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2022-23 Product Safety Priorities

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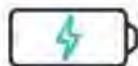
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Product Safety Priorities 2022-23

Consumers expect the products they purchase to be safe. Unsafe products in the market can pose safety risks to the community, including injury, property damage or even death. Each year, the Australian Competition and Consumer Commission (ACCC) identifies priorities to minimise and raise awareness of the risks posed by unsafe consumer goods.

In 2022-23, the ACCC's key areas of focus include:



Scoping product safety issues and identifying potential hazard prevention strategies relating to **lithium-ion batteries**



Consumer product safety issues for **young children**, with a focus on compliance, enforcement and education initiatives



Improving the **mandatory standards regulatory framework** by implementing new policy initiatives



Implementing strategies to prevent injuries and deaths to infants caused by **inclined products** that can be used for sleep



Strengthening **product safety online**, with a focus on expanding participation in the Australian Product Safety Pledge, online surveillance and contributing to greater consistency of international practice



Compliance with the **button battery safety standards**



Implementing strategies to prevent injuries and deaths caused by **toppling furniture**

The ACCC may also pursue other product safety risks which have the potential to cause serious harm to consumers. The ACCC will also seek to inform stakeholders about and ensure compliance with any new bans or mandatory standards that are introduced, or any significant changes made to existing bans or mandatory standards.

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Introduction

The Australian product safety system relies on consumers, businesses and government agencies working together to maximise the safety of goods. This policy sets out the principles adopted by the ACCC for prioritising and addressing product safety risks.

ACCC product safety strategy

The ACCC is an independent Commonwealth statutory agency that promotes competition, fair trading and product safety for the benefit of consumers, businesses and the Australian community. The primary responsibilities of the ACCC are to enforce compliance with the competition, consumer protection, fair trading and product safety provisions of the Competition and Consumer Act 2010(CCA), regulate national infrastructure and undertake market studies.

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

State and territory ACL regulators have endorsed the 2022-23 Product Safety Priorities as national priorities. The ACCC will work closely with state and territory ACL regulators on many of these priorities.

The ACCC publishes an annual [Compliance and Enforcement Policy](#) outlining the ACCC's approach to its enforcement functions under the CCA and other legislation. The Product Safety Priorities complement the Compliance and Enforcement Policy by setting out how the ACCC approaches its product safety role under the ACL.

Core functions

Core functions are ongoing product safety regulatory activities that the ACCC undertakes in addition to the Product Safety Priorities. These include:

- negotiating, assessing and monitoring the effectiveness of voluntary recalls and communicating product safety risk to consumers
- reviewing and updating mandatory safety standards and bans and conducting surveillance
- conducting hazard assessments of emerging product safety issues, including monitoring safety hazards associated with new technologies
- engaging with key stakeholders on product safety, focusing on education about any new safety standards introduced
- advocating for reform to improve the effectiveness of the product safety framework
- improving product safety data by exploring short and long-term data solutions, including examination of other data sources that could be accessed to supplement the product safety data already collected by the ACCC
- taking enforcement action for non-compliance with product safety obligations where appropriate.

When carrying out its core functions, the ACCC employs 3 integrated strategies to direct the ACCC's resources to have the most impact on product safety risks: identification, prioritisation and management.

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Risk identification

To identify product safety hazards and assess the size of the risk, the ACCC collects data from a range of sources, including:

- consumer reports made to the ACCC via the ACCC's Infocentre
- mandatory reports made by businesses under sections 131 and 132 of the ACL
- voluntary supplier reports made by businesses when the mandatory reporting thresholds have not been met but where, with a slight change in circumstances, a death, serious injury or illness may have occurred (a "near miss")
- voluntary recalls notified by businesses under section 128 of the ACL
- market surveillance to identify non-compliant or unsafe products
- information from other ACL regulators
- networks of consumer, business, government and other organisations, including injury surveillance groups
- media monitoring of news sources and other government or organisation publications and media statements
- international networks, including through active participation in the OECD Working Party for Consumer Product Safety which is chaired by Australia, and participation in International Product Safety week, a biennial forum hosted by the European Commission that brings together product safety expertise from across government and industry worldwide.

Risk prioritisation

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

The priority factors are:

- there is a high risk to public safety due to the severity and/or number of injuries that may result from the product (such as an unsafe product likely to cause death or significant harm, or being widely available to consumers)
- users are unable to perceive or safeguard against the risk of the product, such as where it is difficult to detect the safety risk or identify a link between the product and possibility of injury
- the product is targeted at vulnerable users, such as children
- users of the product potentially expose other people to the risk of death or injury
- the product is subject to a safety standard, compulsory recall, ban or safety warning under the ACL
- ACCC action is likely to have a broader public benefit. For example, where action is likely to have a broader educative or deterrent effect, or the source of harm is likely to become widespread if the ACCC does not intervene.

The ACCC also prioritises product safety risks where there is widespread community concern. For these matters, the ACCC undertakes initial enquiries to assess whether the product safety risk meets the priority factors.

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

Risk management

A range of strategies are used to manage risk, these include:

- Regulation under the ACL. The ACCC is responsible for making recommendations to the Commonwealth Minister on safety standards, bans, compulsory recalls, safety warning notices and information standards, and for administering voluntary recall notices.
- Compliance and enforcement under the ACL. The ACCC and ACL regulators are responsible for:
 - educating traders about the ACL provisions relating to the consumer guarantee of acceptable quality as to safety and liability for products with safety defects
 - enforcing ACL provisions prohibiting false or misleading representations, which include representations as to the safety of a product
 - raising awareness of, and monitoring and enforcing compliance with product safety obligations and regulatory interventions under the ACL, such as compulsory recalls, mandatory safety standards and product bans.
- Working with other Australian regulators. Different government agencies are responsible for regulating the safety of specific types of products such as motor vehicles, food, building materials, medicines and therapeutic goods, tobacco, and electrical and gas appliances. When a product does not easily fit within the scope of a particular regulator, agencies will work together to find the best way to manage its safety.
- International cooperation. The ACCC works with international counterparts to identify and address emerging product safety risks.

How the ACCC addresses product safety risks

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

- working with industry to manage risk, including through voluntary recalls
- compliance activities such as education and campaigns, industry engagement, research and advocacy, and working with small business to improve product safety awareness
- enforcement action such as administrative resolutions, infringement notices, enforceable undertakings and court cases
- research activities and market studies
- working with other agencies.

For consumer product safety, the ACCC is also responsible under the ACL for administering provisions for voluntary recall notices and making recommendations to the Commonwealth Minister to:

- publish a safety warning notice that a particular product is under investigation or warning of possible risks of a product
- make an information standard requiring particular information to be supplied with the product

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- make a safety standard setting out requirements for the product
- make an interim or permanent ban on the product
- require businesses to recall the product.

In performing this work, the ACCC is governed by the principles set out in the Compliance and Enforcement Policy: accountability; transparency; confidentiality; timeliness; proportionality; and fairness.

The appropriate strategy to address consumer harm will depend on the particular product safety risk. In developing a strategy to address a product safety risk, the ACCC is guided by the following principles:

- The ACCC's response should be efficient and effective in managing the risk.
- The ACCC's response, including the compliance burden imposed on business, should be proportionate to the risk.
- The ACCC generally uses more interventionist responses such as regulation and court action where lower levels of intervention, such as education, fail. In particular, the ACCC considers whether the risk is due to lack of information or understanding by a business motivated to 'do the right thing', or deliberate or careless disregard for the safety of consumers. However, a gradually escalating response may not be appropriate where there is a serious and immediate threat to public safety.
- A regulatory response should, in general, avoid restricting consumer choice or limiting technological solutions. However, in some cases, the most appropriate option to address a risk will be to ban the product or mandate standards for design or manufacture.

The ACCC reviews its priorities each year as part of its Compliance and Enforcement Policy. Product safety areas of focus for this year are set out at the front of this policy and are outlined in further detail below.

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Implementing the 2022-23 Product Safety Priorities

This section outlines some of the important work that the ACCC will undertake this year to implement each of the priorities.



Scoping product safety issues and identifying potential hazard prevention strategies relating to lithium-ion batteries.

The ACCC will focus on:

- conducting a short study to scope potential consumer product safety hazards associated with lithium-ion batteries
- engaging with relevant stakeholders, including state and territory electrical regulators to assess potential risk controls
- proposing risk mitigation strategies (if required), including potential improvements to the current regulatory framework.



Consumer product safety issues for young children, with a focus on compliance, enforcement and education initiatives.

The ACCC will focus on high-risk safety issues in consumer products for young children such as small high-powered magnets, babies' dummies and dummy chains, sleep aids and toys for children under 3 by:

- taking appropriate regulatory and enforcement action
- developing communication and education strategies to empower carers to make decisions and take actions that protect young children's interests and safety
- working with suppliers to improve recall effectiveness of young children's products.



Improving the mandatory standards regulatory framework by implementing new policy initiatives.

The ACCC will focus on:

- supporting the Commonwealth Treasury's regulatory impact assessment of options to improve the mandatory standards framework under the ACL
- implementing new policy initiatives introduced by the government
- developing practical guidance to assist businesses and consumers to understand the impact of any reforms introduced.



Implementing strategies to prevent injuries and deaths to infants caused by inclined products that can be used for sleep.

The ACCC will finalise strategies to prevent injuries and deaths caused by infant inclined products by:

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- consulting stakeholders on the costs and benefits of a range of potential policy options to prevent injuries and deaths caused by infant inclined products
- determining whether regulatory action should be recommended to the Minister, including whether it is appropriate to recommend a safety standard be implemented under the ACL
- increasing education and awareness of the hazards associated with infant inclined products.



Strengthening product safety online, with a focus on expanding participation in the Australian Product Safety Pledge, online surveillance and contributing to greater consistency of international practice.

The ACCC will continue to strengthen product safety online by:

- reporting on compliance with the Australian Product Safety Pledge and encouraging broader adoption of the pledge or opportunities for other commitments from online businesses
- monitoring unsafe, non-compliant and banned products online through surveillance and engaging with online marketplaces and ACL regulators to address priority issues, and taking enforcement action where appropriate
- collaborating with international regulators to harmonise global initiatives which seek to address product safety risks online
- raising awareness of compliance obligations and product safety for online sellers and consumers.



Compliance with the button battery safety standards.

The ACCC will focus on compliance with button battery safety standards by:

- working with ACL regulators to conduct surveillance and monitor compliance with the standards
- taking enforcement action to address non-compliance with the new button battery mandatory standards.



Implementing strategies to prevent injuries and deaths caused by toppling furniture.

The ACCC will finalise strategies to improve the safety of toppling furniture by:

- consulting stakeholders on the costs and benefits of a range of potential policy options to prevent injuries and deaths caused by toppling furniture
- determining whether regulatory action should be recommended to the Minister, including whether it is appropriate to recommend a safety standard be implemented under the ACL
- increasing education and awareness of the safety hazards associated with toppling furniture.

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Further information

For more information and to remain up to date on product safety issues in Australia, see:

ACCC website www.accc.gov.au or call the ACCC's Infocentre on 1300 302 502

Product Safety Australia website www.productsafety.gov.au

ACCC's annual [Compliance and Enforcement Policy](#)

ACL regulators, [Australian Consumer Law: Compliance and Enforcement: How Regulators Enforce the Australian Consumer Law \(2017\)](#)