



ACCC PRODUCT
SAFETY

Conducting a consumer product safety recall

Recall roadshow 2024

The guidelines

- Based on learnings from the compulsory Takata airbag recall, internal ACCC, national and international research, and our experience with recalls
- Supplier led recalls are the focus of these guidelines
- Australian Consumer Law obligations
- Identifying products and assessing risk
- Providing remedies
- Communicating recalls
- Monitoring and finalising the recall
- Role of the ACCC (and other regulators for certain product types)
- Tools: sample recall plan, checklist, risk assessment template, consumer communications package



The Australian Consumer Law

Notify the recall: Suppliers must tell the ACCC of a recall for a consumer product within 2 days of taking recall action for safety reasons:

- using it will or may injure a person (even if it has no apparent defect)
- using it in a reasonably foreseeable way, including foreseeable misuse, will or may injure a person
- it is likely it does not comply with mandatory safety standards under the Australian Consumer Law
- it is the subject of an interim or permanent ban.

Submit the form online.

We may publish a copy of the recall notice online.

The ACCC is authorised by the Commonwealth Minister to receive recall notices and publish them.

Tell people who are overseas

- Tell people they have supplied the product to, who are located outside Australia, in writing as soon as practical.
- Provide a copy of the notice to the Commonwealth Minister within 10 days.

Report any product-related deaths, serious injuries, or illnesses

- Suppliers must submit a mandatory report within 2 days of becoming aware of any death, serious injury or illness associated with a product they supplied. A recall does not extinguish this requirement.

Recall action

Any activity a supplier takes to fix a safety risk with a product that has been released into the supply chain for consumers.

- Publicly announce that the consumer product is being removed from the retail marketplace, either online or from physical stores
- Ask consumers or suppliers in the chain to return a consumer product for a refund, replacement or modification
- Ask consumers to destroy or dispose of a product
- Give new or extra instructions on how to use the product safely, including new instructions to use personal protective equipment (PPE) when using the product
- Supply new product parts to fix a safety risk
- Issue a software or digital update to an internet-connected product to fix a safety risk.

When to recall a consumer product for safety reasons

Recall a consumer product when

- using it will or may injure a person (even if it has no apparent defect)
 - using it in a reasonably foreseeable way, including foreseeable misuse, will or may injure a person
 - it is likely it does not comply with mandatory safety standards under the Australian Consumer Law
 - it is the subject of an interim or permanent ban under the ACL.
- Maintain good quality assurance processes and keep up to date with media and feedback on the products they supply.
 - **Reduce the likelihood of needing to recall a product:** exercise care and take steps to confirm facts when sourcing products. See page 7 of the guidelines for actions suppliers can take.

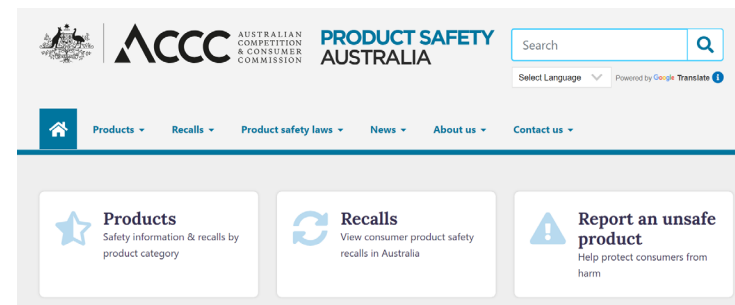
We assess and publish the recall notice

We review the recall notice

- Compliant with reporting requirements
- Set out a suitable strategy for the recall
- Clear identification of the product
- Simple description of the reasons for the recall and hazard to consumers
- Clear advice to consumers about what to do
- Suitable communication strategy to alert consumers
- Contact details for consumers

We assess other aspects of the strategy

- Supplier's assessment of the risk
- Is the recall being conducted at the proper level in the supply chain
- Instructions for downstream suppliers
- Tracking stock
- Suitable communication strategy
- Monitor reports of injuries, complaints and barriers to consumers receiving the remedy, or not responding to your recall message.



How to conduct an effective recall

Steps to follow to run a well-managed product safety recall from start to finish.

Prepare to recall

Take immediate recall action

- Do not delay starting recall action and telling consumers about the recall. Suppliers do not need to wait for the recall to be published on the PSA website to start telling consumers.

Identify suppliers in the supply chain

The recalling supplier is responsible for asking all suppliers in the supply chain to:

- 1) Locate the product and find out how many were supplied to end consumers
- 2) Advise if they have direct consumer contact details
- 3) Find out if the product was purchased, installed and/or serviced by a tradesperson or qualified technician.

Work out which supplier will lead the recall

We expect and encourage recalls to be led by those with primary responsibility for addressing the risk, which will generally be those who manufactured or imported the product.

- Need to manage the recall with the help of downstream suppliers, including
 - Advertising
 - Manage problems such as shortage of replacement parts
 - Ensuring consistent communication to consumers
 - If supplied overseas, tell those people and provide us with a copy of that notice within 10 days.

Identify the products and assess the risk

- Need to understand the size and urgency of the recall
- Identify the affected products – name, model, serial numbers, batch numbers, product dates etc
- Stop sale, manufacture, import and advertising
- How many are with consumers and still in the supply chain
- What is the defect and hazard
- Find and fix the root cause

Assess the risk – Build regular quality assurance testing into business practices

When assessing risk:

- Use evidence
- Appoint a responsible person or small team to assess the risk
- Consider seeking expert advice
- Document risk assessments

Tell us if the risk level changes or if other products may be impacted.

Conduct a root cause analysis

Tools: European Union RAPEX risk assessment, Consumer product recall: Guidelines for Suppliers. Standards Australia ISO 10393:2017

Choose a remedy

Supplier remedies should be consistent with the consumer guarantees provisions under the ACL.

The recall remedy can offer to:

- **repair** the product to remove the hazard
 - **replace** the product with a similar one that doesn't have the hazard
 - **refund** the full amount paid when the product is returned
 - **issue** warning labels or updated instructions about how to use the product safely
 - **arrange** a software patch or update.
 - A remedy is not: a store credit, gift card, partial or scaled down refund
- **Consumer guarantees** give consumers rights that the products they buy are safe, durable, free from defects and do what consumers normally expect them to do
 - Cannot be taken away by anything a business says or does, including a business putting a specific time limit on when a consumer can seek a remedy
 - Offering a remedy does not remove the consumers rights to an alternative remedy
 - **If we believe that a remedy is unsuitable, we will contact the supplier about other remedies to provide consumers**

Make it easy to receive a remedy

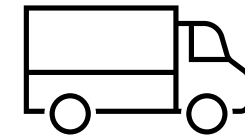
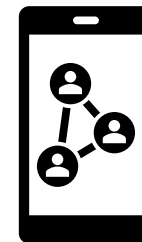
- **Keep the recall process simple** – minimise the number of steps for consumers to receive a repair, replacement or refund. Make sure the remedy is suited to the product.
- Some options for suppliers to consider:
 - Return the product to place of purchase for a full refund
 - Send a **prepaid envelope or reply paid package**
 - Ask consumers to **return a small, but significant part** of the product so it cannot be used. Then give a refund.
 - If **items are large or bulky**, send a technician to repair onsite or remove the product
 - Send out **updated instructions** on how to use the product safely.
 - Supply labelling information to your consumers, but also give the option for a refund or replacement.
 - Offer an extra incentive as well as the recall remedy
- **When a remedy is not yet available:**
 - Minimise the wait time for consumers to receive a remedy – the longer you take, the less likely consumers will respond to the recall.
 - Give interim updates online
 - Ask consumers to register their details
 - Let consumers know what they should do until a remedy is available

Communicate the recall

Prepare a communication plan to tell consumers, suppliers in the supply chain including retailers, and the ACCC about the recall.

- Use **direct communications** where possible
 - Email, text message, letter, phone call, contact from online marketplaces
 - Be aware of privacy obligations
- Use **other contact methods**
 - Consumers expect to see information about recalls on social media, instore and online
- Set up a complaints process
- Tell affected retailers, franchisees and distributors
- Online marketplaces: own policies and procedures to support suppliers
- Repeat the messaging.

- **Support consumers within our diverse community**
 - Aboriginal, Torres Strait Islander and Tiwi people
 - from multicultural communities
 - vulnerable, including older Australians and people living with a disability, or
 - living in lower socio-economic communities



Create recall communications

- Communicate clearly and simply. Use the words that were agreed to on the recall notice published on the Product Safety Australia website in all your communications.
- Avoid words or phrases that downplay the risk
- Use a range of contact methods
- Use designs that consumers will notice

1. Product
2. Clear images
3. Immediate action
4. Why the product is being recalled
5. Potential harm and max potential injury
6. Injuries or incidents
7. Personalise
8. Steps to receive a remedy – and what that is
9. Contact details

This is a template for a "Product Safety Recall" form. It has a red dashed border and a red triangle icon at the top left. The form contains several sections with icons and placeholder text: "Do you own this product?" with fields for product name, ID, and date sold; "Why the product is recalled?" with a hazard icon and a "Text" field; a list of actions (return, email, phone, purchase from) with corresponding icons; "Scan for information about this recall" with a QR code icon; and "Set yourself a reminder to check at home" with a clock icon and instructions to take a photo and set a reminder. At the bottom, it says "See productsafety.gov.au for Australian product recall information".This is a simplified version of the "Product Safety Recall" form template. It has a red dashed border and a red triangle icon at the top left. It contains a "Product description" field, an "ISSUE: Add text" field, and a "PRA No. [XX/XXXX]" field.

PRODUCT SAFETY RECALL:
[product].
Do you own this product?
[insert call to action]
More details: [web address].
PRA No. [XX/XXXX]
Unsub: reply STOP

Track, review, report and adjust

- Track the number of remedies provided
 - Adjust and review comms plans if the remedy rate is low.
- Submit progress reports to us
- Reassess the risk: Suppliers are responsible for ongoing risk assessment.
- Reassess the risk:
 - Learn new information about the defect
 - More products become affected
 - Injuries
 - Consumers not responding to the recall message
 - Low number of remedies
- Suppliers may need to update the wording in their recall messages, including the recall notice.
- An effective recall is when:
 - Advertising is clear, accessible and uses the same words as the recall notice
 - Affected consumers are aware of the recall and follow recall notice instructions
 - Unsold stock has been removed from the supply chain
 - Other businesses in the supply chain are aware of the recall and are acting
 - No complaints received about the recall
 - No incidents or injuries are occurring

We can assess and escalate recalls we monitor

- Assessing a recall, we consider:
 - Products still with consumers, defect rate, performance compared to similar recalls, complaints, injuries, risk level, effectiveness of recalls communications
- We can assess recall when
 - Suppliers are not responding to us
 - Not receiving progress reports when requested
 - Receive mandatory reports, complaints, other information relevant to the risk of the product or recall effectiveness
- Outcomes
 - Revise and recalls comms
 - Change remedy, adding incentives
 - Improve how consumers receive the remedy
 - Meet with us to discuss strategy
- Other actions we can take to reduce the risk to public safety
 - Adding a message to the recall notice on our website to include our view of the recall
 - Issue a safety alert
 - Issue a media statement
 - Compulsory notice to obtain information
 - Enforcement action: misleading or deceptive conduct
 - Safety warning notice
 - Compulsory recall

Finalise the recall

- No set timeline for how long a recall lasts for.
- Has the supplier done enough to reduce the risk to consumers
 - Injuries or incidents
 - Likelihood the product with consumers will fail
 - Communicated with supply chain
 - Achieved a return rate that fits the risk to consumers and the lifespan of the product
- When we determine that we no longer need progress reports:
 - The supplier and suppliers in the supply chain have taken all reasonable steps to recall the product
 - the risk to consumers has been adequately mitigated.
- Suppliers must continue to provide remedies
- Recall remains 'open' and on the Product Safety Australia website.
- We may request reports again if:
 - Injuries/incidents occur
 - Complaints about the recall
- Recalls are only closed when 100% complete – they do not expire

Follow up questions

- Productsafety.gov.au
- Follow up questions:
recallsmonitoring@acc.gov.au

The screenshot shows the ACCC Product Safety Australia website. The header includes the ACCC logo, the text 'AUSTRALIAN COMPETITION & CONSUMER COMMISSION', and 'PRODUCT SAFETY AUSTRALIA'. There is a search bar, a language selection dropdown, and a 'Powered by Google Translate' notice. The navigation menu includes 'Home', 'Products', 'Recalls', 'Product safety laws', 'News', 'About us', and 'Contact us'. The main content area is titled 'Conducting a consumer product safety recall' and includes a 'Listen' button. Below the title are tabs for 'View published', 'Revisions', and 'Children'. A list of bullet points explains the responsibilities of suppliers. A prominent blue button labeled 'Submit a recall notification' is at the bottom. On the right side, there is a sidebar titled 'I want to...' with links for 'Receive email updates', 'Subscribe to newsletter', 'Report unsafe products', and 'Submit a recall notification'. At the bottom of the sidebar, there is another 'I want to...' section with a warning icon.