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Productivity Commission Review of Australia's Consumer Policy Framework

Standards Australia Submission

11 May 2007

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Introduction

Standards Australia welcomes the opportunity to respond to the Productivity Commission's Inquiry into the Consumer Policy Framework.

Our chief objectives in making this submission are:

- To support the review and provide relevant background information to assist the Productivity Commission in its deliberations
- To provide information in response to the matters raised in the Issues Paper
- To advise on improvements in standardisation activities in the consumer arena, particularly in relation to the findings of the Productivity Commission Report on Australian Consumer Product Safety and the Productivity Commission Report into Standard Setting and Laboratory Accreditation
- To provide an alternative to the existing consumer policy framework by a range of initiatives including the Product Safety Framework (PSF)

In making this submission, Standards Australia focuses particularly on the first and third of the Review's terms of reference:

- the need to ensure that consumers and businesses, including small businesses, are not burdened by unnecessary regulation or complexity, while recognising the benefits, including the contribution to consumer wellbeing, market efficiency and productivity, of well-targeted consumer policy;
- the impacts of its recommendations on consumers, businesses and governments, including on small businesses and families, in light of the need to avoid unnecessary increases in regulation.

Standards Australia As An Organisation

The Federal Government recognizes Standards Australia as the nation's peak non-government standards development and approval body. Standards Australia prepares voluntary, technical and commercial standards for use in Australia and accredits other Australian Standards Development Organizations.

It meets national needs for contemporary, internationally aligned standards and related services that enhance Australia's economic efficiency and international competitiveness.

To ensure this, a Memorandum of Understanding has existed between Standards Australia and the Commonwealth Government since 1988. Among the principal accords are that no Australian Standard will contravene the World Trade Organization's requirements that national standards should not be used as non-tariff barriers to free trade; and agreement that no new

Australian Standard will be developed where an acceptable international standard already exists.

Standards Australia is Australia's member of the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC) and the International Council of Societies of Industrial Design (ICSID), providing a link to international best practice and creating further efficiencies.

Standards Australia and Standards New Zealand work co-operatively in developing joint standards; approximately 32 % of our standards are jointly developed and approximately 80% of New Zealand Standards are jointly developed. Standards Australia and Standards New Zealand have a Memorandum of Understanding in place setting out the principles to act in good faith and co-operate with one another to develop joint Australian/New Zealand Standards.

Commencing three years ago with the sale of its former commercial services, Standards Australia is undergoing significant change and is ambitiously recasting itself into a responsive and proactive standards approver and developer, capable of working with industry sectors and governments to recognize, assist, service and/or develop nationally and internationally consistent self-regulatory regimes.

Standards Australia has well-established links into all areas of Australian business, professions, academia and the community with more than 9,000 experts drawn from over 1,000 nominating organizations developing around 500 new and revised standards each year. It has developed standards across most sectors of the Australian economy, in traditional industries such as goods and services, engineering and construction; in other technical areas such as health and food; in emerging new areas of technology such as e-health and nanotechnology; as well as in less technologically based subjects such as complaints handling and risk management.

The Current Consumer Policy Framework

The current system is an amalgam of the Commonwealth Trade Practices Act 1974 and State and Territory legislation, which is complex and potentially confusing for both business and consumers.

To complicate matters further we operate in a consumer environment that changes rapidly not only in relation to the range of products and services offered but also in relation to the way they are sold. Consumers can buy products on line, in department stores, specialty stores and at the local \$2 shop. It is a monumental task for State and Territory Governments to keep up with the changes in products and the way they are sold and marketed, let alone for consumers and businesses.

A Change of Thinking is Required

Standards themselves are not capable of keeping up with the rate of change and therefore a new way of thinking was required to approach this challenge in order that the interests of consumer, industry and other stakeholders can be met.

That new way of thinking has been encapsulated in a revolutionary concept called the Product Safety Framework (PSF), which provides a tool by which rapid product development can be more credibly and effectively managed. (See page 11 for the case study on the PSF).

Why Standards Australia? Setting the Scene

Standards Australia views the goals of regulatory efficiency and improved outcomes for consumer as both inter-dependent and complementary, rather than competing. Having said that, we are mindful of the need to maintain the trust we currently enjoy from key elements of the consumer movement.

Standards Australia as an independent, not-for profit organization is in a unique position to work harmoniously with the Federal Government, consumer and industry parties, to help cut business red-tape and minimise duplication and inconsistency. We have demonstrated this by offering a range of non-regulatory models including:

- **Accredited Standards Development Organisations**
- **Voluntary standards, codes and guidelines;**
- **Standards for reference in legislation;**
- **Standards and guidance materials for small business;**
- **Solutions to cross border and international issues.**

All of the above credentials make Standards Australia well placed to play a key role in any consumer policy framework.

In addition, Standards Australia has recently embarked on an exciting change process in order to ensure that the organisation is in a position to deliver the best possible outcomes to its stakeholders. Standards Australia has also implemented changes in response to Government and stakeholder recommendations as a result of various reviews and inquiries.

Related Inquiries and Reviews

Over the last 2 years Standards Australia has had the opportunity to provide submissions to the following Reviews and Inquiries:

1. The Productivity Commission Report on Reform of Building Regulation
2. The Productivity Commission Research Report into Standard Setting and Laboratory Accreditation
3. The Productivity Commission Inquiry on the Australian Consumer Product Safety System. We also provided the Standing Committee of Officials on Consumer Affairs (SCOCA) with our views and proposed actions in response to the report findings (please see Annexure A).
4. The Regulation Taskforce Review into Reducing the Regulatory Burden on Industry
5. The Bethwaite Review on Ways to Improve the Competitiveness of the Australian Food Industry

Standards Australia Responds to the Inquiries and Reviews

In response to the recommendations flowing from the first 4 mentioned Reviews and Inquiries¹ and relating particularly to consumer issues Standards Australia has:

- Established the Standards Australia Consumer Standing Forum. The terms of reference of the Consumer Standing Forum is to provide advice to the Standards Australia Board on policy across a range of Standards activities; governance matters; strategies for future standards development and approval activities; and oversight of standards matters of interest to end use consumers. Participation on the ISO Committee on Consumer Policy (COPOLCO) is now managed on advice from the Standards Australia Consumer Standing Forum.
- Proposed to the Standing Committee of Officials on Consumer Affairs (SCOCA) the establishment of a new National Forum for Product Safety Standards. The aim of which is to engage with key parties involved in product safety standards on a multilateral basis, with a focus on promoting both the development and adoption of best practice. The Forum would be established along the lines of Standards Australia's National Centre for Security Standards, which has the support of the Federal Government through the Commonwealth Attorney-General's Department. Working with industry, federal, state and territory governments, Standards Australia, through this Centre is developing the security standards that will be commonplace across Australia.

A similar approach could be used for Consumers with the key objective being the development of high quality standards within a 12-month time frame. In addition the National Forum would provide efficiencies to industry and government by working collaboratively to develop and adopt standards and other consumer and safety protection documents. As shown in Annexure A, this included the offer by Standards Australia to lead, co-ordinate, co-operate and contribute resources to create a single "one stop shop" website portal and advisory service for easy reference to relevant Federal and State legislation, regulations, mandatory and voluntary standards relevant to household consumers, other end-use consumers, retailers, importers and exporters. SCOCA and individual Federal and State fair trading agencies warmly received this submission and met with senior representatives of Standards Australia in mid-2006, acknowledged our positive responsiveness but indicated we should expect no response from Australian Governments for some time until inter-government determinations in relation to roles, powers and co-operation frameworks were settled. Certainly we've heard no more for a year or so on this front.

¹ The Bethwaite Review findings have not as yet been released,

- Implemented funding on an annual basis to the Consumer Federation of Australia to administer end use consumer participation on Standards Australia technical committees, governance groups and international committees, including the ISO Committee on Consumer Policy (COPOLCO). Funding for 2006/07 is \$75,000.

Australia has been represented at COPOLCO for the last 10 years, and the Consumers Federation of Australia has represented Australia for the last 2 years. Robyn Easton (Consumers Federation of Australia) is the chair of the Sub Group revising ISO/IEC Guide 51 Safety Aspects-Guidelines for their inclusion in standards.

- Undertaken extensive consultation recently with bodies such as the Consumer Standing Forum and peak community and special interest groups to understand the barriers to participation on technical committees and to improve the balance of interests represented on technical committees.
- Commenced a review of its consumer standards development methodology by meeting with key ACCC staff, reviewing and evaluating current standards and reviewing and evaluating current policies and established new policies as appropriate.
- Developed a Standardisation Guide to assist end-use consumer representatives to participate in the development of Australian Standards (SG-020).
- Developed in collaboration with key stakeholders a revolutionary method of identifying specific safety hazards in consumer products. The Product Safety Framework (PSF) is designed to enhance the safe supply and use of products. Standards Australia launched a 12-month trial of the PSF in March this year. (For further details see Product Safety Framework Case Study on page 10)
- Through Committee OB-010, Standards Australia is representing Australia's position to ISO/Committee on Conformity Assessment (CASCO). This Committee is currently considering the development of a Standard for "market surveillance" i.e. systemic pre or post market monitoring to demonstrate that specified requirements are fulfilled, and provide additional confidence in certification schemes and manufacturers' declarations. Standards Australia's representative is Mr Graeme Drake, General Manager Corporate Services for NATA and who most significantly was the recent former ISO/CASCO Secretary domiciled in Geneva. Mr Drake has been liaising with the Department of Industry Tourism and Resources, Department of Foreign Affairs and Trade and the Australian Competition and Consumer Commission to ensure our position is aligned to Australian government policy in this regard.
- Developed a Preliminary Impact Assessment (PIA) document in co-operation with the Australian Building Codes Board for use for Standards intended for reference in the Building Code of Australia.

This new process assesses, in accordance with the Office of Regulation Review criteria, the value of a standard to the industry against the cost of implementing it, and its contribution to making buildings safe and cost effective. This process will be applied at initiation stage when an existing standard comes up for revision or amendment. It will also be used as a template and pilot to a broader roll out across all Australian Standards referenced in legislation.

- Produced a Draft Standardisation Guide for the preparation of Standards for legislative adoption, the objective being the provision of guidelines that will enable technical committees to draft such standards in clear, concise and user-friendly terms.
- Limiting secondary and tertiary referencing of Standards to those cases where compliance with the Standard is essential to the achievement of the objective.
- Standards Australia and the Australian Building Codes Board signed a new Memorandum of Understanding on 16 September 2005, which incorporated the recommendations of the Productivity Commission Report on Reform of Building Regulation with regard to Standards Australia.

Other Activities of Interest

Standards Australia has:

- Committed to reducing the average development time of all standards, while recognising that in the case of consumer product safety standards there is particular urgency, in most cases, to expedite development in a short timeframe.
- Implemented initiatives to develop alternative pathways for standards development, including in partnership with others (see Security Case Study).
- Embarked on a comprehensive review process identifying standards across all sectors for review or withdrawal (with the expectation that the Consumer Standing Forum could be the future vehicle for providing feedback on consumer product standards relevance etc).
- Entered into an agreement with the Australasian Legal Information Institute (AustLII) to enable searching for Australian Standards referenced in legislation and case law.
- Accredited industry bodies to develop voluntary Australian Standards to meet their national, sectoral needs. The forestry, telecommunications, gas and fishing industries have all worked or are currently working with Standards Australia to draw up self-regulatory regimes to address issues ranging from work practices to consumer undertakings.

Standards Australia is broadening the range of pathways to develop and recognise Australian Standards, including active encouragement of other SDOs to become accredited.

To illustrate some of the innovative ways Standards Australia can assist in meeting the objectives of a harmonised and co-ordinated non-regulated consumer policy framework, we have annexed the following case studies.

1. The Product Safety Framework (PSF)
2. Food Standards Case Study
3. Tutoring Case Study
4. E-Health
5. Security Standards

CASE STUDY 1

Product Safety Framework (PSF) Case Study: A Revolutionary but Simple Approach towards a Complex Issue – dealing with the rapidity of product change

"As the largest marketer and distributor of children's products Funtastic fully endorses the work the Standards Australia, INPAA and other stakeholders have done with the PSF. We are at the crossroads of change and this innovative way of thinking will ultimately help all stakeholders improve and manage product safety in Australia"

Rob Wise, Business Manager Funtastic, Australia's largest distributor and marketer of children's products

What is the Product Safety Framework (PSF)?

The PSF is a revolutionary idea, developed by Standards Australia, in collaboration with the Infant and Nursery Products Association of Australia (INPAA), the Australian Competition and Consumer Commission (ACCC) and other key consumer and industry stakeholders.

The PSF has been developed as a handbook, a lower level consensus document that allows the community to use it, test its effectiveness and identify gaps and deficiencies.

The PSF is an innovative risk based methodology that deals with specific safety hazards rather than specific products.

Designed to enhance the safe supply, sale and use of products, the PSF is a horizontal approach that:

- identifies hazards using a risk assessment process
- proves/disproves the hazard's existence using a series of modular hazard tests
- mitigates proven standards through design, protective equipment or education/warnings
- can potentially apply to all products
- is modular and therefore fast and easy to update
- provides a verification process that allows for validation

The PSF consists of four parts:

- Part 1: Application Guide
- Part 2: Hazard Checklist
- Part 3: Generic requirement modules
- Part 4: Specific product guidelines

The development of the PSF is in response to the review by the Productivity Commission of the Australian Consumer Product Safety System, published on 16 January 2006. Recommendation 12.1 stated:

“All mandatory safety hazards for consumer products should be developed on a “hazard” focused basis. Regulations should ensure such standards only address essential safety issues and leave other design issues for voluntary standards. Further, wherever appropriate, regulations should adopt international standards.”

The Productivity Commission also recommended:

“The Ministerial Council on Consumer Affairs, through the Australian Competition and Consumer Commission, should work with Standards Australia with a view to significantly streamlining the standards-making process to improve timelines, given the potential impacts of standards in rapidly changing market place. The aim should be for mandatory safety standards to be developed and implemented within 12 months.”

Recommendation 12.2

Traditionally safety standards have been developed for specific products as they have come on the market. Using the PSF approach Standards Australia is able to identify some of the possible hazards that could be built into nursery products and put guidelines in place to deal with them. The PSF deals with specific dangers such as flammability, chemical and biological hazards, children getting their heads or hands trapped, latches on sliding gates and harnessing systems.

There are a number of reasons why the PSF is an important development, apart from being innovative and ground breaking it provides a viable alternative building on the high quality work already produced in Australian Standards. It is important to acknowledge that there are existing standards in this area however it is also noted that existing standards and regulatory framework can only cover a very small proportion of consumer products that are out there on the market.

The process to develop a standard particularly in this area is difficult; it requires a significant amount of negotiation, is time consuming and understandably is a very emotive issue. New products come on to the market at an increasingly rapid rate and there are a range of distributors and a wide variety of products.

The strength of the PSF is that it allows us to leverage off the existing Standards and compliment it by using a risk based modular process and to do it within a shorter time frame.

How did we introduce the PSF?

In keeping with Standards Australia’s commitment to communicate with and work with business, industry, government and consumer groups, Standards Australia held a forum in late March to provide an overview of the PSF and to

launch a 12-month pilot on the PSF specifically for infant and nursery products.

The Pilot

The pilot is innovative, as it will allow the participants to trial products in a dynamic way over a 12-month period. Pilot participants range from small to large distributors, manufacturers and retailers and include:

Target	Coles Myer
Funtastic	IGC Dorel
Bubzilla	Babyco
TGA Baby	C Stuart
Nice Pak	Mali Furniture
Sunbury Nursery Furniture	Vision Australia

Pilot participants will meet regularly and drive the process. Standards Australia will provide some basic training on how to use the PSF. We will provide each of the participants two “control products” to assess using the PSF. Products will be chosen on the basis of testing as much of the framework as possible. Participants will send the assessment back to Standards Australia and INPAA. The information will be collated and analysed to work out which risks are identified.

A further important purpose of the pilot is to gather feedback regarding the efficacy of the framework from the perspective of practitioners and the level of industry support for the hazard based approach to product safety. The pilot will also assist in fine-tuning the PFS.

The pilot received a positive response from consumer groups, government, business and industry.

The following quote from Tim Wain Executive Director, Infant and Nursery Products Association of Australia (INPAA) sums up the enthusiasm from business and industry.

“Why will industry support the PSF? Simple, there is a very strong business case to be made, it is structurally sound, built on a sound system of Standards development and is a pathway to supply safe products. It's quite liberating when people become skilled at interpreting what safe design is. Similar to how things were with OHS a few years ago, when business saw it as an expense whereas now business see OHS strategy as a driver of business development. That's where the future is for the PSF and that's why industry is very supportive and passionate about its success.”

Standards Australia will monitor the pilot together with INPAA and will be holding another communication event to report on the developments of the pilot.

Standards Australia will also work with industry, the community and regulators over the next year to see if this new approach receives across the board

support and endorsement. Pending the success of the trial, this hazard-based approach could be extended beyond the nursery product industry to a much broader range of consumer products.

CASE STUDY 2

Food Standards Case Study: Working with Regulators to Promote Non-Regulated Solutions

A Regulator's Perspective

Melanie Fisher is the General Manager of Food Standards (Canberra) for Food Standards Australia New Zealand (FSANZ), the body that develops food standards for composition, labeling and contaminants that apply to all food produced or imported for sale in Australia or New Zealand.

Here she talks about how Standards Australia assists.

“FSANZ is a government body, regulating food safety to protect public health, allow informed consumer choice and prevent misleading and deceptive conduct. The value of Standards Australia for us is where people want agreement and surety in an area that doesn't fit with what we do in food regulation.

In each state and territory of Australia seafood is often given a different name. For example, the dhufish of WA is often confused with the jewfish (correct name is mullaway) sold in the east. Bream has incorrectly been labelled snapper in the southern states while the true snapper comes from the warmer north. This has been confusing for consumers and retailers and in some, albeit rare, cases consumers have been deliberately misled. Uniform national fish names will make it easier for consumers and retailers.

The solution was to develop an Australian Standard for fish names. Standards Australia has since accredited Seafood Services Australia to develop Standards for fish names under their strict requirements and procedures that are known for high level of stakeholder involvement.

Another example is the call for a Standard around organic food. Organic food like any other food has to be safe, it can't have chemical residues that don't comply with our Food Standards Code; and claims can't be made that don't fit with our rules. There are no health and safety issues in organic food that aren't covered through existing mechanisms, but there is room to set up an organic Standard.

Standards Australia provides a mechanism to get national agreement and they are now working on an Australian Standard for organic food.

We see Standards Australia as something of a sister agency. We talk regularly about who's doing what, identify potential duplication so that we can limit it by identifying whether it is us or Standards Australia who is best equipped to take on a particular issue and identify any gaps that one or both of us might want to address.

“I think most people recognise that if something meets the Australian Standard then 'it's all right'. It's got recognition and acceptance, even though it might not carry the force of law.”

CASE STUDY 3

Tutoring Case Study: Industry Codes of Practice Commissioned by Government

Codes of Practice can be commissioned to address concerns within an industry sector of rogue operators ruining the reputation of otherwise honest and respected businesses.

They also demonstrate to Government that the industry sector is prepared to take serious steps to address identified issues and concerns.

In March 2004 the former NSW Minister for Education, Dr Andrew Refshauge, commissioned Standards Australia to draw up a Code of Practice for the NSW tutoring industry.

This request came in the wake of sustained criticism of the industry by students, parents and the media. The Government considered the best way forward was for industry self-regulation through a code of practice developed with the expertise and experience of Standards Australia.

Standards Australia, working with representatives from the tutoring/coaching industry, Government, teachers, parents and students, developed the Tutoring Code of Practice Handbook. The Handbook addresses issues such as recruitment, plagiarism, teacher qualifications and dispute resolution.

National Harmonisation, Working with Government and Industry on cross-border issues – 2 Case Studies E-Health and Security Standards:

A large part of the role of Standards Australia is trying to find a common set of technical solutions that can be applied across Australia.

Because legislation that provides the 'head of power' normally varies across the States and Territories, it is extremely difficult to develop template regulations that can be used without major modification across jurisdictions.

However, there is far more scope for agreement about what constitutes a safe or effective technical outcome than there is for what constitutes desired policy outcomes.

Unfortunately, it is all too easy for these two issues to become confused when inter-governmental coordinating groups are charged with finding national solutions.

Standards Australia would argue that these interstate coordinating groups work best where they are prepared to leave coordinating the technical issues to the consensus standards development process and maintain their focus on the more high level goals to be achieved.

By using Australia Standards to develop the technical requirements to underpin legislation that is then used consistently across all jurisdictions, business would at least be able to produce goods and services consistent with all government's technical requirements.

CASE STUDY 4

E-Health Case Study: National harmonisation

As Australia and the rest of the developed world look to find efficiencies in the administration of the health sector, the use of the Internet to share data, such as patient records, is proving an important development that will streamline health service delivery. Of course, this must be done in a way that provides absolute protection of patient privacy and Standards Australia, in partnership with the Department of Health and Ageing, is developing the health informatics standards that provide that security. The implementation of these standards is not mandatory under the law; however, through the alignment of the Health Informatics standards development work-program, with that of the national E-Health strategy, there is an increased likelihood of voluntary adoption and compliance with the standards. This approach is very supportive of self-regulation, yet is informed and guided by State, Territory and Federal Governments.

Any initiative to use standardisation to reduce variability of implementation of ICT in the health sector will reduce costs for vendors and procurers of software, as well as expanding potential markets for Australian companies. The approach being taken is to rationalise the large number of solutions to health system procurement and implementation in order to improve interoperability and efficiency in the health sector.

CASE STUDY 5

Security Standards Case Study: Working with Government and the Private Sector to Protect Australia's Critical Infrastructure

For the past 18 months, Standards Australia has been working with the Commonwealth, State Governments and business to develop guidance for the private sector on how best to protect their assets.

These assets vary from major power stations, telecommunications facilities, banking infrastructure and transport networks to manufacturing businesses, schools and sporting arenas. Regardless of their differences they all share the one common element, they could be targets and they need protection.

The process has involved senior representatives from State and Federal AG's, transport, energy, police, security, intelligence and health agencies as well as executives from privately owned businesses working together on the minimum guidelines for an effective private sector security system. This group has identified the need for a major review of security standards and support systems currently available to the private sector in Australia.

Ultimately, the work will produce a comprehensive set of guidelines that can be used by the private sector, or any other organisation that doesn't have its own in house expertise, to ensure they are buying a security system that is value for money and will meet their requirements.

Conclusions

Standards Australia's mission is to bring innovative lateral thinking to important public policy areas such as Consumer Policy. This approach has as its common foundation the key elements of the traditional standards development process, which is based on principles of transparency, balance of interests, rigorous assessment of cost and benefit and commitment to consensus-driven outcomes through due process.

Standards and associated options and processes can be in many circumstances a viable alternative approach to regulation, including consumer policy. As such they can also provide a practical and consensus driven option resulting in harmonisation and co-ordination of consumer policy across jurisdictions. The process is effectively "owned" by the various participants because of the consensus model.

Clearly we view our continuing credibility with the consumer movement as fundamental. New mechanisms for engagement, such as the Consumer Standing Forum, will in time strengthen communication and allow robust but constructive debate on both key systemic and specific issues of common interests such as Product Safety.

Where we can improve in our processes, we shall strive to do so, but this is a responsibility we share with all involved parties, including industry, consumer groups, government and other stakeholders who have an interest in consumer policy. We are also committed to better communication and innovation, which we believe is demonstrated in the case studies included in this submission.

As part of the commitment to better communication we are currently involved in an active discussion with State and Federal regulatory bodies on ways Standards Australia can assist in improving regulatory efficiency.

As demonstrated by the PSF sometimes a different way of thinking is required. We will continue to champion such ideas in partnership with our stakeholders and where possible providing an effective alternative to "black letter" regulation and different ways of addressing current and future challenges.

The great benefit of the broader standards process and its various outcomes- not always the development of a Standard – is that we gather all the stakeholders- virtually or otherwise – "in one room" and a consensus driven outcome is the result. The model as much as anything, can be better harnessed in the development of a sustainable and credible Consumer Policy Framework.

In conclusion, Standards Australia can and will underpin any consumer policy framework by:

- providing a national approach integrated with New Zealand and aligned internationally;
- responding to the needs of the chosen consumer policy framework by being adaptable, flexible, and inclusive; and
- providing an effective alternative to regulation and different ways of addressing current and future challenges.

Once again Standards Australia appreciates the opportunity to provide this submission.

Annexure A

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21 April 2006

Mr Richard O'Sullivan
Chairman
Standing Committee of Officials of Consumer Affairs
Commissioner of Consumer Affairs
Department of Justice
PO Box 1722
Darwin NT 0801



Dear Mr O'Sullivan,

RE: Productivity Commission research report – Review of the Australian Consumer Product Safety System – 16 January 2006

Standards Australia welcomes the Productivity Commission report and we are pleased to provide the Ministerial Council on Consumer Affairs (MCCA) and the Standing Committee of Officials of Consumer Affairs (SCOCA) with our views and proposed actions.

A detailed response to the specific issues addressed in the report is set out in **Attachment A** to this letter.

For those members of SCOCA and MCCA who are not familiar with Standards Australia a brief background on the organisation is provided in **Attachment B**.

Included in **Attachment C** is a list of some of the existing mandatory and voluntary standards developed by Standards Australia that relate to consumer product safety.

The release of the Commission's report coincides with the development and implementation of our new strategic plan. As part of the new strategic direction Standards Australia recognises that just as the standards themselves must change in line with new demands and new realities so too must the processes behind their development.

The report, in Chapter 12 '*Design and standards*', addresses a number of specific issues. The two key concerns appear to be:

- ◆ The nature of the standards developed – whether they should be product or hazard focused; and
- ◆ The timeliness of and resources available for standards development.

The Productivity Commission makes two recommendations addressing these concerns, at page 298 of the report. **Standards Australia accepts both recommendations.**

Recommendation 12.1 states: - *All mandatory safety standards for consumer products should be developed on a 'hazard' focused basis. Regulations should ensure such standards only address essential safety issues and leave other design issues for voluntary standards. Further, wherever appropriate, regulations should adopt international standards.*

Recommendation 12.2 states: - *'The Ministerial Council on Consumer Affairs, through the Australian Competition and Consumer Commission, should work with Standards Australia with a view to significantly streamlining the standards-making process to improve timeliness, given the potential impacts of standards in a rapidly changing marketplace. The aim should be for mandatory standards to be developed and implemented within 12 months.'*

Fundamental to achieving the Commission's recommendations is:

- The development of a stronger relationship between Standards Australia and the Australian Competition and Consumer Commission (ACCC) and the state based consumer product safety regulators through SCOCA; and
- Securing an appropriate resource base to enable professional and timely development, maintenance and communication of requisite standards.

SCOCA would seem to be Standards Australia's natural partner, providing a direct link into the heart of all federal, state and territory consumer protection agencies. While Standards Australia has been working to strengthen these relationships particularly over the past two years, a stronger relationship with the Ministerial Council on Consumer Affairs through SCOCA would provide a solid platform to better address the requirements of industry, consumers and regulators.

Standards Australia believes the effective implementation of these recommendations is critical to addressing many of the issues and concerns raised in the report. We suggest three options.

1. NATIONAL FORUM FOR PRODUCT SAFETY STANDARDS

The first option proposes establishing a new National Forum for Product Safety Standards to engage with key parties involved in product safety standards on a multilateral basis, with a focus on promoting both the development and adoption of best practice.

This Forum would be established along the lines of Standards Australia's National Centre for Security Standards, which has the support of the Federal Government through the Commonwealth Attorney-General's Department.

The National Centre for Security Standards taps into the Attorney-General's Trusted Information Sharing Network made up of the owners and operators of Australia's critical infrastructure including all major airports, water, electricity, gas and telecommunications suppliers. The distinguished Chair of the Centre is David Sadleir AO the ex Director General, Australian Security Intelligence Organisation, Ambassador to the European Union, Belgium, Luxembourg and China.

Working with industry, federal, state and territory governments Standards Australia through this Centre, is developing the security standards that will become commonplace across Australia.

A similar approach could be used for Consumer and Safety protection with a key objective being the development of high quality standards within a 12 month timeframe.

The National Forum for Product Safety Standards would provide efficiencies to industry and government by working collaboratively to develop and adopt standards and other consumer and safety protection documents.

The forum would work with the Consumer Product Advisory Committee (CPAC) forum in a collaborative and complementary way. It would also establish and maintain a database of national consumer protection and safety standards, accessible from the Internet, and capable of generating updates, alerts, and reports.

The new Forum would have the following objectives:

- Facilitate the timely identification, development, and adoption of standards responsive to the needs identified by key stakeholders.
- Provide an inter-active forum to bring together individual industries, standards developing organisations, and governmental units to define needs, determine work plans and establish priorities for the revision of or creating new standards.
- Solicit participation from national consumer protection-related sectors that have not traditionally participated in the voluntary standards system.
- Promote collaborative efforts between national and international standards development organisations to establish work plans, to develop joint and/or complementary standards to address a specifically identified gap, and to do so in a timely manner.
- As appropriate, coordinate with other national, regional, and international efforts addressing national consumer protection standards.
- Develop and promote best practice.
- Focus on engagement and effective communication.
- Develop a consumer website.

2. PARTNERING

The second and perhaps complimentary option involves a much greater emphasis on working with specific groups on a bilateral basis, be they government agencies or industries bodies, to develop tailor made standards to meet very specific requirements.

To give effect to these arrangements, Standards Australia has dedicated resources to develop and manage partnering initiatives.

This initiative is designed to provide fast and efficient ways to develop customised, high quality, high value standards and consensus-based solutions to address the specific needs of government and industry.

This approach is based on the major beneficiaries of a new standard taking a greater role in directly supporting, funding and/or otherwise resourcing its development.

In response to recommendation 12.1 suggesting that: *mandatory safety standards for consumer products should be 'hazard' focused*, Standards Australia has initiated a partnering arrangement with the Infant and Nursery Products Association of Australia (INPAA) to collaborate in trialling hazard focused standards. A copy of a letter demonstrating this arrangement has been provided in **Attachment D**.

3. BUSINESS AS USUAL

The last, and least acceptable option to Standards Australia, is to continue business as usual, developing and updating standards using the same processes developed over the past 80 years.

While this has proved successful in the past it is based on the traditional premise that there is surplus industry and government capacity available to provide an unending supply of time and expertise to voluntary standards development.

This notion is becoming increasingly unsustainable and has, in large part, led to the very concerns industry, Government and Standards Australia now share about the development of standards.

The reliance upon Standards Australia and its limited resources to meet the bulk of Australia's voluntary and consensus standards is not sustainable.

Standards Australia would be pleased to provide a more detailed presentation on our proposals for the National Forum for Product Safety Standards and partnering initiatives to the SCOCA at a future meeting of your choosing.

Standards Australia is also moving forward with the Commission's recommendations through a major review of our consumer standards development methodology having taken the following steps:

- Meeting with key ACCC staff and other potential partners.
- Meeting with representatives from Department of Premier's and Cabinet and some consumer affairs agencies around the country.
- Made recent submission to the Prime Minister's *Taskforce on reducing the regulation burdens on business*.
- Made submissions to both the NSW and Queensland governments' regulation reviews.
- Commenced a major review and evaluation of the current state of Australian Standards related to consumer produce safety systems.
- Commenced reviews of Standards Australia's process for standards development.
- Commenced a major upgrade of information technology platforms to support the rapid development of standards.
- Developing a Standardization Guide for the development of consumer product standards.
- Developing appropriate training and reference materials for staff and committee members.
- Seeking greater feedback on staff and committee performance to improve efficiency and effectiveness of standards development.
- Standards Australia is also remains and an active and committed participant in Consumer Products Advisory Committee (CPAC).

Should you require any further information or explanation, please do not hesitate to contact me.

Yours sincerely,



John Tucker
Chief Executive Officer
Standards Australia



cc Mr Nigel Ridgway – Chair, Consumer Products Advisory Committee
cc MCCA Members

Attachment A

Detailed Response to Productivity Commission Report

For the sake of clarity, issues are categorised and responses provided immediately under each individual issue, for your consideration, viz:

1. Standards are Product rather than Hazard Focused

Standards Australia develops safety standards for consumer products in accordance with needs identified by consumer agencies.

In many instances these standards are product focussed, in accordance with the requirements of particular requests, especially those intended for reference under the current regulatory system.

However, Standards Australia has long argued for a change to a more hazard-based regulatory system and would be prepared to move to developing compatible Australian Standards that address the hazards identified in the mandatory standard, as has already happened in other areas, such as occupational health and safety.

As already stated Standards Australia has initiated a partnering arrangement with the Infant and Nursery Products Association of Australia (INPAA) to collaborate in trialling hazard focused standards.

2. Standards take too long to develop

Standards Australia is committed to reducing the average development time of all standards. We recognise that in the case of consumer product safety standards, there is a particular urgency, in most cases, to expedite development in a short timeframe.

As discussed above, both the proposed *National Forum for Product Safety Standards* and new provision for industry and agency partnering would streamline the development processes down to a maximum timeframe of one year. This would be achieved through better systems and resourcing levels.

The active and tangible support of government and industry for this model will be a key issue.

3. Stakeholder representation

Standards Australia reviews committees for balanced representation of stakeholder interests, on a regular basis. Participation of all relevant sectoral interests is sought when reviewing a committee's constitution.

Standardization Guide SG-020 – *Participation by End-use Consumers in Standardization*, emphasises the rights of consumer representatives.

At the voting stage, each sector of interest (consumers being one such sector) is accorded equal weight and a standard can only be approved if each sector collectively votes in favour.

In addition, Standards Australia is working closely with nominating organisations to ensure their ongoing participation in standardisation. We are encouraging nominating organizations and their members to maintain open communications to ensure effective inputs to standards development.

In particular, the Consumers Federation of Australia and Australian Consumer's Association are active participants in standardisation. Funding is available for end use consumer representatives to participate on technical committees, in acknowledgement of the limited resources available to represent the consumer's point of view. Such funding is administered through the CFA.

Standards Australia is establishing a Consumer Standing Committee. This Committee will report to the peak National Advisory Committee of the Board of Standards Australia.

The objective of the Consumer Standing Forum is to provide advice to the Committee on:

- Policy across the range of Standards activities.
- Governance matters.
- Strategies for future standards development and approval activities.
- Oversight of standards matters of interest to end use consumers.

Membership of the Consumer Standing Forum consists of representatives of the Australian Consumers' Association, Consumers' Federation of Australia, Australian Competition and Consumer Commission and Consumer Products Advisory Committee.

4. Resourcing

As discussed above, resourcing is recognised as critical to the timely delivery of standards and meeting the needs of industry and consumers. Standards Australia is a not for profit organisation with finite resources.

A necessary part of building the capacity to meet the needs of industry and consumers is the development of resource partnering arrangements with key stakeholders.

We are also undertaking a complete review of the current process of approving project proposals to ensure that a more disciplined approach is applied to the evaluation and approval of all projects. This will ensure better prioritisation of projects according to their importance from a public interest perspective and result in more effective application of resources.

5. *Timeliness of periodic reviews*

In addition to its automatic review process, Standards Australia has embarked on a comprehensive review, across all committees of standards older than 10 years. The initial phase addresses standards older than 15 years.

Committee members have been asked to respond with their recommendations on current standards for which their committee is responsible.

The final outcome of this review is that Standards older than 10 years will be either withdrawn or re-confirmed.

Standards Australia considers that the Consumer Standing Forum referenced above could be a future vehicle for providing feedback on consumer product standards regarding their relevance etc.

6. *Consistency with international standards*

Standards Australia's policy on alignment with International Standards is set out in Standardization Guide SG-007 – *Adoption of International Standards*. This is based on the relevant requirements under the WTO Barriers to Trade Agreement, in that local variations are only permitted to the extent necessary to meet certain legitimate objectives, such as protection of human safety and health.

Standards Australia leads the ISO working group looking at product safety, under the Consumer Policy Committee of ISO (COPOLCO).

A 2003 survey of ISO members found that European and US members felt that consumer safety standards were more appropriately developed at the national and regional level. Their fear was that the developing world did not regard consumer safety highly and the resulting ISO standards may be inadequate to meet the safety expectations of developed countries.

As a consequence, appropriate International Standards only exist in a small number of areas, such as toy safety and bicycle safety. Standards Australia has been active in both of those committees and was one of the first standards bodies to adopt the International Standard for toys. Sadly, Europe and USA continue not to do so. Having incompatible standards protects the toy industry in each region.

Overseas national standards are not the same as International Standards and such standards are not recognised under the WTO agreements.

Where an overseas standard is clearly the de-facto international standard, it can be adopted as the Australian Standard, as in the case of trampolines.

Referencing multiple standards should be viewed cautiously as it can make enforcement very difficult, if not impossible. Testing regimes included in almost all of these standards are almost always destructive and a defence can be raised that a product that failed the tests in the US standard might possibly have passed the tests in the European standard. A better approach is to develop a regulatory instrument that focuses on the hazard, but is not based on a particular standard. The EU directive is a good example.

Attachment B

Background on Standards Australia

Standards Australia is Australia's national standards body and standards development organisation responsible for the development of Australian Standards® that are of national interest and public benefit. It is a non-government, not for profit organisation that supports excellence in design and innovation through the Australian Design Awards.

Australian Standards® set out the specifications and design procedures to ensure goods and services consistently perform in the way they are intended. They also make a sustained contribution to generating national wealth, improving our quality of life, increasing employment, improving safety and health and using our national resources more efficiently. Standards Australia provides a meeting ground for business, industry, consumers, academics, professional and community bodies and government to discuss and debate issues with the aim of developing solutions in the form of Australian Standards®, Handbooks and other guidance materials.

Australian Standards® and other guidance materials are developed by industry for industry and cover:

- a range of fundamental engineering standards, which underpin the modern construction industry and add to the safety, efficiency and cost-effectiveness of engineering in Australia;
- contemporary business standards such as risk and quality management to assist businesses perform more effectively in highly competitive markets;
- community, materials and IT standards for a wide range of sectors including occupational health and safety, technical engineering, materials science, transport, consumer products, environmental issues, textiles, food, health, health informatics, communications, IT and e-commerce.

Standards Australia is responsible for ensuring the Australian viewpoint is considered in the formulation of International Standards and that the latest international experience is incorporated in Australian Standards®. This role is vital in assisting local industry to compete in international markets. Standards Australia represents Australia at both the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC).

Standards Australia's Key Statistics for 2005-2006:

- Full time employees 119
- Technical Committees 1576
- Committee Members 8193

- Standards Published 535 (in total there are 6856)
- Other Publications 22 (in total there are 538)
- Drafts issued 601
- ISO & IEC Secretariats held 19

Standards Australia aims to meet the expectations of our Australian community, professions, commerce and industry and government by:

- working closely with members of the standards and conformance technical infrastructure;
- respecting the contribution of our committee members, who are the heart of standards development activities;
- embracing the issues facing our stakeholders by hosting open forums to discuss topics of current interest;
- reviewing processes to ensure the right mechanisms are in place to embrace subjects that go beyond the purely technical;
- providing guidance to any groups interested in standards development, whether they are industry or other types of standards outside the national standards framework;
- forming new partnerships with industry bodies, niche standards developers and other groups that want to develop standards to ensure a strong, well coordinated and well-informed standards framework and community of interest for our nation;
- actively pursuing the accreditation of other standards development bodies to widen the options for developing Australian Standards®; and
- being more strategic in building alliances, sharing public innovation and opening the door for Australian exports.

Attachment C

Australian Standards mandated under Trade Practices Act

Designation	Title	Revised	Status
1067	Sunglasses and fashion spectacles	2003	Amendment pending
1249	Children's sleepwear	2003	Current
8124 series	Children's toys (safety requirements) Part 2: Constructional requirements	2003	Current
1698	Protective helmets for vehicle users	2006	Revised February 2006
1754	Child restraints for motor vehicles	2004	Current
1841 series	Portable fire extinguishers		Current
1900	Children's swimming aids	2002	Current
1927	Bicycles	1998	Current – revision underway
1957	Textiles – care labelling	1998	Current - committee is considering revisions
2063	Pedal cycle helmets	1996	Current – committee has re-started project for revision
2088	Prams and strollers	2000	Current – revision underway – Public comment being considered
2142	Bicycle reflectors	1978	Current
2172	Cots	2003	Current – amendment 1 published January 2006
2538	Vehicle support stands	2004	Current
2615	Hydraulic trolley jacks	2004	Current
2640	Portable ramps for vehicles	1994	Current – needs to be reviewed
2693	Vehicle jacks	2003	Current – revision in progress – committee ballot completed August 2005
4220	Bunk beds	2003	Current

4353	Aerosol fire extinguishers	1995	Current
4867.1 & .2	Cigarette lighters	2002	Current

Adopting a criterion of standards not to be greater than 5 years old, the following mandatory standards require revision:

AS 1927 – 1998	Bicycles
AS 1957 – 1998	Textiles – Core labelling
AS 2063 – 1996	Pedal cycle helmets
AS 2088 – 2000	Prams and strollers
AS 2142 – 1978	Bicycle reflectors
AS 2640 – 1994	Portable ramps for vehicles
AS 4353 – 1995	Aerosol fire extinguishers

New Standards Proposals

Committee CS-101 - sports and recreation equipment has been constituted in response to a request to develop an Australian Standard on portable soccer goal posts.

Request for development of a standard on snatch straps for 4WDs.

Consumer Standards - Voluntary

Designation	Title	Revised
AS 3867	Qualitative assessment of surfactant components in detergents	1991
AS 4010	Analysis of detergents	1992
AS/NZS 2130	Cots for day nursery, hospital and institutional use	1998
AS/NZS 2195	Folding cots - safety requirements	1999
AS/NZS 2393	Textiles - labelling of clothing, household textiles and furnishings	1999
AS/NZS 2450	Textiles - Natural and man-made fibres - Generic names	1994
AS/NZS 2621	Textiles - Guide to the selection of correct labelling instructions from AS/NZS 1957	1998
AS/NZS 2622	Textile products - Fibre content labelling	1996
AS 2555	Supervised adventure playgrounds	1982
AS4422	Playground surfacing	1996

AS/NZS 4486	Playgrounds and playground equipment - Development, installation, inspection, maintenance and operation	1997
AS/NZS 4685	Playground Equipment Part1 1 to 6	2004
AS 3562	Lighting equipment for bicycles	1990
AS/NZS 4287	Child carrier seats for bicycles	1995
AS/NZS 3847.1	Shopping trolleys for general use	1999
AS 3747	Harnesses for use in prams, strollers and high chairs	1989
AS 2479	Down filling materials/or filled products	1982
AS 2432	Babies dummies	1991
AS 2677	Inflatable boats	1983
AS 2333	Water resistance of watches	1980
AS 1235	Road vehicles - Roof load carriers - Carry bars	2000
AS/NZS 2111.18	Textile floor coverings - Tests and measurements - Burning behaviour....	1997
AS 2404	Textile floor coverings - Fire propagation of the use surface using a small ignition source	1980
AS 2755.1	Textile fabrics - Burning behaviour - Determination of ease of ignition of vertically oriented specimens	1985
AS 2755.2	Textile fabrics - Burning behaviour - Measurement of flame spread	1985
AS 2755.3	Textile fabrics - Burning behaviour - Determination of surface burning time	1988
AS/NZS 3744.1	Furniture - Assessment of the ignitability of upholstered furniture - smouldering cigarette	1998
AS/NZS 3744.2	Furniture - Assessment of the ignitability of upholstered furniture - match flame equivalent	1998
AS/NZS 3744.3	Furniture - Assessment of the ignitability of upholstered furniture ... gas flame	1998
AS/NZS 4088.1	Specification for burning behaviour of upholstered furniture - Upholstery ignibility	1996
AS 4092	Safety of exercise bikes	1993
AS 3813	Plastic monobloc chairs	1998
AS 1182	Size coding scheme for children's clothing	1997
AS 1344	Size coding scheme for women's clothing	1997
AS/NZS 4371	Ceramic tableware	1996
AS/NZS 4499.1	Protective headgear for cricket - helmets	1997
AS/NZS 4499.2	Protective headgear for cricket - temple protectors	1997
AS/NZS 4499.3	Protective headgear for cricket - face guards	1997

Attachment D

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18th April 2006

Mr Tim Wain
Executive Director
Australian Nursery Industry Safety Standards
PO Box 448
BORONIA VIC 3155

STANDARDS
Australia

Dear Tim,

Re: Formation of a Strategic Alliance - Standards Australia and INPAA

It was a pleasure meeting with you and Tony Zieyler on Thursday, 30 March 2006.

Thank you for your letter dated 5th April following up on our discussions and setting down a road map for collaboration.

Standards Australia welcomes the opportunity to form a strategic alliance with INPAA and we are looking forward to converting the "Strategic Alliance" document you have sent through into a Letter of Agreement.

In the next few weeks I will organise a meeting to follow up and confirm actions to formalise our collaborative activities.

I look forward to working with you.

Kind Regards,


Mark Bezzina
Partnering Business
Standards Australia