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Your ref: COR 2019 000350

3 November 2021

Ms Leveasque Peterson
Coroner
Coroners Court of Victoria
65 Kavanagh Street
Southbank VIC 3006

By email: cpuresponses@coronerscourt.vic.gov.au

Dear Coroner Peterson

Response to investigation into the death of JM – Kubota 360 ride-on mower

This letter responds to your recommendation under section 72(2) of the *Coroner's Act 2008* addressed to the Australian Competition and Consumer Commission (ACCC) in relation to the death of JM resulting from an accident involving a Kubota 360 ride-on mower.

You recommend *“that Product Safety Australia issue an updated product safety alert of ride-on lawnmowers. The alert could consider reiterating advice to riders to wear a seatbelt if there is a rollover protection system, not to mow on steep angles nor travel downhill with the gearbox in neutral.”*

The ACCC has updated the safety alert as recommended <https://www.productsafety.gov.au/news/riding-safely-with-ride-on-lawnmowers>. There is benefit in reminding operators to exercise caution when using these products and we have moved the safety alert to the Product Safety Australia website's home page for a period to coincide with increased mower usage during the spring and summer periods.

Background to the alert for ride-on lawnmowers

The ACCC first published an alert for ride-on lawnmowers on the Product Safety Australia website in September 2013. This was the result of reports relating to injuries and deaths caused by ride-on lawnmowers. The deaths reported were predominantly from overseas.

The alert was later updated to include advice that these products are not suitable for recreational use. This followed an incident involving a 12-year-old boy who suffered fatal head injuries after losing control down a steep hill.

The ACCC conducted a further assessment of ride-on lawnmowers in 2015 after it was noted that incidents involving these products continued to be reported. A review was conducted into the reports to determine if a trend might be emerging warranting further action. Key findings in the review found that:

- the data did not point to an increase in the rate of injury or death amongst consumers using these products in a domestic or home setting

- injuries and deaths are usually the result of user behaviour and not the design of ride-on lawnmowers
- most incidents in Australia occurred in the workplace environment
- the nature of the hazards had not changed since the last assessment warranting a review of the guidance currently provided on the Product Safety Australia website.

Supplier obligations

Under the ACL, suppliers are responsible for ensuring consumer products supplied to the Australian market are of acceptable quality and fit for purpose, including that the products are safe, lasting and with no faults. Suppliers are also required to comply with mandatory safety standards and bans in place for certain consumer products.

Suppliers are required to report to the Commonwealth Minister within two days of becoming aware of an incident where a person has suffered death or serious injury or illness that was caused by, or may have been caused by, the use or foreseeable misuse of a consumer product.

The ACCC receives mandatory reports through the Product Safety Australia website: <https://www.productsafety.gov.au/contact-us/for-retailers-suppliers/mandatory-injury-report>. It should be noted that suppliers are exempt from notifying a mandatory report for matters subject to a coronial investigation.

If a supplier finds that a consumer product they supply is unsafe, the ACCC expects the supplier to conduct a voluntary recall to advise consumers of the risk, address the safety issue, or remove the product from the market.

The Commonwealth, state or territory ministers responsible for administering the ACL can issue a compulsory recall notice when they consider that the consumer goods:

- will or may injure someone, or using them in a reasonably foreseeable way will or may injure someone
- do not comply with a safety standard; or
- are the subject of an interim or permanent ban.

The ministers can only issue a compulsory recall notice if it appears a supplier has not taken satisfactory action to prevent the consumer goods injuring someone.

Failure to comply with recalls, product bans, safety standards or mandatory reporting requirements attracts fines and pecuniary penalties:

<https://www.productsafety.gov.au/product-safety-laws/legislation/fines-penalties>

Thank you for giving the ACCC the opportunity to consider this matter.

Yours sincerely



Lauren White
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Risk Assessment and Operations
Consumer Product Safety