

Audit Reports Summaries

Audit Report No. 12 1995-96

Summary

RISK MANAGEMENT BY COMMONWEALTH CONSUMER PRODUCT SAFETY REGULATORS

Performance audit

Background

The audit examined how well the Commonwealth's regulators of consumer product safety have used a 'whole of agency' approach to risk management to protect consumers. The audit also looked at the health costs associated with consumer product related injuries and deaths and the extent to which the legal remedies available under the Trade Practices Act are used.

The regulators audited were the Federal Bureau of Consumer Affairs, the Federal Office of Road Safety, the National Food Authority, the Therapeutic Goods Administration and the Trade Practices Commission.

The ANAO also examined the Department of Human Services and Health, which has a central role to play in coordinating, encouraging and facilitating improvements to consumer product safety regulation. A reduced need for medical treatment helps the Department achieve its objectives.

Audit findings

The focus of the audit was the management of consumer product safety risk. Risk management is about good business practice. It involves a systematic process of making decisions based on the structured collection and analysis of information. For consumer product safety regulators, risk management involves focusing on preventing consumers being injured or made ill, or worse, by unsafe consumer products. It requires a structured, 'whole of agency' strategic management approach at all levels in an agency to identify and analyse risks, set priorities and assess treatment options. Decisions should be based on data which has been collected and properly analysed. It also requires an emphasis on monitoring and evaluating performance to ensure expected outcomes are achieved and objectives met.

Although risk management had been adopted for certain activities undertaken by some regulators, the ANAO found that regulators had not adopted a risk management approach throughout the full range of their operations. Regulators are also not monitoring or evaluating their performance outcomes to ensure consumers are being adequately protected.

Regulators usually focus attention on specific regulatory action rather than coordinated, systematic countermeasures (interventions) with clearly defined objectives and outcomes. To protect consumers better, they need to adopt risk management principles involving the identification and analysis of injuries, illnesses and deaths related to consumer products;

setting priorities; and designing, implementing and evaluating intervention strategies which reduce the human and economic cost of unsafe consumer products.

It is conservatively estimated that annual government outlays on medical treatment of consumer product 'caused' injuries and deaths is between \$194 million and \$238 million. Expenditure on direct treatment of all consumer product related injury is estimated at \$1.4 billion per annum. These figures illustrate the extent and cost of unsafe consumer products. They also indicate the scope for the Department of Human Services and Health to reduce medical treatment costs through the better adoption of a risk management approach by regulators and increased leadership and coordination by the Department.

Identifying and analysing risks

To reduce consumer product related injuries and deaths, regulators should identify injury causes and interventions. This information is also necessary to target such interventions and assess their effectiveness. The ANAO found that all regulators need to improve their risk identification and analysis as part of their management program. Although Australia is rich in relevant data, it is not always used well.

There is a particular need for more coordinated risk identification and analysis across the Commonwealth and for regulators to focus on the need for, and cost effectiveness of, intervention strategies. Structured, data-driven risk identification and analysis will help regulators target their interventions at the most serious risks to consumers and evaluate how effective they have been in minimising or eliminating such risks.

The ANAO considers a coordinated strategy for risk identification and analysis is needed to make best use of scarce resources. Individual regulators can then undertake more detailed research where results indicate it is necessary. Close cooperation and collaboration, sharing of expertise and data and the development of relevant synergies and economies of scale are essential elements of good practice.

Leadership and coordination

The Department of Human Services and Health established a section in 1993 to provide leadership and coordination. But a policy statement produced by the Department in 1994 said leadership and coordination mechanisms were still missing. The audit identified a number of ways in which the Department could lead, and coordinate, consumer product safety regulation, without jeopardising regulators' independence.

Treatment of risk

Regulators can deal with identified risks in a number of ways. More than one method may be needed to treat an identified risk effectively. However, most regulators focus on setting mandatory standards. When other treatment methods were used, they were often not fully effective nor part of an intervention strategy with clearly defined objectives.

If regulators adopted a structured, more data-driven, strategic approach to identifying and analysing risks they would improve their current risk treatments particularly by considering alternatives to standard setting and ensuring intervention strategies are outcome focused and can be evaluated as to their effectiveness.

Enforcement

Regulations are designed to improve the safety of consumers. Regulators need to promote and monitor voluntary compliance. They also need to detect instances where industry does not comply and be willing to use the full range of available measures to ensure compliance.

Non-compliance is a risk that is poorly managed by all regulators. In particular, surveillance and enforcement programs need to be improved. It is essential that regulators send a clear message to manufacturers and suppliers that consumer protection laws will be vigorously enforced. The level of non-compliance also needs to be fully and accurately reported.

Exercising and testing the law

Regulators derive their powers from the Parliament. It is therefore important that regulators adopt a risk based approach to exercising and testing these powers to achieve the objectives approved by the Parliament and identify any impediments to expected outcomes. The audit found regulators were making little use of their regulatory powers. In addition, recent amendments to the Trade Practices Act to improve the ability of consumers to seek redress have not as yet been tested.

Performance reporting

Outcome focused performance reporting enables agencies to demonstrate how well they are achieving their aims. It is also fundamental to good program management and accountability. The audit found performance reporting was based on the number of activities undertaken and outputs produced rather than on the impacts and outcomes of regulators' activities. Because of this, performance measures reported often did not actually address the objectives or strategies identified by the agencies audited.

Recommendations

The report makes eighteen recommendations aimed at improving the effectiveness of risk management by Commonwealth consumer product safety regulators and the Department of Human Services and Health. Agencies generally agreed in whole or in principle with the majority of recommendations. Outstanding issues include the extent of the leadership role to be adopted by the Department of Human Services and Health and the need for a more coordinated, cooperative and collaborative approach to consumer product safety risk management.