CONSUMERS INTERNATIONAL GUIDELINES FOR ONLINE PRODUCT SAFETY

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The Consumers International Guidelines for Online Product Safety—developed by Consumers International and its member organisations—set out recommended actions for governments, marketplaces and sellers to take into account when developing policies and regulations on the safety of products sold through online marketplaces and wider digital markets. Although primarily addressing issues arising from the growth of online marketplaces, many of the recommendations will also be relevant and can be applied to online retailers selling directly to consumers.

For the purposes of these Guidelines, online marketplaces are defined as those businesses that provide or use digital channels to connect providers and consumers. They may also sell products direct to consumers themselves. Unsafe products are defined as products that pose a risk of physical harm to consumers.

ABOUT CONSUMERS INTERNATIONAL

Consumers International is the membership organisation for consumer groups around the world.

We believe in a world where everyone has access to safe and sustainable goods and services. We bring together over 200 member organisations in more than 100 countries to empower and champion the rights of consumers everywhere. We are their voice in international policy-making forums and the global marketplace to ensure they are treated safely, fairly and honestly.

We are resolutely independent, unconstrained by businesses or political parties. We work in partnership and exercise our influence with integrity, tenacity and passion to deliver tangible results.

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THE DIGITAL MARKETPLACE—A NEW FRONTIER FOR CONSUMER PROTECTION

It's likely that in many countries the majority of goods purchased by consumers will soon be bought online. The digital marketplace has the potential to powerfully benefit consumers: with restrictions on movement and exchange posed by the pandemic, e-commerce has helped consumers research, compare, and shop. The "phygital" retail era offers convenience and variety for consumers and increased reach for businesses.

E-commerce transactions are expected to be worth £4.1 trillion by 2023, up from £1.5 trillion in 2016[1]. Internationally 1.48 billion people shopped online in 2019[2], with online shoppers totalling 53% of the population of high-income countries, 16% in upper middle income, 5% in lower middle income and 2% in low-income countries[3]. Alongside the growth of e-commerce, online marketplaces have been particularly successful offering consumers additional convenience and choice. Many marketplaces now account for a significant proportion of online sales in countries around the world.

However, consumer policy and enforcement have not yet caught up with new consumer behaviours and business practices. As a result, gaps in regulation, uneven enforcement, and insufficient cross-border co-operation can leave consumers at risk, and responsible businesses undercut. Millions of consumers are increasingly open to buying potentially harmful products via marketplaces and from sellers whose safety standards are largely unregulated.

Consumers International members all over the world are reporting the effects of these developments. Online marketplaces create a particular challenge for regulators. By offering consumers access to a range of sellers through an online platform and providing services such as payment services, review hosting and fulfilment, marketplaces have created a new model of retail that escapes the traditional definitions that have been used in regulation. The ability of sellers from other countries to use platforms to sell their products in new markets can also make it difficult to enforce product safety regulation.

This issue needs to be addressed urgently and holistically. Consumers International has created a robust set of guidelines, building on work that has been done nationally and internationally, but taking a global, independent consumer protection and empowerment lens. This work is a contribution to the basis of international policymaking on product safety, providing guidelines for consumer protection agencies and for those who trade online, in order to prevent poor practice from damaging consumers.

The digital marketplace will continue to evolve. Our guidelines serve as a starting point to build a fair, safe and sustainable online shopping experience for all. We look forward to working with all stakeholders to develop and implement these guidelines to support consumers everywhere.

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1   VZBV and BEUC, The challenge of protecting EU consumers in global online markets, 2018.
2   Simon Kemp, Digital 2019: Global digital overview, 2019.
3   UNCTAD, The UNCTAD B2C e-commerce index 2020: Spotlight on Latin America and the Caribbean, 2020.

THE CURRENT STATE OF GLOBAL DIGITAL MARKETPLACE REGULATION

Consumer associations around the world are monitoring developments in relation to online marketplaces and are looking for solutions that can create confidence and trust for consumers when participating in the digital economy.

Our members' research demonstrates that more needs to be done before all consumers can shop confidently online. A recent survey of Consumers International members across 89 countries in 2019 indicated that:

- In 40% of countries there is no product safety agreement between national authorities and online marketplaces.

- Less than 10% of countries have statutory or voluntary agreements to ensure online platforms will remove unsafe products if notified. Figures are relatively higher for high income countries.

- Only 12% of online platforms have provided a dedicated contact point for authorities to report unsafe products. Only 8% have standardised forms for sharing information about unsafe products.

At the national level, regulations prohibiting the placing on the market of unsafe products are lacking, as is the enforcement of such regulations. According to the same Consumers International survey, less than half of countries have a system to collect data about accidents caused by unsafe products, whether purchased online or in traditional stores, which both limits enforcement activity as well the ability to understand the scale of the problem.

However, the digital marketplace is inherently global, therefore requires cross-border solutions and co-operation to deliver consumer trust in the international digital marketplace. The Consumers International survey also found overall global co-operation is low: less than half of respondents said that their countries co-operate internationally on enforcement cases (38%) and development of product safety regulations (27%). The work of organisations such as OECD, UNCTAD and ICPEN on e-commerce and product safety is essential in this space.

WHAT'S THE IMPACT?

CONSUMERS SUFFER REAL HARM

Preventable detriment suffered by consumers and society due to product-related accidents can be significant. For example, it is calculated at around £9.6 billion per year for European Union (EU) consumers[4]. Most consumers believe that shopping online is safe, and that product safety is enforced as much as in traditional markets. However, in reality, shopping online currently carries a risk for consumers, who may not be equipped to evaluate the safety of each individual product.

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4   European Commission, Commission staff working document—Summary of the impact assessment report, 2021.

Consumers often lack information on the threats and risks that products sold online can pose. This can lead them to underestimate their exposure, potentially putting themselves at greater risk of suffering harm.

Reports from around the world show that more needs to be done to improve safety for customers buying online. In 2015 the Organisation for Economic Co-operation and Development (OECD) conducted a worldwide study that found 33 of 60 selected products available to buy online did not comply with voluntary or mandatory product safety standards. In addition, 68% of banned or recalled products searched for could still be found for sale online[5]. Products tend to be banned or recalled for safety concerns, but it can also be for other reasons such as non-compliance of labelling.

Evidence from Japan between 2014–2016 highlighted a two-fold increase in product safety violations of items purchased online[6]. The share of accidents caused by products purchased via e-commerce has increased from close to 1% in 2008 to almost 15% in 2018[7].

Indonesia's Food and Drug Monitoring Agency (BPOM) found that of more than 23,000 samples of both permitted and unpermitted food products available on e-commerce platforms in 2019, half of the unpermitted products failed to meet food safety standards. Of the permitted products, 14% did not meet the food safety standards[8].

The popularity of online marketplaces and their ability to host products from sellers based in the country and abroad raises particular issues of concern. In 2020, research from International Consumer Research and Testing (ICRT) partners Which?, Consumentenbond, Stiftung Warentest and Forbrugerrådet Tænk[9]—all members of Consumers International—showed that two thirds of the 250 products they bought and tested from online marketplaces were unsafe and therefore illegal:

- Out of 12 USB chargers, 12 powerbanks and 12 adaptors, more than two thirds were inflammable

- In 9 out of 29 children's toys, illegal quantities—up to 200 times the legal limit—of phthalates were found

- All smoke and carbon monoxide alarms (11 tested) failed to meet product safety levels. None of them recognised a lethal amount of smoke/carbon monoxide. Four of the alarms did not meet regulatory requirements on alarm volume

- 14 out of 16 children's apparel items did not meet European safety standards

- 7 out of 10 teeth-whitening products contained hydrogen peroxide levels between 14–70 times over the legal European limit

It's clear then that in a globalised digital economy, ensuring consumer safety when buying online must be a global effort.

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5   OECD, 'OECD Digital Economy Papers', Online Product Safety Sweep Results: Australian Competition and Consumer Commission, 262, 03/11/16.

6   Takashi Wada, Product Safety Policy in Japan, 2017.

7   Takashi Wada, Ministry of Economy, Trade and Industry, 'Enhancing the impact of product recalls in the digital age, 2019.

8   i.e. 'Concerns raised over safety, quality of food sold online', The Jakarta Post, 15/09/20.

9   Euroconsumers, Unsafe products on online marketplaces, 2020.

BUSINESSES LOSE CONSUMER TRUST

Responsible online retailers and platforms are also put at risk by the poor product safety practices of their competitors. For example, they lose out when undercut by unsafe counterfeit products, and are also impacted by a loss of trust in the marketplace. While not exclusively online, research covering four product segments across China, Germany, India and the United States in 2017 found that 2 in 3 consumers experienced product safety issues. The report also found—possibly as a result of these experiences—that the importance consumers attribute to product safety is growing[10].

Consumers expect online marketplaces to be taking more responsibility for the safety of products sold online. In 2019, Which? found that only 21% of UK consumers were aware that online marketplaces had no legal responsibility for overseeing product safety on their sites. When presented with information on the risks, 70% of online shoppers thought the law needed to be changed so that marketplaces were legally responsible[11]. This mirrored the outcomes of a survey conducted by the German Federation of Consumer Associations (VZBV), which found that 93% of German consumers surveyed expected online marketplaces to ensure that traders on the platform comply with EU law[12].

Trust is further undermined when complaints are made but not acted on by online marketplaces. For example, when alerted to the presence of products designated as dangerous there is evidence that some online marketplaces do not remove these items from sale[13].

While introducing standards on product safety will require a concerted effort from all actors—consumers, business, governmental agencies and international organisations—online marketplaces are a key player, as they are best placed to ensure that products sold on their sites are safe and will not harm consumers.

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10   TÜV SÜD, Making the case for product safety, TÜV SÜD Safety Gauge: Tracking business and consumer sentiment, 2017.
11   'Online marketplaces and product safety', Which?, 20/11/2019.
12   'Grenzenloser Ärger statt bequemer Online-Kauf', VZBV, 2020.
13   'Online marketplaces and product safety', Which?, 20/11/2019.

WE HARM THE PLANET

Managing online product safety will not only improve the welfare of consumers and markets, but also the environment. This is for several reasons, including:

- The resources to produce unsafe products are ultimately wasted, as they are not fit for purpose and need to be replaced.

- Shipping and disposing of recalled products creates further waste and pollution.

- Unsafe products are often toxic in their own right.

In addition, there is a burden created for the countries that receive unwanted goods to dispose of potentially toxic goods.

As just one sectoral example, toys are products which tend to have a high plastic content[14]. Toys are also the products with the highest recall rate globally (according to the OECD Global Recalls Portal[15]) and almost 50% of all toys are now bought online. Unless national authorities can be confident that the toys—or any product that needs to be disposed of—contain no toxic elements, they will not be recycled.

WORKING COLLABORATIVELY TOWARDS A SOLUTION

Online product safety has become an issue that needs addressing urgently, requiring concrete solutions that are agreed globally. In particular the growth of online marketplaces, and the challenges that they create for how online sales are regulated, requires urgent attention.

Finding solutions for online product safety requires involvement from different authorities and regulators, such as consumer protection and health agencies, food regulators, customs authorities, as well as participation from the private sector and civil society. International organisations such as OECD, the United Nations Conference on Trade and Development (UNCTAD), the International Consumer Protection Enforcement Network (ICPEN), the Association of South East Asian Nations (ASEAN), the Organisation of American States (OAS), the Ibero-American Forum of Consumer Protection Agencies (FIAGC), the Common Market for Eastern and Southern Africa (COMESA), also play a key role to address cross-border issues.

As a contribution to finding solutions and proposing changes, we present here a set of guidelines developed from a consumer protection and empowerment perspective by Consumers International and its member organisations. This sets out the main issues and actions that governments, marketplaces and sellers must take into account when developing policies and regulations, to help ensure that products sold on online marketplaces are safe.

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14 UNEP, Valuing plastic: The business case for measuring, managing and disclosing plastic use in the consumer goods industry, 2014.

15 OECD Product Recalls Dashboard, https://globalrecalls.oecd.org/#/dashboard.

WHAT MAKES THESE GUIDELINES DIFFERENT?

The Consumers International Guidelines for Online Product Safety were developed by independent organisations representing the consumer voice. The Guidelines have been developed with interventions from around the world, listening to Consumers International members in 100 countries across the globe. The Guidelines make recommendations for specific actions that should be taken by policy makers and businesses to support higher product safety standards and protect consumers from harm.

THE GUIDELINES:

- Build on and also go further in protecting consumers than some other recommendations and voluntary schemes.

- Support initiatives that gather information and alerts about unsafe products on an international and regional basis, such as the portals developed by the OECD, the EU or the OAS.

- Provide support to all champions active in addressing the global call for ensuring the safety of goods traded online.

THE GUIDELINES

1. OVERARCHING PRINCIPLES

1.1. Mechanisms should be in place to ensure that products sold through online marketplaces do not harm consumer safety and health.

1.2. The level of product safety for consumers using online marketplaces should not be less than in other forms of commerce.

1.3. Products sold through online marketplaces should comply with the safety regulations of the country and/or region where the product is sold.

1.4. Responsibility for ensuring the safety of products sold on online marketplaces should sit with those who are best placed to protect consumers. Online marketplaces should have greater liability and responsibility for ensuring the safety of products sold on their sites and regulators should enforce this.

1.5. Marketplaces should adopt the same high standards in relation to product safety in all of the countries that they operate in. Consumers should not face increased product safety risks because of the country in which they live.

2. GOVERNMENT ACTIONS TO ENSURE THE SAFETY OF PRODUCTS SOLD ONLINE

NATIONAL MARKETS—NATIONAL REGULATION

2.1. Governments should regulate the safety of products sold through online marketplaces, clearly establishing the liabilities and responsibilities of marketplaces for the safety of products sold through their platforms, as well as the liabilities and responsibilities of other parties involved in the transaction.

2.2. Governments should enforce legislation when breaches relating to the safety of products sold through online marketplaces occur.

2.3. Governments should establish national product safety databases and publish information about any unsafe and/or recalled products that are identified. Governments should allow marketplaces and other interested parties to easily access and connect to national databases.

2.4. Governments should enforce regulation that prevents unsafe products from entering the country.

2.5. Governments should ensure all relevant ministries or departments are consulted and engaged to ensure an effective and co-ordinated policy approach to improve the safety of products sold through online marketplaces (consumer protection, competition, trade, health, environment, customs, etc).

2.6. Businesses should be encouraged to certify their products with national and international standards.

CROSS-BORDER CO-OPERATION

2.7. Governments should pursue international agreements to improve online product safety through regulatory and enforcement co-operation.

2.8. Governments should share information about products that have been identified as unsafe or recalled with regional or international product safety databases.

2.9. Governments should follow and comply with any international regulations and guidelines relating to the safety of products sold through online marketplaces.

2.10. Governments should notify the authorities of a third country when they identify an unsafe product coming from that country and request an export ban on the product.

3. THE RESPONSIBILITIES OF ONLINE MARKETPLACES

COMPLIANCE AND ACCOUNTABILITY

3.1. Online marketplaces should comply with all legal requirements, mandatory and self-regulatory systems and procedures, and mandatory and voluntary standards to ensure the safety of the products they sell.

3.2. Marketplaces should collaborate with authorities in removing unsafe products sold through their websites, swiftly complying with requests to remove products and responding to requests for information.

3.3. The systems and processes that marketplaces adopt to ensure the safety of products they sold online should be open to the scrutiny of regulators and consumer groups and certified by independent third-parties.

PREVENTING UNSAFE PRODUCTS FROM ENTERING THE MARKET

3.4. Online marketplaces and other businesses that offer products online, whether through e-commerce or platforms, should take all necessary actions to ensure that all products placed on the market are safe.

3.5. Online marketplaces should use digital and non-digital tools to identify unsafe products when attempts are made to list these for sale online, including auditing the compliance of sellers operating on their sites and conducting random checks on the products they offer.

3.6. Online marketplaces should require sellers to complete an education package as part of registration to ensure they are aware of all relevant safety requirements.

3.7. Where safety certificates are required, marketplaces should conduct checks and not allow uncertified products to be offered for purchase through their platforms.

IDENTIFYING AND REMOVING UNSAFE PRODUCTS FROM ONLINE MARKETPLACES

3.8. Marketplaces should regularly update their databases to identify and remove any unsafe product being sold through their platform.

3.9. Marketplaces should constantly monitor national, regional and international product recall databases, and remove any products from their platforms that are identified as unsafe.

3.10. Marketplaces should have an open digital channel to receive information from regulators, businesses and consumers about unsafe products sold through their platform.

3.11. Marketplaces should swiftly remove any product that has been reported as unsafe, and ensure all listings of that product and related marketing or information are removed and stay down until there is further confirmation of the product's safety.

3.12. Marketplaces should develop effective systems to prevent the reappearance of unsafe products that have previously been taken down from their website.

3.13. Marketplaces should alert national authorities, and regional and international networks when they identify an unsafe product so that product safety databases can be updated.

3.14. When an unsafe product has been identified, marketplaces and sellers should contact consumers who have purchased the product and take appropriate actions to ensure these products do not cause harm. Actions should include issuing warnings and conducting a recall of the product and offering a replacement or refund.

PROVISION OF INFORMATION ABOUT THE PRODUCT

3.15. Marketplaces and sellers should provide information to consumers related to the safety of a product before the transaction is completed, and provide a channel whereby consumers can raise any queries or seek clarifications regarding the safety of the product after the transaction.

3.16. Information about the product should include any safety certification as well as necessary warnings about safe use, allergens, the minimum legal or recommended age of the user, etc.

3.17. Information should be clearly presented, easily readable (i.e., appropriate font size and display format given the type of online medium), and accessible with no significant barriers for consumers.

3.18. Information should be available on the product and in the listing that enables identification of the product (including model and batch number where relevant) and the manufacturer to ensure effective recalls.

PROVISION OF INFORMATION ABOUT THE SELLER/IMPORTER/MARKETPLACE

3.19. Marketplaces should publish their business name, address and contact details on their website, as well as the business name, address and contact details of their legal representative in the country / region in which the product is sold, where this is different from their headquarters and where this is a legal requirement.

3.20. Marketplaces should provide consumers with information about the contractual partner when they make a purchase through the marketplace whether this is the seller, importer or retailer of the product.

3.21. Marketplaces should ensure that the information about the contractual partner includes their contact details including a valid address in the country where the seller is based as well as the contact details of legal registration in the country / region in which the product is sold, where this is different from the country in which the product was purchased and where this is a legal requirement, and in any other jurisdiction if it is the case.

3.22. Marketplaces and sellers should indicate the country of origin, name and address of manufacturer of the product sold online.

3.23. Marketplaces should verify that the information provided by the seller is reliable and complete, failing which the seller's account should be suspended.

3.24. Marketplaces should disclose all information and terms & conditions of any self-regulatory or co-regulatory scheme they use to ensure the safety of products sold online.

3.25. Marketplaces should provide consumers with all relevant information about their liabilities and responsibilities or any legal disclaimer of liability and responsibility they have in relation to the safety of products, at any time before, during or after the transaction is concluded. The information should be provided in an accessible format avoiding lengthy or legalistic text.

3.26. Information should be clearly presented, easily readable (i.e., appropriate font size and display format given the type of online medium), and accessible with no significant barriers for consumers.

4. COMPLAINTS AND REDRESS MECHANISMS

PROVIDED BY BUSINESSES

4.1. Marketplaces should provide redress if a product sold on their site causes harm to a consumer's health or physical safety.

4.2. Marketplaces should establish an in-house internal complaints handling mechanism and join external Alternative Dispute Resolution (ADR) and Online Dispute Resolution (ODR) schemes to solve complaints and disputes arising from any problems related to the safety of products sold through their platform.

4.3. Marketplaces should provide complaint and redress mechanisms via the original forum through which the sale was made. This should be easily accessible for consumers.

4.4. Internal complaints handling mechanisms implemented by marketplaces should be free of charge for consumers, and ADR/ODR schemes should be available for free or at an affordable price that does not prevent consumers from accessing the service.

4.5. Marketplaces should inform consumers about any complaint and redress mechanisms available, before and after purchase.

4.6. Governments should establish accessible, efficient and effective dispute resolution schemes to solve consumer problems with unsafe products, and ensure redress is available.

4.7. Governments should ensure that ODR and ADR schemes are available for free or at an affordable price that does not prevent consumers from accessing the service.

5. CONSUMER INFORMATION AND EDUCATION

5.1. A permanent flow of information to consumers should be ensured by businesses and governments on the safety of products sold in online markets.

5.2. Consumer awareness and education on threats and risks that products can pose, and the importance of product safety should be encouraged by sellers, marketplaces, governments and consumer associations, and training should be available, taking full advantage of digital tools to deliver.

5.3. A product safety compliance rating should be implemented by governments and marketplaces, that shows the ability of the sellers and marketplaces to provide safe products.

BUILDING A SAFER DIGITAL LANDSCAPE

While the task is complex and challenging, it's clear that all stakeholders coming together is the way forward to ensure that hard-won consumer rights are not lost as we enter a new era of consumer behaviour and business practice. Consumers International and its members are committed to achieving consistent and effective policy and enforcement by government and international agencies, along with buy-in from businesses and consumers.

To that end, we are calling on innovators and leaders in this space—technologists, business leaders, policymakers, consumer advocates and strategists—to engage with us to work together on bringing about a better business landscape, a healthier physical environment and a safer future for consumers.

FURTHER READING

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3. 'The Rise of the Platform Economy', Martin Kenney and John Zysman, 2016 (https://www.nbp.pl/badania/seminaria/25x2016_2.pdf)

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8. 'Liability of online platforms', European Parliamentary Research Centre, February 2021 (https://www.europarl.europa.eu/RegData/etudes/STUD/2021/656318/EPRS_STU(2021)656318_EN.pdf)

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13. 'Consumer product safety in the Internet of Things', OECD, 2018 (https://www.oecd-ilibrary.org/docserver/7c45fa66-en.pdf?expires=1637252523&id=id&accname=guest&checksum=4C7109020F246868F5EEEFBC4D1D986E)

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