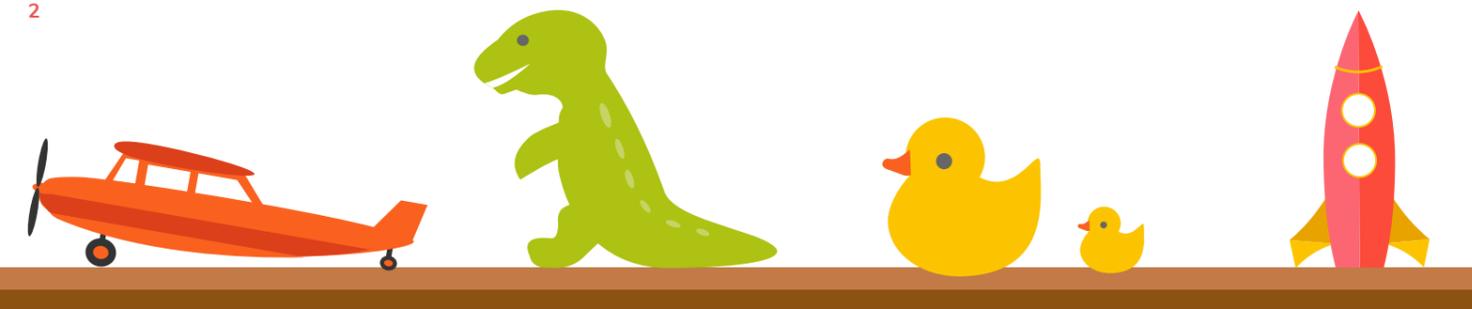


don't toy with children's safety...



...the British Toy and Hobby Association's
commitment to stamp out the sale of unsafe
toys on online platforms



INTRODUCTION

The British Toy and Hobby Association (BTHA) believes that online marketplaces should owe a duty of care to their customers to ensure that all toys that are available to purchase via their platforms are safe.

The BTHA has campaigned for more than a year to remove increasing numbers of unsafe toys from the UK marketplace. It published its first report last June to highlight this issue to consumers, regulators and the platforms but has been disappointed by the level of response. If action is not taken urgently, there is a very real risk of death and serious injury to children from the sale of these unsafe toys.

Over the past year of testing toys, the BTHA¹ found 86% of the toys purchased were illegal to sell in the UK as they failed to comply with UK toy safety requirements and 60% were unsafe for a child to play with. The sellers of these toys, and the platforms that give them a shop window to UK consumers, are putting children at risk. Currently, online marketplaces that allow third parties to sell products through their platforms have limited insight into, or incentive to monitor, the quality and safety of those products because of the current lack of accountability. Consequently, they are not making proactive changes to ensure unsafe products do not make it into the hands of children. The BTHA is urging the government to take action to protect children from this threat of physical harm by taking steps to prevent the sale of unsafe toys on online platforms, and by making the online marketplaces take some accountability for the products sold through their platforms by third-party sellers.

No action has been taken to make changes that will protect children from unsafe toys; by the government, or the online marketplace platforms themselves. Many of the toys reported in June last year appear to still be available for sale albeit from different sellers, (see appendix 8 main report) and the volume of unsafe toys is so overwhelming that the platforms themselves seem unable to remove them in good time (see appendix 7).

The BTHA is calling on government to take action now before a child dies.

The problem is compounded as consumers may not be aware of the safety risks they are taking. Action is also required to educate consumers of the risks of buying from third-party sellers on online marketplaces such as Amazon, Alibaba and eBay, among the many other online marketplaces (listed in Appendix 3) that provide a platform for the sale of third-party products.

Online marketplaces are aware of the problems. They are some of the most highly sophisticated and automated companies in the world, but unfortunately voluntary agreements, such as the European Safety Pledge and in-house solutions have not solved an escalating problem. As the responsible toy sector, we are calling on the government to take steps now to ensure a child is not seriously hurt or killed by an unsafe toy.

The latest BTHA study has found:



were illegal to sell in the UK

were unsafe for a child to play with

BTHA tips to help consumers

[Go to page 52](#)

¹ See section "About the BTHA"

THE PROBLEM

The BTHA study demonstrates that online marketplaces are hosting the sale of toys that do not comply with safety standards. Children in the UK are consequently at risk of death and serious injury from the sale of unsafe toys through online marketplaces. Consumers often believe they are buying from a trusted international retailer brand (the platform), when the reality can be very different. In fact, the sellers are third-party vendors, often based overseas, that ship direct, or via the online marketplaces' fulfilment channel. Consumers believe that somewhere in that process there will be checks on the products that are sold – but unlike traditional retail, this process does not have oversight from the platform for the toys that are listed.

Amazon has itself admitted in a US filing in 2019 that it may be "unable to prevent sellers in our stores or through other stores from selling unlawful, counterfeit, pirated or stolen goods..."

The BTHA has concerns about the lack of accountability of online marketplaces for sales of toys by third-party sellers. This is founded on research conducted by the BTHA that has revealed that of 100 test purchases from Amazon, eBay and AliExpress, which it is estimated facilitate more than 90% of sales through online marketplaces in the UK², 86% of the toys were non-compliant with UK safety requirements, and 60% were assessed as unsafe for use. Given that 74% (appendix 5) of parents have reported buying toys from an online marketplace, and according to a Populus survey for Which? nine in 10 people in the UK have bought a

consumer good from an online marketplace, this is a considerable problem and one that continues to increase as online marketplaces grow without regulation.

The latest report follows the release of a previous report by the BTHA in June 2019³ which showed similar failures. Over the two BTHA studies, with a total of 300 toys tested, 67% of the toys tested were found to be illegal to sell in the UK and 35% were unsafe for children to play with. While the problem of cheap, unsafe and fake products is not new, the growth of online marketplaces has significantly exacerbated the problem by giving third-party sellers a legitimate online shop window to the world, with little accountability and limited traceability. The issues arise because:

- There is no legal requirement for online marketplaces to check the safety of the products that other sellers are listing on their site
- Trading Standards Officers in the UK work hard to protect consumers but many third-party sellers are from overseas, outside UK enforcement boundaries
- UK consumers find it difficult and expensive to take legal action against overseas sellers – if they can be traced at all – if there is an accident



²See 'Retail Channel Series: UK online marketplace retailing 2019 – 2024', GlobalData, 4 November 2019.

³https://www.btha.co.uk/wp-content/uploads/2019/06/Toy-Safety-Campaign_FV-19.06.2019.pdf



CALL FOR ACTION

Online marketplaces have a key role to play in ensuring compliance with safety requirements and protecting children from harm given the strength of their position in the supply chain and the ability of the online marketplaces to develop and implement systemic solutions. However this is not happening and voluntary agreements, such as the European Product Safety Pledge, are not working. We call on the government to regulate the online marketplaces to improve accountability and keep UK children safe.

We call on the government to:

1. Update legislation governing consumer rights to reflect changing shopping patterns to ensure that:
 - a. the terms and conditions applicable to consumers buying through online platforms include warranties from the online marketplaces as to the quality and fitness for purpose of the products purchased via their platforms; and/or
 - b. the online marketplaces are jointly and severally liable for products sold via their platforms;

Through such legislative change, the burden of enforcement action against third-party sellers can be moved to the online marketplaces rather than consumers or Trading Standards. The platforms benefit from greater resources and pre-existing commercial arrangements with the third-party sellers to enable them to pre-vet listings and take policing action;

2. Update powers for the Office for Product Safety and Standards (OPSS) and Trading Standards Officers to ensure they are empowered to take enforcement action against the online marketplaces on behalf of consumers, where it is appropriate to do so;

3. Support the McNally Bill as part of the government's initiatives in relation to the regulation of online harms to allow flexibility for wider regulation of online harms, including physical and reputational harm suffered as a result of defective and/or unsafe products sold on the online marketplaces' platforms and include physical harm from products as an online harm; and
4. Limit safe harbour arrangements for platforms as the UK leaves the European Union. Under the European E-commerce Directive platforms are given safe harbour provisions for being "passive players" in the interaction between sellers and consumers. But in reality platforms host products, often actively market products, know customers browsing history so offer similar products for purchase, and sometimes act as the fulfilment, or delivery, mechanism – we would therefore consider the platforms to be more than passive players. We call on the government to update the UK interpretation of safe harbour provisions in light of current practices, acknowledge the active role platforms play in bringing products to market and limit the safe harbour provisions.

We also call on government to ensure no new safe harbour provisions are introduced via Free Trade Agreements that could limit the UK's ability to govern the safety of toys entering the UK marketplace

SEE SECTION "THE SOLUTION" PAGE 14 FOR DETAILS ON THE BTHA CALL FOR ACTION

BTHA TOY SAFETY REPORT

This document is intended as a standalone White Paper and has been prepared by the BTHA to draw awareness to the serious risks posed by the sale of unsafe toys through online marketplaces. Some of the steps we suggest be taken by Government can be progressed without delay and do not depend on Government resolving some of the different and complex issues that arise from new trade agreements, the proposals set out in its Online Harms White Paper, or alignment or divergence from current European regulations.

This report gives more detail for government to consider in addition to the executive summary.

OUR RESEARCH

The BTHA has conducted its own series of purchasing and testing toys over the past two years to demonstrate the issues these toys pose to children across the UK. Over the past year of testing, the BTHA has found 60% of the toys purchased were unsafe for a child to play with and a total of 86% were illegal to sell in the UK (including those that were unsafe).

In the original test, 200 toys were purchased from three of the largest online platforms that operate in the UK⁴. Of the toys bought from third-party sellers 58% were illegal to sell in the UK and 22% were deemed unsafe⁵. Over the two BTHA studies a combined average of 67% of toys failed to comply with the basic UK safety requirements and 35% were unsafe for children to play with.

Latest result for 100 new toys		Initial panel assessment		Independent lab testing		Total		Under investigation
Platform	Sample size	Illegal	Unsafe	Tested	Failed Test	% Unsafe	% Non-compliant	Possible Counterfeit
Amazon	34	10	18	24	17	53%	82%	0
eBay	37	5	23	26	22	62%	76%	1
AliExpress	29	10	19	22	14	66%	100%	2

Illegal = failure to comply with the Toy Safety Directive e.g. labelling, traceability address, CE mark

Unsafe = fails safety standard or presents a hazard that may cause injury to children

⁴The full list of currently known active online marketplaces is set out in Appendix 3

⁵Toys (Safety) Regulations 2011 (SI 2011/1881)

Combined results across 300 toys		Initial panel assessment		Independent lab testing		Total		Under investigation
Platform	Sample size	Illegal	Unsafe	Tested	Failed Test	% Unsafe	% Non-compliant	Possible Counterfeit
Amazon	134	38	36	38	27	27%	55%	2
eBay	87	16	35	36	28	40%	59%	5
AliExpress	79	41	34	32	21	43%	95%	9
Total	300	95	105	106	76	35%	67%	16

Illegal = failure to comply with the Toy Safety Directive e.g. labelling, traceability address, CE mark

Unsafe = fails safety standard or presents a hazard that may cause injury to children



HOW THESE ILLEGAL TOYS ENTER AND REMAIN ON SALE IN THE UK MARKET

Online marketplaces supply products in different ways⁶. In certain models, the host company (which owns and operates the platform) sells products which it has purchased for onward sale. However, in other models, product lines are loaded onto the platform by third-party sellers directly. These sellers are, in many cases, not based within the EU and are therefore difficult to contact, work with or, in the case of enforcement, prosecute. These product lines are found on the platform's "marketplace" and listed with no (or very little) pre-listing controls. Accordingly, any product can be uploaded whether or not it complies with the product safety laws of the jurisdictions in which the products are being sold.

In the 'offline' world, toy makers and retailers have legal obligations and responsibilities to ensure that the toys they sell are safe and legally compliant. Furthermore, they have additional obligations if they are found to be selling an unsafe product. A retailer would be termed a "distributor" in many cases when selling a third-party line in the offline world. As a distributor they would have set obligations to check labelling and cooperate with enforcement authorities. Where an offline retailer stocks a product that has no European representation they would adopt the role of an "importer" which has further obligations and a requirement to add their address as the primary point of contact for the EU, so the product can be traced if there is a problem.

In contrast, the platforms themselves, generally do not accept that they have any legal obligation to check the safety of the items being sold by third-party sellers on the marketplace as they do not consider they are any of the 'economic operators' who have various duties to ensure compliance with the Regulations (See the summary of the current legal framework below). It is the third-party vendor who sells to the consumer who is legally responsible for the safety of the product but

overseas sellers fall outside current UK enforcement areas, so often do not meet the same basic safety requirements.

This approach to liability does not however reflect the reality of how transactions are completed via online marketplaces, including the fact that marketplaces frequently restrict the content and mechanisms for contact between vendors and purchasers to marketplace-approved channels and messaging services. Marketplace terms also often: (i) require vendors to act in a way which is not prejudicial to the marketplaces' customers (i.e. rather than being identified as customers of the vendor); (ii) provide for the evaluation of vendors' performance; (iii) and preclude the directing of customers away from the platform to complete transactions, such as to their own selling sites. The marketplaces are accordingly an integral part of the supply chain in defective and/or non-compliant toys being made available in the UK market and the BTHA considers it is artificial to treat transactions arranged via online marketplaces, for liability purposes, as involving only the consumer and third-party vendor.

Since the first BTHA report there has been an ongoing lack of, or severely delayed, enforcement response by the UK enforcement agencies. Trading Standards Officers are unable to take any action against the platforms themselves due to the lack of clarity regarding their economic operator role and consequential obligations under the Toy Safety Directive. In addition, they cannot take action against the third-party sellers who are often untraceable and often based outside the UK's legal jurisdiction. Limited funding/resources means they are not always sufficiently equipped to take enforcement action domestically, such as withdrawing or recalling unsafe products from sale. The BTHA reported the unsafe toys for a considerable time before action was taken to remove them from the UK market for sale. The

⁶See Appendix 1

first reports of unsafe products were notified to the OPSS for the online platforms in September 2018. The first notifications of 3 products onto the EU Safety Gate recalls system by Hertfordshire Trading Standards were in October and November 2019. More recently, the OPSS has taken responsibility for creating notifications. From February 2020, all unsafe and illegal lines from our original report and the first batch of 60 toys in 2020 have been added to the UK Product Safety Database. 31 notifications have now taken place on the EU Safety Gate. Further work has already been undertaken with this new report and products are being added to the Safety Gate as appropriate. This action has been welcomed by the toy industry and is a step in the right direction but relies on the BTHA to purchase, test and report unsafe toys but only instigates action on the few we are able to report and does not stop the systematic listing of illegal toys in the first place which is why we are calling on changes to the law to keep consumers safe.

In addition, the unsafe toys were notified to the relevant platforms which took varying degrees of action. Some items were removed on notification but seemingly identical products remained available and some items were subsequently relisted. See the BTHA “Still on Sale report” in Appendix 8 and the ‘crocodile story’ case study in Appendix 7.

There is also little evidence of the platforms carrying out voluntary recalls on toys the BTHA has reported as unsafe. If a safety issue is discovered or reported, it is a legal requirement under the Regulations for companies which are considered to be ‘economic operators’ to take appropriate corrective action, including product recall if appropriate⁷. The platforms hosting the marketplaces do not consider themselves as one of the economic operators required to comply with those requirements, or the BEIS sponsored PAS7100 standard on recall and corrective actions.

Of all the toys notified on the Rapid Alert System (RAPEX), only one has been notified to the BTHA purchaser of the products. As a customer, we have not been informed by the platform regarding 30 recalled lines even when they have been proven to be unsafe. This lack of accountability and voluntary action means consumers (and, in particular, their children) continue to be exposed to the risks presented by unsafe toys, whether that be serious personal injury or worse, a fatality.



⁷See Toy Safety Directive and EU product safety pledge

⁸Appendix 5

⁹For example, pursuant to the Consumer Rights Act 2015 and/or Consumer Protection Act 1987.

THE PROBLEM

There are a growing number of unsafe toys being sold in the UK by third-party sellers on well known and trusted online marketplaces and other smaller players entering this online market. While the problem of cheap, unsafe and fake products is not new, the growth of online marketplaces has significantly exacerbated the problem by giving third-party sellers a legitimate online shop window to the world, with little accountability and often limited traceability. These platforms have made it significantly harder for consumers to identify non-compliant and counterfeit products and for existing regulators to take effective action. This is an increasing concern given a 2019 survey by the BTHA identified 74%⁸ of parents who said they bought their children’s toys online, and according to a Populus survey for Which? nine in 10 people in the UK have bought a consumer good from an online marketplace.

Consumers often believe they are buying from a trusted international brand, when the reality can be very different. In fact, the sellers are often overseas vendors that ship direct, or via the online marketplaces’ fulfilment channel. This can mean UK customers have limited ability to pursue their right to a refund or to bring liability claims against overseas sellers in the event that a child is injured or dies⁹. Often there is a lack of traceability making it difficult, or impossible, leaving to one side the issue of costs, for the consumer to contact the seller when something goes wrong. Trading Standards Officers do not have jurisdiction to take action overseas and limited funding/resources means they are not always sufficiently equipped to take enforcement action domestically.

When third-party vendors sell to the consumer, they are responsible for the safety of the products. Third-party vendors can be any individual or company wishing to sell products via the online marketplace platform. Some third-party vendors act responsibly and are trusted brands. However, others are not and it can be difficult for consumers to know the difference and make informed choices about the risks. Some companies and individuals are based outside the jurisdiction of UK enforcement bodies making it extremely difficult to take action when something goes wrong. In this scenario the online marketplaces generally do not accept that they have any legal obligation to check the safety of the items being sold by third-party sellers as they do not consider they are any of the ‘economic operators’ who have various duties to

ensure compliance under the Regulations. Accordingly, online marketplaces are hosting the sale of toys that do not comply with the safety standards, and which in the absence of the online marketplaces may not have a route to market in the UK. Tests undertaken by the BTHA (see Appendix 2 for more information) have found that the non-conformity issues can range from not having contact addresses to a failure to give adequate warnings, such as choking hazards.

This situation is exacerbated by the online platforms not policing their own sites well enough and not having legal accountability for the unsafe and counterfeit products for sale on their platform. We note, for example, in its 2019 annual report filed in the US last year, Amazon acknowledged they may be

“unable to prevent sellers in our stores or through other stores from selling unlawful, counterfeit, pirated, or stolen goods...”¹⁰.

The lack of accountability means consumers (and, in particular, their children) are exposed to the risks presented by unsafe toys, whether that be serious personal injury or worse, a fatality. Buyers can also be left without the same level of consumer protection they should be entitled to and may believe they have, and that they do have with other UK retailers. There may be no way of returning faulty, dangerous or counterfeit goods or of seeking compensation from the seller in the case of an injury. In the same way that online streaming, social media and news sites are coming under increasing pressure to take greater responsibility for the content on their platforms, online marketplace platforms must be held accountable for the products sold under the umbrella of their name, and overseas sellers should be incentivised to ensure compliance with the UK’s existing toy safety requirements.

Unless the online marketplace¹¹ operates a money back/guarantee scheme, the consumer is often unable even to request a refund for a faulty or unsafe product sold by a third-party seller if they cannot establish contact with the seller. However, money back guarantee schemes are voluntary and, in any event, do not cover liability, such as for personal injury.

¹⁰<https://ir.aboutamazon.com/static-files/0f9e36b1-7e1e-4b52-be17-145dc9d8b5ec>

¹¹We note, for example, Amazon offers an A-Z Guarantee Protection Scheme and eBay offers a Money Back Guarantee Scheme (but only where purchases are made through PayPal).

In the case of a serious injury or fatality when a consumer, or law enforcement agency, might want to take further action and the seller or manufacturer cannot be found, the online marketplace is unlikely to be held liable in their place. Without a sufficient level of accountability, the marketplaces do not have to take the steps necessary to ensure that products being sold through their platforms are either legal or safe before they go on sale.

THE THREAT TO THE RESPONSIBLE INDUSTRY

The increasing presence of these toys on the UK market is a real threat to responsible businesses in the UK's £3.2 billion toy industry. As well as endangering the lives of children, which is the BTHA's primary concern, they risk disincentivising investment by UK toy companies in innovative new design, as they cannot compete with companies that are making no investment in safe design and materials. Britain's legitimate toy companies invest considerable resource and funds in ensuring their products meet the standards required by UK product safety law. They spend hundreds of thousands of pounds to bring a toy to market. They invest in many areas to create a fun, engaging and safe product, including:

- research to make sure the toy is suitable for the age and interests of children;
- design to ensure it is fun, engaging and will last;
- design to ensure it will meet the safety requirements under UK law, for example, to ensure it will not break easily, has no sharp edges or small parts that can harm a child or toy stuffing cannot be accessed that a child could choke on;
- design to ensure it does not contain any of the 1000s of chemicals banned and restricted under the toy safety regulations;
- manufacturing toys in audited factories to monitor worker safety and conditions;
- packaging that provides customers with all the safety information they need at the point of purchase; and
- Engagement with and payment for sustainability schemes such as Waste Electronic and Electrical Equipment, packaging waste, batteries and accumulators.

Buyers can be left without the same level of consumer protection they should be entitled to and may believe they have, and that they do have with other UK retailers. There may be no way of returning faulty, dangerous or counterfeit goods or of seeking compensation from the seller in the case of an injury.

Traders bringing non-compliant and unlawful products to market may not invest in any of these areas, meaning consumers are being offered toys which have not been designed to be safe or manufactured using materials that are sustainable and safe for children to play with. By not making these investments these traders undermine the UK's reputation for high safety standards and undercut reputable companies with substandard, unsafe and illegal products. When purchasing these products on online marketplaces, consumers believe they are buying from companies they consider to be trusted brands, without realising they are in fact buying potentially unsafe products from unscrupulous third-party sellers who are often untraceable or based in jurisdictions beyond the reach of UK enforcement agencies.

In addition, reputable toy companies make toys to last. Members of the BTHA are very aware of their environmental responsibility, sign an annual declaration to reduce their impact on the environment, and constantly look at new technologies to assess changes that could make a difference to the planet. They also make toys that are designed to last and to bring years of play and development to a child. At a time when we are all aware of environmental concerns, the sale of cheaply made toys that break easily on arrival or first play and that quickly make their way to landfill should be removed from the UK marketplace.

The additional costs that reputable companies include in the design and delivery of safety and compliant toys means it is harder than ever to compete with substandard toys. If reputable companies cannot compete they will go out of business and the only option left for consumers will be a choice of unsafe and illegal products. The government must act now to protect vulnerable consumers and reputable companies.

LACK OF ACTION

The BTHA published its first report last June to raise this issue with consumers, regulators and platforms but has been disappointed by the level of response.

While some platforms removed some of the identified products these (or identical products) are often relisted, by the original seller or by others. Seemingly identical items are still on sale across all platforms and little proactive work has been done to prevent this relisting by the platforms themselves. The volume of unsafe toys seems so overwhelming that the platforms seem unable to remove them on a reactive basis (see appendix 7) and so something else needs to change to ensure these products do not make their way to market.

Despite this, there is no evidence of any procedures to vet marketplace vendors in terms of their ability to supply safe and legal product prior to being approved to list products on the marketplaces. Furthermore, there is no evidence available to show that any procedures have been put in place to check that products themselves are safe and legal.

It has taken more than a year for enforcement (trading standards and OPSS) to list only some of the items on Safety Gate (European product safety system that alerts enforcement authorities across Europe)¹² about products to look out for – meaning they have remained on sale to the public during that time.

Despite the knowledge of the lack of a legal framework to prevent unsafe toys being sold in the UK, and knowledge that unsafe toys are not being effectively removed from sale or recalled, there has been little activity at governmental level to address the issue or to make the legislative change necessary to hold these platforms to account for the products they allow to be sold and make money from.



A SUMMARY OF THE CURRENT LEGAL FRAMEWORK

TOY SAFETY

EU-wide toy safety standards are currently governed by the Toy Safety Directive¹³ (“**the Directive**”) which was implemented into UK legislation by the Toys (Safety) Regulations 2011¹⁴ (“**the Regulations**”). After Brexit the Toy Safety Directive will be replaced by the 2011 No. 1881 The Toys (Safety) Regulations 2011 which are currently identical.

The Regulations impose obligations on four types of ‘economic operators’ who might be involved in the supply chain and who market, place or make a toy available on the EU market. They are:

- manufacturers;
- importers;
- distributors; and
- authorised representatives (who might be appointed by a manufacturer for the purpose of having an EU presence).

A full definition of each role can be found in Appendix 4.

The Regulations prescribe certain safety standards (such as the need for warnings about any hazards or risks associated with a toy). The Regulations prescribe certain obligations for each of the economic operators and prohibit the placing of toys on the EU market unless they comply with the safety requirements in the Directive.

Under the Regulations, the ‘manufacturer’ has primary responsibility to ensure conformity with the safety requirements and for the toy (or its packaging) to be marked with the correct safety warnings and the manufacturer’s name and a single address at which the manufacturer can be contacted.

However, an ‘importer’ has a duty to ensure the manufacturer has complied with its various obligations and the importer must also ensure that its name and address is also marked on the toy (or its packaging/ accompanying documentation). The value of having an address within the EU is that it increases traceability for buyers/enforcement agencies in the event that something goes wrong.

Distributors have more limited obligations but nevertheless have a duty to act with due care in relation to the compliance of toys they make available on the EU market. This includes the duty to verify that the manufacturer and importer correctly labelled the product as above in the language of the country where the product is to be sold.

Currently there is a lack of clarity as to the role of the online marketplace in the overall supply chain. As a result, they do not take steps to discharge the various obligations attached to those roles.

CONSUMER POWERS

Liability claims

There are three main ways in which an entity involved in the supply of toys can incur civil liability for defective products under English law. They are:

- Strict-liability claims under Part I of the Consumer Protection Act 1987;
- Negligence; and/or
- Breach of contract.

In addition to the issues regarding the lack of clarity about what (if any) responsibility the online marketplaces have in the context of such claims, civil enforcement can be expensive to the consumer and its effectiveness is significantly limited where a particular manufacturer, trader or seller is located overseas and/or cannot be traced.

Consumer Rights and Protection

In the UK, the Consumer Rights Act 2015 gives consumers a range of protections and other rights in relation to consumer contracts for the sale and supply of goods and services which apply to the sale of toys. In view of this, consumers have legal rights against a ‘trader’ if an item they buy is:

- broken or damaged (‘not of satisfactory quality’)
- unusable (‘not fit for purpose’)
- not what was advertised or doesn’t match the seller’s description.

¹³Directive 2009/48/EC

¹⁴SI 2011/1881

THE BENEFIT OF REGULATORY CHANGE

- Tackling the risk of serious physical harm (or fatality) to children (and their parents) posed by the prevalence of unsafe, non-compliant toys online;
- Alleviating the competitive disadvantage faced by British toy firms who manufacture and sell toys in compliance with existing regulatory standards;
- Returning approx. £400 million of toy sales revenue to the economy, currently lost to counterfeit sales each year;
- Returning significantly more revenue each year by removing illegal and unsafe toys from the market (our estimate is that this could be worth up to £850 million to the UK economy if the illegal traders are removed and the online marketplaces pay accordingly);
- Removing non-compliant and unsustainable toy waste from the supply chain and the waste stream;
- Enhancing Britain’s reputation for high safety standards;
- Highlighting the UK government as a world leader, taking action on an issue which is a problem across the globe;
- Cutting down on waste - reputable toy companies make toys that are designed to last and to bring years of play and development to a child – they are far from single use. At a time when we are all aware of environmental concerns the sale of cheap toys that break easily should be removed from the UK marketplace; and
- Ensuring companies that trade in the UK pay the proportionate level of corporation tax in order to make a fundamental contribution to the fabric of UK society. Without intervention UK companies will be unable to compete and will not exist into the future and the only option for consumers will be unregulated, unsafe toys.



THE SOLUTION

CALL FOR ACTION

Marketplace liability

The BTHA believes that online marketplaces should have a duty of care to their customers to ensure that toys that are available to purchase via their platforms are legal and safe, but that the existing legal framework does not accurately reflect the role they play in non-compliant and unsafe products being brought to market. The BTHA accordingly considers that legislation should be introduced to provide consumers with routes of redress that are clearly defined, and actionable in practice, in the event that harm is suffered as a result of illegal and/or unsafe toys purchased via an online marketplace.

In the BTHA's view, the most straightforward way to improve accountability for the products purchased on platforms would be to strengthen consumers' rights to bring private law actions against the online marketplaces that toys have been purchased from, and place the burden on pursuing enforcement actions against third-party sellers on the online marketplaces (i.e. rather than on consumers). Given the slow speed with which the online marketplaces have been willing to act to remove unsafe products, and the limitations in the voluntary remedial schemes they have established, it is considered that legislation will be required to effect meaningful changes in practice. This may be achieved in at least two different ways:

1. Implying through statute appropriate terms into the contracts/terms of use entered into between consumers and online marketplaces for the use of their platforms, similar to the statutory terms as to quality and fitness for purpose implied into contracts between consumers and traders by the Consumer Rights Act 2015; and/or
2. Establishing a 'like claim' for consumers against online marketplaces as they have against the third-party seller of toys sold via the platform provided by the online marketplace, similar to the liability of credit card providers under section 75 of the Consumer Credit Act 1974.

It is envisaged that terms to be implied into contracts between consumers and the online marketplaces, which would not be able to be excluded¹⁵, ought to take the form of statutory warranties that products purchased via the platform are of satisfactory quality and are fit for purpose. This would provide consumers with a direct cause of action against the online marketplace in the event that toys purchased are defective and/or unsafe, in the same way that section 19 of the Consumer Rights Act 2015 entitles consumers to reject goods, seek a refund, and/or bring a claim for damages against traders.

Under section 75 of the Consumer Credit Act 1974, a credit card provider will be jointly and severally liable to consumers for misrepresentation and/or breach of contract in respect of qualifying transactions for the purchase of goods using a credit card, along with the supplier of the goods. It is envisaged that legislation may strengthen consumers' rights by establishing a similar 'like claim' against online marketplaces such that they are fixed with joint and several liability (along with third-party sellers) for products purchased via their platforms.

Neither of the above options would transfer sole liability for harms caused by defective or unsafe products to the online marketplaces as they may seek to join the third-party seller as a defendant in any proceedings and/or bring a contribution claim against the third-party seller, for example under the Civil Liability (Contribution) Act 1978. Additionally, any legislation in this area may include provision similar to section 75(2) of the Consumer Credit Act 1974 which provides that the supplier of goods shall indemnify the credit card provider for any liability it suffers as a result of the statutory 'like claim'. Such provision would ensure that the online marketplaces would have, and be able to enforce, claims against the third-party entities selling toys on their platform for any sums they are required to pay as a result of joint and several liability being imposed.

The effect of enhancing consumers' rights to bring private law actions against the online marketplaces for toys purchased via their platforms would be:

1. Consumers would be able to seek refunds and/

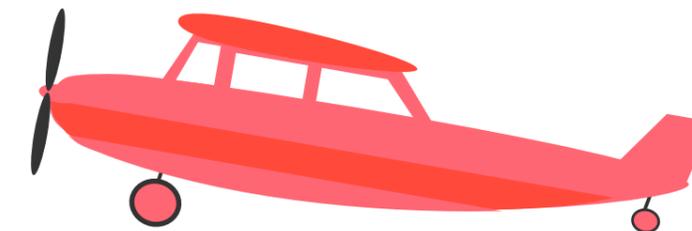
or claim damages against an identifiable and contactable party that is economically active in the UK; and

2. The responsibility, and associated risk, for pursuing the liability of third-party sellers operating outside the UK and/or the EU will shift to the online marketplace on which the toys are marketed for sale.

Other mechanisms which may be considered in legislation to further strengthen consumer protections include imposing a contractual duty on online marketplaces to ensure that products sold via their platforms meet all applicable regulatory requirements, introduce a minimum compensatory payment for breach irrespective of consumers' ability to prove loss, and/or provide for third-party enforcement (e.g. by a specified regulatory body) which may be exercised in circumstances where low value losses are suffered but by a large quantity of consumers.

The BTHA considers that the above approaches represent a reasonable balance between the protection of consumers from harm suffered as a result of non-compliant and/or unsafe toys, and the avoidance of unjustified interference with the platform services offered by online marketplaces. It is noted in this regard that by imposing liability on the online marketplaces, the measures set out above would require them to do no more than is currently expected of consumers to enforce their rights against third-party sellers. The online marketplaces are however significantly better placed than consumers to take such action to enforce their rights given the resources available to them, and their pre-existing commercial arrangements with the third-party sellers. It is fair to shift the enforcement burden on to the online marketplaces in light of the use of their platforms being indispensable for the third-party sellers to bring the defective and/or unsafe products to the UK market and the revenue they generate from those sales.

The BTHA also anticipates that shifting the enforcement burden on to the online marketplaces in this way will promote better regulatory practices within the market by strongly incentivising the online marketplaces to



proactively vet the third-party sellers that are permitted to supply goods via their platforms, and to more carefully monitor the products that are offered for sale on their platforms (and promptly withdraw products which are shown to be defective and/or unsafe), ideally before the point of sale.

Regulatory action

In addition to liability for harm suffered as a result of non-compliant and/or unsafe toys purchased by online marketplace platforms, the BTHA also considers there is scope for the powers of the OPSS to be widened. This may include powers to issue legally binding, but specific (in order to comply with the Ecommerce Directive¹⁶), obligations to online marketplaces to engage in such monitoring or fact-finding in respect of toys offered for sale on their platforms as is appropriate in light of reports of breaches made to the OPSS. As the UK leaves the European Union, the scope for widening the OPSS' powers in this regard may be enhanced, subject to the extent to which the UK government agrees to maintain alignment with EU law and product regulation standards.

Further, should legislation be introduced to impose joint and several liability on online marketplaces for goods sold via their platforms (as proposed above), the BTHA considers that it would be appropriate for the OPSS to be empowered to take representative enforcement action against the online marketplaces on behalf of classes of consumers who have suffered harm or losses in consequence of defective and/or unsafe toys purchased via a platform, similar to the redress mechanisms provided in 'opt-out' collective actions for infringement of competition law. Such powers for the OPSS will be essential to ensure that online marketplaces' liability to consumers is enforced in circumstances where the losses suffered by individual consumers are low, and therefore uneconomical to pursue, but the volume of potential claims is significant.

Wider online harms regulation

In response to its consultation on the regulation of online harms, government announced plans in February 2020 to grant wider powers to Ofcom to regulate content

¹⁵See for example, section 31 of the Consumer Rights Act 2015 which provides that a clause which seeks to exclude certain terms implied by the Act is unenforceable.

¹⁶2000/31/EC (as implemented by the Electronic Commerce (EC Directive) Regulations 2002.

hosted by online social media providers. Prior to that announcement, the Online Harms Reduction Regulator (Report) Bill was presented in the House of Lords by Lord McNally on 14 January 2020 (“the McNally Bill”) which, if enacted, would require Ofcom to prepare and publish a report containing recommendations for the introduction of an Online Harms Reduction Regulator.

Such a report would include recommendations for a duty to be imposed on online platform service operators in the UK to ensure that service users are free from harm arising from the service’s operation or use, as far as reasonably practicable and the harms are reasonably foreseeable. The report would also include recommendations for the matters to which the duty of online platform service providers should relate, including the prevention of: (i) dangers to persons under the age of 18; (ii) illegal activity, including intellectual property; and (iii) any other harms that Ofcom deem appropriate. Government would then be required to table legislation establishing such a regulator in accordance with Ofcom’s recommendations. The McNally Bill is currently awaiting a second reading in the House of Lords on a date to be announced.

The BTHA supports the proposals contained in the McNally Bill and considers that the matters to which the duty of online platform service providers should relate ought to be widened to include the prevention of: (i) physical harm to consumers; and (ii) reputational harm to UK business, as a result of illegal products being sold via their platforms.

The BTHA would support an approach that allowed regulators other than Ofcom to identify risks within their area of expertise and make recommendations for enforcement action to Ofcom as the overall online harms regulator. Such provision would ensure that the regulator (whether Ofcom or a new entity) can work cohesively with the OPSS to identify and respond to risks posed by products marketed on the online marketplaces’ platforms, and in respect of which the OPSS may wish to take enforcement action.

OTHER CONSIDERATIONS FOR GOVERNMENT

The third-party sellers

Third-party sellers should be held primarily responsible for the safety of their products. This reflects that they are the person/body who either manufactures the product or otherwise makes it available for sale on the market, and the BTHA’s view that the ability of online marketplaces to seek indemnification from the third-party sellers for any liability they suffer should be preserved. Accordingly, Government should take steps to strengthen the powers of existing enforcement agencies to ensure they can also take action against overseas sellers who try to avoid traceability.

Some of the steps Government could take (including as part of trade deals being negotiated by Government) to address these issues include:

- Strengthening the powers of existing enforcement agencies (such as Trading Standards), including by increased funding, to ensure they are equipped to, and can take action against, overseas sellers who try to avoid traceability. This might be, for example, by way of intergovernmental cooperation with a view to reaching agreement on cross-border enforcement arrangements (e.g. by way of Memoranda of Understanding between the relevant enforcement agencies or as part of Free Trade Agreements).
- Exploring the ways in which UK enforcement authorities can engage bilaterally with overseas counterparts, e.g. through international networks and Free Trade Agreements;
- Developing (where necessary) cross-border civil enforcement agreements to assist in the enforcement of judgments against third-party sellers who are found to be liable in the UK courts;
- Ensure new Free Trade Agreements do not give the platforms new safe harbours;
- Considering other steps that can be taken to tackle non-compliant third-party sellers without a legal presence in the UK, such as introducing new legislation to require any person selling products on the UK online marketplace to always have a verified and up-to-date UK/EU address with a physical entity which is responsible for that item. They should also have an email address and telephone number available to the marketplace platform to ensure traceability prior to being able to list an item for sale in an initial “pre-listing” process.

ABOUT THE BTHA

- Founded in 1944, the British Toy & Hobby Association (BTHA) is the official organisation representing toy manufacturers. The BTHA’s members range from large international toy firms to small family-run businesses.
- Membership of the British Toy & Hobby Association shows the member’s commitment to adhere to the BTHA Code of Practice under the umbrella of the Lion Mark which includes rules covering ethical and safe manufacture of toys, toy safety, a ban on counterfeit goods, an assurance to market responsibly, a commitment to improving sustainability and a desire to promote the value of all play through support of the Make Time 2 Play campaign.
- Members of the BTHA have access to a safety service to help them comply with the extensive safety regulations that ensure toys are safe to play with. That safety service is run by a number of toy safety professionals with many years of experience of toy compliance between them with specialist knowledge across the industry including areas such as mechanical, physical, toxicological and internet connectivity. In addition, the BTHA works with specialists from outside the BTHA on behalf of members, particularly with testing laboratories when needing to verify test results.
- The BTHA also administers the Toy Trust - the industry’s charity – and runs the Toy Fair, the largest dedicated toy trade event in the UK.

ABOUT THE TOY INDUSTRY

FIGURES FROM NPD

- The UK is currently the largest toy market in Europe, and fourth largest toy market worldwide, behind the United States, China and Japan.
- There were more than 32,000 new toys launched by reputable companies in 2019, that’s 27% of the toys sold in the UK, totaling £863 million of total sales.
- Direct operations of the toy and hobby sector make a direct contribution to UK GDP of £1.4 billion and an indirect contribution of £2.7 billion.



The legitimate toy industry is worth £3.2 billion, with around 80% of the toy industry falling into the small to medium sized category.



Online sales of toys are increasing year on year and accounted for 37% of total toy sales last year.



APPENDIX 1: OVERVIEW OF ONLINE MARKETPLACES' SUPPLY CHAIN MODELS

TRADITIONAL RETAILERS

The retail environment has undergone many changes as many retailers move to include an online presence. In addition, many new retailers have no high street presence and exist solely online.

Much of the existing legislation refers to the traditional retailer approach. In these cases, retailers will buy stock from suppliers, store that stock in their own warehouse arrangements and distribute it to stores. Retailers will buy stock from suppliers in the UK and the EU and globally and in some cases directly from factories around the world.

Products will have different brands – they can be the retailer's "own-brand", small tertiary brands and the biggest global brands. Traditional retailers will apply differing levels of technical controls based on the brand and the location of purchase and based on their obligations under the Toy Safety Directive (TSD).

The highest level of control is applied to own-brand items where factory approval, product specifications, mandatory third-party testing, inspection, safety assessments and bills of materials are all collected and held by the retailer due to their "manufacturer" status under the TSD.

For other purchased lines where there is no EU presence for the actual manufacturer the retailer will become the "importer". Importers are required to add their EU address to the product and hold certain documentation and ensure other safety requirements are being met by the manufacturer.

Finally, for the other brands with an EU presence the retailer will become a "distributor". Distributors have obligations to check labelling and to work with enforcement but little else.

All traditional retailers will take responsibility for unsafe products and often the retailer is the first port of call for any enquiry from consumers.

These obligations have worked well and give clear responsibility to those in the supply chain. Enforcement

by the bigger UK retailers has been thorough and has protected consumers effectively for many years.

ONLINE MARKETPLACES

Online marketplaces provide an online platform through which consumers or other businesses can view and buy products from a range of sellers.

The platform is used by a number of companies, the platform owner themselves in some cases (i.e. when acting as a direct retailer) and other sellers – Third-Party companies - in others. There are a number of differing business models within an online platform under which a customer will receive their toys;

1. Direct Retailer

This is when an online marketplace acts as a retailer. They buy toys directly from a supplier (UK, EU or Worldwide) and sell that toy to a consumer. In this scenario there are clear obligations which they need to undertake.

2. Fulfilment House

This is when the online marketplace provides a fulfilment service to the sellers on the marketplace. The third-party seller (see below) places the item on the platform for sale but instead of shipping a sold item themselves the toys are stored in the warehouse facilities of the online marketplace. Once a customer buys a toy on the platform the online marketplace accepts, fills and ships the order.

3. Third-party vendor

Third-Party vendors are those that load their own products onto the platform. They will then either use the fulfilment service above or they receive orders directly from a customer and fulfil those orders directly to the buyer. When not using the fulfilment services the only involvement with the platform owner is to provide details to list the item on the platform, to start selling, and to provide a fee for the listing and a percentage of the sale value to the platform. They can be UK manufacturers or other retailers, importers, globally based companies or individuals working from home. No verification of the product, the labelling or the compliance status is currently mandated by law.

APPENDIX 2: THE ADDITIONAL BTHA RESEARCH INTO SAFETY OF TOYS SOLD THROUGH ONLINE MARKETPLACES

1. PROJECT METHODOLOGY AND BACKGROUND (FULL RESULTS TABLE AT END OF SECTION FOR EACH MARKETPLACE)

The BTHA undertook an investigation in late 2018 / early 2019 which tested 200 toys from online marketplaces and found 58% had issues that meant they were illegal to sell in the UK and 22% of those toys had safety issues that could lead to varying degrees of safety concerns if a child were allowed to play with them.

As little action had been taken since publication of the report the BTHA repeated the study to observe any changes in toy safety on online marketplaces. 100 toys were purchased from third-party sellers on three of the largest online marketplaces – Amazon (34), eBay (37) and AliExpress (29).

Toys were purchased at random, but efforts were made to get a wide variety of types and categories of product from a variety of third-party sellers, for a variety of ages of children. No particular type of toy or ones where common non-compliances are known were actively pursued.

Once the toys were received, the packaging was checked for basic toy labelling compliance in accordance with the Toy Safety Directive 2009/48/EC – assessing warnings and markings and European address details, etc. In addition, advertised ages and addresses on the website were compared to actual details listed on packaging. Full details were recorded, and a spreadsheet summary was compiled for each toy (see below).

Toys were then categorised as either "compliant", "illegal" or "unsafe". Illegal toys do not meet legislative requirements usually due to the lack of appropriate labelling. Unsafe toys do not meet the requirements of a safety standard or would obviously fail a safety standard if tested.

It should be noted that for the toys that appear to be compliant no checks have been made regarding whether they are counterfeit or copycat lines at this stage and no additional testing has been applied.

Following the purchase and analysis of the toys a number were selected by the BTHA for further independent laboratory testing by Bureau Veritas, an independent accredited test house, to determine if the products were non-compliant or presented a risk to children.

Not all applicable tests were applied to all toys. Instead a targeted approach was used, the toys being subjected only to tests where it was considered the risk of failure could be high given the type of toy. In addition, as only one of each type of toy was submitted, only certain tests could be carried out as further samples would be required to carry out additional testing.

All decisions were verified by a panel of industry experts. This panel included BTHA Toy Safety Advisors, a laboratory representative, Trading Standards, a retail technical expert and BTHA member technical expert.

2. SUMMARY OF FINDINGS

Latest results for 100 new toys		Results		Independent lab testing		Total		Under investigation
Platform	Sample size	Illegal	Unsafe	Tested	Failed Test	% Unsafe	% Non-compliant	Possible Counterfeit
Amazon	34	10	18	24	17	53%	82%	0
eBay	37	5	23	26	22	62%	76%	1
AliExpress	29	10	19	22	14	66%	100%	2
Total	100	25	60	72	53	60%	86%	3

Illegal = failure to comply with the Toy Safety Directive e.g. labelling, traceability address, CE mark

Unsafe = fails safety standard or presents a hazard that may cause injury to children

Combined projects table of 300 toys sampled over two testing cycles:

Combined results across 300 toys		Results		Independent lab testing		Total		Under investigation
Platform	Sample size	Illegal	Unsafe	Tested	Failed Test	% Unsafe	% Non-compliant	Possible Counterfeit
Amazon	134	38	36	38	27	27%	55%	2
eBay	87	16	35	36	28	40%	59%	5
AliExpress	79	41	34	32	21	43%	95%	9
Total	300	95	105	106	76	35%	67%	16

Illegal = failure to comply with the Toy Safety Directive e.g. labelling, traceability address, CE mark

Unsafe = fails safety standard or presents a hazard that may cause injury to children

A. DETAILED FINDINGS – AMAZON

The BTHA initially checked 'Amazon top 100 toys' in 2018 - please see previous reports and our White Paper - https://www.btha.co.uk/wp-content/uploads/2019/06/Toy-Safety-Campaign_FV-19.06.2019.pdf. This report concerns follow up checks on 34 further toys purchased from Amazon between April 2019 and July 2020. All toys were purchased from third-party sellers.

Toys were purchased at random, but efforts were made to get a wide variety of types and categories of product from a variety of sellers. No particular type of toy or ones where common non-compliances are known were actively pursued.

Once the toys were received, the packaging was checked for basic toy labelling compliance in accordance with the Toy Safety Directive 2009/48/EC. In addition, advertised ages and addresses on the Amazon website were compared to actual details listed on packaging.

24 samples were selected and sent for independent third-party testing to selected standards.

All decisions were verified by a panel of industry experts. This panel included BTHA Toy Safety Advisors, a laboratory representative, Trading Standards, a retail technical expert and BTHA member technical expert.

It should be noted that for the 6 toys that appear to be compliant no checks have been made regarding whether they are counterfeit or copycat lines at this stage and no additional testing was applied.

Latest results for 100 new toys		Results		Independent lab testing		Total	
Platform	Sample size	Illegal	Unsafe	Tested	Failed	% Unsafe	% Non-compliant
Amazon	34	10	18	24	17	53%	82%

Illegal = failure to comply with the Toy Safety Directive e.g. labelling, traceability address, CE mark

Unsafe = fails safety standard or presents a hazard that may cause injury to children



The safety issues found included:

- Accessible strong magnets – serious damage to colon
- Mouth actuated toys - choking risk
- Bags plastic sheet too thin – suffocation hazard
- No screw closure for battery compartment / access to small batteries
- Restricted chemicals
- Small parts – choking risk
- Cords – strangulation risk
- Accessible button cell batteries – oesophageal and digestive tract corrosion, linked to fatalities
- Product warnings required in safety standards not correct or contravening standards
- 3 years and over warning not present – resulting in multiple risk, usually choking
- Construction not strong enough exposing circuit and batteries during testing
- Inadequate electrical product warnings and safety instructions – electrical hazard
- Restricted substance Nickel under REACH Annex XVII
- RoHS chemical content failure – environmental hazard

Note only limited testing was conducted on each line if full testing to all applicable standards and clauses were carried out, further failures would be expected.

In addition, 10 toys have been found to have illegal non-compliances based on the following packaging markings or product features:

- Traceability markings inadequate – No traceability addresses, No EU address, Incomplete EU addresses
- No safety information on pack or no packaging
- Missing or incorrect warnings, CE mark or 0-3 logo

Full details for each non-conformant toy can be seen in the product listings below.

Other observations

It was noticed that the business addresses stated under the business on Amazon appear to be different to those on packaging, non-existent or in addition, some addresses were obviously not actual addresses for instance:

GUANGZHOU SHIPANYU QULUOPUJIEYINBINLUGUAN19HAO,
XIAJIAOLINGNANDIANZISHANGWUCHANYEYUAN1JIE4LOU46HAO,
GUANGZHOU SHI,
GUANGDONGSHENG
510000
CN

B. DETAILED FINDINGS – EBAY

26 samples were selected and sent for independent third-party testing to selected standards.

All decisions were verified by a panel of industry experts. This panel included BTHA Toy Safety Advisors, a laboratory representative, Trading Standards, a retail technical expert and BTHA member technical expert.

It should be noted that for the nine toys that appear to be compliant no checks have been made regarding whether they are counterfeit or copycat lines at this stage and no additional testing was applied.

Latest results for 100 new toys		Results		Independent lab testing		Total	
Platform	Sample size	Illegal	Unsafe	Tested	Failed	% Unsafe	% Non-compliant
eBay	37	5	23	26	22	62%	76%

Illegal = failure to comply with the Toy Safety Directive e.g. labelling, traceability address, CE mark

Unsafe = fails safety standard or presents a hazard that may cause injury to children



The safety issues found included:

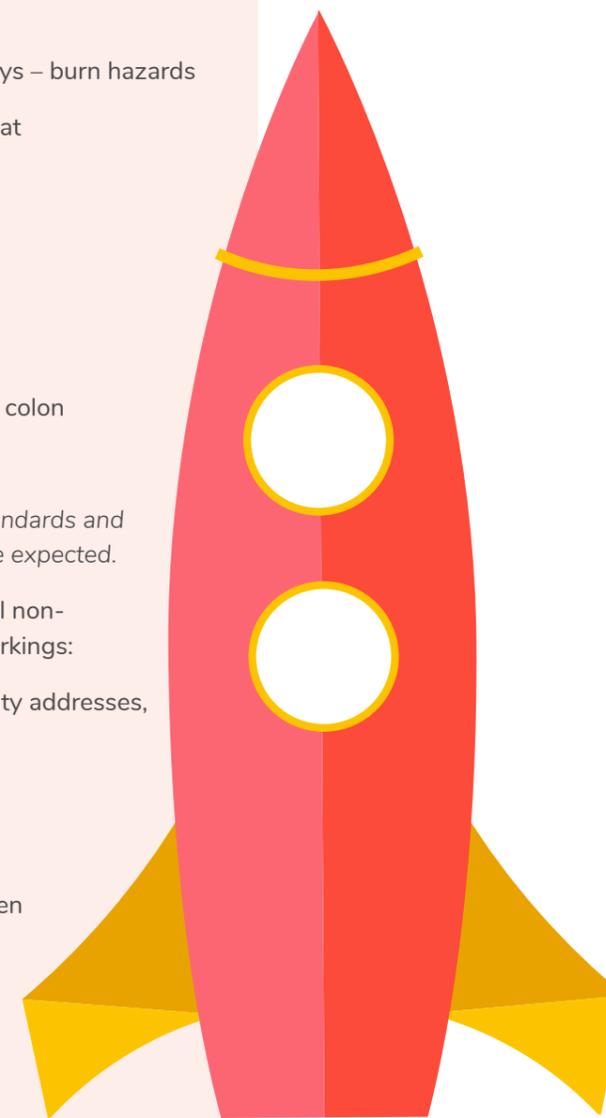
- EN71-1 – sharp edges, sharp points
- Acoustics – too loud, hearing damage
- Small parts as supplied where no suitable age warning and small parts produced after abuse tests
- Missing warnings – EN71-1
- Small parts after abuse tests for baby rattles, potential choking hazard
- Bags plastic sheet too thin – suffocation hazard
- Accessible batteries
- Access to fibrous fillings
- Mouth actuated toys shapes – small parts
- Driving mechanisms finger trap
- Markings and instructions missing on electrical toys including age warnings
- Heating and abnormal operation for electrical toys – burn hazards
- Components – North American mains plug format
- Restricted chemicals
- Cords – strangulation risk
- Shape and size of certain toys – choking risk
- Small parts – choking risk
- Accessible strong magnets – serious damage to colon
- Exposed mechanism – finger crush risk

Note that if full testing – all toys to all applicable standards and clauses – were carried out, further failures would be expected.

In addition, six toys have been found to have illegal non-compliances based on the following packaging markings:

- Traceability markings inadequate – No traceability addresses, No EU address, Incomplete EU addresses
- No safety information on pack or no packaging
- Missing or incorrect warnings or CE mark

Full details for each non-conformant toy can be seen in the product listings below.



C. DETAILED FINDINGS – ALIEXPRESS

22 samples were selected and sent for independent third-party testing to selected standards.

All decisions were verified by a panel of industry experts. This panel included BTHA Toy Safety Advisors, a laboratory representative, Trading Standards, a retail technical expert and BTHA member technical expert.

Latest results for 100 new toys		Results		Independent lab testing		Total	
Platform	Sample size	Illegal	Unsafe	Tested	Failed	% Unsafe	% Non-compliant
AliExpress	29	10	19	22	14	66%	100%

Illegal = failure to comply with the Toy Safety Directive e.g. labelling, traceability address, CE mark

Unsafe = fails safety standard or presents a hazard that may cause injury to children



The safety issues found included:

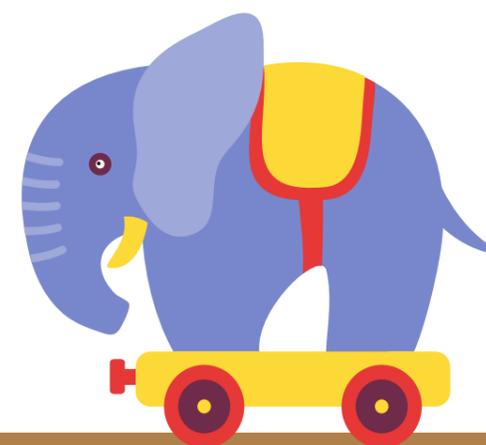
- Plastic sheeting and bag thickness – suffocation hazard
- Markings and instructions missing on electrical toys including age warnings
- Projectile Energy too high – impact and injury issues
- Improvised projectiles – use of wrong or dangerous projectiles
- Small parts released
- Fillings and fibrous fillings access
- Missing small parts warnings for children under 3 years
- Presence of restricted phthalates
- Mouth actuated toys - choking risk
- Sharp points
- Bags plastic sheet too thin – suffocation hazard

Note that if full testing – all toys to all applicable standards and clauses – were carried out, further failures would be expected.

In addition, 10 toys have been found to have illegal non-compliances based on the following packaging markings:

- Traceability markings inadequate – No traceability addresses, No EU address, Incomplete EU addresses
- No safety information on pack or no packaging
- Missing or incorrect warnings or CE mark

Full details for each non-conformant toy can be seen in the product listings below.



ADDITIONAL POINTS

For item 5 in section 3 below:

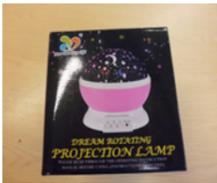
https://www.aliexpress.com/item/4000428774069.html?spm=a2g0o.productlist.0.0.bd13588a1ndn2R&algo_pvid=b31a0cde-1084-4d46-823f-84e28efb4a0e&algo_expid=b31a0cde-1084-4d46-823f-84e28efb4a0e-0&btsid=a31b13dd-77bd-4460-b570-382c9ed4f254&ws_ab_test=searchweb0_0,searchweb201602_8,searchweb201603_55

While not directly related to toy safety, the returns policy is not in line with the Distance Selling Regulations. Only a partial refund is offered and it is limited to 7 days.

Return & Warranty

- (1) If you want to return items, do not send back by yourself without contact us. Or we won't solve the issue and buyer should take responsibility for the consequences.
- (2) Please contact us within 7 days if you want to return your item because of changing mind. Partial refund will be given. Buyer pays the return postage. 15% of total amount will be deducted when refund which is for packing and shipping fee.
- (3) If item gets defective within guarantee period. Buyer can send the item back for repairing. Buyer pays for all shipping fee. Repairing will normally takes 1-2 months.
- (4) All refund and replacement will be processed within two-three business days after we get the return package.

AMAZON SUMMARY TABLE OF NON-COMFORMANT TOYS

No	Product Name	Packaging/Product Non-Compliance Issue Identified	Risk Assessment	Photograph	Classification
1	ALLCELE Fun Recording Talking Robot	Labelling – No address Batteries are in the toy with screw closure, but the box also contained 3 extra button cell batteries.	Risk – HIGH Access to loose button cells dangerous. History of children requiring serious surgery after swallowing button cells. Plus labelling issues.		Unsafe
2	Kuultoy High-Speed Pipe, Speed Tube with Racing Car, Remote Control	Labelling – No EU address No Warning sign 0-3 sign shows 0-5 instead and is too small. FAILED – Report 435704 RoHS Compliance – 48. Solders on PCB inside car– 54. Solders on PCB inside ball PASSED – Report 435704 Phthalate Content to (EC) No 1907/2006. REACH Annex XVII (Entry 51&52)	Risk – HIGH Incorrect age warnings which could result in 0-3 years getting access to an inappropriate toy plus labelling issues Risk – LOW Failed RoHS restricted substances		Unsafe
3	TOP Gift Star Night Light Lamps	No EU address FAILED – Report 229624 – BS EN62115:2005 +A12 2015 Electric toys Safety 7. Markings and Instructions	Risk – MEDIUM Missing labelling under 62115 including safety advice for use plus labelling issues		Unsafe
4	Wil Wolfer Girls Play Tent Palace Tents Kids with Star light for Indoor and Outdoor (Pink)	No labelling No labelling regarding the fairy lights – advertising states indoor and outdoor use for lights. FAILED – Report 229651 – BS EN62115:2005 +A12 2015 Electric toys Safety 7. Marking and Instructions	Risk – MEDIUM Missing labelling under 62115 including safety advice for use plus labelling issues		Unsafe
5	Top Bright Toddler Fishing Game Magnetic	Labelling – No address FAILED – Report 229620 – BS EN 71-1:2014+A1:2018 7.22 Toys with cords or chains	Risk – HIGH EN71-1 failure due to lack of 18 months warning regarding long cord strangulation hazard. Plus labelling issues		Unsafe

No	Product Name	Packaging/Product Non-Compliance Issue Identified	Risk Assessment	Photograph	Classification
6	OleOletOy Sensory Fidget Toys Set with Stress Balls, Stretchy Strings, Flippy Chain, Soybean Squeeze & Mini Unicorn	Labelling – No EU address Small parts included. No age recommendation on box and Incorrect wording on small parts warning. Nickel Release to (EC) No 1907/2006. REACH Annex XVII – Report 229654 – FAIL Phthalate Content to (EC) No 1907/2006. REACH Annex XVII (Substance 51&52) – Report 229654 – PASS	Risk – HIGH Small part warnings missing endangering young children. Plus labelling issues. Failed REACH Nickel test – relates to allergic reactions to nickel plus CMR classification under TSD.		Unsafe
7	Top Race Doctors Set	Labelling – No EU address FAILED – Report 229796 – BS EN 71-1:2014+A1:2018 4.11 Mouth actuated toys and other toys intended to be put in the mouth	Risk – HIGH EN71-1 failure due to small parts but no small parts and under 3 years warnings on packaging. Small parts were fake “pills” that are more likely to be placed in the mouth. Plus labelling issues		Unsafe
8	LCD 10 Inch Electronic Writing Tablet Electronic	Labelling – No address No 0-3 sign No age recommendation battery comes out on testing (button cell) FAILED – Report 229622 – BS EN62115:2005 +A12 2015 Electric toys Safety 7. Marking and Instructions 13. Mechanical strength 14. Construction	Risk – HIGH Toy was missing electrical safety instructions. Under testing the item broke open giving access to the button cell batteries and electronic circuit. History of children requiring serious surgery after swallowing button cells. Failed EN62115 test		Unsafe
9	DMAZING Travel Toys for 1-3 year olds, Wooden lacing apple threading toys	No EU Address 12 month age grade, No CE mark FAILED – Report - 248438 EN71-1:2014+A1:2018 5.4.2.1 Cords and chains with the potential to tangle 5.4.4 Fixed loops, tangled loops and nooses	Risk – HIGH EN71-1 failure due to cords – strangulation Plus labelling failures		Unsafe

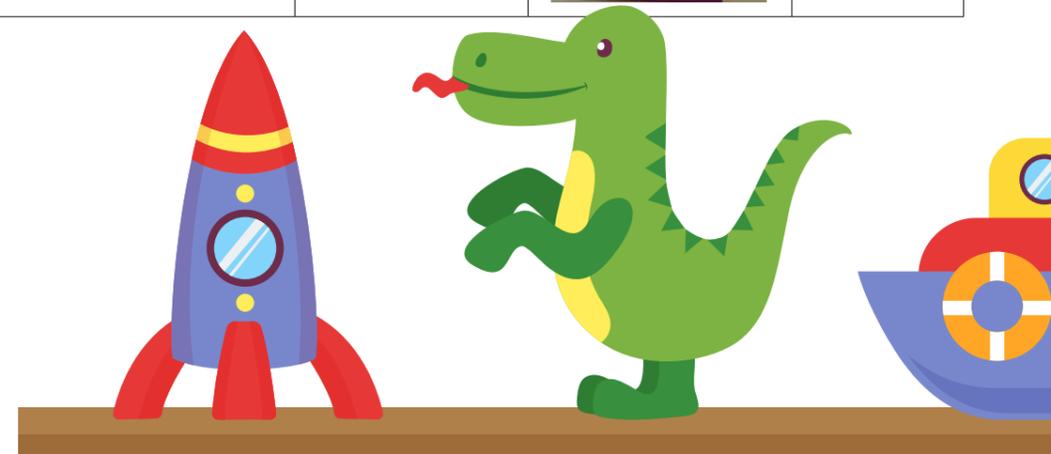
No	Product Name	Packaging/Product Non-Compliance Issue Identified	Risk Assessment	Photograph	Classification
10	AMOSTING 56 Magnetic Blocks construction toy	Photograph of child contradicts age grade FAILED – Report - 248425 EN71-1:2014+A1:2018 - 4.23.2 Magnets: toys other than magnetic / electrical experimental sets intended for children over 8 years.	Risk – HIGH EN71-1 failure due to high strength magnets Plus labelling failures		Unsafe
11	Crying doll by Zengyuan	No EU Address Report - 248426 PASSED - EN71-1:2014+A1:2018 FAILED - Phthalates	Risk – HIGH Chemical restriction failure under REACH Plus labelling failures		Unsafe
12	HUADADA Busy Board for Toddlers Montessori Basic Motor Skills Activity Board Learning	No EU Address, No age grade, No CE mark FAILED – Report - 248427 EN71-1:2014+A1:2018 5.1 General (broke producing small parts) 5.4.2.1 Cords and chains with the potential to tangle 5.4.4 Fixed loops, tangled loops and nooses	Risk – HIGH EN71-1 failure due to small parts, cords, loops – choking and strangulation Plus labelling failures		Unsafe
13	Teething Ring, Vobulafy 2 Packs Soft Handmade Natural Wooden Rainbow Ribbon Teether Bracelet, Baby Kids Chewing Toy	No EU Address, No age grade, No CE mark FAILED – Report - 248428 BS EN71-1:2014+A1:2018 5.1 General (broke producing small parts) 5.4.2.4 Free length of cords and chain	Risk – HIGH EN71-1 failure due to small parts, cords, loops – choking and strangulation Plus labelling failures		Unsafe
14	New Baby Surprise Doll	No EU Address, No age grade, No CE mark Small parts pull of easily FAILED – Report - 248433 Phthalates	Risk – HIGH Access to small parts Chemical restriction failure under REACH Plus labelling failures		Unsafe

No	Product Name	Packaging/Product Non-Compliance Issue Identified	Risk Assessment	Photograph	Classification
15	19 pieces Wooden Doctor Toys Set	FAILED – Report - 248431 BS EN71-1:2014+A1:2018 4.11 mouth actuated toys and other toys intended to be put into the mouth 4.23.2 Magnets: toys other than magnetic / electrical experimental sets intended for children over 8 years. 6.0 (a) Plastic Sheeting and Bags	Risk – HIGH EN71-1 failure due to high strength magnets, mouth actuated toys, plastic sheeting – magnets, choking, suffocation		Unsafe
16	Sunshine smile swimming ring baby inflatable seat	Advertised as a baby float but 0-3 sign on packaging insert. Incorrect markings on float No EU Address, No CE Mark Report - 248437 PASSED - Phthalates - FAILED - BS EN71-1:2014+A1:2018 4.18(a) Stoppers - permanently attached 5.1 General - small parts	Risk – HIGH EN71-1 failure due to small parts choking hazard Plus labelling failures		Unsafe
17	Magnetic Building Blocks	No EU address Advertising shows young child contradicting 3+ FAILED – Report - 248435 EN71-1:2014+A1:2018 - 4.23.2 Magnets: toys other than magnetic / electrical experimental sets intended for children over 8 years.	Risk – HIGH EN71-1 failure due to high strength magnets Plus labelling failures		Unsafe



No	Product Name	Packaging/Product Non-Compliance Issue Identified	Risk Assessment	Photograph	Classification
18	12 Pcs Mini Pull Back Cars with A Drawstring Bag	No EU address Cars broke quite easily producing small parts. 0-3 logo but advertising shows baby. FAILED – Report - 248436 BS EN71-1:2014+A1:2018 5.1 General (small parts)	Risk – HIGH EN71-1 failure due to small parts choking hazard Plus labelling failures		Unsafe
19	Ucradle Kids Tool Kit	Labelling – No EU address Incorrect warning for small parts CE mark is incorrect format 0-3 logo is too small. PASSED – Report 29619 – Phthalate Content to (EC) No 1907/2006. REACH Annex XVII (Substance 51&52) PASS – Report 229619 – PAHs	No warning for small parts but contains small parts. Obviously not suitable for under 3 years however.		Illegal
20	Inflatable Tummy Time Baby Water Play Mat	Labelling – No address No CE mark PASSED – Report 229621 – Phthalate Content to (EC) No 1907/2006. REACH Annex XVII (Substance 51&52) PASSED – Report 229621 – SCCPs (ISO18219)	Labelling failures		Illegal
21	Smile Emoticon Pillow	Label has inappropriate warning – 'warning! not suitable for children under 3 years.' Fire and Furnishings for pillows not mentioned or labelled	In appropriate age warning potential Fire and Furnishings non-compliance		Illegal
22	Lenbest Large Magnetic Drawing Board	Labelling – No EU address Business address on Amazon does not look genuine. PASSED – Report 229618 – BS EN 71-1:2014+A1:2018	Labelling issues		Illegal

No	Product Name	Packaging/Product Non-Compliance Issue Identified	Risk Assessment	Photograph	Classification
23	Angusiasm Color Matching Egg Set	Labelling – No address PASSED – Report 229649 – BS EN 71-1:2014+A1:2018	Labelling issues		Illegal
24	E-Know Bubble Wand	Labelling – No EU address Incorrect warning formats on packaging. 0-6 logo and too small PASSED – Report 229675 – EN14362 Azo dyes PASSED – Report 229675 – PAHs	Labelling issues		Illegal
25	Yita Microphone Toy	Labelling – No address Conflicting age warnings to age recommendation on packaging PASSED – Report 229623 – BS EN 71-1:2014+A1:2018 N.B. notes re: acoustics & toys not intended for children < 36months	Labelling issues		Illegal
26	Yoga Pose Game Cards	Labelling – no address	Labelling issues		Illegal
27	UOKOO STEM Toys Building Block Kit – 150 Pieces	No labelling small parts within toy and no labelling but aimed at 3+ so illegal only	Labelling issues		Illegal
28	Plush Creations Plush Cat House Carrier with 4 Soft and Fluffy Stuffed Plush Talking and Meowing Kittens	No EU Address, No CE mark PASSED – Report - 248430 BS EN71-1:2014+A1:2018	Labelling issues		Illegal



EBAY SUMMARY TABLE OF NON-COMFORMANT TOYS

No	Product Name	Packaging/Product Non-Compliance Issue Identified	Risk Assessment	Photograph	Classification
1	23X Wooden Kids Music Instruments	<p>Labelling – No address</p> <p>0-3 sign too small/incorrect colour</p> <p>Warning sign – incorrect format?</p> <p>No small parts within the toy – small parts were found when tested due to the toys easily breaking and coming apart</p> <p>CE mark too small</p> <p>FAILED – Report 5419254001A – BS EN 71-1:2014+A1:2018</p> <p>Numerous clauses inc. edges, points, acoustics, packaging bag, small parts, rattles, missing warnings</p>	Risk – HIGH		Unsafe
2	Tooky Wooden Fire Truck Engine	<p>Packaging states 18 months + on box</p> <p>Small parts within the toy</p> <p>FAILED – Report 234174 – BS EN 71-1:2014+A1:2018</p> <p>5.1 General – small parts</p> <p>6a plastic sheeting and bags</p>	Risk – HIGH		Unsafe
3	2019 Baby Shark Singing Plush	<p>Labelling – No address</p> <p>No age recommendation</p> <p>Came in clear plastic bag – no warning.</p> <p>Secure battery compartment</p> <p>FAILED – Report 234187 – BS EN 71-1:2014+A1:2018</p> <p>5.1 General. – battery access / small parts</p> <p>5.2c fillings – fibrous fillings</p> <p>6a plastic sheeting and bags</p>	Risk – HIGH		Unsafe

No	Product Name	Packaging/Product Non-Compliance Issue Identified	Risk Assessment	Photograph	Classification
4	7Pcs/Set Newborn Toddler Baby Shaking Bell Rattles Teether	<p>No address</p> <p>No CE Mark</p> <p>FAILED – Report 234194 – BS EN 71-1:2014+A1:2018</p> <p>4.11 mouth actuated toys</p> <p>5.1 General – small parts, failures after abuse tests</p>	Risk – HIGH		Unsafe
5	Cars Set	<p>Labelling – No address</p> <p>FAILED – Report 234177 – BS EN62115:2005 +A12 2015 Electric toys Safety</p> <p>7. Markings and Instructions</p> <p>17. Note: no screw provided for battery compartment even though screw hole was present</p> <p>Confirmed Counterfeit</p>	Risk – HIGH		Unsafe
6	Kids Puppy Toys Remote Control Dog Battery Operated	<p>FAILED – Report 234172 – BS EN62115:2005 +A12 2015 Electric toys Safety</p> <p>7. Markings and Instructions</p> <p>PASSED – Report 234390 – Azo Dyes content to (EC) No 1907/2006 REACH Annex XVII Substance 43</p>	Risk – MEDIUM		Unsafe
7	Transform Auto Dog Car Transformer	<p>Labelling – No address</p> <p>FAILED – Report 234179 – BS EN 71-1:2014+A1:2018</p> <p>4.10.2 Driving mechanisms finger trap</p>	Risk – MEDIUM		Unsafe

No	Product Name	Packaging/Product Non-Compliance Issue Identified	Risk Assessment	Photograph	Classification
8	3D Doodle Printing Pen	<p>Labelling – No address</p> <p>No warning sign / No 0-3 sign</p> <p>Advertised as a gift for a child</p> <p>FAILED – Report 234178 – BS EN62115:2005 +A12 2015 Electric toys Safety</p> <p>7. Markings and Instructions including age warnings</p> <p>9.Heating and abnormal operation</p> <p>16 Components</p> <p>North American mains plug format</p>	<p>Risk – HIGH</p> <p>Risk of burns</p>		Unsafe
9	Minecraft Torch Light Up Diamond Night Lamp	<p>No EU Address</p> <p>No CE Mark</p> <p>FAILED – Report 234191 – BS EN62115:2005 +A12 2015 Electric toys Safety</p> <p>7. Markings and Instructions</p> <p>13. note: impact caused toy to crack</p>	<p>Risk – MEDIUM</p>		Unsafe
10	Kids role play home appliance	<p>No labelling. Toys arrived loose in a cardboard box</p> <p>Each piece has a secured battery compartment.</p> <p>Website says use “normal carbon battery, try not to high capacity battery so as to not burn the circuit board too much power” – not helpful to consumers</p>	<p>Risk – MEDIUM</p> <p>Labelling issues</p> <p>No electrical instructions</p>		Unsafe
11	Doll set with accessories	<p>No age grade</p> <p>FAILED – Report - 248530</p> <p>Phthalates</p>	<p>Risk – HIGH</p> <p>Chemical restriction failure under REACH</p>		Unsafe
12	Mermaid Dolls	<p>No EU Address, No age grade, No CE mark</p> <p>FAILED – Report - 248530</p> <p>Phthalates</p>	<p>Risk – HIGH</p> <p>Chemical restriction failure under REACH</p> <p>Plus labelling failures</p>		Unsafe

No	Product Name	Packaging/Product Non-Compliance Issue Identified	Risk Assessment	Photograph	Classification
13	Wooden Toddler Toy	<p>No EU Address, no CE mark</p> <p>FAILED – Report - 248521</p> <p>EN71-1:2014+A1:2018</p> <p>6.0(a) plastic sheeting and bags</p>	<p>Risk – LOW</p> <p>EN71-1 failure for thin plastic sheeting - suffocation</p> <p>Plus labelling failures</p>		Unsafe
14	Teddy Bear – light up	<p>No EU Address, No age grade, No CE mark</p> <p>FAILED – Report - 248519</p> <p>EN71-1:2014+A1:2018</p> <p>4.10.4 Springs</p> <p>5.1 General (small parts)</p> <p>5.2 c) Fillings - fibrous fillings - coverings</p> <p>5.4.2.4 Free length of cords and chains</p> <p>5.4.4 Fixed loops, tangled loops and nooses</p> <p>5.4.6 Electrical cables</p> <p>5.8 Shape and size of certain toys</p> <p>FAILED – Report - 5420206-0006A</p> <p>EN62115 - tension test, polarity, temperature rises, accessible batteries,</p>	<p>Risk – HIGH</p> <p>EN71-1 failure due to small parts, cords, loops, fibrous fillings, size and shape, cables – choking and strangulation</p> <p>EN62115 failure due to strength, temperature, accessible batteries</p> <p>Plus labelling failures</p>		Unsafe
15	Sensory play bundle	<p>No EU Address, No age grade, No CE mark</p> <p>FAILED – Report - 248531</p> <p>EN71-1:2014+A1:2018</p> <p>4.3 Flexible Plastic sheeting</p> <p>5.1 General (small parts)</p> <p>5.4.2.4 Free length of cords and chains</p> <p>5.8 Shape and size of certain toys</p> <p>5.10 Small balls</p> <p>6.0 (a) plastic sheeting and bags</p>	<p>Risk – HIGH</p> <p>EN71-1 failure due to small parts, sheeting, cords, size and shape, small balls, thin sheeting – choking and strangulation</p> <p>Plus labelling failures</p>		Unsafe

No	Product Name	Packaging/Product Non-Compliance Issue Identified	Risk Assessment	Photograph	Classification
16	Water Spray Bath toy	No EU Address FAILED – Report - 248516 EN71-1:2014+A1:2018 - Clause 5.1b detached small parts under testing - wheels, blue cover and yellow cover Plastic bag too thin at 0.030mm FAILED – Report - 54202060008A EN62115 - drop test causes breakage, short circuit possible which caused smoke and temp rise of 70.8C on batteries, detachable parts fail under 14.11, labelling and instructions absent including battery labels.	Risk – HIGH EN71 failure for detached small parts – choking hazard EN62115 failure short circuit, detachable parts and safety markings – fire risk Plus labelling failures		Unsafe
17	103pc Magnetic Sticks Building Blocks	No EU Address FAILED – Report - 248533 EN71-1:2014+A1:2018 - 4.23.2 Magnets: toys other than magnetic / electrical experimental sets intended for children over 8 years.	Risk – HIGH EN71-1 failure due to high strength magnets, mouth actuated choking, suffocation Plus labelling failures		Unsafe
18	Dancing Princess Doll LED light	FAILED – Report - 248514 EN71-1:2014+A1:2018 8.5 cover on wheels came off exposing driving mechanism that could crush fingers FAILED - EN62115 Labelling (keep instructions, Instructions languages, battery information) Clause 5.15 Base detached at 42N giving non-conformance on 9.4. Clause 9.4 Temperature rises when insulation is short circuited	Risk – HIGH EN71-1 failure due to finger crush risk EN62115 failure due to temperature rises, detachable parts and safety labelling		Unsafe
19	Dancing LED Robot	No EU address FAILED – Report - 54202110004A EN62115 - labelling missing (tradenname, keep instructions, correct language, battery warnings, instructions) Clause 15.1 absence of contact with moving parts, protection of cords and wires (in contact with moving parts) EN71-1:2014+A1:2018 - PASS.	Risk – MEDIUM EN62115 failue due to safety warnings, protection from wiring and contact with moving parts Plus labelling failures		Unsafe

No	Product Name	Packaging/Product Non-Compliance Issue Identified	Risk Assessment	Photograph	Classification
20	Musical Instrument Set	No EU address Toy states 3 years plus but baby in advertising and toy name on label and on actual drum is called 'Baby Concert' FAILED – Report - 249438 EN71-1:2014+A1:2018 Mouth actuated toys with small parts Clause 4.20.2.10 Acoustics wind toys failure, missing long cords warning.	Risk – HIGH EN71-1 failure due to mouth actuated toys, acoustics and missing cord warning – choking, strangulation and hearing damage hazard Plus labelling failures		Unsafe
21	4 in 1 Activity Play Mat	No EU Address Toy states for 3months + but also shows the 0-3 sign and a warning sign. FAILED – Report - 249441 EN71-1:2014+A1:2018 Clause 8.40 Cords 511mm long Clause 8.16 mirror attachment rings and screws protrude past template Clause 6 plastic bag under 0.038mm incorrect over 3 month warning plus not for under 3 years warning	Risk – HIGH EN71-1 failure due to cords, screws, thin plastic and incorrect age warning Plus labelling failures		Unsafe
22	Toddler Learn Beads Building Blocks	No EU Address FAILED – Report - 249440 EN71-1:2014+A1:2018 5.1 General (small parts)	Risk – HIGH EN71-1 failure due to small parts – choking hazard Plus labelling failures		Unsafe
23	Electronic toddler singing, dancing plush doll	No EU Address, no CE mark, no age grade Small part in the form of a rubber dummy but attached to string. Felt material on toes pulled off easily. FAILED – Report - 249439 EN71-1:2014+A1:2018 4.23.2 Magnets: toys other than magnetic / electrical experimental sets intended for children over 8 years 5.1 General (small parts) 6.0a) plastic sheeting and bags FAILED - Phthalates	Risk – HIGH EN71-1 failure due to high strength magnets, small parts, thin plastic sheeting – choking, suffocation Chemical restriction failure under REACH Plus labelling failures		Unsafe

No	Product Name	Packaging/Product Non-Compliance Issue Identified	Risk Assessment	Photograph	Classification
24	Kids Wooden Kitchen Food	Labelling – No EU address	Labelling Compliance issue		Illegal
25	Stacking Ice Cream	Labelling – No EU address	Labelling Compliance issue		Illegal
26	Airport Playset	Labelling – No EU address Toy was bought through an EBAY seller but arrived in an Amazon box from Amazon.	Labelling Compliance issue		Illegal
27	Xylophone Piano	Labelling – No EU Address No CE Mark Toy states 6 months plus on box. PASSED Report 234181 – BS EN 71-1:2014+A1:2018 clause 4.20 acoustics only.	Labelling Compliance issue		Illegal
28	Splash pad outdoor toy	No EU Address, No age grade toy PASSED – Report - 248517 EN71-1:2014+A1:2018 PASSED - Phthalates	Labelling issues		Illegal



ALIEXPRESS SUMMARY TABLE OF NON-COMFORMANT TOYS

No	Product Name	Packaging/Product Non-Compliance Issue Identified	Risk Assessment	Photograph	Classification
1	Magnetic Cartoon Puzzle	<p>Labelling – No address</p> <p>No CE mark</p> <p>Small parts within toy</p> <p>No correct warning for small parts</p> <p>0-3 sign only</p> <p>FAILED – Report 234122 – BS EN 71-1:2014+A1:2018</p> <p>6a Plastic sheeting and bags</p> <p>Note that small parts warning is required and that the toy was not clearly unsuitable for children under 3 years</p> <p>PASSED – Report 234122 – BS7272-1:2008 & BS 7272-2: 2008+A1 2014</p>	<p>Risk – MEDIUM</p> <p>Small part warning text missing Failed report. Plus labelling issues.</p>		Unsafe
2	Cute Mini Magic Wand	<p>Labelling – No EU address</p> <p>NO CE Mark</p> <p>No warnings / age recommendations</p> <p>Toy included cords and drawstrings – long ribbon</p> <p>USB lead</p> <p>instruction manual</p> <p>FAILED – Report 234636 – BS EN62115:2005 +A12 2015 Electric toys Safety</p> <p>7. Markings and Instructions</p> <p>PASSED – Report 234132 – BS EN 71-1:2014+A1:2018</p>	<p>Risk – MEDIUM</p> <p>Missing labelling under 62115 including safety advice for use plus labelling issues</p>		Unsafe

No	Product Name	Packaging/Product Non-Compliance Issue Identified	Risk Assessment	Photograph	Classification
3	Coolplay 70x27CM Baby Piano Mats Music playmat	<p>Labelling – No address</p> <p>No age recommendation</p> <p>Came in clear plastic bag – no warning.</p> <p>CE mark on toy care label.</p> <p>Secure battery compartment</p> <p>made in China on toy</p> <p>FAILED – Report 234130 – BS EN62115:2005 +A12 2015 Electric toys Safety</p> <p>7. Markings and Instructions</p> <p>PASSED – Report 235826 – Phthalate Content to (EC) No 1907/2006. REACH Annex XVII (Substance 51&52)</p>	<p>Risk – MEDIUM</p> <p>Missing labelling under 62115 including safety advice for use plus labelling issues</p>		Unsafe
4	Mini pistol toy gun	<p>No address</p> <p>0-6 sign – too small (and incorrect)</p> <p>Warning states not for children under 6 years due to small parts (incorrect) however was considered manifestly unsuitable for children under 3 years</p> <p>Shells/bullets are not that soft! – projectiles (they shoot to at least 19ft each time)</p> <p>FAILED – Report 234131 – BS EN 71-1:2014+A1:2018</p> <p>4.17.3.1 Energy limitation</p> <p>4.17.3.5 Improvised projectiles</p> <p>6a plastic sheeting and bags</p>	<p>Risk – HIGH</p> <p>Missing labelling</p> <p>EN71-1 failure due to too high energy projectiles and chance to use dangerous projectiles and plastic bags thickness</p>		Unsafe

No	Product Name	Packaging/Product Non-Compliance Issue Identified	Risk Assessment	Photograph	Classification
5	81 Pieces Electric Gears 3D Puzzle Building Kits	<p>Labelling – No address</p> <p>No CE Mark</p> <p>Incorrect format for choking warning</p> <p>Child advertised on seller site appears to be under 3 years old</p> <p>FAILED – Report 234137 – BS EN 71-1:2014+A1:2018</p> <p>6a plastic sheeting and bags</p> <p>FAILED – Report 234578 – BS EN62115:2005 +A12 2015 Electric toys Safety</p> <p>7. Markings and Instructions</p>	<p>Risk – HIGH</p> <p>Missing labelling under 62115 including safety advice for use plus labelling issues</p> <p>Plastic bags and sheeting too thin</p> <p>Also see note in the Executive summary on the Distance Selling Regulations</p>		Unsafe
6	Hamster plush backpack	<p>Labelling – No EU address</p> <p>No CE Mark</p> <p>No other information on packaging</p> <p>No warning on plastic bag</p> <p>FAILED – Report 234120 – BS EN 71-1:2014+A1:2018</p> <p>5.1 General – small parts released</p> <p>5.2c fillings and fibrous fillings access</p> <p>6a plastic sheeting and bags</p>	<p>Failed EN71-1</p> <p>Small parts released and access to fibrous filling. Plastic bags and sheeting too thin. Plus labelling issues.</p>		Unsafe
7	Kids Girls Wooden Pink Tea Set	<p>Labelling – No address</p> <p>No CE Mark</p> <p>No information on packaging or toy</p> <p>No warning on plastic wrap</p> <p>FAILED – Report 234125 – BS EN 71-1:2014+A1:2018</p> <p>6a plastic sheeting and bags</p> <p>Note – missing 3 years small parts warning</p>	<p>Risk – HIGH</p> <p>Failed EN71-1</p> <p>Small parts warning missing endangering young children. Plastic bags and sheeting too thin. Plus label issues.</p>		Unsafe
8	Half Body Makeup Hairstyle Doll	<p>Labelling – No address</p> <p>FAILED – Report 234200 – DEHP Phthalate content to (EC) no 1907/2006 – REACH Annex XVII (Substances 51&52)</p> <p>PASSED – Report 234200 – Total heavy metals in cosmetics</p>	<p>Risk – HIGH</p> <p>Phthalate risk</p>		Unsafe

No	Product Name	Packaging/Product Non-Compliance Issue Identified	Risk Assessment	Photograph	Classification
9	460pcs Bricks Designer Creative Classic Brick	<p>Labelling – No address</p> <p>CE Mark within the toy</p> <p>No labelling in English</p> <p>PASSED – Report 234133 – BS EN 71-1:2014+A1:2018</p> <p>Note: should have 3+ warning, not clearly unsuitable for under 3 years.</p>	<p>Risk – MEDIUM</p> <p>Small parts within the toy no warning</p> <p>Labelling issues</p>		Unsafe
10	Children Wooden Montessori	<p>Labelling – No EU address</p> <p>Business address on AliExpress does not look genuine.</p> <p>PASSED – Report 234129 – BS EN 71-1:2014+A1:</p> <p>Note: should have 3+ warning, not clearly unsuitable for under 3 years.</p>	<p>Risk – MEDIUM</p> <p>Small parts within the toy no warning</p> <p>Labelling issues</p>		Unsafe
11	Outdoor Toys Kids M1911 Pistol	<p>No labelling</p> <p>PASSED – Report 234136 – BS EN 71-1:2014+A1:2018 (N.B. clause 7.2 toys not intended for children under 36 months)</p>	<p>Risk – HIGH</p> <p>Labelling Compliance issue</p> <p>Gun closely resembles real firearm which contravenes the Violent Crime Reduction Act 2006</p>		Unsafe
12	LED Color Changing Night Light Doll	<p>Labelling – No EU address</p> <p>No CE Mark</p> <p>PASSED – Report 234128 – Phthalate Content to (EC) No 1907/2006. REACH Annex XVII (Substance 51&52)</p> <p>Confirmed Counterfeit</p>	<p>Risk – MEDIUM</p> <p>Labelling Compliance issue</p> <p>Item would fail EN62115 due to lack of any instructions</p>		Unsafe
13	Infrared Remote Control Insect Caterpillar Worm	<p>Labelling – no address</p> <p>Toy arrived in plain envelope</p>	<p>Risk – MEDIUM</p> <p>Labelling Compliance issue</p> <p>Item would fail EN62115 due to lack of any instructions</p>		Unsafe

No	Product Name	Packaging/Product Non-Compliance Issue Identified	Risk Assessment	Photograph	Classification
14	Teether Stuffed Doll Baby Toys Teething Kids Educational Crib Mobiles Baby Teether Toy for Girls Rattle Toy Rattle Crib	No EU Address, No CE mark No small parts but one teether did break producing a small part. FAILED – Report - 249707 EN71-1:2014+A1:2018 4.11 Mouth actuated toys and other toys intended to be put in the mouth 5.1 General (small parts) PASSED - Phthalates	Risk – HIGH EN71-1 failure due to small parts and mouth actuated toys - choking Plus labelling failures		Unsafe
15	Baby Rattles Musical Crib Mobile	No EU Address, No age grade, No CE mark FAILED – Report - 249710 EN71:2014+A1:2018 Wheels on rattles detached giving small parts, orange rattle protruded past base of template, plastic bags under 0.038mm	Risk – HIGH EN71-1 failure due to small parts - choking Plus labelling failures		Unsafe
16	Montessori Colorful Lock Box Kids Children Educational Preschool Training Toy	No EU Address, No age grade, No CE mark FAILED – Report - 249705 EN71-1:2014+A1:2018 4.8 points & wires (sharp point on the keyring) 5.1 general (small parts) 6.0(a) plastic sheet thickness was 0.018mm (under 0.038mm minimum)	Risk – HIGH EN71-1 failure due to sharp points, small parts and plastic sheeting too thin Plus labelling failures		Unsafe
17	Hot LED Handbag Toys For Girls	No EU Address, No age grade, No CE mark FAILED – Report - 251204 EN71-1:2014+A1:2018 4.8 Points and Wires 5.1 General (small parts)	Risk – HIGH EN71-1 failure due to sharp points, small parts Plus labelling failures		Unsafe
18	Aqua Magic Water Doodle Mat Board	No EU Address, No age grade FAILED – Report - 250019 - EN71-1:2014+A1:2018 - FAIL 6.0a) plastic sheeting and bags PASSED - Phthalates	Risk – LOW EN71-1 failure due to plastic sheeting - suffocation Plus labelling failures		Unsafe

No	Product Name	Packaging/Product Non-Compliance Issue Identified	Risk Assessment	Photograph	Classification
19	Cute Panda Plush	No EU Address, No age grade, No CE mark FAILED – Report - 249711 EN71-1:2014+A1:2018 Clause 5.1b small parts became detached (nose). Plastic bags under 0.038mm thick (0.012mm)	Risk – HIGH EN71-1 failure due to small parts and plastic sheeting too thin Plus labelling failures		Unsafe
20	Wooden Rainbow Building Blocks	No labelling PASSED – BSEN71-3: 2013 +A1:2018 (red, yellow, dark blue paint) – Report 234124 (N.B. combined Chromium exceeded Cr VI Limits but further testing would be needed)	Labelling Compliance issue		Illegal
21	3D Puzzles Toys	No labelling	Labelling Compliance issue		Illegal
22	Nordic Style Unicorn	No labelling Advertised as a pillow	Labelling Compliance issue Unlikely to have had fire and furnishings testing as a pillow		Illegal
23	Play toy set car truck	Labelling – no address	Labelling Compliance issue		Illegal
24	Automatic Domino Brick Laying Toy Train	Labelling – no address Toy has small parts warning and 0-3 sign but advertising shows very young child. Small parts within the toy.	Labelling Compliance issue		Illegal

No	Product Name	Packaging/Product Non-Compliance Issue Identified	Risk Assessment	Photograph	Classification
25	Kids Fishing Toy	Labelling – no address	Labelling Compliance issue		Illegal
26	Suitcase toys for children	Labelling – no address States Disney in the advertising title No Disney logo on the toy or packaging. Confirmed Counterfeit	Labelling Compliance issue		Illegal
27	Baby Wooden Toys Catching Worms Puzzle Game	No EU Address, No CE mark PASSED – Report - 49704 EN71-1:2014+A1:2018 - PASS	Labelling issues		Illegal
28	Wooden Pretend Play Set Toaster Bread maker coffee machine blender	No EU Address PASSED – Report - 249709 EN71-1:2014+A1:2018 - PASS	Labelling issues		Illegal
29	Walking Drumming Elephant	No EU Address, No CE mark PASSED – Report - 49706 EN71-1:2014+A1:2018 Phthalates - PASS	Labelling issues		Illegal

APPENDIX 3: CURRENTLY ACTIVE ONLINE MARKETPLACES

AMAZON

Amazon launched in the UK in 1998:

<https://www.retail-week.com/amazon/amazon-uks-15th-birthday-milestones-since-its-1998-launch/5053955.article?authent=1>

In US, launched third-party seller marketplace in 1999.

<https://edition.cnn.com/interactive/2018/10/business/amazon-history-timeline/index.html>

EBAY

Launched in 1995, went worldwide (including UK) in 1999.

<https://www.ebay.co.uk/gds/History-of-Ebay-/10000000008868464/g.html>

ALIEXPRESS (SUBSIDIARY OF ALIBABA GROUP)

Launched in 2010, Aliexpress is an ecommerce platform for Chinese individuals and companies to sell their products to overseas consumers.

<https://www.chinacheckup.com/blogs/articles/what-is-aliexpress>

WISH.COM (CONTEXTLOGIC INC.)

Bloomberg states incorporated in 2010, based in San Francisco, CA.

<https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapId=127912549>

GUMTREE

Incorporated on 28 February 2000, London-based, acquired by eBay in 2005.

<https://beta.companieshouse.gov.uk/company/03934849>

ETSY

Launched in 2005:

<https://venturebeat.com/2015/03/05/a-brief-history-of-etsy-from-2005-brooklyn-launch-to-2015-ipo/>

NOT ON THE HIGH STREET

Incorporated October 2005:

<https://beta.companieshouse.gov.uk/company/05591382>

GAME MARKETPLACE

Marketplace was launched in March 2015:

<http://www.gamedigitalplc.com/media-centre/press-releases/pr-2015/16-mar-2015>

Game Digital PLC was incorporated in May 2014:

<https://beta.companieshouse.gov.uk/company/09040213>

LESSER KNOWNNS

SHPOCK

Bloomberg states launched Sep 2012, owned by Finderly GmBH, an Austrian company

<https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapid=170901083>

FLUBIT.COM

Incorporated November 2011, company number 07431943

<https://www.webretailer.com/lean-commerce/flubit-uk-marketplace/>

<https://beta.companieshouse.gov.uk/company/07431943>

ONBUY.COM

Launched 1 November, 2013

<https://tamebay.com/2013/10/onbuy-british-marketplace-launches-1st-nov.html>

BONANZA

Seattle-based US company. Founded in 2008.

https://www.bonanza.com/about_us

ZIBBET

Australian company, launched February 2009.

<https://www.startupdaily.net/2016/07/zibbet-ecommerce-marketplace/>

EBUYGUMM.CO.UK

Launched August 2018

<https://beta.companieshouse.gov.uk/company/10915997>

FOLKSY

Incorporated October 2006

<https://beta.companieshouse.gov.uk/company/05968981>

FRUUGO

Marketplace for retailers & shoppers operating in 23 countries across the globe.

Fruugo.com, incorporated April 2008

<https://beta.companieshouse.gov.uk/company/06553460>

PERSONAL GROUP

Personal Group Holdings PLC was incorporated in May 1996:

<https://beta.companieshouse.gov.uk/company/03194991>

The hapi platform was launched in 2015, and the hapi app one year later.

Source: [latest Annual Accounts](#)

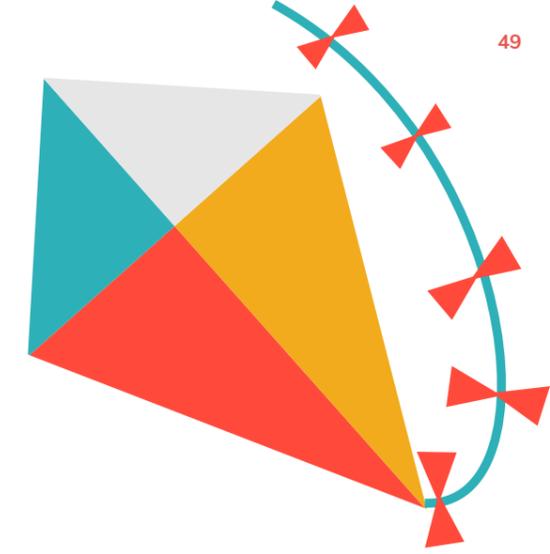
COOLSHOP

The history of Coolshop, formed in 2003, in Denmark.

<https://www.coolshop.co.uk/minisite/t/about-us>

Coolshop Online UK Ltd was incorporated in February 2005.

<https://beta.companieshouse.gov.uk/company/05355891>



APPENDIX 4: GLOSSARY

Authorised Representative	Under the Toys (Safety) Regulations 2011, a person established within the EU who is appointed by a manufacturer to act on its behalf in relation to specified tasks.
Illegal toys	References to toys being considered 'illegal' indicate identified failures to comply with the Toy Safety Directive.
Tertiary brands	These brands typically have less revenue potential, but they contribute to a smaller company's income or they contribute to the overall image of a company in some way. They may have a registered brand name but one less known to consumers, or they may not have a brand name but rather just descriptors – ie they are more of a generic line. This generic line may bring in minimal revenue for the company, but it fills a need within a niche market so the company continues to manufacture it under the unregistered name.
Direct Retailer	This is when an online marketplace acts as a retailer. They buy toys directly from a supplier (UK, EU or Worldwide) and sell that toy to a consumer. In this scenario there are clear obligations they need to undertake.
Distributor	Under the Toys (Safety) Regulations 2011, any person who is in the supply chain for a toy (other than the manufacturer or importer) who makes the toy available on the EU market.
Fulfilment House	This is when the online marketplace provides a fulfilment service to the sellers on the marketplace. The third-party seller (see below) places the item on the platform for sale but instead of shipping a sold item themselves the toys are stored in the warehouse facilities of the online marketplace. Once a customer buys a toy on the platform the online marketplace accepts, fills and ships the order.
Importer	Under the Toys (Safety) Regulations 2011, any person established within the UK who places a toy from a third country on the EU market.
Manufacturer	Under the Toys (Safety) Regulations 2011, the person who manufactures a toy or has a toy designed/manufactured and markets that toy under that person's name or trademark.
Third-party vendor	Third-Party vendors are those that load their own products onto the platform, receive orders directly from a customer and fulfil those orders directly to the buyer. In most instances the only involvement with the platform owner is to provide details to list the item on the platform, to start selling, and to provide a fee for the listing and a percentage of the sale value to the platform. They can be UK manufacturers or other retailers, importers, globally based companies or individuals working from home.

APPENDIX 5: SUMMARY OF BTHA CONSUMER SURVEY ON ONLINE MARKETPLACES

OBJECTIVES:

To assess consumer opinions regarding online toy safety and online marketplace toy purchasing decisions.

Research done in May 2019 by The Insights People, 73-75 Lever Street, Manchester, M1 1FL

KEY FINDINGS:

From online survey of 307 parents of children aged 0-8 years, representative in terms of socio economic grading.

PURCHASING:

- 54% of parents are spending more than £15 per month on toys.
- 65% buy traditional/real world toys simply as 'a treat' as well as the more traditional occasions of birthdays (88%) and Christmas (82%).
- 32% of parents buy more toys online than in store.
- 43% of parents are spending more online on toys than they did in the past.
- In 77% of households, it is the mum who is responsible for purchasing toys online.
- 62% say that the child is influential in the toy purchase.
- 41% mention a site or store that they would not purchase from, mainly due to lack of trust, uncertainty around safety and poor quality of items.

BUYING ONLINE:

- 74% buy toys from Amazon, mainly due to prices (73%), quick delivery (62%) and familiarity (51%).
- Company websites are the most trusted, mentioned by 57% of parents.
- 46% mention that the quality of items is in their top 3 areas of importance when buying online.
- 32% mention that safety of items is in their top 3 areas of importance when buying online.

REQUIRED REASSURANCES:

- Reassurances are required early in the online purchase process – 42% state 'when initially browsing' and 42% state 'when click for more information/details'.
- 46% of parents are aware of the Lion Mark.
- 60% state that this type of mark/standard would provide reassurance.
- When prompted, 84% agree that there should be a recognised safety mark to help parents when buying toys online.
- 83% agree that more should be done to ensure that only toys which are safe can be purchased online.

APPENDIX 6: CONSUMER TIPS

Don't toy with children's safety

Guidance from the BTHA on buying toys from online platforms;

- Do some research before you purchase. Search for the company/brand that makes the toy or character you want to buy and then include the company name when you search the online marketplace.
- Exercise caution when buying from third-party sellers on online marketplaces. All the toys which were non-compliant with the Toy Safety Directive in our study came from third-party sellers. They are often not held accountable for the safety of the products they sell in the same way as UK brands and bricks-and-mortar / direct online retailers and shops. (Third-party sellers are the sellers behind the main branded website). Do not assume that the platform has conducted any tests or checks on these lines.
- Look at reviews and be aware of who you are really buying from;
 - Some reviews are false and generated by computers. Check all reviews particularly the not so good ones that may be more likely to be genuine.
 - Do they have a track record of selling toys? – if not, be cautious.
 - Do they have good reviews for the toys they have sold in the past? – if not, be cautious.
 - Do they have a UK/EU address listed on the site? – if not, you should question your purchase; you may have difficulty contacting anybody if you have problems and having a UK/EU address is currently a legal requirement to sell toys in the UK. If the seller doesn't know this, what else didn't they know when making the toy you are about to buy?
 - Do the pictures of the child in the marketing match the age warnings on the product?
- Be careful of going for the lowest price – if something looks too good to be true, it probably is. The price could be lower due to a number of factors;

- Counterfeit product – not made to the same standards as the original and will be illegal for sale in the UK and may also have the issues below.
- Cheaper material and design that is less durable or unsafe, e.g. high levels of restricted chemicals.
- Correct legal testing and assessments of products is very expensive and means genuinely safe products can cost more to manufacture.
- Buy from BTHA members (<https://www.btha.co.uk/about-us/#members>). Members sign up to an annual code of practice including commitments on toy safety and toys may carry the Lion Mark symbol to denote they are members. In our study no genuine member product failed any of our safety testing. A number of counterfeit products were identified and our members have reported those to the platforms for removal.
- To spot a counterfeit, look out for a product that is cheaper than normal, know who owns the brand and look for their name on the packaging, look for phrases like “compatible with (brand name)”, these are often made to look like the original but will not be genuine.
- Once you have made your purchase, immediately check your confirmation receipt. Check the source of the product is who you thought you had bought from. If you have bought from a third-party it will be listed on this receipt.
- When you receive your purchase, and importantly, before you give it to your child –
 - Check it has an EU address.
 - Check it has a CE mark.
 - Check the age labelling is appropriate for the age of the child that it is for, as we found in our study small parts that could be a choking hazard for young children that were incorrectly labelled as safe for under 3 years.
 - Check it has relevant warnings (e.g. toys not for babies should state “not suitable for under 3's (or the equivalent symbol)).

- Packaging generally – does it look genuine, is the print correct, are warnings and labels in the correct language, etc?

- Many illegal toys we purchased were delivered without any packaging or information at all which means there is no address to contact and no warnings that may be critical for safe play.

If any of these cause doubt or are missing, it is more likely that the toy is at risk of being illegal or unsafe, we would recommend you return it.

- When you give the toy to your child make sure you watch them open it and the toy inside is as expected, look out for small parts that were not meant to be there, that there is no access to stuffing materials, that batteries are not supplied loose in the product, that battery compartments are secure when using small batteries or button cells and be careful with small accessible magnets which can be swallowed.
- Some products we purchased were listed as toys but were actually for adults (collectible toys or ornaments) these items do not have to comply with toy standards, be careful and make sure the toy is appropriate for your child.
- Supervise your child during the initial play. Many of the illegal toys we found broke very quickly releasing dangerous small parts or gel contents.
- If you think the toy you have bought is unsafe or illegal write a review to warn other purchasers and talk to your local Trading Standards

APPENDIX 7: THE CROCODILE STORY

One particular product demonstrates the issues found with the platforms handling of product issues. The initial product was purchased in 2018 and formed part of the BTHA initial report. Since then it's presence and availability on the platform concerned has been regularly checked and further samples have been purchased at regular intervals.

Date	Action	Comment
July 2018	The original sample was purchased and assessed. The product included a zip opening giving access to the stuffing material inside which is a fail to EN71-1 toy safety standard. There was no labelling with CE marks or EU address details.	
18th Sept 2018	Reported to Amazon	
8th Nov 2018	Amazon confirmed ASIN number has been taken down	Original product number was removed from sale
13th Nov 2018	Amazon advertise the same line to us by email	
12th Dec 2018	Toy was sent for independent testing	
14th Dec 2018	Amazon advertise the same line to us under the "Baby Store" heading	
8th Jan 2019	Two further crocodiles were purchased and found to be illegal in the same way (different ASIN numbers and sellers)	Reported to Trading Standards
18th Jan 2019	Test report results - Failed EN71-1 5.1 small parts – zip puller detached & 5.2c access to stuffing through zip	Reported to Trading Standards
22nd Jan 2019	Failures reported to Amazon	No further action taken we are aware of
April – May 2019	When checked numerous identical photographs and products still on sale	
13th June 2019	Crocodile still available and now highlighted as the platform's "choice" of purchase	
6th Sept 2019	New sample purchased for different seller with the same illegal zip closure	Reported to Trading Standards
9th Oct 2019	2 further samples were purchased one fulfilled by the platform themselves which arrived with a zip closure	Platform fulfilled product info on advert states: "Warning: Not suitable for children under 36 months" which is illegal. Product arrived in plain box with an incorrect CE mark and a barcode Crocodile had a care label stating: "Not suitable for children under 6 years old it contains widgets. So please keep your children not putting it in the mouth, it is dangerous if swallowed by a child." No EU address / model number. Zipper opened directly to stuffing
Nov 2019	Further searches revealed 277 pages with between 3 and 6 products identical products per page. This equates to 800 -1600 products that are likely to be the same. 23 toys were researched in detail from this list all looked identical. 13 actually showed the zip closure in advertising photographs	Reported to Trading Standards – to be "investigated" by platform. No further action taken we are aware of.
13th Nov 2019	Some versions were advertised as pillows and were submitted for UK Fire & Furnishings testing which it failed	Reported to Trading Standards
January 2020	OPS&S starts supporting the BTHA with product Safety Gate recalls	The Crocodile has determined as "high" risk and not "serious" and has not been included in Safety Gate recalls.
March 2020	Same product found on sale from the original seller	

Date	Action	Comment
1st May 2020	Crocodile listed on RAPEX	Recalled due to zip small part
13th May 2020	Crocodile search finds numerous identical photographs, one sample purchased and submitted for EN71-1 testing and fails 5.1 small parts – zip puller detached & 5.2 access to stuffing through zip	
20th September 2020	No notification received as purchaser by BTHA.	



APPENDIX 8: STILL ON SALE ASSESSMENT

22 September 2020

31 toys from BTHA investigations have been listed on the EU Safety Gate (RAPEX) as they have been proven to be unsafe and should have been recalled. In September 2020, 15 of those toys were searched as a sample to see if they were still offered for sale, 5 from each of the three platforms. The results are as follows:

Platform	Same seller	Identical photo different seller
AliExpress	1	4
Amazon	0	5
eBay	0	5

16 March 2020

In March the BTHA searched for any products that looked like they were still on sale from the 2018 assessment and the first 60 toys from 2020. The products are searched for in several ways:

- The original product from the same seller with same product codes
- The original product from different sellers with differing product codes
- The same product from other sellers

The same product is determined by identifying:

- Identical product advertising photographs
- Photographs that can clearly identify the same product

While some of the online platforms have asserted that the same photographs do not necessarily mean the product is the same, BTHA re-purchases have in all cases confirmed that the product IS the same and still has the same illegal non-conformity. Full details including screen shots and product details can be provided to back up this report.

eBay 50 Toys Summary:

23 NC Toys:

- None of the links to the original 23 sellers are available
- 4 identical looking toys are still available from their original sellers. Different eBay item number. (LOL doll, writing/chalk board, Superwings, Electric Dinosaur)
- 16 toys are not available from their original sellers but numerous other sellers are selling identical looking toys.
- 3 toys don't appear to be available using a brief search.

Similar toys are available but not identical. (sheep rocker, plush dog pillow, baby activity gym)

eBay 20 Toys Summary:

13 NC Toys:

- 6 toys still on sale from original seller. Same eBay item number.
- 1 toy still on sale from original seller. Different eBay item number.
- 6 toys are not available from their original sellers but numerous other sellers are selling identical looking toys.

Amazon 20 Toys Summary:

17 NC Toys:

- 7 toys are still available by their original sellers with same ASIN number (3 are Amazon Choice)
- 2 toys are available by the same sellers with different ASIN numbers
- 8 identical looking toys are sold by different sellers - some are Amazons Choice, 1 is being sold by Amazon Warehouse.

Amazon 100 Toys Summary:

18 NC Toys:

- 6 identical looking toys are still available from their original sellers. Different ASIN numbers (crocodile, kite, water mat, lip gloss, magnetic shapes and hoverball)
- 6 identical looking toys sold by other sellers including Amazon choices.
- 6 similar toys sold by other sellers.

Ali Express 20 Toys Summary:

20 NC Toys:

Website is difficult to navigate, certain blocks on searches.

- 5 identical looking toys are still available from their original sellers.
- 12 toys are not available from their original sellers but numerous other sellers are selling identical looking toys
- 3 toys are not available from their original seller. Difficulty searching for other sellers selling same toys.

Ali Express 50 Toys Summary:

15 unsafe toys:

- 4 identical looking toys are still available from the original sellers (magnetic board puzzle, lego insect blocks, zebra plush, tic tac game)
- All 15 toys can be found under other sellers.

APPENDIX 9: SUPPORTING STATEMENTS

Katrina Phillips, Child Accident Prevention Trust

"The majority of toys sold in the UK are safe for children to play with, but we are shocked to see the continued level of failures of toys from third-party sellers via online marketplaces. Given the number of parents that purchase toys from these platforms we would fully support the calls for action from the BTHA. We want to see children protected from danger. The UK toy safety regulation is some of the strictest in the world but there is a loophole in being able to enforce those laws. Let's work together to close that gap and protect UK children."

Milton Keynes Primary Authority Trading Standards

"We have supported the BTHA through the process of trying to remove unsafe toys. The current system does not support trading standards action in the UK and has been frustrating given the collective desire to protect UK children. We support a change in legislation that places an expectation on online marketplaces to control the supply of unsafe products."

APPENDIX 10:

Coverage of unsafe and counterfeit toys and the injuries they have caused when purchased from third-party sellers on online marketplaces ...

US boy has colon removed after swallowing 13 magnets from toy bought on Amazon

<https://www.thesun.co.uk/news/8093734/boy-swallows-magnets-amazon-colon-removed/>

Young girl is 'poisoned by deadly ARSENIC' after playing with banned Chinese magnetic putty toy her mother bought on Amazon

<https://www.dailymail.co.uk/news/article-5412761/Girl-poisoned-ARSENIC-playing-Amazon-toy.html>

Mum scarred for life after buying fake toy wand for son off eBay private seller

<https://www.mirror.co.uk/news/uk-news/mum-scarred-life-toy-wand-21206369>

Magnetic putty removed from Amazon and recalled after safety fears

<https://inews.co.uk/news/consumer/putty-toy-amazon-product-recall-crazy-geezer-safety-magnet/>

Slime toys sold on Amazon found to have unsafe toxic chemical boron

<https://inews.co.uk/news/consumer/slime-toys-uk-safety-boron-levels-which-toxic-chemical/>

Fake slime pulled from Amazon over safety fears

<https://www.thesun.co.uk/money/8409282/amazon-pulls-crazy-geezers-putty-world-toy-from-sale-over-fears-it-is-dangerous-for-kids/>

Warning over "gel blaster" toy guns

<https://www.dailymail.co.uk/health/article-7124033/Two-boys-narrowly-avoid-blinded-gel-blaster-toy-guns-scratched-corneas.html>

Fake Assassin's Creed toy bought on Amazon leaves boy partially blind

<https://www.mirror.co.uk/news/uk-news/boy-left-partially-blind-after-9495798>

Amazon wins case after hoverboard bought on marketplace burns house down

<https://www.cnn.com/2018/06/02/amazon-not-liable-for-exploding-hoverboard-marketplace-argument-wins.html>

Unsafe Products coverage

Deadly teddy bears sold on Amazon seized and destroyed

<https://www.thesun.co.uk/money/7659700/deadly-teddy-bears-seized-trading-standards-spot-fake-goods/>

Children's bath toys for sale on Amazon "contain dangerous levels of chemicals linked to male infertility"

<https://www.thesun.co.uk/money/10319711/amazon-toys-chemical-male-infertility/>

Trio of toy balls sold on Amazon recalled because kids could choke on them

<https://www.thesun.co.uk/money/9714758/amazon-toy-balls-recalled-choking/>

Toy lightsabers sold on Amazon recalled because they contain poisonous lead

<https://www.thesun.co.uk/money/9713958/toy-lightsabers-sold-on-amazon-recalled-because-they-contain-poisonous-lead/>

Magformers urges retailers to boycott copycat products

<https://toyworldmag.co.uk/magformers-urges-retailers-to-boycott-copycat-products/>

Denmark test: Unwanted chemicals in toys from eBay, Amazon and Wish

<https://kemi.taenk.dk/test/test-unwanted-chemicals-toys-ebay-amazon-and-wish>

2019.08.12 Recall: Storm Off-Road 4WD (remote-controlled toy car)

<https://www.stockton.gov.uk/trading-standards/topics/details?id=327823&category=safety-news>

https://www.amazon.co.uk/4WD-Storm-Monster-Truck-Blue/dp/B07G9J35Z2/ref=sr_1_1?keywords=Storm%2BOff-Road%2B4WD&qid=1565789315&s=gateway&sr=8-1&th=1

Amazon and eBay urgently recall kids' products over 'serious' safety fears

<https://www.dailypost.co.uk/news/north-wales-news/amazon-ebay-urgently-recall-kids-17057011>

Amazon and eBay "listing unsafe toys for sale"

<https://www.bbc.co.uk/news/business-50478221>

Amazon stops selling 'toxic' goods for children in US

<https://www.bbc.co.uk/news/technology-48227137>

Amazon "unable or unwilling" to effectively police third-party sellers on its site – leading to thousands of banned, unsafe and mislabelled products

<https://www.wsj.com/articles/amazon-has-ceded-control-of-its-site-the-result-thousands-of-banned-unsafe-or-mislabeled-products-11566564990>

How Amazon escapes liability for the riskiest products on its site

<https://www.theverge.com/2020/1/28/21080720/amazon-product-liability-lawsuits-marketplace-damage-third-party>

Fake and dangerous kids products are turning up for sale on Amazon

<https://edition.cnn.com/2019/12/20/tech/amazon-fake-kids-products/index.html>

Some toys sold online don't meet U.S. safety standards: "Our children should not be the testing grounds"

<https://www.cbsnews.com/news/online-shopping-toys-sold-on-amazon-may-not-meet-us-safety-standards/>

Counterfeits coverage

Amazon and eBay opened up Pandora's box of Chinese counterfeits

<https://www.forbes.com/sites/wadeshepard/2017/10/28/amazon-and-ebay-opened-pandoras-box-of-chinese-counterfeits-and-now-dont-know-what-to-do/#321d42476a25>

eBay, Amazon and Wish have been found to be selling "potentially deadly" electrical items putting customers at risk of severe electric shock and fire

<https://www.chargedretail.co.uk/2019/11/27/wish-ebay-and-amazon-selling-potentially-deadly-electrical-goods-in-second-damning-report-this-month/>

MGA Entertainment awarded \$1.1m after fake toys were sold on AliExpress

<https://www.cpapracticeadvisor.com/small-business/news/12409526/mga-entertainment-awarded-11m-from-counterfeiters-of-fake-lol-surprise-toy>

Amazon has a "notorious" counterfeit problem

<https://www.nasdaq.com/articles/amazon-has-a-notorious-counterfeit-problem-2019-10-12>

Beware: Dangerous Counterfeit Toys for Your Baby Are Being Sold on Amazon

<https://www.inc.com/jeff-bercovici/amazon-dangerous-kids-products.html>

Counterfeits - Amazon, Etsy, eBay, Instagram, And Others Duping Consumers And Damaging Innovation

<https://www.forbes.com/sites/roomykhana/2019/05/10/counterfeits-amazon-etsy-ebay-instagram-and-others-duping-consumers-and-damaging-innovation/#76ed85dc6002>

Other industries

Two-thirds of the 250 products tested from Amazon Marketplace, AliExpress, eBay and Wish fail safety tests

<https://press.which.co.uk/whichpressreleases/two-thirds-of-the-250-products-tested-from-amazon-marketplace-aliexpress-ebay-and-wish-fail-safety-tests/>

Killer chargers, travel adaptors and power banks rife on online marketplaces

<https://www.which.co.uk/news/2019/09/killer-chargers-travel-adaptors-and-power-banks-rife-on-online-marketplaces/>

1 Amazon: Suspect child car seats found for sale on its store again

<https://www.bbc.co.uk/news/technology-51497010>

Recalled Whirlpool washing machines being sold on eBay and Facebook

<https://www.thesun.co.uk/money/10839629/recalled-whirlpool-washing-machines-sold-ebay-facebook/>

Four children undergo life-saving surgery after swallowing magnetic balls they put in their mouths to pretend they had facial piercings

<https://www.dailymail.co.uk/news/article-7931213/Medics-warn-magnetic-balls-FOUR-children-needed-surgery-swallowing-them.html>

'Shameful lack of measures' to stop recalled washing machine listings online

<https://www.itv.com/news/2020-01-29/shameful-lack-of-measures-to-stop-recalled-washing-machine-listings-online/>

Unsafe climbing gear being sold on Amazon

https://ec.europa.eu/consumers/consumers_safety/safety_products/rapex/alerts/?event=main.weeklyOverview&web_report_id=3232&Year=2019&lng=en

Which? testing finds almost half of Christmas tree lights from online marketplaces are dangerous

<https://press.which.co.uk/whichpressreleases/which-testing-finds-almost-half-of-christmas-tree-lights-from-online-marketplaces-are-dangerous/>

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