



ACCC TAKES
ACTION

Prosecution a warning for variety stores

Product safety can be a challenge for discount variety stores where new products are introduced into an already extensive range. However, lack of product familiarity is no excuse when items are unsafe or wrongly labelled.

The Dimmeys case (see right) has a message for retailers, importers, manufacturers and distributors that not only must they have compliance measures in place but also a means of checking their effectiveness.

This is particularly important for discount variety stores that trade on low margins without a predetermined range of products. If they don't have effective compliance measures, these stores are at greater risk of buying stock without understanding the safety standards and may inadvertently buy stock rejected by other traders for safety reasons.

Companies need to include safety compliance costs when setting margins. They cannot afford to take short cuts on safety to undercut competitors.

Dimmeys paid a high cost for breaching standards in fines, recall costs, lost sales, company time and legal costs for themselves and the ACCC. Indirect costs, such as loss of their reputation and the confidence of customers, are even more damaging and take longer to recoup.



Variety store a repeat offender

ACCC case

After receiving a complaint about a BMX-style bicycle bought at a Dimmeys Store in Melbourne, the ACCC investigated and found the bike breached the safety standards for children's bicycles. Dimmeys had not previously stocked bicycles and bought them from an importer who had not previously imported them.

In August 1999 Dimmeys Stores Ltd was fined \$60 000 for selling children's pedal bicycles not complying with the mandatory safety standard.

Justice Weinberg of the Federal Court declared that inexperience did not absolve either party (the retailer and the importer) from their obligation to ensure products are safe. Dimmeys, he said, had acted irresponsibly by selling bicycles that did not comply with the mandatory standard. Both the seller and the importer were aware that product safety standards applied to other merchandise they handled, but they failed to make the appropriate inquiries about the bicycles.

Apart from the substantial fine, Dimmeys had to withdraw the bicycles from sale, publish recall notices for those already sold and pay the legal expenses of the ACCC.

In the following year, Dimmeys' failure to comply with safety standards resulted in further court action, this time for selling children's nightwear without mandatory labelling.

In March 2001 Dimmeys was fined \$160 000 on six charges of supplying the nightwear in Townsville in July and in Melbourne in November.

ACCC staff discovered the Townsville contravention in July 2000 during a regular survey of retail stores. When notified, Dimmeys agreed to a public recall. However, the following November a Melbourne survey found that Dimmeys' Richmond store was selling similar garments without the fire hazard information.

