

21 January 2022

Director
Safety and Sustainability Unit
Market Conduct Division
Treasury
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Dear Sir/Madam

Submission: Consultation Regulatory Impact Statement - Supporting business through improvements to mandatory standards regulation under the Australian Consumer Law

The Consumer Electronics Suppliers Association (CESA) welcomes the opportunity to make a submission on the above Regulatory Impact Statement.

CESA is the premier national, industry body in Australia representing the consumer electronics industry. CESA was instrumental in the development of ACCC button battery standards and labelling and participates in a range of ACCC regulatory arrangements.

General Comments

CESA Members endorse the broad objectives of the ACCC's support for business through proposed improvements to mandatory standards under the ACL. While CESA's interest to-date in ACCC mandatory standards has been confined to button batteries, we offer the following comments on the RIS.

CESA is committed to providing consumers with safe and quality products. CESA agrees with Treasury's description of the **key "problems"** to be resolved, namely that the current framework has led to:

- a number of outdated ACCC mandatory standards, as declared standards are "frozen in time" and liable to be superseded as the underlying industry standards develop over time. The current process for updating mandatory ACCC standards is slow and inefficient; and
- an inability to rely on trusted overseas standards, particularly where there is a "gap" in the Australian standards landscape.

Regarding the **options** for reform put forward by Treasury, CESA's view are:

Option 1 (status quo):

CESA does not consider this option a suitable solution given the key problems identified above.

Option 2 (Amending the ACL to allow the Minister to more easily declare trusted overseas standards):

CESA supports sub option (b) (a principles-based approach for declaring overseas standards) **only where there is a current gap** in the Australian standards landscape. CESA does not support international standards generally being "automatically" subsumed into the ACL landscape given these standards may not be fit for purpose for Australia (e.g. Australia's stroller standard reflects Australia-specific product safety incidents), and some international standards are not published in English (e.g. Japanese standards).

Option 3 (Amending the ACL to allow businesses to comply with the latest versions of voluntary standards):

For Australian Standards, CESA is supportive of a safe harbour provision, which will enable businesses to comply with either the possibly outdated mandatory Australian standard, or the updated "live" version of that same Australian standard. We are not supportive of the alternative being considered (i.e. requiring mandatory standards to apply as they exist from time-to-time) as this raises significant compliance burden concerns. For example, standards organisations are not well-placed to broadly advertise / notify industry participants of a change / update to an industry standard, and businesses will require a period of transition in order to amend / sell through stock which complies with the outdated version of the voluntary standard.

For international standards, to the extent they are already included in a mandatory Australian standard, CESA is also supportive of a safe harbour provision, for the same reasons as above. For other international standards, CESA is also supportive of the safe harbour option where those standards are filling a gap in the Australian standards landscape only, for the reasons provided in Option 2.

On other potential options for reform

CESA is also concerned that ACL standards are not keeping pace with the speed of product innovation, with a delay between the launch of products vs the implementation of the relevant mandatory standard (e.g. button batteries), leading to an increased product safety risk.

This may be caused by the ACCC's relatively unique approach in developing mandatory standards. In particular, we understand that the ACCC's current approach is to await the finalisation of a voluntary industry standard, then review and make a number of changes to the industry standard to form the basis of the mandatory ACL standard. This leads to delay, and also causes confusion for industry participants where there are differences between the voluntary industry standard and the slightly varied mandatory standard under the ACL. As we understand that the ACCC currently sits on the relevant industry standards-making

committees, a more efficient approach may be for the ACCC to take advantage of that forum to suggest any changes to the industry standard at that earlier stage. The mandatory standard could then be a simple reflection of the industry standard, removing any "doubling up" of standard reviews, reducing compliance confusion and hopefully leading to a faster roll out of crucial ACL standards.

Electrical Safety

While we understand electrical safety standards are the responsibility of State regulators, current regulatory misalignments are causing trade barriers between jurisdictions, unnecessary costs, commercial risks, market confusion, and increasing non-compliance.

Despite attempts by some regulators over the previous 14 years to work towards increased regulatory alignment, the situation has deteriorated, and regulations are now even more divergent.

The supply of consumer electronics equipment is conducted on a national basis, and it is not feasible for appliance manufacturers/suppliers/retailers to partition their stock with different supply provisions for various jurisdictions. This situation is resulting in lost access to national markets when products are compliant in some jurisdictions yet non-compliant in another.

A significant opportunity exists to reduce red tape, compliance costs, complexity, and improve consumer safety.

Yours sincerely

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