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Consultation Response

Which? response to the OPSS' consultation on The UK's new product safety framework

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Summary

Which? welcomes this opportunity to respond to the OPSS' consultation on the UK's new product safety framework.

The proposed upgrade to our safety framework represents a critical opportunity to deliver much-needed reforms to the UK's product safety regime and ensure it is fit for the challenges of an increasingly complex and digital global market. Which? broadly welcomes the government's ambition to modernise the framework, particularly to encompass the coverage of a wider range of products and businesses than the existing regulations, to broaden safety considerations and to update accountability requirements that reflect how business models have evolved, including the growth of online marketplaces.

However, to ensure these reforms genuinely protect consumers, the transition to a new framework must prioritise robust oversight and enforcement, with an appropriate balance between an outcomes-based approach and more prescriptive measures where needed.

Our responses to this consultation place some qualifications to our support, outlining where the proposals must go further to ensure appropriate requirements for products and full accountability for actors across the modern supply chain:

- **Scope and exemptions.** While we support the overarching expansion of the scope of products covered, we have concerns regarding proposed exemptions for artworks and think that caution is needed in relation to measures covering products intended for repair or refurbishment. Without precise, narrow definitions, there is a risk these categories could be exploited as dangerous loopholes by unscrupulous sellers, creating a grey market where functional, hazardous, or fundamentally faulty goods bypass rigorous safety testing.

- **Bringing products to market and safety assessment.** We welcome the introduction of essential safety requirements (ESRs) and a more adaptable, risk-based approach. However, this shift must be cautious given the diversity of businesses, as well as products, in scope. We strongly warn against a model that relies too heavily on industry self-assessment and voluntary standards and fails to recognise that some products will present hazards and associated risks that require specific regulatory requirements in order to ensure consumers are assured an appropriate level of protection. The framework proposed shifts too far towards voluntary standards over regulation. Where standards are designated, the government must mandate explicit, independent oversight, incorporate robust consumer representation in standard-setting, and the framework must be firmly underpinned by the precautionary principle to ensure commercial innovation never compromises human safety.
- **Statutory duty of care for online marketplaces.** We strongly support placing a statutory due care requirement on online platforms to end the safety lottery of e-commerce. However, a flexible, outcomes-based approach must not allow marketplaces to hide behind ineffective internal policies and paper compliance. Our extensive testing shows that voluntary measures and automated algorithms, for example checking listings for safety issues, consistently fail to protect the public. To ensure true accountability, this general duty must be underpinned by explicit, non-negotiable, baseline statutory requirements. These must include: robust trader verification, the mandatory appointment of strictly vetted, UK-based legal representatives for overseas platforms, proactive cross-referencing against global recall databases, and guaranteed, permanent takedowns coupled with a strict legal duty to directly notify consumers who have purchased unsafe or recalled goods.
- **Accountability for onward suppliers.** We strongly welcome the introduction of the onward suppliers category into the core framework. Crucially, this expansion finally closes a notorious regulatory blind spot by placing formal legal obligations on fulfilment service providers (FSPs).
- **Digital labelling.** Measures to introduce e-labelling must be implemented with extreme caution. A digital-by-default approach risks digitally excluding vulnerable consumers and allows for critical safety information to be lost or silently altered over time. We believe that all safety-critical information must remain on physical packaging, with digital labels serving only as an enhanced, supplementary layer of information that retains historical data for the purposes of enforcement and consumer redress.
- **Artificial Intelligence and smart products.** To future-proof AI's integration into both product functionality and e-commerce, the framework must address the novel hazards of smart devices and new AI shopping business models. This includes ensuring that the accountability mechanisms proposed are fit for purpose for these new products, e-commerce chains and business models.

- **Enforcement and cooperation.** We welcome the push for greater cooperation between supply chain actors and regulators, including fixed response times and digital access for authorities.
- **An independent OPSS.** For these new enforcement provisions to truly transform the UK's safety regime, the OPSS must be reconstituted as a fully independent, standalone regulator with an uncompromising statutory mandate to put public safety first.

Full response

Proposal A1: Ensuring all products are safe

Question A1: Do you agree or disagree with the proposed scope of the regulations, including the exemptions from scope?

Response options:

- Agree with reservations.

Please explain your answer.

Which? welcomes the government's ambition to modernise the UK's product safety framework and to ensure that all products have a baseline level of safety, including requiring a more holistic assessment of the safety of a product. We are particularly pleased to see the proposal to extend the definition of a "safe product" to encompass as broad a range of goods as possible and extend protections to all users, regardless of whether a product was purchased for use at home or in the workplace. In an increasingly complex global market, it is vital that the legal floor for safety is high, ensuring that consumers are protected regardless of the product's category or the technology it employs.

However, while we support the overarching direction of the scope, we have concerns regarding two specific exemptions which, if not strictly defined, risk creating dangerous loopholes in the new framework:

1. The exemption for 'Artworks' We are concerned by the ambiguity regarding what constitutes an "artwork." Without a precise, narrow definition, there is a risk that functional consumer products, such as decorative lamps, electronic installations, or furniture, could be self-certified as "art" by unscrupulous sellers to bypass rigorous safety testing. If a product is intended for use within a domestic setting or has a functional utility that poses a risk (e.g., electrical components or fire hazards), its status as "art" should not grant it a "free pass" from the core safety obligations that protect human life.

2. Products needing repair, reconditioning, or refurbishment Which? supports the transition to a more circular economy and recognises the challenges of enabling these

products to be made available to consumers while also ensuring safety. We therefore think that caution is needed over a blanket exemption for products sold with the intent of being repaired or refurbished before use presents a clear safety risk.

- While it is proposed to "explicitly inform" a consumer that a product is unsafe or unfinished, consumers often lack the technical expertise to judge whether a fault is a minor aesthetic issue or a fundamental safety failure (such as a compromised lithium-ion battery).
- While we note that products are in scope once re-sold after repair, the initial sale of a "faulty" unit into the secondary market creates a "grey period" where dangerous goods can circulate without oversight (for example, cutting the plug off a dangerous electrical good before resale doesn't render it safe for sale).

We urge the government to ensure that this exemption cannot be used as a "dumping ground" for hazardous electricals or white goods that are fundamentally beyond safe repair.

To truly put consumer safety first, these exemptions must be tightly policed. The government must ensure that "Art" and "Repair" do not become convenient labels for avoiding the accountability that this new framework rightly seeks to impose on the rest of the market.

Proposal A2: Defining a safe product

Question A2: Do you agree or disagree with the proposed definition of a safe product?

Response options:

- Agree with reservations

Please see our response to question 1

We agree that the definition of a safe product as set out in the General Product Safety Regulations remains appropriate and should be applied to the broader range of products that are within scope, i.e. *A product which, under normal or reasonably foreseeable conditions of use including duration and, where applicable, putting into service, installation and maintenance requirements, does not present any risk or only the minimum risks compatible with the product's use, considered to be acceptable and consistent with a high level of protection for the safety and health of persons.*

Proposal A3: Updated safety considerations

Question A3: Do you agree or disagree with the new list of considerations when assessing safety?

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Response options:

- Agree

Please explain your answer.

We broadly welcome the proposed list of considerations for assessing product safety, such as a comprehensive evaluation of a product's physical design, digital risks including AI and cybersecurity, and alignment with recognised standards that have a specific focus on protecting vulnerable consumers from hidden hazards like food-mimicking designs or child appeal). Moving toward this "cross-cutting" approach, targeting shared hazards like button batteries across multiple product types rather than just specific sectors, allows the law to adapt rapidly to emerging risks.

We agree that there are advantages in some scenarios to not differentiating between product types in order to ensure a more comprehensive framework. But we do think that there is still a need to differentiate between certain product types where they present specific risks or the nature of those risks poses particular risks to certain groups of consumers eg. toys or cosmetics.

It is appropriate for the OPSS to collaborate with trade bodies, the BSI, and authorities in developing guidance. However, we believe that for this framework to truly protect consumers, it must be backed by a more robust, structured, inclusive and holistic approach to risk assessment. The framework must explicitly define vulnerable consumers and ensure their protection, and must guarantee consumers remain protected throughout the product lifecycle. Risk assessment will require specialist expertise and it is important to support businesses in understanding the risks their products may pose and how to mitigate them, including through specific, prescriptive measures where necessary. This applies to physical risks where consumers need reassurance that businesses understand how to comply and also for example, in the case of cybersecurity, where the provision of prompt software updates should be considered as ongoing safety components.

Our primary concern is that the current proposal for a general list of considerations allows for too much subjective interpretation. We seriously caution against a model that relies too heavily on industry self-assessment and trust. Evaluating hazards is highly complex, and without effective guidance backed up by robust oversight, many small manufacturers and importers will struggle to comply. This mirrors warnings from the National Audit Office (NAO) review '[Protecting consumers from unsafe products](#)' (2020) against over-relying on industry self-assessment, reinforcing the need for independent oversight.

While a more holistic risk-based framework can be effective for closing regulatory black holes, weaknesses in its application, and lack of effective oversight, must not inadvertently lower the bar or allow unsafe products from weak safety regimes to enter the UK. Any consolidation must prioritise consumer protection over simplification. Without a clear direction for what a risk assessment must look like in relation to specific product categories, there is a significant risk that the flexibility intended to help businesses will instead create

loopholes that leave consumers at risk. A minimum set of safety requirements to be defined

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for all products along with detailed and binding guidance on how to perform risk based assessments.

Finally, these safety considerations must be explicitly underpinned by the precautionary principle. While we welcome the consultation's recognition of the importance of this principle in relation to the role of competent authorities, we firmly believe it must also serve as a guiding principle for businesses themselves directly and thus included into the core of the regulatory approach. In an era dominated by rapid digital innovation and complex, globalised online supply chains, we frequently face scenarios where the scientific or physical evidence regarding a new hazard is still uncertain, but the potential stakes for human health are high. When the data is unclear but the risk of harm is severe, both regulators and businesses must err on the side of caution. Enforcement authorities must retain the clear, unambiguous power to keep a product, and those that look identical to it, off the market entirely until a full risk assessment is undertaken and it can be ensured that the risk is acceptable, ensuring that commercial innovation never comes at the cost of consumer lives.

For example, we have proven repeatedly that products that look the same as products that have been recalled are equally dangerous, even if certain aspects of the recall (e.g. an ASIN or other unique identifier, or product description wording) are different.

- Repeated tests of a plug-in heater that looked identical to a recall showed they were all unsafe.
- We found the same problems with lab-tests of products that looked identical to previous recalls, including play sand containing asbestos.
- And the long-standing issue of fake energy saving plugs and baby sleeping bags, also identical to recalls, with products continuing to be sold on platforms despite repeated investigations.

Proposal A4: Revoking the food imitating products regulations

Question A4: Do you agree or disagree with our proposal to revoke the Food Imitations (Safety) Regulations 1989?

- Agree with reservations.

We understand the rationale for revoking the food imitating products regulations, but we consider the current law vital for protecting vulnerable consumers, including children and people with disabilities, from potentially fatal injuries. While we acknowledge that Proposal A3 updates safety considerations to include whether a product's appearance makes it likely to be sucked or ingested, such as dishwasher tablets, we can only agree to this change if the assessment of these specific hazards is backed by rigorous and effective enforcement. Data from RoSPA highlights the high number of injuries linked to deceptive product designs, so

ensuring these risks are actually mitigated in practice is essential for consumer safety. We

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are concerned that the desire to demonstrate simplification is taking priority over common sense - and having this level of clarity benefits both businesses in terms of clarity of what is required and consumers, in terms of lack of ambiguity that these are hazards that need to be controlled.

Proposal A5: Proportionate safety requirements

Question A5: Do you agree or disagree that essential safety requirements, testing or conformity assessment may be useful in the new framework?

Response options:

- Agree

Please explain your answer.

We strongly agree that essential safety requirements (ESRs) and independent conformity assessments are vital tools for protecting consumers from high-risk products. However, for these elements of the framework to be truly effective, the Government must address two critical areas: proactive identification of risk and the speed of the regulatory response.

The effectiveness of ESRs depends on the Government's ability to identify hazardous products before they cause harm. We are concerned that the current approach remains too reactive, as happened with button batteries. To protect the public, the OPSS must utilise a more sophisticated, data-led, and interoperable intelligence system that monitors emerging trends, injury data, and international safety alerts. It must also acknowledge the prevalence of 'white-label products' that may be inherently unsafe but listed with different product descriptions or brand names. This would allow the Government to define essential safety requirements for new product categories proactively, rather than waiting for a tragedy to occur before taking action.

Furthermore, the framework must ensure a level playing field through rapid compliance. When a product, including those that appear identical to said product, is discovered to be high-risk and requires additional testing or new safety requirements, these must be considered for the entire supply chain, including requirements for manufacturers, onward suppliers and online marketplaces, simultaneously. We cannot afford a tiered transition where dangerous stock continues to be sold by some retailers while others comply.

If a hazard is identified that necessitates conformity assessment, the requirement must be triggered across the board immediately to prevent high-risk goods from being "dumped" into the UK market through less-regulated channels. A swift, universal application of safety requirements with implementation periods focused on minimising harm to consumers will be essential.

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Proposal A6: Using voluntary standards to support businesses

Question A6: Do you agree or disagree with introducing the 'designation' mechanism for products covered by the framework?

Response options:

Agree with reservations

Please explain your answer.

Which? supports the continuation of a designation mechanism in principle, as it provides the technical flexibility necessary to keep pace with rapid innovation and provides clarity over which standards businesses should use. However, we are very concerned about the proposal to place much greater reliance on voluntary standards, rather than regulation as the default approach. We appreciate that use of standards can enable greater flexibility for businesses, but this is not always desirable in terms of ensuring consumer protection and confidence. Standards have an important role, but they are means to an end, supporting business compliance to ensure consumer safety, and not an end in themselves. More specifically, we have the following concerns:

1. Presumption of conformity: While a designated standard provides a presumption of conformity, this must never be treated as an absolute guarantee of safety. A product may comply with the "letter" of a standard but still be fundamentally dangerous in practice. The framework must ensure that enforcement authorities retain the power to declare a product unsafe based on real-world risk, regardless of its compliance with a specific designated standard.

2. Strengthening the consumer voice in standard-setting: If the UK is to rely more heavily on standards, the process by which they are authored must be reformed. Currently, standards development is dominated by industry interests with very limited consumer or public interest representation. To ensure an appropriate level of protection, standards must be developed with more robust representation from consumer groups and independent experts, and technical committees should ideally be chaired by independent parties.

3. Proactive oversight and agility: The OPSS must move from a reactive posture to a proactive one, engaging directly with standard-setting bodies the moment a safety gap is identified. The current pace of standard updates is often too slow. We need a more efficient pipeline for delivery, including clear, published dates for when products meeting legacy standards can no longer be legally produced or sold.

4. Addressing known limitations: Increased reliance on a designation mechanism will only be successful if the underlying standards are rigorous enough to meet the expectations of the public. If the standards are weak, the entire safety framework could be compromised.

Our concerns regarding the dilution of safety are further heightened by the proposal to allow

a wider range of international and alternative standards bodies to be used for designation. While we recognise the global nature of manufacturing, any standard considered for the UK

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market must be subject to rigorous independent scrutiny to ensure it is strictly relevant to the specific safety needs and high protection levels expected by the UK public.

To prevent this expansion from weakening the regime, the designation mechanism must be supported by a legislative backstop that allows for rapid intervention when standards fall short. We urge the government to ensure that this mechanism serves to raise safety levels, rather than providing a loophole for compliance without an appropriate level of protection.

Question A7: In what circumstances, if any, might it be appropriate to designate a standard from a competent standards body other than BSI, European standards bodies, or international standards bodies?

The UK has a well-established standards framework that provides alignment with European and international standards and is developed in a transparent and predictable way. While, as set out above, we have concerns about the extent to which consumer representatives and wider public interest organisations are able to feed into specific standards, particularly given the scale of standards development, it is important that clarity about how decisions will be made about the appropriateness of a standard and therefore whether it should be designated as a UK standard is maintained. We have concerns that reference to designation of 'a wider range of technical specifications adopted by recognised standardisation bodies, including 'fast track standards' could undermine this clarity. Clear criteria are needed for which recognised standardisation bodies are considered to be appropriate in a UK context and how the independence, representativeness and consumer interest perspective has been assured.

Question A8: Are there any further actions you believe we should be taking to ensure lithium-ion batteries within consumer products are safe?

Proposal A7: Preventing dangerous products reaching consumers

Question A9: Do you agree or disagree with the requirement that producers must only place safe products on the market?

Which? strongly agrees that the foundational duty of any product safety framework must be a requirement for producers to place only safe products on the market. For decades, UK consumers have bought everyday items, from gadgets to white goods, with the reasonable expectation that they will not cause harm. This primary obligation on producers is non-negotiable and must remain the bedrock of our safety regime: those who create and introduce a product to the market hold the ultimate responsibility for its safety. However, while this core producer duty remains constant, the landscape around it has radically shifted. As shopping habits shift through the use of ever more complex online business models, the

traditional supply chain has fractured, significantly eroding consumer protections.

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We therefore believe it is highly timely and necessary to review the roles and responsibilities of economic operators more generally. We strongly support the Government's approach to revising and updating these definitions across the wider supply chain to ensure that no actor can exploit a legal loophole. To make this updated regime effective, its implementation must depend on several critical, non-negotiable factors, in particular:

- **The Precautionary Principle:** We strongly believe that this requirement must be underpinned by the precautionary principle, explicitly stated within the framework. This should apply to economic operators as well as to regulators. When scientific evidence regarding the risk posed by a hazard is uncertain but there is potential for harm, public protection must take precedence. This applies to the measures adopted by the business, as well as by the government (e.g. whether it should adopt appropriate regulations until there is a fuller understanding of the risk, including the possibility of preventing those products from reaching the market entirely. Precautionary measures should be proportionate, but fundamentally they ensure that commercial interests do not take precedence over consumer lives.
- **A robust definition of safe product:** The requirement for a product to be safe must not be a static one. As new risks emerge, particularly from digital technologies and complex supply chains, the definition and the standards that support it must be quickly and effectively updated to maintain a high level of protection.
- **Accountability and oversight:** To protect consumers effectively, the safety framework must establish unambiguous, statutory obligations on businesses that strictly reflect their specific role in the supply chain. While we support high-level duties, they must be backed by precise, enforceable requirements to prevent compliance from becoming a voluntary exercise. Our deep concern is that the proposals risk tipping the balance too far toward industry self-policing. Our independent testing repeatedly reveals systemic safety failures in products sold to UK consumers, including but not limited to those from overseas. Therefore, while the primary responsibility for ensuring safety must lie with the manufacturer, consumers need to have confidence that there is robust and competent oversight from enforcement agencies like the OPSS and Trading Standards that hold them to account for this responsibility

Placing only safe products on the market is not just a regulatory hurdle, but it is a vital safety net in a globalised economy. To ensure this requirement truly protects the public, it must be supported by an intelligence-led enforcement regime and a legal framework that holds all actors in the supply chain, including online marketplaces, accountable for the products they facilitate and profit from.

Question A10: Do you agree or disagree with the requirement that onward suppliers should act with due care and not supply a product unless it is compliant?

Response: Agree

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We strongly welcome the introduction of the onward suppliers category into the core framework. Explicitly extending a statutory duty of care to all intermediaries in the supply chain is a positive, common-sense evolution of the UK's product safety regime. Crucially, this expansion finally closes a notorious regulatory blind spot by placing formal legal obligations on fulfilment service providers (FSPs). For too long, companies that physically store, pack, and dispatch dangerous goods have operated in a legal grey area, deflecting responsibility back to unaffected overseas third-party sellers.

While we agree that it is vital to distinguish between the responsibilities of a producer (who designs and manufactures) and an onward supplier (who distributes, stores, or offers for sale), this division must not water down consumer safety. The framework must operate on clear, non-negotiable common principles, backed by a realistic division of roles.

It is important that the accountability provisions in the new framework improve on the current obligations on economic operators under the existing framework. For this new category to deliver real-world protection, the definition of due care must have strict legal teeth. A major flaw in the current proposals is the risk of allowing a fulfilment provider to claim due care simply by pointing to the mere existence of internal compliance policies, even if those systems are totally ineffective in preventing dangerous items from reaching UK households. If a fulfilment provider (or online marketplace) can use ineffective automated processes as a legal shield, establishing a breach of due care becomes nearly impossible for regulators, rendering financial penalties unenforceable. The deeper we go into this framework, the more concerned we are that these intermediaries are being granted too much flexibility. The generalised duty could allow onward suppliers to set their own safety thresholds, for example, superficial supply chain checks relying on unverified paperwork from overseas sellers, ineffective gatekeeping through the deployment of automated systems that fail to intercept dangerous products moving through their warehouses.

Onward suppliers must not be allowed to state compliance on paper while unsafe products continue to enter consumers' homes. To genuinely protect the public, this flexibility must be replaced by precise, non-negotiable baseline legal requirements that force onward suppliers to act as active safety gatekeepers, rather than passive conduits for dangerous goods.

Question A11: Do you agree or disagree that online marketplaces should be required to act with due care to prevent, identify and remove non-compliant products from their sites?

Response options:

- Agree

Please explain your answer.

We strongly support the Government's proposal to place a statutory due care requirement on

online marketplaces. For too long, buying a product online has been a safety lottery compared to shopping on the high street. While we recognise that some marketplaces may

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already act within certain legal obligations it is absolutely crucial to establish a consistent, baseline duty of care that applies to *all* online platforms.

Marketplaces must take legal responsibility for the safety of all products sold through their platforms, including those from third-party sellers. This means exercising genuine due diligence to ensure that products are safe and that sellers provide the prerequisite safety information before an item ever goes live.

To build a framework that stands the test of time, the Government must adopt an outcomes-based approach that recognises the differences between existing e-commerce business models and those that may emerge in the future. This flexibility is essential to futureproof the system against new, unpredictable digital models that will inevitably emerge and avoid any 'loopholes'. However, a successful regime requires a strict balance: while general due care obligations provide an overarching framework and principles that apply to all businesses, along with flexibility for innovation, they must be underpinned by precise, explicit statutory requirements.

Our extensive testing and investigation at Which? consistently show that when left to their own internal policies and processes, online marketplaces fail to take the necessary steps to secure consumer safety. This is despite their claims that consumer safety is a priority. Platforms frequently claim to take safety seriously, pointing to their extensive terms and conditions, reactive takedown tools, or automated scanning algorithms. Yet, time and again, our research reveals that these internal policies are ineffective, allowing thousands of dangerous, illegal, and recalled items to remain available for purchase.

Without explicit, clear-cut requirements written directly into the legislation, the framework will create ambiguity. This allows platforms to hide behind paper compliance while leaving enforcement authorities with a near-impossible task to establish legal breaches. Specific rules should not be considered a burden, instead they are the only way to establish a genuine level playing field across the digital economy and ensure that proactive safety is a non-negotiable requirement and not a voluntary gesture.

While the business models of online marketplaces may vary to some extent, there will be a lot of commonality over the measures they need to apply within these models to keep consumers safe.

We fully endorse the specific duties already outlined by the OPSS in this consultation, but we believe that to build a stringent safety regime that significantly reduces dangerous goods, the Government must incorporate several non-negotiable obligations as a minimum baseline to all online marketplaces, including the following:

1. Robust trader verification and accountable gatekeeping

- **Verify to trust:** As per Proposal A8 below, online marketplaces must be required to obtain and verify the identity and contact details of all traders using their services, making this information transparently available to consumers.

- **Swift suspension:** Platforms must immediately suspend a trader's access if they suspect the information provided is inaccurate or fraudulent.

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- **UK-based legal representative:** OMPs not established in the UK but selling to UK consumers must designate a UK-based legal representative independently of the risk category of the product that is the point of contact for regulators. We have seen too many examples of supposedly low risk products becoming high risk, such as children's play sand, and we feel mandatory representation is critical to promote accountability. This representative must be legally accountable to safety authorities and readily available to ensure the company can assist consumers when things go wrong. This is not about taking responsibility away from the business, but about reinforcing that responsibility through clearer accountability mechanisms. Furthermore, to ensure the effectiveness of these representatives, there must be a set of requirements in place for their selection, such as proving their establishment in the UK, having at least three years of business activity, adequate financing to cover their duties, and having no record of infringements of UK rules in the past 2 years. It is important to ensure that these legal representatives are not merely empty mailboxes with no real activity, or shell companies reappearing under a different name when an issue arises. Monitoring and enforcement must be enhanced to ensure these representatives are in place and that they adhere to a minimum set of strict requirements.

2. Digital proactivity and compliance by design

- **Interface guardrails:** Marketplaces must design and organise their online interfaces in a way that *enforces* compliance, preventing a trader from listing an item until mandatory safety fields, certifications, and pre-contractual information are complete.
- **Algorithmic accountability:** Due care must extend to a platform's algorithms. There must be absolute transparency on how content is recommended, ensuring that algorithms do not amplify cheaper, non-compliant, or high-risk goods over safe ones.
- **Review monitoring:** As part of proactive due diligence, platforms must adopt the specific due care requirements as set out in the Product Safety Review consultation regarding the identification and removal of unsafe product listings. Namely platforms must identify any specific risks, develop systems and processes proportionate to their business and risk levels, and publicly and/or privately report on their performance. Such monitoring must include online customer reviews for red flags and keywords such as "fake," "exploded," or "dangerous".

3. Risk Assessment and global alignment

- **Global database matching:** OMPs must cross-reference listings against safety alerts and product recall databases issued by relevant and competent authorities, not just in the UK, but at international levels to intercept hazards before they reach British homes.
- **Similar or identical products:** At the same time, OMPs must acknowledge that

similar or identical products may carry the same risks as those that have been proven to be unsafe, and must take strict measures to remove these products as well, until their safety can be verified.

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4. Direct Consumer redress and preventing "whack-a-mole" relisting

- **Direct notification:** When a product is flagged as unsafe, illegal, or subject to a recall, the marketplace must directly contact every consumer who purchased it through their site. It is a half-measure to simply remove the listing. As platforms hold the transaction data should have the legal duty to warn the buyer. Where direct contact isn't possible, additional interventions should be put in place, including for example prominent safety notices to be displayed on the site.
- **Guaranteed takedowns:** Product removal must be swift, permanent, and effective with timeframes specified. Crucially, platforms must implement measures to guarantee that the removed product, or an identical item under a different listing name, cannot be easily relisted without rigorous due diligence.

A duty that stops short of these proactive measures will fail the safety test. While a generalised duty of due care can be effective for traditional brick-and-mortar retailers, who physically curate, handle, and visually inspect the tangible stock on their shelves, it fails entirely when applied to digital platforms. If a marketplace can simply point to the existence of its internal systems as a defence, it becomes incredibly difficult for authorities to establish a breach of due care, even when those systems have proven completely ineffective in practice. As specified in the [enforcement and market surveillance consultation](#), this loopholes-by-design approach makes enforcement and the issuing of financial penalties significantly harder to execute. We are concerned if online marketplaces are being granted far too much flexibility to claim legal compliance while unsafe products continue to flood into consumers' households. By embedding these universal baseline requirements, alongside comprehensive, non-negotiable due care principles, directly into law, we can prevent platforms, and emerging business models, from using loopholes to avoid accountability and ensure the UK leads the way in creating a digital economy where innovation and consumer protection actually go hand in hand.

Proposal A8: Giving only compliant sellers access to online marketplaces

Question A12: Do you agree or disagree with the introduction of a requirement that online marketplaces should practice due diligence to identify and take action against non-compliant sellers and sellers that provide non-compliant goods? Response options:

- Agree

Which? strongly supports the introduction of mandatory due diligence requirements for online marketplaces. Establishing a robust legislative duty for online marketplaces to

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identify sellers, including verifying seller contact details, and take action against 'bad actors', such as those that repeatedly sell dangerous products or sellers who do not comply with other obligations in product safety legislation, is a critical step toward closing the dangerous accountability gap that currently exists in the digital supply chain.

While Which? strongly supports the introduction of this statutory requirement to ensure that all platforms, regardless of their size or location, maintain accurate and up-to-date information for third party sellers, the success of such a mandate depends entirely on the provision of practical, enforceable obligations to realise it in practice. Without clearly specified requirements to obtain and verify identity information, and the power for marketplaces to suspend traders if that information is suspected to be inaccurate, a legislative duty remains a hollow gesture that fails to solve the "whack-a-mole" problem of non-compliant actors. Only by combining an explicit legal obligation with the practical mechanisms for proactive monitoring can the government ensure that safety information reaches the correct actors and that life-threatening products are swiftly removed from UK households.

Our independent investigations consistently expose a systemic failure by online marketplaces to prevent, identify, and remove unsafe and illegal consumer products over several years.

Most recently we have shown how easy it is to list unsafe products on online marketplaces, despite their apparent checks and measures. We have repeatedly demonstrated how well known unsafe products, such as baby sleeping bags, ladders and scam 'energy plugs' appear on these platforms time and again, and we have shown just how easy developing a tool to detect unsafe products could be if online marketplaces were really taking this issue seriously.

The regularity with which we uncover these life-threatening goods through our consumer product testing highlights that voluntary measures do not work. If a platform is permitted to simply point to the existence of internal due diligence systems as a legal defence, even when those systems have proven completely ineffective in practice, it becomes nearly impossible for authorities to establish a breach of due care. Such an approach would make enforcement and the issuing of financial penalties significantly harder to execute.

Therefore the government must ensure these due diligence obligations are non-negotiable. By requiring a UK-based legal representative for international platforms, hard-wiring consistent verification into online interfaces, and introducing powerful financial deterrents, the Government can end the ongoing "whack-a-mole" approach to online safety.

Proposal A9: Additional tools for managing higher risk products

Question A13: In which situations or for which products do you think additional verification requirements or local presence requirements would be useful?

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Which? believes that robust verification and local presence requirements are essential to bridge the accountability gap between traditional retail and online marketplaces. While we agree with the use of a risk-based approach, it is critical that these protections are not restricted solely to a narrow list of "high-risk" goods, as this risks leaving consumers vulnerable across a broad range of everyday products.

1. Universal verification for third-party sellers: We strongly argue that the requirement to provide transparent information regarding third-party sellers should be made available for **all applicable items**, not only those currently classified as high risk. Consumers have a right to know exactly who they are buying from, and whether that seller is a professional trader or a private individual, regardless of the product type, which can be confusing even in the most well established online marketplaces. This transparency is foundational to effective enforcement and consumer redress.

2. Local presence for international platforms: As discussed in our response to question A11 above, we consider it vital for all products sold into the UK via international online marketplaces, to mandate a **UK-based legal representative** acting on behalf of the online marketplace. This representative, who should satisfy a strict set of legal criteria prior to appointment, must be accountable to safety authorities and capable of supporting customers when issues arise. This is particularly urgent for products shipped directly from manufacturers outside established safety regimes, where the absence of a UK entity often leaves consumers with no path to justice when things go wrong.

3. Specific categories requiring enhanced verification

Which? generally advises that consumers avoid purchasing any "unbranded" (or unknown brand) electricals, baby or child products or cosmetics from online marketplaces¹.

We believe enhanced mandatory checks and verification are essential where risks are significant or current approaches are inconsistent. This could for example include products such as:

- **High-risk household essentials:** Products, such as electricals, smoke and CO alarms, and products containing button batteries require strengthened, mandatory checks rather than a reliance on voluntary measures or mixed regulatory approaches.

- **Child safety products:** We urge the government to apply consistent, mandatory regulations to these high-risk items to replace the confusing patchwork of current requirements, such as in items like baby and child products (car seats, and baby sleeping bags) that we often find a reoccurring issue.

¹ Which? Policy research paper 'In plain sight'- Dangerous products for sale on online marketplaces <https://www.which.co.uk/policy-and-insight/article/in-plain-sight-arma76J7ZzSz> and <https://www.which.co.uk/news/article/unbranded-electronics-marketplaces-asjRy3W81dzi>

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- **Products with critical safety instructions:** Verification must extend to the integrity of instructions and manuals. Which? testing has identified dangerous advice in manuals for products like carbon monoxide monitors; therefore, marketplaces must verify that essential safety information is accurate and compliant with UK standards.

Proposal A10: Addressing dangerous products in consumers homes and workplaces

Question A14: Do you agree or disagree that we should give all supply chain actors a duty to participate in monitoring of products already supplied and to cooperate in corrective action?

Response options:

- Agree

Please explain your answer.

We strongly support the proposal to hold all supply chain actors accountable for the ongoing safety of products. For too long, gaps in the chain, particularly regarding online marketplaces, have allowed unsafe goods to remain in consumers' homes long after they should have been recalled. However, the effectiveness of this duty hinges entirely on how the Government defines the "within the limits of their activities" and "reasonableness" tests.

From a consumer perspective, these terms must not become a means to evade accountability for platforms that facilitate high volumes of trade. We believe that for an OMP, it is entirely reasonable and within their limits and capabilities to be required to actively monitor and cross-reference their listings against official safety alerts and product recall databases.

When a product is flagged as unsafe or illegal by an official body, the marketplace should be under a strict legal obligation to remove it and any identical or "similar products" sharing the same flaw from sale immediately.

Furthermore, this duty must go beyond mere administrative assistance with traceability.

While knowing where a product came from is helpful, cooperation in corrective action must mean taking proactive steps to protect the public. Alarming, consumer safety investigations have repeatedly shown that dangerous, recalled items remain easily accessible online. A 2026 Which? [report](#) revealed that 100% of the sample products they lab-tested, ranging from electrocution-hazard hair tools to choking-hazard toys, failed UK product safety regulations, despite matching prior official safety alerts. If a marketplace has the data to identify who bought a dangerous item, they should be mandated to communicate recall information directly to those consumers.

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A duty that merely obliges a platform to assist authorities, without mandating direct action for the consumer, is a half-measure that fundamentally fails the safety test. It falls short of the Government's objective to build a truly stringent safety regime, one where the current proliferation of unsafe goods becomes a relic of the past, rather than an ongoing threat to the public. Clear, non-negotiable benchmarks for OMP participation are essential to ensure this proposal delivers real-world protection rather than just a checklist for compliance.

Proposal A11: Ensuring cooperation between businesses and relevant authorities

Question A15: Do you agree that all supply chain actors should have a duty to cooperate with relevant authorities and others in the supply chain?

Response options:

- Agree

Please explain your answer.

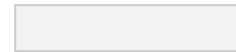
We strongly agree that a duty to cooperate is essential for a modern, functional product safety regime. However, for this duty to be effective, the Government must provide absolute clarity on how the terms "reasonable and appropriate" and "proportionately" will be defined and applied across different business models.

Vague terminology must not allow high-volume platforms to claim that proactive safety measures are "disproportionate" to their operations. In particular, the Regulations must place explicit, non-negotiable obligations on online marketplaces to cooperate with regulators to address the current gap. The following elements must be central to the final framework and should include:

- **Fixed response times:** We support the proposal to specify maximum timeframes for responses. In the fast-moving world of e-commerce, a delay of even a few hours can mean hundreds of unsafe products being shipped to unsuspecting households. These timely responses must be measured in hours, not weeks.

- **Data sharing:** The requirement to provide information should not be limited to one-off requests. We advocate for ongoing agreements that allow for automated data sharing between platforms, the supply chain, and regulators, to identify safety trends and repeat offenders across different sites but also facilitate pre-emptive action.
- **Direct access for regulators:** The proposal to grant authorities access to online marketplace interfaces via digital tools is a vital step forward. Allowing relevant authorities, such as the OPSS or Trading Standards to use automated tools to identify and flag non-compliant products directly within a platform's ecosystem is the only way to police the sheer volume of modern online trade effectively. This should go hand in hand with requirements for online marketplaces to proactively report their

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compliance activities to regulators on a regular basis, when requested, or on discovery of a significant breach.

While Which? strongly welcomes the provisions designed to strengthen the regulatory toolkit including the introduction of robust financial penalties, strict cost-recovery mechanisms, and vital online interface orders, these new powers will only ever be as effective as the institution wielding them. For these enforcement provisions to truly transform the UK's safety regime, they must be matched by a fundamental structural shift in how the market is policed. As a supporting model, we note the EU's incoming 2028 customs penalties for third-country e-commerce platforms. This framework introduces a mechanism for systematic non-compliance, including fines of 1% to 4% of EU import volume, escalating to 3% to 6% after six months. If the non-compliance persists, authorities can temporarily restrict access to the operator's online interface or website and take additional enforcement measures.

Independent regulator

It is now time to establish the OPSS as a fully independent, standalone regulator. Currently, the OPSS sits within the Department for Business and Trade, rather than being an arms' length regulator with an explicit consumer safety remit as exists in the case of food with the Food Standards Agency for example. To ensure the effective implementation of a new framework, with new enforcement powers that are deployed fearlessly and proactively against non-compliant actors and complex digital supply chains, the OPSS must be reconstituted as an independent, consumer-focused watchdog with a clear, uncompromising statutory mandate to put public safety first.

Question A16: Do you agree or disagree with the proposal for online marketplaces and producers to have a single point of contact?

Response options:

- Agree

Please explain your answer.

We strongly support the requirement for a single point of contact, but for online marketplaces and overseas producers, this contact must be established within the UK. Without a UK-based legal entity or representative, the duty to cooperate is effectively toothless. We have seen time and again that when safety issues arise with products sold via overseas third parties, enforcement hits a brick wall at the border. If there is no UK-based person or office held legally responsible for safety compliance, authorities like Trading Standards cannot act, and consumers are left with no recourse for dangerous goods.

To make this single point of contact effective, the Government must ensure:

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- **Legal accountability:** The single point of contact should be more than just a customer service link; they must be legally accountable for ensuring that requests from regulators are acted upon immediately.
- **A bridge for enforcement:** Having a UK-based presence is the only way to ensure that enforcement action, such as fines or legal notices, can actually be served and felt. Without this, the UK risks becoming a dumping ground for unsafe products from sellers who know they are out of reach of our laws.
- **Public accessibility:** While primarily for regulators, there should be clear transparency so that consumers know who is responsible for the safety of the platform they are using.

A single point of contact based outside our jurisdiction is a point of contact in name only. If we are to achieve a more stringent safety regime where unsafe products are a thing of the past, we must bridge the enforcement gap by requiring these platforms to have a physical and legal footing on UK soil as we believe that speed of response is critical as well as ensuring that nothing falls through the potential gaps.

Proposal A12: Our 'digital by default' ambition

Question A17: Do you agree or disagree with the proposal for information that must be provided on or with the product?

Response options:

- Agree with reservations

Please explain your answer.

While we recognise the potential for digital labelling to provide consumers with more detailed and up-to-date information, we strongly believe that **digital information must be an**

addition to, rather than a replacement for, physical labelling. A "digital-by-default" approach creates significant risks for safety, accountability, and social inclusion. There is a need for targeted consumer research in shaping the right approach, including understanding the needs of different groups of consumers. In particular, how labelling is used and relied upon by vulnerable groups, what the impacts to these groups would be by the introduction of e-labelling, and the extent to which additional provisions would need to be made to ensure they are not disproportionately affected by such a move.

Our primary concerns include:

- **Digital exclusion:** Millions of consumers in the UK remain digitally excluded or live in areas with poor connectivity. Critical safety information, such as warnings, installation instructions, and age ratings, must be immediately accessible on the

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product or its packaging. Requiring a consumer to request a physical copy is an inadequate solution, for example if they cannot access the digital link to begin with, they may never know that vital safety information is missing.

- **Tech limited label:** Websites and QR code destinations are frequently temporary. The Government proposes that digital info remains accessible for the expected lifetime of a product, but there is no technical guarantee that a manufacturer's URL will exist in ten or fifteen years.
- **Enforcement and Redress:** Digital labels allow for real-time updates, which is useful for safety alerts but dangerous for legal accountability. It is vital that a historical record of the information provided at the point of sale is preserved. If a manufacturer can silently edit digital safety warnings after an accident, the consumer's right to redress and the regulator's ability to enforce the law are severely compromised. Which? would recommend that safeguards should be put in place to prevent changeable e-labels that might affect consumer rights as well as safety, including the mandatory communication to consumers when substantive changes to the labelling are made. There is also the importance of ensuring traceability and enabling effective enforcement, including appropriate border controls.
- **Vulnerable consumers:** For those with visual impairments or cognitive disabilities, physical labels and tactile warnings (such as those for hazardous chemicals) provide essential safeguards that digital screens cannot replicate.

Our recommendations:

1. **Safety-Critical Information must stay physical:** All information essential for the safe setup, use, and disposal of a product must remain on the physical packaging.
2. **Digital as an enhanced layer:** Digital labels should be used to offer *additional* value that physical labels cannot, such as item-specific repair histories, interactive safety videos, or real-time recall status.
3. **Opt-In demand:** At the point of sale, especially for high-value or complex goods, consumers should be given a clear opt-in choice to receive a full physical manual.
4. **Verification of information:** We believe there is significant scope to use digital elements to track historical repairs and passport a product's safety record through the circular economy, provided this data is secure and verifiable.

Digital innovation should empower the consumer, not act as a barrier to safety. We must ensure that the convenience of a QR code does not come at the cost of leaving the most vulnerable members of society behind.

Question A18: Do you agree or disagree with the proposed types of information that can be provided digitally?

See our response to question A17

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Question A19: What, if any, protections would be necessary to ensure that consumers with limited digital access or low digital confidence online are not disadvantaged?

See our response to question A17

Proposal A13: Giving online consumers the right information at the right time

Question A21: Do you agree or disagree with the proposed information that producers and onward suppliers selling products online should provide on an online listing?

Response options:

- Agree

Please explain your answer.

We strongly agree with the proposal to standardise and mandate the safety information provided in online listings. For too long, buying a product online has been a safety lottery compared to the high street, where physical packaging and clear warnings are readily available. However, for these requirements to be effective, the burden of compliance cannot rest solely on individual sellers as it must also be hard-wired into the platforms they use.

Whilst we appreciate that the government will require online marketplaces to design their online interface in a way that allows third-party sellers to provide the required information in a format that is clear and accessible for customers, we believe that online marketplaces must be legally required to design and organise their interfaces in a way that *enforces* compliance. This means creating mandatory, standardised fields for safety warnings, age ratings, and producer contact details where producers or onward suppliers selling online provide the requested information to consumers. A listing should not be allowed to go live unless these following critical safety fields are populated:

- **Verification and Gatekeeping:** It is not enough for an OMP to provide a text box. They must be required to carry out reasonable checks on the information provided. For instance, if a trader provides a UK address, the marketplace should verify this against existing databases to ensure it is a legitimate point of contact and not a shell company.
- **Visual clarity for the consumer:** Safety information should not be buried in a product description tab or hidden behind multiple clicks. Standardised safety icons and bold warnings should be as prominent as the price and the "buy now" button.
- **Enforcement of pre-contractual obligations:** Consumers have a right to know exactly who they are buying from and what the safety risks are *before* they enter a contract. The platform must ensure that this information is not just present, but accurate and accessible across all devices, including mobile apps.

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A more stringent safety regime requires moving beyond voluntary compliance. By mandating that marketplaces build safety gates into their listing processes, we can ensure that the large volume of unsafe or anonymous products currently found online becomes a thing of the past. The goal should be a digital shopping environment where safety is integrated by design and by default, not left to individual platform discretion.

Question A22: Do you agree or disagree that online marketplaces should be required to design their interface to allow sellers to provide customer information?

See above our response to question A21

Question A23: Should online marketplaces introduce additional steps, such as verifying certain product information or making some information mandatory before listings are published?

See above our response to question A21

Proposal A14: Consolidating and simplifying the regulatory landscape

Question A24: Do any of the provisions in existing sector regulations fit these categories?

Response options:

- Yes

If you responded 'Yes', please provide details of the provisions and your reasons. If you consider that any of the additional tools in proposals A5 or A9 may be helpful for the relevant products, you may include this in your response.

We agree that this consultation marks a vital first step in moving from a fragmented, product-specific regulatory model toward a more agile, risk-based framework. The current landscape of over 2,000 pages of sector-specific rules can be unnecessarily complex for both enforcement authorities to navigate and for consumers to understand and ultimately it leaves too many safety gaps. However, any reduction of these regulations must be handled with extreme care to ensure that essential safety protections are not lost in the transition.

Our views on the categories for reform are as follows:

- **Better incorporated into the new framework:** We support the consolidation of cross-cutting issues, such as traceability, reporting obligations, and manufacturer duties and enforcement powers into a single, core framework. This would create a robust standard for safety that applies regardless of the product type. For example, the procedural requirements currently repeated across the Electrical Equipment and

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Toys regulations could be unified, provided that the move to "outcome-based" regulation does not dilute the specific safety results consumers expect. ● **Use of standards:** A significant shift in moving technical specifications from rigid legislation into **Designated Standards** is proposed and the Government must ensure this transition does not inadvertently dilute public safety. We appreciate that relying on standards could allow the safety regime to be adapted more quickly according to innovation. However, for this model to maintain public trust, these standards must be robust and they must be complied with. They must also be underpinned by a far greater and more robust consumer-based representation than currently exists. They are not appropriate for all situations and regulations will still be required.

- **Use of guidance:** Guidance is an excellent tool for providing clarity on *how* to comply, but it must not be used as a substitute for *mandatory* safety requirements. We believe flexibility is helpful for administrative processes, but where a risk is significant (such as chemical or electrical risks), the requirement for safety must remain enshrined in law, not just suggested in guidance.
- **Better removed completely:** We support the removal of redundant or purely "administrative" burdens that add cost without adding safety. However, the Government must be careful that "disproportionately burdensome" is not defined solely by the cost to the manufacturer. If a requirement, even a burdensome one, is the primary barrier between a consumer and a serious or even fatal injury, it is not unnecessary, but it is essential.

Proposal A15: Preparing for the products of the future

Question A25: Are you aware of any data or evidence on the types of AI-enabled products that are likely to be manufactured in the future?

Response options:

- Yes

If you responded 'Yes', please detail the data or evidence you are aware of.

Yes. Based on current market trajectories, manufacturing trends, and emerging software capabilities, we anticipate the future manufacturing landscape of AI-enabled products will evolve across three current baseline categories, ultimately culminating in a major shift toward hardware optimised for autonomous "agentic" AI².

² For clarity, our analysis excludes ubiquitous devices with already established, broadly understood AI integration, such as laptops, desktop PCs, and smartphones, to focus on the wider consumer product ecosystem

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Beyond primary computing devices, current manufacturing and product development largely fall into three distinct categories:

- **Functionality Enhancers (Traditional & Smart Devices):** Manufacturers are increasingly integrating AI or machine learning (ML) to optimise localised hardware functions. Examples include robotic vacuums that adjust suction based on floor-surface detection, or smart doorbells equipped with advanced object and facial recognition (e.g., identifying pets or parcels). While some integrations deliver genuine performance improvements, others currently rely heavily on AI-driven marketing hype.
- **AI System Gateways:** Products manufactured primarily to act as physical portals to external AI platforms (e.g., Google Gemini, Amazon Alexa, or Apple Siri). This category includes smart speakers, hubs, headphones, and smartwatches, where the AI acts as a broader extension of the user's digital ecosystem rather than a localised hardware enhancer.
- **Novel and niche Integrations:** Unconventional applications of AI, such as children's toys featuring integrated chatbots or AI-enabled toothbrushes. A significant portion of these highly specific products currently originates from overseas manufacturing hubs (notably China) and is distributed primarily via online marketplaces.

While the current categories of AI-enabled products will continue to be manufactured in the near term, the mid-term manufacturing pipeline will be defined by the deeper integration of agentic AI technologies into connected devices.

Although the UK market for AI agents is currently nascent and evolving, these systems represent a paradigm shift from passive digital assistants to autonomous executors. Future AI agents will not just inform consumers, but will perform actions on their behalf, such as managing household bills, negotiating contracts, or executing direct purchases.

As consumer adoption grows, manufacturers are expected to move away from relying solely on smartphones or wearables as the primary interface, deeply embedding agentic capabilities into a wider array of connected household and industrial products:

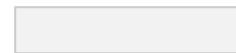
- **Contextual Hardware Utility:** Future manufacturing will see everyday appliances

designed around agentic utility. For example, smart refrigerators will be manufactured with the internal sensors and processing layers required for an AI agent to inventory chilled goods and autonomously execute a weekly grocery order. Similarly, connected cars will feature integrated AI capable of scanning the market and securing insurance deals dynamically.

- **Deployment Strategies (Protocol vs. New Hardware):** While retrospective integration via software or protocol layers is technically possible for some existing products, manufacturers are highly likely to restrict deep agentic integration to new generations of hardware. This will be used as a key commercial driver to incentivize consumer upgrades.

As manufacturing transitions toward embedding active, autonomous agents into physical consumer hardware, the risk profile of these products changes. Future manufacturing standards must ensure that this deeper integration is governed by robust, built-in

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frameworks that prioritise safety, security, and privacy by design, rather than treating these critical protections as an afterthought.

Question A26: What do you think are the current or potential harms associated with AI-enabled products?

We set out below our insights regarding potential risks and harms associated with AI-enabled products. These have been derived from our established research on connected smart products, which we have extrapolated to account for the capabilities of AI integration. While we have not yet conducted a dedicated, exhaustive risk assessment exclusively for AI-enabled products.

Security: As designated regulator for the Product Security and Telecommunications Infrastructure Act 2022, OPSS should be clear-eyed about the persistent risks of cyber-security threats to smart products. Although we have not done any direct research on AI products to date, we have published a vast body of evidence on these risks. Therefore, it is vital that any manufacturer incorporating AI into their products must ensure that effective security controls are implemented at the same time. There are various novel attack vectors that are causing concern regarding AI, including data poisoning, code injection, malware, deepfake social engineering and more. So, it is vital that any manufacturer integrating AI is alive to these risks, and has introduced mitigations.

Physical safety: As is the case with smart products, manufacturers need to be careful that integrations of AI technology that interact with physical components of the product do not introduce novel risks. This could involve a traditional appliance with an AI system able to moderate suction, heating elements or other physical functions, but yet there is an abuse (accidental or deliberate) that can cause an over-operating of that function. Alternatively, if a product has not been properly tested, there could be a real-world scenario that causes the AI to respond in unpredictable ways, and so prompt safety risks. Finally, there could be third-party security risks from the AI functionality to consider. For example, with voice control systems without authentication controls, we previously found that someone simply shouting

through a window could control the functionality and cause problems. If AI is to be introduced to a product, then effective guardrails must be introduced, but also widescale scenario testing conducted to ensure negative safety outcomes are prevented.

Psychological safety: In addition to physical safety risks, there is also a psychological safety risk, particularly to young users of AI enabled products. There have already been stories of AI powered toys behaving inappropriately to young children. There are also concerns over how AI toys can negatively impact child development. Researchers from the University of Cambridge have for example highlighted gaps in controls for AI toys, games and devices.

Privacy: Not directly OPSS's remit, but any AI system largely will utilise network functionality, and that generally will require data to some degree. Our research has consistently shown that smart products manufacturers request much more user data than they need, and AI is merely a new frontier of that problem that needs to be considered. The

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ICO's new Guidance on smart product privacy is a good place to start, but it will need effective market enforcement to bind better standards onto manufacturers.

Question A27: How can we ensure that the reformed product safety framework effectively addresses the unique challenges posed by AI-enabled products and digital innovations, while supporting innovation?

When responding to the question, please consider:

- Is the framework proposed in this consultation sufficient?
- Are any additional sector-specific provisions required?
- What new approaches might be needed to safeguard consumers while supporting innovation, and how could measures such as consumer information, standards, quality assurance, data governance, documentation requirements or human oversight improve the safety of AI-enabled products?

While we have not yet conducted an exhaustive review of the proposed framework, we have identified several core regulatory, enforcement, and market challenges that must be addressed to ensure the regime remains robust without stifling innovation. To effectively future-proof the framework, regulators must adapt to how AI is fundamentally altering both product functionality and the consumer purchasing journey:

Regulatory and enforcement gaps

The broader approach to assessment of risk beyond physical harms that is proposed as part of the new framework will be crucial for these types of products and innovations which may present novel and emerging concerns.

More unusual AI enabled products, such as AI toys, tend to proliferate on online marketplaces, so the proposals to address their accountability, including setting out more detailed requirements for prevention, monitoring and removal of unsafe products, as we have set out, are crucial. We have continued concerns that this route to market for experimental and potentially harmful smart/AI products has not been fully addressed.

Likewise, we have seen an inconsistent approach to enforcement of the baseline requirements under the PSTI legislation to date. It is therefore important that the future regulatory framework addresses the challenges involved in the fast-moving smart product market.

It is crucial that more resources are devoted by OPSS to smart product regulation, and we think that a dedicated investigation into AI use in products to map these concerns in more depth and consider what regulatory interventions are appropriate is urgently needed.

AI and shopping

The framework must also recognise that AI is rapidly transforming how consumers discover and purchase products. Consumers are increasingly using AI as a component of the shopping experience. According to a McKinsey 2025 report, 73% of consumers are using AI for 'broad discovery' of product categories, brands and services.

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AI chatbots such as Gemini and ChatGPT have become powerful sources of information, enabling consumers to engage in what is sometimes called 'conversation commerce'. This involves a user inputting a very specific and often personalised search query, so instead of 'red shoes', the user would input a prompt for 'red shoes with yellow trim that can be used for jogging but also going to the pub', and then receive supposedly hyper specific recommendations of products to consider.

In addition to third-party, integrated AI chatbots, like ChatGPT, some retailers are also rolling out their own chatbots to directly interface with their channels and catalogues. An example of this would be the Rufus chatbot on Amazon's e-commerce platforms. We would describe these as direct-deploy Chatbots, designed to boost the e-commerce activity for the retailer/brand that deploys them. Amazon claimed recently that Rufus had 250 million customers (mostly in the US), and users had a 60% higher chance of conversion of their basket when Rufus was used in the shopping journey.

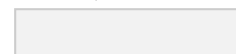
A further component of AI shopping are AI agents (referred to, often misleadingly, with the catch-all term, 'agentic'). Once realised, these agents would not only be able to inform the consumer, but also act and execute tasks on behalf of the consumer. Agents would be able to take action on an autonomous basis, without needing a high level of interaction or prompting from the consumer. Eventually, they might reach a level of sophistication to complete even complex tasks for the consumer on a predictive basis - effectively before the consumer has prompted or even thought of them first.

There are no known consumer-facing AI agents in retail deployed on the UK market. However, it is essential that OPSS ensures that this updating of the product safety framework, including accountability provisions, takes account of how these have the potential to be used and what it means for ensuring appropriate responsibilities, as well as taking account of the models that are already in use. Most AI shopping currently focuses on discovery and research. There is an interim step coming involving purchasing functionality being integrated into AI chatbots, enabling consumers to buy products within an AI chat interface. OpenAI's ChatGPT Instant Checkout was launched on the US market in 2025, but withdrawn shortly after.

Google's Gemini Shopping applications utilises the Universal Commerce Protocol (UCP). Already available in the US, the service has various retail partnerships including furniture retailer Wayfair. We have learned that this service will launch in the UK later in 2026. A consumer would use the Gemini interface to search for, say, 'retro modern lamps in bright colours for a dark room', and then Gemini would surface options, including integrated shopping options from Wayfair. Should the consumer choose to purchase from Wayfair, this would be handled within the Gemini interface, using Google Pay and Google Wallet (backed by the Agent Payments Protocol (AP2) protocol).

However, the consumer would remain firmly 'in the loop' of activity, directing the AI with specific prompts of what they wanted. Although Google calls this 'agentic checkout', this is not an AI agent in the true sense. The transaction would also ultimately use the Wayfair backend and Wayfair would remain the 'merchant of record', according to Google. AI shopping is therefore currently in a phase of what could be called "advanced discovery",

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with consumers using it to search and discover new products. Integrated purchasing is coming to AI chatbots in the near future, but it is not the transformative shift yet that autonomous AI agents herald.

Instead, the AI's role is to provide a new way for consumers to search, discover and purchase products, while also driving traffic to the merchant's services to generate sales. However, the market is moving very rapidly, and that is expected to continue and likely intensify over the coming years. So, all regulators must be alive to new business models, and be ready to move quickly to respond to them. When true AI agents reach the retail market, the ability they promise to act autonomously is expected to gradually transition consumers out of the transaction window - essentially, the AI will be buying the goods for them, even potentially on a predictive basis with minimal human involvement.

The complexity deepens further with multiple parties involved - so an intermediary agent (eg, Google Gemini) acting pre-emptively on behalf of a consumer could browse an online marketplace catalogue and purchase a product with important safety information misrepresented by the individual seller. It is therefore crucial given the pace at which these models are evolving that the OPSS ensures that the product safety framework can handle this level of complexity being interjected into transaction chains, including in terms of what it means for accountability and whether the new definitions proposed for economic actors are fit for purpose and 'future proofed' for these models, as well as how specific provisions would apply in this context (eg. provision of product safety information).

OPSS should also work with other regulators in the Digital Regulation Cooperation Forum (DCRF) to ensure that it is keeping pace with AI-driven changes in the way consumers discover and purchase products, and the implications of that for product safety regulations.

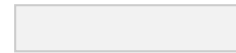
Question A28: Considering that the role of AI can adapt and evolve across a product's entire life cycle, how can regulation best account for this?

AI systems change rapidly, particularly in this current phase of market development. Therefore any overly rigid, technology specific approach to regulation is likely to become out of date before it has been implemented. Therefore, it is advisable to consider a more principles-based approach, supplemented with prescriptive requirements where needed, than focus on solely technical configurations.

By this we mean focusing on what the embedded AI systems are actually capable of doing in terms of outcomes, and how regulation can create safe, effective and sensible guardrails to govern those outcomes over the lifecycle of the product.

Finally, as AI is moving at such a fast pace, it is vital that the regulator also tries to mirror that pace in its own work to stay ahead of the market curve. This needs to be driven by real-time intelligence, continuous market surveillance, and the flexibility to adapt regulation and enforcement mechanisms dynamically as new risks emerge.

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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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