

# In terms of compliance, it pays to be prepared.

**T**oy manufacturers work tirelessly to ensure that their products are safe. There are occasions, however, when a potential compliance issue arises: maybe a third party contractor has not kept to specification or perhaps the issue is not with your own product, but actually a very convincing counterfeit. Whatever the issue, if it raises questions within the business, by customers, or attracts the attention of a regulator, you need to be in the best position to respond.

Below are six simple steps you can take to ensure your response is quick and effective. Investing time in preparing now will mean that you can react quickly, and get back to what your company does best; producing amazing toys.

- Identify a core response team. Think about who needs to be on board when investigating a potential issue. The team will need to comprise those who hold key product information (designers, manufacturers, engineers, regulatory, sales, marketing), those who support decision making (e.g. PR, legal), and potentially those holding financial authority. Who and when each individual needs to be involved will depend on the factual scenario, but identifying key players now makes for smooth running in the future. Make sure that the ultimate decision maker is identified too. When difficult decisions need to be taken, who has final authority can often become unclear.
- Have a traceability plan. This is important throughout the supply chain. Make sure that you can clearly identify the manufacturer of the item and each of the component parts. Holding information as to the model, serial or batch number and date of production is crucial. Customer information should also be logged and updated systematically, being cognisant of data protection considerations. Being able to narrow down potentially affected products and where they are in the supply chain could have a significant impact on the scope of any future action that may need to be taken and the time it takes to implement.
- Ensure effective product monitoring. Identify and analyse issues at an early stage. Information from a range of available resources such as retailers, consumers, regulators and social media can be used. Implement procedures to verify and act on the information gathered, and review sources of information regularly.
- Be familiar with risk assessment methodologies. Know which methodologies should be employed to assess risk. These may vary between markets and may produce different outcomes. The EU has its own set of product risk assessment guidelines, and the UK's Office for Product Safety and Standards (OPSS) has recently introduced a new methodology: PRISM. Be familiar with relevant guidelines and how they may differ. Work through some dry runs with key team players and identify gaps in knowledge and information.
- Know your legal notification obligations. Knowing when it is necessary to notify a regulator of an issue is important. The trigger can be different depending on the market in which a product is sold. Being able to identify the markets in which the toy is made available and knowing in advance what may trigger a notification obligation is information that is simple to obtain and crucial to future decision making.



**Alison Newstead, specialist legal advisor in Product Safety, Product Liability and Risk partner at Shook, Hardy & Bacon International LLP, discusses effective proactive steps toy companies can take to manage potential compliance issues.**

- Communications. Have plans in place for effective communication of all potential stakeholders, both internally and externally. If external communication is necessary, plans will need to consider a range of parties including regulators, customers and the media. Pre-prepared timelines, channels of communication, template documents and even ghost websites are likely to be useful.

The UK OPSS has produced a Code of Practice which advises that every company should have a written Product Safety Incident Plan (PSIP) incorporating the above measures. Pulling together a PSIP may seem like a daunting task, but it doesn't need to be. Responsible manufacturers are likely to have already considered the issues that a PSIP should cover, and drawing them together in one place and supplementing specific areas to make them more robust may be all that needs to be done. The OPSS is likely to ask to see a copy of your PSIP if a potential product issue arises. If you are able to produce your PSIP, this will assist in demonstrating your company's commitment to safety and will ensure that you are not starting on the back foot and that you are able to set a positive tone for any future discussions.

Compliance and safety are ingrained in the toy industry. Gathering together all of the good practices that are already being undertaken by your business will make sure that its dedication and commitment in bringing safe toys to market can be demonstrated when it counts most.

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