Department for Business & Trade

Office for Product Safety & Standards

The UK's new core product regulation market surveillance and enforcement framework

Response form

Introduction

This consultation survey is to be read alongside the consultation document (link to gov.uk page) and seeks your feedback on proposed reforms to modernise and strengthen the UK's market surveillance and enforcement framework under the Product Regulation and Metrology Act 2025.

The proposals cover:

- Consolidating and modernising enforcement powers into a single toolkit.
- Improving market surveillance across all routes to market, including online marketplaces.
- Introducing proportionate civil sanctions and enforcement undertakings.
- Strengthening information sharing powers between relevant authorities.
- Exploring whether cost recovery should be included and for what activities.

Your views will inform the final design of a coherent, fair and effective enforcement and market surveillance system that supports consumer protection, compliant businesses, and efficient regulation.

Confidentiality and data protection

Information you provide in response to this consultation, including personal information, may be disclosed in accordance with UK legislation (the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please tell us, but be aware that we cannot guarantee confidentiality in all circumstances. An

automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

We will process your personal data in accordance with all applicable data protection laws. See our privacy policy. In addition, please be aware that OPSS uses Qualtrics survey software to process online responses, this involves personal data being sent outside the European Economic Area (EEA). Any processing outside of the EEA will be subject to the safeguards specified within the UK General Data Protection Regulation (UK GDPR), and the Data Protection Act 2018.

We will summarise all responses and publish this summary on gov.uk. The summary will include a list of names or organisations that responded, but not people's personal names, addresses or other contact details.

Your Details		
1. Your name	Kerry Nicol	
2. Your email address	kerryn@tsi.org.uk	
3. Are you responding:		
As an individual? Please go to ‘Consultation Questions’		
On behalf of an organisation? Please continue		X
4. Name of organisation	Chartered Trading Standards Institute (CTSI)	
5. Number of employees		
1 to 9		
10 to 49		
50 to 249		X
250 or more		
6. Type of organisation		
Business		
Trade Association		
Test House or Laboratory		
Consumer Body		
Local Authority		
Fire and Rescue Service		
Government Body		
Other (Please specify)	Not for profit membership organisation	

Consultation Questions

Proposal B1 Consolidating and Modernising Powers

B1a. Do you agree that the UK product regulation market surveillance and enforcement legislation should be reformed to establish a single, coherent set of enforcement powers available regardless of where it might be utilised within the product journey (e.g. at the border)?

Strongly agree	
Somewhat agree	
Neither agree nor disagree	
Somewhat disagree	
Strongly disagree	

B1b. Please explain your answer

We strongly support the consolidation and modernisation of enforcement powers into a single, coherent framework. Fragmented legislation creates real operational difficulties for Trading Standards Officers - having to issue separate notices under different regimes (toys, cosmetics, CPA 1987, GPSRs 2005) is unnecessarily complex, and a unified notice system would significantly improve efficiency and clarity for regulators.

We would also welcome the extension of civil penalty powers for market surveillance breaches to Local Authority Officers, bringing parity with the powers currently available to OPSS. Known gaps in enforcement powers - particularly for TSOs operating at the border - must be addressed as part of this reform.

However, we would caution strongly against any watering down of existing market surveillance powers in the process of consolidation; any reform must at minimum preserve the current ability to act without needing to demonstrate suspicion, in line with the principles established under the RAMS regulation. The detail of implementation will be critical.

B2a. Do you agree this new enforcement 'toolkit' should apply to product regulation more widely, beyond product safety? For example, should apply to measuring instruments and non-automatic weighing instruments (but not to other metrology legislation e.g. specified quantities)	
Strongly agree	
Somewhat agree	
Neither agree nor disagree	
Somewhat disagree	
Strongly disagree	

B2b. Please explain your answer

We neither agree nor disagree with this proposal, and our collective position reflects genuine uncertainty about its feasibility in practice. Legal metrology operates under its own distinct legislative framework with its own set of notices - compliance notices, enforcement notices, and 21-day notices - which are tailored to the specific requirements of that regime. The enforcement of measuring instruments and non-automatic weighing instruments is largely focused on accuracy and essential requirements, which differs significantly from product safety enforcement.

A one-size-fits-all toolkit is unlikely to suit legal metrology given how enforcement requirements vary between different instruments, and the 21-day notice in particular offers a flexibility that would not translate easily into a product safety context without a clear set of economic operator obligations to underpin it. We are also concerned that the consultation lacks meaningful detail on what the proposed toolkit would actually contain, making it difficult to assess the practical implications.

Whilst we have no objection in principle to a broader application of enforcement powers across product regulation, we would urge Government to engage closely with the legal metrology community before extending any new framework into this space.

B3. What challenges might there be in having fewer, more flexible, consolidated, enforcement powers for product regulations?

The principal risk is that consolidation introduces ambiguity where there is currently clarity. Whilst the existing framework is fragmented, it is functional - it has evolved over time to reflect the specific requirements of different regulatory regimes, and its gaps are well understood and targeted.

Starting afresh risks creating new uncertainties for both enforcement officers and economic operators, and any legal challenge to enforcement action grounded in poorly drafted consolidated powers could significantly undermine market surveillance. Flexibility in legislation can easily become vagueness in practice; officers must be able to utilise any new powers with confidence from day one, which requires clear, unambiguous drafting and robust guidance.

There is also a specific concern around legal metrology: removing enforcement powers from instrument-specific legislation and consolidating them elsewhere would create confusion, complicate cross-referencing, and cause particular difficulties when training new officers.

The preferred approach for legal metrology would be to retain powers within the relevant regulations. More broadly, consolidation is a substantial undertaking and must be carried out with great care - the priority must be ensuring nothing important is lost in the transfer, and that the resulting framework is genuinely fit for purpose both now and in the future.

B4. What additional reforms to existing powers would improve enforcement of metrology legislation?

A key gap exists in the current powers available under the Consumer Rights Act (Schedule 5), which limits officers to testing equipment 'in use for trade'. This means officers have no legal power to test equipment in medical settings such as hospitals and GP surgeries, despite being responsible for them - a gap not present in the Medical (NAWI) regulations. This inconsistency needs to be addressed.

A recent project in Scottish GP surgeries illustrated the problem clearly: officers could enter premises but had no legal authority to test the equipment. Enforcement has continued largely unchallenged due to a lack of awareness, but this is not a sustainable position. Any reform to metrology legislation should close this gap as a priority.

B5a. Which provisions in product regulation legislation create unnecessary administrative process? Please describe and explain any administrative burdens you are aware of.

We are not aware of significant unnecessary administrative burdens within the current framework - much of what may appear onerous exists for good reason, and we would caution against rolling back obligations that serve a genuine protective function.

Where improvements could be made, they are largely technical: the cosmetic notification process via the SCPN portal could be streamlined, for example through reducing the number of steps or making better use of technology. We would also flag divergence in regulatory provisions and market surveillance across the UK internal market as a source of unnecessary complexity.

More broadly, we believe the direction of travel should in some areas be towards greater obligations, not fewer - in particular, online marketplaces should be required to report regularly to the national regulator on their product safety activity, including the number of unsafe products detected and improvements made. This would allow for proper scrutiny and accountability. We would also welcome clarity on whether Advanced Notices fall within scope of this question.

B5b. Please provide what you think could be an alternative.

None identified other than regulatory divergence – see below.

B6. How could we simplify enforcement provisions (including for market surveillance) across the UK to establish a coherent and consistent UK-wide framework that supports effective enforcement in both Great Britain and Northern Ireland, in line with the government's Windsor Framework obligations?

The most pressing concern is divergence - both existing and future. The interaction between GB and NI legislation is already problematic, and any further divergence would create real difficulties for businesses operating across the UK internal market and for officers enforcing within it.

Regulatory alignment across GB and NI must be the starting point for any coherent UK-wide framework.

We would urge Government to prioritise this above all else, and to ensure that whatever framework emerges does not create new inconsistencies. Beyond that, we would welcome more detailed proposals from OPSS on what simplification might look like in practice before offering a fuller view.

Proposal B2 Addressing the enforcement challenges of global and online supply chains

B7. What bespoke powers are required to enforce against online and overseas supply chain actors, in addition to the broad powers outlined under Proposal B1?

The starting point must be ensuring there is a real, identifiable legal entity or individual within UK jurisdiction - at the marketplace level and at the producer, seller, or UK representative level - against whom enforcement powers can be exercised and criminal proceedings initiated where necessary.

Beyond that, we need a substantive new set of bespoke powers, including:

- the ability to require marketplaces to remove unsafe or non-compliant product listings rapidly
- powers to suspend or remove sellers offering multiple unsafe products
- powers to require fulfilment centres to stop shipping products from non-compliant sellers
- powers to require marketplaces to obtain information or documents from their sellers
- powers to require improvements to marketplace controls
- powers to suspend a marketplace's ability to sell certain product categories where safety issues persist
- powers to require website hosts to remove sites selling unsafe products
- ready access to back-end marketplace data to identify sellers and their compliance history

- powers to prevent overseas actors from importing unsafe products into the UK
- and powers to require the destruction of non-compliant products at the marketplace or fulfilment centre's own cost.

Alignment with the EU framework on online marketplaces would be a sensible baseline, with these additional powers built on top.

Proposal B3 Proportionate and effective penalties	
B8a. To what extent do you agree with this approach of categorising offences?	
Strongly agree	
Somewhat agree	
Neither agree nor disagree	
Somewhat disagree	
Strongly disagree	
B8b. Please explain your answer.	

We have no principled objection to categorising offences and recognise the logic of distinguishing between different types of breach.

However, we have significant concerns about how this could work in practice. The risk is that categorisation inadvertently creates a burden on regulators to prove a product is unsafe before the stricter penalties apply - and that is the wrong approach. A business that has failed to carry out a proper pre-market risk assessment or has not followed the relevant conformity assessment process before applying a CE or UKCA mark, should be treated as seriously as one whose product has been proved unsafe.

The absence of proof of unsafety is not proof of safety. Technical breaches can mask genuine risk, particularly where evidence of design verification and production control is absent, and so we are cautious about treating them as categorically lesser offences.

Where we do support a tiered approach, it should reflect the seriousness of the underlying failure: inadequate traceability information - such as missing product identifiers, brand or manufacturer names - should sit in a higher category than minor labelling issues, given the consequences for recalls and investigations.

The fundamental principle must be preserved: if a product is not in conformity, or an economic operator has not met their basic legal obligations, it cannot be considered compliant. Strong penalties must follow, both to protect consumers and to prevent unfair competition.

B9a. Do you agree that this approach enables the application of proportionate penalties?

Strongly agree	
Somewhat agree	
Neither agree nor disagree	
Somewhat disagree	
Strongly disagree	

B9b. Please explain your answer.

We are not fully convinced this approach delivers proportionality in practice. Whilst categorisation should in theory help, the value it adds depends entirely on offences being placed in the right category - and as we noted in our previous answer, there is a real risk of mis categorisation.

Courts already consider proportionality when determining penalties, and the precautionary principle already guides corrective action in relation to risk. Adding a formal categorisation layer risks creating additional administrative burden and handing economic operators a new avenue to dispute enforcement action, potentially introducing uncertainty where there is currently clarity.

B10a. Should enforcement undertakings be available across all product regulations	
Yes	
No	
Don't know	

B10b. if no, what products, regulatory obligations or types of non-compliance should be excluded and why.

We broadly support enforcement undertakings being available across all product regulations - they are a sensible addition to the toolkit and appropriate in the right circumstances.

The critical caveat is that the process must not create additional administrative burden for regulators. If accepting or pursuing an undertaking requires excessive procedural steps, it will undermine rather than support enforcement. Equally, undertakings must carry meaningful consequences for breach - without robust penalties for breaking them, they risk being little more than unenforceable promises.

B11a. Should we consider whether to accept undertakings that seek to benefit those affected by the non-compliance?	
Yes	
No	
Don't know	

B11b. Please explain your answer.

Introducing an element of restorative justice into product regulation is a forward-thinking approach and one we welcome in principle. As with enforcement undertakings more broadly, the detail will be critical, but the principle of ensuring that those affected by non-compliance can benefit directly from any undertaking is sound.

Proposal B4 Civil monetary penalties

B12. Which instances of product regulation non-compliance would you consider fixed monetary penalties a useful, proportionate and effective response?

We find it difficult to identify specific instances where fixed monetary penalties would be the most appropriate response without seeing more detail from OPSS on the scenarios they have in mind. Our instinct is that most instances of product regulation non-compliance are better suited to variable or escalating penalties, given the range of risk levels and circumstances involved.

Any fixed penalty regime would need to interact clearly with other enforcement obligations - particularly where corrective action is also required - and the calculation formula would need careful thought.

B13. For which instances of product regulation non-compliance would you consider variable monetary penalties a useful, proportionate and effective response?

Variable monetary penalties are most appropriate where the severity of non-compliance, the scale of impact, and the size and role of the business in the supply chain vary significantly - which covers most serious product regulation breaches. Relevant factors should include the severity of the breach, the number of units affected, the size and worldwide turnover of the business, and any history of non-compliance.

On that basis, variable penalties would be appropriate for: failure to meet the general safety requirement; failure to satisfy essential health and safety requirements; failure to carry out a pre-market risk assessment or complete the appropriate conformity assessment process; incorrect application of the CE or UKCA mark; and failure to draw up or hold technical documentation.

This approach is consistent with practice in a number of EU member states, and we would also recommend looking at the formula applied by the US Consumer Product Safety Commission as a model worth adapting for the UK market.

B14. In which circumstances would you consider an escalating monetary penalty system a useful, proportionate and effective response?

Escalating penalties are most appropriate where non-compliance is ongoing or repeated - for example; continuing failure to comply with a notice or request, persistent failure to take corrective action, or ongoing refusal to cooperate or provide information. They are also relevant where a business has previously been penalised for the same or similar breach; the penalty on a third offence should be meaningfully higher than on a first.

More broadly, we struggle to identify circumstances where escalating penalties would not be a useful tool. Any formula should be informed by risk, harm, prevalence, and compliance history.

B15. To what extent do you agree / disagree that monetary penalties should be escalated by a pre-set amount, or by a percentage of the original penalty?

Strongly agree	
Somewhat agree	
Neither agree nor disagree	
Somewhat disagree	
Strongly disagree	

B15b. Please explain and give examples to illustrate your answer.

We have no strong view on whether escalation should be by a pre-set amount or by percentage, but lean towards percentage-based escalation as the more proportionate approach - fixed amounts risk being trivial for large businesses and disproportionate for small ones.

What matters most is that penalties for serious or persistent breaches are genuinely painful, that businesses cannot profit from non-compliance, and that the formula is clear and fair. We would want to see worked examples before forming a firm view on either mechanism.

B16. Please list any other form of civil sanction that may be appropriate for either product safety, or broader product regulations.

Beyond the proposals already set out, we would highlight several additional civil sanctions worth considering.

First, mandatory public disclosure - requiring businesses found to have persistently supplied unsafe products to display prominent warnings on their platforms, similar to the food hygiene rating scheme in Wales and Northern Ireland. This would allow consumers to make informed choices and create a genuine reputational consequence for non-compliance.

Second, where a marketplace has no UK legal presence or refuses to cooperate with regulators, consumers should be warned of that fact directly.

Third, it should be easier to apply Proceeds of Crime Act-type powers in product safety cases, including requiring sellers or marketplaces to automatically refund consumers and disgorge profits made from the sale of unsafe products - with funds directed towards consumer protection, including Trading Standards.

Fourth, cost recovery should be available to local authorities to recoup enforcement costs from non-compliant businesses. This would incentivise cooperation, ensure compliant businesses are not disadvantaged, and help address the resource pressures facing local enforcement.

Proposal B5 Cost recovery framework	
B17a. To what extent would you agree / disagree that cost recovery would be an appropriate or beneficial feature within the UK product regulation enforcement regime?	
Strongly agree	
Somewhat agree	
Neither agree nor disagree	
Somewhat disagree	
Strongly disagree	
B17b. Please explain and give examples to illustrate your answer.	
We strongly support cost recovery as a feature of the UK product regulation enforcement regime. Local authorities operate with limited resources, and the cost of bringing non-compliant businesses to compliance should not fall on the public purse. Cost recovery would not affect compliant businesses and would create a direct incentive for cooperation with regulators. It should apply across the board to include - officer time, testing costs, and the costs of overseeing corrective action such as recalls - both in-market and at the border, and recoverable from sellers and/or marketplaces as appropriate. A number of EU member states already operate on this basis, and we already recover costs for criminal proceedings through the courts. Extending that principle to civil enforcement is a logical and overdue step.	
B18a. Please list principles you consider should guide the design of any potential cost recovery provisions for product regulation enforcement.	
No comments.	
B18b. Please explain and give examples to illustrate your answer.	

See above example. In simple terms non-compliant businesses pay the reasonable cost of being brought to compliance
Proposal B6. Information Sharing
B19a. To what extent would you agree / disagree that, there is a need for greater powers are needed, beyond establishing a legal framework, to facilitate sharing information between relevant authorities, emergency services, and specified persons for product regulation, safety, and compliance?

Strongly agree	
Somewhat agree	
Neither agree nor disagree	
Somewhat disagree	
Strongly disagree	

B19b. Please explain and give examples to illustrate your answer. (optional)
We strongly agree. Effective enforcement depends on regulators being able to share data, contextualised information, and intelligence freely - and the current framework does not go far enough to enable that. This is not purely a domestic issue. We operate in a global market, and risk does not respect legal boundaries. Cooperation and intelligence sharing with regulators in third countries is essential, and the framework established under EU Market Surveillance Regulation 2019/1020 provides a useful model. We would want to consider the specifics carefully before proposing a detailed framework, but the direction of travel is clear.
B20a. Please list the information you consider should be made available for the purposes of product enforcement.

Information made available for product enforcement purposes should include: outcomes of market surveillance activities covering both compliant and non-compliant products and those presenting a risk; consumer complaints; emerging threats; intelligence profiles based on product type, economic operator, and sector; testing and compliance data; enforcement actions taken; and strategic planning intelligence. The aim should be a comprehensive, joined-up picture that enables regulators to identify patterns, anticipate risk, and deploy resources effectively.
B20b. Please list which bodies or persons such information should be shared between to ensure effective market surveillance and enforcement.
See above. This requires mapping based on remit and the type of data which is obtained.
B21a. Please list any additional safeguards you would wish to see within information sharing arrangements to prevent the improper use of data.
This would depend on the structure of data/information sharing and the sensitivity of that in terms of current GDPR obligations.
B21b. Please explain and give examples to illustrate your answer.
We need the mapping suggested above before we are able to illustrate this any further.

Please email response form to
EnforceMarketSurvReform@businessandtrade.gov.uk