

グローバル市場における製品コンプライアンスリスク・マネジメント

池田 順一

2018 年 7 月 1 日に当学会の大会において会員の池田順一様が研究発表された、北米 CPSC や OECD など先進各国で進められている製品リコールの強化は従来から比べると事業者にとって厳しいものになってきているという内容でした。またこれはわが国の製品安全政策にも、今後大きな影響を与えることになってくることも予想されるところでしょう。

そこで、この研究発表につきまして池田順一様と編集委員会のご了解を得て、当日のパワーポイントをここに掲載することとしました。

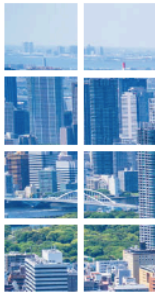


PL研究学会 第4回大会（於：板橋グリーンホール）

グローバル市場における製品コンプライアンスリスク・マネジメント

2018年7月1日
長島・大野・常松法律事務所
パートナー 弁護士 池田 順一

NAGASHIMA OHNO & TSUNEMATSU



製品リコールリスクの位置付け

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製品リコールリスクの位置付け

スナップショット：世界の 2017 年上位ビジネスリスク

※ 注：掲載国は上位 10 位ビジネスリスクの国を基に、国を代表するリスクを示す。

カナダ

トップ リスク 事業中断
▲ 市場動向
▲ 品質不良・製品リコール

「製造業としてソフトウェアメーカーの山手車のような仕事によって、企業が直面している問題が明らかになった。また、ジャストシステム製造方式が主流になると B 社が最大の関心事になる。」

Robert Johnson, Head of Market Management, AGCS Canada

フランス

トップ リスク 事業中断
▲ サイバーインシデント
▲ 政治的リスク (選挙、テロ)

「1 位の関心事は B 社であるが、市場動向や法規制、労働力など、近い将来に発生するその他の不確実性も注目されている。人々は大きな変化を予測している。」

Thierry Van Sonnen, CEO, AGCS France

英国

トップ リスク サイバーインシデント
▲ マクロ経済動向
▲ Brexit (ブレグジット)

「変化に対する脆弱性の欠如は英国の顧客および英国にとって最大のリスクである。経済の急激な成長にもかかわらず、どのように対応するかについて、まだ確信が持たない。顧客区分の企業も、顧客のビジネスモデルに合わせた対応が必要。」

Brian Kinnear, CEO, AGCS UK

ドイツ

トップ リスク サイバーインシデント
▲ 政治的リスク (戦争、テロ)
▲ 新技術

「インフラストラクチャー 4.0 環境における相互接続の増加とサイバー攻撃の増加は、ドイツの企業に大きなリスクをもたらす。新たな技術的サイバーリスク戦略についての立法の活動が増え、マネジメントの意識も高まっている。」

Andreas Berger, CEO, AGCS Central and Eastern Europe

スペイン

トップ リスク 事業中断
▲ サイバーリスク
▲ 品質不良・製品リコール

「アウトソーシング業務の増加により、生産工程は中絶のリスクを伴うようになっていく。多くの組織で代替生産能力が減少している。」

Juan-Manuel Negro, CEO, AGCS Spain

イタリア

トップ リスク 事業中断
▲ 市場動向
▲ 自然災害

「2017 年にイタリア中央部で発生した地震により、この不景気時代の状況においては悪化することが懸念されている。地震発生後のリスクの増加に関する議論が再開された。」

Nicola Mancini, CEO, AGCS Italy

中国

トップ リスク 市場動向
▲ 自然災害
▲ 火災・爆発

オーストラリア

トップ リスク 事業中断
▲ サイバーインシデント
▲ 新技術

日本

トップ リスク 自然災害
▲ 事業中断
▲ 品質不良・製品リコール

シンガポール

トップ リスク 中断
▲ 風評被害
▲ サイバーインシデント

「拡大する相互接続ネットワークのトレンドを反映する。アジアにおける重要なトレンドはデジタル化とサイバーセキュリティの増加である。このリスクは企業のサプライチェーンとブランド価値に影響を与える。後者は、リコール後の顧客満足度低下につながる。本誌は信頼と顧客満足度を高めるためのリスクの分野で経験している。」

Mark Mitchell, CEO, AGCS Asia

ナイジェリア

トップ リスク マクロ経済動向
▲ 市場動向
▲ 窃盗・詐欺・汚職

南アフリカ

トップ リスク 事業中断
▲ 市場動向
▲ 人材不足

「ナイジェリアと南アフリカは、低い製品価格、中国経済の減速、米国の金融市場の急激な下落という 3 つの問題に引き継ぎを要している。」

Delphine Maudou, CEO, AGCS Africa

このリスクマップは、選択した国におけるトップ企業リスクを示す。前年比で国の関心が高くなっているリスクも示している。
出典：Allianz Global Corporate & Specialty

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コンプライアンスリスクの顕在化 ～ 法執行の強化・厳罰化

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法執行の強化・厳罰化

2016年6月米国CPSC

当局に対する通知義務の違反を理由とする 民事罰金\$4.5 millionの支払等

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of:

Sunbeam Products, Inc. d/b/a Jarden Consumer Solutions

CPSC Docket No.: 16-C0004

SETTLEMENT AGREEMENT


1. In accordance with the Consumer Product Safety Act, 15 U.S.C. §§ 2051 - 2089 ("CPSA") and 16 C.F.R. § 1118.20, Sunbeam Products, Inc. d/b/a Jarden Consumer Solutions ("the Firm"), and the United States Consumer Product Safety Commission ("Commission"), through its staff, hereby enter into this Settlement Agreement ("Agreement"). The Agreement, and the incorporated attached Order, resolve staff's charges set forth below.

THE PARTIES

2. The Commission is an independent federal regulatory agency, established pursuant to, and responsible for the enforcement of, the CPSA, 15 U.S.C. §§ 2051 - 2089. By executing the Agreement, staff is acting on behalf of the Commission, pursuant to 16 C.F.R. § 1118.20(b). The Commission issues the Order under the provisions of the CPSA.

3. Sunbeam Products, Inc. d/b/a Jarden Consumer Solutions is a Delaware corporation with its principal corporate offices in Boca Raton, FL.

Release Details



1 of 3 photos Previous Next

Recalled Mr. Coffee single cup coffeemaker

WASHINGTON, D.C. - The U.S. Consumer Product Safety Commission (CPSC) announced today that Sunbeam Products, Inc. d/b/a Jarden Consumer Solutions, of Boca Raton, Fla., has agreed to pay a \$4.5 million civil penalty.

The penalty settles charges that the firm knowingly failed to report to CPSC immediately, as required by federal law, that its 1 Coffee Single Cup Brewing System BVMC-WG1 series coffeemakers were defective and posed an unreasonable risk of serious or death to consumers.

Between 2011 and 2012, the company received numerous complaints, including at least 32 reports of burn injuries, from the coffeemakers' brewing chamber opening and spraying hot water and coffee grounds toward consumers during normal use. The company failed to report this issue to CPSC immediately, as required.

In addition to paying a \$4.5 million civil penalty, Sunbeam Products, Inc. d/b/a Jarden Consumer Solutions, has agreed to recall and maintain a compliance program that is designed to ensure compliance with the Consumer Product Safety Act (CPSA). The firm has also agreed to comply and maintain a system of internal controls and procedures.

The firm recalled 530,000 of the single-cup brewers in August 2012. The coffeemakers were sold at mass merchandisers not including Bed, Bath & Beyond, Brandy's, JC Penney, Kmart, Lowe's, Target and Walmart and online at www.mrcoffee.com September 2010 through August 2012 for between \$60 and \$80.

The firm does not admit to CPSC staff's charges.

The penalty agreement has been provisionally accepted by the Commission by a 3 to 2 vote.

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法執行の強化・厳罰化

1 CPSCとは

- 米国消費者製品安全委員会 (The U.S. Consumer Product Safety Commission)。米国消費者製品安全法 (Consumer Product Safety Act (“CPSA”)・連邦法) に基づき1972年に設立された独立の規制機関 (independent regulatory agency)
- 2008年に制定されたConsumer Product Safety Improvement Act (CPSIA) により予算、権限等拡大。

2 関連する法令

- CPSCは、CPSAのほか、連邦有害性物質法 (Federal Hazardous Substances Act)、可燃性布地法 (Flammable Fabrics Act) などの法執行を行う。
- 対象製品は消費者製品 (Consumer Product)であり、食品、薬品、化粧品、医療機器、自動車、たばこ等についてはCPSCは管轄を有さない。

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法執行の強化・厳罰化

3 CPSCに対する通知義務

Consumer Product Safety Act Sec 15(b)

SEC. 15. [15 U.S.C. § 2064]. SUBSTANTIAL PRODUCT HAZARDS

*(b) Every manufacturer of a **consumer product**, (中略), distributed in commerce, and every distributor and retailer of such product, who obtains information which reasonably supports the conclusion that such product—*

- (1) fails to comply with an applicable consumer product safety rule or with a voluntary consumer product safety standard upon which the Commission has relied under section 9 [15 U.S.C. § 2058];*
- (2) fails to comply with any other rule, regulation, standard, or ban under this Act or any other Act enforced by the Commission;*
- (3) contains a defect which could create a substantial product hazard described in subsection (a)(2); or*
- (4) creates an unreasonable risk of serious injury or death,*

*shall **immediately inform** the Commission of such failure to comply, of such defect, or of such risk, unless such manufacturer, distributor, or retailer has actual knowledge that the Commission has been adequately informed of such defect, failure to comply, or such risk. (略)*

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法執行の強化・厳罰化

4 CPSCに対する通知義務 違反の効果

(1)民事罰 (Civil Penalties)

Consumer Product Safety Act SEC. 20. [15 U.S.C. § 2069].

(a) (1) Any person who **knowingly** violates **section 19** [15 U.S.C. § 2068] of this Act shall be subject to a **civil penalty** not to exceed \$100,000, for each such violation. Subject to paragraph (2), a violation of **section 19(a)** (1), (2), **(4)**, (5), (6), (7), (8), (9), (10), or (11) [15 U.S.C. § 2068(a)(1) – (11)] shall constitute a separate offense with respect to each consumer product involved, except that the maximum civil penalty shall not exceed \$15,000,000 for any related series of violations. A violation of section 19(a)(3) shall constitute a separate violation with respect to each failure or refusal to allow or perform an act required thereby; and, if such violation is a continuing one, each day of such violations shall constitute a separate offense, except that the maximum civil penalty shall not exceed \$15,000,000 for any related series of violations.

SEC. 19. [15 U.S.C. § 2068]

(a) It shall be unlawful for any person to—

(1) – (3) 省略

(4) fail to furnish information required by **section 15(b)** [15 U.S.C. § 2064(b)];

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NAGASHIMA OHNO & TSUNEMATSU

法執行の強化・厳罰化

4 CPSCに対する通知義務 違反の効果

(2)刑事罰 (Criminal Penalties)

Consumer Product Safety Act SEC. 21. [15 U.S.C. § 2070].

(a) Violation of **section 19** of this Act is **punishable** by—

(1) imprisonment for **not more than 5 years** for a knowing and willful violation of that section;

(2) a fine determined under section 3571 of title 18, United States Code, or

(3) both.

SEC. 19. [15 U.S.C. § 2068]

(a) It shall be unlawful for any person to—

(1) – (3) 省略

(4) fail to furnish information required by **section 15(b)** [15 U.S.C. § 2064(b)];

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法執行の強化・厳罰化

2016年3月米国CPSC

当局に対する通知義務の違反等を理由とする
民事罰金\$15.45 millionの支払Release date: March 25,
2016Release number: 16-
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Release Details

WASHINGTON, D.C. – The U.S. Consumer Product Safety Commission (CPSC) announced today that Gree Electric Appliances Inc., of Zhuhai, China; Hong Kong Gree Electric Appliances Sales Co. Ltd., of Hong Kong; and Gree USA Sales Ltd., of City of Industry, Calif., have agreed to pay a \$15.45 million civil penalty to the government.

The penalty settles charges that Gree:

- knowingly failed to report a defect and unreasonable risk of serious injury to CPSC immediately (within 24 hours) with dehumidifiers sold under 13 different brand names, including Frigidaire, GE, Gree, Kenmore and Soleus Air, as required by federal law;
- knowingly made misrepresentations to CPSC staff during its investigation; and
- sold dehumidifiers bearing the UL safety certification mark knowing that the dehumidifiers did not meet UL flammability standards.

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of:

GREE ELECTRIC APPLIANCES, INC.,
OF ZHUHAI, HONG KONG GREE
ELECTRIC APPLIANCES SALES CO.,
LTD., AND GREE USA SALES, LTD.

CPSC Docket No.: 16-C0002

SETTLEMENT AGREEMENT

1. In accordance with the Consumer Product Safety Act, 15 U.S.C. §§ 2051–2089 (“CPSA”) and 16 C.F.R. § 1118.20, Gree Electric Appliances, Inc., of Zhuhai, Hong Kong Gree Electric Appliances Sales Co., Ltd., and Gree USA Sales, Ltd. (collectively “Gree”), and the United States Consumer Product Safety Commission (“Commission”), through its staff, hereby enter into this Settlement Agreement (“Agreement”). The Agreement, and the incorporated attached Order, resolve staff’s charges that Gree is subject to civil penalties in this matter, under section 20 of the CPSA, 15 U.S.C. § 2069, as set forth below.

THE PARTIES

2. The Commission is an independent federal regulatory agency, established pursuant to, and responsible for the enforcement of, the CPSA, 15 U.S.C. §§ 2051–2089. By executing the Agreement, staff is acting on behalf of the Commission, pursuant to 16 C.F.R. § 1118.20(b). The Commission issues the Order under the provisions of the CPSA.

3. Gree Electric Appliances, Inc., of Zhuhai, is incorporated in China, and its principal place of business is in China. Hong Kong Gree Electric Appliances Sales Co., Ltd., is incorporated in Hong Kong, and its principal place of business is in Hong Kong. Gree USA

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法執行の強化・厳罰化

2017年6月米国CPSC

当局に対する通知義務の違反等を理由とする
民事罰金\$5.2 millionの支払

Kawasaki Agrees to Pay \$5.2 Million Civil Penalty, Maintain Compliance Program for Failure to Report Defective ROVs and Misrepresentation

Release Date: June 8, 2017

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Release Details

1 of 1 photos



Recalled Toyota recreational off-highway vehicle

WASHINGTON, D.C. – The U.S. Consumer Product Safety Commission (CPSC) announced today that Kawasaki Heavy Industries, Ltd., of Japan; Kawasaki Motors Corp., U.S.A., of Torrance, California; and Kawasaki Motors Manufacturing Corp., U.S.A., of Canton, Massachusetts, have agreed to pay a \$5.2 million civil penalty.

The penalty settles charges that Kawasaki failed to immediately report to CPSC that its 2013–2016 model year Terra 800, Terra 800i, and Terra 800 recreational off-highway vehicle (OHV) contained a defect that could create a substantial product hazard or that the OHVs created an unreasonable risk of serious injury or death. CPSC also alleged that Kawasaki knowingly made a material misrepresentation to CPSC staff by underreporting the number of Terra 800 Recalled OHVs and failing to report any incidents regarding the Terra 800 or Terra 800i.

Between April 2013 and July 2014, Kawasaki received more than 800 reports of Terra 800 Recalled OHVs exhibiting handling or braking abnormalities during normal operation due to a defect in the rear suspension. These reports resulted in injuries to consumers, including two serious injuries.

In addition, between July 2013 and August 2014, Kawasaki received more than 150 reports of Terra 800 or Terra 800i Recalled OHVs exhibiting handling or braking abnormalities during normal operation. These reports resulted in injuries to consumers, including two serious injuries. Kawasaki failed to immediately notify CPSC of the defect or not posed by the OHVs, as required by federal law.

When Kawasaki ultimately filed its full report with CPSC, it reported a single incident and an unspecified number of injuries. The full report did not identify the more than 400 similar incidents involving Terra 800 Recalled OHVs about which Kawasaki had actual or presumed knowledge or any incidents involving the Terra 800 or Terra 800i. By omitting this information, Kawasaki made a material misrepresentation to CPSC staff, impeding CPSC staff’s investigation into the hazard posed by the Terra 800 and Kawasaki’s ongoing repair, and hampered staff’s ability to accurately estimate the prevalence of the reports to the public.

In July 2014, Kawasaki recalled 11,000 OHVs and then repaired the recall by 15,000 in December 2014. The recalled Terra OHVs were sold at Kawasaki dealers nationwide from October 2013 to December 2014 for between \$12,400 and \$16,300.

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of:

KAWASAKI HEAVY INDUSTRIES,
LTD.,
KAWASAKI MOTORS CORP., U.S.A.;
and
KAWASAKI MOTORS
MANUFACTURING CORP., U.S.A.

CPSC Docket No.:

SETTLEMENT AGREEMENT

1. In accordance with the Consumer Product Safety Act, 15 U.S.C. §§ 2051–2089 (“CPSA”) and 16 C.F.R. § 1118.20, Kawasaki Heavy Industries, Ltd., Kawasaki Motors Corp., U.S.A., and Kawasaki Motors Manufacturing Corp., U.S.A. (collectively, “Kawasaki”), and the United States Consumer Product Safety Commission (“Commission”), through its staff, hereby enter into this Settlement Agreement (“Agreement”). The Agreement and the incorporated attached Order resolve staff’s charges set forth below.

THE PARTIES

2. The Commission is an independent federal regulatory agency, established pursuant to, and responsible for, the enforcement of the CPSA, 15 U.S.C. §§ 2051–2089. By executing the Agreement, staff is acting on behalf of the Commission, pursuant to 16 C.F.R. § 1118.20(b). The Commission issues this Order under the provisions of the CPSA.

3. Kawasaki Heavy Industries, Ltd. (“KHI”) is a corporation, organized and existing under the laws of Japan, with its principal place of business in Japan.

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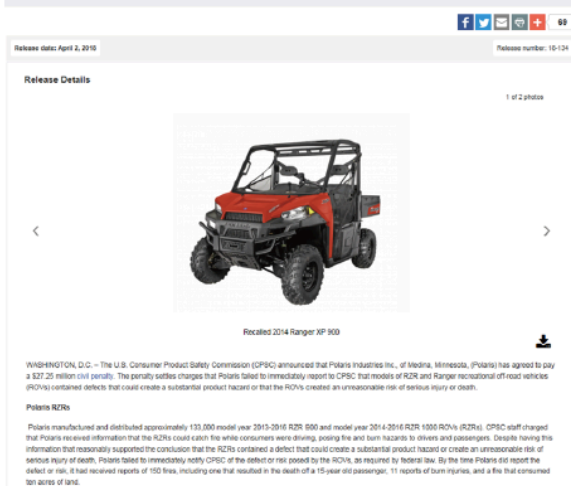
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法執行の強化・厳罰化

2018年4月米国CPSC

当局に対する通知義務の違反を理由とする
民事罰金\$27.25 millionの支払

Polaris Agrees to Pay \$27.25 Million Civil Penalty for Failure to Report Defective Recreational Off-Road Vehicles



UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of:

POLARIS INDUSTRIES INC.

CPSC Docket No.: 18-C0001

SETTLEMENT AGREEMENT

1. In accordance with the Consumer Product Safety Act, 15 U.S.C. §§ 2051-2089 ("CPSA") and 16 C.F.R. §§ 1118.20, Polaris Industries Inc. ("Polaris"), and the United States Consumer Product Safety Commission ("Commission"), through its staff, hereby enter into this Settlement Agreement ("Agreement"). The Agreement and the incorporated attached Order resolve staff's charges set forth below.

THE PARTIES

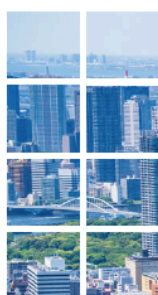
2. The Commission is an independent federal regulatory agency, established pursuant to, and responsible for the enforcement of, the CPSA, 15 U.S.C. §§ 2051-2089. By executing the Agreement, staff is acting on behalf of the Commission, pursuant to 16 C.F.R. § 1118.20(b). The Commission issues the Order under the provisions of the CPSA.

3. Polaris is a corporation, organized and existing under the laws of the state of Minnesota, with its principal place of business in Medina, Minnesota.

STAFF CHARGES

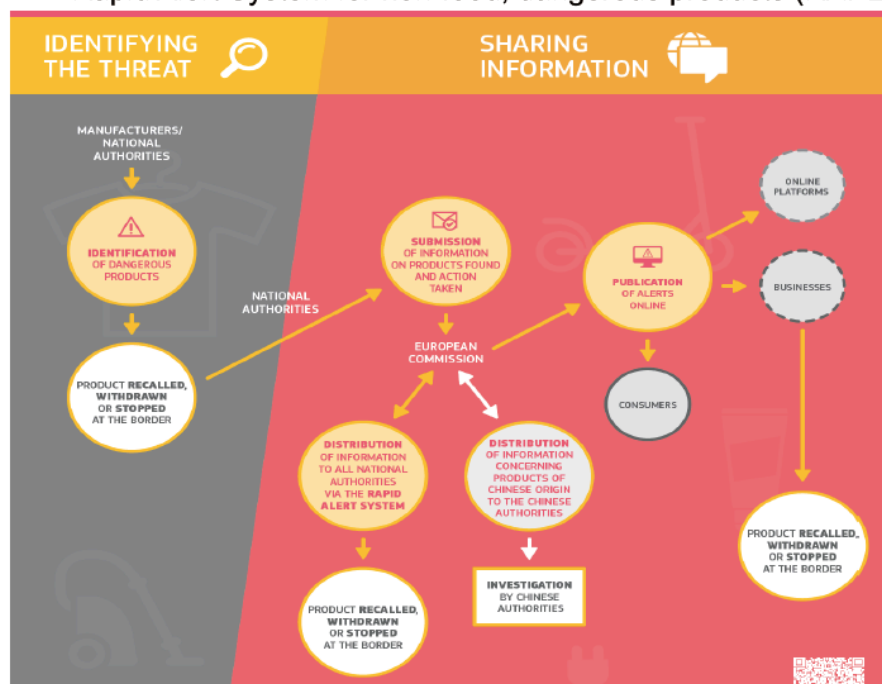
4. Between February 2012 and April 2016, Polaris manufactured or imported, distributed and offered for sale in the United States approximately 133,000 Model Year 2013-2016 RZR 900 and Model Year 2014-2016 RZR 1000 recreational off-road vehicles ("RZR").

当局による市場監視の強化



当局による市場監視の強化

Rapid Alert System for non-food, dangerous products (RAPEX)



- EU加盟国(28か国)、アイスランド、ノルウェー及びリヒテンシュタイン
- 中国製の製品については、中国の当局とも情報を共有(RAPEX-CHINA)

欧州委員会のWebsite(https://ec.europa.eu/consumers/consumers_safety/safety_products/rapex/alerts/repository/content/pages/rapex/docs/rapex-poster-2017.pdf)

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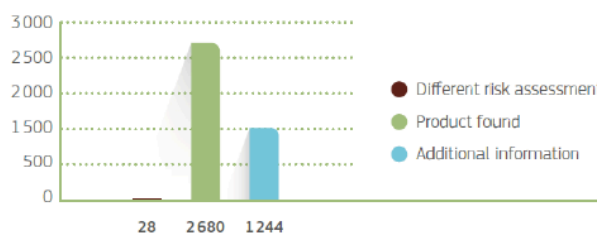
NAGASHIMA OHNO & TSUNEMATSU

当局による市場監視の強化

Rapid Alert System for non-food, dangerous products (RAPEX)

RAPEXによる通知をした参加国と、Follow-upをした参加国の対応に違いがある場合

TYPE of follow up



2017 result of the EU Rapid Alert System for dangerous non-food products

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当局による市場監視の強化

GRAPH 3 Overview of the total number of notifications and the number of notifications reporting a serious risk (2003-2016) (*)



(*) 2013 data according to statistics retrieved in January 2017

Rapid Alert System for dangerous products 2016 Annual Reportより引用

2003年RAPEX開始以来、参加国当局による危険を伴う製品についての通報件数が増大し、近年は年に2000件程度の通報件数で安定

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当局による市場監視の強化

1/ 2017 ALERTS

PRODUCT categories/The 5 most notified products

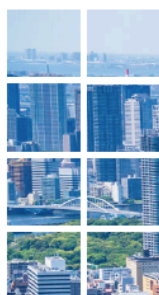


2017 results of the EU Rapid Alert System for dangerous non-food products より引用

玩具、自動車、衣類、電子製品・機器、子供用品は、他の製品に比べ、とりわけ当局が安全性について関心を寄せている。

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NAGASHIMA OHNO & TSUNEMATSU



各国当局間の協力

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各国当局間の協力

International cooperation



*A global market place requires a **global approach to the enforcement of product safety rules**. Growing international trade means that the same products are traded on markets across the world. Closer cooperation between global regulators in the area of consumer product safety is necessary to address the challenges posed by increasingly complex supply chains and higher volumes of trade.*

European Commission has developed **close cooperation with international partners** to:

- exchange information on emerging risks and unsafe products;
- coordinate standardisation efforts;
- ensure that manufacturers worldwide are aware of the applicable safety requirements and comply with them.

欧州委員会のHPより

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各国当局間の協力

【EUと米国】

- ・EU/米国間でガイドラインを締結
- ・EUと米国の市場において販売されている製品が同じであることから、製品安全に関する情報交換、とりわけ危険な製品についての緊密な情報交換を実施。



GUIDELINES FOR INFORMATION EXCHANGE

AND ON ADMINISTRATIVE COOPERATION

BETWEEN

THE U.S. CONSUMER PRODUCT SAFETY COMMISSION

AND

THE DIRECTORATE-GENERAL HEALTH AND CONSUMER PROTECTION OF THE EUROPEAN COMMISSION

The U.S. Consumer Product Safety Commission (CPSC) and the Directorate-General Health and Consumer Protection of the European Commission (Directorate-General) share the common goal of improving information exchange between them.

The CPSC is an independent federal regulatory agency formed to protect the public against unreasonable risks of injuries and deaths associated with consumer products. It is charged with implementation of the U.S. Consumer Product Safety Act (CPSA), the U.S. Federal Hazardous Substances Act (FHSA), the U.S. Flammable Fabrics Act (FFA), the U.S. Poison Prevention Packaging Act (PPPA) and the U.S. Refrigerator Safety Act (RSA).

The Directorate-General is the Directorate within the European Commission responsible for monitoring the application of the General Product Safety Directive (GPSD), which regulates in a horizontal manner the safety of non-food consumer products placed on the European Union (EU) market, for operating the Rapid Exchange of Information System (RAPEX) established by the GPSD, initiating standardization and recognizing standards, taking rapid measures if necessary in case of serious risks and initiating regulatory action in other cases. The Directorate-General is also responsible for promoting and organizing administrative cooperation between the enforcement authorities of the EU Member States with a view to accomplishing the objectives of the GPSD.

It is noted that the EU responsibility for some of the information sought to be exchanged under these Guidelines belongs to the EU Member States or is shared between the EU Member States and the European Commission and that the EU legislation applicable to some of the products of concern under these Guidelines is under the responsibility of other Directorate-Generals of the European Commission.

Nothing in these Guidelines calls on providing assistance or information if such is prohibited by their respective laws and regulations, enforcement policies or other essential interests.

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NAGASHIMA OHNO & TSUNEMATSU

各国当局間の協力

【EUと中国】

- ・EU/中国間でMOUを締結
- ・EUのRAPEXにおける中国製品情報を中国当局に開示 (RAPEX-CHINA)。これにより、中国当局(AQSIQ)が欧州委員会より受領した通知について調査を行い、必要に応じて、更なる中国からEUへの当該製品の輸出を制限。



JOINT STATEMENT ON THE EXTENSION OF THE MEMORANDUM OF UNDERSTANDING ON ADMINISTRATIVE CO-OPERATION ARRANGEMENTS BETWEEN DG SANCO AND AQSIQ

The political commitment to good and fruitful cooperation in the areas of consumer product safety, and food safety and sanitary and phytosanitary (SPS) issues finds one of its most prominent expressions in the Memorandum of Understanding on Administrative co-operation arrangements between the European Commission's Directorate General for Health and Consumer Protection (DG SANCO) and the General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China (AQSIQ), which was first signed on 16 January 2006.

Over the past three years, this Memorandum of Understanding has proven to be an excellent basis for administrative cooperation between DG SANCO and AQSIQ, and both sides wish to continue and further strengthen this cooperation.

Therefore, the two sides have decided to renew their political commitment, extend the Memorandum of Understanding and upgrade its Annexes as attached, reflecting the achievements over the past three years and strengthening the framework for further administrative cooperation.

The Joint Statement is signed in Brussels on 17 November 2008 in the English and Chinese languages.

For the
Directorate General
Health and Consumers
of the
European Commission

Margrethe Kanner
Margrethe Kanner
EU Commissioner for
Consumers

For the
General Administration of
Quality Supervision,
Inspection and Quarantine
of the
People's Republic of China

Wei Chuangzhong
Wei Chuangzhong
Vice Minister of AQSIQ
for
Wang Yong
Minister of AQSIQ

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NAGASHIMA OHNO & TSUNEMATSU

各国当局間の協力

【EUと日本】

- ・近時の非食品に係る大きなリコールその他の市場措置に係る情報を交換

“Summit leaders share the same challenges and determination to ensure a high level of consumer safety and protection and public health. They will aim to strengthen their cooperation at international and bilateral levels on safety of food and other products, security of the supply chain and the food chain, the security of networks and ICT usages.”

[17th Japan-EU Summit Tokyo, 23 April 2008 Joint Press Statement]



各国当局間の協力

【米国、EU及び中国】

- ・ EU-China-US product safety summits
- ・ 2008年以来、米国、EU及び中国の製品安全当局（CPSC、欧州委員会及びAQSIQ）は、非食品の消費者製品についての製品安全問題を3者間で協議する機会を毎年設けてきた。
- ・ 情報シェア、規制上の協力等。

Fifth Consumer Product Safety Trilateral Summit

Among

The General Administration of Quality Supervision, Inspection and
Quarantine of the People's Republic of China;

The United States Consumer Product Safety Commission;

The European Commission, Directorate General for Justice and
Consumers

Joint Press Statement

June 22, 2016

Beijing, China

Since 2008, the product safety authorities of China and the United States as well as the European Commission have pursued joint efforts to strengthen non-food consumer product safety and protect the end consumers. The first four Consumer Product Safety Trilateral Summits have promoted information sharing, regulatory cooperation, and coordination among regulators, to further advance consumer product safety.

During this Fifth High-Level Consumer Product Safety Trilateral Summit held today in Beijing, China, Sun Dawei Vice-Minister of China's General

各国当局間の協力

【Global Recalls Portal】

Global portal on product recalls

Search for recalls

Free text search

Product name

Jurisdiction where recalled

Date

Manufacturer

where made

Search

Records: 14992 Showing: 1 - 25

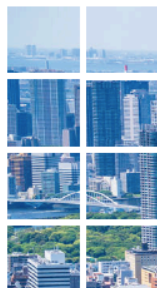
Date	Picture	Product name	Jurisdiction of recall	Language	Details
November 2015		hochets en bois à 3 anneaux	Canada	French	Details
November 2015		3 ring wood rattles	Canada	English	Details
November 2015		lits pour enfants convertibles chelsea	Canada	French	Details
November 2015		chelsea convertible crib	Canada	English	Details
November 2015		teinture semi-transparente (#1075) et opaque (#1066) woodmats	Canada	French	Details

Disclaimer >>>

- 2012年10月に立ち上げられたWebポータル
- 各国当局から提供された消費者製品の強制・自主的リコール情報をアップデート
- 対象製品は消費者製品。ただし、各国当局の権限により自動車や食品が入る。
- 欧州、米国、カナダ、オーストラリア、日本等の当局が参加。
- 消費者は、このWeb上でリコール情報を検索可能。

法整備

- 製品安全法制の近代化
 - ・ 中東、中国、ベトナム等
- 製品安全法制の改革
 - ・ 欧州、米国、日本、オーストラリア等
- 製品コンプライアンスに影響を与える隣接分野の法令整備
 - ・ 化学物質規制についての法令整備（韓国等）



リコール実施の複雑化 ～ 事故情報・危険情報に係るReporting

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NAGASHIMA OHNO & TSUNEMATSU

リコール実施の複雑化 ～ 事故情報・危険情報に係るReporting

1 タイミング

リコールを実施する対象製品には、何らかの危険を惹起させるリスクが存在することが少なくないが、かかる危険・事故について当局に「いつ」報告をする必要があるか。

2 対象製品

- ・ 報告の対象となる製品は消費者製品に限るか。
- ・ 消費者製品でなければReportingはないのか。

3 報告対象となる事故情報・危険情報の範囲

国内で起きた事故・危険に限るか。

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リコール実施の複雑化 ～ 事故情報・危険情報に係るReporting

4 通知を行うべき主体

複数の義務者

5 通知義務とは別のリコール義務

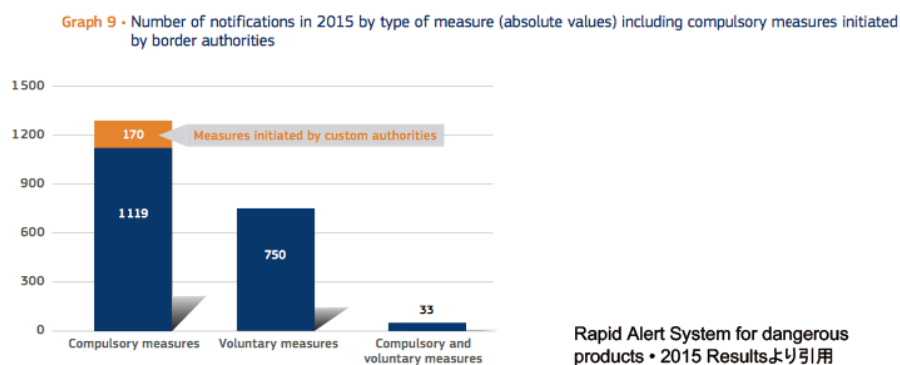
通知義務の懈怠について罰則を設けているのが通常。リコール義務 (Voluntary Recall) についてもその懈怠に罰則を設けている場合がある。

リコール実施の複雑化 ～ 事故情報・危険情報に係るReporting

例：米国と欧州におけるReporting の対比

	米国 (CPSC)	欧州 (GPSD)
報告義務	安全基準等に合致していないこと、重大な製品の危険を生み出す欠陥があること、重大なケガ又は死亡を引き起こす不合理な危険があること	消費者に危険をもたらすこと
報告期限	直ちに (immediately) 報告すべき情報を入手してから24時間以内	直ちに (immediately) 報告すべき情報を入手してから10日以内 (重大な危険の場合は3日以内)
報告すべき当局	合衆国消費者製品安全委員会 (CPSC) →対応は区々にならず	欧州委員会ではなく、各加盟国の当局 →対応が区々になる可能性
報告すべき事項	製品の詳細、製造者/輸入者の詳細、欠陥/基準不適合/危険の詳細、すぐに提供できない情報については提供を予定する時期	製造者/輸入者の詳細、製品の詳細、危険の詳細、是正措置の詳細、サプライチェーンにある他の会社の詳細
守秘義務への考慮	一定程度の配慮	基本的には公開

リコール実施の複雑化



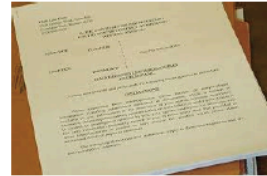
- 強制措置 (compulsory measure) は、当局が命じるもの。他方、自主的措置 (voluntary) は企業が自ら開始するもの
- 強制措置が自主的措置を上回っている。
- Worldwideで整合性の取れた市場措置を実施したいのだが...



訴訟戦略・競争戦略

訴訟戦略・競争戦略

- ディスカバリー制度がない地域におけるPlaintiff barによる刑事手続の利用



- 競争戦略としての製品安全規制の利用

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訴訟戦略・競争戦略

- 米国製造物責任訴訟におけるコスト増要因としてのディスカバリー対策
 - MDL (Multidistrict Litigation: 広域係属訴訟手続) とは？
 - 米国訴訟のコスト増要因はディスカバリー (document production, deposition, interrogatories)
 - 製造物の瑕疵による損害が全米に及んだ場合、異なる地域に存在する原告が同じ内容の訴えを提起
 - MDLは、複数の地域の連邦地方裁判所に係属した訴えを特定の地区の裁判所に移送し、そこでプレ・トライアル手続を併合
 - 州裁判所に同じ訴えの訴訟が係属した場合は？

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NAGASHIMA OHNO & TSUNEMATSU

ご静聴有り難うございました。

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