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Consultation Response

Which? response to the Call for Evidence on the future of UK toy safety regulation

Submission date: 6 October 2026

Summary

Which? welcomes this opportunity to respond to the Call for Evidence on the future of UK toy safety regulation. It is important that the government's response to this Call prioritises how the UK regulatory framework can be strengthened to improve child safety.

The recent updating of the EU's toy safety regulation (2025/2509/EU) means that the UK now lags behind in several key areas of child safety. It is important that the UK also strengthens its regulations in line with the EU's approach including enhancing chemical safety, requiring safety assessments to include a broader range of hazards and potential harms including mental health, psychological safety and cyber risks, bringing in stricter noise limits and enhancing traceability and verification through the development of, and requirement for, digital product passports.

This is also an example of a product category that has become readily available on online marketplaces and where the on-going failure to introduce a duty on online marketplaces to ensure the safety of products listed by sellers on their platforms leaves consumers poorly protected and places children at major risk. Our investigations have repeatedly highlighted that unless this duty is introduced, supported by stronger enforcement and fining powers, online marketplaces will never make safety a priority over profit.

Full response

Which? welcomes this opportunity to respond to the Call for Evidence on the future of UK toy safety regulation.

It is crucial that toys are effectively regulated so that they are safe for children to use. This call for evidence should be an opportunity to ensure that the UK has a robust framework in place that is able to deal with all relevant hazards effectively and protect the most vulnerable of consumers from harm.

The nature of the market and regulatory environment has evolved significantly in recent years in terms of how many people buy products, with an increasing number shopping online and buying through online marketplaces, as well as the nature of the toys and the risks they present. The scientific understanding of the nature of potential risks has also evolved considerably.

Our investigations have uncovered several concerning developments that we do not feel the current regulatory framework is addressing appropriately and therefore hope that they can be dealt with through the response to this Call. As we find with other product categories, the sale of unsafe toys on online marketplaces is particularly problematic.

Investigations and testing projects undertaken by Which? over the last few years, set out below, have highlighted how unsafe toys are readily available to buy. Most of the problems identified in these investigations relate to failures of compliance and enforcement with British safety requirements, but several also reflect weaknesses in the requirements in the regulations or standards themselves. These investigations reinforce the need to strengthen toy safety regulations and their enforcement.

Most recently, Which? investigations have highlighted [toys containing sand that contains asbestos](#). This indicates failings in terms of traceability and supply chain due diligence, as well as a failure of enforcement action given that repeated products have continued to be identified as containing asbestos over several months.

Last year, our [In Plain Sight investigation](#) found hundreds of unsafe products for sale on online marketplaces. This project used reverse image search technology to examine online marketplaces to see if unsafe products that had been subject to OPSS safety alerts were freely available for consumers to buy. Several unsafe toys were among these products. These included expanding water beads posing a serious choking hazard, a Montessori Sound Tree wooden musical toy which included small balls posing a clear choking hazard to young children, a Montessori busy board with small detachable parts that present a choking risk, as well as multiple loops that create an entrapment risk, a baby fidget spinner with incorrect and misleading labeling that suggested the toy was intended for children under 36 months, despite also carrying a warning about a choking risk and a 3D-printed dinosaur with small parts and therefore also a choking risk.

The findings highlight how controls over online marketplaces continue to be inadequate as these recalled products were very easy for Which? to find, but had not been identified and removed by the marketplaces. The government needs to urgently come forward with a legal duty on online marketplaces to ensure they take responsibility for the safety of the products that they list on their platforms, backed up by strong penalties to incentivise compliance.

Previous Which? investigations into unsafe toys

[Unsafe balloons](#) - In 2025 we found problems with balloons with up to six times the safe level of cancer-causing chemicals, nitrosamines and nitrosatable substances, based on testing to the appropriate British Standard for toys, that were available from AliExpress, Debenhams, eBay, Shein and The Range

[Unsafe toys on online marketplaces](#) - In 2024, we bought 23 toys from AliExpress, eBay, Fruugo, Temu, Tiktok and Wish and found serious safety problems with 12 of them including: a toy pig bought from a seller on Fruugo whose eyes fell off in testing, a choking hazard for a small child if they were swallowed; a magnetic fishing set where the magnets detached during testing, bought from an eBay seller (the tiny magnets are a choking hazard and could seriously hurt any child who swallowed them); a baby's teether with ribbons, from Fruugo, so long that they posed a strangulation risk, and bells with sharp edges that could cut a baby's soft skin; and a musical, elephant-shaped hanging crib toy bought from a seller on Wish. The batteries weren't safely secured and posed a swallowing risk for small children.

[Button battery, magnet and choking hazards in online marketplace toys](#) - In 2021, more than 40% of toys we bought from AliExpress, Amazon, eBay and Wish failed standard safety tests and were unsafe, with some failing multiple times for different hazards. Ten toys presented a choking risk for a child, two toys posed a strangulation risk, two toys had either swallowable magnets or accessible batteries that could cause serious internal harm to a child if ingested and overall we found more than 50 safety failures in the 12 toys that failed safety tests.

Pan-European tests with our sister organisations - In 2020 we published the results of collaborative testing by consumer organisations, including Which?, from across Europe which found that 66% of the 250 products bought from online marketplaces failed safety tests. In the case of toys, 19 out of 20 baby toys failed, all 5 of the balloons tested failed, 9 out of 29 plastic toys failed, 10 out of 11 children's make up and 4 out of 8 teething toys. The full results are set out [in this news story](#).

Phthalates in toys - A [Which? investigation](#) in 2019 discovered a doll containing a toxic chemical banned by the EU on sale at Smyths Toys. The Cry Babies Nala doll was recommended on the Smyths Toys website at the time as suitable for children from 18 months. The sample of the doll we tested contained phthalates at 25% above the legal limit.

[Choking risk-teethers](#) - Six popular teething toys we bought from John Lewis, Amazon and Amazon Marketplace in 2019 failed standard safety tests designed to see whether any parts of the toy detach.

[Flammable Halloween costumes](#) - We tested 20 children's Halloween fancy dress outfits in 2018 which were being stocked by online and high street shops and supermarkets including Sainsbury's, eBay and Amazon. Two of the outfits in our tests did not meet the requirements of the British safety standard (BS EN 71-2). These were a Maleficent costume, which we bought from eBay but was made by Spanish company Fiestas Guirca, and a werewolf costume from B&M. Some fancy dress costumes are tested to a stricter flammability level than what's required by British law. This is a voluntary code of practice produced and designed by retailers and manufacturers in collaboration with the British Retail Consortium.

[Boron levels in toy slime](#) - Our tests in 2018 found children's toy slime on sale with up to four times the EU safety limit for levels of boron. Exposure to excessive levels of boron could cause irritation, diarrhoea, vomiting and cramps. Even more worryingly, studies of high levels of boron in animals have been linked to low birth weights, birth defects and developmental delays. Less than 30% of slimes met the safety standards

Smart toys - We have also looked specifically at the safety of smart toys. [A Which? investigation in 2017](#) found that Bluetooth or wi-fi toys available at major retailers could be easily 'hacked', potentially enabling a stranger to talk to your child. [A further investigation in 2019](#) raised similar concerns about smart toys, including karaoke machines and toys from Mattel and Vtech.

Question 1: What factors should be considered if the UK were to continue its recognition of new EU product requirements for toys, including the CE marking?

The priority should be to ensure that toy safety regulations are effective at controlling the risks that children could potentially be exposed to when playing with toys - and that these are effectively enforced. We think that the updates the EU has made to the EU Toy Safety Regulation were positive and addressed several risks that have emerged in recent years that the UK regulations do not currently deal with.

It is therefore appropriate that the UK recognises these requirements and, as set out in the main part of our response to Question 2, strengthens the UK toy safety regulations in line with changes that the EU has introduced.

It is also important that the OPSS uses this opportunity to take a comprehensive look at the nature of risks that have emerged or could be on the horizon to make sure that the UK regime is fully fit for purpose and, to the extent possible, future proofed. As part of this, we think that it could also be beneficial to review how toys are marketed as suitable for specific ages. We find, for example, toys that are marketed as for children 3+, but seem more likely to be aimed at babies and young children due to their nature - and where stricter regulation applies.

The overriding priority when conducting this review should be to ensure that there is appropriate child safety. This also remains an area where a high level of prescription will be

required to ensure that regulatory requirements are clear and can be effectively enforced given the vulnerable nature of the consumers who are affected. As part of its wider product safety review, the OPSS consulted on whether the future product safety framework should make greater use of voluntary standards rather than regulations. We expressed concern about this proposal and we think that this is a category where it is essential that there is absolute clarity about what is required and where regulations or mandatory standards are found to be inadequate, they should be strengthened.

The EU Regulation also reinforces the importance of the precautionary principle and article 1 emphasises the importance of preventive action by market surveillance authorities where there are suspicions that the product could have potentially dangerous products. It is important that the UK also continues to uphold the importance of this principle.

Question 2: What factors should be considered if the UK Government were to implement the same approach to the EU Toy Safety Regulation 2025/2509 across the whole of the UK?

We would be strongly in favour of legislation to implement similar measures. This will enhance consumer protection in several key areas.

- **Recognition of a broader range of hazards**

The Regulations place obligations on manufacturers to carry out a safety assessment including an analysis of the hazards that a toy may present, as well as an assessment of any potential exposure to such hazards.

As set out in the Call for Evidence, the updated EU Regulation has updated the nature of the hazards that must be included in this assessment, reflecting the types of products that are now available and evidence of the changing nature of the types of risks that can affect child safety, including the introduction of smart and AI enabled toys.

The EU has incorporated mental health and psychological safety into its pre-market safety risk assessments, acknowledging the nature of the harms that may arise from these types of toys. Toys can impact mental as well as physical well-being, cause sleep deprivation and/ or expose children to cyber risks so it is vital that the UK regulations also incorporate these potential harms.

- **Enhanced chemical safety**

The EU Regulation strengthens protections against chemical hazards both in terms of stronger prescriptive requirements and industry safety assessments, which also reflects the way that hazards have evolved - and new types of risk need to be more explicitly addressed within the UK requirements.

The EU legislation has introduced bans on several hazardous chemicals that are currently not dealt with by the UK regulations and which are particularly harmful to children. This includes endocrine disruptors, substances that are particularly harmful to the respiratory system, per- and polyfluoroalkyl substances (PFAS), skin sensitisers and a range of bisphenols. It is also positive that allergenic fragrances will be prohibited in toys for children under 36 months and in toys designed to be placed in the mouth.

Under the new EU approach, the industry is required to conduct safety assessments that take account of chemical risks, including trades of prohibited substances and known combination effects. Scientific opinions from the European Chemicals Agency (ECHA) are required to consider overall exposure, known combination effects and the vulnerability of children.

- **Stricter noise limits**

The EU Regulation also specifies that toys should be designed and manufactured in such a way that the sound from them is not able to impair children's hearing. The EU has recognised that noise thresholds should not be left to voluntary standards and, in the same way as occupational health standards, children should be protected from excessive continuous and sudden impulsive noise that can damage a child's sensitive ears.

- **Enhanced traceability and verification**

The introduction of Digital Product Passports (DPPs) will enhance traceability and also make it easier for product conformity to be verified by business operators and enforcement bodies. The DPP is required to be accurate, complete and up to date, available for 10 years after placing on the market, notified to the EU's DPP registry (for traceability and automated customs checks) and accessible via a data carrier, ie. a QR code, on the toy or label. Consumers will also be able to access some DPP information but the extent of what they can access is still to be defined.

We think that this is also a positive development that the UK should follow. There is also potential for the UK and EU to cooperate as these passports are introduced as they will improve traceability across supply chains and provide a vital source of information for both UK and EU competent authorities, including customs authorities.

We welcome the specific obligation on online marketplaces to display a link to the digital product passport and to provide safety warnings and the CE marking to indicate that a product is compliant - although effective legal duties and enforcement is key (see below).

DPPs should also provide a means for consumers to have greater assurance that what they are buying is compliant and to find out useful information about the product.

Question 3: Are there are any opportunities to make administrative savings for business?

As set out above, our investigations repeatedly find unsafe and non-compliant products being offered for sale on online marketplaces. It is absolutely essential that the Government swiftly moves ahead with its proposal to place a legal duty on online marketplaces to ensure the safety of the products listed on their platforms. This must include requirements to carry out robust seller verification, regular monitoring, pro-active cross-referencing against global recall databases, rapid removal of products identified as unsafe and provision of clear information to consumers who may be affected.

As well as enhancing safety for UK consumers and, in this case, children, this will also support responsible businesses who are currently undercut by the swathes of unsafe

products that are offered for sale via online marketplaces, while they take the necessary steps to ensure compliance.

The OPSS should also have effective enforcement powers, including strong fining powers that enable it to hold marketplaces, as well as other businesses, to account. It should also be established as an independent arms' length regulator to help give consumers greater confidence that their safety is the regulator's priority.

About Which?

Which? is the UK's consumer champion, here to make life simpler, fairer and safer for everyone. Our research gets to the heart of consumer issues, our advice is impartial, and our rigorous product tests lead to expert recommendations. We're the independent consumer voice that works with politicians and lawmakers, investigates, holds businesses to account and makes change happen. As an organisation we're not for profit and all for making consumers more powerful.

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October 2026