

PRODUCT LIABILITY AND PRODUCT SAFETY

Mandatory regulations from the Authorities regarding the use of alternative types of ammunition in weapons that were not originally intended for such ammunition makes for an unclear legal situation when interpreting the Product Liability Act (1992:18) 3 §, especially with regard to liability and any damages for injury to objects, people or property that may result from any safety deficiencies in the ammunition.

In addition to this, over the course of time there will be as yet unknown environmental effects due to the use of various types of composite shot or solid copper and copper alloy rifle bullets.

There is no real practical room for manoeuvre at a manufacturing level when it comes to alternative materials for bullets and shot for a wide range of hunting weapons. With regard to steel shot and other hard shot materials it is known that they can cause damage to weapons and equipment used in the forestry industry even if the steel shot cartridge in itself has no technical or manufacturing defect.

It is the characteristics of these alternative shot materials that constitute a risk, partly in the form of damage to weapons and also to people as their tendency to ricochet differs considerably from anything an individual consumer can understand or expect to be faced with.

In principle all claims for damages arising due to injury to property or persons, including any future damage to forests or the environment, could be considered a systemic failure when the safety flaws associated with the use of alternative ammunition are not only known to society but also directly mandated by statutes issued by the Authorities.

It is however unclear whether the distribution chain can count on indemnity from liability for a systemic failure in the sale of alternative ammunition. Any damage that occurs or becomes apparent only after long-term use may create a situation in which division of responsibility is difficult to determine.

Both for the individual consumer and the supply chain as a whole, damage to a weapon or an injury to a person or property caused by the innate properties of alternative ammunition can be a complicated issue.

The seller is responsible for supplying the correct information regarding risks associated with a weapon yet has no control over its use or technical status. In the event of injury there may then be a *presumptive* burden of proof on the seller to show that the ammunition used in a weapon was unsuitable and on the part of the consumer to prove that ammunition used was actually purchased from the party they are pursuing for damages.

Alternative ammunition with shot or bullets manufactured of material other than lead has been available on the market for a few decades. However, one can still not make a case that it is in widespread and general use. Even if the development and production of such cartridges is increasing year-on-year.

Legislation regarding liability and damages is complex and in combination with the production and use of, in the context, new materials for shot and bullets it is important that we undertake a broad and thorough analysis of the effects of the current legislation.

Of course, the amount of time at our disposal at a symposium does not allow for this. However, we cannot pass up the opportunity to bring to the attention of the Authorities, industry, retailers and consumers the fact there is stringent legislation in place, the implementation of which cannot be left unchecked.