



Office of Product Safety & Standards UK Product Safety Call for Evidence

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The Ornamental Aquatic Trade Association (OATA) represents more than 800 UK businesses which provide fish-keepers with everything they need to set up and maintain a successful home aquarium or garden pond. Our manufacturing members produce a wide range of products and kit, from the aquariums, heaters, skimmers, lights, ornaments to garden pond liners, pumps and as well as veterinary medicines and fish food.

The UK trade in live ornamental fish

Some facts about the UK home aquarium industry (pre-Covid):

- 4 million households own fish (14% of the population).
- Over 100 million are fish kept in aquariums and garden ponds making them the UK’s most populous pet.
- Fish keepers spend an estimated £400 million a year on their hobby
- An estimated 12,000 people are employed by UK aquatic-related businesses.

1	<p>How easy is it to understand the current framework of product safety regulation? What areas, if any, could be simplified or made easier to follow?</p> <p>Feedback from manufacturing members is that once they understand the framework it works fine but when developing new products it can be difficult to understand which standards would apply. Often, they have to look at rival products or get advice from either consultants or relevant trade associations. Greater clarity would benefit businesses, particularly when they develop new products, rather than having to look to others to interpret the standards in a way they will understand. This is particularly the case for pet products because most standards are written in terms of safety for humans/children, etc and it is difficult for companies to work out what is safe, for example, for a dog toy when the standards are written to ensure child safety.</p> <p>There has also been a concern expressed that trading standards require more training about the standards that apply. One member gave the example that trading standards officers had told them there is no specific guidance for them as to what standards are needed for each product, with no national or EU database to search to find out what standards are used or potentially</p>
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	<p>used for a given product type. If the enforcement agency cannot easily access that information then what chance do most companies have.</p>
2	<p>In what areas, if any, should product safety regulation be strengthened or improved?</p> <p>The biggest sources of safety concerns we have heard from our manufacturing members are products bought from the internet that come from abroad or are made by very small businesses which have potentially not done the proper checks. Retailers have also given us examples of customers who bring electrical products into the shop bought from sites like eBay and Amazon that have no safety information and even incorrect plugs. It should be a big concern that unsafe electrical products are being sold to UK homes and more must be done to regulate these online sites. Our members express their belief that until these platforms are accountable for the products sold on them, then there is not a level playing field.</p> <p>Another concern is for veterinary medicines sold online. It is again far too easy for products which would not be sold in this country to enter the UK from abroad, such as antibiotics for animals which in the UK are only available on prescription by a vet. There should be greater enforcement over this given the concerns about anti-microbial resistance. We also know that products are sold using unsubstantiated medicinal claims and without SMA current numbers. We regularly report these to the Veterinary Medicines Directorate but there seems little they can do if the products are coming in from abroad.</p> <p>Our members also ask for better communication of NEW legislation. Training courses or qualifications for colleagues working in this area might also help as would more advice from Trading Standards and quicker response times.</p>
3	<p>Should regulation be targeted more at the product itself or the manufacturer's systems that produce it? Please explain.</p> <p>Our manufacturing members agree that targeting the manufacturer's systems are more relevant in ensuring product safety, especially in an age that is moving closer to the DIY economy (3D printers etc). Our members are seeing more very small businesses (eg 'one-man-band businesses') producing items and there is concern over the level of testing and safety being carried out by those micro businesses. There should be a minimum standard of entry into the market for all manufacturers.</p>
4	<p>How could the current product safety framework do more to support innovation or the supply of new technologies to consumers? Using examples, how could it better anticipate upcoming changes in manufacture and production?</p> <p>One of our manufacturing members raised concerns about how the framework keeps up with modern technology. They described how they had developed new technology but found it difficult to obtain CE approval because the standards are not designed to test this new technology. The company almost failed on a standard because it incorporated new technology which the standards did not have tests specific to the innovation and therefore the company struggled to achieve compliance. The company involved suggest there could be a consultation when new product development does not fit a current regulation so that the new aspect of the product can be discussed and tests created to ensure it is safe. Otherwise, they say it will be hard for regulation to stay ahead of development and this will undoubtedly hinder innovation. Another member has suggested considering approvals for NEW technologies through third party assessment by accredited laboratories.</p>

5	<p>What areas of the current regulatory framework could be tailored to create more opportunities for UK innovation and manufacturing?</p> <p>Our manufacturing members have commented about the need to try to keep UK regulation as similar to the EU as possible, some even describing it as 'imperative'. Otherwise the requirement to test to different standards for both the EU and the UK could make innovation in the UK far too costly and prevent it from happening. It could result in businesses moving out of the UK. Free access to BS / EN technical standards for manufacturers would help.</p>
6	<p>How well is the conformity assessment system working? What are your experiences of it and of self-assessment?</p> <p>Our members comment that conformity assessment can be very expensive and sometimes prohibitively so. While safety is supremely important there must also be a way where product innovation can be encouraged without it being so expensive it becomes stifling for business. Helping to aid self-declaration would be good with things like free access to standards and flagging relevant updates would be a great help. These services are available but they are usually added benefits of memberships to other schemes.</p>
7	<p>Reflecting on the response to the COVID-19 pandemic (as set out in the case study), what changes could be made to help bring safe products to market more quickly?</p> <p>Advice needs to be clear and easily accessible on which standards to apply and access to those standards to aid in self declaration. Guidance on how to ensure the correct processes and paperwork is in place to back up those declarations is also needed.</p>
8	<p>What role should voluntary standards play in product safety? What are the benefits and drawbacks of linking regulation to voluntary standards?</p> <p>The only point to linking voluntary standards to legislation is if there are no regulatory standards in the first place. That way it ensures a level playing field. If voluntary standards are additional then these can be a useful marketing tool for manufacturers to use if they wish to show an additional USP for their products.</p>
9	<p>What are the key challenges for regulating product safety in online sales? What has worked well in terms of regulation and where are the opportunities?</p> <p>This is the biggest area of concern for our manufacturing members who spend a lot of time and money producing products that meet all the required UK standards but which then find themselves in competition with cheap products sold on third party selling sites like Amazon and eBay which are clearly not meeting the same standards. Different markets have different product safety standards so they may meet safety requirements in the origin country but not in the UK. Short of individually reporting the listings there does not seem to be any enforcement about the sale of these products in the eyes of our manufacturing members. Our members firmly believe these third party sites should in some way be made accountable for what they are selling because some listings available to UK buyers in no way adhere to UK safety regulations. These cheap products are cheap because they do not follow the same vigorous safety testing</p>

	<p>and this pricing damages the market for bonafide UK businesses – and could create safety issues within UK homes. Finding a way to regulate these online sales is the main opportunity to make the products on the market safer our members believe.</p> <p>Suggestions to tackle this include the possibility for technical files, such as for electrical products, to become a required part of the import paperwork that would then have to be checked by Border Force. This would help halt products even entering the UK. Alongside this it would be good to have some kind of independent audit like a trusted trader, primary authority or authorised economic operator scheme for UK businesses to sign up to that shows they meet all the technical file requirements to help speed their products through the border. Some of our members have said they would happily pay for that external ‘trusted trader’ status if there was a corresponding element that prevented products without the technical files entering the UK.</p>
10	<p>Thinking particularly about new models of distribution and supply (including online sales and the sharing economy), is it always clear where responsibility / liability for product safety lies?</p> <p>Well run importer/distributors to the trade know the law is clear where responsibility/liability lies. However, there can be a significant lack of understanding at retail level and especially smaller online retailers. It is very important that people in the DIY economy in particular are made aware of the issues they could face. Similarly 3rd party online retailers pose a significant problem (as mentioned in 9).</p>
11	<p>To what extent are product safety issues arising from consumers producing (e.g., 3D printing) and / or hiring out and selling products to each other?</p> <p>It seems likely that product safety concerns will become more of an issue as this 3-D technology takes hold.</p>
12	<p>Have you any insights on whether consumers know what to look out for ensure a product is safe when buying online and /or how to raise safety concerns? How could these processes be made easier or clearer?</p> <p>In general our manufacturing members’ feedback is that consumers do have a good understanding that they can go to trading standards if there is a problem with a product they’ve bought. There is less understanding that they can also use Citizens Advice in the case of a civil dispute. But there is also a feeling that consumers generally take safety as a given so it does not really feature as a consideration in their buying process, particularly online where there can be an issue. There is not necessarily a clear understanding of what the CE and new UKCA product markings actually mean. This is a concern when unsafe or unregulated products are easily available on the internet. It is not easy for customers to check compliance either – just because a product has a CE mark does not necessarily mean it is compliant and unless consumers ask to see the declaration of conformity and test certificates, they cannot know for sure. With the new UKCA marking being introduced it is a very good time to do a public information campaign to raise awareness about the mark and what consumers should be looking for, so they feel more confident in quizzing manufacturers about it.</p>

13	<p>What role should voluntary commitments, such as the Product Safety Pledge, play in consumer protection from unsafe products? Can you share any evidence or experiences of the benefits and drawbacks?</p> <p>Voluntary pledges are a useful marketing tool but regulation needs to set a baseline. It also seems strange to have a voluntary Product Safety Pledge because shouldn't regulation already set that standard?</p>
14	<p>What might a typical product lifecycle look like in the future as we move towards a circular economy? Can you provide examples, including of connected and second-hand products?</p> <p>The feeling among some of our manufacturing members is that products will need to move to be of a more modular construction, making maintenance easier. This will allow second hand products to be refurbished or even upgraded to give a continuing revenue stream.</p>
15	<p>How can we build in flexibility to the regulatory framework to adjust to changes in product lifecycles and technology, including changes in understanding of risk? How do businesses integrate safety considerations with other aspects of product regulation such as environmental considerations?</p> <p>There may need to be a careful relaxing of certain safety rules when it comes to working on a product (i.e. being able to open an electrical product). Some onus has to be on the end user to act responsibly and care for their own safety (i.e. only open the product when disconnected from the supply) because to make a modular product that maintains electrical isolation is a prohibitively costly exercise.</p>
16	<p>For how long should responsibility for the safety of the product lie with the manufacturer? What responsibilities should apply to software integral to products, second-hand goods or supply of replacement parts?</p> <p>It seems reasonable to have a defined period of responsibility or until the product has been tampered with, much like a warranty would apply. There does seem to be confusion with consumers between a manufacturer's warranty and consumer rights. Statutory consumer rights put responsibility for consumer redress with the retailer, rather than the manufacturer due to the contract of sale.</p>
17	<p>How is enforcement of product safety changing in light of new products (e.g., connected devices, 3D printed) and new ways of distributing products (ecommerce, sharing economy). What are the greatest challenges?</p> <p>The enforcement of safety on third party online retailers and in the DIY economy is of paramount importance but seems to be impossible to enforce. Something drastically needs to change with regards to the responsibilities of online sellers and to ensure enforcement happens.</p>
18	<p>How well does the current system for corrective action and recalls system work? How could the regulatory framework better support it?</p>

19	<p>When it comes to product enforcement, how well does the system deliver transparency and confidence while maintaining confidentiality? Please explain.</p>
20	<p>What toolkit of enforcement duties and powers is needed for effective enforcement now and in the future? Do enforcement authorities have the right tools they need, including data availability, to do the job?</p> <p>We believe it is key that unsafe products can be ordered to be removed from third party sites quickly (with a tight deadline), and that failure to do so will incur penalties.</p>
21	<p>How could greater use of technology and innovation support more effective, business friendly enforcement and compliance?</p> <p>Suggestions from manufacturing members include:</p> <ul style="list-style-type: none"> • An online forum to discuss product concerns confidentially. This could be used to discuss products seen in the market, or get advice on a business's own products. • A data base to search for applicable standards would be very useful.
22	<p>When it comes to product liability, do consumers have the right tools and information to take action on their own behalf? Please explain.</p> <p>There is good understanding among consumers that they can take issues to trading standards. Whether they have the right enforcement powers for online sites is another matter.</p>
23	<p>Does the current framework adequately protect all people in society, including vulnerable groups and those with particular needs? And could it be improved?</p>
24	<p>Are there any examples of, or issues where, the impact of regulation is different for people from different groups in society?</p>
25	<p>How can we ensure the processes for consumer recourse are accessible to all kinds of consumer?</p> <p>While the temptation might be to go digital first that does preclude sections of the society so multiple points of access – online reporting, email, telephone, in writing – is required.</p>

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