

An Investigation and Analysis of the Product Liability of Manufacturers in Shenzhen

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Abstract

Product liability refers to the liability of producers, distributors and suppliers for consumers' property losses or personal injury caused by that product. This paper conducted a survey related to product liability issues in Shenzhen City, and did an in-depth analysis of current problems. Finally, the paper puts forward corresponding suggestions for improvement of Shenzhen City product liability status.

Key Words: Product Liability, Survey, Suggestion for Improvement

1. Introduction

Product liability refers to the civil liability to be assumed by manufacturers, distributors, suppliers and importers against consumers' personal injury or property loss caused by the manufactured or distributed products (HE *et al.*, 2004). Following changes in the product liability systems over one century, developed European and American countries such as the United States have established product liability system in its strict sense from non-contract, non-liability, negligence to present status (Dix, 1974; Wade, 1965), which provide China's product liability system with rich and valuable experience. Along with the reform and opening-up wave, China's product liability system has witnessed progress from the proposal of product liability in Clause 122 of the "General Principles of the Civil Law" to further improvement of product liability system specified in "Law on Protection of Consumer Rights and Interests" and "Product Quality Law." Especially in the 21st century upon China's entry into WTO, product liability problem has been increasingly important and prominent. Compensation cases of domestic products abroad caused by product liability have increased year by year, while foreign products in China led to the product liability cases are also emerging.

In view of the increasingly worse situation of product liability problems, various experts and scholars have done much research and investigation in this field. However most of cur-

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rent researches focus on the legal level, fewer study on how to prevent and solve product liability problems from the standpoint of the manufacturers (LIU *et al.*, 2004). As a result, the author designed a questionnaire of the Product Liability of Manufacturers in Shenzhen and conducted a random survey among Shenzhen's manufacturers with an aim to undertake a profound analysis on problems relevant to product liability in Shenzhen.

2. Survey Background

In order to study problems relevant to product liability in the manufacturing industry of Shenzhen, the author designed a questionnaire (see the Appendix). 138 enterprises which prone to have product liability problems are random chosen to participate to this survey. 104 valid questionnaires were returned with validity rate of 75%.

The 138 enterprises within this survey were distributed in the industries of food and beverage, electronic appliance manufacturing, medical equipment component, building material and daily chemicals industries, which are prone to have product liability problems. The samples in different industries are distributed as follows: 35 food and beverage manufacturers (33.65%), 22 electronic appliance manufacturers (21.2%), 18 medical equipment component manufacturers (17.3%), 10 building material manufacturers (9.62%), 9 daily chemicals manufacturers (8.65%) and 10 other manufacturers (9.62%). Figure 1 below shows the sample industry distribution.

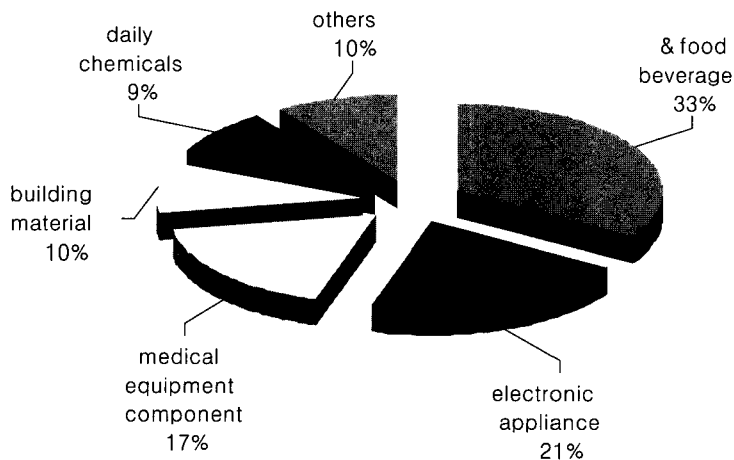


Figure 1. Sample enterprises industry distribution

In terms of the product outflow of sample enterprises, majority of manufacturers sell their products in domestic markets, the exact number is 99 and the rate is 95.19%. Meanwhile,

some enterprises also sell their products abroad, in which 26 enterprises entered European markets, 20 enterprises entered US markets, 15 enterprises entered Japanese markets and 40 enterprises entered other overseas markets. The rate is 25%, 19.23%, 14.42%, 38.46%, 4.81% and 2.88% separately. Among all the sample enterprises, 5 enterprises only have overseas markets (4.81%) and 3 enterprises only sell their products in domestic markets (2.88%). The distribution of export situation is shown in Figure 2.

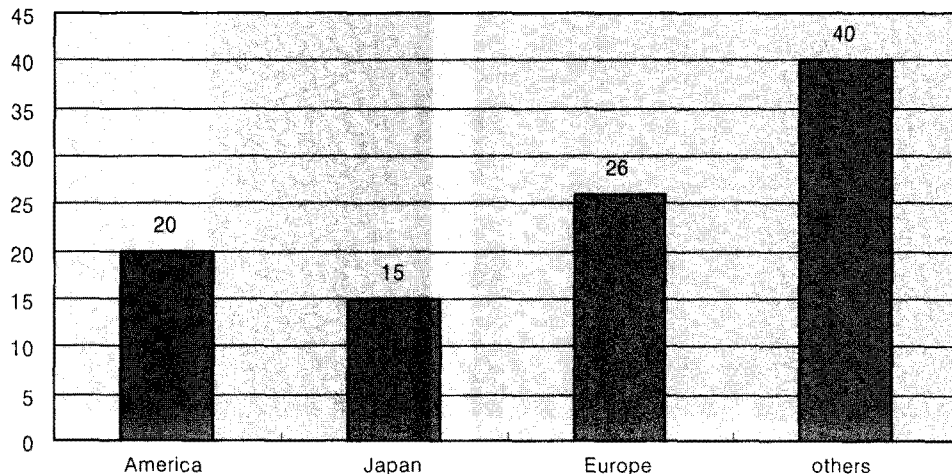


Figure 2. Distribution of export situation of sample enterprises

In addition, according to the production style of sample enterprises, 94 of them have their own brands, accounting for 90.38% of the total samples. 11 enterprises are materials processing companies and 6 enterprises are OEM companies, accounting for 10.58% and 5.77%.

3. Investigation Findings and Analysis

3.1 Understanding of product quality liability and countermeasures

According to the result of this survey, the sample enterprises paid much attention to their product quality. Many of them have obtained several quality certifications, including 69 enterprises obtained ISO9000 certification, accounting for 66.35% of the total sample enterprises, 29 enterprises obtained 3C certification, accounting for 27.88%, 14 enterprises obtained HACCP certification, accounting for 27.88%, 22 enterprises obtained QS market license, accounting for 21.15% and 39 enterprises obtained other certifications, accounting for 37.5%. In total, 104 sample enterprises have obtained 173 certifications with 1.66 certifications for each enterprise on average (shown in Figure 3).

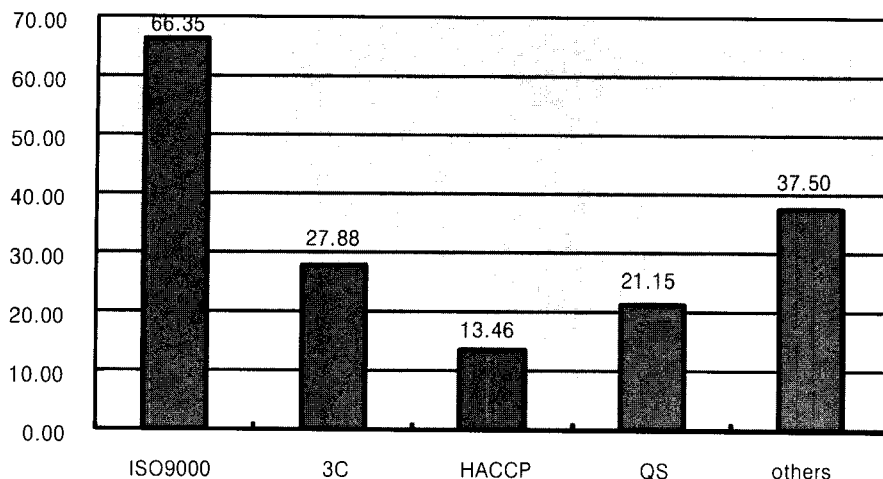


Figure 3. Certifications obtained by the sample enterprises

As shown in the survey, the product quality liability problems in Shenzhen manufacturers are not so serious because 96 out of the 104 manufacturers surveyed never had product liability problems, accounting for 92.31%, whereas only 8 of them had such liability problems before, accounting for only 7.7%. The major reasons are summarized as follows:

3.1.1 High level managers paid much attention to product liability.

When asking “Enterprises attitude and understanding about product liability”, 84.6% of the manufacturers said “much attention”, 15.4% said “attention” and no answer of “less attention” or “not clear.” In the mean time, 61 enterprise general managers take charge of product liability, accounting for 58.7% of the total samples, 23 enterprise vice-general managers who are supervising product quality take charge of product liability, accounting for 22.1%, and 20 enterprise quality department managers take charge of product liability, accounting for 19.2%.

3.1.2 The enterprises paid much attention to quality control of raw materials.

In the investigation of “Necessary documents should be provided by the suppliers”, 97 enterprises asked for inspection reports, accounting for 93.3%, 82 enterprises asked for qualification certificates, accounting for 78.8%, and 79 enterprises asked for signing product liability agreements with the suppliers, accounting for 76%.

In the aspect of “Management style to major suppliers”, 77 enterprises choose “Sign product liability agreements, Evaluate and control suppliers’ inspection work, but sampling inspection is also the main method for materials stock”, accounting for 74%. 56 enterprises thought that quality control mainly depends on stock inspection, accounting for 53.8%. 31

enterprises have established complete supplier selection and evaluation systems, signed long-term supply agreements with the suppliers, supervised suppliers' process capability index and process control records and carried out no inspection when materials stock, accounting for 29.8%. 24 enterprises established long-term strategic partnership with the suppliers besides establishing an evaluation system. They also shared data with the suppliers, which lead to quality improvement of the suppliers, accounting for 23.1%.

3.1.3 The enterprises paid much attention to product warning label.

In the column of "Attitude toward product warning label", 58 enterprises said "much attention", accounting for 55.8%, 45 said "attention", accounting for 43.3%, and only one enterprise said "no attention."

3.2 Risk awareness of product quality

As shown in the survey, Shenzhen manufacturers lack necessary quality risk awareness and relevant countermeasures, and contrast drastically in understanding product liability insurance. In the investigation of "the attitude toward purchasing product quality insurance", 32 enterprises said "very important" (30.8%), 61 enterprises said "important" (58.7%), 9 enterprises said "unimportant" (8.7%), and 2 enterprises said "Indifferent", accounting for 1.9%. According to the attitude of purchasing product liability insurance, most enterprises paid much attention. However when asking "what kind of product liability insurance did you buy," only 26 enterprises have purchased product liability insurance for domestic sales, accounting for 25% of the total sample enterprises, 26 have purchased product liability insurance for overseas sales, accounting for 25%. In view of the fact that some enterprises have purchased product liability insurances both for domestic and overseas sales, more than half of the enterprises have purchased none product liability insurances, which might cause huge operation risk to the enterprises when product liability problems has been more and more concerned.

Through further communication with the sample enterprises, various reasons have been found, which lead to the embarrassing situation that enterprises have noticed the importance of purchasing product liability insurance, and they are not positive to buy relevant insurance on the other hand. The main reasons are summarized as follows.

- China product liability insurance markets are not perfect yet. Insurance companies are conservative in dealing with product liability insurance businesses, lack relevant experience in covering product liability, strictly control the maximum accumulated compensation amount, especially the maximum compensation amount for each accident, which have led to lack of enthusiasm of the manufacturers in purchasing product liability insurance.
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- The manufacturers lack risk and legal awareness. Firstly, the manufacturers paid insufficient attention to the legal liabilities against the personal injury or property loss to the consumers caused by product quality. Their product liability risk and insurance awareness are lagged behind, and manufactures made no careful consideration about how to transfer their economic compensation liabilities to the insurance companies. Secondly, the manufacturers have never been the defendants, nobody asked for compensation against them. They think it is unnecessary to purchase product liability insurance or deal with it in a lucky mind. Thirdly, some manufacturers who have purchased product liability insurance are not very clear about its significance and function. They only regard it as a kind of advertising effect for their product propaganda, which is completely misunderstanding.
- The system of recalling defective products should be strengthened. Only 24 enterprises of the 104 surveyed enterprises have ever carried out recalling system, accounting for 23.1%. The remaining 80 enterprises have never carried out such system, accounting for 76.9%.

4. Conclusions and Suggestions

According to the situation reflected in this survey, the quality level of Shenzhen manufacturers is high in general, and manufacturers pay much attention to product quality assurance. However, the problems in product quality liability and risk awareness should not be ignored. Therefore, the author proposes some necessary suggestions for future work as follows:

- Legal education shall be strengthened in the manufacture enterprises in order to increase their legal and risk awareness. Instruct the manufacturers to transfer enterprise risks by taking active part in purchasing product liability insurance, and then maintain stable production.
 - The insurance companies should borrow advanced experience and practice of overseas insurance companies, carefully analyze the market position and potentials of product liability insurance, actively promote the importance of purchasing product liability insurance and instruct the manufacturers to purchase more insurance.
 - The Government should carry out effective activities, give manufacturers who purchased insurances policy encouragement, and give preferential policies to those insurance companies which developed product liability insurances. For example, government can grant those companies tax reductions or exemptions and so on.
 - Make relevant laws and regulations such as product liability law. Product liability insurance should be confirmed as legal and compulsory insurance in order to enable the
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manufacturers to avoid risk effectively and the consumers to obtain corresponding compensations.

- Enlarge the recalling scope of defective products, strengthen the recalling power of defective products and reduce any damage caused by product liability to its minimum.
- Strictly carry out market licenses system, especially in those industries which are prone to cause product liability such as food, children's toys, household electronic appliances and medical equipment. Much attention shall be given to those fields.

Despite its simplicity of this survey, this survey still reflects some noteworthy problems. It is hoped that this survey can be helpful for the manufacturers in Shenzhen and even around China to improve their understanding of product liability and strengthen their risk awareness.

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Appendix: Questionnaire

1. Your products are ():

A. Self-owned brand	B. OEM
C. Incoming material processing	D. Others
 2. Have you ever had product liability problems? ()

A. No	B. Yes
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 3. If yes to question 2, please write down:

Name of product:

Type:

Result of such liability:

Method and process of dealing with product liability:
 4. Attitude and understanding of product liability:

A. Much attention	B. Attention
C. No attention	D. Not clear
 5. The man in charge of product liability in the enterprise is:

A. General Manager	B. Vice-general managers supervising product quality
C. Quality manager	D. No special quality leader
 6. Qualification certifications obtained include:

A. ISO9000	B. 3C	C. HACCP	D. QS market license	E. Others
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 7. Necessary documents to be provided by the suppliers include:

A. Qualification certificates	B. Inspection reports
C. Product liability agreements with the suppliers	D. Others
 8. Management style of major suppliers is:

A. Quality controlled mainly by means of stock inspection	B. Sign product liability agreements, evaluate and control suppliers' inspection work, but sampling inspection is also the main method for materials stock
C. established complete supplier selection and evaluation systems, signed long-term supply agreements with the suppliers, supervised suppliers' process capability index and process control records and carried out no inspection when materials stock	
D. besides C, established long-term strategic partnership with the suppliers and shared data with the suppliers, which lead to quality improvement of the suppliers.	
 9. Attitude toward product warning label

A. Much attention	B. Attention
C. No attention	D. Don't care
 10. Understanding of purchasing product quality insurance

A. Very important	B. Important
C. Unimportant	D. Don't care
 11. For what products the enterprises purchase product liability insurance?

A. Products for domestic sales	B. Products for overseas sales
C. None	
 12. Have carried out system of recalling defective products or not?

A. No	B. Yes
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