



Submission to: Director  
Consumer Safety and Sustainability Unit  
Market Conduct Division  
The Treasury

By email: [productsafety@treasury.gov.au](mailto:productsafety@treasury.gov.au)

20<sup>th</sup> January 2022

**Re: Consultation RIS – Supporting business through improvements to mandatory standards regulation under the Australian Consumer Law**

Thank you for the opportunity to comment on the Consultation RIS. On behalf of the Australian Nursery Products Industry, INPAA provides the following comments:

**1. *Do you agree with the identified problems?***

In principle INPAA agrees with the identified problems. Regulations lagging current editions of standards is particularly problematic and leads to unnecessary duplication of compliance with limited, if any, benefits of improved safety. This leads to industry confusion and pedantic interpretation of regulations that produces unnecessary compliance administration. The example of bunk beds is one. Further everyday examples relate to prams and folding cots. It can be argued that the existing regulatory framework produces perverse outcomes for safety. Additional costs are incurred by industry and ultimately consumers. With folding cots as an example, the existing regulation is based on an outdated version of the standard and nowhere near the required safety requirements needed to meet the requirements of the Australian Consumer Law of supplying a safe product.

**2. *Are there any problems that you think should be considered?***

Regulations are at times not fit for purpose and do not take into consideration product improvements and design changes. The folding cot standard is an obvious example. The safety of these products has increased considerably since the early standard that the regulation is based on. This creates a situation where suppliers with no real commitment to safety can dump products that meet the legal requirements of the regulation but do not contain features that are considered by industry to be minimal safety requirements, eg breathability zones around the mattress base. The consumer is unaware of the risks and can end up purchasing unsatisfactory and unsafe products. Automatically, adopting international standards may not always address the problem as international standards are not always equal or better than some Australian Standards with respect to safety.

The lack of standards for products in Australia means that there is a need to rely on International Standards where no Australian Standard exists. Adopting international standards in lieu of an Australian Standard would be a benefit if there is evidence of a safety risk. Most reputable Australian Suppliers are already adopting International Standards where no Australian Standard exist. With this voluntary approach, suppliers and retailers can easily adopt latest versions of standards ensuring that best practice in safety is maintained without the need for regulation which is often based on “out of date” information. Within the nursery industry, it is critical that action is taken as soon as problems are identified so that injury prevention occurs. INPAA is a leading advocate of this strategy and actively embraces emerging issues quickly. This often means the problem is addressed before injury data emerges. Any change in the Regulatory framework should foster activity that is preventative in nature. The current regulatory framework is understandably reactionary; however, this approach limits genuine injury prevention.

**3. *Do you have any specific information analysis or data that will help measure the impact of the problems identified?***

Actual figures vary across individual businesses, and it is almost impossible to identify costs fully.

Suppliers often resort to compliance of both voluntary standards and mandatory regulations. For example, with prams. It is now more practical to supply two warning labels that mean essentially the same thing. Without doing this, suppliers cannot claim compliance to both the Standard and the Regulation as they disagree with each other in some clauses. The problem is being addressed by changing the standard to reflect the current regulation even through the regulation is not best practice in terms of consumer warnings. A poor outcome driven by “nonsense” regulation.

**4. *Do you agree to the changes to this regulatory Framework are required to address the problem?***

Yes, some changes are needed.

**5. *Do you agree with the policy objectives as outlined?***

INPAA supports the stated objectives, however, we strongly believe that consumer safety should be included.

**6. *Are there any other policy objectives you think the Commonwealth, State & Territory Governments should be considering in addressing the problem?***

No.

# Policy Options

**Option 1**      **Status Quo**

Not Supported

**Option 2**      ***Amend the ACC to allow the commonwealth minister to declare trusted overseas standard more easily***

INPAA is concerned that this may result in adopting overseas voluntary standards without any Australian input. Standards Australia has produced some outstanding outcomes regarding safety in areas such as infant car restraints and prams.

Automatically adopting overseas standards is likely to see a watering down of safety. For example, the international standards for prams are not as thorough as the Australian Standard and in some cases adopts only minimal safety requirements and not best practice safety.

If Option 2 proposal is adopted, it must allow for the opportunity for Australian Standards that have been developed to remain the preferred requirements. Standards Australia should be supported to ensure that these Australia Standards are regularly updated.

The option 2, alternative 2 option seems to have less clarity and with the need for a regulatory impact analysis, if appropriate, it may result in limited change and not really address identified problems and further delay action.

**Option 3**      ***Amend the ACL to more easily allow businesses to comply with the latest versions of voluntary Australian and overseas Standards.***

INPAA supports Option 3, however we believe that an amalgamation of the two alternatives would be preferred. Safe harbour provisions should be incorporated into Alternative 1. The introduction timeframe is insufficient at 180 days, a more appropriate timeframe of 1 year is recommended.

- 18. 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?**

INPAA supports this proposal in principle and in practice.

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

Adverse effects on consumers would be limited if at all.

- 20. 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 need to be considered in triggering a review of an update? Are alternative or additional safeguards needed?**

The safeguards appear suitable on face value. INPAA would welcome the opportunity to participate in further deliberations on these aspects.

## **Other alternatives for more efficiently capturing updates to standards.**

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

The Australian nursery industry is frustrated with making submissions in response to a RIS with no outcome, eg prams, cots. Any review needs to produce actions that bring about real outcomes in product safety.

## **Possible combination of Options 2 & 3**

- 24. 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?**

INPAA supports the dual objectives of allowing prompt acceptance of the latest versions of standard and allowing options to comply with comparable overseas standards. We urge the government to implement measures that will address the current regulatory failure.

- 25. 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?**

Evidence of compliance. The objective to reduce compliance costs for business and barriers to trade by removing *duplicative* testing may need some further consideration.

Provision in the ACL could be made to allow a test report acceptable evidence where equivalence can be demonstrated.

## Preliminary impact analysis

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

Yes.

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

The potential costs for Option 2 list extra administrative burden on regulators to review the increased number of standards. A proportion of this burden would also be borne by suppliers as part of consultations and ongoing compliance management.

**28. 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 Option 2 and 3, and any time and cost savings.**

No.

## About INPAA

The Infant & Nursery Products Alliance of Australia (INPAA) is the peak industry body for nursery safety. INPAA has an extensive consultation process and comprises members from retail, manufacturing, imports, not-for-profit organisations and safety experts. INPAA is dedicated to the promotion of injury prevention.

INPAA provides authoritative leadership to brands and retailers and advocates for the safest supply and use of infant products in the world.

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