



14 January 2022

Director
Consumer Safety and Sustainability Unit
Market Conduct Division
Treasury
Langton Cres
Parkes ACT 2600

by email: productsafety@treasury.gov.au

Dear Sir/Madam

Response to Consultation Supporting business through improvements to mandatory standards regulation under the Australian Consumer Law –

The Optical Distributors & Manufacturers Association (ODMA) is the professional association of Wholesalers, Manufacturers and Importers of optical products in Australia i.e. prescription spectacle lenses, optical frames, sunglasses, sight testing and diagnostic eye-testing equipment. Our members constitute the majority of the wholesale optical industry in Australia and include small mum and dad businesses.

ODMA has representatives serving on Standards Australia Joint Technical Committee SF006 Eye Protection who prepared AS/NZS 1067:2016.

On behalf of our members we wish to voice our concern in the strongest terms regarding the Consultation process:

1. ODMA nor any of our Standards representatives were invited to respond – we discovered the consultation by chance on January 12th when a representative from the Small Business Ombudsman alerted us.
2. The timing of this consultation appears to be deliberately designed to minimize response, taking place at the height of the holiday season combined with COVID having devastating effects on the staffing of most businesses
3. In the time left to us we have prepared this submission but small not for profit businesses like ours do not have Consultants on hand to answer in your preferred format

In response to the consultation document we make the following submission:

ODMA supports improvements to the system that allow businesses to comply with the latest versions of voluntary Australian and overseas standards.

ODMA members have been meeting the requirements of the mandatory consumer product safety standard for sunglasses and fashion spectacles based on AS/NZS 1067.1:2016 Sunglasses and fashion spectacles ("the Standard") despite the cost burden to the industry of fully testing every parameter listed in the Standard for the thousands of different sunglass products sold in the Australian market each year.

An example of compliance costs that have been a significant burden to our suppliers is when that latest update occurred in 2016, AS/NZS 1067.1:2016, one larger supplier spent \$0.5m on new labelling and other small companies spent up to \$10K – there was no other changes to the Standard except labelling.

Your consultation states an aim to reduce compliance costs for business and barriers to trade by removing duplicative testing and compliance measures where a product has been manufactured overseas to the requirements of an equivalent trusted overseas standard.

AS/NZS 1067.1:2016 sunglass standard only differs from the ISO 'equivalent' ISO 12312 in two key areas, blue light (a form of ultraviolet light, the wavelengths between 290nm and 380nm are UVB/A and 380nm to 500nm are blue light); and labelling. Attached is a document with sections of the standard itself from committee papers that outlines the scientific differences including traffic signal Q factor values.

We therefore support a list of trusted standards (rather than a principles-based approach) to declaring overseas standards given we would wish to reference the European standard for Sunglasses. It would have a positive impact of reduced testing costs to suppliers if overseas standards could be better utilised
Your document states this at Page 19:

“Retaining safeguards would protect against the lowering of safety standards for consumers in those circumstances in which Australia imposes more stringent safety requirements on certain products due to unique Australian conditions such as a higher threshold for UV protection in the mandatory standard for sunglasses (Consumer Goods (Sunglasses and Fashion Spectacles) Safety Standard 2017).”

In terms of UV safety, we would argue that the conditions in Madrid or the Middle East are no different to any part of Australia. The biggest risk of UV damage to the eye is still to consumers who do not wear any eye protection whatsoever.

In the last 10 years nearly all product recalls in Australia have been due to lack of compliance with one or more of the following reasons:

- Transmittance requirements including lens matching and uniformity of colour
- Optical power (eg causing blurred vision)
- Labelling requirements associated with the required warnings determined by transmittance performance (eg “Not suitable for driving at night” or “Must not be used when driving”).
- Eye coverage/field of view

None were as a result of the differing level of UV protection, the way it was measured or traffic signal Q values.

Our position is as follows:

1. **Keep the Mandatory Standard but recognize other international ‘equivalent’ standards - in particular AS/NZS 1067.1:2016 and its ‘equivalent’ ISO 12312**
2. **Improve Surveillance for non-compliance of Mandatory Standards**

The greater issue for our industry is that the enforcement and compliance of this mandatory Standard is ineffective – the ACCC surveillance when it happens occurs only at a bricks and mortar optical retail level. Many products for sale in local markets, service stations and gift shops go completely unmonitored.

Any surveillance conducted over the past 20 years has been directed at our members who are trying to be compliant. Whilst the ACCC and other State government agencies may conduct in-store assessments of sunglasses and look for obvious visual breaches of the Safety Standard such as labelling or dimensional non-conformances and may also investigate complaints or “tip-offs” from the public – this surveillance has been ineffective in curtailing the non-compliant suppliers who account for 25% of the market.

A further 15% of current sunglasses sales are made over the internet and because many of these companies are not involved with supplying bricks and mortar retail in Australia, they have no incentive to comply and the ACCC has no means of discovery or effective enforcement.

Therefore 40% of the sunglass market is operating completely outside the mandatory standard and that is the critical area that we believe needs addressed. The ACCC needs to be pressed into formulating a firm action plan with consequences implemented against noncompliance.

If you wish to discuss this submission or require further information, please do not hesitate to contact me.

Yours faithfully

Finola Carey GAICD
Chief Executive Officer