



Product Safety Bulletin for AFA Members businesses

What you need to know about: When to conduct a successful recall

Product safety

All consumer products you supply must be safe and meet consumer guarantees under the Australian Consumer Law (ACL). You cannot sell banned products and you must ensure that your products or product-related services comply with relevant mandatory standards before they are offered for sale. There are also two mandatory notification requirements.

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Mandatory reporting

Under the ACL, suppliers of consumer goods and related services are required to report deaths, serious injuries or illnesses associated with consumer goods. This requirement is known as [mandatory reporting \(link is external\)](#).

All participants in the supply chain of a consumer good are required to comply with the reporting requirement. This includes a retailer, dealer, hirer, distributor, installer, repairer, importer, manufacturer and/or exporter of the consumer goods in question.

Similarly, all participants in the supply chain for product related services linked to the goods that are associated with the death, injury or illness are required to report the incident. This could include installers and service technicians.

A supplier is required to submit a report within two days of becoming aware of a reportable incident. Suppliers can do this using the ACCC's online form, which is available on the [Product Safety Australia \(link is external\)](#) website.

If you are unable to submit the form electronically please contact the ACCC on 1300 302 502.

Selling safe products

[Consumer guarantees](#) give consumers the right to a refund if a product is unsafe.

If you don't comply with a consumer guarantee, your customers have a right to take action against you. This is the case even if the problem with the good was caused by the manufacturer.

The consumer guarantees do, however, provide sellers with rights against manufacturers or importers of goods if the seller provides a remedy to a consumer for a problem which was caused by the manufacturer or importer.

Consumers can also seek [compensation for damages and loss](#) caused by a safety defect in products supplied by a manufacturer.

Product liability

Generally the **manufacturers** or **importers** of products are liable, but if other suppliers, such as **retailers**, cannot identify the manufacturer or importer, they may be deemed liable for the damages.

Suppliers may reduce their exposure to product liability action by using these responsible and sensible business practices:

- conduct regular reviews of product designs and production
- implement and review quality assurance procedures
- test products regularly to relevant standards, including batch testing
- conduct appropriate marketing
- provide clear and thorough user instructions
- where necessary, conduct a quick voluntary recall of any products that are defective or unsafe.

Product safety regulation

Under the ACL, Commonwealth, state and territory ministers can regulate consumer goods and product-related services by issuing safety warning notices, banning products on a temporary or permanent basis, imposing mandatory safety standards or issuing a compulsory recall notice to suppliers.

Bans

If any of your products are subject to [a ban \(link is external\)](#), you must not sell them. A ban on a product-related service makes it unlawful for anyone, in trade or commerce, to supply or offer to supply that service.

Mandatory standards

[Mandatory standards \(link is external\)](#) are introduced when considered reasonably necessary to prevent or reduce the risk of injury to a person. If your product is subject to a mandatory standard, it must meet particular safety criteria before it can be sold in Australia.

Recalls

If a product or service presents a safety risk or is non-compliant with a mandatory standard or ban, it may need to be recalled.

If you need to conduct a recall, the ACCC's [Consumer Product Safety Recall Guidelines \(link is external\)](#) provide guidance and should be read before you commence any recall action.

When a product is recalled, suppliers are required by law to notify the Minister responsible for competition and consumer policy within two days. This can be done using the [online recall notification form \(link is external\)](#).

Depending on the product being recalled, it may also be necessary to notify a specialist Commonwealth regulator or a state or territory electrical/gas safety authority of the recall. While many recalls are initiated by a supplier, they may also be ordered by the Commonwealth or a state and territory minister responsible for competition and consumer policy. To find out more, visit [Recalls Australia \(link is external\)](#).

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[Stay up-to-date](#)

Be aware of important product safety-related news and alerts by visiting the [Product Safety Australia \(link is external\)](#) and [Product Safety Recalls Australia \(link is external\)](#) websites and follow us on [social media](#)