

December 2008

# A GUIDE TO PRODUCT RECALL

We all regularly see reports in the media of cases involving products that have caused problems, such diverse products as various food and beverage types, toys, batteries, leisure furniture, motor vehicles and so-on. Some develop into high profile public discussions. Many do not gain public attention. All cases cause the manufacturers and distributors much cost, even when sometimes the alleged 'product fault' is eventually established as not being credible. The cost is not only the obvious and expensive direct recall cost, but also the administration costs of managing the media, employees, customers, financiers and other stakeholders. This Focus provides an overview of the issues.

By 'Product Recall' we are referring to any manufactured product which has been released from the manufacturer's direct control and is in transit, storage, distribution or in use by customers, which needs to be recalled because it is unsafe or fails to perform as intended.

Virtually all businesses consider their products to be safe and their in-house testing and QC standards appropriate to ensure good product performance and safe use. Nevertheless, sometimes defective products do find their way into the retail sector. Contrary to popular opinion, customers do understand mistakes can happen – the product recall issue is more about how quickly things are rectified and how well customers are informed.

Research shows that businesses which retain the greatest customer loyalty are those which react quickly and positively in such a crisis. Taking responsibility, communicating and putting things right wins understanding and earns respect. A Product Recall can have positive outcomes for a Company – a chance to demonstrate the Company's commitment to its customers.

The purpose of a Product Recall Plan is, therefore, to avoid poor performance during a recall and this requires a degree of pre-planning.



The failure to remove a product from sale may have serious consequences, especially if the defect may cause harm – and it is important to differentiate between a potentially harm-causing defect and a defect associated with disappointing performance in service.

However, the longer any defective product remains in the marketplace, the potential for the situation to impact negatively on the public's perception of the Company is increased.

#### **Below we have outlined:**

- The product recall planning process for New Zealand manufacturers, (but excluding sectors requiring special plans such as food and beverage manufacturers and manufacturers of certain potentially 'hazardous' products, where there are legislative reporting requirements)
- The elements of a product recall plan
- The actions to be taken when a product is unsafe and has to be removed from the market

Remember that under the Consumer Guarantees Act, customers have the right to insist that the seller or service provider fixes products which fail to perform. Companies must address defective products within a reasonable time. The customer has certain rights empowering them to reject products and choose replacement products of a similar value, or seek a full refund. The customer could even have the defective product repaired elsewhere and recover the costs if not fixed within a reasonable time. Similarly, customers have the right to recover any consequential loss incurred through the product defect. So, it is just as important to know when to initiate a product recall as knowing how to implement a recall.

## 1. PLAN OBJECTIVES

These may include:

- minimising the risk of injury or death to consumers from an unfit product
- retrieving or repairing defective products as quickly as possible
- minimising the cost and inconvenience to customers
- ensuring customers are fully informed
- minimising the need for authorities' intervention by being proactive
- completing the product recall in the shortest possible time.

## 2. RECALL POLICY

The Company policy should be a simple, clear commitment which demonstrates the Company's commitment to consumer safeguards and to protection of its own brand values and reputation. The policy should cover:

- objectives of the recall policy
- the Company's complaints handling policy, from the trivial and mischievous to potentially serious, how complaints are recorded and trends in complaints identification
- use of QC procedures and Product Tracking systems to assist in determining likely extent of problem
- methodology for determining when to recall product(s)
- issues to be addressed if product(s) have to be recalled
- alternative options to a full product recall which may be appropriate
- efficient recovery of defective products
- communication with customers
- protection of company's reputation and brand values

The policy should assign responsibilities, and a Product Recall Leader identified. Any training and education needs of employees, agents, distributors etc should be identified.

## 3. PRODUCT RECALLS - PREPLANNING

### 3.1 A means of identifying how widespread the problem may be

All faults/complaints should be recorded to assist identification of claims which are similar. If a recurring problem is identified then management should conduct a detailed evaluation of the product to determine the conditions which give rise to the complaints. A decision on whether to recall products can be considered at this point.

### 3.2 Product tracking programme ensuring traceability

The more accurate and detailed the information available, the quicker the extent of the problem can be identified, and any recall will be more effective and cost less because efforts are targeted to one area of supply, or fabrication or packaging etc.

### 3.3 Product quality control test results

Good QC programmes will provide a documentary evidence of test results on raw materials received, any in-process testing during individual production runs, and final testing and inspection results. This assists the evaluation of any product complaint and may narrow down the products affected/production runs etc.

### 4. To recall or not?

Most recalls are voluntary, initiated by the manufacturer. Guidelines for when to introduce a product recall will vary but maybe where there is:

- risk of consumer harm – a single serious incident
- two or more similar complaints of injury associated with the same product
- a design flaw which could lead to harm to customers
- defective labelling which could result in harm to customers
- discovery of product tampering
- poor performance in service, or design flaw

Consider options to rectify the defect and decide whether it is cost-effective to repair or modify the product. Identify the models or batches of the product affected – by serial numbers, batch marking, tracking programmes etc, examine QC records, dates of manufacture, where they were produced and where they have been distributed.

If there is risk of harm, then a recall may be essential but discovery of a design flaw or manufacturing flaw which may pose little risk of harm may be best handled by:

- direct contact with customers offering repairs/replacement
- offering to dispatch a representative to the customers' homes to repair or modify the product if it is difficult to remove or transport. (e.g. tapware may be difficult to remove and return without an alternative handy)
- recovery of goods still under the Company's control or at suppliers/retailers premises, or by publication of warnings.

As a general comment, where recall is conducted for quality reasons, there is unlikely to be any involvement of government authorities here or overseas. Where the recall is safety related, then there may be reporting requirements, especially regarding recalled exported products.

## 5. Recalled Products

Keep a record of returned products, modified products or replaced products and/or parts sent. Ensure recalled products are safely stored until either repaired or destroyed. Record consumer details/dates/ injuries/damage/complaints in each case.

## 6. Plan Review & Trialling

A review process should be established as part of the Product Recall Plan. The plan should be trialled so it is not merely an academic paper but has a potential role in managing risk.

If the Recall Plan has been implemented, review the effectiveness of the plan and recall procedures once the recall has finished.

## 7. Media

Any media communications should include:

- a clear description of the product, including the name, make, model and serial number, with a photograph or drawing
- complete contact details of the supplier – name, address, phone, email/fax data, website address
- a statement of the problem/associated risk
- dates the product was available for sale
- the number of products affected
- where the product has been distributed/exported
- what actions the Company is taking
- any other relevant information about the product – whether continued use is safe
- contact overseas customers regarding any exported
- notify distributors/suppliers/agents/retailers in writing

What type of publicity is best for managing a recall? Where there is a risk of harm, there is a need to disseminate the information urgently. The traditional way of publicising recalls is to advertise in newspapers, but there are alternatives, dependant upon the risk and the people needing to be contacted. Where only a few items have been sold and they can all be traced, there may be no need for a general media notice.

## CONTACT

For further information please contact your Willis Client Advocate® or our Willis Risk Consulting specialists:

Ben Thomas

Tel: +64 4 910 1405

Email: thomasbz@willis.com

Geoff Broadhead

Tel: +64 9 920 2966

Email: broadheadg@willis.com

**Willis New Zealand Limited**  
www.willis.com

### Auckland

Level 18, 1 Queen Street  
PO Box 369, Auckland 1140  
Tel: 09 358 3319

### Wellington

Level 24, 92-94 Boulcott Street  
PO Box 10446, Wellington 6143  
Tel: 04 472 2677

### Christchurch

Level 5, 254 Montreal Street  
PO Box 2220, Christchurch 8140  
Tel: 03 366 5715

## 8. Notification to Government Agencies

Special requirements are associated with product defects affecting electrical equipment, food and foodware, medicines and medical devices, toxic substances, vehicles, seat belts, helmets, LPG/CNG equipment and goods covered by product safety standards which are outside the scope of this (generalised) guide. Guidance on recalls involving these items may be obtained from the Ministry of Consumer Affairs and, in respect of goods covered by product safety standards, the Commerce Commission.

The Fair Trading Act gives the Minister of Consumer Affairs the power to ban unsafe products or order their recall. The Ministry has banned a number of products on safety grounds but only initiated one mandatory product recall (BMX bikes, in 1989).

## 7. Benefits

The objective is to ensure that what can potentially damage a brand or business reputation is prevented and, if at all possible, impress the public in the way the recall has been managed. Properly managed, the incident can reinforce consumer confidence in a business by:

- protecting as many customers as possible from potential harm
- minimising cost and inconvenience to the customer
- protecting the Company's reputation for consumer protection and quality goods
- potentially reducing the cost of recall by prompt action
- reducing the risk or extent of civil or other liability
- helping the Company successfully relaunch the product.

### References:

ECR Australasia – Australia & NZ Product Recall/Withdrawal Processes  
Ministry of Consumer Affairs.

'The Hartford', "Food processors' product recall risk management"