1st PROGRESS REPORT ON THE IMPLEMENTATION OF THE PRODUCT SAFETY PLEDGE

Introduction

In June 2018, four online marketplaces (AliExpress, Amazon, eBay and Rakuten France), signed a Product Safety Pledge. The conclusion of the Pledge was facilitated by the European Commission with the objective of increasing the safety of products sold online by third-party sellers through online marketplaces. This initiative, which is the first one of its kind in the product safety area, sets out specific voluntary actions in 12 different areas by online marketplaces that go beyond what is already established in EU legislation.

As part of the Pledge, signatory online marketplaces have committed to report to the European Commission every six months on the actions taken to implement the Product Safety Pledge, with the inclusion of key performance indicators. This first monitoring report covers the period from 1 October 2018 to 31 March 2019.

The information included in this document has been reported by the four signatories. A third party has combined the inputs.

Quantitative Report: Key Performance Indicators (KPIs)

KPI 1: % of identified product listings removed within 2 working days, based on governmental notices provided to the established single contact points.

Aggregated KPI among the four signatory marketplaces: 87.36%

KPI 2: % of identified product listings removed within 2 working days found through the monitoring of public recall websites, such as the EU Safety Gate.

Aggregated KPI among the four signatory marketplaces: 92.04%

Qualitative Report on the actions taken on the 12 points contained in the Pledge

1. Consult information on recalled/dangerous products available on the Safety Gate and also from other sources, such as from enforcement authorities. Take appropriate action in respect to products concerned, when they can be identified.

All four signatories consult the information available on the Safety Gate on a regular basis. One company consults the website on a daily basis. Two companies consult the website on a weekly basis. One company carries out checks in a less frequent manner.

During the monitoring period, several signatories also consulted information on other recall websites managed at Member State level (such as DGCCRF’s website) and also at international level (the OECD Global Recall Portal or the ACCC’s website).

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2. While the Product Safety Pledge was signed on 25 June 2018, signatories asked the European Commission for more time to set up their internal monitoring structures. Consequently, it was agreed that the start date for monitoring the progress of the marketplaces would be 1 October 2018.
3. Both KPIs represent the arithmetic average of the percentages provided by the four signatories, they do not represent the weighted average according to the number of products reported.
When consulting the Safety Gate and other public recall portals, if the signatories identify any products that are listed on their website, they take appropriate action, such as the removal of the relevant product from their listing. On average, 92.04% of products identified by the marketplaces through the monitoring of the Safety Gate have been removed from their listings in 2 working days (see KPI 2).

2. Provide specific single contact points for EU Member State authorities for the notifications on dangerous products (“notice”) and for the facilitation of communication on product safety issues.

All the signatories have set up contact points for the national authorities. Three companies have dedicated a single email address for all EU market surveillance authorities to notify dangerous products, with one of them setting up an additional email address for broader, less time-sensitive queries. The fourth company has dedicated two email addresses for those authorities located in the biggest EU countries in which they operate, in order to facilitate communication in the relevant local language, and they have kept another email address for the rest of the EU authorities.

3. Cooperate with EU Member State authorities in identifying, as far as possible, the supply chain of dangerous products by responding to data requests should relevant information not be publicly available.

Two signatories have never been approached by EU Member State authorities to provide such information.

Out of the two other signatories that have been contacted for this purpose, one has provided, when requested, information relating to third-party upstream suppliers, including a registered address, contact information and the number of products sold (including those sold in the relevant Member State). The other company indicated that the authorities’ requests were too broad, so no information was provided.

4. Have an internal mechanism for notice and take-down procedure for dangerous products. This should include commitments from the marketplace’s side on the procedure they will follow when notices are given by authorities and other actors.

All the signatories have in place internal mechanisms for notice and take-down procedures so that companies can react swiftly to notifications from authorities and customers.

As part of those mechanisms, all the marketplaces have committed to take at least some of several actions:

- To remove the product listing;
- To educate and provide further information to sellers;
- To take appropriate sanctions against the seller depending on its violation history;
- To request sellers to contact customers and recall the product;
- To warn sellers about notifications of dangerous products;
- To inform the reporting authority of their actions;

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4 France’s General Directorate for Competition Policy, Consumer Affairs and Fraud Control
5 https://globalrecalls.oecd.org/
6 Australian Competition and Consumer Commission
• To take actions to act against offenders.

5. React within two working days to government notices made to the single contact points to remove identified listings offering unsafe products for sale in the EU. Inform the authorities on the action taken.

All the signatories have a process in place to react to notifications from EU Member State authorities. On average, during the monitoring period, 87.36% of the product listings, based on notices from authorities to the established contact points, were removed by the signatories within 2 working days (see KPI 1). Some of the signatories have indicated that the reason why some of the product listings were not removed within two working days stemmed from notices that did not allow the straightforward identification of the product, such as insufficient information.

6. Provide a clear way for customers to notify dangerous product listings. Such notices are treated expeditiously and appropriate response is given within five working days.

All of the signatories have procedures in place for customers to notify dangerous product listings. The established mechanism differs from one company to another.

Two companies allow customers to file a report by clicking a specific button on each product listing. Both companies have received several notifications from customers during the monitoring period. One of the companies has taken appropriate action within 5 working days for all the customer notifications it has received. The other company has pointed out that in some cases specific circumstances have led to longer response times.

One company allows consumers to contact them via Customer Service and customer reviews. The information is then passed on for investigation. Concerns are investigated in accordance with internal procedures and are reviewed and acted upon, if appropriate, within the five working day deadline.

One company has included a general section on the homepage of the marketplace’s website. In this case, the company has not received (during the monitoring period) any notifications from customers regarding dangerous products.

7. Provide information/training to sellers on compliance with EU product safety legislation, require sellers to comply with the law, and provide sellers with the link to the list of EU product safety legislation.

In this area, three companies have taken several actions. One company has not implemented any measure to provide either information or training to sellers.

Of the three companies that have taken action, one of them has provided relevant information to sellers on product safety issues as part of its internal policy. Two signatories request all sellers to comply with local laws (including compliance with EU product safety legislation) according to their terms and conditions. One of the companies have provided a number of sellers with specific information concerning their products and certain relevant laws. One of the marketplaces has also carried out training sessions; however, the company has not kept statistics on the exact number of sellers that have been trained.
8. Cooperate with EU Member State authorities and sellers to inform consumers about relevant recalls or corrective actions.

All signatories have shown their willingness to cooperate with national authorities by requesting sellers to contact concerned consumers about relevant recalls or corrective actions. However, during the monitoring period, three of the signatories said they had not been contacted by EU authorities in relation to a product recall, so no further action has been taken by any of them in this respect.

One of the signatories was contacted by an EU authority during the monitoring period and asked to take further actions. The signatory complied with the request.

Moreover, two companies have established a mechanism to inform consumers directly about product recalls, although only one company has already made use of it.

9. Cooperate with authorities and set up a process aimed at proactively removing banned product groups as appropriate.

All the signatories have cooperated with authorities for the proactive removal of banned product groups. However, in most cases this cooperation has not led to any specific action by the marketplaces.

One company has established cooperation with a few national authorities to set up blocking filter rules based on keywords. These filters have been developed to prevent the creation of listings of unsafe products on their respective marketplaces. If a seller tries to offer a product under a dangerous group for which blocking filters are in place, the unsafe product will not appear online.

10. Put in place measures to act against repeat offenders offering dangerous products in cooperation with authorities.

All companies have in place a procedure of sanctions against repeat offenders as part of their company’s policies.

Two signatories apply different sanctions to repeat offenders based on a case-by-case assessment. One of them apply different sanctions to first-time offenders and repeat offenders. For the other marketplace, in the case of sellers acting intentionally, or trying to circumvent the company’s enforcement, the company proceeds with the suspension of their account. For unintentional repeat violations, softer sanctions are taken. The company has not provided information on how they assess whether or not an offence can be considered as intentional.

Another signatory has established a system of penalty points targeting repeat offenders, which leads to the shutdown of online shops in the case of accumulation of violations.

The final signatory is deploying an engagement programme gradually during the course of 2019, starting with addressing the two most serious offences: fraud (e.g. where a seller has deliberately provided fraudulent documentation to circumvent a compliance requirement), and non-compliant

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7 All the companies have established a system of blocking filter rules; however, only one of them has agreed the selection of keywords with market surveillance authorities.
brands (e.g. brand owners that are not permitted to sell products in Europe as they fail to meet European regulations).

11. Take measures aimed at preventing the reappearance of dangerous product listings already removed.

All of the marketplaces have taken measures aimed to prevent the reappearance of unsafe product listings. In particular, all the companies have incorporated blocking filter rules to impede the reappearance of these product listings (see point 9 above).

One of the signatories has confirmed that it creates rules to prevent listings of products that are part of the same lot as the one identified as dangerous.

Moreover, one signatory has signalled that the sanction system they have put in place might also act as a deterrence, so repeat offenders stop relisting dangerous products already removed from the marketplaces. Another signatory has a system in place to detect and suspend or block an account if the seller tries to relist a blocked or recalled product.

12. Explore the potential use of new technologies and innovation to improve the detection of unsafe products.

All companies have made some progress in this area. Three companies have only focused on the development of keywords filtering. The last company already has strong controls in place that rely on new technologies and innovations to detect unsafe products.