

# The Catlin Australia Newsletter

From the Crisis Management team

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## Market Update

As we enter the new year, a review of the previous 12 months has shown a large increase in the number of companies looking to purchase recall insurance for the first time. Reasons for the shift include increased contractual obligations to buy recall insurance placed on companies by their clients, changes in legislation and the continued increase in imports from overseas, especially from Asia.

We have also seen clients who had looked at purchasing recall insurance in previous years but elected to self-insure, returning again to test the market and finding an increasing number of more suitable tailored alternatives available to them.

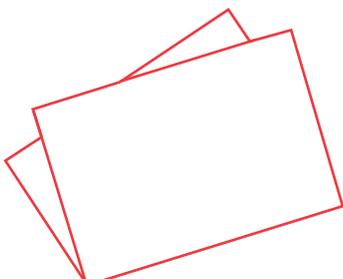
In this edition, we focus on the recent changes implemented by the Australian Competition & Consumer Commission (ACCC), placing new responsibilities and reporting requirements on manufacturers, importers, distributors and the like. These legislative changes bring increased accountability for unsafe products and transparency to the way recalls are conducted.

We are pleased to include two articles that we hope will be of assistance in understanding the changes. The first is a transcript of an interview we conducted with John Jamieson from the ACCC. John is the Director of the Recalls & Hazard Assessment Section and he has kindly answered several questions we recently posed to him about product recalls in Australia. We also include an article from one of our specialist Crisis Consultants, Ross Campbell from RCA Crisis Management. Ross discusses the importance of crisis response and pre-incident planning.

If you have any further questions or queries regarding any aspect of the newsletter or product recall in general, please do not hesitate to contact either myself or Emma Pearce on the numbers listed in the newsletter.

All the best for 2011.

**Steven Ward**  
Underwriting Manager  
Crisis Management.



## Q & A with the ACCC

**Catlin recently spoke to John Jamieson (Director of Recalls & Hazard Assessment, Product Safety Hazard Response Branch) regarding the legislative changes being implemented to the way unsafe products are reported and recalled in Australia.**

### Q.1 – John, briefly, what are the changes?

Two of the most relevant changes relate to Mandatory Reporting and Recalls.

**Mandatory Reporting:** As part of the new Australian Consumer Law, suppliers who become aware of a death or serious injury or illness that someone believes may have been caused by a consumer good will be required to report the incident to the ACCC within two days. This applies to suppliers of the consumer goods and to suppliers of services related to the goods. Mandatory reporting has been introduced to ensure that the ACCC becomes aware of safety hazards and trends with consumer goods as quickly as possible. Suppliers are encouraged to become familiar with the ACCC mandatory reporting guidelines and reporting form on the Product Safety Australia website [www.productsafety.gov.au](http://www.productsafety.gov.au).

**Recalls:** The ACCC started implementing new Product Safety Recalls guidelines in 2010 based on recommendations from a comprehensive review. These guidelines were refined after further public consultation in late 2010 but the core messages are unchanged. The review found that recalls are more effective when the regulator is actively involved in monitoring the process. The ACCC will therefore continue to monitor suppliers' recalls closely throughout the recall process, with a focus on ensuring effective targeted communication of the recall to consumers. Suppliers will also be asked to provide progress reports of the recall to the ACCC. Suppliers are encouraged to become familiar with the ACCC recalls guidelines and forms on the Product Safety Recalls website [www.recalls.gov.au](http://www.recalls.gov.au).

### Q.2 - When did the changes come into effect?

**Mandatory Reporting:** The mandatory reporting requirements came into effect on 1 January 2011.

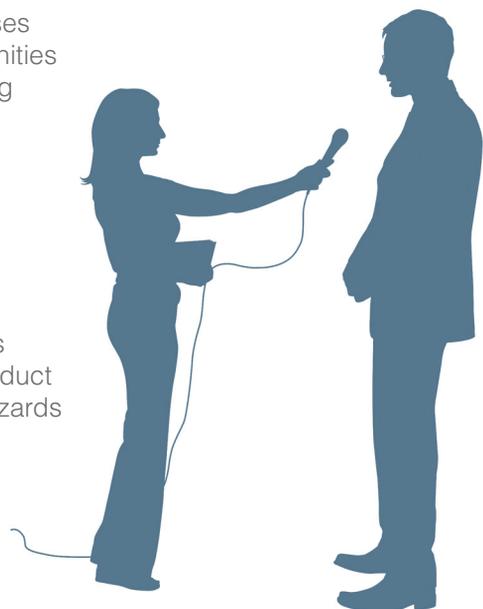
**Recalls:** The recommendations from the recalls review are already being implemented.

### Q.3 - What will this mean for consumers?

**Mandatory Reporting:** Mandatory reporting of serious injuries or illnesses will provide better protection to consumers by providing earlier opportunities for the relevant regulator to investigate possible design or manufacturing flaws in consumer goods. Consumers should anticipate improved communication between suppliers and the ACCC in relation to deaths and injuries associated with consumer goods. Consumers that report deaths or serious injuries or illnesses to a supplier will expect them to respond appropriately, including submitting a mandatory report to the ACCC if necessary.

**Recalls:** Consumers should also expect communication of recall notices by a wider and more effective variety of media from suppliers about product safety recalls, with recall notices that reach them and clearly identify hazards and actions they should take.

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**Q.4 - What will this mean for retailers, distributors, importers, manufacturers and the like?**

**Mandatory Reporting:** Suppliers should expect that the ACCC will be better informed and better equipped to respond appropriately to safety hazards associated with consumer goods. This will ultimately benefit both consumers and suppliers. Retailers, distributors, importers and manufacturers will all need to establish systems and procedures for submitting mandatory reports to the ACCC as part of their complaint handling processes.

**Recalls:** Suppliers should also anticipate the active involvement of the ACCC when developing their strategies for safety related recalls, including more targeted and effective communication to consumers.

**Q.5 - Fast forwarding 12-18 months, what differences are you hoping to see in the area of product safety and recall?**

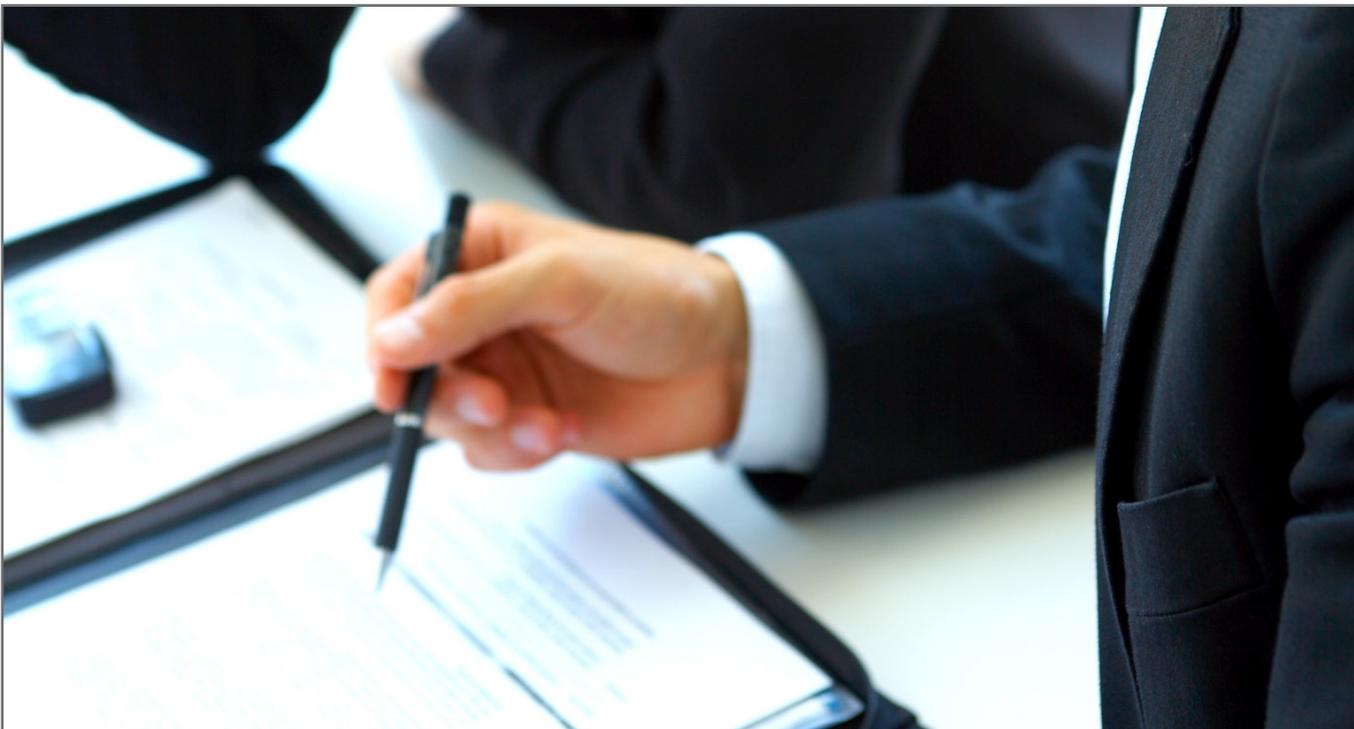
**Mandatory Reporting:** Mandatory reporting will enable the ACCC to more quickly and reliably identify and respond to safety hazards with consumer goods. This will provide the ACCC with better immediate and long-term trend information.

**Recalls:** The ACCC is aiming for better product safety recalls that are more effective in removing unsafe products from consumers through more targeted communication strategies and through better preparedness on the part of suppliers.

**Q.6 - What will be the ramifications for not adhering to the changes?**

**Mandatory Reporting:** There are penalties under the Australian Consumer Law for failure to submit mandatory reports.

**Recalls:** The ACCC will monitor suppliers' recalls closely to determine if further action becomes warranted.



# Responding to a Crisis: Why You Need a Plan

By Ross Campbell

***Product recall crises can come at any time at different speeds, via different delivery systems, and it doesn't make any difference whose watch it is. Whether it be a criminal contamination, a manufacturing failure, poor product information or a design defect – recall problems can strike without warning, escalate, and threaten the future of brand and reputation.***

Managing the complexity of a serious product recall against the background of increasing consumer demand, tough legislation and instant on-line media, calls for a well-rehearsed crisis management response. Not responding rapidly can be interpreted as an indication of culpability, stirring up more rumours and speculation, with spin-off versions of the original problem. Quite often this attitude of distrust generates much broader concerns and increased scrutiny.

Leading brand crisis teams that know what to do, who is going to do it and in what sequence will be far more effective at taking the high ground in the first few hours of an escalating product recall crisis. A rehearsed team means reduced decision-making time.

We are working with clients to practise HOW their response teams will deal with a product recall escalation to crisis. They rehearse the level at which a product recall team triggers a crisis response. We test the way in which they respond, whether it be a simple recall process such as tracing, notifying and retrieving, or a more critical product event involving consumers suffering injury or death, managing aggressive media, communicating with regulators and core stakeholders, retaining brand, market share and customer service.

Product recall crisis simulations are increasingly the centrepiece of validating the planning process and ensuring control of information. By running simulation drills, teams develop a real-life perception of the organisation's plans, communication paths, resources and tools. In a recent simulation, a major food brand discovered that while its Head Office product recall crisis plan was in top shape, there were problems in other capital cities and regional areas regarding consistency in response action, spokespersons and rapid handling of key stakeholders. These are currently being corrected and rebuilt.

Social media has changed the way consumer brands are perceived in a product recall crisis. Disgruntled customers and employees can create front-page news through Facebook, Twitter, YouTube and even Wikileaks. This new media has led companies to engage on-line with the public in a crisis and be forthcoming and upfront in communication with customers.

Tougher legislation and a high level of consumer awareness reinforce the need to be prepared to respond. A product recall crisis is an opportunity for a company to confirm its commitment to its customers. Testing the product recall crisis response process is the one proven way to protect people, assets and brand reputation.

*Ross Campbell is the CEO of RCA Crisis Management (RCA) a specialist Crisis Management consultancy firm that provides crisis response plus training, resources, risk and threat analysis to control and manage the worst case scenario. RCA has a team of highly experienced and specialised consultants throughout the Asia Pacific Region, with both academic and practical backgrounds in the areas of crisis planning and management, public affairs, risk management, law, security and incident response. RCA delivers strategy and training to leaders in manufacturing, retail, resources, government, utilities and education in the development of best practice crisis management and recovery plans. RCA has been appointed to work exclusively with clients of Catlin Australia Pty Ltd.*

For further information, please visit [www.crisismanagement.com.au](http://www.crisismanagement.com.au)



2011/01 - Catlin Australia Pty Ltd

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## The Latest at Catlin

### Events and Announcements

We are pleased to announce that Catlin Australia will now be underwriting Livestock and Aquaculture Insurance from our Sydney office.

For further details, please contact Steve Ward or Emma Pearce on the phone numbers listed below.

### About Catlin Australia

Catlin was established more than 25 years ago in London. Today, the Catlin Group (which owns the largest syndicate in Lloyds) has more than 45 offices in 20 countries worldwide and in 2009, underwrote more than US\$3.7billion in gross premiums.

Catlin Australia was established in 2004 to offer brokers direct access to a wide range of insurance and reinsurance products. Catlin Australia's goal is simple: to help you meet the needs of your clients.

We achieve this through a combination of four key elements: specialist knowledge and skills; creative underwriting; autonomous decision-making; and solid financial strength.

We underwrite the following classes of business from our Sydney office:

- Crisis Management (Product Contamination Insurance / First Party Recall Insurance)
- Crisis Management (Kidnap & Ransom)
- General Liability
- Aviation
- Casualty Insurance and Reinsurance
- Facultative Reinsurance
- Specie (including Fine Art)
- Livestock
- Aquaculture



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