

SPSP 2022 Webinar Series



Navigating the challenges of a changing international product safety landscape

June 8, 2022
1:00 – 2:00 p.m. ET

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Cooley

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Global trends



Global trends

Emerging Regimes



Hotspots

Middle East

Australia

EU

UK

Asia (e.g.

South Korea)



Global trends

Increased regulator activity

Enforcement practices – more prosecutions, bigger fines



News

19th March 2015

Furniture boss could face prison sentence for failure to report serious fire caused death of two young children

By Peter Magill



Cybox Agrees to Pay \$7.95 Million to Report Serious Failure to Report Serious Exercise Equipment

Share:

Prison sentence for supplying unsafe baby and child car seats

Rele:

Monday 23 September 2019

FOR IMMEDIATE RELEASE
Safe cot nearly 10 years old found to be unsafe
Alsace: amende de 200.000 euros

Fire Extinguisher Manufacturer Ordered to Pay \$12 Million Penalty for Delay and Misrepresentations in Reporting Product Defects
Monday, January 4, 2021

Nov 01, 2021 07:03 PM
Gree Fined \$91 Million for Waiting a Year to Tell U.S. Regulators About Fire-Prone Appliances



Global trends

Policy reforms

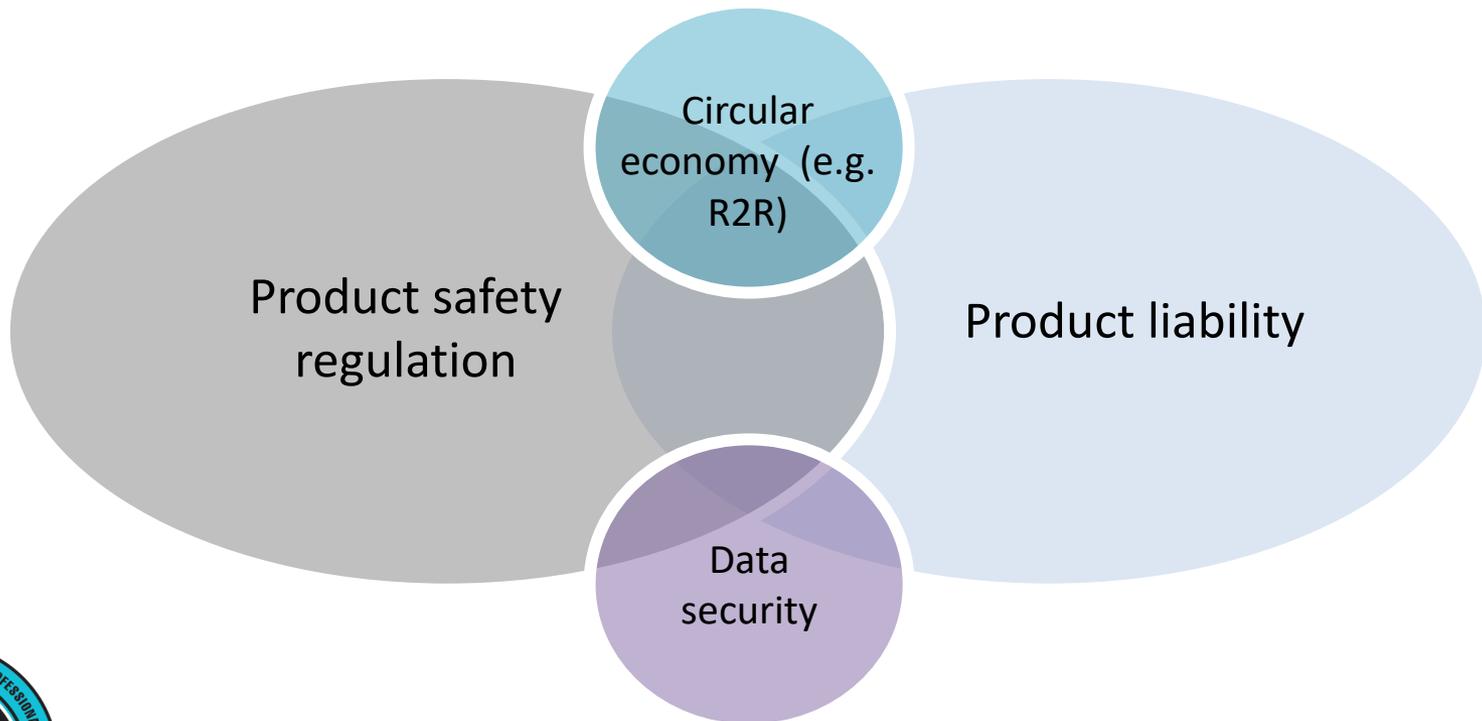


Increased international cooperation



Global trends

Expanding scope of product compliance



Hot topics and new developments



Hot topics

- Expanding concept of ‘safety’
- Extended producer responsibility and ongoing post-sale obligations
- Product recall effectiveness
- Roles and responsibilities of online marketplaces and other online sellers



Unprecedented wave of regulatory reform on the agenda



Requirements under the Market Surveillance Regulation apply from July 2021	Revision of the General Product Safety Directive	Proposed amendments to the Radio Equipment Directive + Delegated Acts	Proposed European Cyber Resilience Act
Proposed Artificial Intelligence Act	Revision of the Machinery Directive	Revision of the Batteries Directive	Evaluation of the EMC Directive
Revision of RoHS	Revision of REACH	Evaluation of the New Legislative Framework	Revision of the Toy Safety Directive
Circular Electronics Initiative (ecodesign + product rules)	Sustainable Products Initiative (ecodesign + product rules)	Legislative proposal on right-to-repair (consumer law)	Empowering the consumer for the green transition (consumer law)
Proposed Digital Services Act	Revision of the Packaging and Packaging Waste Directive	Revision of the Product Liability Directive	New Representative Actions Directive applies to cases from June 2023

New technologies in the spotlight



Key links:

- EU's draft artificial intelligence regulation: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021PC0206>
- AI report out of OPSS (published 23 May 2022): [Study on the impact of artificial intelligence on product safety - GOV.UK \(www.gov.uk\)](https://www.gov.uk)
- [Keeping an "AI" on Product Safety and Liability: UK publishes report on Artificial Intelligence – Productwise \(cooley.com\)](https://www.cooley.com)

Reform of consumer product safety in Europe



Circular economy and right to repair



Right to repair

- European Commission announced a “right to repair”
- Right to repair can refer to:
 1. Repair during legal guarantee
 2. Repair after legal guarantee has expired
 3. Right for consumers to repair products themselves
- Increase in legal measures covering:
 - Requirements to design products in a way that facilitates repair
 - Obligations to repair faulty products
 - Information requirements on repairability, including instructions on how to repair
 - Obligations to ensure spare parts remain available



Circular economy

- Changing role of CE mark
 - Product design requirements no longer purely safety focused
 - Expansion of EU ecodesign
- Chemicals rules being revised to take account of ‘combination effects’
- Greenwashing / sustainability claims increasingly in the spotlight



Product launches, risk assessments and product recalls



EU Risk Assessment

Combination of severity of harm and probability to risk level

Probability of occurrence of the harm scenario (during the foreseeable lifetime of the product)		Severity of harm			
		1	2	3	4
High ▼	> 50 %	High risk	Serious risk	Serious risk	Serious risk
	> 1/10	Medium risk	Serious risk	Serious risk	Serious risk
	> 1/100	Medium risk	Serious risk	Serious risk	Serious risk
	> 1/1.000	Low risk	High risk	Serious risk	Serious risk
	> 1/10.000	Low risk	Medium risk	High risk	Serious risk
	> 1/100.000	Low risk	Low risk	Medium risk	High risk
	> 1/1.000.000	Low risk	Low risk	Low risk	Medium risk
Low	> 1/10.000.000	Low risk	Low risk	Low risk	Low risk

<https://ec.europa.eu/docsroom/documents/17107/attachments/1/translations/en/renditions/pdf>



New Codes of Practice



Department for Business, Energy & Industrial Strategy
Office for Product Safety & Standards

Supporting better product recalls

Code of practice on consumer product safety related recalls and other corrective actions

PAS 7100:2018
Part I: Business
Part II: Regulators



PAS 7050:2022
Bringing safe products to the market – Code of practice
Part I: Businesses
Part II: Regulators



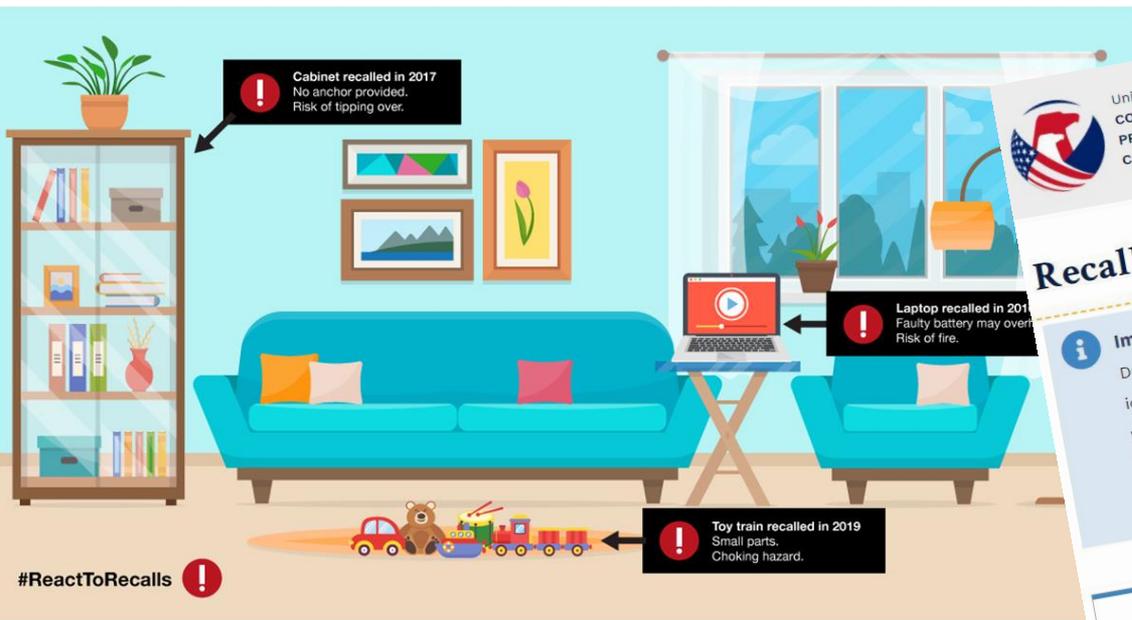
Office for Product Safety & Standards



Key links:

- PAS 7100 & PAS 7050: <https://www.bsigroup.com/en-GB/standards/pas-7100-pas-7050/>

Product recalls and product recall effectiveness



Recalls

i Important: CPSC Recall Remedies
Due to the extraordinary circumstances identified in recall press releases, with recalling firms for further information. It is important to remember recalled products.

SEARCH

SEARCH

Product Safety Recall

Professional Cordless 18V Hammer Drill Kit including 2 x 4.0Ah Lithium Ion Batteries and Charger 18V-55



Front – GSB 18V-55/ Reer – GSB 18V-55-3601LH5300
Tool kit part: 0615990M17 (located on back panel of carton)
Bunnings Fineprint: 0201017 (located on receipt)
Distributed by Robert Bosch (Australia) Pty Ltd

Defect: The user manual containing operating and safety instructions for the drill has not been included with the drill in the kit.
Hazard: The hammer drill kit does not include a safety instruction manual. The drill may be misused and this may result in an increased risk of severe injury.
What to do: Consumers should contact Bosch to request a copy of the user manual.
Contact details: Contact Robert Bosch (Australia) Pty Ltd on 1300 307 044, or email CustomerService.PT@au.bosch.com

See productsafety.gov.au for Australian product recall information

Product liability and consumer rights



Consumer rights

- Consumer rights are stronger in the EU than in some other jurisdictions, such as the US.
 - New **Sale of Goods Directive** applied from January 2022
 - New Directive on **collective redress across the EU** will allow “qualified entities” to bring representative actions on behalf of a group of consumers from July 2023.
 - New **Consumer Agenda 2020 – 2025** will also introduce changes to the Consumer Rights Directive and Unfair Commercial Practices Directive.
- There are other consumer rights hotspots, e.g. Australia.



Key links:

- New Sale of Goods Directive: [EUR-Lex - 32019L0771 - EN - EUR-Lex \(europa.eu\)](#)
- New Directive on collective redress across the EU: [EUR-Lex - 32020L1828 - EN - EUR-Lex \(europa.eu\)](#)
- New Consumer Agenda 2020-2025: [New Consumer Agenda: \(europa.eu\)](#) & [EUR-Lex - 52020DC0696 - EN - EUR-Lex \(europa.eu\)](#)
- [Productwise Bitesize: Sale of Goods Directive \(EU\) 2019/771 – Productwise \(cooley.com\)](#)



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Q&A



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Next webinars: September, October and November

- **CPSC Chairman**
- **Documenting Safety Process**
- **Product Liability for Product Safety Professionals**

Contact Details

- For questions after the webinar, email SPSP at info@productsafetyprofessionals.org or contact speakers:
 - rfreeman@cooley.com
 - ebichet@cooley.com
 - eturtle@cooley.com
- These slides, a link to this webinar, and more training material can be accessed at the SPSP website under “SPSP-webinar-series.”



Thank you for attending!

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