
Sent: Thursday, 20 January 2022 10:26 PM
To: Product Safety
Subject: Consultation RIS response to mandatory standards regulation under the Australian Consumer Law

Dear Director, Consumer Safety and Sustainability Unit Market Conduct Division

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

As the peak body representing 85% of registered optometrists in Australia we appreciate the opportunity to comment on this review.

We understand the ACL and mandatory standards provide important protections for the Australian community and that there is also a need to ensure that these standards do not impose unnecessary costs on consumers, business, the broader economy or stifle innovation.

Our comments pertain to the mandatory standard for Sunglasses and Fashion Spectacles being considered in this RIS, and we believe the differences in this standard compared to other overseas standards have played an important role in protecting the Australian public in our unique conditions.

Sunglasses and fashion spectacles are the subject of a product safety requirement, which is based mostly on the Australian/New Zealand Standard. These are explicitly referred to in the Impact Statement and it is noted that the AS/NZS standard has more stringent requirements than all other jurisdictions. In allowing the Commonwealth Minister to declare tested overseas standards for sunglasses and fashion spectacles the risk is introduced that sunglasses and fashion spectacles with inferior properties will be allowed into Australia and an avoidable risk to the public introduced.

Consequently, for sunglasses and fashion spectacles we would currently support Option 1: Status Quo

We believe the operation of Standards Australia Committee SF-006 Eye and face protection currently works appropriately in the protection of the Australian public and the maintenance of standards appropriate to Australian conditions. Many of the appropriate requirements of the ISO standards have already been incorporated into AS/NZS 1067, but with some increased protection given Australian conditions. There is no evidence that compliance with this mandatory standard is overly onerous or costly (being estimated at less than 0.15% of the value of the sunglass market).

Standard Australia Committee SF-006 produced the test methods standard as a direct text adoption of ISO 12311. The consequence of this is that there is no need for retesting to comply with AS/NZS 1067, thus avoiding the technical barrier to trade that this would entail. Only the application or different compliance values needs to occur.

To explore some of the issues in adopting other 'trusted standards' in this area some of the differences in standards are explored below:

Differences in standards:

Ultraviolet requirements

SF-006 and CS-053 before it, have been consistent in using the 400 nm limit from the very first edition of in 1971. (BS 2724:1956 did not stipulate any UV wavelength limits). The push to retain 380 nm comes from the ophthalmic industries since an untinted lens claimed to have “100% UV protection” will have a visibly yellow tint if the long wavelength limit is 400 nm but not if it is 380 nm. Since sunglass lenses are tinted, this slight coloration is, in reality, irrelevant. The extension of the long wavelength limit to 400 nm has the support of other experts on ISO TC94 SC6.

Exclusion of the region from 380-400 nm is to ignore around 1/3rd of the radiation in the UV region (depends on atmospheric conditions and latitude). AS/NZS 1067 sets more stringent requirements for the UV-B region than in any other standard. This is consistent with the greater UV risks for Australians. Compared with AS/NZS 1067, for some categories of sunglasses or fashion spectacles, ISO 12312-1 allows transmission just over three times the amount of UV-B, ANSI Z80.3 allows up to five times more and SANS 1644 allows up to just over three times more.

While the requirements in the UV-A are numerically the same in AS/NZS 1067 and ISO 12312-1, the difference in long wavelength limit means that ISO 12312-1 is a less stringent standard because the transmission of lenses is, almost inevitably, higher in the 380-400 nm region. ANSI Z80.3 and SANS 1644 also have less stringent requirements than ISO12312-1. Consequently, it is an inescapable conclusion that the inclusion of sunglasses complying with other standards and not AS/NZS 1067.1 will lead to an increase of ultraviolet dose to eye in Australia. **This is an avoidable risk.**

Coloration requirements – detection of traffic signals

One of the essential principles in personal protection, including of eyes, is to avoid introducing other risks. For instance, there is a robustness or impact test in each standard that ensures that lenses are not easily broken and represent an additional hard to the eyes. In the same way, there is a concern to preclude sunglass lenses that significantly affect the detection of traffic signals. Highly coloured lenses can comply with the standards but are required to be marked with a warning that they are not suitable for driving or road use. In the 2003 revision of AS/NZS 1067, the previous requirements on colour were, in the spirit of harmonisation, rewritten to use the same method as measurement as EN 1836. A comparison had been made between this and the previous method and it had been established that the transmittance for blue signals (such as those used on emergency vehicles) in AS 1067 was significantly more stringent in AS 1067 than EN 1836. The requirement in AS/NZS 1067:2003 was rounded down by way of a compromise but was still 75% more stringent than the EN 1836 requirement (0.70 as against 0.40). In ISO 12312-1, the value was revised to make the value 0.60, but still less stringent than the AS/NZS 1067 value. Committee SF-006 reconfirmed the 0.06 value in AS/NZS 1067.1:2016 edition. ANSI Z80.3 specified the limits in a rather different way. The comparison made of the, then, applicable standards indicated ANSI Z80.3 was quite restrictive compared with BS 2724. At the time AS 1067 had no restrictions based on green signals. The current ANSI Z80.3 has, probably, about the same effect as the current AS/NZS 1067 for green signals. SANS 1422 uses the same test method as the original (pre-2003) AS 1067 but applies less stringent limits and applies only to gradient tint lenses. Comparison of compliance for other signals with other standards is difficult to gauge because non-compliance is a rare event in samples in the Australian market.

It has been shown that even sunglasses complying with AS 1067 can cause traffic signal naming issues, especially for people with the colour vision deficiency.

Consequently, it is clear that the inclusion of sunglasses complying with ISO 12312-1 standards and not AS/NZS 1067.1 would lead to reduction of the safeguards in Australia regarding blue signals.

This is another avoidable risk. This requirement does not exclude sunglasses from the market, it simply allows those that are of concern to carry a driving warning for the user.

Transmittance matching

Ensuring that, within manufacturable practicability, the amount of light transmitted by each of a pair of sunglass lenses is another requirement to avoid introducing a new hazard. The effect of unequal tints between lenses gives rise to a tendency to misjudge the distance of objects moving across the line of sight. This was of concern for driving. The difference may also be cosmetically noticeable.

The requirement in the original AS 1067 was a density difference not greater than 0.06. In the writing of AS/NZS 1067 to be harmonised with EN 1836, the requirement was rewritten in transmittance. The limit in EN 1836 was a difference of 20% whereas the AS 1067 limit translated as 15%, so 15% was set in AS/NZS 1067. In ISO 12312-1, the requirement was made 15%, so there is, at present, no concern. ANSI Z80.3 sets a density difference maximum of 0.08 (=20%), so is less stringent. SANS 1644 has the 0.06 limit as in AS 1067.

Consequently, there is currently no concern in this respect for sunglasses complying with ISO 12312-1 and SANS 1644. However, it seems inevitable that, in the next edition of ISO 12312-1, the limit will be changed to 20% for gradient tint lenses.

This raises the issue as to how changes in a “trusted” standard will be monitored to avoid changes beyond the control of Australian authorities that diminish the protections for the Australian public. ISO 12312-1 does not have any such labelling despite the Australian delegation repeatedly proposing it.

Labelling

AS/NZS 1067 requires the fashion spectacles and sunglasses to be accompanied by some general information about the level of UV protection. ISO 12312-1 and ANSI Z80.3 make no mention of ultraviolet in the labelling and SANS 1644 only mentions it for the Special Purpose Type (B) category. In a study commissioned by the ACCC²⁷ into consumer purchasing decisions, the following key finding was reported “Protection is highly important when choosing sunglasses”. The level of UV protection is amongst the most important purchase decision factors – 82% consider this to be extremely or very important when deciding which sunglasses to purchase. Glare reduction is also a critical factor for most.”

59% of respondents to the survey had some awareness of the categories of sunglasses and the description of the level of UV protection. If there is no guidance on UV protection provided with the sunglasses, how is the buyer to know? It is not necessarily a case of the darker the better. In addition, AS/NZS 1067.1 and ISO 12312-1 have the methods and criteria by which to evaluate claims of superior protection, for instance “100% UV protection”. ANSI Z80.3 and SANS 1644 do not. Further, of all the standards, only AS/NZS 1067.1 has a definition of “UV400” and the means and criteria by which to justify such a claim.

We are happy to discuss any of these points in further detail at any stage.

Warm regards

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