



21 January 2022

To whom it may concern

RE: Supporting business through improvements to mandatory standards regulation under the Australian Consumer Law Consultation Regulation Impact Statement December 2021

Thank you for the opportunity to provide feedback on Regulation Impact Statement.

Bicycle Industries Australia (BIA) BIA aims to foster the interests of the industry, through the promotion of sound and ethical trading and business practices and has become the leading industry voice on issues directly affecting the industry including regulation, standards, taxation and trade.

I provide the following responses on behalf of the Australian bicycle industry and would welcome contact if you require any clarification or further information to support our response.

Regards

Peter Bourke

GENERAL MANAGER



Please find below responses to consultation questions believed to be relevant by the BIA

Q1. Do you agree or disagree with the identified problems? Please provide any evidence to support your position.

The BIA supports the identified problem and further wish to expand on the bicycle helmet example listed in the consultation regulation impact statement.

HELMETS

There are no manufacturers of bicycle helmets in Australia and the current restrictions enforced due to the testing requirements function as a barrier to entry for many helmet brands, either entirely or reducing the range that many brands are willing to bring to Australia.

Australia is a small market on an international scale and therefore does not justify the investment required for many brands to come to Australia.

The current requirements have the following impacts.

- Reduces the range accessible to consumers
- Increases the cost of helmets to consumers
- Increases the time required to introduce new products to market

New Zealand who are engaged through AS/NZS 2063:2008, have chosen to allow for helmets tested to recognised international helmet to be legally sold and used on New Zealand roads and paths.

BICYCLES

The current mandatory standard relating to bicycles is AS/NZS 1927:1998.

Through Standards Australia, the BIA supported the development of the voluntary standard AS/NZS 1927:2010 and the subsequent amendment AS/NZS 1927/Amdt 1:2014

Due to the nature of standard adoption the industry is still forced to sell products meeting a 24-year-old standard which does not reference current technology, including hydraulics and electronics which are common on bicycles.

This issue is exacerbated for people with a disability. The NDIS will not fund stability bicycles or tricycles in Western Australia as they are wider than allowed through the standard, which is referenced in WA road laws.

For information, WA police and Aust Post bicycles are all non-compliant under WA road laws.



To overcome the barriers of old mandatory standards, many in the industry also chose to use an exclusion from the standard for competition bikes in the Consumer Protection Notice No. 6 of 2004 CONSUMER PRODUCT SAFETY STANDARD: PEDAL BICYCLES: SAFETY REQUIREMENTS to sell bicycles which meet all leading international standards but would be illegal to sell in Australia.

This process has effectively made the standard irrelevant for a considerable proportion of the bicycles sold in Australia.

POWER ASSISTED PEDAL CYCLES (ebikes)

The above-mentioned issues relating to bicycles is exacerbated by ebike regulations.

The adopted Australian ebike standard references a requirement to meet the bicycle standard ASNZS 1927:1998, but due to the age of the bicycle standard, the Consumer Protection Notice No. 6 2004 exempts ebikes from the standard, as they were not a consideration in 1997, when the bicycle standard was written.

This becomes a circular argument as the ebikes are required to meet a standard to which they are exempt. This would be overcome through the adoption of leading international bicycle and ebike standards.

Q2. Are there any other problems that you think should be considered? If so, please set out what they are, what effect you think these problems could have and how the problems should be addressed.

BICYCLE BOOM

The bicycle industry has seen a 'boom' of sales during Covid, which has been reflected across the world.

Australia is a small market in comparison to Europe and America, and with lead times blowing out to up to six hundred days for bikes and accessories such as helmets, due to the increased work required to bring product to the Australian market, certain brands have focussed on other markets.

This has further reduced the range and access to product in Australia, extending the product shortage.

TIMEFRAMES

The process from initial concept to delivery of bicycle product is approximately 3 years for a bicycle and helmet. The current concern relating to 'waiting' for the government to complete reviews limits the willingness of the industry members to invest.

The ACCC '12 month' review of both bicycles and helmets from late 2016 was meant to provide clarity in relation to Australian and international standards.

The ACCC is yet to communicate the outcomes of the review and has not provided any guidance.

The most recent communication in Mar 2021 when requesting feedback on the 2016 review provided the following feedback.

- We encourage you to subscribe to updates on the Product Safety Australia website to receive automatic notifications for when a consultation begins. Email subscription is available at: www.productsafety.gov.au/newsletter/subscribe.

This provides no value to the industry.



To address the problem defined above, this consultation RIS explores one non-regulatory option and two regulatory options:

- **Option 1** – Status quo
- **Option 2** – Amend the ACL to allow the Commonwealth Minister to more easily *declare* trusted overseas standards
- **Option 3** – Amend the ACL to more easily allow businesses to comply with the latest versions of voluntary Australian and overseas standards

The BIA would support Option 2 – Amend the ACL to allow the Commonwealth Minister to more easily declare trusted overseas standards.

Q10. Two alternatives have been presented to make it easier to comply with overseas standards: prescribing a list of trusted standards making associations whose standards may be *declared*; or taking a principles-based approach to *declaring* overseas standards.

- a. Which alternative is preferable?
 - The BIA supports the adoption of a principles-based approach for declaring overseas standards.
- b. Are there other alternatives to make it easier to comply that have not been considered?
 - Non at this time.

Q11. Are the standards making associations on the proposed list acceptable?

- a. If not, please describe why.
 - Yes for the majority of standards, but the BIA does not support the full adoption of all bicycle or helmet related standard from each body listed.
- b. Should any other standards making associations be included?
 - Non have been identified by the BIA
- c. Once a list of trusted overseas standards organisations is set, which approach ('opt-in' or 'opt-out') would achieve the best outcomes for consumers and businesses and why?
 - The BIA would support an opt-out under the provision that the BIA is provided with an appropriate and valid process to provide input to a review for an opt out or modified adoption if required.



Q12. Do you have any comments on the high-level criteria for a principles-based approach to *declaring* overseas standards, or any additional criteria?

- The process must allow for a modified adoption as required e.g. left hand v right braking on a bicycle
- The BIA would require further clarification on the protocol to review if the standard offers at least a comparable level of safety to any applicable Australian standard.
 - o The BIA believes that the CEN standard for bicycle helmets would offer comparable safety, but as expressed in the 2020 review of AS/NZS 2063, there will be several on the Standards Australia committee CS:110 who would indicate that it did not, which is why we have an Australian standard.
- a. Could these same criteria be adapted to determining 'trusted' standards making associations?
 - Yes

Q13. Are there related provisions in the ACL that should be updated at the same time, for example section 108 (refer to the Introduction and Appendix A)?

- Non identified



An example of the specific response received by the BIA.

Hi Peter, in response to Australian deregulation agenda, Sheppard Cycles supports BIA's submission in favour of further adoption of leading International Standards with due industry input via CS-110 committee to ensure relevant overseas Standards are selected that are most appropriate across all stakeholders including consumers, global manufacturers, wholesalers and retailers.

Cutting red tape and reducing compliance barriers will help open up our market to provide customers a wider range of leading edge models developed and manufactured destined for rest of the world. This includes a wider selection of helmet models becoming available and standardising bike components currently specific under our outdated Australian bike standard. Standards changes also need to be duly considered so as to avoid being overly restrictive upon affordable entry level product catering for consumers across all levels of our market including DDS, Toy and Sporting channels.

Due consideration would need to be given to the selection of an international standard to replace our current helmet standard to maintain a high level of protection for the user, along with removing the layer of safety that comes from pre-shipment batch testing.

Sheppard's also mirror the concerns raised regarding the Commonwealth Ministers wide sweeping powers to prescribe new overseas standards without due consultation with Australian industry via BIA and Standards Australia CS-110 committee by jointly participating in changes directly impacting Australian regulations.

Kind regards,

Brett Mallaby • Divisional Manager - Mass Market

