

Overview

Electrical Safety First is the UK charity committed to reducing the number of deaths, injuries, and fires in the home.

Electrical Safety First welcomes the review into Reforming Consumer and Competition Policy. In line with our remit, our submission focuses on the need to protect consumers from the sale of unsafe electrical goods from online marketplaces where consumers do not have the same legal protections as they would when buying from a high street retailer. In responding to the questions, this submission seeks to provide pragmatic solutions to protecting consumers, and, in turn, encourage business innovation and growth.

In addition to our submission, Electrical Safety First has produced the following reports [Online Marketplaces - The Need for Change](#) and [Online Marketplaces - The Evidence and Impact](#) which provide further context to the issues we have identified.

44. What ‘reasonable and proportionate’ steps should be taken by businesses to ensure consumer reviews hosted on their sites are ‘genuine’? What would be the cost of such steps for businesses?

Electrical Safety First advises consumers not to trust unverified reviews on online marketplaces, as their authenticity has not been checkedⁱ. In addition, Electrical Safety First has found that some electrical products with positive reviews (and indeed, some that are recommended by online marketplaces themselves) are unsafeⁱⁱ. For example, an investigation conducted with BBC Watchdog found that unsafe electrical products that were “Amazon’s Choice” were unsafe. Amazon’s Choice products are determined based on several factors, including positive ratings.

Verified Reviews

Certain online marketplaces have introduced a facility to cross-reference user reviews with their buyer database and label these people as “verified purchasers”ⁱⁱⁱ. This should be a compulsory requirement for all online marketplaces and would be a ‘reasonable and proportionate’ step for them to take to ensure that consumer reviews are genuine.

Online marketplaces already hold this information on buyers, and it would not be onerous for them to introduce systems and processes to verify the identity and authenticity of reviews hosted on their sites. In fact, by doing so, online marketplaces would increase consumer's trust in their platforms.

This increased trust in online platforms is also important from a consumer protection perspective. Verifying reviews would allow consumers to make better informed purchasing decisions based on more accurate and complete information.

Verifying Sellers

In addition, online marketplaces should seek to introduce a similar verification process for sellers. It is not enough to ensure that buyers' reviews are genuine, as this does not mitigate all the risks of consumers purchasing an unsafe product. It is important that online marketplaces have data on and verify the sellers on their platforms too.

This is because, if there are concerns (for instance, with the safety of the product being sold via an online marketplace), it should be possible for the online marketplace to contact the seller to address these directly. This would act to protect both the buyer and online marketplace by:

- a. improving the reputation and trustworthiness of the online marketplace; and
- b. ensuring that another actor in the supply chain can be held to account for ensuring product safety.

A similar process has been introduced in the US state of Arkansas^{iv}. Arkansas has passed the Online Marketplaces Consumer Inform Act. This places obligations on online marketplaces to verify the identify of sellers, including bank details and addresses. There is then a requirement for online marketplaces to maintain a record of this information and update this information on an annual basis.

This legislation is similar in nature to a Bill expected to be adopted on a federal level, that would place obligations on online marketplaces across the US^v. As such, there is an international precedent for verifying sellers' information. Similar legislation in the UK would act to protect consumers. Verifying sellers (and indeed, reviewers) encourages more accurate information to

be listed on online platforms. This in turn allows consumers to make more informed purchasing decisions based on more accurate information. This will reduce the risk that consumers unwittingly purchase unsafe electrical products.

46. Are consumers aware of businesses using behavioural techniques to influence choice that affect their purchasing decisions? Is this a concern that they would want to be addressed?

Awareness of behavioural techniques

There is a concern that consumers are not aware of the impact that behavioural techniques may have on their purchasing decisions. One such example is products recommended by online marketplaces. These recommendations have an impact on consumer decisions, with consumers believing that recommendations are an indicator of quality and/or safety. As such, consumers are more likely to buy these products.

This is evidenced by a BBC Watchdog investigation. This investigation found that Amazon customers believed that the Amazon's Choice label demonstrated approval of a product and implied that Amazon had tested the products quality or safety. This was not the case^{vi}.

Indeed, Electrical Safety First investigated this issue in conjunction with BBC Watchdog and found that products, which were recommended as Amazon Choice, were in fact unsafe.

Is this a concern consumers want to be addressed?

The behavioural techniques that seek to influence consumer choice and encourage them to purchase potentially unsafe products needs to be addressed.

This is a risk given the impact that unsafe goods can have. For instance, the death of Linda Merron caused by an unsafe air freshener sold on eBay demonstrates that significant consumer harm can result from the sale of unsafe goods on online marketplaces^{vii}.

Online marketplaces should not be recommending unsafe products to consumers or seeking to influence consumer behaviour by encouraging them to buy unsafe products. Recommendations should only be used where an online marketplace can guarantee the quality and safety of the product.

In addition, online marketplaces should be informing consumers where a product is sold by a third-party seller and where the online marketplaces have no responsibility for ensuring product safety. By doing so, the online marketplace would allow consumers to make more informed purchasing decisions that would allow consumers to consider safety considerations with a more accurate information set.

48. Are there examples of existing consumer law which could be simplified or where we could give greater clarity, reducing uncertainty (and cost of legal advice) for businesses/consumers?

Recalls and Registrations

Consumers are unfamiliar with the benefits of registering their goods, particularly white goods. Research conducted by the Office for Product Safety and Standards found that the primary reason for not registering products was that consumers saw registrations as being unnecessary and having limited benefits^{viii}.

However, consumers have legal protections and consumer rights are enshrined in law by the Consumer Rights Act 2015. This allows consumers to request a refund, return or repair where they purchase a product that is faulty^{ix}.

Particularly with recalled goods, consumers are not always aware of the legal remedies available to them. There needs to be greater clarity and awareness raising surrounding existing consumer laws to ensure that consumers are aware of the protections they have if a product they have bought is subject to a recall.

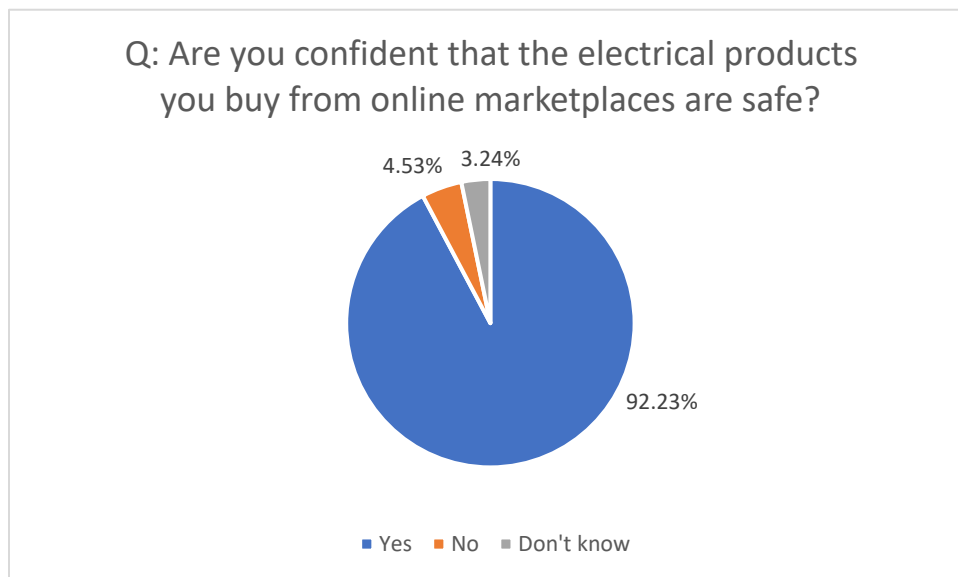
In addition, secondary legislation and regulations should provide more detail on the best practice for manufacturers in terms of conducting recalls.

Online marketplaces

Online marketplaces are not subject to the same regulations as the high street. Online marketplaces are not recognised as actors in the supply chain, and as such, legislation including

the Consumer Protection Act 1987, Electrical Equipment Safety Regulations 2016 and the General Product Safety Regulations 2005 do not apply to these platforms. This means that:

- a. Consumers have limited recourse for action when sold an unsafe product on these platforms; and
- b. That these platforms are popular with those selling unsafe products.



As indicated above, consumers have a high level of trust in online marketplaces and assume that the products sold on these platforms are safe. A Censuswide survey conducted for Electrical Safety First found that 92.23% of consumers were confident that the electrical products they bought on online marketplaces were safe^x.

This is not the case and electrical products sold on online marketplaces are not always safe. An investigation by the Office for Product Safety and Standards found that 62.5% of electrical products bought and tested from online marketplaces were non-compliant. Of the electrical products tested, 30% were found to be unsafe^{xi}. This indicates that consumers' trust in online marketplaces is misplaced.

To provide consumers with clarity, existing consumer protection legislation should be updated to ensure that online marketplaces are recognised as actors in the supply chain. New methods of commerce, including e-commerce and m-commerce, have altered how modern-day transactions take place, and it is important that consumer protection legislation keep pace with this change.

Recognising online marketplaces as actors in the supply chain will provide clarity to businesses and consumers. This change would also simplify legislation by ensuring that consumers enjoy the same protections regardless of whether they are shopping on an online marketplace or the high street. This is particularly important given that the Covid-19 pandemic and the closure of high street retail has resulted in an increasing number of consumers shopping online. A consumer survey conducted for Electrical Safety First found that in 2020, 53% of consumers would be using online marketplaces more than in previous years for their Christmas shopping^{xii}.

49. Are there perverse incentives or unintended consequences from our existing consumer law?

The existing consumer laws

Current consumer laws mean that online marketplaces are not subject to the same regulations as the high street. Indeed, online marketplaces are not recognised as actors in the supply chain. As such, legislation including the Consumer Protection Act 1987, Electrical Equipment Safety Regulations 2016 and the General Product Safety Regulations 2005 do not apply to online marketplaces.

This means that consumers have no recourse for action when they are sold an unsafe product on an online marketplace. Where the online marketplace facilitates a consumer-to-consumer sale, or where the product is imported from abroad, no party is responsible for ensuring product safety.

By contrast, with a product sold on the high street, the actors in the supply chain (i.e., the retailer, the manufacturer, and/or importer) are responsible for ensuring product safety. In some instances, this liability is shared across the actors. This means that multiple parties are accountable, and consumers have clear recourse.

The perverse incentive

This creates a perverse incentive for those selling non-compliant and potentially unsafe products. These sellers are encouraged to sell their products on online marketplaces. This is a **direct consequence** of online marketplaces being unregulated and consumers having no recourse for action when they are sold an unsafe product.

The unintended consequences

The unintended consequence is that consumers are purchasing unsafe products on online marketplaces. This has been illustrated time and again by research undertaken by Electrical Safety First – and similar research by the Office for Product Safety and Standards.

For instance, in one investigation, Electrical Safety First found that 14 out of 15 electrical products bought and tested from online marketplaces were unsafe^{xiii}. Another investigation found that 98% of counterfeit chargers that were tested (including from online marketplaces) had the potential to cause a fire or an electrical shock^{xiv}.

ⁱ <https://www.electricalsafetyfirst.org.uk/guidance/safe-shopping-and-counterfeit-products/>

ⁱⁱ <https://www.electricalsafetyfirst.org.uk/media-centre/press-releases/comment-on-bbc-watchdog-investigation-into-dangerous-products-sold-via-amazon-marketplace/>

ⁱⁱⁱ <https://www.electricalsafetyfirst.org.uk/guidance/safe-shopping-and-counterfeit-products/>

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

^v Ibid.

^{vi} <https://www.bbc.co.uk/programmes/articles/2MYht78PBdMSG2MKSGV4rpg/watchdog>

^{vii} <https://www.bbc.co.uk/news/uk-wales-south-west-wales-35870861>

^{viii} https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/923600/consumer-attitudes-product-safety-report.pdf

^{ix} <https://www.choose.co.uk/guide/how-long-to-claim-against-a-faulty-product.html>

^x Censuswide survey conducted for Electrical Safety First in November 2020.

^{xi} https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/941095/opss-delivery-report-2019-2020-annex-product-safety.pdf

^{xii} Censuswide survey conducted for Electrical Safety First in November 2020.

^{xiii} <https://www.electricalsafetyfirst.org.uk/media-centre/press-releases/2019/11/online-marketplaces-failing-to-tackle-sale-of-potentially-deadly-electrical-items-as-investigation-reveals-serious-product-failures/>

^{xiv} <https://www.electricalsafetyfirst.org.uk/guidance/product-safety/chargers/>.