



ACCC TAKES  
ACTION

# What happens if you break the law

When mandatory standards are breached or banned products are found in the marketplace, the ACCC's first priority is to ensure the hazardous goods are removed from the market and from people's homes. It notifies suppliers who are then expected to stop selling the goods immediately and cooperate in ensuring the goods are removed from outlets which carry them.

The ACCC then assesses what enforcement action may be taken against suppliers. Companies found in breach of the product safety provisions of the Trade Practices Act face possible criminal prosecution and maximum penalties of \$1.1 million for corporations and \$220 000 for individuals.

Wilful non-compliance is not common in product safety breaches—usually carelessness and poor attention to addressing risks are the cause. How the ACCC responds and what sort of action might be taken depends on factors such as:

- the seriousness of the safety hazard
- the quantity of the product supplied
- how blatant the conduct is
- the level of cooperation from the supplier.

The ACCC may seek remedies such as administrative action or court enforceable undertakings or, if the case goes to the Federal Court, injunctions and orders for corrective advertising, consumer recalls, refunds or repair of the goods and legal costs.

Suppliers which provide court enforceable undertakings to the ACCC may be required to conduct consumer recalls of the unsafe product and set up corporate compliance programs to prevent any repeat of the safety breach.

## How the ACCC enforces safety standards

- The ACCC obtained consent orders against Hyundai Automotive Distributors for breaches of the mandatory standard for **vehicle jacks**. Hyundai had supplied about 185 000 motor vehicle jacks without the required warnings and instructions. Hyundai implemented a voluntary recall and consented to court orders requiring a trade practices compliance program.
- Super Toyworld in Darwin gave the ACCC court enforceable undertakings to stop selling **bicycles** that do not meet the standard, publish newspaper advertisements offering to fix any bicycles it had sold to ensure they met the standard and implement a substantial trade practices compliance program.
- The ACCC obtained declarations and injunctions in the Federal Court in Perth to settle actions against two importers who supplied two brands of **sunglasses** which did not comply with the mandatory safety standard. Monza and Apollo also agreed to publish product safety notices in newspapers and magazines and provide in-store notices recalling the sunglasses and offering refunds to consumers. Both companies were required to implement trade practices compliance programs.
- The Federal Court granted injunctions against Autobarn Pty Ltd, Autobarn Darwin and Dictomax Pty Ltd preventing them from supplying **portable car ramps** which failed to comply with the mandatory safety standard. Autobarn was also restrained from supplying goods subject to a mandatory safety standard without first sighting verification from an authorised testing authority that they complied with the standard. The companies had supplied the Jackramp which failed the structural integrity, design and safety labelling requirements as set out in the mandatory standard. The court also ordered that the companies pay the ACCC's court costs and that Autobarn institute new processes and conduct additional staff training to supplement its existing trade practices compliance program.

the ACCC can **take action** if you break the laws for product safety



## Running an investigation—Spotlight

ACCC case

### 11 September 2000

ACCC receives complaint from a consumer alleging that a pair of grey tinted wraparound sunglasses with the word 'COLD' on the frames did not comply with the mandatory product safety standard for sunglasses and fashion spectacles. The sunglasses, which had been bought at a Carlton and United Breweries (CUB) stand at the Queensland Show, were found to distort the wearer's vision after he had been wearing them while driving.

### 18 September 2000

ACCC launches investigation which found that a Queensland-based promotional merchandise supplier, Spotlight Promotions Pty Limited, had supplied the sunglasses to CUB for promotional purposes. They were also sold at the CUB merchandising store 'Brewhouse', in Yatala, Queensland, and were either sold or given away at various trade promotions and hotel venues in Queensland and New South Wales.

### 25 September 2000

ACCC tells Spotlight it was concerned that the sunglasses may not comply with the mandatory safety standard.

### 25 September 2000

Spotlight immediately ceases supplying the sunglasses and sends a sample pair to an accredited testing authority for testing in accordance with the mandatory standard.

### 27 September 2000

Spotlight receives test report, which shows the sunglasses failed to comply with the standard. It found that the sunglasses could cause blurred vision, misjudgment of depth, position or objects, and therefore should not be worn. Spotlight advised the ACCC that the supply of the sunglasses occurred because of human error.

### 13 October 2000

ACCC requests that Spotlight conduct a consumer product safety recall.

### 17–19 October 2000

Spotlight places consumer product safety recall notices in several newspapers, warning consumers that the sunglasses were unsafe and should not be used. The same notice was also displayed at those hotels and venues where the sunglasses had been sold or given away. As part of the recall, consumers were asked to return the sunglasses to Spotlight for either a full refund of the purchase price or a replacement pair of sunglasses which comply with the mandatory standard.

### 27 October 2000

Spotlight gives ACCC a court enforceable undertaking to implement a corporate compliance program to minimise the likelihood of repeat conduct. This program will help ensure that Spotlight's promotional products comply with any relevant mandatory product safety standard.

Spotlight responded quickly and cooperatively when requested by the ACCC to publish a consumer product safety recall notice and provide refunds.

