




CONSUMER PRODUCT SAFETY POSITION PAPER

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Australasian Injury Prevention Network
c/o Injury Matters | 2/297 Vincent St
Leederville | WA 6007 Australia

Email: secretariat@aipn.com.au
Twitter: @theAIPN



The Australasian Injury Prevention Network acknowledges and pays respects to the First Custodians of the many lands on which its work takes place.

BACKGROUND

What is the incidence and cost of product-related injury?

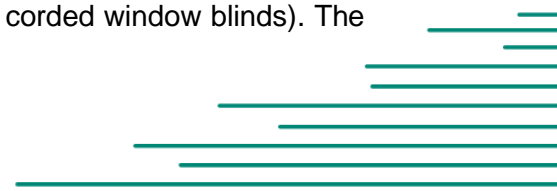
In 2019 the Australian Competition and Consumer Commission (ACCC) estimated that there are around 780 deaths and 52,000 injuries per year from consumer products due to product failure or malfunction, or where a known design solution or safety equipment was not present, costing at least \$5 billion annually.¹ The ACCC highlighted that these estimates are hindered by limited availability of national product incident data and that only a small proportion of injuries resulting from unsafe consumer products are reported to safety regulators.


What are consumer products?

A consumer product is defined as a product intended to be used for personal, domestic or household use or consumption.² Examples of consumer products include, but are not limited to: furniture, toys, clothing, and equipment. There are over 15000 types of products available in Australia³ with the total revenue of consumer goods retailing estimated to be \$211 billion in 2020-21.⁴ A number of specialist government agencies regulate the safety aspects of specific types of products such as road vehicles, building materials, chemicals, drugs and therapeutic goods, boats, food and veterinary products. The remaining general consumer products fall under the administrative responsibility of the ACCC and State and Territory consumer protection agencies in Australia, and the Ministry of Business, Innovation and Employment in New Zealand. These regulators do not provide safety approval of general consumer products supplied to market but are given powers under the *Australian Consumer Law*, and New Zealand *Fair Trading Act 1986*, to respond to unsafe consumer products. These regulatory responses include facilitating product safety recalls, issuing product safety warnings or bans, or making mandatory product safety standards.⁵ Regulators also conduct activities to educate industry and consumers about product safety hazards.

Risk of injury from consumer products

There are currently 46 mandatory safety or information standards and 19 product bans in force in Australia, and 8 mandatory safety standards and 7 product bans in force in New Zealand (as at 4 May 2023).⁶ The majority of standards and product bans relate to children's products (e.g., household cots, baby walkers, children's toys) or general products that pose a substantial hazard to children (e.g., bean bags, button batteries, corded window blinds). The






necessity for a regulatory based approach is because children are at high risk of product-related injury or death, with such injuries being associated with stages of childhood development, behaviours, and physical characteristics.⁷ Other groups at heightened risk of product-related injury are older persons, people with disabilities and those who speak a language other than English at home.⁸

Evidence gaps

Research suggests there is under-reporting of product-related injuries to safety regulators.⁹ There is no Australia-wide health dataset that allows identification of product-related injury, and there is often a significant time lag in obtaining data from various health datasets. The complexity of identifying product-related injury from such datasets relates to its cross-cutting nature contributing to many injury types across all population groups. The clinical coding of these datasets also provides challenges in identifying product involvement and all relevant injury factors, and gathering more complete information about an incident requires manual audits and data mining of non-routine/unstandardized clinical notes.¹⁰ The significant data deficiencies have been highlighted in several landmark reports on the Australian consumer product safety system.¹¹

New challenges

Over the last decade, there has been significant changes in the retail marketplace with huge growth in the range of products available in physical stores, online stores and online marketplaces supplied by local and international businesses. The percentage of consumers who purchased online in OECD countries increased from 36% to 64% over the period 2010-20, with 'e-commerce retail' growing significantly faster than 'retail' during the COVID-19 pandemic.¹² While these changes provide many benefits for consumers, it also increases their burden to assess the safety risk of a greater variety of products. Due to the impracticality of gaining comprehensive safety information about every product purchased, consumers manage risks according to the type of product being purchased, their understanding of product safety risks and their own risk preference. Consumers tend to underestimate product risks associated with consumer products and risk misperceptions can influence the decision-making process.¹³ One such misperception identified in the 2018 Choice Pulse survey is an incorrect belief by 79% of participants that businesses are legally required to ensure the consumer products they sell are safe.¹⁴ Australian and New Zealand product safety laws do not place an obligation on businesses to ensure the safety of their products before they are placed on the market.



There is evidence that an escalating number of unsafe consumer products are entering the Australian market with consumers becoming increasingly exposed to product-related injury. For example, Australian child-related product safety recalls increased by 88% over the period 2011-17, with the majority of recalled products failing to comply with mandated safety requirements.¹⁵ Australia also maintains persistently high levels of voluntary recall rates per capita when compared with several jurisdictions in the Asia-Pacific region with broadly comparable economies and consumer product safety law regimes.¹⁶ Further, the 2021 OECD online product safety sweep, which involved international product safety regulators inspecting 4299 regulated consumer products sold online, found the average non-compliance rate for inspected products was 79%.¹⁷

Product safety reforms

The Australian product safety regime has been the subject of numerous reviews and it has been identified as reactive with the primary regulatory response being to facilitate product safety recalls.¹⁸ The effectiveness of recalls is uncertain with the ACCC reporting low recall return rates with an estimated 1.7 million recalled products (excluding motor vehicle recalls) still in circulation in people's homes.¹⁹ The system is geared towards acting on reported product-related injuries and the subsequent removal of reported unsafe products at the retail level rather than prevention through stopping unsafe products getting to market. Due to product related data deficiencies within Australian health datasets, the regime is heavily reliant on suppliers, consumers and health practitioners reporting injuries and near misses to regulators.

In late 2019 the Australian government conducted public consultation on a range of reform options to improve the effectiveness of the consumer product safety regime.¹ One option is to introduce a General Safety Provision (GSP) to the regime requiring businesses to take reasonable steps to ensure the safety of their products before they are placed on the market. The OECD has identified that the introduction of such obligations to product safety frameworks is a contemporary regulatory best practice trend.²⁰ The results of the Australian public consultation and preferred reform options are yet to be published (as at May 2023).



POSITION OF THE AIPN

The AIPN acknowledges that:

- Product-related injury is a preventable public health issue.
- Conservative Australian government estimates are 780 deaths and 52,000 injuries per year from consumer products with an economic cost of at least \$5 billion.
- There are significant challenges with identifying product-related injury in current Australian health datasets.
- Infants and children, older persons, people with disabilities and those who speak a language other than English at home are at heightened risk of product-related injury. Data deficiencies impact the ability to identify other high-risk groups.
- The Australian product safety regime does not prohibit the sale of unsafe products and is primarily reactive, removing products from the market once they are identified as unsafe. A reactive product safety regime places a significant unbalanced burden on regulators and the health sector and exposes consumers to unnecessary and preventable product-related injury and death.
- The introduction of a General Safety Provision to the Australian product safety regime would improve its prevention orientation by reducing the number of unsafe products entering the market causing product-related injury and would bring the regime into line with international regulatory best practice.
- Improvements in recording and reporting of product-related safety incidents is essential to identify product-related injury trends, to understand how products are involved in the chain of an injury event and underpin development of interventions.
- Capacity building is necessary to increase consumer and health practitioner's knowledge of product safety risks and incident reporting avenues.

RECOMMENDATIONS

1. Advocate to all levels of government the importance of introducing a General Safety Provision to the Australian product safety regime.
2. Encourage research to develop innovative approaches to improve product safety surveillance and generate robust evidence to inform injury prevention strategies.
3. Advocate to all levels of government the need for targeted regulatory interventions to deal with consumer products associated with high injury risk, particularly for populations with heightened risk.
4. Raise AIPN members awareness of leading product-related injury risks and avenues to report product safety incidents to regulators.
5. Champion education programs to raise consumer awareness of leading product-related injury risks and reporting avenues, with outreach to rural and regional, and CALD communities.



LINKS

Product Safety Australia: <https://www.productsafety.gov.au>

Australian product safety regulators:

- Australian Competition and Consumer Commission
- ACT Fair Trading
- NSW Fair Trading
- Consumer Affairs Victoria
- Office of Fair Trading Qld
- Consumer and Business Services SA
- Consumer Protection WA
- Consumer Affairs NT
- Consumer, Building and Occupational Services TAS

New Zealand product safety: <https://www.productsafety.govt.nz>

- Ministry of Business, Innovation and Employment

Advocacy:

- Consumer Product Injury Research Advisory Group Qld
- [Consumer Product Advocacy Network WA](#)
- [Consumer Advisory Committee WA](#)
- Consumer Product Advocacy Network SA
- [Kidsafe Australia](#)
- [Safekids Aotearoa](#)
- [Red Nose Australia](#)

AUTHORS & ACKNOWLEDGMENTS

This position paper was prepared by Dr Catherine Niven and Prof Kirsten Vallmuur and approved by the AIPN Executive Committee.

ABOUT THE AIPN

The Australasian Injury Prevention Network (AIPN) is the peak body in Australia and New Zealand advocating for injury prevention and safety promotion. The AIPN represents injury researchers, policy makers and practitioners across Australia and New Zealand.

The AIPN has been in operation since 1996.

DISCLAIMER

The author(s) declare(s) that there is no conflict of interest.

CONTACT

A/Professor Debbie Scott, President, Australasian Injury Prevention Network:
president@aipn.com.au
General email: secretariat@aipn.com.au

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