



AUSTRALIAN COMPETITION  
& CONSUMER COMMISSION

# 2019 Product Safety Priorities

March 2019

# Product Safety Priorities 2019

Consumers expect the products they purchase to be safe. Each year, the Australian Competition and Consumer Commission (ACCC) identifies priorities to minimise the risks posed by unsafe consumer goods. In 2019, the ACCC's key areas of focus are below.



Ensuring the effectiveness of the compulsory recall of vehicles with **Takata airbags**.



Improving the safety of **quad bikes**.



Supporting strategies that help prevent injuries and deaths to children caused by **button batteries**.



Progressing the development of a **General Safety Provision** and other product safety reforms.



Supporting strategies that help prevent injuries and deaths to infants caused by **unsafe sleeping products**.



Improving product safety in the **online marketplace**, with a focus on improving the safety of products sold on online platforms.



Raising awareness and building capacity to address consumer safety hazards with **interconnected devices**.



Continuing to review and update current mandatory **safety standards and bans** and **conduct surveillance**.



Improving **product safety data** through progressing the development of a national product safety incidents database.

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The ACCC may choose to pursue other product safety risks which have the potential to cause serious harm to consumers. The following sections set out how the ACCC prioritises and addresses consumer product risks.

# Introduction

The Australian product safety system relies on consumers, businesses and 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 authority responsible for enforcing the *Competition and Consumer Act 2010* (CCA) and other legislation to promote competition, consumer protection and the regulation of national infrastructure for the benefit of all Australians.

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 is a shared responsibility between the ACCC and state and territory regulators (ACL regulators).

State and territory ACL regulators have endorsed the 2019 Product Safety Priorities as national priorities. The ACCC will be working closely with state and territory ACL regulators on many of these priorities.

The ACCC issues 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 expand on the Compliance and Enforcement Policy by setting out how the ACCC approaches its product safety role under the ACL.

The ACCC employs three integrated strategies to direct the ACCC's resources so as to have the most impact on product safety risks: identification, prioritisation and management.

## 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 and webform
- mandatory injury reports made by businesses under section 131 of the ACL
- notice of voluntary recalls 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
- monitoring of media and other publications
- international networks.

## 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 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 e.g. 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.

In assessing the likelihood and severity of injury, the ACCC considers reports of past incidents in Australia and overseas.<sup>1</sup> 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

The ACCC uses a range of strategies to manage risk:

- 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 is responsible for:
  - enforcing ACL provisions prohibiting false or misleading representations which include representations as to the safety of a product
  - promoting compliance with the ACL provisions relating to consumer guarantees and liability of the manufacturer for products with safety defects
  - enforcing the regulatory provisions.
- Working with other Australian regulators. Different government agencies are responsible for regulating the safety of specific types of products such as food, building materials, drugs 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.

The ACCC's strategy for addressing product safety risks is discussed in more detail below.

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<sup>1</sup> As set out in the ACCC's Compliance and Enforcement Policy, while the ACCC relies on reports to identify risks, the ACCC is not a complaint handling body.

# 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:

- 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
- market studies
- working with other agencies.

For consumer product safety, the ACCC is also responsible under the ACL for administering 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
- 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 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 is likely to 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 pre-empting 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.

# Implementing the priorities

This section outlines some of the important work that the ACCC will undertake this year to implement each of the priorities. However, these projects may need to be adjusted if serious new risks are identified.



Ensuring the effectiveness of the compulsory recall of vehicles with **Takata airbags**.

The ACCC will monitor and oversee compliance with the compulsory recall of defective Takata airbags, with a focus on:

- assessing reports from suppliers, auditors and other stakeholders and investigating alleged non-compliance with the recall
- working with state and territory ACL regulators to conduct a national industry surveillance and outreach program
- educating and raising consumer awareness about the recall, including an outreach program focussed on communities that are at higher risk (with Indigenous communities a priority area)
- taking appropriate compliance or enforcement action in instances of non-compliance.



Improving the safety of **quad bikes**.

The ACCC will continue to assess and investigate the safety of quad bikes, with a focus on:

- implementing any new mandatory standard imposed by the Commonwealth Minister
- assisting quad bike manufacturers to understand their obligations under the ACL and taking appropriate action for non-compliance
- raising awareness and educating consumers about safe riding practices
- advocating for more consistent and accurate injury data collection.



Supporting strategies that help prevent injuries and deaths to children caused by **button batteries**.

The ACCC will continue work with state and territory ACL regulators to address the issue of button battery safety in consumer goods, with a focus on:

- evaluating the effectiveness of the 2016-2018 [National Button Battery Strategy](#)
- considering potential regulatory intervention to improve the safety of general consumer goods containing button batteries.



Progressing the development of a **General Safety Provision** and other product safety reforms.

The ACCC will continue to progress product safety reforms under the ACL, with a focus on:

- working with Consumer Affairs Australia New Zealand to progress the development of a General Safety Provision
- Progressing other product safety reforms, including reforms that arose out of the [ACL Review](#) in 2017.



Supporting strategies that help prevent injuries and deaths to infants caused by **unsafe sleeping products**.

The ACCC will work to improve the safety of sleeping products for infants, with a focus on:

- working with state and territory ACL regulators through the Infant Safe Sleeping & Swaddling Surfaces Working Group
- conducting trend analysis and research to assess whether regulatory intervention or further guidance is required to address safety issues with this category of products.



Improving product safety in the **online marketplace**, with a focus on improving the safety of products sold on online platforms.

The ACCC will continue work on improving product safety in the online marketplace, with a focus on:

- continuing to build relationships with online platforms to strengthen their commitment to product safety
- educating suppliers to help them meet their obligations under the ACL
- raising awareness and educating consumers on product safety when purchasing products online.



Raising awareness and building capacity to address consumer safety hazards with **interconnected devices**.

The ACCC will work to address consumer safety hazards with interconnected devices, with a focus on:

- raising consumer awareness of the product safety risks associated with interconnected devices and 3D printers
- identifying how, and if necessary seeking to reform, the product safety framework under the ACL, so it can best address future safety hazards with these products.



Continuing to review and update current mandatory **safety standards and bans** and **conduct surveillance**.

The ACCC will continue to work with state and territory ACL regulators to ensure that mandatory safety standards and bans provide the best product safety outcomes, with a focus on:

- continuing to review and update mandatory safety standards to ensure they are up to date and provide the best outcomes for consumers
- conducting surveillance to determine the level of compliance in the market with mandatory safety standards and permanent product bans
- conducting surveillance as required on potentially unsafe consumer goods that are not subject to specific regulation
- taking appropriate regulatory, compliance or enforcement action in instances of non-compliance.

The ACCC's current [surveillance plan](#) is available on the Product Safety Australia website.

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Improving **product safety data** through progressing the development of a national product safety incidents database.

The ACCC will work to improve the collection and use of product safety data, with a focus on:

- working with state and territory ACL regulators to develop a national product safety incidents database, which would help to identify consumer product hazards and focus compliance and enforcement activities
  - a national product safety incidents database was a reform that was identified by the [ACL Review](#) and [Productivity Commission Study](#).
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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](http://www.accc.gov.au) or call the ACCC's Infocentre on 1300 302 502

Product Safety Australia website [www.productsafety.gov.au](http://www.productsafety.gov.au)

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

ACCC's [2018 Product Safety Priorities Policy](#)

ACL regulators, [Australian Consumer Law: Compliance and Enforcement: How Regulators Enforce the Australian Consumer Law \(2010\)](#)