

Statement:

Unfortunately, I was unable to provide a detailed response to this Consultation Regulatory Impact Statement (RIS) and instead have provided an overview statement, but I am raising issue with the mandatory standard for child restraints AS/NZS1754, which is included within this RIS.

There are a number of Australian Standards that have been developed and maintained over numerous years as a direct result of potential injury or deaths of Australian's especially children. These standards may not be directly comparable to overseas standards and as such should be maintained as unique Australian Standards to ensure the maximum level of protection is afforded our children.

The Australian Standard for child restraints was originally published as E46-1970, with subsequent publications as AS1754-1975 and 1991, First joint edition AS/NZS1754:1995 with subsequent editions 2000, 2004, 2010, and currently AS/NZS1754:2013.

This mandatory Australian Standard has numerous differences when compared with other standards internationally.

In 1975 Australia was the first country in the world to require a top tether strap and then mandated it's use, Canada and New Zealand provided a top tether strap but didn't mandate it's use. USA didn't introduce a similar requirement until 2000/1.

Australia was the first country to introduce appropriate child restraint use by a child's stature and not by age, Australia also introduced the first Side impact with door structure in an attempt to increase the level of protection afforded a child restraint in sideways vehicle impact.

So this unique Australian Standard has huge advantages to providing a higher levels of protection to our children compared with other international requirements.

Australia uses a higher test sled pulse, with larger test dummies and have produced child restraints which have saved children's lives in severe vehicle crashes which equivalent crashes overseas were fatal. It can be claimed that AS/NZS1754 is a more comprehensive and rigorous Standard than the other standards and regulations (ECEr44/ECEr129, FMVSS213/CMVSS213). The Australian Standard is at the forefront of providing the best safety available to child occupants in cars.

The Australian standard AS/NZS1754 mandate the use of the top tether strap as a means of installation into a vehicle. Misuse is the major concern regarding the ability of restraints to offer the intended level of protection.

New Zealand allows three (3) standards and New Zealand CS-085 committee members have commented if we can maintain a unique Australian Standard and not allow alternative standards into Australia, as they believe that we would have to address one of their have major concerns which is the incorrect installation and misuse of child restraints consequently.

It is well known, researched, and documented that there is a potential for mis installation and misuse. This has the potential to decrease the restraints' ability to offer the intended level of protection and by allowing other standards would potentially increase the numbers of mis installation and misuse which could also result in higher numbers of child injuries and fatalities in Australia.

The technical expertise within Australia is contained within the Australia Standards committee CS-085 and any thoughts or discussions associated with child restraints should be directed and addressed by these Australian and New Zealand representatives.

AS/NZS1754:2013 is currently approved and certified in Australia by SAI Global which is a World recognised third party certification body. Part of the licensing system for AS/NZS1754 is the requirements for continuous ongoing batch verification testing which is currently 1 in 1000. This high

level of production validation is to ensure that mass production is representative of the initial compliance certification testing. This assists greatly regarding any potential for product recall within Australia and New Zealand.

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

I think the greatest problem has been the disconnect by the Commonwealth between the standards issue dates nominated in the mandatory standards verse the actual current or latest standard. There is a distinctive disconnect and I agree that this has been identified within this RIS.

There are several items that I would agree with but a number of items that I disagree with. I think you need to look at mandatory Standards which are certified by a third-party certification body. Which offer a higher degree of protection to consumers when compared with overseas standards. Some of these standards have been developed or amended as a direct reflection of injury and deaths in Australia and supported by requests from coroners for additions to be added to revisions of the Australian standards.

Secondly the third-party certification system also enables a production validation process to try and minimise product recalls.

The problem is more to do with the internal processes by the commonwealth to update the mandatory Standards with the latest or most current revisions that have been developed and published.

There are clear incidences where a unique Australian standard has clear benefits to Australian business, communities and consumers alike, the problem is not best addressed by allowing overseas standards but better addressed by Government lifting it's game to keep abreast of the revised Australian standards that have been published but yet to be caught up with by mandatory standards.

We have mandatory Standards that have additional Australian requirements but not third party certified i.e. AS/NZS2088:2013 Pram and Strollers. This standard was published in 2013 yet the mandatory standard still requires AS/NZS2088:2000.

How does looking at enabling overseas standards address this? If the mandatory standard was kept up to date with the latest Australian standard that has been written, developed and in most cases has included requirements to address potential injury and deaths in Australia, we wouldn't have a problem.

The problem is not Australian Standards but the slow processes used by the Commonwealth to keep up to date.

I also note comments that compliance has additional costs burden to suppliers in Australia that are importing products in from overseas. Since 2020 most of the major stores in Australia require test reports that are not more than 2 years old, this requirement is right across the board. So compliance testing is not the issue but the ongoing financial cost to all suppliers irrespective of overseas standards or Australian standards. It is a cost that is well worth it if it saves children's lives.

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.

As stated above, opening Australia to additional overseas standards does not address the problem. The Commonwealth needs to revise your processes to best service the Australian community. In most incidences we have Australian standards which have proven a high level of intended protection but it's the processes to align the mandatory standards with the latest published standards that is the issue.

Where there is a mandatory standard based on an Australian standard, ensure that the mandatory standard reflects the most current published standard.

Where there is a voluntary standard based on an Australian standard, ensure that the standard reflects the most current published standard.

Where there isn't a mandatory or voluntary Australian standard, then look at allowing an overseas standard, but again it is necessary to ensure that the last version of the standard to required.

Q3. Do you have any specific information, analysis or data that will help measure the impact of the problems identified? For example:

- What costs have you incurred from complying with an Australian mandatory standard where you were unable to rely on demonstrating compliance with a comparable overseas standard?

For an Australian designed and developed product test tests to demonstrate compliance are identical.

- Has not being able to comply with the most recent voluntary Australian or overseas standards impacted your business in terms of cost, time and number of products you are able to bring to market? If so, please provide details.

- Have you decided against supplying particular consumer goods in Australia so that you could avoid duplicative compliance costs under the current mandatory standards framework? If so, please provide details around the factors that influenced this decision and the consumer goods affected.

Q4. Do you agree that changes to the regulatory framework are required to address the problem? If not, why not?

I agree with changes to the lack of process need to be implemented to ensure that the mandatory standard directly reflects the latest and most current standards published.

Q5. Do you agree with the policy objectives as outlined? If not, why not?

I basically agree with the policy objectives but am still mindful on what would be classed and comparable or unique standards and what process will the Commonwealth and/or ACL employ to determine whether the standard is comparable or not.

A unique Australian Standard must take precedence over adopting additional international standards that is not comparable.

Q6. Are there any other policy objectives you think the Commonwealth, state and territory governments should be considering in addressing the problem?

Again, where that has been an established unique Australian Standard like AS/NZS1754 for child restraints this should be maintained to ensure that level of intended for Australian consumers is maintained and not lessened to enable overseas standards.

Q7. Does the status quo achieve the policy objectives?

The only issue regarding status quo is the Commonwealths inability to implement the latest and most current standards in a timely manner.

Q8. Is the current regulatory framework for developing mandatory standards under the ACL sufficient to address the problem?

Again, the issue is the inability to implement the most current standard into mandatory standards.
I still feel that we should be looking at;
Mandatory Australian Standards
If none, then Voluntary Australian Standards,
And if none, then an overseas standard.

I would expect that in a Coroners court that exactly what would be expected.
Firstly, Is there a mandatory Australian standard
Secondly Is there a Voluntary Australian Standards
Thirdly Is there a recognised international standard

Q9. Does the current regulatory framework impose unnecessary costs or compliance burdens? If so, could you provide examples or evidence.

The current regulatory framework does not impose unnecessary costs or compliance burdens, the costs associated with compliance is as a direct reflection of major customer (retailers) demands for test reports which as less than 2 years old. This cost is a requirement of the Australian marketplace.

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?
- b. Are there other alternatives to make it easier to comply that haven't been considered?

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

- a. If not, please describe why.
- b. Should any other standards making associations be included?
- 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?

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

- a. Could these same criteria be adapted to determining 'trusted' standards making associations?
I would refer to my opening statement at the top of this submission, where a unique mandatory Australian standard exists then it should be maintained as per the latest most current revision and not lessen or weakened to accommodate overseas standards which are not comparable.

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)?

I would refer to my opening statement at the top of this submission, where a unique mandatory Australian standard exists then it should be maintained as per the latest most current revision and not lessen or weakened to accommodate overseas standards which are not comparable.

Q14. If adopted, what would the likely impacts be on affected businesses (large and small), consumers, consumer law regulators, or accredited conformance and testing authorities?

I would refer to my opening statement at the top of this submission, where a unique mandatory Australian standard exists then it should be maintained as per the latest most current revision and not lessen or weakened to accommodate overseas standards which are not comparable.

Q15. Have any impacted stakeholders been missed? What would the likely impacts be on these stakeholders?

Q16. Two alternatives have been presented to make it easier to comply with the latest standards: permitting standards to apply as they exist from time-to-time; or including a safe harbour provision.

a. In your opinion, which alternative is preferable?

I think Option 3 – Alternative 2 or combination of Option 2 and 3.

b. Are there other alternatives to make it easier to comply with the latest standards that haven't been considered?

Q17. If suppliers were required to comply with the latest standards as they exist from time-to-time, what would be a reasonable transition period? Why? How should updates to standards and transition periods be communicated to suppliers?

For child restraints, SAI Global has always required a 12-month period to implement a new or revised standard. I think is a reasonable transition period for industry to respond to.

Q18. Do you support the proposal for the update of existing standards (voluntary Australian or overseas) that have previously been reviewed and incorporated into mandatory standards or *declared* as a mandatory standard without requiring further consultation and regulatory impact analysis?

I support the proposal for the update of existing standards (voluntary Australian or overseas) that have previously been reviewed and incorporated into mandatory standards.

The think the update needs to be reviewed with further consultation and regulatory impact analysis.

Q19. Would permitting standards to apply as they exist from time-to-time as described pose any additional safety risks to consumers?

Q20. Do you think the safeguards for disallowing updates if they are reviewed and demonstrated to be unsafe or unsuitable are sufficient to achieve the goal of consumer protection? What factors needs to be considered in triggering a review of an update? Are alternate or additional safeguards needed?

There should always be a review to determine whether the updates are beneficial for the standards. Most of the standard's updates would be technical in nature and would require a technical assessment to move forward.

Q21. How can the current process for reviewing and updating mandatory standards to capture updates to referenced voluntary Australian and overseas standards be improved?

Reduce the timelines required to adopt the latest revision of the standard into the mandatory standard.

Q22. Are the benefits from streamlining the current process for updating standards likely to be the same or greater than the proposed amendments to the ACL?

I think the streamlining the current process for updating standards is a favourable move forward, but again we need to ensure that we maintain those unique mandatory Australian standards like AS/NZS1754. It can be claimed that AS/NZS1754 is a more comprehensive and rigorous Standard than the other standards and regulations (ECEr44/ECEr129, FMVSS213/CMVSS213). The Australian Standard is at the forefront of providing the best safety available to child occupants in cars. I still think that we need to review on a standard-by-standard basis.

Q23. Are there any other ways that achieve the policy objective of more efficiently capturing updates to voluntary Australian and overseas standards without making amendments to the ACL?

Q24. Do you agree that Options 2 and 3 should be combined and implemented?

a. If so, which elements should be combined? And if not, why not?

Q25. Are there any options not presented in this consultation RIS that could be combined with Options 2 and/or 3 to address the identified problem?

Q26. For each of the options do you agree with the preliminary assessment and with the benefits and costs outlined?

Q27. Are there other costs and benefits that have not been considered that should be?

Q28. Do you have any specific information, analysis or data in support of the benefits or costs for each option? Examples of costs could include testing costs, labelling costs and other compliance related administrative costs. Examples of benefits could include the number and value of additional products that could be supplied to the Australian market under Options 2 and 3, and any time and cost savings.