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	Eilis McGowan	
2. Your email address		
3. Are you responding:		
As an individual? Please go to 'Consultation Questions'		
On behalf of an organisation? Please continue		X
4. Name of organisation	The Cosmetic, Toiletry and Perfumery Association (CTPA)	
5. Number of employees		
1 to 9		
10 to 49		X
50 to 249		
250 or more		
6. Type of organisation		
Business		
Trade Association		X
Test House or Laboratory		
Consumer Body		
Local Authority		
Fire and Rescue Service		
Government Body		
Other (Please specify)		

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	X

Somewhat agree	
Neither agree nor disagree	
Somewhat disagree	
Strongly disagree	
B1b. Please explain your answer	

CTPA supports any approach that facilitates the role of Trading Standards and OPSS in enforcement. The cosmetic industry relies on the Cosmetic Products Enforcement Regulations 2013 to understand the consequences of failure of compliance with the UK Cosmetic Regulation (UKCR). The industry is familiar with the regulations and understand when products would be deemed as non-compliant and the allocation of liability and sanctions associated with non-compliance. Any changes to enforcement powers should be measured and proportionate to the risk presented by non-compliance.

CTPA's experience with enforcement overall has been collaborative, open and supportive. CTPA regularly engages with Trading Standards through the provision of guidance and best practises, education and training. This has been key in maintaining a consistent and proportionate enforcement across the UK. CTPA acknowledges the sharing of knowledge and best practise can allow for a harmonised and rationalised enforcement, which should be maintained if not improved. Moreover, the enforcement landscape can be difficult for companies to navigate, not just due to the powers or laws in scope, but also due to the lack of clarity regarding which authority should take ownership in certain cases, and the interaction between these authorities. When looking at the simplification and consolidation of enforcement, it is important to have clear responsibilities of the authorities. This could be demonstrated through enforcement guidance and having single points of contact.

The proposal for the inclusion of precautionary measures concerning chemical exposure, specifically in the scope of long-term effects may pose significant challenges to the current framework. There are several legislations in place that assess the hazard and risk surrounding chemical exposure. For example, the Registration, Evaluation, Authorisation, and Restriction of Chemicals (REACH) regulation for workplace and environment and the Classification and Labelling of Chemicals (CLP) Regulation for transport and consumers. Further to this, aspects of chemical safety are also regulated for certain products under the relevant sector specific legislation. There needs to be clear indication which regulations the precautionary principle is applied to, and how this would interact with other regulators who enforce this different legislation.

The proposal for the consideration of the precautionary principle in the restriction of the sale of a product must be applied in a reasoned and proportionate manner. The UK Cosmetics Regulation (UKCR) already contains provisions that seek to apply the precautionary principle, such as through the need to investigate and, in some cases, report, the undesirable effects caused by the product. This information is also used in the context of the Safety Assessment to ensure that the product remains safe over time. An incorrect application of the precautionary principle might lead to the restriction of sale of goods due to perceived risks of harm or undue public attention where there is no actual or meaningful risk of harm.

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	**X**
Somewhat disagree	
Strongly disagree	
B2b. Please explain your answer	
CTPA does not have a view on this matter	
B3. What challenges might there be in having fewer, more flexible, consolidated, enforcement powers for product regulations?	

CTPA supports the proposal of simplification of enforcement and market surveillance to allow for clarity in the applicability of legislation in the aim for the delivery of consistent enforcement across the product regulation landscape. However, CTPA understand that over the last few years, many local authorities have experienced significant reductions in budgets, which can be seen to hinder their ability to support businesses and consumers within product regulation. Whilst a more consolidated approach may allow for further streamlining of enforcement and more efficient distribution of the relevant powers, it does not replace the need for a well-funded enforcement service with sufficient connections. Local authorities would benefit greatly from having access to greater collaboration with national regulators; in turn, national regulators should be supporting the work of the local authorities to allow for more efficient and consistent enforcement. Often local authorities are unaware of wider investigations for specific products; this may be significant when regulators may be investigating the same case, thus hindering the efficiency of the work being done. Moreover, it is important to ensure coherence with the sector specific legislation and requirements to not go beyond what is proportionate to that product sector. For example, in the assessment of risk for cosmetic products, the UKCR includes risk management tools to manage the specific hazards cosmetic products and ingredients may pose. Therefore, the enforcement framework surrounding the cosmetic sector should reflect this when measuring risk and compliance to ensure it is proportionate.
B4. What additional reforms to existing powers would improve enforcement of metrology legislation?
CTPA does not have a view on this matter.
B5a. Which provisions in product regulation legislation create unnecessary administrative process? Please describe and explain any administrative burdens you are aware of.
CTPA does not believe there are areas regulation of cosmetic products that would be considered burdensome or unnecessary. The cosmetic industry has a long and thorough understanding of the requirements for placing cosmetic and personal care products on the market and hopes to maintain this.
B5b. Please provide what you think could be an alternative.

CTPA does not have a view on this matter.

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?

In view of the core focus of the proposal of simplification, when addressing enforcement across the UK, there should be a focus on transparency, coherence and consistency of enforcement between the two markets. This may not require scrutiny of the overall framework but rather looking at how best to support the players involved.

For example, what is the understanding of businesses on their obligations within UK market in respect of Northern Ireland and the Windsor Framework obligations. Companies would benefit from clear guidance and understanding on which regulators are involved in the market surveillance of their products to allow for transparency and the ability to build the trusted relationships which drives efficient enforcement.

To allow for a consistent and coherent UK framework, there needs to be a system that is aligned across the two states; product safety is the central and common point which should be consistent regardless of the market.

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 development of modern e-commerce has led to an increase of channels outside the known authorised channels, for the sale of both legitimate and counterfeit products. This has resulted in a rise of the sale of unsafe products. A key driver in this is the ability for anonymity of the traders behind these sales, with a lack of traceability leading the absence of penalty. CTPA is aligned with the proposal for the verification by online marketplaces of online seller details to help legitimise the product sale.

Under the UK Cosmetic Regulation (UKCR), cosmetics are subject to the requirement of a local presence, through the provision of the Responsible Person (RP). Under the regulation, the RP must be established in the UK and is responsible for ensuring compliance with the legal requirements of the UKCR and aids in the cooperation with the local authorities.

Through CTPA'S Primary Authority Coordinated Partnership (PAP) with Trading Standards, an Assured Advice was published on what would legally be considered as 'established in' by the enforcement authorities, as it was recognised that this would be more than just a 'business address' due to the scope of the role. This recognition of the obligation of the local presence should be consistent across product sectors through the implementation of an Authorised Representative, or Responsible Person, established in the market. The presence of the RP has allowed for the high level of consumer protection, helping champion the high standard and functioning of the regulation.

It may also be necessary to define when the local presence is required, particularly in light of the rise of e-commerce and the various channels for the sales of products. Within the EU, under the guidance of the EU Blue Guide, the interpretation of placing market is outlined, noting that the local presence is required when the product is offered to UK consumers. However, online marketplaces do not make it apparent when the product is being offered or just made available to UK consumers for purchase.

There is also a need for cooperation with jurisdictions where there the greater number of illegal online stores are found to be originating from. There may be benefits from a proactive approach with the relevant authorities in the identification where possible, to address the appearance of non-compliant and counterfeit products.

Proposal B3 Proportionate and effective penalties

B8a. To what extent do you agree with this approach of categorising offences?

Strongly agree	
Somewhat agree	**X**
Neither agree nor disagree	
Somewhat disagree	
Strongly disagree	

B8b. Please explain your answer.

CTPA is aligned with the proposal but there would need to be consideration of the interaction with the product specific legislation any impact on existing provisions.

B9a. Do you agree that this approach enables the application of proportionate penalties?	
Strongly agree	
Somewhat agree	**X**
Neither agree nor disagree	
Somewhat disagree	
Strongly disagree	
B9b. Please explain your answer.	
Clear categorisation of offences will provide clarity to companies on what would be considered a serious breach of compliance, thus understanding what a proportionate response from enforcement will look like. In providing more transparency, companies are able to proceed in confidence regarding their obligations.	
B10a. Should enforcement undertakings be available across all product regulations	
Yes	**X**
No	
Don't know	
B10b. if no, what products, regulatory obligations or types of non-compliance should be excluded and why.	
CTPA cannot comment on sectors outside of the cosmetic industry, however, CTPA is supportive of the prospect of an enforcement undertaking. The commitment to a corrective action allows for more trusted relationships between companies and enforcement. This may help reduce the occurrence of non-compliant products on the market if companies feel they	

are able to acknowledge an issue and are given the opportunity to resolve it through a constructive process.

The example of the Primary Authority scheme which allows for improvements on businesses' regulatory compliance has shown how this form of relationship with enforcement can better a company's commitment and understanding to the regulation thus reducing the risk of non-compliant products on the market.

B11a. Should we consider whether to accept undertakings that seek to benefit those affected by the non-compliance?

Yes	**X**
No	
Don't know	

B11b. Please explain your answer.

The cosmetics industry has always supported a cooperative framework for enforcement, and for companies that have identified a non-compliance to liaise with their local authority in order to establish a plan to bring them into compliance in way that is proportionate to the risk and their business.

CTPA would encourage establishing a clearer process on how companies might be able to engage with the authorities proactively. This should also include where the process should be mediated by a Trading Standards local authority (including Primary Authority relationships) or by the regulator, OPSS.

In addition, if there are instances where a company should not be allowed to offer an undertaking, these should be clear. This might need to include sector specific guidance as to when an undertaking would be considered as acceptable by the enforcement authorities.

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?

CTPA does not have a view on this matter.
B13. For which instances of product regulation non-compliance would you consider variable monetary penalties a useful, proportionate and effective response?
CTPA does not have a view on this matter.
B14. In which circumstances would you consider an escalating monetary penalty system a useful, proportionate and effective response?
CTPA does not have a view on this matter.
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	**X**
Somewhat disagree	
Strongly disagree	

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

CTPA does not have a view on this matter.
B16. Please list any other form of civil sanction that may be appropriate for either product safety, or broader product regulations.
In introducing civil monetary penalties, there should be a clear hierarchy of penalties by enforcement; for example, an undertaking first, a civil sanction second and then that can escalate to a criminal proceeding. It should be proportionate and reflect the severity of the non-compliance, with consideration of any prior 'self-reporting' through the use of undertakings if introduced.
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	**X**
Neither agree nor disagree	
Somewhat disagree	
Strongly disagree	

B17b. Please explain and give examples to illustrate your answer.

CTPA agrees that a cost recovery framework could be beneficial, if approached from a measured and proportionate manner. For example, if a company that is not already in an undertaking, is found to be non-compliant, that company should contribute to the costs incurred.

However, in the event of an enforcement project, maybe on a certain product type, a company should be informed on such beforehand and not be made to pay afterward. The information should allow the company to address the compliance in question and provide evidence before the product is selected and testing, thus avoiding the costs incurred completely.

Moreover, cost recovery should not be sought from companies relating to investigations where no compliance issues are found. The exercise of the cost-recovery should also be considered considering the introduction of possible monetary penalties, to ensure that they are balanced and proportionate to the size of the business.

B18a. Please list principles you consider should guide the design of any potential cost recovery provisions for product regulation enforcement.

CTPA does not have a view on this matter.

B18b. Please explain and give examples to illustrate your answer.

CTPA does not have a view on this matter.

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	**X**
Neither agree nor disagree	
Somewhat disagree	
Strongly disagree	

B19b. Please explain and give examples to illustrate your answer. (optional)

CTPA recognises the advantage of sharing information between relevant authorities as a means for market surveillance and enforcement for product safety. This would allow for a consistency of information across the relevant parties, as well as a reduction in repetition in administrative work. However, it is important that the information within this scope would not risk company sensitive information. There should be guidance in place to ensure the sharing of information is done securely to avoid any digital risks. Moreover, companies should also be afforded the opportunity to provide information to the authorities in person.

B20a. Please list the information you consider should be made available for the purposes of product enforcement.

Any information made available for product safety enforcement should be appropriate to the compliance in question and should not put at risk company sensitive information. For example, the sharing of sensitive commercial files via digital means.

B20b. Please list which bodies or persons such information should be shared between to ensure effective market surveillance and enforcement.

Within the cosmetic sector, in addition to OPSS, there is often shared enforcement with Health and Safety Executive (HSE) in the scope of REACH, and the Department for Environment, Food & Rural Affairs (Defra). As well as involvement of the Medicines and Healthcare products Regulatory Agency (MHRA) in particular case of borderline products. It is also important that at local level, that Trading Standards are considered.

B21a. Please list any additional safeguards you would wish to see within information sharing arrangements to prevent the improper use of data.

There may be situations in which the obligations of multiple actors within the supply chain overlap, or an enforcement is taken towards several actors at once. In these instances, the information obtained from each actor should be isolated.

B21b. Please explain and give examples to illustrate your answer.

Under the UKCR, each cosmetic product is required to have a Product Information File (PIF). This contains information about the product including commercially sensitive information such as the product composition and proof of effect of the product. As per the UKCR, this information is reserved solely for the Responsible Person and is only made accessible to the competent authorities upon request. Notably, other actors within the supply chain, such as distributors, do not require access to the PIF nor are they entitled to as such. Therefore, this should be considered in these enforcement cases to ensure confidential information is not shared beyond the obligation outlined in the regulation. Furthermore, considerations should be made in the sharing of any of the relevant documents remotely due to the nature of the information as well as the associated security challenges. As noted above, companies should also be afforded the opportunity to provide any of the requested information in person to avoid such risk.

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