

Letter to the editor

Dear Sir,

I write in relation to the excellent article by Peter McRae of Platinum Freight Management concerning the serious rip-offs of Australian consumers and the taxpayer in the recent debacles in the importation into Australia of Chinese made hoverboards.

By all accounts (both anecdotal and from first-hand knowledge) these importers (ranging from well-known high-street retailers to first time mum and dad importers) thought they saw a novel way of making a significant profit from the resale of the boards in the Christmas rush and were comprehensively taken to the cleaners by the manufacturers. Some importers apparently had already made forward sales of the hover boards before they arrived and will have had to refund their disappointed customers. In some cases the boards were so defective (especially in their electrical componentry) that they suffered recall notices and many shipments were impounded by Customs in the meantime for safety and other reasons. Many importers appear to have suffered significant losses, not just the loss of anticipated profits on the resale of the boards in Australia due to the actions of unscrupulous people and/or suppliers.

It seems that in some cases the manufacturers' certifications as to the boards complying with relevant safety standards were not worth the paper they were written on. Many consignments of these boards were in breach of some fairly basic consumer warranties and requirements under Australian law concerning their merchantability and fitness for purpose, and had they been released for sale in Australia might have caused damage to their riders and others, as well as being a defective product in the first place, putting the importer at risk of meeting claims for damages under the Commonwealth Competition and Consumer Act 2010, as if they were themselves the manufacturer of the defective boards. The importers might also have breached their obligations to their customers under the state-based Sale of Goods Act.

In most cases these importers probably held no security from their Chinese suppliers and probably would not have much of a chance of recovering their losses if they chose to pursue recovery from their suppliers. In many cases the Australian importers seem not to have made much of an attempt to carry out appropriate due diligence, if any, on their suppliers. How many of the importers had actually even met their suppliers – let alone had

done business with them previously? How many of the importers had negotiated any form of worthwhile contract with their suppliers to protect their interests if things went wrong, as occurred in spades? It seems the opportunity to make a perceived easy profit during the Christmas rush sent normal prudence out the back door.

One suspects that many of these first time importers, and perhaps others, suffered a rude and unexpected awakening to the realities of importing cheap goods into Australia, especially those destined for resale to the consumer. As Peter McRae's article pointed out, the low (\$1,000) threshold for the payment of Australian customs duties and taxes means that initially many of the consignments of boards escaped Customs scrutiny, which would not occur if their values were declared over the threshold. However as the impact of Australia's recently negotiated FTAs with a raft of countries takes hold, our relatively low customs duties will be eliminated and there will be even less incentive for Customs or any other regulatory authority to scrutinise imported goods, indeed the reduction of red tape in the import/export business is one object of the FTAs. Ironically as the hoverboard debacle was taking off Australia signed its FTA with China on 20 December 2015. Lowering the threshold for duties and tax might help reduce the risk of importation of defective goods getting through Customs, but apart from the huge increase of work for Customs if that occurred, Customs is not the guarantor of imported product legal compliance (outside of quarantine), that is the role of the importer.

If any good comes out of this debacle it will be that importers should be on notice, if they were not before these boards hovered into sight, that, even with cheap imported goods, the financial risks of taking short cuts can be disproportionate to the anticipated benefit. There are plenty of unscrupulous people out there in the global trading community waiting to prey on the unsuspecting, the naïve and the ignorant. In the importing business, as in any other activity, dreams of a quick profit can easily turn to dust if you do not know what you are doing.

Yours etc, Derek Luxford, Partner, Hicksons