the safety of the product. We might also temporarily reduce the requirements for the product to meet essential health and safety requirements for use in certain settings, as long as the market surveillance authority was content with the safety and traceability of the product.

Compliance and enforcement measures would be put in place to ensure only safe products are placed on the market and help maintain a competitive market. Businesses that received approval for a derogation would need to make appropriate arrangements to ensure products

falling under the derogation were only used in the circumstances permitted by the derogation, and that once the derogation came to an end, these products were immediately removed from the market. Similar to the approach of MHRA, this would involve assurances to the market surveillance authority that the derogation conditions are being met and that the products have been removed from the market at the end of the derogation. The market surveillance authority would closely monitor compliance and take prompt action where necessary, such as immediate suspension of the derogation, requiring immediate removal of the 'eased' products from the market.

As respondents to the Call for Evidence were clear that they were supportive of a derogation process in limited and exceptional circumstances, and to support the supply of products critical to an emergency, we have focused our proposal on these circumstances. However, we are keen to hear if there are other circumstances in which we might consider making a temporary derogation, for example to support trials of new innovative products in tightly controlled environments.

Case Study: MHRA's derogation process to enable faster supply of medical devices in emergency situations.

The MHRA regulates medical devices and has a range of investigatory and enforcement powers, including performing market surveillance, to ensure the safety and quality of medical devices. Since 2002, the MHRA has had a well-regarded derogation process to allow manufacturers to temporarily derogate from the usual conformity assessment requirements for medical devices, in response to a risk of serious harm to public health, whilst full conformity assessment is underway.

There are two types of exceptional use applications: humanitarian requests are for a one-off use on a single named patient and must be endorsed by the patient's clinician; and a derogation for wider use intended to prevent issues in the supply chain, such as sudden product shortages. MHRA takes one week on average to assess an application and issue a decision to approve or refuse the derogation.

This assessment time can be flexible to allow for manufacturers to respond to queries posed by the assessors, and equally can be expedited to address sudden supply issues.

Applications can only be made by the manufacturer, who must be UK-based or have a UK Responsible Person. The application process is rigorous, requiring applicants to answer a series of standard questions and provide evidence as to why their device will not have the relevant CE[5]/UKCA/UKNI marking.

Applications require the manufacturer to demonstrate the lack of supply, and the lack of an alternative CE/UKCA/UKNI-marked device, and the urgent need to provide the device in response to a serious risk to patient health. The indication of a lack of supply can be verified by DHSC/NHS clinicians who have been approached by the manufacturer or they

[5] Subject to parliamentary approval, manufacturers of medical devices will be able to use UKCA or CE marking on devices placed on the GB market until 30 June 2025.

can be independently approached by MHRA. Following a review to confirm that all the required questions have been answered, MHRA assesses the validity of the claims within the application, such as whether there is a shortage of supply and a clinical need for the device. A team of specialists from its clinical and device safety and surveillance units review the application from a clinical and technical perspective.

If the derogation is granted, the decision letter to the manufacturer sets out conditions that must be met, such as regular reports on the progress in securing conformity marking and any adverse events or incidents. Once the derogation comes to an end, the manufacturer is required to provide evidence to MHRA that the devices have been removed and/or destroyed.

7. **Do you agree with the proposal to establish a derogation process to help ensure supply of critical products in emergencies?**

   Yes / No / Don't know

   Please provide reasoning (including relevant evidence) to support your answer, particularly any impacts (business costs and benefits) on you or other stakeholder groups, and for any suggestions you have on key aspects of the design or implementation.

8. **Are there other circumstances, in addition to those set out in this proposal, where a derogation process would be helpful?**

   Yes / No / Don't Know

   Please provide reasoning (including relevant evidence) to support your answer, including any specific examples of other circumstances in which a derogation process would be useful.

Introducing voluntary e-labelling

We will take early steps to modernise our framework through the adoption of optional electronic labelling or 'e-labelling', whereby manufacturers could, if they wish, make certain marking and compliance information available digitally via a screen rather than physically accompanying or indelibly marked on the product.

Government has permitted e-labelling elsewhere: MHRA allows manufacturers of certain types of medical devices and accessories to provide electronic instructions for use.[6] MHRA has also

[6] https://www.gov.uk/government/publications/electronic-instructions-for-use-of-medical-devices-guidance-on-regulations/guidance-on-the-regulations-for-electronic-instructions-for-use-of-medical-devices

noted its intention to extend this provision so that it applies to software and apps that are supplied directly to end users as well as healthcare professionals.[7]

Research has identified that early adopters of e-labelling have done so on a voluntary basis and have tended to adopt some form of measure to support market surveillance activity, including removable import labels and/or additional instructions for users explaining that information is available electronically, and how to access it.

Some respondents to the Call for Evidence, particularly legal and technology firms, suggested the widening of voluntary e-labelling in the UK would be beneficial. Respondents identified potential benefits, including helping to reduce waste, relieving industry burdens and costs, and allowing information to be easily updated through the lifetime of the product.

Voluntary e-labelling is not currently accepted in the EU in relation to the consumer product safety areas covered by OPSS.[8] Voluntary e-labelling of consumer products was therefore cited as an opportunity for the UK to show regulatory leadership and an example of where divergence from the EU could support innovation and benefit business.

However, we also heard about the need to ensure that voluntary e-labelling did not compromise end user safety as a result of not retaining physical safety warnings on the product. Enforcement authorities cited the impact of marking and labelling on their activities, and we heard concerns about the practicalities of e-labelling, and the importance of making sure that enforcement officers can access the information they need quickly and easily. We received evidence on the importance of ensuring that e-labelling did not further disadvantage consumers at risk of digital exclusion, or risk making information inaccessible to certain groups. Finally, concerns were raised about set-up costs for smaller firms.

Proposal 3: Take full advantage of digital labelling.

We will remove the requirement that UKCA conformity marking and manufacturers' details can only be provided physically on products, and give firms the option to supply this information on the screen of the device instead, as well as not having to provide a physical label. Government believes that allowing the voluntary use of e-labelling without a physical label would have the benefit of allowing businesses to take advantage of cost savings where it applied whilst still allowing firms to adopt the method of labelling and provision of information that works best for their business model.

Being easily able to update information accessed via e-labelling would also provide wider benefits, for instance, where functionality allows for remote updates, ensuring market

[7] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1085333/Government_response_to_consultation_on_the_future_regulation_of_medical_devices_in_the_United_Kingdom.pdf, p146

[8] https://www.gov.uk/guidance/product-safety-for-businesses-a-to-z-of-industry-guidance

surveillance authorities have the latest manufacturer or importer contact details or can see that a UKCA marking has been withdrawn.

E-labelling also removes the need for the use of natural resources that go into making physical labels and reduces waste, as labels from old products that would otherwise need to be physically disposed of can continue to exist digitally. Permitting businesses to reduce the environmental impact of complying with product labelling legislation would contribute towards achieving the Government's Net Zero ambitions.

To mitigate risks, we propose that the following exclusions would apply:

- Limiting the proposal to devices with integrated screens or products designed for use with a screen. Whilst quick response (QR) codes could potentially have been permitted to link to labelling information on a website, allowing for further types of products to use e-labelling, concerns have been raised about the accessibility of QR codes and the risks of digital exclusion.
- Not all consumers may have access to a smart phone and the internet in order to use the QR code. For those devices which will be permitted to use voluntary e-labelling, we do not propose to allow the screen to only show a QR code or link to a website; we expect the information to be made available on the device. This approach aligns with international precedents.
- With the growth of the internet of things some products that may have a screen or can only be used with a screen might be considered to have functions that are too high-risk to rely on electronic labelling alone. For example, this might include some products with industrial uses.
- Any information required by product safety legislation which is not a UKCA marking or manufacturer's details, for example a warning of a choking hazard for a toy, would still need to be provided physically with the product as an indelible marking or on paper, as required, even where the device has an e-label accessible on the device.

To ensure that enforcement authorities can access the information they need to take action against potentially non-compliant products, the Government proposes that removable import labels would be required on the external packaging, and devices should be clearly marked as using e-labelling. This would be accompanied by clear instructions on how to access compliance information within three menu navigations. Government proposes including guidance on making information accessible and clear to enforcement authorities and end users.

However, we are keen to consider how we can go further, expanding e-labelling to a wider range of products and to a broader range of information requirements, particularly where this would have additional consumer benefits. For example, this could include user guidance and instructions aimed at consumers, restrictions on who can use the product, or conformity assessment technical details or certificates.

The scope for extending e-labelling would be greater if accessibility issues, for example those associated with using QR codes, could be overcome. We would welcome views on future scope for change and what could be done to overcome accessibility issues along with views on the type of information consumers could find more useful if provided digitally.

9. **Are there any other mitigations we need to consider as we look to introduce voluntary e-labelling to devices with screens or designed for use with screens?**

   Yes / No / Don't know

   Please provide reasoning (including relevant evidence) to support your answer, particularly any impacts on you or other stakeholder groups.

10. **Are there other labelling requirements to which you consider that voluntary e-labelling could be expanded in future (to further types of statutory labelling requirements/additional product areas and/or to permit the use of QR codes)?**

    Yes / No / Don't know

    Please provide reasoning (including relevant evidence) to support your answer, particularly any impacts on you or other stakeholder groups.

11. **What additional mitigations, if any, do you think could be needed if voluntary e-labelling is expanded in future?**

    Please provide reasoning (including relevant evidence) to support your answer, particularly any impacts on you or other stakeholder groups.

Summary

Our proposals in this chapter are good for business, including for Small and Medium-sized Enterprises (SMEs), because:

- it will be easier to identify and meet legislative requirements that apply to products, particularly new and innovative products.
- it will support innovation and be fairer, as legislative requirements will be proportionate to the risks that products present.
- it will be quicker to supply critical products for an emergency, to meet increased and urgent demand.
- it will be easier and cheaper to manufacture some products and make the most effective use of digital channels.

Our proposals in this chapter are good for consumers because:

- it will be easier for business to understand product safety requirements, making it less likely that unsafe products are on the market, and providing greater confidence that consumers are buying safe products.
- it will be quicker to access new and innovative products on the market, boosting consumer choice, as businesses find it easier to identify and meet product safety requirements.
- it will be easier to purchase essential products for an emergency, with confidence that the products meet high safety standards.
- it will be easier to access the latest up-to-date safety information on products, including second-hand goods, where businesses use e-labelling.

3. Online supply chains

eCommerce has revolutionised global supply chains, facilitating new business models and transforming how products are bought and sold. Internet sales have grown significantly over the past decade. In October 2022, 26% of all UK retail sales occurred online, compared to just 8.9% ten years previously.[9] Within this growth, the rise of online marketplaces has been a notable trend. These businesses (including Amazon Marketplace, eBay, AliExpress and many others) provide services, including a platform for third-party sellers to advertise and sell their products to consumers. This has made it easier for businesses to sell their products across the world and often trade at lower costs, with associated benefits for consumers.

However, eCommerce has brought an unprecedented challenge to the product safety legal framework, which was not designed with modern business models in mind. When products are sold online, some have suggested that there can be a lack of clarity about the responsibilities of businesses in the supply chain to ensure their safety, particularly on online marketplaces. This can make it easier for unsafe and non-compliant products to be sold to UK consumers and place businesses selling compliant products at a disadvantage. Whilst many in the industry are seeking to address this issue, this is not consistent across the sector or fully effective in tackling the problem.

In the Call for Evidence, we heard a range of concerns in relation to online sales. Consumer advocacy groups, trade associations and enforcement authorities raised concerns about the volume of non-compliant products available from third-party sellers via online marketplaces.

Respondents expressed the view that non-compliance is more prevalent amongst these sellers than bricks-and-mortar sellers or online retailers with a UK base. Enforcement authorities highlighted that, in the case of products sold by third-party sellers, there is often no responsible economic operator in the UK, which makes investigation and corrective action difficult. Businesses and trade associations highlighted a need to create equity between online sellers and UK retailers, to prevent businesses outside UK jurisdiction intentionally avoiding regulation and the associated compliance costs.

Consumer groups and charities also raised concerns around the lack of product safety and seller information available to consumers on online marketplace listings – including whether the online marketplace had verified the compliance of the product. Respondents recognised that some online marketplaces have made progress in ‘de-listing’ non-compliant products but warned that more needs to be done to prevent ‘re-listing’ of the same product shortly afterwards.

[9] https://www.ons.gov.uk/businessindustryandtrade/retailindustry/timeseries/j4mc/drsi
Retail sales covered by this dataset includes non-food sales, food sales, non-store retailing and automotive fuel.

The sale of unsafe and non-compliant products through online supply chains is a global challenge shared by other countries, including those in the EU. Online marketplaces and others in the online supply chains are making efforts to address the issue, but there is more that needs to be done. The UK Government has the opportunity to use our new regulatory freedom to design a tailored solution that best meets the needs of UK consumers, businesses and enforcement authorities. There are also opportunities to consider how businesses and government can work more effectively together to address these challenges, for example through innovative use of new technology and exploring improved data sharing.

This chapter sets out proposals to ensure that products bought online are as safe as those bought on the high street. Our aim is an updated framework which better protects and informs consumers, supports a level playing field for businesses, and is proportionate and deliverable given the complex range of business models involved in eCommerce. We are interested in perspectives from stakeholders across eCommerce, not just those involved in online marketplaces.

Government has reflected on respondents' views in the Call for Evidence about the nature of eCommerce business models. Our proposals are based on a consideration of the specific activities in online supply chains. They are designed to ensure consumers are protected whilst minimising burdens on business through due consideration of practicality, risk and continuing to ensure that responsibilities are proportionate to actors' roles in the supply chain.

Government has considered some specific suggestions raised by stakeholders in the Call for Evidence, particularly that in order to be placed on the UK market, products must have an economic operator based in the UK.

However, the Government does not consider that to be the right approach overall. While online marketplaces will act as importers (if first placing the product on the market) or distributors (if making the product available on the market) depending on the facts, Government also considered whether all online marketplaces should at all times and in all circumstances have either of these duties. We believe the proposals that follow better reflect the nature of eCommerce and set out a more nuanced and practical approach to address the challenges it raises, without excluding online marketplaces from continuing to be subject to importer or distributor obligations where appropriate.

Government is also working closely across departments to consider compatibility between product regimes. For example, in the case of internet-connected consumer products, we are considering how to ensure the product safety and cyber security regimes are coherent, so consumers are similarly protected in relation to both the safety and security of products.

In line with the Government's Digital Regulation Plan[10], our proposals take into account the distinctive features of online supply chains and recognise the role of eCommerce in supporting business growth and innovation and consumer choice, setting out proportionate interventions to protect consumers from new risks and support a level playing field for business.

[10] https://www.gov.uk/government/publications/digital-regulation-driving-growth-and-unlocking-innovation

Tackling the listing and re-listing of unsafe products

Product safety legislation sets out the activities which determine if a business is a manufacturer, importer, or distributor and therefore must fulfil certain duties. However, the growth of eCommerce has led to new actors and activities, with some suggesting that responsibilities in online supply chains are not always clear.

In addition, whilst some online marketplaces have policies and processes in place to tackle the listing and re-listing of unsafe or non-compliant products, approaches across the industry are not consistent. Responses are most often reactive, with online marketplaces only taking action when requested by the enforcement authority. This allows unsafe product listings (including, for example, unsafe toys that pose a serious risk to children) to appear and re-appear, creating a recurrent risk to public safety.

Proposal 4: Clarify cooperation duties for new business models, particularly 'online marketplaces', to ensure effective cooperation.

Government proposes to set out in legislation that if a business conducts particular activities, they are an 'online marketplace' and will be subject to specific duties in addition to ongoing importer or distributor obligations, as appropriate. Activities could include providing an online platform which connects traders with buyers and enables sellers to list products for sale.

Online marketplaces would have duties to cooperate with enforcement authorities to provide information and take appropriate actions if products are unsafe or non-compliant. An additional duty could be that marketplaces must have a compliance function established in the UK which is responsible for ensuring appropriate policies, processes and systems are in place to address the availability of unsafe products.

Government will also consider the extent to which these cooperation duties apply to other new business models in online supply chains (such as fulfilment services). This proposal will reflect existing good practice, ensuring such practice is embedded and more consistent across the industry, thereby providing a level playing field. It will further clarify the role and responsibilities of online marketplaces in the supply chain and ensure cooperation between marketplaces and enforcement authorities is consistent, effective and enforceable.

12. **Do you agree with the proposal to clarify cooperation duties for new business models, particularly 'online marketplaces'?**

    Yes / No / Don't know

    Please provide your reasoning (including relevant evidence on impacts, costs and/or benefits for you or other stakeholder groups).

13. What practical considerations would Government need to take into account if such cooperation duties applied to new business models in the online supply chain?

Proposal 5 – Set out due care requirements in relation to unsafe product listings.

Government proposes setting out in legislation specific due care requirements regarding the identification and removal of unsafe product listings, which 'online marketplaces' (as outlined in proposal 4) will need to meet.

This would mean 'online marketplaces' assessing if they are meeting due care requirements by identifying any specific risks, developing systems and processes proportionate to their business and risk levels, and publicly and/or privately reporting on their performance.

Specific duties could include:

- Collecting (and taking reasonable steps to verify) information about third-party sellers for high-risk products.
- Consulting sources such as the UK Government Product Recalls and Alerts page, monitoring their marketplaces for products which reasonably look to be an identical or very similar product, and taking appropriate action.
- Gathering their own information about products and sellers which could indicate a product is unsafe (for example, analysing customer reviews or product return data) and using this alongside information from enforcement authorities to regularly assess which products warrant greater due diligence. Based on this, carrying out targeted monitoring and scrutiny of relevant product listings with a view to addressing listings which reasonably look like they could be advertising non-compliant or unsafe products.

Government will also explore ways to develop and improve data sharing between regulators and 'online marketplaces' to support the identification of non-compliant products and related sellers.

This proposal would set out due care requirements when hosting product listings and apply in addition to existing duties for manufacturers, importers and distributors.

Given the international nature of online sales, the Government considers that enforcement would best sit with a national enforcement authority. The enforcement regime would reflect the proposals in chapter 4 and could include warning notices, compliance notices and scaled fines.

Where other options had been exhausted, or where there is no prospect of other sanctions being effective, the enforcement authority could also have the power to restrict or block access to relevant webpages.

This proposal will ensure platforms hosting product listings use their role in the supply chain to take consistent, practical and proactive steps to protect consumers. It will reflect the activities

that some already carry out and ensure that products bought online are as safe as on the high street.

14. **Do you agree with the proposal to introduce due care requirements in relation to unsafe product listings?**

    Yes / No / Don't know

    Please provide your reasoning (including relevant evidence on impacts, costs and/or benefits for you or other stakeholder groups).

Strengthening consumer information online

Certain UK product-specific legislation, such as the Electrical Equipment (Safety) Regulations 2016, requires products, their packaging or accompanying documents to be clearly marked with certain product safety and traceability information. This information denotes a product's compliance with product safety regulations and supports the traceability of products by enforcement authorities. Interested consumers can also use this information to decide if a product is appropriate for their specific purposes. However, for most products, there is currently no specific legislative requirement to display this information online. This creates inequity between online and high street sales. In addition, many respondents to the Call for Evidence also argued that it is not always clear whether a product on an online marketplace is being sold by a third-party seller – which means consumers are not always aware who they are buying from.

Proposal 6 – For higher risk products, increase consumer-facing information on online product listings to support informed purchasing decisions.

Government proposes that online product listings should have clear consumer-facing information.

Information could include:

- Warnings to consumers.
- A clear, prominent indication of whether the product has been listed by a third-party seller (alongside additional information, such as the name and contact address of the seller).
- Details of what checks (if any) have been carried out on the product or seller.
- Key product safety information which is already on the product, its packaging or its accompanying documents.

To ensure proportionality, these requirements could, where appropriate, be linked to where products present a higher risk (in future, for example based on their hazard category as set out under Proposal 1 above, or where OPSS has issued a Product Safety Alert),

This proposal would improve the information available to consumers on online marketplaces, with the aim of clearly communicating risks and enabling interested consumers to make more informed purchasing choices whilst also maintaining their confidence in eCommerce. Consumers will have a better idea of how to use the products they are buying, where these products are coming from, and what checks have been made to ensure these products are safe. This proposal will also support enforcement authorities by increasing ease of access to traceability information.

15. **Do you agree with the proposal to increase consumer-facing information on online product listings for higher risk products?**

    Yes / No / Don't know

    Please provide your reasoning (including relevant evidence on impacts, costs and/or benefits for you or other stakeholder groups).

16. **What additional information would be useful to support consumers to purchase safe products?**

    Please provide your reasoning (including relevant evidence on impacts, costs and/or benefits for you or other stakeholder groups).

Summary

Our proposals in this chapter are good for business, including for SMEs, because:

- it will be fairer for manufacturers, sellers, high street retailers and online marketplaces to trade in the UK, as all businesses will have duties proportionate to their activities in the supply chain.
- it will be fairer for compliant businesses as they will not be undercut by non-compliant competitors.
- it will be easier for businesses throughout the online supply chain to understand their product safety responsibilities.

Our proposals in this chapter are good for consumers because:

- it will be safer to shop on online marketplaces.
- it will be easier to remove listings so consumers will not inadvertently buy unsafe products.

- It will be easier to see product safety information and make informed choices when buying online.

4. Compliance and enforcement

Businesses and consumers want to have confidence that those who break the law or cut corners to obtain market advantage at the cost of safety will be stopped. The responsibility for enforcing consumer products under the product safety framework is mostly led by local authority Trading Standards in Great Britain and district councils in Northern Ireland (local authorities). In addition, Primary Authority enables businesses to form a partnership with one local authority, which then provides assured and tailored advice on complying with regulations. Since being established in 2018, The Office for Product Safety & Standards (OPSS) has provided national regulatory capacity, leadership and coordination to enforcement and regulatory activity. It does so through funding, training, support and guidance. Last April, OPSS also established a dedicated team to act as a single point of contact for local authorities.

A range of tools have been provided by OPSS to local authorities to support their regulatory functions and this package is being reviewed and updated in order to reflect the expanded remit of OPSS and the updated OPSS strategy.[11] The tools and services include support of technical queries; access to experts in science, data and intelligence, engineering and technology and risk assessment; access to product testing; an ongoing programme of training and continuous professional development; access to the catalogue of British Standards; and guidance on policy and legislative developments as well as other tools. The National Audit Office, in their 2021 report on protecting consumers from unsafe products[12], welcomed the role OPSS has taken on since being formed. However, they suggested there was a need for improved coordination with local authorities, a view reflected in some of the responses to our Call for Evidence. OPSS will continue providing local authorities with access to tools and services, enabling them to better undertake their statutory functions. Alongside this, we propose to enhance the ability of OPSS to lead and coordinate enforcement activity.

Enhance the role of OPSS

Proposal 7: Enhance the leadership and coordination role of OPSS.

We propose providing the Secretary of State with the ability to produce statutory guidance for local authorities. This is consistent with the approach taken by other regulators such as the Food Standards Agency, who issue guidance to assist local authorities and port health authorities with the discharge of their statutory duties. Similarly, guidance issued by the Health & Safety Executive, with the consent of the responsible Secretary of State, provides practical advice to businesses on how to comply with the law. OPSS guidance will set out the key functions and principles local authorities should apply when carrying out their enforcement

[11] https://www.gov.uk/government/publications/opss-product-regulation-strategy-2022-2025
[12] https://www.nao.org.uk/reports/protecting-consumers-from-unsafe-products/

duties, including the methodology and processes they should follow when assessing product safety incidents and using their enforcement powers.

The guidance could be used to emphasise existing statutory duties for local authorities, such as their requirement to make notifications and updates to the Product Safety Database (PSD).

Statutory guidance will ensure the consistency of regulatory activity nationally, whilst allowing officers the flexibility to adapt their approach in the interests of keeping consumers safe around local priorities and circumstances. Whilst Local Authorities should have regard to statutory guidance, it is still for the deciding authority to pursue its own process, ensuring our enforcement regime is agile and able to adapt where a particular approach may not be working or when priorities change. Clarifying the need for local authorities to update the PSD will assist in ensuring OPSS has a strong data picture of enforcement activity nationally and supports coordination.

We also propose setting out a number of specific duties and powers in legislation. We want to make it a duty for local authorities to cooperate with the Secretary of State, helping ensure OPSS can better coordinate enforcement activity. We also propose the Secretary of State should have the power to be able to take over an investigation from local authorities in cases which meet the definition of being nationally significant, novel, or contentious, and thus would fall under OPSS's purview. Finally, we also propose the Secretary of State has a general power to delegate responsibilities for enforcement. This could be used to further clarify enforcement responsibilities in a particular geographical area, for example at ports. It could also be used to determine enforcement responsibilities for a particular product type or economic operator. Having these powers would ensure the enforcement regime is agile and better able to adapt to changing requirements, whilst at the same time giving the greatest protection for consumers. Any decision to change responsibilities would be subject to further consultation with stakeholders.

17. **Do you agree with the proposal to enhance the leadership and coordination role of OPSS?**

    Yes / No / Don't know

    If you agree, which specific areas, duties or functions which would be most helpful to set out in guidance?

    Please provide your reasoning (including relevant evidence) to support your answer and advise what organisation you are from.

Data and Intelligence sharing

We recognise the importance of quality data to protect consumers and the environment, whilst enabling business to thrive. We believe that having robust data across a wide range of sectors and products is key to supporting an evidence-based product safety framework. The right information at the right time across all actors within the framework drives intelligence and

enables proportionate action. The importance of good data and the ability to share it was highlighted in responses to the Call for Evidence and in other evidence, including the National Audit Office report.

Whilst OPSS does have access to multiple data sources, our ambition is to make it easier to share high quality data among those who need it, and for compliance and enforcement activities by local authorities, other regulators, including the Health and Safety Executive, and the public.

Proposal 8: Facilitate a rich source of data, by creating a new legal data gateway.

We propose having a mechanism by which the Secretary of State could request that data is shared across key operators in the product safety system, so we optimise the amount of data we receive and share, in the interests of the best protection for consumers. Operators would include local authorities trading standards and authorities at the border. Such data would already be held by the manufacturer. It would include information about the manufacturers themselves, as well as data on incidents, investigations and test reports. This would support OPSS in identifying risks, not just about products but about risks to specific consumers, some of whom may be more vulnerable. OPSS will be able to create targeted interventions that have a more direct impact. In addition, OPSS would be able to identify trends, be better able to predict incidents and deploy timely interventions.

To best facilitate a rich data store, all operators within the framework need to not just co-operate but prioritise the collection and sharing of data. Tests by manufacturers and reports from emergency services were highlighted in the Call for Evidence as just some of the types of data that would be useful to gather and share. Any data collected will be proportionate and carried out with due regard to existing data protection law. The Government will publish information demonstrating how OPSS and others who work as regulators of product safety are making best use of the data to support risk-based actions and decisions. Information published will be suitably anonymised.

18. **Do you agree with the proposal to create a new legal data gateway?**

    Yes / No / Don’t know

    If so, what would you like shared e.g., in your role as market surveillance authority, business or consumer and how would you like access to it?

    Please provide your reasoning (including relevant evidence) to support your answer.

Recall and Incident Notification Recalls

The Product Safety Database (PSD) has been available to all authorities with responsibility for product safety since November 2019. Since the PSD has been made available to local

authorities and other national regulators such as the Health and Safety Executive, reporting rates have increased. Feedback from users suggests it is easy to use and access compared to other similar systems. During the Call for Evidence, several respondents flagged its value in sharing intelligence, not just to market surveillance authorities, but to consumers and business.

However, the full potential of the PSD is hindered by its limited functionality, including the need for more detailed product and business information, so that multiple notifications of similar products and businesses can be easily identified. In response to the Call for Evidence, OPSS is undertaking a programme of data cleansing of the PSD, aiming to reduce duplication and create more consistent terminology for products listed. In addition, a new public facing website[13] hosted on gov.uk was launched last April to replace existing product safety reports and recall campaign sites.

Product safety regulations, including the General Product Safety Regulations 2005, set out the action manufacturers, importers and distributors are obliged to take in the event of a product posing a risk to consumers. Action includes notifying the relevant authority as soon as they become aware that they have put an unsafe product on the market. In addition, the authority (e.g. local authorities) has powers to issue recall notices and withdrawal notices, where they have reasonable grounds to believe a product is dangerous and has been made available to consumers. Both consumers and businesses benefit from this and can raise concerns in respect to unsafe products to the Citizens Advice helpline or local authorities. Local authorities in turn notify OPSS where a corrective action has taken place against a product such as a product being recalled or withdrawn from the market – a process which we believe could be improved.

Proposal 9: All notification of recalls and serious product safety incidents and other corrective action by a manufacturer or distributor is sent to OPSS, rather than the local authority, as soon as the economic operator has knowledge of an unsafe product.

Respondents to the Call for Evidence highlighted the value in having a single point of contact to report an unsafe or recalled consumer product. We propose to introduce a requirement for all product-related incidents of a certain level of seriousness raised by a business to be reported (digitally where possible) to OPSS instead of local authorities. The definitions of such incidents would need to be specified but could include, for example, those resulting in deaths, injuries requiring an overnight stay in hospital, or fires. This reporting system could be implemented in a similar fashion to the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013, which sets out duties to report certain serious work-related injuries, occupational diseases and specified dangerous occurrences. Therefore, any notification of recalls, incidents and of products causing serious injury by a manufacturer or distributor is sent to OPSS as soon as they have knowledge. These will then be logged on the

[13] https://www.gov.uk/guidance/product-recalls-and-alerts

PSD which can be readily accessed by market surveillance authorities, including local trading standards authorities and national regulators.

Introducing this requirement for notifications to OPSS, rather than local authorities, will release some capacity as notifications are diverted - it will mean local authorities don't have to then notify on the PSD any corrective action that may have been taken. OPSS will receive data more quickly and be able to advise as necessary on the appropriate corrective action, which could include working with the relevant Primary Authority where applicable.

Introducing this notification requirement of serious incidents would provide a rich data source and afford OPSS the opportunity to determine if the product involved in any reported incident was unsafe, identify similar incidents and if necessary, to act promptly as required to protect the public.

OPSS would have the opportunity to use the data to act as an "early warning" to new and emerging risks presented by products. We believe that many consumers contact manufacturers directly in the event of an incident. Manufacturers too, through testing, are likely to identify faults that necessitate recall or other corrective action. By creating a single point of contact for reporting for recalls and all serious incidents it removes any uncertainties related to reporting for the relevant economic operators.

We may consider making it an offence for a business (online or physical) to fail to comply with this obligation. OPSS could in such instances exercise additional enforcement action as necessary should it become clear that a business wilfully or carelessly failed to comply with this recall or incident notification duty.

19. **Do you agree with the proposal to have a single point of contact for product safety recalls?**

    Yes / No / Don't know

    Do you have any concerns with OPSS as single point of contact for business to notify all products as described above?

    Please provide your reasoning (including relevant evidence) to support your answer.

Consolidate and align our enforcement legislation

As with the framework more generally, respondents to the Call for Evidence described the challenge of navigating the current spread of enforcement legislation. Enforcement powers are contained in domestic legislation including the Consumer Rights Act 2015 and the Consumer Protection Act 1987. Further powers are provided in retained EU legislation including the General Product Safety Regulations 2005 and sector-specific legislation. The powers contained in Regulation 765/2008 on Accreditation and Market Surveillance (RAMS) (in respect of Great Britain) and Regulation 2019/1020 on Market Surveillance and the

Compliance of Products (MSC) (in respect of Northern Ireland), which provide powers for authorities at the border, also sit alongside.

As enforcement legislation has been introduced over time, powers have become misaligned and inconsistent. Some examples of this include:

- Lack of powers under certain legislation. Some regulations provide no powers to issue compliance, withdrawal and/or recall notices.
- Duplication of powers. Withdrawal and prohibition notices being similar in intent.
- Powers for authorities to be able to request information about a product being contained in multiple pieces of legislation.
- Prescriptive versus discretionary powers. Enforcement legislation in some EU-derived sector specific regulations is prescriptive, requiring the authorities to take certain actions, in contrast to the discretionary powers found in most other enforcement legislation.
- Application of powers. Certain RAMS and MSC powers are linked to customs processes, whereas other powers are linked to products being supplied or placed on the market.

Proposal 10: Consolidate and align our existing enforcement legislation.

We propose to consolidate and align our enforcement legislation as far as possible, which will include creating a single set of notices and offences covering all the products in the framework. This will equalise powers where they are deficient allowing compliance, withdrawal and recall notices to be issuable for all products covered by the framework.

It will also include a rationalisation of powers, removing duplications and overlaps where they exist, for example the creation of a single agile information notice through which authorities can request information about a product. Where appropriate, we will move away from powers being prescriptive, enabling authorities to act in a more agile manner guided by statutory guidance. We will also ensure this rationalised set of powers is available for use inland and at the border.

20. **Do you agree with the proposal to consolidate and align existing enforcement legislation?**

    Yes / No / Don’t know

    What are the consequences for consolidating existing enforcement powers?

    Please provide your reasoning, including any impacts this may have on you or other stakeholder groups.

Introduce new enforcement powers

Authorities currently have a range of options for responding to non-compliance, with the primary focus being to reduce the risk a product poses to users. Powers in the Consumer Protection Act 1987 largely seek to prevent non-compliant products being supplied, whereas newer sector-specific regulations go further, requiring remedial action for products already in the hands of users. The criminal sanctioning of non-compliance, for example through application of a fine, can only be decided by the courts after prosecution.

There is an opportunity to expand on existing powers, better enabling authorities to work with businesses to ensure they meet their responsibilities and offer the greatest protection to consumers. There is also an opportunity to give authorities power to directly sanction for certain types of non-compliance, as an alternative to prosecution through the courts.

Proposal 11: Introduce improvement notices, civil monetary penalties, and enforcement undertakings.

We propose providing authorities with powers to issue improvement notices and civil monetary penalties where necessary to do so. We also propose allowing them to agree enforcement undertakings with businesses.

An improvement notice would require operators to implement process improvements within a specified period. Similar powers exist for other safety regulators, such as the Health and Safety Executive and the Food Standards Agency. They would be issuable where flaws in a businesses operations have led it to supply a non-compliant product, for example, a notice could require a business to implement due diligence or quality assurance processes where they may have been lacking. The power would complement existing notices which place the emphasis on authorities and businesses to work together to ensure compliance.

A civil monetary penalty would be issuable by an authority for certain types of non-compliance, considering factors such as seriousness, whether harm has been caused, levels of cooperation and previous patterns of non-compliance. They are well used in other regulatory regimes, deterring non-compliance and removing the financial gain a business may have accrued from their non-compliance. The availability of civil monetary penalties would enable non-compliance to be sanctioned without the need for prosecution through the courts, ensuring authorities and businesses can avoid the time and costs associated with court proceedings. Their use would be subject to statutory guidance and oversight by OPSS, and the recipients of the penalties would have the right to make representations and appeals. This will ensure they are used proportionately, fairly and consistently.

For enforcement undertakings, where a business has supplied a non-compliant product, they would be able to seek agreement with an enforcement authority on how the non-compliance can be rectified or remedied, and actions they will take to ensure the non-compliance does not occur again. Acceptance and completion of the undertaking would mean the business is not subject to further enforcement action or prosecution. Enforcement undertakings are widely

used in relation to environmental legislation and encourage operators to work proactively to meet their responsibilities and to protect consumers.

These expanded powers to issue notices, issue civil monetary penalties, and agree undertakings, could also inform the enforcement regime for the proposals to tackle the sale of unsafe products online outlined in chapter 3. As well as this, we propose existing powers be expanded to potentially enable enforcement authorities to require specific, additional actions from online marketplaces and businesses in particular situations. For example, if a product presents a particular risk, requiring sellers to provide more information and online marketplaces to check it is provided.

21. **Do you agree with the proposal to introduce improvement notices, civil monetary penalties, and enforcement undertakings?**

    Yes / No / Don't know

    How will these new powers assist in ensuring businesses meet their product safety obligations?

    Please provide your reasoning (including relevant evidence) to support your answer.

Inspection powers

During the Call for Evidence, many respondents identified the challenges they faced with the investigation powers contained in the Consumer Rights Act 2015, particularly in relation to 'in person' inspections. Stakeholders identified a rising number of businesses operating from homes, facilitated by online marketplaces, and accelerated by the covid-19 pandemic. Should an officer believe it necessary to conduct an in-person inspection of a business operating from a home, legislation necessitates them gaining a warrant from a Justice of the Peace. In such circumstance, stakeholders have argued the need for a warrant is misaligned with modern working practices where increasing numbers of businesses operate from homes and the process of gaining a warrant slows investigations.

Proposal 12: Explore options for changing inspection powers.

We will explore options for amending inspection powers for businesses which operate from homes. We will need to assess whether the risks posed by businesses operating from residential properties warrants a change to legislation. If it does, inspection powers will still require strong safeguards. A change could entail officers only being able to access the parts of the property where a business is operating from, for example an outbuilding or garage where products may be being stored. Alternatively, it could be restricted to where a product has caused or could cause significant harm to end users.

22. **Do you agree with the proposal to explore changing inspection powers?**

Yes / No / Don't know

If there are substantial risks posed by home-based businesses, can the risk be balanced with the privacy rights of residents when carrying out inspections? Please provide your reasoning (including relevant evidence) to support your answer.

Creating a fit for purpose product liability regime

An additional approach government could take to ensure the effective implementation of product safety regulation is to adjust the civil product liability regime, which is set out in the Consumer Protection Act 1987. The regime enables consumers to seek compensation for harm caused by a defective product. In the Call for Evidence, questions were raised about whether the regime remains fit for purpose.

Proposal 13: Reviewing the civil product liability regime in light of technological developments.

In relation to new technologies and increased innovation in product design, respondents to the Call for Evidence highlighted that current definitions, such as 'product' and 'defect', may not be adequate. They also suggested that as products become more sophisticated and driven by complex software, liability may not always be clear. This was particularly noted in relation to products where software is updated, and to functions and behaviours commonly described as Artificial Intelligence (AI). For example, if a product's behaviour is driven by opaque data models and algorithms, or it 'learns' and therefore changes over time. Government is interested in understanding if there are examples of this happening in practice or if there are other limitations to the current regime.

In addition, in relation to new supply chains, stakeholders raised questions about whether more could be done to use the regime to drive businesses to carry out greater due diligence, particularly when products are sold online.

23. **To inform consideration of whether the civil product liability regime remains fit for purpose, can you provide any examples where the current product liability regime:**

    a) is unclear because of technological developments (e.g., lack of clarity about who is responsible for safety of an AI/smart product or when software is updated); or

    b) doesn't enable consumers to seek fair redress; or

    c) doesn't provide businesses with clarity and confidence to develop new products?

Summary

Our proposals in this chapter are good for business, including for SMEs, because:

- it will consolidate and align our enforcement legislation, making it easier for businesses to identify and understand their obligations.
- it will incentivise businesses to work cooperatively with enforcement authorities, with civil sanction powers reserved to target bad actors.
- it will create an improved system for recalls, which means we will be better able to spot any trends and take proactive action to support businesses who may be inadvertently non-compliant.
- it will facilitate a mechanism whereby data is shared across key operators in the product safety system.

Our proposals in this chapter are good for consumers because:

- it will improve coordination and sharing of information which will allow authorities and regulators to act quicker and proactively ensure consumers are protected.
- it will provide enforcement authorities with a wide range of powers through which they can ensure only safe products are made available on the market.
- it will create an enforcement regime that is agile and better able to adapt to changing consumer purchasing habits.
- it will establish OPSS acting as a single point of contact for notification of all recalls and serious incidents, simplifying the process.
- it will be easier for consumers to seek redress if they have been harmed by an unsafe product.

Consultation questions

1. **Are there any specific products where action within the current product safety framework could be taken to reduce business burden, encourage innovation and/or increase consumer choice without compromising safety?**

   Please provide evidence to support your suggestion.

2. **Do you agree that we should examine options for a framework where regulatory requirements are more closely linked to the risks of the product in question?**

   Yes / No / Don't know

   Please provide reasoning (including relevant evidence), considering risks and benefits, to support your answer, particularly any positive impacts or downsides on you or other stakeholder groups.

3. **What role should standards and testing requirements play in supporting businesses to comply with the new approach?**

   Please provide reasoning (including relevant evidence) to support your answer, particularly any positive impacts or downsides on you or other stakeholder groups.

4. **What types and areas of guidance would most likely help you understand your requirements under any new framework?** Please provide reasoning to support your answer.

5. **Whilst anticipated costs and benefits would depend on the design of a new framework, what type of costs, quantified, if possible, would you anticipate in understanding a new framework?**

   Please provide relevant evidence to support your answer or clarify whether this is from your own experience.

   (For understanding, the process of familiarising yourself with a new framework and not the costs to comply with a chosen framework).

6. **Do you support the development of guidance to assist businesses in carrying out pre-market risk assessment?**

   Yes / No / Don't know

   Please provide reasoning to support your answer, including any views on the most effective way to support pre-market risk assessments in the UK.

   Please provide relevant evidence to support your answer, particularly in relation to any impacts on you or other stakeholder groups.

7. **Do you agree with the proposal to establish a derogation process to help ensure supply of critical products in emergencies?**

   Yes / No / Don't know

   Please provide reasoning (including relevant evidence) to support your answer, particularly any impacts (business costs and benefits) on you or other stakeholder groups, and for any suggestions you have on key aspects of the design/implementation.

8. **Are there other circumstances, in addition to those set out in this proposal, where a derogation process would be helpful?**

   Yes / No / Don't Know

   Please provide reasoning (including relevant evidence) to support your answer, including any specific examples of other circumstances in which a derogation process would be useful.

9. **Are there any other mitigations we need to consider as we look to introduce voluntary e-labelling to devices with screens or designed for use with screens?**

   Yes / No / Don't know

   Please provide reasoning (including relevant evidence) to support your answer, particularly any impacts on you or other stakeholder groups.

10. **Are there other labelling requirements to which you consider that voluntary e-labelling could be expanded in future (to further types of statutory labelling requirements/additional product areas and/or to permit the use of QR codes)?**

    Yes / No / Don't know

    Please provide reasoning (including relevant evidence) to support your answer, particularly any impacts on you or other stakeholder groups.

11. **What additional mitigations, if any, do you think could be needed if voluntary e-labelling is expanded in future?**

    Please provide reasoning (including relevant evidence) to support your answer, particularly any impacts on you or other stakeholder groups.

12. **Do you agree with the proposal to clarify cooperation duties for new business models, particularly 'online marketplaces'?**

    Yes / No / Don't know

    Please provide your reasoning (including relevant evidence on impacts, costs and/or benefits for you or other stakeholder groups).

13. **What practical considerations would Government need to take into account if such cooperation duties applied to new business models in the online supply chain?**

14. **Do you agree with the proposal to introduce due care requirements in relation to unsafe product listings?**

    Yes / No / Don't know

    Please provide your reasoning (including relevant evidence on impacts, costs and/or benefits for you or other stakeholder groups).

15. **Do you agree with the proposal to increase consumer-facing information on online product listings for higher risk products?**

    Yes / No / Don't know

    Please provide your reasoning (including relevant evidence on impacts, costs and/or benefits for you or other stakeholder groups).

16. **What additional information would be useful to support consumers to purchase safe products?**

    Please provide your reasoning (including relevant evidence on impacts, costs and/or benefits for you or other stakeholder groups).

17. **Do you agree with the proposal to enhance the leadership and coordination role of OPSS?**

    Yes / No / Don't know

    If you agree, which specific areas, duties or functions which would be most helpful to set out in guidance?

    Please provide your reasoning (including relevant evidence) to support your answer and advise what organisation you are from.

18. **Do you agree with the proposal to create a new legal data gateway?**

    Yes / No / Don't know

    If so, what would you like shared e.g., in your role as market surveillance authority, business or consumer and how would you like access to it?

    Please provide your reasoning (including relevant evidence) to support your answer.

19. **Do you agree with the proposal to have a single point of contact for product safety recalls?**

    Yes / No / Don't know

Do you have any concerns with OPSS as single point of contact for business to notify all products as described above?

Please provide your reasoning (including relevant evidence) to support your answer.

20. **Do you agree with the proposal to consolidate and align existing enforcement legislation?**

    Yes / No / Don't know

    What are the consequences for consolidating existing enforcement powers?

    Please provide your reasoning, including any impacts this may have on you or other stakeholder groups.

21. **Do you agree with the proposal to introduce improvement notices, civil monetary penalties, and enforcement undertakings?**

    Yes / No / Don't know

    How will these new powers assist in ensuring businesses meet their product safety obligations?

    Please provide your reasoning (including relevant evidence) to support your answer.

22. **Do you agree with the proposal to explore changing inspection powers?**

    Yes / No / Don't know

    If there are substantial risks posed by home-based businesses, can the risk be balanced with the privacy rights of residents, when carrying out inspections? Please provide your reasoning (including relevant evidence) to support your answer.

23. **To inform consideration of whether the civil product liability regime remains fit for purpose, can you provide any examples where the current product liability regime:**

    a) is unclear because of technological developments (e.g., lack of clarity about who is responsible for safety of an AI/smart product or when software is updated); or

    b) doesn't enable consumers to seek fair redress; or

    c) doesn't provide businesses with clarity and confidence to develop new products?

Next steps

Stakeholders and other interested parties are invited to provide their views on the Government's proposed approach and, more specifically, the questions set out above.

This consultation closes at **23:59 on 24 10 2023**. Details on how to respond to this consultation have been provided in the General Information section of this document.

Once the consultation closes, we will consider all responses before publishing the Government Response in due course.

Glossary of definitions

Artificial Intelligence – A system or device able to perform tasks normally requiring human intelligence, such as visual or audio perception, and decision-making.

Conformity Assessment – The assessment of a product, before it is placed on the market, against all of the legislative requirements, including testing, inspection and certification. The processes are set out within the relevant legislation.

Conformity Assessment Body – A legal entity appointed to carry out Conformity Assessment. In the UK they must be accredited by the United Kingdom Accreditation Service, the National Accreditation Body.

Connected Device – See Smart Product.

Consumer Product – Products designed to be primarily used by consumers rather than professionals in a workplace setting, regulated by the suite of legislation listed in Annex B.

Derogation – Temporary suspension / change of regulatory requirements under particular circumstances.

Distributor – As defined in the General Product Safety Regulations 2005: a professional in the supply chain whose activity does not affect the safety properties of a product, for example a retailer; or as most commonly defined in legislation derived from the NLF: Any person in the supply chain, other than the manufacturer or the importer, who makes products available on the market.

eCommerce – Commercial transactions, including, but not limited to, the purchase of consumer products, conducted via the internet.

Harm – As most commonly defined in legislation derived from the NLF: Physical injury to persons or domestic animals or material damage to property.

Importer – As most commonly defined in legislation derived from the NLF: The first person who is established within the UK and makes available a product from a third country on the GB market.

Manufacturer – As most commonly defined in legislation derived from the NLF: Any person who manufactures a product, or has a product designed or manufactured; and markets that product under that person's name or trademark.

Net Zero – The target of completely negating the amount of greenhouse gases produced by human activity, specifically achieving a balance between the amount of greenhouse gas emissions produced and the amount removed from the atmosphere. The UK has enshrined the target of achieving this by 2050 in law.

Personal Protective Equipment (PPE) – Equipment designed and manufactured to be worn or held by a person for protection of that person against one or more risks to their health or safety.

Risk – An assessment that includes calculating the probability of harm and the possible significance of that harm.

Safe Product – As defined in the General Product Safety Regulations 2005: A product which, under normal or reasonably foreseeable conditions of use, does not present any risk or only the minimum risks compatible with the product's use, considered to be acceptable and consistent with a high level of protection for the safety and health of persons.

Sharing Economy – The sale or hiring of goods or services in a non-traditional, consumer to consumer model.

Smart Product – A consumer product that has the ability to connect to the Internet and, in many cases, communicate with other devices in the network. Examples include WIFI-enabled kitchen appliances and children's toys.

Small and Medium-sized Enterprises (SMEs) - An SME is any organisation that has fewer than 250 employees.

Third-Party Seller – Someone who sells their product via an online marketplace.

UKCA – UK Conformity Assessment marking.

Unsafe product – A product that fails to meet the legal safety requirements. See Safe Product.

Department for Business & Trade

This document is also available on our website at gov.uk/government/organisations/department-for-business-and-trade

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