Product safety resilience
Our product safety compliance reviews
Product safety risk has risen to become a key priority for businesses around the globe involved in product supply chains. There are a number of drivers:

**Brand and reputation**

The 2019 Oxford Economics/Eversheds Sutherland Risk Governance survey identified product safety issues as the greatest source of reputational risk for businesses today. Manufacturers, brand-owners and others in product supply chains are having to work increasingly hard to protect reputation, manage liability risks and reduce the prevalence and impact of product safety incidents. It only takes one slip up for the reputation of your business to be destroyed.

**Technology**

Rapid technological changes are causing seismic shifts in supply chains across multiple sectors. This presents great opportunities but also uncertainty and challenges, as increased automation pushes risk from the end user into the supply chain. The commercial pressure to release new technologies to market places even greater strain on design and manufacturing processes, demanding ever more complex failure mode analysis and increasing the danger that safety issues are only spotted after substantial stock is sold into the market.

**Regulation**

The consequences of getting things wrong are growing more severe: regulatory authorities are taking product safety increasingly seriously, following public pressure in the wake of a series of environmental and safety crises in recent years. The number of product safety notifications by EU authorities grew from 139 in 2003 to 2,201 in 2017. The consequences for producers are also continuing to escalate. The US consumer Product safety commission estimates that deaths, injuries and property damage from consumer products cost the United States $1 trillion per annum. The true cost, once reputational damage is accounted for, is vastly higher.
What we can do for you

As part of a suite of offerings to meet these challenges, Eversheds Sutherland’s product lawyers have developed a product safety compliance review process. Our service enables your organisation to reduce the risk of damaging product safety incidents by identifying shortcomings in processes and practices, improving mechanisms for avoiding and managing product safety issues and helping to embed a culture which prioritises safety.

Our experienced product lawyers help clients to manage recalls and defend claims and prosecutions arising from product safety issues on a daily basis. We are consistently ranked by Chambers and Legal 500 amongst the leading practices for product safety law. Our team includes several lawyers marked out by directories for their excellence on product liability, as well as with an array of acclaimed lawyers focused on specific sectors and regulatory regimes. We offer an unrivalled breadth of international knowledge, with lawyers across the world regularly working together to assist clients managing increasingly globalised supply chains and distribution networks.

Our track record in crisis management speaks for itself, but we are not satisfied just stepping into help you when things go wrong: we believe that you should have the benefit of our experience before disaster strikes. That’s why we have developed a product risk review process to apply our knowledge to your business, helping you to identify areas for improvement, reduce the risk of a product safety crisis, and put you in a better place to mitigate the consequence should one occur.

The below steps outline our approach:

1. **A no-obligation meeting to understand your requirements**
2. **We scope out a review and a budget that works for you**
3. **A desktop review of policy documents and other materials is conducted to agreed parameters. Taking our findings into account, we spend time with key personnel charged with implementing policies affecting product safety, to understand how resilient your product safety management is in practice.**
4. **Our findings are presented in a report using a clear, easy to follow format, pointing out key strengths and opportunities for improvement, and suggesting potential follow-up actions.**

Unlike other professionals, our reports typically benefit from the protection of legal privilege, enabling us to provide clear, frank legal advice without the risk of disclosure in subsequent litigation or regulatory investigations.

The review process in each case is tailored to your needs and challenges. The illustration below gives a flavour of the typical stages involved:
is there a full understanding in your business about your potential exposures if an unsafe product gets out on the market?

do you have a product safety crisis management plan? Has it been recently tested or updated? Does it meet current best practice?

are your supply contracts managed to ensure appropriate allocation of risk and liability in the event of a product safety incident, and to ensure a co-ordinated response if unsafe products are identified?

what are your policies for handling customer complaints and collating data from the field? Will they stand up to legal scrutiny?

have your plans factored in the product liability implications of automated and connected products?

are you adequately insured for product safety risk?

Our product liability risk reviews

Few businesses can honestly answer ‘yes’ to all the above. Our service is designed to assist those who cannot.
Here are just a few examples of clients who have used our product compliance review service:

**Group reorganisation**
Our client, a UK PLC with a Europe-wide operation, was embarking on a group reorganisation. They wanted to know how the law would assign responsibility for product safety under the new structure across ten jurisdictions, and whether its current product safety processes and recall plans were compliant with regulatory requirements and best practice.

Our international team of product liability lawyers undertook detailed analysis and produced a clear and comprehensive guide for the client, mapping out how liabilities would fall, and identifying areas for improvement to maximise product risk resilience.

**Incidents provoke review**
Our multinational manufacturing client had faced a series of product safety issues arising from manufacturing discrepancies. We were instructed to develop a bespoke crisis response plan, drawn up by a team of Eversheds Sutherland attorneys in Europe and the US.

This provided guidance for the business on managing product risk, along with training for staff to help them understand what they could do to improve product safety.

**Response to increased reputational risk**
Our client, a high profile FTSE 250 domestic products manufacturer, wanted to review the compliance of its product safety processes and crisis response plan in the light of the Grenfell Tower incident.

Our review included detailed discussions with key staff to understand practices around product safety, as well as analysis of policies and protocols. The resulting report identified a series of recommendations enabling the client to significantly improve its product safety resilience.

**New product line**
Our client, a FTSE 100 manufacturer, had recently acquired a business involved in developing emerging propulsion technologies a new area for the client. We were commissioned to assist them in understanding the liability profile in this new area and work with them to improve their resilience.

After initial review and analysis, our experienced lawyers developed and delivered a one-day symposium attended by managers from across the globe.

This was followed by a series of follow-up tasks, including training for staff in multiple jurisdictions to improve awareness of product safety risks and share best practice for risk mitigation.
Meet the team

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