

FOREWORD

This report examines selected product safety problems faced by consumers when purchasing tangible goods *via* e-commerce. It explores the scope and magnitude of online product safety issues and provides an overview of the government and business initiatives that have been carried out by jurisdictions to protect consumers from unsafe products online. The report also reflects the results of the OECD online product safety sweep, co-ordinated by Australian Competition and Consumer Commission (ACCC) on behalf of the Working Party on Consumer Product Safety in April 2015, in which 25 jurisdictions participated and inspected a total of 1709 products sold online. Such results are described in more detail in the report on OECD Online Product Safety Sweep Results, prepared by the ACCC.

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EXECUTIVE SUMMARY

This report examines selected product safety problems faced by consumers when purchasing tangible goods *via* e-commerce, at both domestic and cross-border levels. It is divided into two main parts, exploring the scope and magnitude of such online product safety issues, and providing an overview of the government and business initiatives that have been carried out in a number of jurisdictions to protect consumers from unsafe products online. The report also includes the results of an OECD online product safety sweep ("the OECD sweep") co-ordinated by the Australian Competition and Consumer Commission (ACCC) from 27 to 30 April 2015 on behalf of the Working Party on Consumer Product Safety (WP). The initiative, in which 25 jurisdictions participated, involved the inspection of a total of 1709 goods falling into one of the following three categories: *i*) banned and recalled products; *ii*) inadequate product labelling; and *iii*) products that do not meet safety standards or requirements.

Scope and magnitude of online product safety problems

As reflected in the work that the Committee on Consumer Policy carried out to support the development of the revised *OECD Recommendation on Consumer Protection in E-commerce* (OECD, 2016) (hereafter "the 2016 OECD E-commerce Recommendation"), business-to-consumer (B2C) e-commerce has evolved into a dynamic market driven by a number of factors, such as easier consumer access to a wider range of goods at competitive prices and extensive information about products available on a variety of platforms, as well as growing consumer use of mobile devices to engage in transactions.

Both the research and OECD sweep carried out by the WP in 2015 have, however, revealed a number of safety challenges associated with the online sale of products to consumers. The work has revealed that the following three product categories, which are available for sale online in a number of jurisdictions, have been reported as potential sources of consumer harm:

- Banned and recalled products: These include goods that have been: *i*) prohibited from sale in countries, both online and offline; and/or *ii*) recalled from the market, in a voluntary or mandatory manner. It should be noted that banned and recalled products, which are sometimes considered as separate product categories, are being addressed in this report under the same product category.
- Inadequate product labelling and safety warnings; and
- Products that do not meet voluntary or mandatory safety standards.

Banned and recalled products

In e-commerce, businesses selling products to consumers in one country are traditionally responsible for ensuring that such products are not banned from that country. In a number of countries, however, consumers have been able to purchase, *via* e-commerce, products that have been banned from offline retail. In some cases, such purchases have been made from an overseas online shop.

Some jurisdictions have also reported cases where a number of products that had been recalled from the offline retail market, such as household electronics, were still available for sale online, including second-hand goods offered on online platforms, such as auction websites. The availability of such products online may be explained by the fact that as the Internet has enabled businesses to sell products *via* an expanded range of channels and platforms at domestic and cross-border levels, product manufacturers have been facing growing difficulties to remove their recalled products from the market.

During the OECD sweep, a total of 693 products were inspected for the purpose of detecting banned and recalled products (Tier 1). Among those, 68% appeared to be banned and recalled products available for sale online.

Inadequate product labelling and safety warnings

Before confirming their purchases online, consumers do not always have access to adequate product labelling and safety warnings, such as age grading on products for children. At the cross-border level, consumer understanding of labels and warnings provided in a foreign language appears to be a specific challenge.

The ways in which the issue is being addressed by jurisdictions varies from country to country. Although providing certain product labelling and warning information to consumers is mandatory in a large number of countries for traditional retail, such requirements are often not mandatory in an e-commerce context. This may explain why, during the OECD sweep, participants identified a large proportion of products as presenting inadequate or a lack of labelling information.

During the OECD sweep, a total of 880 products were inspected for the purpose of detecting products with inadequate labelling and safety warnings (Tier 2). Among those, 57% were not supported by adequate labelling information on relevant websites, while for 21%, information was incomplete. It should however be noted that online labelling problems do not always imply that the labelling that is placed on the product itself is inadequate. Among the 77 products purchased by the sweep participants, 68% presented adequate product labelling.

Products that do not meet voluntary and mandatory safety standards

Products that do not meet voluntary or mandatory safety standards have been found both in domestic and cross-border e-commerce, but seem to be more prevalent in cross-border e-commerce. These include some counterfeit products, such as baby care products, which may carry health and safety risks.

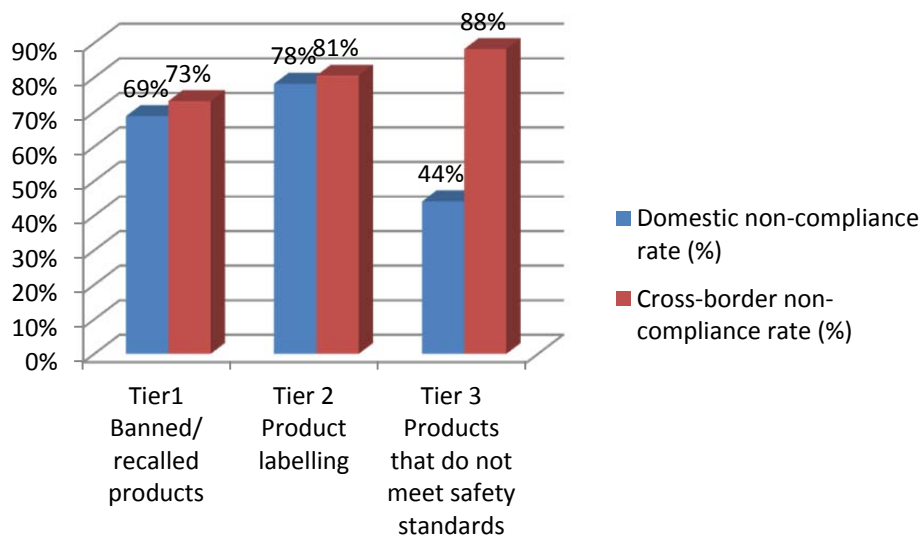
During the OECD sweep, 136 products were inspected for the purpose of detecting products that do not meet safety standards. A majority of such products (54%) did not comply with safety standards. Among the 60 products that had been purchased and tested by the sweep participants, more than half (55%) were assessed as not compliant with relevant product safety standards.

Non-compliance rates at domestic and cross-border levels

As shown in Figure 1, the OECD sweep revealed that the magnitude of problems encountered with banned and recalled products is quite similar at domestic and cross-border levels (affecting about 70% of inspected products); likewise, issues with product labelling concerned about 80% of the inspected products, at both domestic and cross-border levels. With respect to products that do not meet voluntary or mandatory

safety standards, the level of non-compliance was twice as high at cross-border level (88% of inspected products) than at domestic level (44% of inspected products).

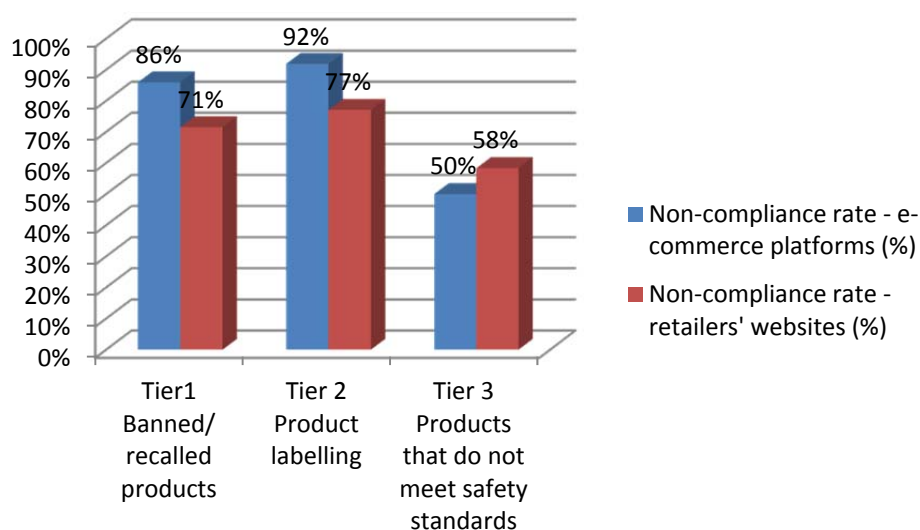
Figure 1. OECD sweep results: Non-compliance rates at domestic and cross-border e-commerce levels



Non-compliance rates at e-commerce platforms and retailers' websites

As called for in the 2016 OECD E-commerce Recommendation (OECD, 2016, Part One, Section B), businesses should not offer, advertise or market, goods or services that pose an unreasonable risk to the health or safety of consumers. Businesses should co-operate with the competent authorities when a good or a service on offer is identified as presenting such a risk.

With respect to the level of product non-compliance by website category (*i.e.* e-commerce platforms or retailers' websites), Figure 2 shows that problems associated with banned and recalled products, as well as with inadequate product labelling, appeared more prevalent on e-commerce platforms¹ (86% for banned/recalled products and 92% for inadequate product labelling) than on retailers' websites² (71% for banned/recalled products and 77% for inadequate product labelling). With respect to products that do not meet voluntary or mandatory safety standards, those sold *via* retailers' websites were more likely to be non-compliant to standards (50% were considered not compliant for e-commerce platforms and 58% for retailers' websites).

Figure 2. OECD sweep results: Non-compliance rates on e-commerce platforms and retailers' websites

Consumer product safety protection and empowerment initiatives

Over the past two decades, a number of initiatives have been carried out by product safety authorities and businesses to protect consumers from unsafe products online. These include:

- *Market surveillance and enforcement actions.* In some jurisdictions, market surveillance entities focusing on e-commerce activities have been established and market surveillance guidelines have been developed to improve the detection of unsafe products online. With respect to enforcement, in addition to actions taken solely by product safety authorities, co-operation with other authorities, such as customs, and/or with other stakeholders, such as e-commerce platforms, has helped to improve the detection of unsafe products and to prevent them from entering the market. International co-operation has likewise been enhanced through information sharing, sweeps and joint market surveillance activities.
- *Individual and joint actions undertaken by businesses.* E-commerce platforms and online retailers can facilitate and help to improve the effectiveness of product recalls by governments or manufacturers through the use of the consumer data that they collect for the purposes of product delivery. By combatting counterfeit products, businesses can help to enhance consumer product safety as those products may pose health and safety risks. Both manufacturers and e-commerce platforms have taken actions to remove counterfeit goods from the market, sometimes through joint actions or the establishment of co-operation schemes between manufacturers and e-commerce platforms.
- *Business and consumer awareness initiatives.* Some government authorities have developed education programmes to provide online retailers and e-commerce platforms with information and guidance on the regulations that need to be complied with to ensure product safety online. Some initiatives have also aimed to alert consumers about unsafe goods available in e-commerce, through the provision of: *i)* checklists relating to online product safety issues; *ii)* product recall information; *iii)* information on websites which are suspected to be selling unsafe products; and *iv)* information, *via* traditional and online media, describing the potential damages and risks that unsafe products may cause.

ONLINE PRODUCT SAFETY: TRENDS AND CHALLENGES

1. Background

In 2013, the OECD Working Party on Consumer Product Safety (WP) agreed to initiate new work on online product safety, in light of information shared in this area by the Australian Competition and Consumer Commission (ACCC) at a WP virtual symposium. At its October 2014 Session, the WP agreed that the work would consist of the following three initiatives: 1) research and policy analysis (to be developed by the Secretariat), which would examine the scope and magnitude of some online product safety issues and ways in which governments and stakeholders have addressed them; 2) an OECD online product safety sweep ("the OECD sweep"), co-ordinated by Australia on behalf of the WP and carried out from 27 to 30 April 2015; and 3) the development by the WP of an online surveillance guide for enforcement authorities, which would be informed by the work of the European Commission's Expert Group on the Safety of Products Sold Online.

This report, which combines initiatives 1) and 2), examines selected product safety problems faced by consumers when purchasing tangible goods *via* e-commerce, at both domestic and cross-border levels. It is divided into two main parts, which respectively explore the scope and magnitude of the selected online product safety issues, and provide an overview of the government and business initiatives that have been carried out in a number of jurisdictions to address them. The report reflects the results of the OECD sweep in which 25 jurisdictions³ participated and inspected a total of 1 709 goods offered for sale *via* e-commerce platforms⁴ and retailers' websites⁵, at domestic and cross-border levels. Sweep participants agreed to inspect goods falling into the following product categories: *i*) banned and recalled products (Tier 1); *ii*) inadequate product labelling and safety warnings (Tier 2); and *iii*) products that do not meet voluntary or mandatory safety standards (Tier 3). It should be noted that as sweep participants were able to choose the number and types of products and websites they would look into for each of the tiers,⁶ the types and number of products surveyed differ from one jurisdiction to another.

2. Scope and magnitude of online product safety issues

2.1. E-commerce trends

Business-to-consumer (B2C) e-commerce has grown steadily over the past five years on a global scale. In the OECD area, about half of individuals purchased goods online in 2014, up from 31% in 2007 (OECD, 2015). Such growth has been driven by a number of factors including easier consumer access to: *i*) product information available on a variety of platforms, such as social media and price comparison and complaint websites, and *ii*) a wider range of goods, at competitive prices. Products, such as clothes, sports goods, electronic equipment, and toys, have become popular items purchased by consumers *via* e-commerce (EC, 2015*a*; Ministry of Economy, Trade and Industry (METI, Japan), 2014; and Nielsen, 2014).

Such growth and consumer benefits have, however, been coupled with a number of product safety risks and issues that consumers are increasingly facing in today's e-commerce environment. Such challenges were highlighted by the WP in its contribution to the review of the OECD Recommendation on Consumer Protection in E-commerce (OECD, 2016) (hereafter "the 2016 OECD E-commerce Recommendation"). The work noted that in e-commerce, consumers are generally unable to inspect products before purchasing them and their access to safety information and warnings is more limited than in traditional retail, including in particular when consumers use mobile devices with small screens.

Moreover, while in traditional retail manufacturers distribute their goods in bulk to brick-and-mortar stores, in e-commerce, products may be distributed through a number of channels, such as e-commerce platforms, online retailers' websites, online auction websites and social media, where it is not always easy for consumers to identify who is actually manufacturing and delivering a product, or for market surveillance authorities to detect and track unsafe products. The safety challenges that have been encountered by consumers in e-commerce are not only associated with new products but also with second-hand goods (ACCC, undated *b*; Queensland Government, Australia, undated *a*).

2.2. Online product safety concerns per product category

As reflected in the research carried out by the WP in 2015 and the results of the OECD sweep, the following three product categories that are available online in a number of jurisdictions have been reported as a potential source of consumer harm (including injury, death or adverse effect on health):

- Banned products, which are prohibited from sale in countries, both online and offline, as well as products that have been recalled from the market in a voluntary or mandatory manner (Tier 1);
- Inadequate product labelling and safety warnings (Tier 2); and
- Products that do not meet voluntary or mandatory safety standards (Tier 3).

Banned and recalled products

Banned products

Banned goods are generally described as unsafe products that are prohibited from sale in one or more jurisdictions. A ban can be limited in time, or permanent. In Australia, for example, interim bans last for 60 days and may be extended for another 60 days by relevant Commonwealth, state and territory authorities; permanent bans are decided by Commonwealth authorities (ACCC, undated *d*).

In some jurisdictions, consumers have been able to purchase banned products online despite existing prohibition. Consumers have, for example, been able to purchase small high powered magnets online which had been listed as banned products in jurisdictions such as Australia, New Zealand, Canada and the United States, in 2012, 2013, 2013 and 2014 respectively (ACCC, Australia, undated *a*; Ministry of Consumer Affairs, New Zealand, undated *a*; Health Canada, 2013; US CPSC, undated). In 2013, the Australian Competition and Consumer Commission (ACCC) found that some online businesses were still selling those products to consumers in Australia despite the prohibition. Following a request from the ACCC to the retailers to remove the products from the market, the products were recalled from the online marketplace (ACCC, Australia, 2014*a*). In the United States, the Consumer Product Safety Commission (US CPSC) also noted that such types of magnets could be purchased by consumers through e-commerce platforms in People's Republic of China (hereafter "China") (The New York Times, 2015).

New types of e-commerce platforms (such as crowdfunding platforms), which have been increasingly used to place inventions and innovative products on the market prior to their sale at brick-and-mortar stores, may also be used as channels for the sale of unsafe products. Some consumer organisations for example argue that reward-based crowdfunding platforms⁷ may allow unsafe goods to enter the market in the absence of proper supervision by relevant authorities (EC, 2014). In Canada, Health Canada terminated a crowdfunding project aiming to sell pens that included small magnets which had been banned in Canada for safety reasons (Mertl, 2013).

It should be noted that the responsibility for ensuring that a good is not banned in the jurisdiction where it is offered for sale to consumers generally lies on the business selling the good. The ACCC's guidance on online product safety provides in that regard that "all businesses who supply products to Australian consumers must comply with Australian product safety laws" and this applies to businesses selling products online, at both domestic and cross-border levels (ACCC, Australia, 2014a). In the United States, the Customs and Border Protection (CBP) indicates on their website⁸ that individuals purchasing goods online from foreign countries are regarded as importers of such goods and are, as such, responsible for ensuring that the products comply with US state and federal government import regulations, including those covering product safety issues (US CBP, undated a). In the European Union (EU), under the General Product Safety Directive (EC, 2001), all products that are placed on the EU market are to be safe, regardless of whether they are purchased online or in traditional shops.

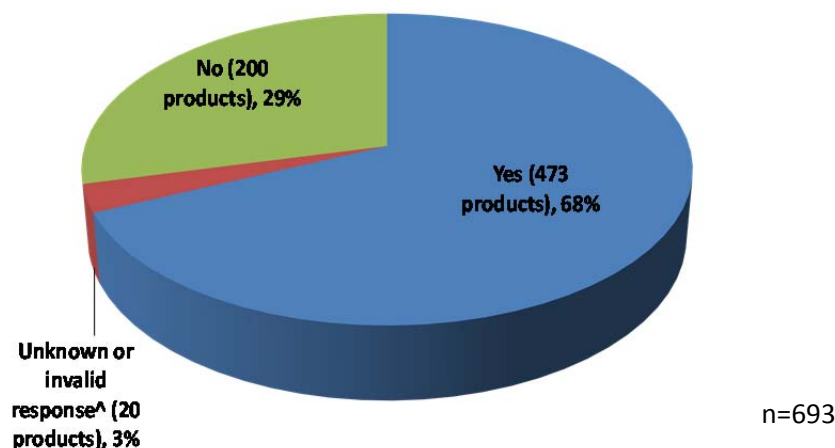
Recalled products

Product recalls, whether mandatory or voluntary, concern defective products which raise safety concerns for consumers. In an e-commerce context, product manufacturers, who often carry out the recalls, can face challenges in tracking the sale of recalled products which may be available through a wide variety of channels worldwide (Tan, 2008). There have been instances where a number of products that had been recalled from the offline retail market were still being offered for sale online, sometimes years after a recall had been initiated (Chicago Tribune, 2014). For instance, in the United States, in 2014, the US CPSC and one large consumer electronics supplier announced that 10 different consumer products that had already been recalled in 2012 and 2013 were still on offer online. The products included cameras, televisions, dishwashers, electric ranges and office chairs that could cause hazards such as fire, burn, expelled parts or skin irritation (US CPSC, 2014).

A study published in the United States in 2007 revealed that problems with recalled products available online also concern second-hand goods, including children's products, sold *via* online auction websites. The study found that 190 auctions contained, or were likely to contain, recalled children's products from a targeted list of 141 recalled products published by the US CPSC. On average, six bids had been placed on each recalled product and 70% of those auctions had resulted in the sale of such products (Kirschman and Smith, 2007). In 2014, one popular classified advertisements website in the United States was pointed out as enabling its users to sell recalled baby products through its platform (KVUE, 2014).

OECD sweep results

During the OECD sweep, 17 jurisdictions⁹ inspected 693 products for the purpose of detecting banned and recalled products. In each jurisdiction, a wide variety of banned and recalled products were identified, including small high powered magnets, sky lanterns and novelty lighters. More than two-thirds (68%) of these products were available for sale in these jurisdictions (Figure 3). As reflected in Table 1, which shows the number of banned and recalled products available online for sale, by product type, some product categories are associated with a high level of non-compliance rate. These include, for example, sporting/recreation goods (88%), and safety equipment (85%).

Figure 3. Whether banned and recalled products were available for sale in participating jurisdictions**Table 1. Banned and recalled products available online, by product type**

	Was the product available for sale in your jurisdiction?				Total
	Yes (no.)	Yes (%)	No (no.)	No (%)	
Apparel	28	80%	7	20%	35
Automotive	12	71%	5	29%	17
Chemical	1	100%	0	0%	1
Cosmetic	0	0%	4	100%	4
Food	0	0%	11	100%	11
Household electrical	24	47%	27	53%	51
Household (non-electrical)	59	84%	11	16%	70
Infant/children	54	76%	17	24%	71
Personal care	8	89%	1	11%	9
Portable technology	9	100%	0	0%	9
Safety equipment	11	85%	2	15%	13
Sporting/recreation	128	88%	18	12%	146
Tools/machinery	3	50%	3	50%	6
Toys/games	132	59%	93	41%	225
Unclassified	4	80%	1	20%	5
Total	473		200		673

Inadequate product labelling and safety warnings

Providing consumers with clear, accurate and easily accessible information about goods on offer is key to help consumers make informed decisions in e-commerce (OECD, 2010). As called for in the 2016 OECD E-commerce Recommendation, such information should include safety and health care information, and any age restrictions (OECD, 2016, Part One, Section C).

The WP research reveals that consumers in e-commerce do not always have access to product labelling and safety warning information before purchasing a product, which may result in consumer injury

and harm. In 2014, the ACCC raised concerns over this issue, noting the following problems affecting consumer trust (ACCC, Australia, 2014*b*):

- A lack of age-grading on products for children;
- Inadequate product descriptions;
- Low-quality product images on websites; and
- A lack of ingredients lists on websites.

The extent to which regulations, laws or industry-self regulations have been adopted to improve consumer access online to product labels and warning information varies from country-to-country. Such rules often cover mandatory disclosures about ingredients used in cosmetic products, or warning labels that alert consumers about product usage limitations, such as toys. In the EU, the 2009 Toy Safety Directive (EC, 2009) requires that warnings which determine the decision to purchase the toy, such as those specifying the minimum and maximum ages for users, shall appear on the consumer packaging or be otherwise clearly visible to the consumer before the purchase, including in cases where the purchase is made on-line. (EC, 2015*d*). In the United States, the 2008 Consumer Product Safety Improvement Act (US CPSC, 2008*a*) requires that advertising for a product on offer online must include relevant usage cautionary statement (US CPSC, 2008*b*).

It should, however, be noted that even in countries where rules on labelling and warning requirements have been adopted, their implementation may:

- Not be mandatory in an e-commerce context. This is for example the case in Japan where the disclosure of ingredients used in cosmetic products is not mandatory in online sales (NCAC, 2015); and/or
- Be insufficient. In 2013, the ACCC published a suppliers guide on ingredients labelling on cosmetics (ACCC, Australia, 2013) requiring online sellers to provide consumers with information about the ingredients used in the cosmetic products they offer online before consumers confirm their order and are contractually bound. In 2014, the ACCC noted an ongoing lack of information about ingredients used in cosmetic products offered online (ACCC, Australia, 2014*b*).

It should also be noted that in a cross-border e-commerce context, consumers may face specific difficulties understanding the labels and safety warnings provided in a foreign language. Such an issue has been addressed in the EU, where, for example, the above mentioned 2009 Directive on Toy Safety provides that instructions for proper use and safety information should be available in one or several languages easily understood by consumers as determined by the Member States concerned by the online transaction. The Directive further requires that in cases where a consumer purchases a toy online from a website written in one or several languages, the warnings must be written in the same language(s) (EC, 2015*d*).

OECD sweep results

During the OECD sweep, 15 jurisdictions¹⁰ inspected 880 products for the purpose of detecting product labelling-related issues. The products included children's nightwears, built-in refrigerators, and mobile phones. The sweep participants first checked whether product labels were displayed adequately on the website before purchase. The OECD sweep results revealed on that point that 57% of the products inspected did not have relevant labelling information featured on the inspected websites; 22% showed only part of the labelling. The resulting compliance rate (proportion of products for which full product labelling

was shown on websites) was limited to 21% (Figure 4). Whether product labelling was apparent on a website before purchase is shown in Table 2, by product type. For some product categories, a majority available online did not show any labelling information on the website before purchase, such as sporting/recreation goods (87%), non-electrical household goods (84%) and apparel (83%).

Figure 4. Whether the product labelling was displayed on the website before purchase

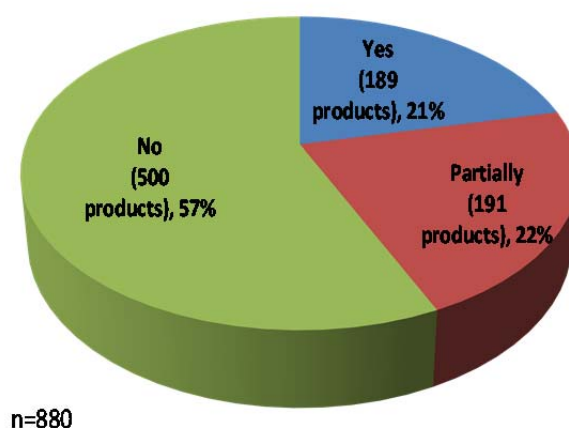


Table 2. Whether product labels were apparent on websites before purchase, by product type

	Was the product label displayed on the website before purchase?						Total
	Yes (no.)	Yes (%)	Partially (no.)	Partially (%)	No (no.)	No (%)	
Apparel	20	14%	3	2%	116	83%	139
Automotive	1	100%	0	0%	0	0%	1
Chemical	27	36%	0	0%	48	64%	75
Cosmetic	20	47%	1	2%	22	51%	43
Household electrical	45	21%	155	73%	13	6%	213
Household (non-electrical)	8	8%	7	7%	80	84%	95
Infant/children	0	0%	6	55%	5	45%	11
Portable technology	16	36%	0	0%	29	64%	45
Safety equipment	7	70%	0	0%	3	30%	10
Sporting/recreation	8	11%	1	1%	62	87%	71
Tools/machinery	23	26%	0	0%	67	74%	90
Toys/games	12	18%	18	27%	37	55%	67
Unclassified	2	10%	0	0%	18	90%	20
Total	189		191		500		880

However, the above mentioned low rate (21%) of availability of labelling information online does not mean that the labelling that is placed on the product itself is inadequate or lacking. Among the 77 products that were purchased by the sweep participants, 68% presented adequate product labelling.

Products that do not meet voluntary or mandatory safety standards

According to a survey on consumer usage of domestic e-commerce carried out in 2013 in Japan, China and the United States, a relatively small number of consumers have complained in those countries about problems with goods that did not meet the voluntary or mandatory safety standards in force in their jurisdiction. This was the case for 4.7% of individuals in the United States and 8.4% of individuals in

China (Figure 6) (METI, Japan, 2014). However, a low level of complaints does not mean that there are no problems associated with products that do not meet voluntary or mandatory safety online. The low level of complaints may be in part explained by consumers' unawareness of such problems. A study by the Netherlands Food and Consumer Product Safety Authority (NVWA) in 2015 pointed out that only 28% of consumers in the Netherlands who purchase goods online at least once every three months realise that a product purchased outside the EU may not be compliant with EU regulations (NVWA, Netherlands, 2016).

In the United Kingdom (UK), in 2010, illegal and potentially harmful tooth-whitening products were found to be sold online, in breach of EU regulation limiting the amount of carbamide peroxide in products, which could potentially burn the gums. A consumer organisation pointed out that these products were sold online even after the e-commerce platforms concerned had agreed to remove them from their website. In this matter, the UK Trading Standards Institute noted the challenge to protect consumers in a context where the resources available to detect and remove unsafe goods from e-commerce platforms do not match and keep up with the rapidly growing number of online retailers (Which?, 2010; The Guardian, 2010).

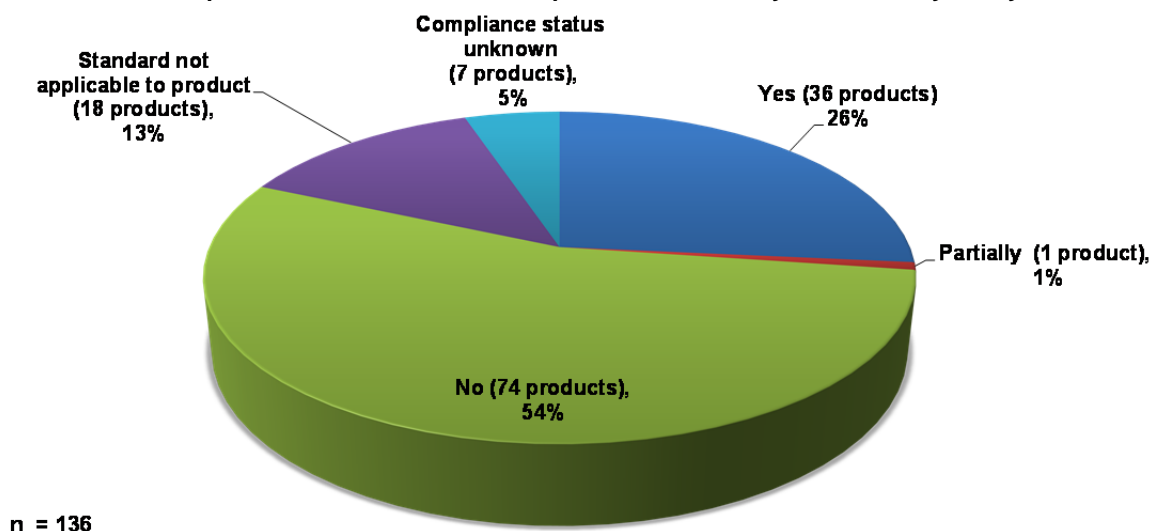
In 2011, businesses located in Australia have also raised concerns over a number of products sold by overseas retailers to Australian consumers *via* the Internet, which included toys, bicycle helmets, cosmetics and electrical goods (Productivity Commission, Australia, 2011). The concerns highlighted:

- The potential harm that consumers may encounter due to a lack of enforcement by Australian regulators of product safety standards in Australia.
- A lack of after-sales support to consumers, such as difficulties to provide repair of a good sold by a foreign seller who does not meet Australian safety requirements, as well as warranty issues, which may result in product safety issues for consumers.
- The competitive disadvantage domestic online sellers face compared to sellers located in other jurisdictions who do not incur the same costs to comply with relevant domestic product safety standards.

OECD sweep results

During the OECD sweep, 136 products were inspected by 7 jurisdictions¹¹ for the purpose of identifying products that do not meet voluntary or mandatory safety standards. Among those products, as much as 76 products were examined online, while 60 other products were purchased and tested. These included bunk beds and lighters. Among the 136 products, about one-fourth (26%) were assessed as compliant with relevant voluntary or mandatory product safety standards and more than half (54%) were assessed as not complying to such standards (Figure 5).

Figure 5. Whether the product was assessed as compliant with voluntary or mandatory safety standards



As shown in Table 3, among the 60 products that were purchased and tested by the sweep participants, 42% were assessed as compliant, a rate that is higher than the compliance rate for those products that have been examined online only (14%). Yet, over half of the products (55%) were found as non-compliant. As shown in Table 4, which presents the number of online products that both did not meet safety standards and were purchased and tested, products such as household electrical (71%) and portable technology (100%) revealed a high level of non-compliance rate.

Table 3. Whether the product was assessed as compliant with voluntary or mandatory safety standards (assessed online only; or purchased and assessed)

	Assessed online only (no.)	Assessed online only (%)	Bought and assessed (no.)	Bought and assessed (%)	Total
Yes	11	14%	25	42%	36
Partially	0	0%	1	2%	1
No	41	54%	33	55%	74
Standard not applicable to product	17	22%	1	2%	18
Compliance status unknown	7	9%	0	0%	7
Total products inspected	76	100%	60	100%	136

Table 4. Whether the purchased product complied with voluntary or mandatory safety standards, by product type

	Did the product comply with the standard?						Standard not applicable to product	Total
	Yes (no.)	Yes (%)	Partially (no.)	Partially (%)	No (no.)	No (%)		
Household electrical	2	29%	0	0%	5	71%	0	7
Household (non-electrical)	16	57%	1	4%	10	36%	1	28
Infant/children	2	67%	0	0%	1	33%	0	3
Portable technology	0	0%	0	0%	17	100%	0	17
Sporting/recreation	3	100%	0	0%	0	0%	0	3
Toys/games	2	100%	0	0%	0	0%	0	2
Total	25		1		33		1	60

It should be noted that some counterfeit products, which involve infringements by parties of trademarks, copyrights, patents and design rights, and which may not meet safety standards, are increasingly available to consumers *via* e-commerce, on a global scale (OECD, 2008 and 2013a;

OECD/EUIPO, 2016). In recent years, the range of such counterfeit products has significantly expanded to cover not only luxury goods but also medication, automotive parts, electronics, sports goods, toys, and batteries (Heinonen et al., 2012). There have been instances where some counterfeit products have posed serious safety risks to consumers (OECD, 2008; Heinonen et al., 2012; Chaudhry and Zimmerman, 2013; EC, 2013; OECD/EUIPO, 2016). According to an EC study, counterfeit products that may be dangerous to the health and safety of consumers accounted for almost one third of the total amount of articles detained by EU customs in 2011 (EC, 2013). Such goods can be indeed substandard products that carry health and safety risks, ranging from mild inconveniences to life-threatening situations (OECD/EUIPO, 2016). This is often the case when, for example, these products: *i*) break easily; *ii*) contain chemicals that might be harmful to consumers; or *iii*) are used as part of genuine products.

With respect to *i*), in 2015, a Japanese company selling in the country a broad range of baby care products manufactured by a famous US brand, found out that 14 of the 25 baby carriers being sold under that brand by some online retailers to customers in Japan, were counterfeit products that may break easily and injure babies (Nikkei, 2015).

With respect to *ii*) the EC has pointed out that counterfeit garments may contain prohibited chemicals which may harm consumers' health through allergies and irritation (EC, 2013).

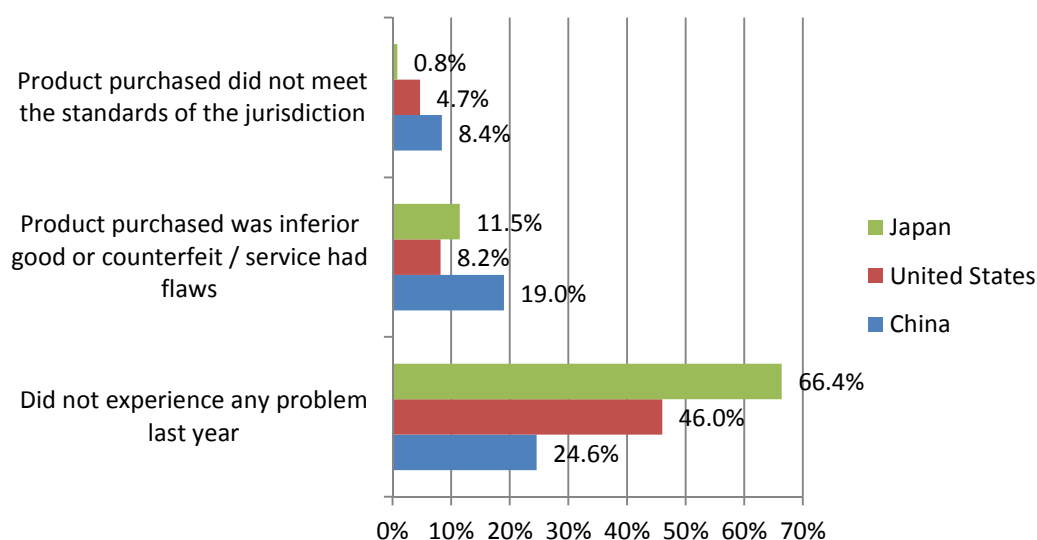
With respect to *iii*), placing counterfeit products inside a genuine product may result in the malfunction of the genuine product and may cause injury or death. For example, counterfeit batteries purchased *via* e-commerce and used in electronic devices generated a number of risks and problems for consumers such as exposure to explosion hazards (OECD, 2013).

In such a complex environment, the ability of market surveillance and customs authorities to detect counterfeit products has become more challenging; consumers themselves are also facing growing difficulties in determining whether products available for sale online are genuine and whether information about the seller or the product is accurate and complete (OECD, 2013).

Non-compliance rates at domestic and cross-border levels

Problems associated with products that do not meet voluntary or mandatory safety standards seem to be much more prevalent at cross-border than at domestic level. In the United States, while 4.7% of consumers reported having purchased, *via* domestic e-commerce, products that did not meet the product safety standards, up to 7.3% of consumers reported similar concerns when engaging in cross-border e-commerce (Figure 6 and Figure 7) (METI, Japan, 2014). Goods that do not meet safety standards seem to be put on the market more frequently by overseas retailers. This is often due to a lack of foreign retailers' awareness of relevant safety regulations applying in the country where the consumer is located, and to the difficulties that authorities face in undertaking enforcement actions across borders.

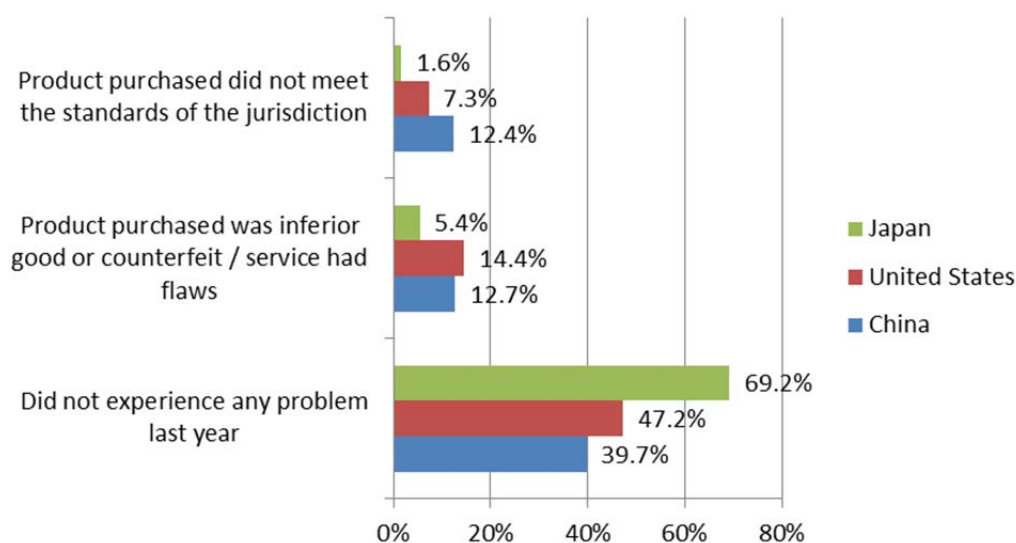
Figure 6. Product safety issues in domestic e-commerce: Percentage of affected consumers



Note: Number of respondents: Japan (N=1796); the United States (N=1727); China (N=1927).

Source: METI (2014), *Market Survey on E-commerce Transactions (Fiscal year 2014)*.

Figure 7. Product safety issues in cross-border e-commerce: Percentage of affected consumers



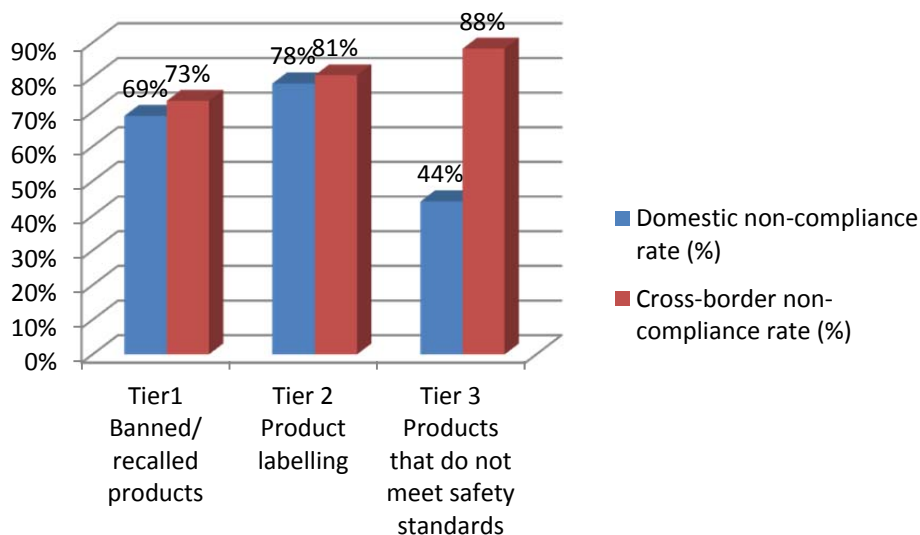
Note: Number of respondents: Japan (N=185); the United States (N=466); China (N=707).

Source: METI (2014), *Market Survey on E-commerce Transactions (Fiscal year 2014)*.

Likewise, the OECD sweep results reveal a much higher rate of non-compliance with safety standards at cross-border level (44% at domestic level; and 88% at cross-border level). With respect to banned and recalled products, the magnitude of problems encountered by consumers is relatively similar at domestic and cross-border levels (affecting about 70% of inspected products); similarly, issues with product

labelling concerned about 80% of the inspected products, at both domestic and cross-border levels (Figure 8).

Figure 8. Non-compliance rate: domestic and cross-border e-commerce



	Tier 1 Banned/ recalled products	Tier 2 Product labelling	Tier 3 Products that do not meet safety standards
Total inspected domestic products (no.)	266	802	102
Domestic non-compliant products (no.)	183	627	45
Domestic non-compliance rate (%)	69%	78%	44%
Total inspected foreign products (no.)	380	72	34
Foreign non-compliant products (no.)	278	58	30
Foreign non-compliance rate (%)	73%	81%	88%

Note: The figure and table do not include products which the suppliers' jurisdictions are unknown.

Note: Tier 1 non-compliance rates measured by determining what number of suppliers would supply banned and recalled products to the participants.

Tier 2 non-compliance rates measured by determining what number of inspected products did not feature labelling or featured only partial labelling on the website.

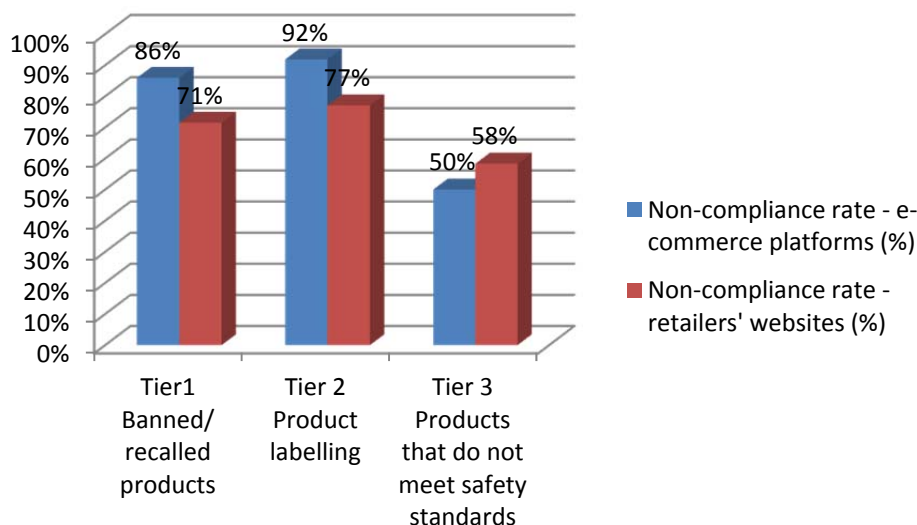
Tier 3 non-compliance rates measured by determining what number of inspected products were assessed as non-compliant or partially compliant. Tier 3 total non-compliant suppliers value excludes 18 products to which relevant product safety regulations did not apply.

Non-compliance rates at e-commerce platforms and retailers' websites

As reflected in Figure 9, the OECD sweep results show that:

- On the one hand, banned and recalled products, and products with inadequate labelling, which are supplied *via* e-commerce platforms, present a higher level of non-compliance than the same products supplied *via* retailers' websites.
- On the other hand, products that do not meet voluntary or mandatory safety standards present non-compliance rates that are higher when supplied *via* retailers' websites.

Figure 9. Non-compliance rate: e-commerce platforms and retailers' websites



	Tier 1 Banned/ recalled products	Tier 2 Product labelling	Tier 3 Products that do not meet safety standards
Total inspected products on e-commerce platforms (no.)	291	86	62
Non-compliant products supplied on e-commerce platforms (no.)	250	79	31
Non-compliance rate - e-commerce platforms (%)	86%	92%	50%
Total inspected products on retailers' websites (no.)	312	794	72
Non-compliant products supplied on retailers' websites (no.)	223	612	42
Non-compliance rate - retailers' websites (%)	71%	77%	58%

Note: The figure and table do not include products from which of the website type those were provided are unknown.

Note: Tier 1 non-compliance rates measured by determining what number of suppliers would supply banned and recalled products to the participants.

Tier 2 non-compliance rates measured by determining what number of inspected products did not feature labelling or featured only partial labelling on the website.

Tier 3 non-compliance rates measured by determining what number of inspected products were assessed as non-compliant or partially compliant. Tier 3 total non-compliant suppliers value excludes 18 products to which relevant product safety regulations did not apply.

3. Consumer product safety protection and empowerment initiatives

As called for in the 2016 OECD E-commerce Recommendation, online, businesses should not offer, advertise or market, goods or services that pose an unreasonable risk to the health or safety of consumers. Businesses should co-operate with the competent authorities when a good or a service on offer is identified as presenting such a risk (OECD, 2016, Part One, Section B).

The following provides an overview of the range of initiatives carried out in jurisdictions by authorities and businesses in recent years to address online product safety problems. The measures include: *i*) authorities' market surveillance activities and enforcement actions; *ii*) co-operation with custom authorities; *iii*) co-operation between authorities and Internet platforms; *iv*) international co-operation between authorities; *v*) actions undertaken by businesses; *vi*) enhancing business awareness of online product safety issues; and *vii*) consumer education about online product safety issues.

3.1. Authorities' market surveillance and enforcement actions

A number of market surveillance activities and enforcement actions have been undertaken in recent years by consumer product safety and other authorities to detect and deter the sale of unsafe products *via* e-commerce. This has for example been the case in Australia, in 2012, where the ACCC targeted 1442 individual sites, including brick-and-mortar shops and web platforms. The ACCC inspected or tested over 16 000 consumer products which resulted in the removal of over 100 product lines from the market (ACCC, Australia, 2014a, and see Box 1).

Box 1. Actions undertaken in Australia by the ACCC and courts to remove unsafe products from e-commerce

Requiring online retailers to remove unsafe products

- In June 2013, two online retailers were found to be supplying small high powered magnets which were prohibited from online sales in Australia. The ACCC requested the retailers to recall the products (ACCC, 2014a).

Requiring e-commerce platforms to remove unsafe products

- In 2013, a foreign business was found to be supplying sky lanterns *via* an e-commerce platform in Australia, despite a permanent prohibition to sell such products in the country. The ACCC and the e-commerce platforms worked together to remove the lanterns from the platform (ACCC, 2014a).

Imposing fines

- In December 2012, a retailer selling products online and in traditional shops was fined by the Australian Federal Court up to AUD 1 million (about USD 780,000) for selling unsafe children's night wear which was *i)* flammable, and as such did not comply with safety mandatory standards; and *ii)* had inadequate and misleading labelling, as it did not include fire danger warnings and presented the products as "low fire danger" (ACCC, 2014a).

Enforceable undertakings¹²

- In October 2007, an online retailer recalled its freestyle steel frame bicycles and offered court enforceable undertakings to the ACCC, following an independent testing commissioned by the agency, which revealed that the bicycles failed to stop in the required distance and did not have the required safety warnings. The enforceable undertakings included to conduct a product recall, to ensure that promotions accurately portray the capabilities of the bicycles, and not to supply bicycles that do not meet the mandatory safety standards at that time (ACCC, 2007).
- In August 2014, two online retailers provided court enforceable undertakings to the ACCC for supplying household cots that did not meet the mandatory safety standards. The ACCC tested the household cots and revealed the risk that infants might fall out of the cots, suffocate or become entrapped in the cots, leading to death; the household cots were recalled. Court enforceable undertakings included to make further attempts to notify affected consumers about the recalls, to continue offering free collection of affected cots and refunds to customers, and to implement consumer law compliance programs (ACCC, 2014c).

Consumer complaints have also triggered action by governments to detect and deter the sale of unsafe products online. In New Zealand, in 2012, the Ministry of Consumer Affairs purchased and tested a ladder following a complaint from a consumer indicating that the item had collapsed when climbing on it for the first time. The test by the ministry confirmed that the product, which failed to comply with technical

requirements, presented serious product safety problems. The ministry worked with the e-commerce platform to identify other consumers who had purchased the ladder and to notify them about the risks. The online trader eventually provided the consumers concerned with a refund (Ministry of Consumer Affairs, New Zealand, 2012, and undated *b*).

Organisations dedicated to e-commerce market surveillance

Online product safety market surveillance is being conducted by various entities in countries. In some jurisdictions, such activity is carried out by organisations responsible for surveillance at those brick-and-mortar shops that often use the Internet to sell their products to consumers. In others, e-commerce market surveillance entities have been created to specifically detect unsafe products offered online.

In the United States, in 1999, the CPSC launched *Operation S.O.S (Safe Online Shopping)*, an initiative aimed to monitor and find banned and recalled products sold online. In 1999, the CPSC established a “War Room” to enable its investigators to monitor the Internet and detect sales of unsafe products through mystery shopping where products that might present safety issues are purchased and tested against US federal product safety standards (US CPSC, 1999). Shortly after the initiative was launched, about 4 000 novelty lighters which lacked the child-resistant mechanisms required under the US Consumer Product Safety Act were recalled before any incidents or injuries involving these lighters occurred (US CPSC, 2000).

In Germany, G@ZIELT™, a centralised unit responsible for the official “Control of e-commerce of Food, Feed, Cosmetics, Commodities and Tobacco”, was established in July 2013 by the Federal Office of Consumer Protection and Food Safety (BVL) and the 16 German Federal States (Länder) which finance the unit and control its mission and tasks. While G@ZIELT™ is performing centralised Internet investigations on online businesses and non-compliant products offered online, the competent authorities of the 16 Federal States carry out on-site risk based controls of these businesses and enforce national and EU legislation. G@ZIELT™ gathers intelligence from various sources, such as from the EU's Food and Feed Safety Alerts¹³ and Rapid Alert System for non-food dangerous products¹⁴, the relevant authorities in the Federal States and from consumer complaints. The main components of the scheme are as follows (EC, 2015e):

- Investigations are restricted to websites which uses German language and which do not exclude delivery to Germany.
- Risk assessments are carried out when unsafe or non-compliant products are identified.
- The competent authorities of the Federal States are informed about online traders operating from the territory of their responsibility.
- The competent authority of the Federal States in which the online retailer is established is informed when the unsafe or non-compliant products are offered *via* e-commerce websites. Necessary enforcement measures are taken at the local level.
- E-commerce platforms (e.g. eBay, Amazon, Alibaba), online payment operators and domain providers are asked for cooperation in case of non-compliant offers or incorrect contact details.
- If the online retailer is established in another EU Member State or third country, G@ZIELT™ informs the relevant competent authority of the jurisdiction.
- G@ZIELT™ checks periodically for products identified previously as non-compliant.

In the first year of the unit's establishment (July 2013 to June 2014), 1 000 products, one-quarter of which were non-food consumer products, were checked; 500 products were sold *via* websites established

in Germany, 440 in other EU Member States and the remaining from jurisdictions outside the EU (EC, 2015*b*; Federal Office of Consumer Protection and Food Safety, Germany, undated).

France has also established a Centre de Surveillance du Commerce Electronique (CSCE), a structure dedicated to e-commerce market surveillance, which became operational in 2001. The centre was established within the Direction Générale de la Concurrence de la Consommation et de la Répression des Fraudes (DGCCRF) to monitor all aspects of e-commerce, including the identification of unsafe or non-compliant products sold *via* the Internet in the French market; the CSCE's activities may lead to enforcement actions from one of the 122 local and regional units within the DGCCRF. CSCE's cyber inspectors receive training about the use of information communication technologies to identify and to trace products and operators online. In 2013, the inspectors checked 10 200 websites, 27% of which presented anomalies or instances of non-compliance (EC, 2015*b*).

In 2014, new legislation was adopted in France with a view towards enhancing market surveillance and enabling authorities to: *i*) conduct mystery shopping which will allow inspectors to use an alias identity to control sales of products on the Internet; and *ii*) ask the judicial authority to deliver an injunction requesting an Internet service provider, including e-commerce platforms, to close a website in breach of product safety regulation, or requesting an economic operator to conduct product testing in the case where the operator's products were suspected of being non-compliant and/or presented a safety risk to consumers. Under the new law, the level of the fines imposed in cases where unsafe or non-compliant products have been placed on the market has also been raised.

Guidelines and strategies on market surveillance

Some jurisdictions have developed guidelines on market surveillance, which include a focus on e-commerce.

In Finland, in 2013, the Finnish Safety and Chemicals Agency (Tukes) published a detailed set of instructions for Tukes' experts concerning market surveillance in e-commerce. The guidelines describe how a case may be initiated, how to assess the product's compliance to regulations, and what steps market surveillance authorities may take to address the issue. Tukes' experts active in a number of market surveillance areas covering various product categories, such as cosmetics, chemicals, electronics, and consumer safety, have been involved in the development of the guidelines, which helped to identify the different stages in e-commerce market surveillance activities that are common to all product areas (EC, 2015*b*).

In the Netherlands, the NVWA has worked on improving its market surveillance strategy regarding online shops by limiting the number of inspections based on the following criteria (NVWA, 2015):

- Online shops that are run by brick-and-mortar shops and sell the same goods online and offline should not be inspected. This is due to the fact that those brick-and-mortar stores are already subject to physical inspections. A majority of online shops falls under this category: about 80-90% of the goods purchased online by consumers in Netherlands are also available at brick-and-mortar shops.
- Likewise, those online shops that are members of the largest private quality label institution in the Netherlands ("Waarborg Thuiswerk"), which also sell their products in brick-and-mortar shops, should not be inspected. The members of the institution cover 85% of all goods purchased online in the Netherlands from online shops based in Netherlands. However, many of them have brick-and-mortar stores which are out of focus as mentioned earlier.

- Online shops which often show non-compliance to safety requirements, which do not have a presence offline and which sell suspicious products, are to be inspected. How this may be done is being examined by NVWA. Options include focusing on low priced goods, or unknown brands.

This strategy is expected to also contribute to enhancing consumer awareness of the safety risks that may be faced when buying online, including in particular from non-EU online shops. In 2016, NVWA was to launch a campaign and to order samples of a wide variety of products from EU and non-EU online shops that offer products to EU consumers. The initiative would serve the purpose of helping to identify any significant compliance differences between products offered for sale on EU and non-EU online shops. Such information would be used to inform co-operation at the international level as well as the communication/education programme for consumers who engage in e-commerce that NVWA is developing. To support the programme, a report based on the results of a large scale study (online questionnaire) examining consumer behaviour in e-commerce carried out in November-December 2015 was released in March 2016 (NVWA, Netherlands, 2015 and 2016).

Turkey is currently developing a draft framework for market surveillance, which includes provisions on traceability and online market surveillance activities. The new framework aims to improve the examination of samples of products that are offered online to consumers from e-commerce platforms and cooperation between intermediaries and e-commerce platforms (Ministry of Economy of Turkey, 2015).

The EC is in the process of developing a market surveillance guidance for online product safety. The guidance will be based on information gathered through an EU Member States expert group, a study on good practices on online market surveillance, as well as other stakeholders (EC, 2015c).

Co-operation between market surveillance and custom authorities

In a cross-border e-commerce context, the seizing of products that do not meet safety regulations of the jurisdiction at the border is one of the most effective ways to prevent unsafe products from being placed on the market. In most countries, the customs authorities are usually responsible for checking the conformity of products with regulations on product safety. To help prevent unsafe products from reaching consumers through cross-border e-commerce, co-operation between market surveillance and customs authorities has been enhanced in a number of countries.

In the EU, regulation 765/2008 on the accreditation of market surveillance includes provisions for the co-operation between market surveillance and custom authorities to identify unsafe products before they are being circulated to the market. The regulation requires EU Member States to share information with their custom authorities so that appropriate checks are carried out on products being imported. Such information includes, for instance, product categories with serious risk, high risk economic operators or manufacturers, and any other relevant information about an already identified serious risk or non-compliance case (EC, 2011).

Ways to develop co-operation between market surveillance and custom authorities is decided by each EU Member States. In France, the DGCCRF and French customs have established a co-operation agreement to enhance co-ordination of their yearly control plans. This involves, for example, an agreement by DGCCRF and the French customs on the types of products to be inspected. As both authorities have a number of local and regional units, the sharing of information on which central and local departments are in charge of specific geographical and product areas is key to ensuring effective collaboration. DGCCRF and the French customs hold regular meetings, develop surveillance plans in specific priority areas, and identify possible joint market surveillance activities. The two authorities also share data from their information systems and testing laboratories (EC, 2015b; and DGCCRF, France, 2016).

The importance of information sharing between authorities is clearly represented in Health Canada's close collaboration with the Canada Border Services Agency (CBSA) to monitor imports at the border. This joint work is particularly important as a large number of consumer products in Canada are imported. CBSA has memoranda of understanding (MOU) with several Canadian federal departments, including Health Canada. Under the MOU, CBSA can share import data with Health Canada. Where Health Canada has identified a product or importer of concern, it can ask CBSA to alert Health Canada when a shipment of that product or from that importer is coming into Canada. Under the Customs Act, CBSA can detain the shipment or refuse its entry into Canada. Where appropriate, CBSA may also allow the shipment of concern to enter Canada with the understanding that Health Canada inspectors will follow up with the Canadian importer to review the matter further (CBSA, Canada, 2014).

In the United States, in 2009, the Commercial Targeting and Analysis Center (CTAC), which is hosted by the Customs and Border Protection (US CBP), was established to enhance cooperation between agencies that protect consumers in the United States from unsafe imported products, including *via* e-commerce purchases. Through the CTAC, the agencies share resources, analysis and expertise. Ten agencies partner with the CTAC, including the US CPSC, the Food and Drug Administration (US FDA), the Food Safety and Inspection Service (US FSIS) and the Environmental Protection Agency (US EPA) (US CBP, undated *b*). In 2010 the US CBP and US CPSC signed a Memorandum of Understanding to enable the US CPSC to access and use, *via* the CTAC, the US CBP's system aimed to detect unsafe products at ports (US CBP, 2010). The US CPSC maintains staff resources in the CTAC and US CPSC compliance investigators are working at several major ports in the United States to examine shipments that may carry unsafe imported products (US CBP, 2013*a*). The US CPSC analyses data provided by the US CBP using US CPSC's targeting system called RAM (risk assessment methodology) to make risk-based decisions on which shipments of consumer products to inspect. This led to the identification of about 8.2 million units of consumer products that violate product safety regulations or that were found to be defective (US CPSC, 2014).

This collaboration has resulted in a number of import seizures. In 2013, working closely with the US CPSC, the US CBP seized, a shipment originating from China, which contained 70 000 counterfeit consumer products, including razor blades, toys, sunglasses, markers and batteries, whose value was estimated at USD 3.9 million. The CTAC targeted the shipment by using US CPSC-defined health and safety regulations and, in collaboration with the US CPSC, and identified the shipment for inspection upon arrival at a port in the United States (US CBP, 2013*b*). Also in 2013, more than 200 000 toy dolls imported from China that contained high levels of banned chemical compounds were seized by US CBP officers and US CPSC investigators. The seizure included a total of 10 shipments reaching different ports in the United States, which were valued at about USD 500 000 (US CBP, 2013*a*).

Co-operation between authorities and e-commerce platforms

Although e-commerce platforms are usually not legally responsible for the safety of the goods supplied by third-party merchants *via* their platform, they have co-operated with authorities in a number of countries to help protect consumers from unsafe products (See Box 1).

In the United Kingdom, the Hampshire County Council Trading Standards has established a co-operation procedure with two major e-commerce platforms. In Hampshire, when trading standards officers receive complaints concerning non-compliant or unsafe product sold online *via* the Rapid Alert System for non-food dangerous products or any other alert systems, the officers can notify relevant e-commerce platforms about safety issues with the products sold *via* their platforms and ask for their removal from the platform. In the case where an online merchant selling *via* the platforms is found to be knowingly selling multiple non-compliant or unsafe products, including on a recurrent basis, the retailer may also be removed

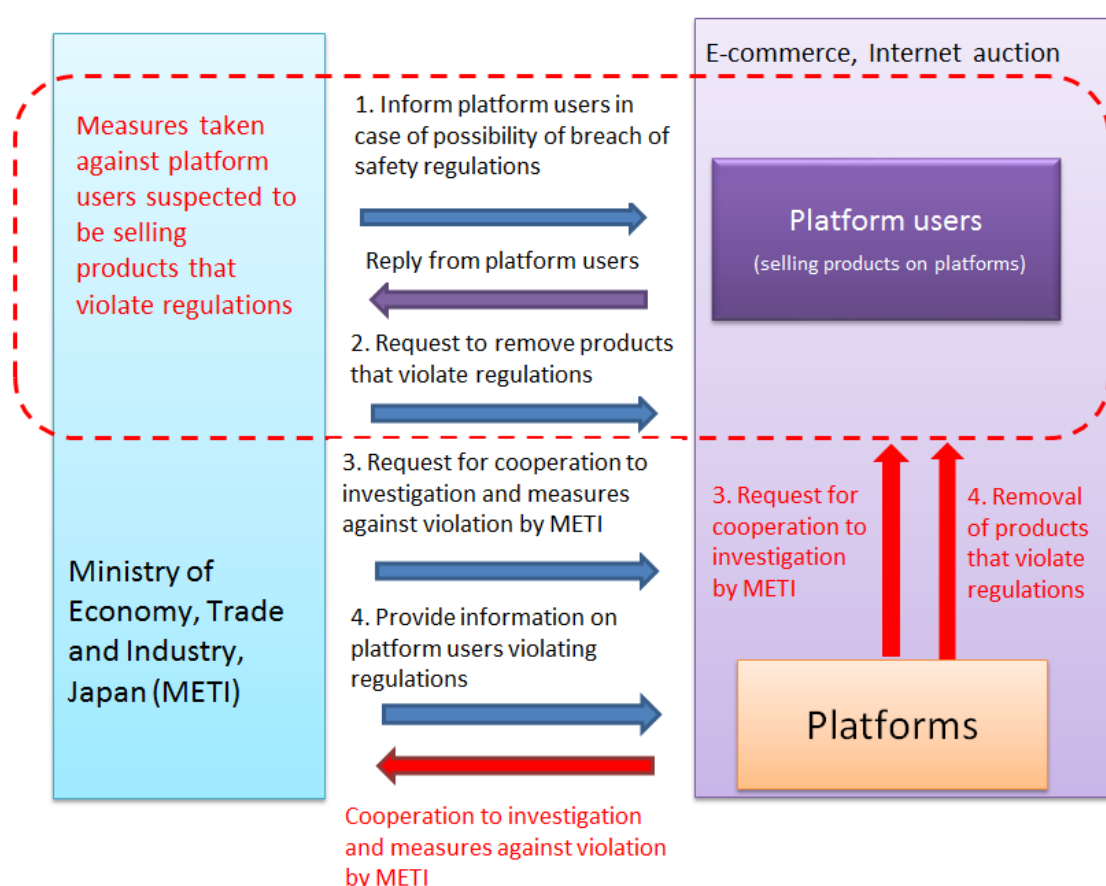
from the platform. Such type of public-private sector co-operation schemes have proved efficient as the platforms are often in a better position than regulators to identify and trace sellers offering unsafe products online (EC, 2015b).

In Japan, in 2012, the Ministry of Economy, Trade and Industry (METI) established a co-operation framework with three major e-commerce and Internet auction platforms to strengthen compliance with product safety laws in Japan and restrict sales of consumer products that do not meet technical standards. The framework includes the following measures (METI, Japan, 2012) (Figure 10):

- The dissemination on the platforms of information on product safety regulations to raise users' awareness about such regulations.
- Platforms' assistance in METI's investigations to help take measures against platform users in breach of safety regulations.
- The identification of contact points enabling information sharing between METI and the platforms, as well as regular liaison meetings.

The framework was further expanded in 2013 to include *Amazonco.co.jp*, through which the company also provides platform users and consumers with product recall information when that information was provided to *Amazon* by METI (METI, Japan, 2013a).

Figure 10. Co-operation framework between METI (Japan) and platforms



Source: METI, Japan (2013b), *Measures taken against products sold online that violate safety regulations*

Co-operation between authorities and e-commerce platforms located across borders has also been enhanced in some countries to adapt to the growth of cross-border transactions. In January 2015, the US CPSC announced the launching of a consumer product safety collaboration scheme with *Alibaba*, the largest online and mobile commerce company in the world, based in China. Although the majority of consumers buying products from the platform are located in China, the number of consumers based in foreign countries and purchasing products *via Alibaba*, including consumers in the United States, has been on the increase (The Wall Street Journal, 2015). Such a growth has been coupled with an increase in the sale of consumer products banned in the United States.

To address the problem, the new co-operation scheme includes the following measures (US CPSC, 2015; Consumer Product Matters, 2015; The New York Times, 2015):

- The establishment of a direct line enabling contacts between the US CPSC and *Alibaba*.
- The sharing, by the US CPSC, of a list of recalled products with *Alibaba*, to enable the latter to block sales of illegal and recalled products *via* its platform to consumers in the United States. Measures include keyword filters to proactively block third parties using the platform to sell illegal and recalled products; and
- The establishment of access points on *Alibaba*'s business-to-business platforms that would direct importers of products to the United States to US safety regulations on higher risk consumer products.

International co-operation between authorities

The WP's 2014 report on market surveillance has highlighted the need for enhanced international collaboration among authorities to address online product safety challenges (OECD, 2014). One issue market surveillance authorities are often facing is the difficulty in identifying the supply chain and the economic operator concerned, such as a manufacturer, a retailer, or an e-commerce platform (OECD, 2014; EC, 2015b). Removing unsafe products when the overseas retailers or e-commerce platforms are reluctant to comply with the request to remove them appear to be even more challenging. While in the EU authorities in one Member State can identify and investigate an economic operator in another Member State in collaboration with the market surveillance authority in that country, sharing information and taking enforcement action when the economic operator is outside the EU is difficult (EC, 2015b). Co-operation between market surveillance authorities and custom authorities across borders is seen in that regard as an effective way to prevent unsafe products from being imported *via* e-commerce. It should be noted however that most of the co-operation schemes that exist in countries are generally not specific to e-commerce and concern all sort of cross-border transactions.

In the EU, the RAPEX-China system enables the transmission of data on unsafe products between the EC and Chinese authorities. Under the scheme, the EC notifies the Chinese authorities about the unsafe products which have been reported in the EU's Rapid Alert System for dangerous non-food products that had been imported from China. The Chinese authorities investigate that unsafe product and take the necessary measures to prevent further exports of such products to EU Member States (Delegation of the European Union to China, undated).

In North America, a Cooperative Engagement Framework between the US CPSC, Health Canada and the Consumer Protection Federal Agency of Mexico (PROFECO) provides a framework for co-operation, promoting an exchange of information on unsafe products and experiences of verification. This co-operation has led to several joint actions and trilateral recalls. In June 2015, the US CPSC and Health Canada issued a joint recall on portable speakers that were sold online, and which could overheat and

cause fire. Through communication with the US CPSC, PROFECO noted the recall and issued an alert to Mexican consumers (Consumer Protection Federal Agency, Mexico, 2015).

In addition to information sharing, online sweeps and joint market surveillance activities are also seen as effective ways to enhance international co-operation against online product safety issues, as illustrated by the OECD sweep. In Europe, the Product Safety Forum of Europe (PROSAFE) has been co-ordinating market surveillance with authorities across Europe. While the main focus of such initiative was not specific to e-commerce platforms, on the occasion of a joint action carried out between 2010 and 2012 on child-resistant lighters and novelty lighters, some jurisdictions looked into online sales issues. During the activity, in 2010, the Swedish authority found out that several online shops were selling novelty lighters that had been banned in the EU. In light of such information, in 2011, authorities in Iceland and the Czech Republic, which had participated in the joint action, launched an investigation of a number of online shops in their jurisdiction; the investigation enabled the identification of several cases where novelty lighters that had been banned in the EU were available for sale online (PROSAFE, 2013).

Customs in some jurisdictions have also co-operated with authorities in foreign countries, and undertaken joint actions. In 2013, the US CBP and the General Administration of Customs of China (GACC) conducted a joint customs operation focusing on counterfeit products. Over 243 000 counterfeit consumer electronics products, including products with forged logos of well-known brands, were seized as a result of this month-long operation. The initiative also led to the arrest by local law enforcement authorities in the United States of those businesses that had imported counterfeit products in the country with a view to selling them online (US CBP, 2013c).

3.2. Actions undertaken by businesses

Businesses may facilitate the process for recalling products from consumers by using their consumer data, including the consumer names and contacts they collected for the purposes of product delivery. For example, *Amazon* monitors recall information; when they notice a product recall, they not only suspend the offering of such product, but also contact the consumers who purchased the product and any seller that may have sold it to inform them about the recall (Amazon, undated).

In Japan, in 2014, the Japan Direct Marketing Association (JDMA), which is a business association for distance selling including mail orders and e-commerce, published a guide on ways in which distance selling businesses should react to product accidents, such as recalls. The guide states that businesses should take advantage of consumer data to enhance product safety in distance sales. It encourages businesses to update such data and to create a system enabling them to contact and inform the consumers concerned immediately when a recall of a product that they purchased has occurred. For that purpose, the guide recommends the registration of, not only, the name of the product, but also the model number (JDMA, 2014).

Other actions undertaken by businesses mainly concern the fight against online sales of counterfeit products. Ensuring product safety may not be explicitly mentioned as the purpose of these actions, but as some counterfeit products raise safety concerns, these actions by businesses could, in effect, enhance online product safety.

Some businesses have introduced monitoring systems to detect counterfeit products online. For instance, one major manufacturer and distributor of high-quality hand tools and auto diagnostic equipment in the United States employed a monitoring and detection system that automatically tracked and identified counterfeit products sold online; this initiative led to the shutting down of those activities. Within six months of the launching of the scheme, USD 1.2 million worth counterfeit products were removed from e-

commerce websites and 4 900 illegal auctions were taken down with the cooperation of auction websites (MarkMonitor, undated *a*). A similar monitoring and detection system was also introduced by a Japanese electronics company and one of the major manufacturers of computer printers. One of the issues the company faced was a lack of visibility regarding counterfeit activities on a global basis. The company reported a three-fold reduction in the sale of counterfeit products on e-commerce websites and business-to-business exchange websites within three years following the implementation of the system (MarkMonitor, undated *b*).

Businesses have also undertaken joint actions to protect consumers from unsafe products online. In 2013, the Anti-Counterfeiting Group (ACG), which is a non-profit trade association with about 160 members globally including well-known manufacturers, distributors and retailers, developed *Operation WATCH*, an initiative aimed to tackle counterfeit products sold *via* social media. When targeting branded cosmetics, electrical products, clothing and footwear, the ACG and 17 of its members monitored one major social media platform through which individuals and groups were selling counterfeit products. A takedown action to remove infringing images and profiles from the social media platform resulted in the removal from the platform of 600 traders offering more than 1 300 listings (ACG, 2013). *Operation WATCH* was also conducted in 2014 with 24 members participating in the initiative, and resulting in the removal of more than 250 traders offering more than 5 000 listings (ACG, 2014).

With regard to online advertisements, *Google* has shut down its *AdWords*¹⁵ accounts in instances where advertisers using *AdWords* to advertise counterfeit products. In 2011, the company announced further improvements of its actions, including: *i*) responding to reliable *AdWords* counterfeit complaint within 24 hours; *ii*) working more closely with brand owners to identify *AdSense*¹⁶ users with links to sales of counterfeit products, and where appropriate, expel them from the *AdSense* programme; and *iii*) establishing a new help center webpage for reporting counterfeit products (Google, 2011). The number of advertisers taken down for promoting counterfeit products dropped from 14000 in 2013 and 82000 in 2012 to 7000 in 2014 (Google, 2015).

3.3. Enhancing business awareness of online product safety issues

Another approach for preventing unsafe products from being offered for sale online is to educate businesses about the legal product safety framework applying to those sales.

In 2014, the ACCC published “*Consumer product safety online*”, a guide for Australian and overseas-based businesses which intend to supply products to Australian consumers *via* the Internet. The guide provides that businesses at all levels of the supply chain are to ensure that their products comply with product safety laws in Australia, and provides information sources on such laws. It also contains the following compliance tips which invite online businesses to (ACCC, Australia, 2014*a*):

- Always ask manufacturer and suppliers to provide clear information that proves that their products comply with Australian product safety laws, through, for example, valid test reports.
- Take measures to ensure that they do not supply banned or non-compliant products. Such measures include: *i*) checking requirements of any safety standards; *ii*) conducting regular reviews of product design and production process; *iii*) recording and addressing consumer complaints; *iv*) being aware of product safety updates in Australia, and *v*) take measures to technically lock banned and non-compliant products being sold to Australian consumers and inform consumers about why those products may not be sold.
- Provide consumers with relevant information, such as clear product description and instruction for proper use, to ensure that consumers are able to assess whether a product is safe before confirming a transaction.

One important aspect of the ACCC guide is that it also provides compliance tips to e-commerce platforms to help prevent online sales of unsafe products. The tips include suggestions to (ACCC, Australia, 2014a):

- Screen and search online retailers using the platform to check that they do not sell banned or non-compliant products.
- Encourage new online retailers to visit those government websites which describe product safety regulations and to subscribe to automated alerts.
- Encourage online retailers to provide clear product descriptions, good quality product images and ingredient lists.
- Provide online retailers and consumers with the contact details of the e-commerce platform and encourage online retailers to do the same.

In the Netherlands, in 2010, the NVWA, launched, in co-operation with industry associations, importers associations, and enterprise and trade associations, www.traderouteasia.nl, a platform aimed to raise business awareness of non-food product imports from Asia (including, in particular, China), and to enhance knowledge among importers about laws and legal requirements, which are often fragmented and difficult to be found by importers. The platform also provides checklists, e-learning tests and courses on these issues (EC, 2015b).

3.4. Consumer education about online product safety issues

Despite the above described consumer authorities and businesses' market surveillance and enforcement actions, there is no assurance that unsafe products are completely removed from e-commerce. One way to raise consumer awareness about such issues and risk is to provide consumers with relevant information online, including checklists on online product safety issues (Box 2).

Making product recall information easily accessible to consumers is also a key to enhancing consumer protection and trust in e-commerce. A number of governments maintain web portals to achieve those goals. Examples include SafeProduct.Gov (www.saferproducts.gov/) in the United State, the Rapid Alert System for non-food dangerous products (<http://ec.europa.eu/consumers/safety/rapex/alerts/main/index.cfm?event=main.search>) in the EU, Healthy Canadians (<http://healthycanadians.gc.ca/recall-alert-rappel-avis/index-eng.php>) in Canada and the Consumer Affairs Agency recall information website (www.recall.go.jp/) in Japan. Likewise, the OECD's *GlobalRecalls* portal (<http://globalrecalls.oecd.org/>) contains product recall information that consumers and businesses can use to search for and identify products recalls worldwide.

Such information is to be presented in a way that it is easy to understand by consumers. In the United States, since 2007, the Illinois Attorney General has been publishing a *Safe Shopping Guide* every year to help consumers avoid purchasing unsafe toys and children's products during their holiday shopping for Christmas. The guide includes pictures and descriptions of recalled products by the US CPSC in a way that consumers can easily read (Illinois Attorney General, 2014).

Box 2. Examples of online tips for consumers

General online product safety issues

ACCC (Australia): Unsafe online products

- The ACCC's website (www.productsafety.gov.au/content/index.phtml/itemId/975165) describes the possible hazards (e.g. injury or death) associated with the purchase of unsafe products online and provides a list of things consumers should check before making a purchase.
- The website also provides links to a list of banned products, mandatory standards, and recalled products which is maintained by the ACCC.

Queensland Government (Australia): Tips for buying online

- The webpage (www.qld.gov.au/law/your-rights/consumer-rights-complaints-and-scams/consumer-advice-rights-and-responsibilities/tips-to-become-a-smarter-shopper/tips-for-buying-online/) provides a comprehensive list of things consumers should be careful of when using e-commerce including payment security, privacy and contract.
- Regarding safety issues, it suggests that consumers check whether the product is legal, will work in Australia, warranties or guarantees and available repairers nearby.

CBP: Internet purchase, your responsibility and liability

- The webpage (www.cbp.gov/trade/basic-import-export/internet-purchases) explains that purchasing products from online retailer based overseas is considered as import which is required to comply with specific rules and regulations for imports, and warn that consumers who purchased would be the ones to assure compliance.
- A checklist on customs and border protection issues is presented on the webpage.

Tips focusing on specific products

Electrical Safety First (United Kingdom, charity): Buying Electrical Goods Online? The Safe Shopper's Guide

- The Electrical Safety First leaflet, which is available on the organisation's website (www.electricalsafetyfirst.org.uk/guides-and-advice/electrical-items/safe-shopping/), includes ten tips for purchasing safe electrical goods online. These include not only general e-commerce tips (e.g. look for retailers' contact details, keep records) but also tips that are specific to electrical goods (e.g. check the voltage of products, read the product guarantees).
- In addition to the ten tips, the leaflet also provides information on, for example, what consumers should do when a product seems unsafe before its first use, and how consumers can return faulty products.

Source : ACCC, Australia (undated b), Queensland Government, Australia (undated b), US CBP (undated a), Electrical Safety First (2014).

Governments can also provide consumers with information on websites which are, or are suspected to be, selling unsafe products. Such information can be used by consumers to check the legitimacy of the online retailer they intend to purchase products from. Regarding counterfeit products, the CAA of Japan for example provides on its website a list of malicious overseas websites, including their names, URLs and types of products on offer. The number of websites listed reached 352 as of July 2016 (CAA, Japan, 2016).

Whether consumers are putting safety as one of their priority factors in their purchase decisions is unclear. Consumers are generally “overconfident”, tend to believe that their search is adequate, and tend to overlook other possibilities (OECD, 2006). Such behavioural bias can affect consumers' perception of risk and may lead them to underestimate such risk (Venkatesan, 1981). A survey by the NVWA in 2015 showed that only 5% of consumers in Netherlands who purchase goods online at least once every three months have ever worried about product safety when purchasing goods online; this is much lower than other concerns such as non-delivery (29%) or being deceived (21%). The same survey also revealed that 79% of the same group of consumers in Netherlands always (32%) or sometimes (47%) pay attention to product safety when purchasing from online shops. These results suggest that consumers are aware of the possibility of unsafe products being sold online, but not expecting to purchase unsafe products or not realising the risks that they may face (NVWA, Netherlands, 2016). In addition, consumers generally think that risks associated with goods are managed by appropriate organisations, including businesses and governments, so that consumers do not need to care about it (Venkatesan, 1981). Therefore, getting consumer attention to the serious consequences of unsafe goods could help to enhance consumer awareness of product safety issues when making purchases online.

Use of traditional media, such as TV programmes, could help to alert consumers, in a cost-effective manner, about the potential damages that unsafe products available for sale online may cause to them. In the United Kingdom, the Suffolk County Council Trading Standards (TSSCC), which is responsible for consumer protection and product safety, co-operates with a well-known national consumer television programme to raise consumer awareness in this area. The programme monitors the TSSCC website and helps TSSCC to inform consumers about market surveillance and enforcement, border control, and faulty products (EC, 2015*b*).

ANNEX 1 METHODOLOGY USED IN THE OECD SWEEP

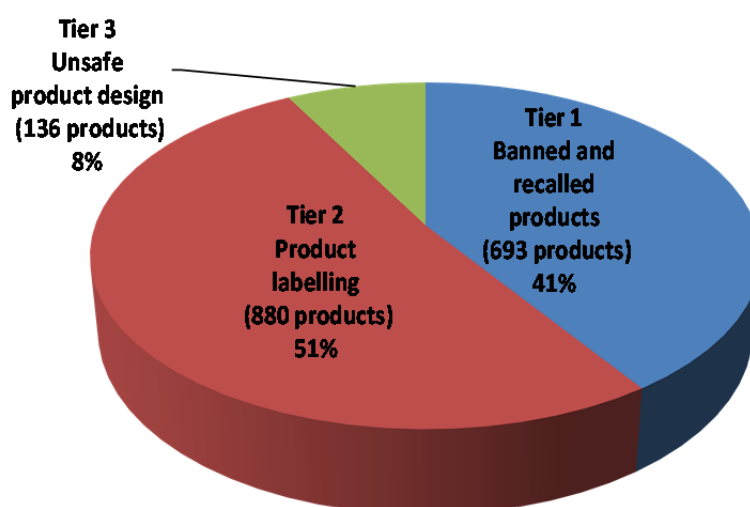
As safety standards and regulations are not all harmonised across countries, sweep participants checked whether the inspected products complied with the product safety standards and regulations in their jurisdiction. The methodology of the online sweep is presented in Box 3.

Box 3. OECD sweep methodology

- Sweep participants chose the amount of time and resources to allocate to the online sweep.
- Sweep participants were asked to decide which type of unsafe product to survey from one or more of the following three tiers: tier 1 (banned/recalled products); tier 2 (products with inadequate labelling); and tier 3 (products that do not meet voluntary or mandatory safety standards). Participants could choose a product that is a priority to their jurisdiction.
- Tier 1: banned/recalled products
 - Sweep participants were able to choose one or more banned and recalled products in their jurisdiction and search those on websites, both within and outside of their jurisdiction, supplying the product.
 - Sweep participants were asked to verify whether the product would be sold to their jurisdiction either by: *i*) going through to the final stages of an online transaction and testing if the supplier will ship to the relevant jurisdiction; *ii*) purchasing a banned product from a website; or *iii*) contacting the e-commerce platform directly to confirm shipping to the relevant jurisdiction.
- Tier 2: inadequate product labelling and safety warnings
 - Sweep participants were able to choose one or more products with labeling requirement and search those on websites supplying products, both within and outside of their jurisdiction.
 - Sweep participants checked the product labelling by: *i*) searching of the relevant content of the labelling or a picture of the labelling at point of sale online (i.e. on website); and *ii*) if possible, purchasing the product to identify whether they are supplied with the correct labels.
- Tier 3: products that do not meet voluntary or mandatory safety standards (do not include counterfeit products)
 - Sweep participants chose one or more products which are required to meet certain product safety standards and/or design requirements under regulation and search those on websites supplying products, both within and outside of their jurisdiction.
 - Sweep participants checked whether the product design is unsafe either by: *i*) assess by the information available online; or *ii*) purchase a sample from websites and test in accordance with the relevant requirements.

In total, sweep participants inspected 1709 products. Among the three tiers, about half (51%) of the products were inspected as a part of tier 2 component of the online sweep. 693 products (41%) were inspected as a part of tier 1 component and 136 products (8%) were inspected as a part of tier 3 component (Figure 11).

Figure 11. Number of products inspected for each tier



n=1709

The two most commonly inspected product types were toys and games (accounting for 18% of inspected products) and household electrical items (accounting for 16% of inspected products) (Table 5).

Table 5. Products inspected during the OECD sweep

	Tier 1 Banned/recalled products	Tier 2 Product labelling	Tier 3 Products that do not meet safety standards	Total
Apparel	35	139	0	174
Automotive	21	1	0	22
Chemical	1	75	0	76
Cosmetic	4	43	0	47
Food	11	0	0	11
Household electrical	54	213	12	279
Household (non-electrical)	71	95	80	246
Infant/children	79	11	4	94
Personal care	9	0	0	9
Portable technology	9	45	17	71
Safety equipment	13	10	0	23
Sporting/recreation	146	71	3	220
Tools/machinery	6	90	0	96
Toys/games	229	67	14	310
Unclassified	5	20	6	31
Total	693	880	136	1709

For each tier, sweep participants could choose to purchase (or not) the products inspected. The number of products purchased for each tier was as follows: 4 for tier 1 (1% of 693 products inspected); 77 for tier 2 (9% of 880 products inspected); and 60 for tier 3 (44% of 136 products inspected).

Regarding the suppliers' origin, participants were invited to choose the number of domestic and foreign suppliers to inspect. As a result, the share of domestic suppliers inspected considerably differs by tier. Overall, around three quarters (73%) of websites inspected that supplied the product to the participating jurisdictions were domestically based (Table 6).

Table 6. Suppliers 'origin (domestic or foreign)

	Tier 1 Banned/recalled products	Tier 2 Product labelling	Tier 3 Products that do not meet safety standards	Total
Total products inspected	473	880	136	1489
Products sourced from domestic supplier (no.)	183	802	102	1087
Products sourced from domestic supplier (%)	39%	91%	75%	73%
Products sourced from foreign supplier (no.)	278	72	34	384
Products sourced from foreign supplier (%)	59%	8%	25%	26%
Supplier's jurisdiction unknown (no.)	12	6	0	18
Supplier's jurisdiction unknown (%)	3%	1%	0%	1%

Note: Tier 1 data analysis excludes those products that would not be supplied or where it was unknown whether the products would be supplied to the participating jurisdictions.

The type of websites inspected included e-commerce platforms and retailers' websites. The numbers of products that were supplied through each type of website for each tier is presented in table 7. Overall, 73% of products supplied were being supplied *via* retailers' website and the remainder (27%) were being supplied *via* e-commerce platforms.

Table 7. Type of website for supply

	Tier 1 Banned/recalled products	Tier 2 Product labelling	Tier 3 Products that do not meet safety standards	Total
Total products inspected	473	880	136	1489
Products supplied on e-commerce platforms (no.)	250	86	62	398
Products supplied on e-commerce platforms (%)	53%	10%	46%	27%
Products supplied on retailers' websites (no.)	223	794	72	1089
Products supplied on retailers' websites (%)	47%	90%	53%	73%
Website type unknown (no.)	0	0	2	2
Website type unknown (%)	0%	0%	1%	0%

Note: Tier 1 data analysis excludes those products that would not be supplied or where it was unknown whether the products would be supplied to the participating jurisdictions.

NOTES

¹ For the purpose of this report, an e-commerce platform is a web-based platform through which traders may market and sale their products to consumers, or which may itself sell its own products. Well-known examples of such platforms include eBay, Amazon, and Rakuten.

² For the purpose of this report, a retailer's website is established by a retailer to market and sale its own products online.

³ These included: Australia, Brazil, Canada, Chile, Colombia, Iceland, Japan, Korea, New Zealand, Turkey and 15 EU Member States (including Austria, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Latvia, Malta, Poland, Portugal, Slovenia, Spain, and Sweden).

⁴ For the purpose of this report, an e-commerce platform is a web-based platform through which traders may market and sale their products to consumers, or which may itself sell its own products. Well-known examples of such platforms include eBay, Amazon, and Rakuten.

⁵ For the purpose of this report, a retailer's website is established by a retailer to market and sale its own products online.

⁶ Information on the methodology used for carrying out the OECD Sweep is contained in the Annex to this report. The results of the OECD sweep are presented in more details in the report on OECD Online Product Safety Sweep Results [[DSTI/CP/CPS\(2016\)3](#)].

⁷ Crowdfunding involve different types of platforms: *i*) lending, *ii*) donations and reward-based funding, and *iii*) equity (investment) (OECD, 2015). Among these, reward-based ones include pre-purchase agreements where the funding of the development of the product is tied to the acquisition of products.

⁸ See: www.cbp.gov/trade/basic-import-export/internet-purchases.

⁹ These included: Australia, Brazil, Canada, Chile, Colombia, Korea, New Zealand, Turkey and 9 EU Member States (Austria, Czech Republic, Denmark, Germany, Hungary, Latvia, Portugal, Slovenia and Spain).

¹⁰ These included: Australia, Iceland, Japan, Turkey and 11 EU Member States (Austria, Estonia, Finland, France, Germany, Latvia, Malta, Poland, Portugal, Spain and Sweden).

¹¹ These included: Australia, Chile as well as 5 EU Member States (Austria, France, Germany, Latvia and Slovenia). Counterfeit products were out of the scope of the investigation.

¹² “Enforceable undertakings” is a process whereby the ACCC can chose to settle the matter administratively. The list of undertakings include: *i*) compensating consumers who suffered from the conduct; *ii*) running corrective advertisements of similar frequency and prominence to those that misled consumers; *iii*) paying for a company or industry trade practices compliance program and *iv*) making administrative changes within the business to reduce the risk of future misleading conduct (ACCC, Australia, undated c).

- ¹³ The EU's Food and Feed Safety Alerts provides information on risks to public health that are detected in the food chain and that are to be shared among its members (EU-28 national food safety authorities, the European Commission, the European Food Safety Authority (EFSA), EFSA Surveillance Authority, Norway, Liechtenstein, Iceland and Switzerland.
- ¹⁴ The Rapid Alert System for non-food dangerous products (RAPEX) allows the 31 participating countries (EU countries, Norway, Iceland and Liechtenstein) and the EC to exchange information on products posing a risk to health and safety of consumers and on the measures taken by these countries to address such risk. See http://ec.europa.eu/consumers/consumers_safety/safety_products/rapex/index_en.htm.
- ¹⁵ *AdWords* is an online advertisement service provided by *Google* which places the advertisement along with the search results google displays, or displays it on other websites that go into partnership with *Google*.
- ¹⁶ *AdSense* is a free service provided by *Google* which enables users to display targeted advertisements next to users' online content, and to earn money when the advertisement is clicked.

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