



# CONSUMER SAFETY ON ONLINE MARKETPLACES



THE NEED FOR CHANGE

# Contents

<b>1. EXECUTIVE SUMMARY</b>	<b>3</b>
1.1 ABOUT ELECTRICAL SAFETY FIRST	3
1.2 OVERVIEW	3
<b>2. CURRENT LEGISLATION</b>	<b>5</b>
2.1 THE LEGISLATIVE FRAMEWORK	5
2.2 ENFORCEMENT AND PRIMARY AUTHORITY PARTNERSHIPS	5
2.2.1 PRIMARY AUTHORITY PARTNERSHIPS	6
2.2.2 THE OFFICE FOR PRODUCT SAFETY AND STANDARDS	6
<b>3. TRENDS AND CHANGES</b>	<b>7</b>
3.1 TRENDS IN ONLINE SALES	7
3.2 SOCIAL MEDIA	9
3.2.1 SOCIAL COMMERCE	9
3.2.2 'CHECK IT OUT'	9
3.2.3 THE OPPORTUNITIES	10
3.3 EBAY	10
3.4 BREXIT AND THE EUROPEAN CONTEXT	10
3.5 THE INTERNATIONAL CONTEXT	12
3.5.1 THE UNITED STATES	12
<b>4. RECOMMENDATIONS AND SOLUTIONS</b>	<b>13</b>
4.1 RECOMMENDATIONS	13
4.2 LEGISLATIVE SOLUTIONS	14

# 1. EXECUTIVE SUMMARY

## 1.1

### About Electrical Safety First

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Electrical Safety First is a consumer safety charity dedicated to reducing the number of deaths, injuries and accidents caused by electricity. We do this by campaigning on behalf of consumers to improve safety regulations. We also work to raise awareness of electrical risks in the home.

## 1.2

### Overview

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The advent of e-commerce and m-commerce (conducted on a mobile phone device) has seen increasing numbers of consumers shopping online. Whilst this has presented opportunities – including increased convenience and access to a greater range of products – which have benefitted consumers, there are undoubtedly challenges. Specifically, consumers must be safe when shopping online.

However, research by the Office for Product Safety and Standards (OPSS) has found that **62.5% of electrical goods advertised on online marketplaces were non-compliant, with 23% being unsafe**<sup>i</sup>. Research by Electrical Safety First also found that **14 out of 15 sampled electrical goods on online marketplaces were unsafe**. Consumers are increasingly being exposed to unregulated online marketplaces – and this situation needs to be addressed.

This report looks at the legislative framework and how this can be improved to protect consumers.

The supporting report **Consumer Safety on Online Marketplaces: The Evidence and Impact** details Electrical Safety First's research into the sale of unsafe electrical goods on online marketplaces and provides several case studies.

Electrical Safety First's investigations have found time and again that unsafe electrical products are being sold on online marketplaces. These electrical products have the potential to cause fires, placing consumers and their homes at risk. Consumers should not be able to buy these unsafe electrical products.

In addition, an increasing number of consumers are using online marketplaces. This trend has been accelerated during the Covid-19 pandemic with the closure of high street retail forcing more consumers online. Similarly, the advent of social commerce, such as Instagram and Facebook Marketplace, has encouraged a growth in the number of younger consumers shopping on online marketplaces.

It is evident that online marketplaces are a hotbed for unsafe electrical products. At present, this is going unchecked. The legislative framework, primarily the Consumer Protection Act (CPA) 1987, was introduced when online shopping did not exist. Current legislation does not adequately address the sale of goods on online marketplaces – particularly as online marketplaces are not recognised as actors within the supply chain. This gap in the legislative framework leaves consumers at risk.

Additionally, whilst enforcement measures exist, enforcement is carried out predominantly by local trading standards authorities. Given that e-commerce allows consumers to buy products from sellers who operate globally, there is a question of how appropriate a localised method of enforcement is. For instance, if a seller on an online marketplace is based outside the UK, it is almost impossible to take action against them.

i [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/941095/opss-delivery-report-2019-2020-annex-product-safety.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/941095/opss-delivery-report-2019-2020-annex-product-safety.pdf)



Similarly, whilst OPSS is the national regulator for consumer safety, their role in regulating the sale of unsafe goods on online marketplaces needs to be clearly defined. This is particularly important because due to the scale of online marketplaces and the volume of sales, local trading standards authorities do not have the capacity or resources to take proportionate action.

There is a framework for consumer protection and product safety, but the Government must ensure consumers are also protected when shopping on online marketplaces. In addition, now Britain has left the European Union, the Government must ensure that there is no regression in consumer and product safety standards.

**This report provides a series of recommendations to protect consumers on online marketplaces. This includes placing specific duties on online marketplaces.**

We believe the measures outlined in this report will strengthen the existing legislative framework, protect consumers online, ensure there is no regression in standards, and benefit fair trade. Consumers deserve equal protections regardless of whether they are shopping on the high street or an online marketplace. Without this protection, consumers, their families and their homes are placed at risk.

CONSUMERS  
DESERVE EQUAL  
PROTECTION  
REGARDLESS OF  
WHETHER THEY  
ARE SHOPPING ON  
THE HIGH STREET  
OR AN ONLINE  
MARKETPLACE.

## 1.3

### Recommendations

- 🛒 **Online marketplaces must be recognised as actors in the supply chain;**
- 🛒 **The Office for Product Safety and Standards must have a clearly defined role;**
- 🛒 **Trading Standards should be appropriately resourced to take enforcement action;**
- 🛒 **Online marketplaces must improve their verification and complaints processes;**
- 🛒 **Online marketplaces must inform buyers when they are buying from a third party;**
- 🛒 **Online marketplaces must remove unsafe product listings; and**
- 🛒 **Online marketplaces must take a proactive approach to identifying unsafe products, such as recalled goods.**

We look forward to working with Government and others to deliver the recommendations of this report – and to protect consumers regardless of where they are shopping. To find out more about Electrical Safety First’s investigations into online marketplaces, you can read our supplementary report **Consumer Safety on Online Marketplace: The Evidence and Impact**.

To discuss this report in more detail, contact:

**[policy@electricalsafetyfirst.org.uk](mailto:policy@electricalsafetyfirst.org.uk)**

## 2. CURRENT LEGISLATION

### 2.1

#### The Legislative Framework



The primary piece of legislation governing consumer safety is the Consumer Protection Act (CPA) 1987. This Act was enacted following a European Commission (EC) directive, which sought to achieve standardisation of consumer and product safety standards across the European Union (EU). Other legislation including the General Product Safety Regulations (GPSR) 2005, the Electrical Equipment (Safety) Regulations 2016, the Sale of Goods Act 1987, and the Distance Selling Regulations 2000, also forms part of the consumer and product safety framework.

However, this legislation does not account for the growth in e-commerce and m-commerce. Whilst a product safety framework exists, this framework is outdated and does not account for modern supply chains.

Indeed, new models of advertising and selling, particularly on online marketplaces, have led to the “blurring of boundaries” between different actors in the supply chain<sup>ii</sup>. Today, when a product is sold and fulfilled by a third party on an online marketplace, the role of businesses in the supply chain do not fit within the traditional operator roles of manufacturer, importer, and distributor.

For instance, under the current system, if a consumer purchases a product on an online marketplace which is shipped from abroad, the consumer is seen, by law, as the importer<sup>iii</sup>. This creates an issue as no one in the supply chain is accountable to market surveillance authorities. This highlights the need to have legislation to identify and hold to account the party responsible for the safety of the product other than the consumer.

The other legislation and regulations mentioned, including the GPSR 2005 and the Electrical Equipment (Safety) Regulations 2016, act to protect consumers. For instance, under the GPSR 2005, producers can only advertise and sell products which are deemed to be safe (based predominantly on compliance with product safety standards). There are similar requirements on distributors. For instance, a distributor is required to facilitate the removal of unsafe products from sale.

The issue arises where online marketplaces are not recognised as actors within the supply chain. Indeed, online marketplaces are not recognised as distributors or producers within the GPSR 2005 or the CPA 1987.

As such, whilst the legislative framework exists – and protects consumers shopping on the high street – it does not include online marketplaces as actors within the supply chain, and at present does not protect consumers shopping on these platforms.

As the Office for Product Safety and Standards notes in the introduction to the Product Safety Review, the traditional framework of actors within the supply chain needs to be updated<sup>iv</sup>. It needs to be clear about who is responsible for ensuring the safety of goods sold on online marketplaces. To achieve this, online marketplaces must be recognised as actors in the supply chain.

### 2.2

#### Enforcement and Primary Authority Partnerships



Under the current legislative framework, responsibility for product safety falls to local authority trading standards. These bodies have responsibility for taking enforcement action against organisations failing to meet product safety standards. Additionally, the OPSS, which was established in 2018, acts as a national regulator of all consumer products except vehicles, medicines and food<sup>v</sup>.

ii [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/987549/uk-product-safety-review-call-for-evidence2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/987549/uk-product-safety-review-call-for-evidence2.pdf)

iii Ibid.

iv [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/987549/uk-product-safety-review-call-for-evidence2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/987549/uk-product-safety-review-call-for-evidence2.pdf)

v <https://www.gov.uk/government/organisations/office-for-product-safety-and-standards/about#:~:text=OPSS%20is%3A,instruments%20are%20accurate%20and%20reliable.>



## TRADING STANDARDS DEPARTMENTS NEED TO BE APPROPRIATELY RESOURCED TO TAKE ACTION AGAINST ONLINE MARKETPLACES.

### 2.2.1 Primary Authority Partnerships

In recent years, online marketplaces have entered Primary Authority Partnerships (PAPs) with local authority trading standards who provide a dual role of advisor and enforcer<sup>vi</sup>. An online marketplace chooses a local authority to be their 'primary authority'. This authority then provides the online marketplace with advice on how best to comply with product safety regulations and requirements. The authority can also take enforcement action against the online marketplace<sup>vii</sup>.

For instance, e-Bay's primary authority is Westminster City Council and Amazon's primary authority is Hertfordshire County Council<sup>viii</sup>. However, this system is not suitable if an online marketplace is located outside of the UK. For instance, several high-profile online marketplaces, including Gumtree, Wish.com, and Facebook do not have a designated primary authority.

There is an increasing concern that local authority trading standards departments are not equipped to respond to the increase and very different nature of online shopping. Indeed, whilst enforcement measures exist, enforcement is carried out predominantly by local authority trading standards departments. However, the nature of e-commerce means that buyers and sellers are operating within a global context. As such, whilst the localised nature of enforcement is appropriate for high street retail, there is a question of its appropriateness in regulating e-commerce

and online marketplaces. Specifically, enforcement authorities need to be equipped to respond to transactions within a global context. When a seller is operating from abroad, for instance, it is often not possible for a trading standards department to take action against that seller.

More importantly, enforcement action is not proportionate to the scale of these online marketplaces nor the volume of sales. A new product safety system is required to effectively take account of the size and scale of online marketplaces. At present, the capacity of a single local authority trading standards department is not sufficient to take effective and proportionate enforcement action against an online marketplace.

### 2.2.2 The Office for Product Safety and Standards (OPSS)

In addition to local authority trading standards departments, the OPSS was established in January 2018 as a national regulator. Its stated aims are to deliver consumer protection and to support business confidence, productivity, and growth<sup>ix</sup>. The OPSS regulates consumer products with a focus on safety and integrity. It acts as the national regulator for consumer products – and has intervened in high profile product safety issues, such as co-ordinating the national recall of some Whirlpool products.

However, the role that the OPSS plays in enforcing and monitoring online marketplaces is not clearly defined. In addition, the threshold is not clear for when it will intervene in product safety issues. For instance, whilst the OPSS eventually intervened in co-ordinating the recall of Whirlpool, the responsibility initially fell to Peterborough Trading Standards.

Given the scale of online marketplaces and the volume of transactions that occur, it seems appropriate that a national regulator plays some role in enforcing and monitoring the e-commerce landscape. This is particularly important as the advertisement and sale of unsafe goods on online marketplaces is largely a systemic issue.

Therefore, the OPSS must clearly define its role within the context of the enforcement and monitoring of online marketplaces. As part of this, the OPSS must also define its relationship with local authority trading standards departments.

vi <https://www.gov.uk/guidance/local-regulation-primary-authority>

vii *Ibid.*

viii <https://primary-authority.beis.gov.uk/par>

ix <https://www.gov.uk/government/organisations/office-for-product-safety-and-standards/about#:~:text=The%20Office%20for%20Product%20Safety,on%20their%20safety%20and%20integrity.>

# 3. TRENDS AND CHANGES

## 3.1

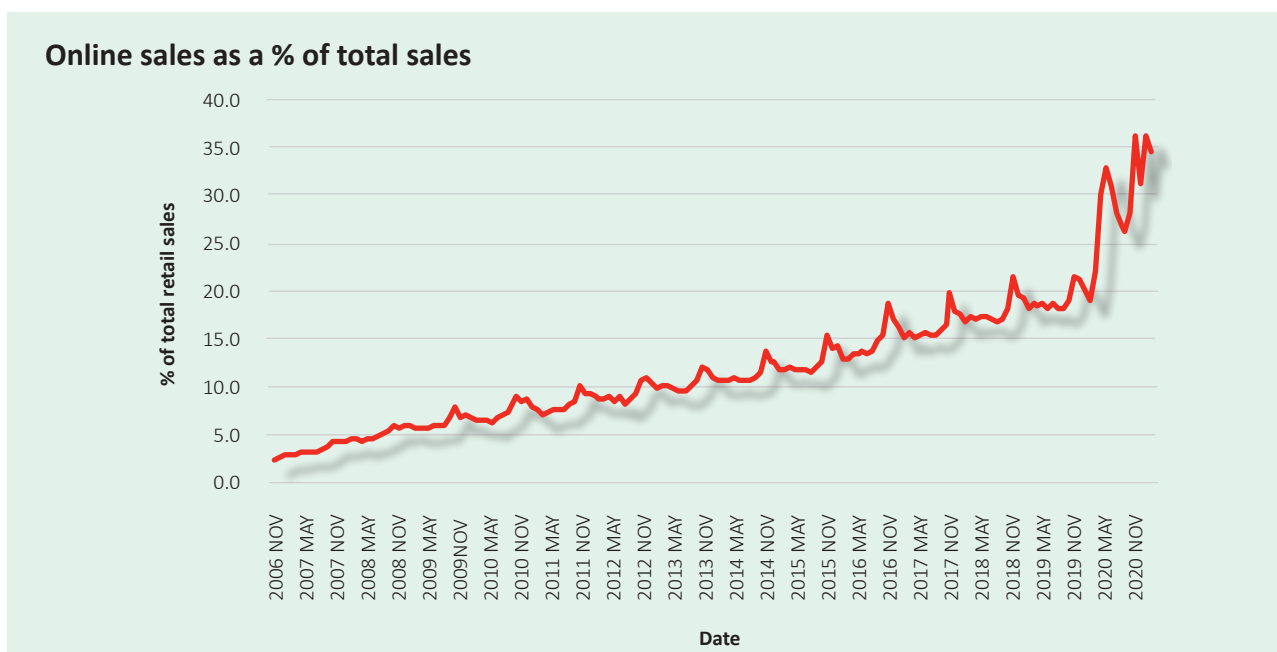
### Trends in Online Sales

There has been a consistent increase in online sales over the past two decades. The growth of e-commerce has created an attractive alternative to shopping on the high street. Features such as next day delivery, free returns and the time saving from not needing to visit a physical store have all encouraged consumers to move towards online shopping.

Indeed, analysis of data from the Office for National Statistics shows that there has been a ten-fold increase in online shopping between November 2006 (2.8%) and November 2020 (36.2%)<sup>x</sup>. This upward trajectory is likely to increase as e-commerce continues to become more convenient and accessible to a broader base of consumers.

Part of this increase is due to the closure of retail premises during the coronavirus pandemic, which has accelerated the increase in online shopping.

THERE HAS BEEN A TEN-FOLD INCREASE IN ONLINE SHOPPING BETWEEN 2006 AND 2020.



<sup>x</sup> <https://www.ons.gov.uk/businessindustryandtrade/retailindustry/timeseries/j4mc/drsi>



Consumers who previously shopped on the highstreet have been forced to look at online alternatives

The Office for National Statistics reported that the proportion of online retail sales reached a record level in January 2021, reaching 35.2%. This was up from 29.6% in December 2020 and was far greater than the 19.5% recorded in January 2020.

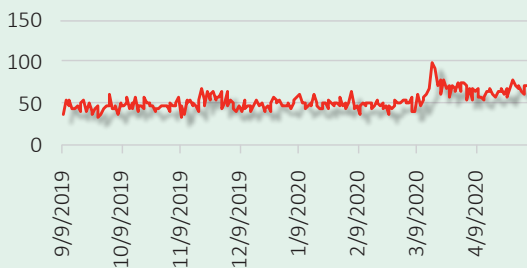
Indeed, Electrical Safety First’s analysis of Google searches showed a tenfold increase in searches for “hair clippers” the fortnight after the first national lockdown was announced on 23rd March 2020<sup>xi</sup>. Increases in the number of searches were seen across a range of electrical goods – including monitors, webcams, and printers.

The increase in online shopping is likely to persist even after lockdown restrictions end. Research by Barclaycard has found that over half of people expect to receive the same (47%) or more (10%) deliveries in the future<sup>xii</sup>.

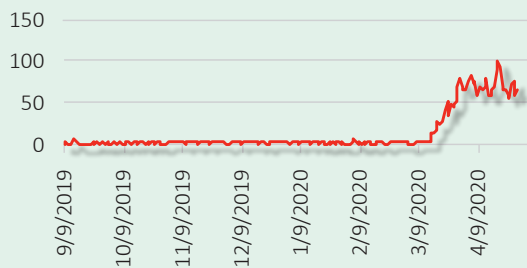
Moreover, the popularity of smartphone devices has given rise to an increase in m-commerce. This has allowed consumers to shop online with increased ease.

## ONLINE RETAIL SALES REACHED A RECORD HIGH IN JANUARY 2021.

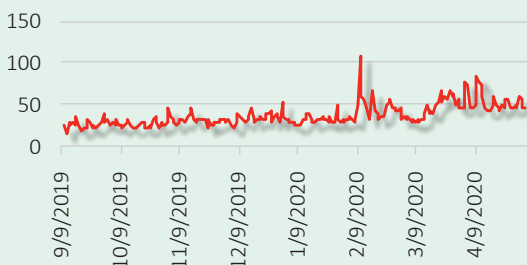
Google searches for “monitor”



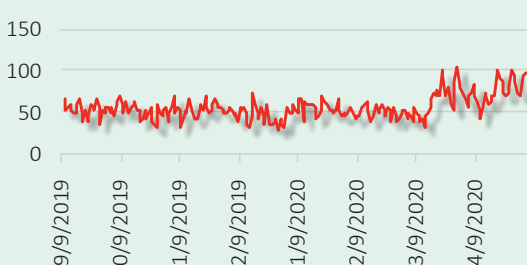
Google searches for “hair clippers”



Google searches for “webcam”



Google searches for “printers”



xi <https://trends.google.com/trends/?geo=UK>

xii <https://home.barclaycard/press-releases/2021/03/Lockdown-legacies/>



## 3.2

### Social Media

#### 3.2.1 Social Commerce

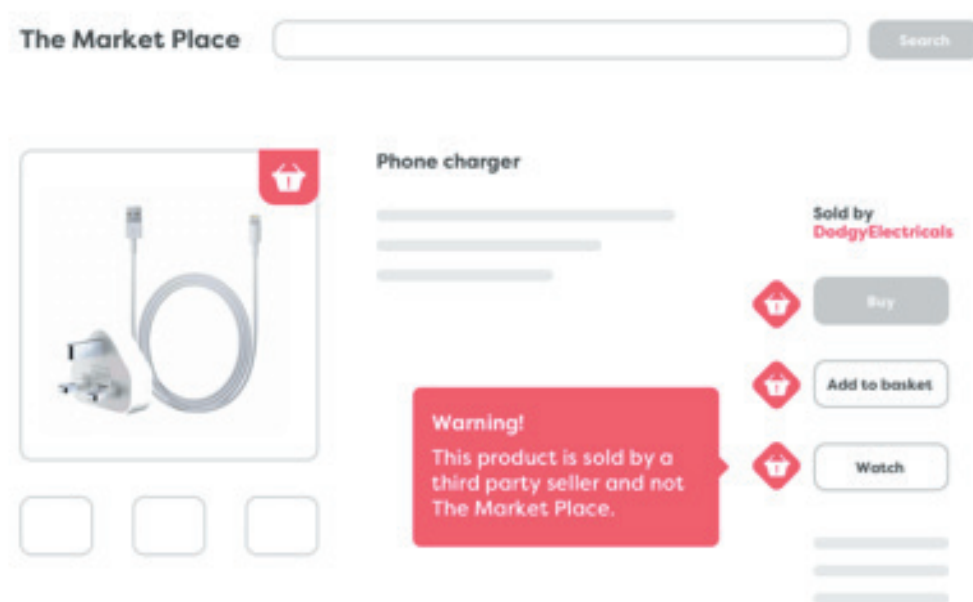
In addition to the “traditional” online marketplaces, social media platforms are increasing their platforms’ capabilities to facilitate sales. Facebook Marketplace was launched in 2016 and Instagram Marketplace in March 2018.

Research by Rakuten found that social media platforms are popular sources of ideas and inspiration when purchasing gifts and other products. Facebook (21%) remains the most influential social media platform when it comes to gift buying, followed by Instagram (19%) and Pinterest (11%)<sup>xiii</sup>. These figures are even higher amongst younger consumers; 46% of Generation Z (18–24-year-olds) use Instagram for ideas and inspiration<sup>xiv</sup>. As consumers are able to browse and purchase goods within a social media app, there is likely to be a significant increase in the use of social media marketplaces within the coming years.

Whilst this creates new opportunities, increasing the opportunity for user-to-user sales and encouraging the re-sale of second-hand products, there are also risks. Facebook, for example, promotes the opportunity for sellers to ‘sell from anywhere’<sup>xv</sup>. This creates a risk as buyers may inadvertently be importing products from outside the UK; these products may be non-compatible for use in the UK and could be unsafe.

The introduction of Checkout in Instagram and live shopping features demonstrates that social media platforms are developing new processes to encourage greater user engagement and interactivity<sup>xvi</sup>. The role that these platforms play in facilitating the advertisement and sale of electrical products is, therefore, likely to grow.

The increased interconnectivity between users and the potential benefits in terms of greater choice and lower prices are positives for consumers. However, these social media platforms have taken a limited ‘hands off’ approach to ensuring consumer safety when it comes to the sale of unsafe electrical goods. Facebook’s guidance makes no reference to recalled electrical products or the potential safety risks



xiii [https://www.bazaarvoice.com/resources/pandemics-and-presents-a-look-at-how-consumers-plan-to-shop-for-the-holidays-in-2020/?utm\\_source=media&utm\\_medium=pr&utm\\_campaign=fy21-q2-uk-holiday&utm\\_content=infographic](https://www.bazaarvoice.com/resources/pandemics-and-presents-a-look-at-how-consumers-plan-to-shop-for-the-holidays-in-2020/?utm_source=media&utm_medium=pr&utm_campaign=fy21-q2-uk-holiday&utm_content=infographic)

xiv <https://internetretailing.net/peak/peak/marketplaces-and-social-commerce--on-mobile--set-to-dominate-peak-shopping->

xv <https://www.facebook.com/business/shops>

xvi [https://business.instagram.com/blog/updates-to-checkout-on-instagram-and-shops-features?locale=en\\_GB#:~:text=on%20Instagram%20page-,LIVE%20SHOPPING,new%20shoppable%20channel%20for%20businesses.](https://business.instagram.com/blog/updates-to-checkout-on-instagram-and-shops-features?locale=en_GB#:~:text=on%20Instagram%20page-,LIVE%20SHOPPING,new%20shoppable%20channel%20for%20businesses.)



associated with electrical goods<sup>xvii</sup> and there is no option to report a recalled product, nor a process in place for recalled products to be alerted to the public.

### 3.2.2 'Check It Out'

The Check It Out extension, developed by Electrical Safety First, can currently be used on eBay and Amazon Marketplace, and will be extended to other platforms in the future. The extension highlights to users that they are buying from a third party rather than from a manufacturer or a recognised retailer and aims to help them make informed decisions by highlighting the potential risks this might bring.

The lack of regulation of online marketplaces means that it is far easier for unsafe electrical products to be advertised and sold. The Check It Out extension seeks to raise awareness amongst buyers, reducing the likelihood of buyers purchasing unsafe electrical products.

Users can download the extension from their browser's store. They then browse Amazon Marketplace or eBay as normal – and are notified when a product is sold by a third-party seller.

### 3.2.3 The Opportunities

Social media platforms, and the advent of social commerce, also present unique opportunities to promote consumer safety. For instance, social media platforms have a high level of user engagement and so could take an active role in raising awareness of product safety on their marketplaces. This includes raising awareness of high-profile recalls and ensuring that consumers are not selling unsafe products to one another (particularly on platforms such as Facebook Marketplace).

Additionally, where second-hand (and potentially recalled) goods would have previously been sold at a car boot sale, for example, these transactions now occur online. Today, platforms such as Facebook Marketplace or eBay connect buyer and seller, so there is now a 'paper trail' of any adverts or sales. This creates an opportunity regarding product safety and recalls. Where a product is deemed unsafe after a sale, there is the opportunity to identify buyers and prevent the product's continued use.

Similarly, online marketplaces are well equipped to prevent recalled products from being listed. For instance, with white

goods, there should be a requirement to enter the serial number before a product can be listed. Automated systems and processes would allow the online marketplace to identify whether a product is recalled – and could, therefore, prevent recalled products from being listed for sale. The platform could also inform the seller that a product is subject to a recall.

Where a product is found to be unsafe in retrospect, online marketplaces have the capability to identify and inform buyers. This presents an opportunity to achieve higher recall success rates which would better protect consumers.

Online marketplaces should also explore how automated systems and processes can further improve safety. This could include verifying sellers, manufacturer details and warranty information before a product is listed on their platform.

## 3.3 eBay

In May 2021, online marketplace, eBay announced that it would work proactively with regulators to remove unsafe products from the platform. This means that eBay will hand regulators direct powers to take down unsafe product listings without consulting eBay beforehand<sup>xviii</sup>.

Officials will be able to remove items "where they have evidence of a risk to consumer safety". In the UK, this will mean that the following bodies will be able to directly remove listings from eBay:

- OPSS;
- Internet regulator, Ofcom; and
- eBay's Primary Authority Partnership, Westminster City Council.

eBay intends for this decision to expedite the removal of "illegal and unsafe items". "Eliminating the need for a second level of approval streamlines the process, [makes] product removal more efficient and [reduces] the risk of harmful products being purchased."<sup>xix</sup>

This is a welcome development as any measure that seeks to prevent the sale of unsafe electrical products is positive. Indeed, this case demonstrates that there is an opportunity

xvii <https://www.facebook.com/help/1252783238218358/?ref=share>

xviii <https://www.bbc.co.uk/news/technology-57021383>

xix <https://www.bbc.co.uk/news/technology-57021383>

for online marketplaces to work with regulators to protect consumers. As a next step, eBay and other online marketplaces should explore the opportunity to proactively prevent unsafe products being listed in the first place.

## 3.4

### Brexit and the European Context



#### 3.4.1 Product Safety Pledge

The UK Government committed to a ‘non-regression’ in product and consumer safety standards following the UK’s withdrawal from the EU.

Of note, the EU launched the Product Safety Pledge in June 2018 (whilst the UK was a member of the EU). This is a voluntary commitment for online marketplace relating to the safety of consumer products sold online by third party sellers.

However, the UK has no equivalent voluntary commitment or pledge in place. As such, the UK has seen a regression in safety standards following the UK’s withdrawal from the EU. Consumers enjoy some level of protection when shopping on online marketplaces in the EU (given the voluntary commitment), but consumers in the UK do not have the same protection.

As part of the Product Safety Pledge, online marketplaces are required to have internal mechanisms to facilitate the removal of recalled and other dangerous products. Online marketplaces must also react within two working days of a government notice to remove an unsafe listing<sup>xx</sup>.

Nonetheless, whilst the Product Safety Pledge provides some protection, it is not adequate. There are several issues with the pledge, in particular:

- As a voluntary commitment, there is no requirement for marketplaces to sign up. In the EU, several substantial online marketplaces – such as Marktplaats<sup>xxi</sup>, Instagram and Facebook Marketplaces have not signed up to the Product Safety Pledge<sup>xxii</sup>.

## TO PROTECT CONSUMERS, THE UK GOVERNMENT MUST MAINTAIN THEIR COMMITMENT TO NO REGRESSION IN PRODUCT SAFETY STANDARDS.

- There are no legal requirements for online marketplaces to comply with the Product Safety Pledge. As such liability cannot be imposed, and there is no ability for governments, the European Commission or consumers to take enforcement action against online marketplaces.
- There is evidence that online marketplaces do not achieve or comply with the voluntary targets. Despite online marketplaces signing up to the voluntary commitment, **1 in 8 (12.5%) of identified product listings were not removed from these marketplaces within two working days**<sup>xxiii</sup>. Online marketplaces do not face penalties if these listings are not removed, but consumers continue to be placed at risk.
- The voluntary nature has meant there is no common standard in terms of reporting – the European Commission notes traceability problems and poor treatment of customers, including generic forms that are not user-friendly or appropriate for unsafe products<sup>xxiv</sup>.
- The European Commission also detailed concerns regarding the monitoring and reporting of Key Performance Indicators.

xx [https://ec.europa.eu/info/sites/info/files/voluntary\\_commitment\\_document\\_2021\\_v5.pdf](https://ec.europa.eu/info/sites/info/files/voluntary_commitment_document_2021_v5.pdf)

xxi <https://www.marktplaats.nl/>

xxii [https://ec.europa.eu/info/business-economy-euro/product-safety-and-requirements/product-safety/product-safety-pledge\\_en](https://ec.europa.eu/info/business-economy-euro/product-safety-and-requirements/product-safety/product-safety-pledge_en)

xxiii Based on governmental notices provided to the established contact points – from the latest update report ([https://ec.europa.eu/info/sites/info/files/4th\\_progress\\_report\\_product\\_safety\\_pledge\\_-\\_final\\_0.pdf](https://ec.europa.eu/info/sites/info/files/4th_progress_report_product_safety_pledge_-_final_0.pdf)).

xxiv Ibid.



So, whilst the Product Safety Pledge provides some protection, it is by no means sufficient.

Given that the UK has left the EU, the Government now has autonomy over UK legislation – including consumer protection legislation. The UK Government can now look at the EU from an independent perspective – with the opportunity to learn from the Product Safety Pledge. Specifically, this includes the drawbacks of a voluntary commitment and the issues noted by the European Commission in delivery reports.

On this basis, to ensure that there is no further regression in standards, but more importantly to ensure that UK consumers are appropriately protected, the UK should introduce legislative measures that create commitments to which online marketplaces must adhere. Legislative solutions that include enforceable measures provide certainty and protection for both consumers and businesses.

Relating to a regression in standards, the Regulation (EU) 2019/1020 of the European Parliament was introduced whilst the UK was a member of the EU, yet these regulations will not apply in the UK. These regulations place an obligation on online marketplaces to co-operate with market surveillance authorities to mitigate risks associated with products that are advertised, sold, or have been offered for sale on their platforms<sup>xxv</sup>. To ensure the UK Government maintains its not their commitment to no regression in product safety standards, it is essential that analogous regulations apply in the UK.

## 3.5 The International Context

### 3.5.1 The United States

The US state of Arkansas has adopted ‘Know Your Business Customer’ (KYBC) legislation relating to online marketplaces. It introduces a series of legislative duties that online marketplaces must adhere to – primarily in relation to the sellers using their platform<sup>xxvi</sup>.

Online marketplaces must:

- Verify information provided by high-volume sellers. These sellers are required to provide information to the online marketplace within 24 hours of becoming a seller.

- Maintain this verifying information and update the information on an annual basis to ensure that it remains accurate.
- Display reporting mechanisms to ensure that buyers can report sellers.
- Ensure that products being advertised and sold by third parties are clearly labelled as such.
- When the online marketplace warehouses, distributes or otherwise fulfils a consumer product (i.e. an online marketplace that also operates fulfilment centres), they must disclose the identity of a third-party seller if that seller is different to the one listed on the product listing page<sup>xxvii</sup>.

The Arkansas Bill is similar in content to the Federal Integrity, Notification, and Fairness in Online Retail Marketplaces for Consumers Act (the “Inform Consumers Act”) which has not yet been adopted. The federal Bill, which is expected to be reintroduced in the US senate, will require online marketplaces to verify and disclose third-party seller information to consumers<sup>xxviii</sup>. Other US states are working towards introducing similar legislative measures.

Within this context, there is a clear international precedent for introducing legislative measures relating to online marketplaces. Given that states within the US have introduced legislation, it is clear they do not believe that it would be prohibitive to the growth and development of online marketplaces. Instead, the legislation, through acting to protect consumers, will instil greater confidence in online marketplaces, and encourage further growth and development.

THE GOVERNMENT  
NOW HAS AUTONOMY  
OVER UK LEGISLATION  
– AND CAN GO  
FURTHER TO PROTECT  
CONSUMERS.

xxv Ibid.

xxvi <https://www.arkleg.state.ar.us/Bills/FTPDocument?path=%2FBills%2F2021R%2FPublic%2FSB470.pdf>

xxvii Ibid.

xxviii <https://www.thefashionlaw.com/newly-reintroduced-legislation-wants-marketplace-operators-to-increase-transparency-for-third-party-products/>

# 4. RECOMMENDATIONS AND SOLUTIONS

## 4.1

### Recommendations



#### **Government must legislate to recognise online marketplaces as actors in the supply chain:**

E-commerce has “blurred the boundaries” between different actors in the supply chain<sup>xxix</sup>. Online marketplaces now play a significant role in facilitating the sale of goods. Therefore, the Government must ensure online marketplaces are recognised as actors within the supply chain. These marketplaces are acting as retailers and distributors and should be recognised as such within legislation and regulation – namely in the Electrical Equipment (Safety) Regulations 2016 and the General Product Safety Regulations (2005).

#### **Office for Product Safety and Standards must have a clearly defined role:**

The current system for product safety has been reactive in responding to changes arising due to e-commerce. A proactive approach is now needed – and OPSS must clearly define its role within the product safety framework. This clarity would benefit consumers and businesses. Additionally, as the national regulator for product safety, OPSS should have clear enforcement powers and should be able to impose proportionate sanctions on online marketplaces who fail to comply with product safety regulations.

#### **Trading standards departments need to be appropriately resourced:**

Local authority trading standards departments need to be appropriately equipped and resourced to deal with the challenges associated with e-commerce. Primary Authority Partnerships have been largely reactive in responding to the growth of e-commerce. Similarly, trading standards departments are not equipped to take enforcement action given the size and scale of online marketplaces. This relationship, therefore, needs to be rebalanced, and to achieve this trading standards departments need to be appropriately resourced.

#### **Online marketplaces must improve their verification and complaints processes:**

Similar to the legislation introduced in Arkansas, online marketplaces must have a legal obligation to inform buyers if a product is being sold by a third-party seller and must inform buyers if the seller is not UK based. Additionally, online marketplaces should introduce a verification process for sellers. They should also have a dispute resolution mechanism and appropriate reporting procedures in place and should clearly detail to buyers where responsibility for product safety lies.

● ONLINE MARKETPLACES SHOULD  
● BE RECOGNISED AS ACTORS IN THE  
● SUPPLY CHAIN.

xxix [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/975098/uk-product-safety-review-call-for-evidence.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/975098/uk-product-safety-review-call-for-evidence.pdf)



**Online marketplaces must remove unsafe product listings:**

Online marketplaces should have a legal obligation to remove unsafe products listed on their platform within 48 hours. This obligation should be binding and enforceable. Where online marketplaces do not comply with this legislation, OPSS (or another national regulator) should be empowered to take enforcement action against the marketplace.

**Online marketplaces must take a proactive approach to recalls:**

Where a product has the potential to be subject to a recall, online marketplaces must introduce systems and processes to verify whether the product is recalled. For instance, white goods, online marketplaces should require sellers to provide serial numbers for the machines. These could then be cross-referenced against the national recall database. This would allow sellers to verify their products (increasing confidence) but would also prevent unsafe recalled products from being sold. In addition, if a product is subject to a recall after being sold, the online marketplace should contact buyers. A positive of online sales is that it presents an opportunity to improve traceability and the success rate of recalls.

## 4.2

### Legislative Solutions



To protect consumers, it is vital that these recommendations be delivered. The required legislative changes could be achieved through forthcoming Government Bills, including the Online Safety Bill, the Product Safety and Telecommunications Bill, or legislation that follows the Product Safety Review.

In addition, Electrical Safety First has drafted a Bill which would see online marketplaces be legally responsible for preventing listings of unsafe electrical products on their platforms. The Bill seeks to ensure that online marketplaces are bound by a clear legal obligation to prevent the sale of unsafe electrical goods<sup>xxx</sup>.

Electrical Safety First looks forward to working with the Government and other stakeholders to deliver the recommendations of this report.

Ultimately, it is important to ensure that consumers have equal protections regardless of whether they are shopping on the high street or on an online marketplace<sup>xxxi</sup>. This will protect consumers, their families, and their homes.

⋮ ONLINE MARKETPLACES  
⋮ MUST REMOVE UNSAFE  
⋮ PRODUCTS AND IMPROVE  
⋮ THEIR COMPLAINTS  
⋮ PROCESSES.

xxx <https://www.electricalsafetyfirst.org.uk/media-centre/press-releases/2020/10/game-changing-new-bill-would-see-online-marketplace-giants-legally-responsible-for-dangerous-product-listings/>

xxxi Ibid.





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