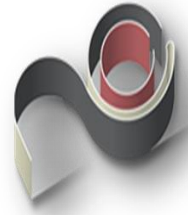




the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA



NATIONAL CONSUMER COMMISSION

a member of **the dti** group

PRODUCT RECALLS ANNUAL AFRICAN CONSUMER PROTECTION DIALOGUE CONFERENCE

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1. BACKGROUND

- CPA grants SA consumers 8 rights, including “Right to Fair Value, Good Quality and Safety”
- Applies to both services and goods supplied in market
- Where there is a defect, failure, hazard or unsafety (if such a word exists) attaching to goods or services – violation of this consumer right occurs
- Triggered once transaction over such goods / services occurs – between supplier & consumer

2. LEGAL MANDATE

SECTION 54 OF THE CPA (QUALITY SERVICE)

- There are standards that this Section of CPA enunciates, applying to services
- Product recall applies to products and Conference – merely to take note of this Section

SECTION 55 (2) OF THE CPA

- Every consumer has right to the goods that are:

LEGAL MANDATE ...

- Reasonably suitable for purpose generally intended (**fit for purpose**)
- Of good quality, in good working order and free of defects
- Will be useable and durable for reasonable period of time
- Comply with standards set by standard setting bodies (e.g. SABS in our case)

SECTION 60 & 61 OF THE CPA

- Where a product violates the rights in Section 54, that invokes Section 60 of the CPA, and Section 61 (where applicable)

LEGAL MANDATE ...

SECTION 60

- Provides for product safety monitoring and recalls
- NCC developed Product Safety Recall Guidelines (“Guidelines”) and Recall Notification Form
- Guidelines – anchored on the CPA and do not require legal training to decipher
- Recall Notification Form also – easy to follow

LEGAL MANDATE

- ▶ Section 60 read with Section 82 led to NCC producing the Guidelines
- ▶ Guidelines provide framework for all industries in – course of conduct safety product



3. THE PROCESS–PRODUCT SAFETY RECALL

- Voluntary recall vs Compulsory recall – determines nodal point the recall is steered from
- Voluntary – where supplier at volition, brings to the NCC attention a product they supplied to the market, not meeting Section 55 requirements
- Compulsory - the NCC as a last resort instructs supplier to conduct recall. Hardly ever get to that – suppliers buckle before this happen
- Supplier provides NCC with the following:
 - Completed Recall Notification Form
 - Communication Strategy



THE PROCESS ...

- Recall Notification Form – very comprehensive and includes *inter alia*:
 - Details of product, including picture and tracking information (Batch No. etc)
 - Description of the risk and what it causes
 - Area of distribution: Localised in Town / Province, Nationally
 - Whether exported and if so, the markets exported to
 - Contact with other regulators or competent authorities etc



THE PROCESS ...

- **Communication Strategy** – all about how consumers that brought product will be reached
- Determined by the extent of distribution and, type of product
- Perishable vs non-perishable, volumes etc
- Spell out what consumer must do with affected product still in their possession
- Issue of Refund (vs receiving replacement / alternative product)

PERIODIC REPORTING AND CLOSURE

- Depending on nature of safety risk – report frequently or sporadically (weekly vs monthly)
- Close Up Report – depends on progress made



THE PROCESS ...

- NCC own internal processes – monitoring and reporting on progress
- Monthly, Quarterly and Annual Reports from which to glean trends
- Monitoring of international and local platforms and media for recalls
- Assists in proactively identifying possible recalls where international products – also supplied in SA market



4. CHALLENGES

- Balancing “brand” vs “consumer” protection
- Inclination to minimise extent of “the problem”
- “Silent recalls”
- Coordination with members of the African Dialogue - synchronise



5. CASES EXAMPLES THE NCC HAS HANDLED

- ▶ NCC coordinated wide range - big and smaller product safety recall
 - Tiger Brands – Enterprise Polony during Listeriosis outbreak. Affected SA as a whole and SADC
 - Ford Kugas, leading to an investigation and R35 million settlement;
 - Pioneer Foods – 300 ml juices (also affected SADC)



5. CONCLUSION

- NCC cordial with suppliers, whilst optimally upholding consumer rights
- Suppliers, big and small are comfortable with NCC
- NCC provides all guidance needed to comply
- Where appropriate, NCC does not shy away from instituting its own investigations or, instructing supplier to do so at own expense
- Product recall differ from one-to-another and, always new lessons



Thank you!

**National Consumer Commission
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