

Contents Page

<u>1. TERMS OF REFERENCE</u>	<u>3</u>
<u>2. PROCEDURE</u>	<u>3</u>
<u>3. PRODUCTION LIABILITIES.....</u>	<u>3</u>
3.1. CONCEPT OF THE TERM "DEFECT"	3
3.2. TYPES OF DEFECTS	3
3.2.1. MANUFACTURING DEFECT.....	3
3.2.2. DESIGN DEFECT.....	4
3.2.3. FAILURE TO WARN	4
3.3. DAMAGE.....	4
3.4. DEFENCES TO PRODUCT LIABILITY	5
3.5. WHAT CAN A MANUFACTURER OR IMPORTER DO TO REDUCE THE RISK OF ACTION? 5	
3.6. CONCLUSION	5
<u>4. IMPROVING COMPETITIVENESS</u>	<u>5</u>
4.1. SUPPLY-SIDE VIEW	5
4.1.1. FACTORS OF PRODUCTION	6
4.1.2. MINIMISE GOVERNMENT INTERVENTION	6
4.1.3. OTHERS	6
4.2. GOVERNMENT INTERVENTION.....	6
4.2.1. DEREGULATION	6
4.2.2. PRIVATISATION.....	7
4.2.3. OTHERS	7
4.3. CONCLUSION	7
<u>RECOMMENDATIONS.....</u>	<u>7</u>
<u>REFERENCES.....</u>	<u>8</u>

You have been appointed as the business adviser to Whizz Kid Industries. They have tasked you to write a report dealing with the following pressing issues.

- 1) The first relates to a legal issue. The company is intending to import a unique new toy for the Christmas market. Their concern relates to their potential legal liabilities should any toy prove to be faulty resulting in damage to property or injury to the use.

- 2) The second is in regard to statement made by the government that a key policy objective is to improve the supply-side of the economy to make industry more competitive. You are required to provide the Board with concise overview of what is meant by a supply-side approach to improving competitiveness.

1. Terms of Reference

In this report, I have been appointed as the adviser to Whizz Kid Industries. The company wants to import new toy for Christmas Market. My tasks is to give suggestions for both questions from different aspects: law part which is focus on product liabilities, and define the key term “defective”; the other one is from supply-side view to find out which factors can increase competitiveness.

2. Procedure

First section is based on the law “Consumer Protection Act 1987”. In order to make the structure more clearly, I start with the concept of defect **aError! No index entries found.**nd give definition for defective product. And then, three types of defective products and the explanation for damages and defences will be carried out. Finally, I will give advices about how to avoid damages happened.

I divided the second sections into two parts. One is increasing competitiveness from industry itself, the other one is from government policies.

3 Production liabilities

3.1. Concept of the term "defect"

Product is defined as any goods or electricity (also can be finished goods, components and raw materials).

Defective product can be identified as “if the safety of the product is not such as persons are generally entitled to expect. ” (Steve Hedley, 2002, P.101)

A defect does not mean mere lack of quality of the product, but means lack of safety in the product which may cause the injury to life, body, or property. In this case, a defective toy usually causes damage to children or property.

3.2. Types of Defects

In any jurisdiction, one must prove that: the product is defective. There are three types of product defects that incur liability in manufacturers and suppliers: manufacturing defects, design defects, and defects in marketing (failure to warn).

3.2.1. Manufacturing Defect

A manufacturing defect is one that is a result of the way a toy was made, rather than the way it was designed or labelled. Manufacturing defects, design defects or inadequate warnings can make a toy defective.

3.2.2. Design Defect

A design defect is one that is a result of the way a toy was designed, rather than the way it was made or labelled. For example, the company manufactures children toys, which, because of a design flaw, will crack when dropped; the toys have a design defect. The manufacturer may be liable for loss e.g. a child swallow the cracked pieces and throat injured.

3.2.3. Failure to Warn

Finally, a product may also be defective if a manufacturer fails to adequately warn about non-apparent risks involved in using a toy. The impact of failure to warn claims can be seen in the multitude of warning labels affixed to all sorts of consumer products (If the manufacturer fails in this stage, our company as a importer has duty to check the toy).

Assume that, our toy may quite noisy. In general, many toys are loud enough to do damage. That extreme, unlikely outcome could come from a very loud toy stuck right up to the ear. More often, no one knows exactly how much noise a child can tolerate. But experts do know that kids' ear canals, which are shorter than adult's canals, are more vulnerable to damage. In order to avoid this thing happened; our company should mention this new toy might cause permanent hearing loss in the introduction or warning of the toy. There is another example, if the toy is electrical toy, it may has a potential burn hazard could easily cause injury. In this case, we should confirm that children under age 8 should not use toys with electrical plugs or batteries in the introduction.

3.3. Damage

“The damage for which compensation is recoverable under the CPA is defined as death, personal injury and damage to any property (including land). ” (Denis Keenan and Sarah Riches, 1990, P.267)

“People who import the product into the European Community in the course of a business have the responsibility for injury or damage arising from a defective product. ” (Denis Keenan and Sarah Riches, 1990, P.266)

No matter our company is a wholesaler or retailer; based on the strict liability we all have the duty to the defective item. Especially in this case, because we target the market for the new toys are children, hence, the toy should have high quality. Otherwise, it is very difficult for the customer and our company to deal with the liability for that toy.

We should always keep in mind this important legal issue: The right to recover the damaged property is restricted. Even, there is no liability for the damage to the product itself and any thing included in the property. Claim only can be made when the amount claimed is equal to or more than 275 pounds. Also, a claim for damage to property can only be made if the property is ordinarily intended for private use, occupation or consumption and is intended by the plaintiff mainly for his own private use, occupation or consumption.

3.4. Defences to Product Liability

A defendant can raise many traditional tort defences to a product liability action. Damages can be reduced by a plaintiff's own negligence depending on the degree of his fault. Manufacture should not be liable to potential injure to his costumer, as long as there is no more advanced technology to make the product safer, and the manufacture makes the warning when the product is made. For example, if a person smoke too much and dies, the smoke maker should not be liable to the hurt to the smoker's lung.

3.5. What can a manufacturer or importer do to reduce the risk of action?

Minimising the risk of action under the product liability provisions generally requires no more of manufacturers, importers and retailers than responsible business practice. A culture of safety is an important attribute of any responsible organisation, which should include an awareness of our firm's product in the hands of the consumer. Our company must to prudent review design, production, record keeping and marketing procedures as well as customer information material to ensure the safety of the toy with consumers. Particular attention should also be paid to quality assurance systems.

3.6. Conclusion

To sum up, I have indicated the key term "defective product" and displayed three types of it. There are manufacturing defects, design defects, and failure to warn. If Whizz Kid wants to import the toys, the key things to do is to make sure that the warning on the boy exists, to avoid the liability. Also, it should prove that no more advanced technology to reduce the risk of injure exists. These action should make Whizz Kid out of liability would unexpected injure happen.

4. Improving competitiveness

4.1. Supply-side view

Supply side policies are those designed to increase an economy's long-term growth and so increase aggregate supple or production. In terms of a graphical analysis, if supply side policies work, the long run AS (aggregate supply) curve would shift to the right. Output per head will be increased, thus the company become more competitive. All the supply side policies of the product market are design to increase competition and therefore productivity. An increase in productivity will mean that an industry is able to produce more with a given amount of resources.

4.1.1. Factors of production

The ingredients of economic activity: Land, Labour, Capital and Enterprise. We must use those scarce resources to satisfy our unlimited wants. This means, if we want to increase the competition, we must use factors of production more efficiency.

For example, improved education and training our staff is one supply side policy. Enhanced skills should help to increase productivity. This is because employees will be better educated and trained in what they want to do, therefore being successful in that area. It will help us increase output per head more efficiency.

4.1.2. Minimise government intervention

The other method is market supply-side view, we can minimise government intervention, let the market decide. One example for that is subsidy. Subsidy is given by government to protect a particular industry. The problem is, it undermines the supply-side market view, and firms can not against each other in rivalry places. Consequently, minimise the government intervention will help increase competitiveness.

4.1.3 Others

During the competition, there will be lots of winners and losers. We can take over more competitive industry; therefore, our scarce resources use will more effective. On the other hand, industry can compete on price, reduce the price of toy, will make company more competitive.

4.2. Government intervention

Government policies are very important in the market also it always very powerful in increasing firms competition.

4.2.1. Deregulation

The first is deregulation. This involves removing laws and regulations, which restrict competition. With deregulation, more firms will compete in the industry and the total supply of the good or the service will increase. A good example to look at is airline deregulation. Governments regulated all Europe flight routes. There was not very much competition. With the introduction of deregulation, any airline company can fly on any routes that they bid for e.g. EasyJet and Buzz (all low cost airlines). This increases passenger numbers and there is more aggregate supply in the industry.

There are a couple of advantages of deregulation. Less regulation means that fewer regulators need to be employed by the government or local councils. Also less regulation should encourage more competition.

However, many rules affecting business were to stop exploitation: is this acceptable nowadays? Another disadvantage is that competition does not necessarily provide what society wants; it may only provide what is profitable.

4.2.2. Privatisation

Privatisation is a major supply side policy of the product market side that is intended to increase the productive potential of the economy and consequently lead to a higher rate of economic growth. This involves selling off state-run organisations and transferring them to the private sector, includes water, gas and electricity. The idea is that privatisation actually break up state regulated monopolies into privately own enterprises and this would eventually mean that the intensity of competition among businesses will increase, rather than having government firm not competing against each other, these privately owned businesses compete together.

Advantages of privatisation are that the government can reduce its borrowing by selling these companies, and thus follow other policies which it believes increase efficiency, such as lowering income tax. Also, industrial relations and productivity should improve as workers recognise that there is no state support if the company fails. Managers will also have greater responsibilities for ensuring continuity of production.

4.2.3. Others

In addition, the policies which can increase competitiveness also mention in the Business Environment (Leigh Davison, 2004, P.336): introducing market relationships, the private finance initiative and free made and capital movements.

4.3. Conclusion

In the supply-side view, it is important to consider the production and the government intervention. As for the production, trainin staff, education, and other ways to increase the production should be considered. The government intervention is a negative factor to company. Deregulation and privatisation are two key factors.

Recommendations

I recommend the following actions related to legal part and supply -side part:

- 1, Consult to expert about the risk of fault on the design and the manufacturing of the toy, ask them to put the conclusion in writing and file them.

- 2, Only if the conclusion from the first prove the toy safe, the proceed should be go on.
- 3, Confirm with the manufacture that the property warning is put on toys.
- 4, Train staff to manage the importing and the selling of toys.
- 5, Be careful about the information about the related. attitude and policy of the government.

References

- 1) Denis Keenan and Sarah Riches, 1990, Business Law, 2nd Edition, Pitman Publishing, London.
- 2) Steve Hedley, 2002, Tort, 3rd Edition, Butterworths, London.
- 3) Leigh Davision, 2004, The Business Environment, A Pearson Custom Publication, Essex.
- 4) David Begg, Stanley Fischer and Rudiger Dornbusch, 2003, Economics, 7th Edition, McGraw Hill Education, Berkshire.