

Supplementary Budget Estimates
Opening statement to the Economics Committee
Rod Sims, ACCC Chairman
October 2014

The ACCC has recently taken the lead in a significant product safety issue potentially affecting some 40,000 homes and buildings across Australia involving electrical cable sourced from Infinity Cable Company Pty Ltd.

Approximately 4000 km of Infinity and Olsent-branded Infinity electrical cables has been sold since 2010. The cable does not comply with the ageing requirements of the electrical safety standard and its substandard PVC protective insulation is expected to become prematurely brittle.

- If cable with brittle insulation is disturbed, it may cause electric shock or in some cases fire.
- The cables have repeatedly failed the relevant Australian standards, which are mandated and enforced, under state and territory electrical safety laws, and are expected to have a significantly reduced service life.
- The current expert advice available indicates that safety issues with the cable may begin to arise from 2016 onwards.

The ACCC was asked and agreed to coordinate a national response given the dimension of this issue.

A taskforce comprising electrical, building and Australian Consumer Law regulators was established by the ACCC in response to calls for a national solution and to resolve issues relating to appropriate action by retailers, wholesalers, electricians, builders and regulators.

The ACCC and the taskforce carefully considered expert advice and testing reports to determine what needed to be done to address the safety risks.

It considered all the legislation that could be used to get the cable remediated. The cable importer, Infinity Cable Co Pty Ltd went into liquidation. This means electricians who were liable under the ACL consumer guarantees had lost the benefit of the statutory indemnification they receive from the importer under the ACL.

Separately, the ACL defective goods regime provides for wholesale suppliers of the cable to volunteer, or be called upon, to address the safety risks by recalling the defective unsafe cable they have supplied.

The ACCC established that many electricians wanted to act but could not bear the cost alone.

The ACCC and the taskforce agreed, therefore, that those who could contribute to the recall should be expected to. Wholesale cable suppliers recalling the unsafe cable would assist electricians, builders and consumers and arrange for an inspection of wiring and remediation of any installed Infinity cable that they supplied.

As agreed with the states and territories, the ACCC has negotiated recalls with all the 19 national and major suppliers of Infinity electrical cable, accounting for 85% of the 4000 km of cable supplied across Australia. The state and territories are managing the remainder of the local suppliers.

The safety issue

The cable that is the subject of the recall notice is Infinity and Olsent-branded Infinity electricity cables used in electrical wiring work, such as in new homes, air-conditioning units, power points or rewired buildings. It applies to work completed on houses and workplaces between May 2010 and August 2013. The cable is no longer being supplied in Australia.

The bulk of the cable was supplied into NSW, QLD and Victoria. Lesser quantities were sold in other jurisdictions. There was no supply into the Northern Territory, and installations in Tasmania have largely been remedied.

'Olsent' is a house brand of Masters Home Improvement, a hardware chain in the Woolworths Group. Masters supplied approximately half of the affected Infinity-sourced cable.

Expert advice indicates that there is no immediate danger. However, careful steps need to be taken to stop electric shock or fires from occurring in coming years.

While no incidents have been reported to date, the longer-term risk is real as the cables will prematurely degrade over time.

Current advice indicates that in normal circumstances, the risk is unlikely to manifest until at least six years after product manufacture. The earliest date for this to occur is 2016. While this does allow time to develop and implement an effective remediation program, it is critical that prompt action be taken to protect Australians.

History of ACCC involvement

The ACCC became aware of the initial problem in August 2013 when Infinity Cable Co Pty Ltd notified the ACCC about the first voluntary recall in NSW.

- The first voluntary recall was limited in scope to a few varieties of Infinity and Olsent cable.
- The initial recall assisted the ACCC and other regulators in identifying the nature and scope of the potential hazard.

In early 2014 industry representatives asked the ACCC to coordinate a regulatory taskforce.

The multijurisdictional scope and magnitude made it reasonable for state and territory agencies and the ACCC to collaboratively develop a uniform and appropriate response to the problem.

The ACCC has worked closely with industry, state and territory regulators and independent experts to develop and implement an appropriate regulatory response to deal with the magnitude of this potential safety issue.

The various state and territory legislation for electrical safety has differing powers for prohibiting supply and/or compelling suppliers to recall electrical equipment.

All state and territory electrical safety regulators have powers to prohibit the sale or installation of specific electrical equipment such as cables, and prohibitions have been put in place in all jurisdictions where Infinity cables were sold.

Most electrical safety regulators also have mandatory recall powers, including NSW, Queensland and Victoria. However, in some states (e.g. Queensland), these powers are only applicable to importers or manufacturers of electrical equipment, and the powers do not extend to retailers, wholesalers or other suppliers.

Some states, such as WA, do not have mandatory recall powers under their electrical safety legislation.

All state and territory consumer protection Ministers have compulsory recall powers under the ACL (s122), which can be applied in their respective jurisdictions. Only the Commonwealth Minister can issue a national compulsory recall, however, subject to certain procedural requirements of the ACL.

Recall details

The Taskforce agreed that the Commonwealth would deal with the national or major suppliers of the cable, and the states and territories would be responsible for single state smaller suppliers.

On 27 August 2014 a combined recall notice was published on the ACCC's Recalls website in relation to major and national suppliers and the ACCC has sought to promote this recall

broadly in the media to ensure that potentially affected consumers are alerted to the safety issue. This national recall covered 85% of cable supply.

As per the taskforce's agreed plan for remediating the remaining 15% of supplied cable, Queensland, Victoria and Australian Capital Territory regulators have almost finished negotiating recalls with a range of smaller suppliers.

This morning the ACCC will announce a second tranche of recalls involving suppliers of Infinity cable. This will include five suppliers from Victoria and two suppliers from the Australian Capital Territory. A small QLD supplier has completed its recall of Infinity cables in cooperation with QLD regulators.

NSW Fair Trading's alternative approach for suppliers in NSW has been to formally advise suppliers in writing that they are expected to take action to remediate cables for consumers who lodge complaints with electrical safety, building or consumer affairs authorities in NSW.

State and territory electrical regulators are working with electricians and their contractors to ensure they understand how to confidently identify and assess installations with Infinity-sourced cables and render them safe and compliant with electrical safety regulations.

What the ACCC is doing now?

We can report that the recalls with the 19 major suppliers of Infinity cable are progressing, and suppliers have been replacing cable with compliant cable and have refunded customers for unused cable. The ACCC is currently receiving formal recall progress reports from these suppliers and early indications are positive.

We are continuing to take steps, including through this statement, to raise the profile of this critically important safety issue. The ACCC will also issue a media release today regarding the second tranche of recalls.

The ACCC is working closely with industry and relevant regulators to ensure that the recalls progress effectively.

The safety issues concerning Infinity and Olsent-branded Infinity cables are very serious and the ACCC has dedicated, and will continue to dedicate, significant resources to ensuring that all possible steps are taken to address this problem.

The Australian Consumer Law contains a number of general provisions that place the onus on businesses to supply safe goods – this includes statutory guarantees to consumers, a liability regime for defective goods, and provisions for the recall of unsafe goods.

Sourcing finished goods from countries with lower production costs may provide cost benefits, but there can also be potentially enormous hidden costs. Where the quality of

products is variable or deteriorates, the products can become unsafe for consumers and expose suppliers to the costs of recalls and possible legal action. Suppliers (including retailers and wholesalers) need to manage the quality assurance and control of goods they procure. This can be achieved through testing and inspection of finished goods, by monitoring the supply chain, and by adopting safe and reliable procurement practices such as dealing with established suppliers they know and trust or developing such relationships with new suppliers.

Consumers are entitled to expect that every manufacturer, importer and retailer in Australia adheres to appropriate levels of product stewardship and complies with relevant laws.