

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Treasury Portfolio
Additional Estimates
2016 - 2017

Division/Agency: Australian Competition and Consumer Commission
Question No: 129
Topic: Product recalls
Reference: Written
Senator: Ketter, Chris

Question:

1. How many product safety recalls have been issued so far this year?
 - a. Of these, how many were issued voluntarily by suppliers?
 - b. How many were issued on a mandatory basis by the ACCC?
2. What is the evidentiary threshold for the ACCC to require a product recall? Typically, how does the ACCC come to this evidence? Can you give any examples?
3. Referring to the product safety recall of Infinity Cables sold by Masters Hardware. Can you please give an update on the progress of the recall process? Has the ACCC been made aware of any other problematic cabling or electrical equipment being imported or sold in Australia? How has the ACCC responded to that?

Answer:

1. As at 28 February 2017, there are 122 recalls published on the Product Safety Australia website recalls webpage.
1. a-b. All 122 recalls were notified to the ACCC and are being undertaken voluntarily, in accordance with section 128 of the Australian Consumer Law (ACL).
2. The ACCC does not require recalls. The ACCC may talk to suppliers about safety issues it has identified with consumer goods. Section 128 of the ACL obliges suppliers to notify the Minister if they conduct a recall when any of the following four circumstances exists:
 - the consumer good will or may cause injury to a person
 - a reasonably foreseeable use (or misuse) of the good will or may cause injury to a person
 - a safety standard is in force and the good does not comply or is not likely to comply with the standard
 - an interim or permanent ban on the good is in force.

The threshold under the ACL for a compulsory recall of a consumer good to be ordered is that it appears to the responsible Minister that one or more suppliers of the goods have not taken satisfactory action to prevent the goods causing injury to a person when one of four circumstances also applies. Those four circumstances are:

- it appears to the responsible Minister that the consumer good will or may cause injury to a person
- it appears to the responsible Minister that a reasonably foreseeable use (or misuse) of the good will or may cause injury to a person

- a safety standard is in force and the good does not comply or is not likely to comply with the standard
- an interim or permanent ban on the good is in force

In making a recommendation to the Minister to consider a compulsory recall, the ACCC would assess the evidence of the particular case. This would include:

- the result of assessment, testing or other review of goods in the four circumstances
- progress made with a relevant voluntary recall, if any
- risk to consumers
- the outcome of any conference process undertaken in accordance with Part XI of the *Competition and Consumer Act 2010*.

3. Infinity cable was supplied by multiple businesses including Masters Home Improvement. Masters sold approximately 50 per cent of the cable supplied nationally and Woolworths, as the parent company, is continuing to administer their recall following closure of the Masters business.

There are 28 voluntary recalls of Infinity cable which, in sum (as at 28 February 2017), have remediated and/or scheduled remediation of 2152 kilometres of cable (50 per cent of the amount notified by suppliers as subject to voluntary recall). The ACCC is currently auditing the 28 voluntary recalls of Infinity cable, including the recall administered by Woolworths. The ACCC is satisfied that Woolworths is actively pursuing the recall. At current rates of progress Woolworths is expecting to complete its remediation by December 2018. As the audits are completed the ACCC expects minor fluctuation in figures.

State and Territory electrical regulators are responsible for compliance of electrical products and cables, including the electrical products supplied directly to consumers (consumer goods). The specialist electrical regulators oversee the approval regime for electrical products and have staff with expertise to assess electrical safety hazards. The ACCC does not regulate electrical goods supplied for business, industrial or commercial use.

Electrical safety regulators work cooperatively with the ACCC to ensure voluntary recalls are timely and effective. The ACCC routinely publishes voluntary recalls relating to cable and electrical equipment (if they are consumer goods) on the Product Safety Australia website.