

Which?

Which? Written Evidence Committee Stage (House of Commons) Product Regulation and Metrology Bill

Introduction

1. Which? welcomes the Product Regulation and Metrology Bill as an essential opportunity to modernise the UK's product safety regime for the digital age. The rapid evolution of online commerce has fundamentally redefined consumer access to products, yet our safety laws remain rooted in practices designed for a pre-digital era. While the Bill marks a significant step forward, it must be further strengthened to protect consumers against the escalating risks posed by unsafe products sold on digital platforms. As revealed in our recent investigations, the persistence of dangerous products for sale online—such as scam “eco-plugs” that falsely claim to reduce energy bills, yet fail safety tests and have been subject to multiple government recalls—underscores the urgent need for reform.
2. We think the Bill can be improved by the addition of:
 - Clear and enforceable duties on online marketplaces.
 - Extension of liability to online marketplaces for unsafe products.
 - A robust consumer protection non-regression clause.
 - A commitment to review and reform the consumer enforcement system.
3. This submission builds on detailed discussions in previous stages of the Bill and includes an overview of new research on unsafe so-called ‘eco-plugs’, and additional examples of dangerous products, to reinforce the case for comprehensive and accountable measures that safeguard millions of online shoppers.

Background

4. The expansion of online marketplaces has completely transformed how consumers shop, offering unparalleled convenience, affordability, and choice. However, this digital revolution has also exposed significant regulatory gaps that leave consumers vulnerable to unsafe products. Our investigations have repeatedly uncovered a range of dangerous items—from hazardous electrical appliances and unsafe toys to illegal ‘eco-plugs’—that continue to appear on platforms such as Amazon, eBay, B&Q Marketplace, and others. Our recent work on ‘eco-plugs’ reveals that these devices, which purport to reduce energy consumption by balancing electrical current, are entirely ineffective. More troubling is that they fail essential electrical safety tests, posing serious risks of

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fire and electric shock; yet, despite multiple recalls and safety alerts issued by both Which? and government bodies, over 50 unsafe models remain available on major platforms.

5. The current legal framework, developed when brick-and-mortar stores dominated the market, failed to anticipate appropriate safety requirements for online platforms. This regulatory shortfall results in a system where millions of consumers remain at risk, while digital marketplaces profit without sufficient oversight or accountability. At Second Reading (Commons), MPs rightly expressed concerns over the vague enforcement details, ambiguous definitions, and an over-reliance on secondary legislation within the Bill. The international nature of online trade further complicates enforcement when sellers operate across borders under differing safety regimes. These issues illustrate the pressing need for a modern, adaptable regulatory framework that reflects the realities of digital commerce.

Clearer online marketplace duties and protections

6. Although the government has signalled that this Bill is intended to place new duties on online marketplaces, the Bill currently lacks the legal clarity required to ensure online marketplaces will be forced to proactively safeguard consumers. MPs from multiple parties have expressed substantial concern about the absence of explicit statutory duties that would prevent unsafe products from proliferating online. To address this lack of clarity, we think explicit guarantees are required to compel online marketplaces to:
 - a. **Implement Internal Safety Processes**
Online platforms must develop robust internal systems to detect, verify, and swiftly remove unsafe products from their listings. This should include the institution of regular, independent audits and transparent reporting protocols. Clearly defined response times for removal upon the identification of a hazard are essential, shifting the burden away from consumers. Such measures are critical to ensuring that safety issues are identified and rectified before any harm occurs.
 - b. **Enforce Rigorous Seller Verification**
The Bill should require stringent verification processes for every seller operating on a marketplace. Detailed background checks—including seller identity, product history, and documented compliance with safety standards—are necessary to deter unscrupulous actors. When [Which? investigators went undercover](#) to pose as a seller on major online marketplaces, we found it all too easy to list products identical to an illegal heater that had been recalled by the regulator.
 - c. **Oblige Clear Consumer Information**
Online marketplaces must be legally obligated to provide clear, accessible

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safety information on all products sold. Immediate consumer notification systems should be established to inform buyers of any emerging risks and enable prompt remedial action, thus empowering consumers to make informed decisions.

d. **Mandate Cooperation with Authorities**

Given the cross-border nature of many online transactions, platforms should be required to establish formal protocols for working with both national and international enforcement agencies. This cooperation must extend to joint product recalls, coordinated safety investigations, and the sharing of inspection data to ensure that identified hazards are managed comprehensively and swiftly.

e. **Oblige Fulfilment Houses/Centres to Take Responsibility**

Online marketplaces may have their own fulfilment services or use other businesses for their important role of storing, managing or delivering products to consumers. In some cases these services are of a temporary nature and not well-established businesses, making them harder to identify and enforce against. These centres must be clearly identified and made responsible for the safety of the products they handle, so they are not able to take advantage of loopholes to evade responsibility.

7. By embedding these baseline requirements directly in primary legislation, the Bill would close regulatory gaps and ensure secondary legislation can build upon a solid foundation.
8. We lay these out in proposed amendment 1.0 and 1.1 in the annex.

Extension of Liability to Online Marketplaces

9. Under the current framework, consumers experience significant obstacles in seeking redress for harm caused by unsafe products. Our many product investigations have repeatedly demonstrated the dangers inherent in allowing online marketplaces to function in a regulatory grey area, where responsibility for product safety is diffused between manufacturers, sellers, and the platforms themselves. To create a more just and effective system, the Bill must extend product liability to encompass online marketplaces by:

a. **Establishing Clear Legal Accountability**

The Bill should unequivocally state that if an unsafe product is sold on an online platform, the online marketplace will be held legally responsible. This measure would act as a strong deterrent against negligent practices and ensure that platforms assume a fair share of the oversight burden, rather than shifting the risks onto consumers.

b. **Facilitating Effective Redress Mechanisms**

Effective redress mechanisms—particularly those enabling collective legal

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actions—are essential for consumers affected by unsafe products. These provisions would help ensure that redress is accessible, even when sellers are untraceable, overseas, or operating under different regulatory standards. Improved mechanisms create a more equitable environment, where the true costs of unsafe products are shouldered by profit-making platforms rather than consumers.

10. We lay this out in proposed amendment 2.0 in the annex.

Consumer Protection Non-Regression Clause

11. While flexibility in secondary legislation is necessary for adapting to emerging technologies and evolving risks, future changes also carry the risk of rolling back or undermining current consumer protections. To ensure secondary regulations can only build upon existing consumer rights, the Bill must embed a robust non-regression clause by:

a. **Enshrining a Non-Regression Principle**

The primary legislation should guarantee that any secondary regulations do not diminish existing levels of consumer protection. This principle will lock in high safety standards and prevent any future dilution of consumer protection, regardless of subsequent regulatory changes.

12. We lay this out in proposed amendment 3.0 in the annex.

General Consumer Enforcement

13. Product regulation laws are only as good as they are enforced. The strides this Bill takes to establish a regime for the digital age must be matched by meaningful reforms to our enforcement system so that enforcement officers have the necessary skills and powers to properly enforce these new rules.

14. A large share of current responsibility for the areas within the scope of this Bill, including product safety enforcement, falls to Trading Standards Services within local authorities. We think the current state of Trading Standards Services leaves people and businesses inadequately protected from illegal activity. Our new research, a [comprehensive Freedom of Information \(FOI\) request to all 187 TS Services in Great Britain](#), exposes a postcode lottery where resources and priorities differ around the country. Overall, Trading Standards Services are frequently unable to fulfill their traditional duties and have very limited ability to make the changes needed to address new harms in the UK's increasingly digital economy. While some central coordination exists through National Trading Standards (England & Wales) and Trading Standards Scotland, these are still limited and the vast amount of work, with both local and national consequence, remains the responsibility of local services.

15. There are substantial resourcing challenges, but we think there are ways to

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restructure the consumer enforcement system to make it more effective. This should involve increased efforts to place accountability and greater strategic oversight from the central government.

16. The complex nature of consumer enforcement, and the involvement of multiple government departments and regulators requires a whole-system approach to reform. So whilst this Bill is not the right legislative vehicle to introduce wholesale reform, **we are supportive of a 'probing' amendment that will compel the Secretary of State to review the capabilities of local Trading Standards Teams to enforce the product safety and wider regulations set out in this Act, and other consumer protection laws.**
17. We lay this out in proposed amendment 4.0 in the annex.

Conclusion

18. The Product Regulation and Metrology Bill represents a pivotal opportunity to modernise and fortify consumer protections amidst the challenges of digital commerce. However, to fully realise its transformative potential, the Bill must impose clear, enforceable duties on online marketplaces, extend liability to these platforms, and incorporate robust safeguards to prevent any backsliding of consumer safety standards.

For more information, please contact publicaffairs@which.co.uk

Annex - Proposed Amendments

Proposed Amendment 1.0 on Duties

After Clause 2

After Clause 2 insert the following new Clause—

“Duties of online marketplaces

(1) Without prejudice to the generality of any other powers or duties conferred by this Act, the Secretary of State must by regulations make provision about requirements that must be met by a person mentioned in section 2(3)(e), including regarding duties—

(a) to operate an online marketplace using effective systems and processes designed to monitor for, and identify, products presenting risks to consumers or other individuals and prevent such products being made available on or through the online marketplace;

(b) to cooperate with relevant authorities, with other persons mentioned in subsection 2(3) or any other relevant persons, to facilitate any action taken to eliminate or, if that is not possible, to mitigate the risks presented by a product that is or was made available on or through their online marketplace;

(c) to ensure that information regarding the identity and activities of persons marketing products on or through online marketplaces to consumers or other individuals is obtained and verified;

(d) to remove products presenting risks to consumers or other individuals from availability on or through an online marketplace as quickly as possible if alerted to their presence or becomes aware of them in any other way.

(2) Within 3 months from the day on which this Act is passed, the Secretary of State must publish and lay before Parliament a statement that sets out how the Secretary of State is exercising, or expects to exercise, the powers under subsection (1) regarding the proposed duties that must be met by a person mentioned in section 2(3)(e).”

Member’s Explanatory Statement

This new clause provides a non-exclusive list of duties that must be imposed upon online marketplaces by regulations made by the Secretary of State, and for a statement by the Secretary of State to be made to Parliament within 3 months of Royal Assent regarding the exercise of the duties conferred by this section.

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Proposed Amendment 1.1 on Fulfilment Houses

In Clause 2:

"(3) The persons on whom product regulations may impose product requirements include—

(a) a manufacturer of a product or a person carrying out another method of production in relation to a product;

(b) a person who markets a product in the United Kingdom;

(c) a person who imports a product into the United Kingdom for it to be marketed or used in the United Kingdom;

(d) a person who installs a product in the United Kingdom;

(e) a person who—

(i) controls access to an online marketplace,

(ii) controls the contents of an online marketplace, or

(iii) acts as an intermediary for a person who controls such access or contents;

(f) an authorised representative of a person mentioned in paragraphs (a) to (e);

(fa) a person involved on behalf of a person mentioned in paragraphs (a) to (f), in product marketing or the use of products, including storage, transportation, packaging, labelling or disposal;

(g) a person carrying out monitoring, assessment, verification or certification of a product;

(h) a person carrying out activities in relation to the certification or accreditation of a person mentioned in paragraph (g);

(i) any other person carrying out activities in relation to a product."

Member's explanatory statement

This amendment closes a potential loophole in the Secretary of State's powers to ensure that, whatever their legal status or location, all relevant organisations in the supply chain, including fulfilment houses, can be held accountable by regulations to protect consumers from non-compliant goods.

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Proposed Amendment 2.0 on Liability

After Clause 3

After Clause 3 insert the following new Clause—

“Liability and redress for unsafe or defective products

(1) the Secretary of State may by regulations make provision for—

(a) the extension of liability for unsafe or defective products to online marketplaces and any other persons within the scope of section 2(3);

(b) the disclosure of evidence in relation to claims for compensation or other rights of action in law for harm caused by unsafe or defective products and presumptions of liability that may arise accordingly;

(c) proceedings, including collective proceedings, to ensure redress for consumers or other individuals suffering harm as a result of unsafe or defective products made available in breach of requirements imposed under powers given by this Act.”

Member’s explanatory statement

This amendment allows the Secretary of State to make regulations providing for liability of online marketplaces for defective and unsafe products, and to ensure that those suffering harm from unsafe or defective products can obtain redress.

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Proposed Amendment 3.0 on Consumer Non-Regression Principle

In Clause 1:

"(3A) Further, the Secretary of State may only make regulations under subsections (1) or (2) if satisfied that making the regulations will not result in reducing the necessary levels of consumer protection and regulatory standards in relation to products, with reference where applicable to equivalent product regulations or standards in force at the time."

Member's explanatory statement

This amendment inserts safeguards to help ensure non-regression from existing legal protections to help ensure greater certainty and a level playing field for industry, consumers and other key stakeholders. It is necessary to address the omission on the face of the Bill of the vital current legal requirement that products placed on the market must in principle be safe.

The amendment is proportionately worded to provide an appropriate margin of discretion for the Secretary of State regarding the assessment to be made in each case.

Proposed Amendment 4.0 on Trading Standards Review

(1) The Secretary of State must, within one year of the day on which this Act is passed, lay before Parliament a review of the funding and capabilities of local weights and measures authorities to carry out in an effective way their enforcement responsibilities under the regulatory framework provided by this Act and other trading standards and consumer protection laws.

(2) In conducting the review under subsection (1), the Secretary of State must consult regulators and other persons likely to be affected by the review, including such representatives of consumer and business organisations as they consider appropriate."

Member's Explanatory Statement

In the light of the importance of Trading Standards enforcement responsibilities in relation to this and related legislation, this amendment provides for the Secretary of State to carry out a review of the effectiveness of Trading Standards enforcement activities, to consult appropriate bodies and stakeholders and, in the interests of transparency and proper scrutiny, to lay the review before Parliament.