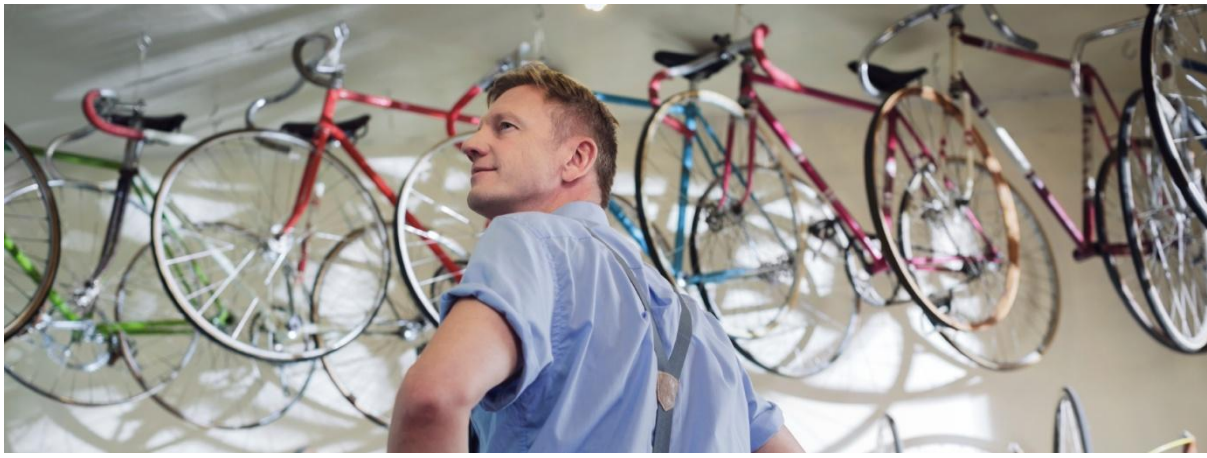


Dabbling in importing? Know your risks

Does your retailer client order products directly from developing countries like China, Mexico, India or Taiwan? Here's a cautionary tale from our product liability case files about the associated risks.

By John Ward, National Portfolio Manager, Casualty & Specialty



In the eyes of Australian law, importers are treated as manufacturers in the supply chain. That means if your business imports a product that causes property damage or bodily injury to someone in Australia, claims can be made against you as the last link in the supply chain.

Australian law does not require people to pursue a product liability claim back to the country of manufacture – just to the last link in the local supply chain.

For example, if an electrical product sourced by your company directly from an offshore supplier overheats and causes a spate of fires, as the importer you would be deemed liable under Australian product safety laws.

A multimillion dollar bodily injury claim was recently brought against a cycling retailer over a relatively inexpensive, detachable light for a bike that they had sold to a client. The light, which came loose while the cyclist was riding at high speed, lodged in the bike wheel. The serious spinal injuries sustained by the rider led to a multi-million dollar claim against the retailer under the Civil Liability Act.

Fortunately for the cycling shop, the general liability provisions in their Business Pack product provided cover for this type of event. In the absence of product liability cover, the impact on the business from this one-off incident would have been catastrophic.

The other thing that's important for retailers to know is that people can claim compensation for losses/injuries caused by a faulty product from a variety of sources including the retailer, installer, wholesaler, repairer, distributor and importer.

So the buck could stop with the retailer even if they've sourced the product from an importer if that business is no longer around or doesn't have the resources to pay up.

Likewise, if your store modifies a product in any way (e.g. assembles it incorrectly), your business could be held responsible for a product liability claim irrespective of whether the goods were sourced from a local or overseas manufacturer.

Due to stringent Quarantine and Customs Service procedures and requirements, the vast majority of imported products are compliant with Australian standards.

However, goods sourced from developing countries where production standards are less regulated pose greater risks than buying from highly developed markets, like Britain or Germany. And while there are some excellent manufacturing facilities in China that are on par with the best in the world, the opposite can also be true.

Retailers importing goods from regions where there may be an issue with sub-standard goods should verify the reputation and credentials of the manufacturer, including what quality control measures they have in place, their risk management approach and any previous or potential compliance issues. Accepting the claim that 'goods are manufactured to Australian standards' at face value without verifying a manufacturer's track record and current processes is a highly risky business.

The Australian Competition and Consumer Commission's *Product Safety Australia* website contains a wealth of information about steps companies can take to reduce their risks and remain compliant when importing products.

So what potential implications can a sizeable product liability claim have on your business?

If the claim ends up in the public domain (e.g. on the front page of the newspaper, on *A Current Affair* or Facebook), your business could suffer considerable reputational damage and loss of good will.

Your insurer may also ask to see evidence that you have taken adequate steps to minimise the risks that led to the original claims exposure before renewing your policy. For example, this could include a documented and effective process for verifying the credentials of any overseas suppliers and checking the quality of goods on delivery.

Failure to show you have adequately addressed any known issues may make it difficult to get the necessary insurance cover.

The ease with which goods can now be sourced directly from overseas channels has changed the retailing landscape in more ways than one. Retailers who directly buy products from overseas manufacturers/distributors for local resale need to be aware of their associated contingent liability risks.

Effective processes are needed to offset potential risks, especially if importing goods from emerging economies. And it goes without saying that adequate levels of product liability cover are critical because even the best risk plan is never fool proof.

This article has been published by Lumley Insurance as general information only and is not a comprehensive account. For full details of the insurance products offered by Lumley Insurance, please read the relevant Policy Wordings available from www.lumley.com.au.