

AUSTRALIAN TOY ASSOCIATION

SUBMISSION TO THE PRODUCTIVITY COMMISSION

REVIEW OF AUSTRALIA'S CONSUMER POLICY FRAMEWORK

DRAFT REPORT

January 2008

The Australian Toy Association's comments to the draft specifically relate to the sale of consumer products. The ATA represents key stakeholders involved in the manufacture, import, distribution and sale of children's products. It has actively participated in the development of standards for the safety of these products, both at a global and a national level.

The ATA fully supports the thrust and recommendations of the Productivity Commission's Draft Report in regard to consumer products, but would like to add emphasis to particular areas.

1 Informed Participation - Objectives for Consumer Policy - Chapter 3

It is correctly stated that informed participation is the overarching objective of consumer policy and yet the law is still largely inaccessible to consumers. Product safety regulation is, where possible, reflective of existing product safety standards. This helps to ensure that it reflects current expert knowledge both in Australia and in other major markets. However, the current practise is to merely reference the standard in the regulation and make specific variations. Regulations can therefore not be read without first purchasing the standard and then secondly editing in any variations. The cost and complexity of this ensures that consumers are unaware of the requirements that affect their goods. The ATA believes that regulations should be readily and freely available to all stakeholders and written in plain English.

It is understood that this has an impact on the work and intellectual property of Standards developers and the model for the development of standards may need to be revisited in order to achieve the desired outcome of an informed consumer. The ATA believes that standards affecting the safety of consumer products should receive public funding to properly reflect their value to the community and allow their free inclusion in regulation. This funding should facilitate the involvement of all stakeholders including consumer, industry, and regulatory advocates as well as appropriate project management to ensure that standards are prepared in a timely manner and deal properly with the hazard at issue.

Another issue for the ATA is where Standards are adopted as regulation, but the requirement being enforced is entirely different to that which was intended by the writers of the standard and therefore out of step with the world. Such mis-interpretations could be seen as an artificial barrier to trade. There must be a mechanism whereby, if something appears unclear, the regulator is able to accept clarification as to the intent of the requirement in the standard.

2 A New National Consumer Law - Chapter 5

The ATA believes that a single national consumer law and regulatory body is critical to the efficient operation of the economy. The additional costs in our existing system come not only from the repetitive nature of the various jurisdictions, but also from the fact that different regulators are free to interpret requirements to mean different things. Where there is no single authority, we are left with the situation of effectively having different standards in each state or territory.

In reality, as stated in the draft, safety issues are national or even global in nature and requirements should be the same throughout the country and are likely to closely match those in other countries.

The ATA supports the contention that a properly resourced ACCC is the appropriate regulator for the national law.

The ATA is aware of the current issue with the Trade Practises Act where it applies only to corporations and not to other forms of business entity such as sole traders. Clearly the Act needs to be updated so that all entities that sell in 'trade' are caught.

It is believed that education and the public availability of requirements would ensure an increased level of self management of the private sale of 2nd hand goods.

3 Industry Specific Regulation - Defective Products - Chapter 8

The ATA holds the strong believe that regulation should be hazard based rather than product or industry specific, e.g. small parts are an issue in any product intended for a child under 36mths, not just toys. In the recent case of Bindeez beads regulation was introduced banning Bindeez which prevented the product being sold even after the hazardous material had been replaced and also did nothing to stop the hazardous material being used in any other product.

The ATA is also aware of many regulations that exist in one jurisdiction and not others. It is clear that there is not a universal acceptance of the need for these regulations. Regulation should be properly justified by hazard data and any existing regulation that does not meet this criterion should be removed.

This also emphasises the need for the hazard identification system proposed in draft recommendation 8.