



SUBMISSION FROM THE NATIONAL RETAIL ASSOCIATION

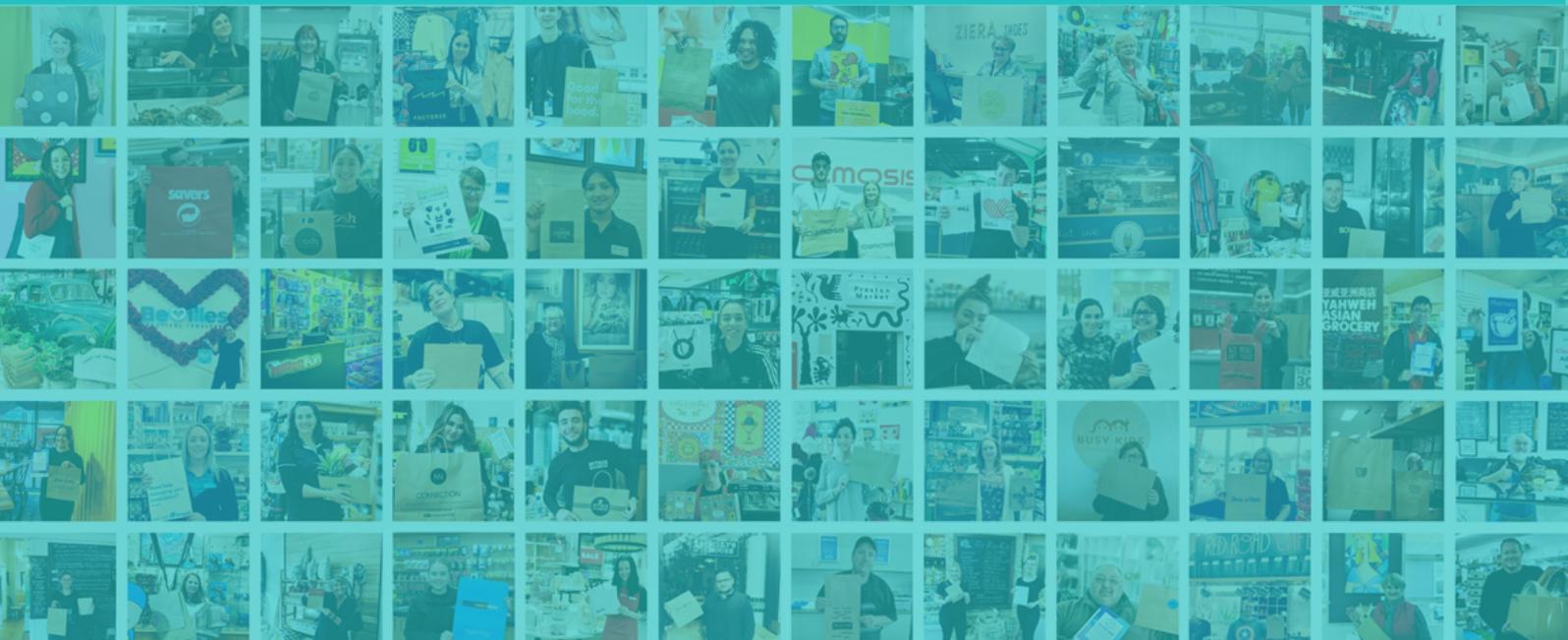
In response to ACCC Button Battery Safety Consultation Paper:
Assessment of Regulatory Options

Submitted to:

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Australian Competition & Consumer Commission

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1. ABOUT THE NATIONAL RETAIL ASSOCIATION

Currently, the Australian retail sector accounts for 4.1 percent of GDP and 10.7 percent of employment, which makes retail the second largest employer in Australia and largest employer of young people.

The National Retail Association (NRA) is Australia's most representative retail industry organisation, servicing more than 28,000 retail and fast food outlets nationwide.

We know all types of retail.

Our members cover all types of retail including fashion, groceries, department stores, household goods, hardware, fast food, cafes and services. The NRA has represented the interests of retailers and the broader service sector for almost 100 years.

We represent all of retail.

The NRA not only leverages off the strength of its existing member network and existing communication channels, but is one of the few industry associations which engages with retailers *beyond* its membership base. Our inclusive approach allows us to engage across the entire industry, providing unparalleled access to our partners.

We offer an all-in-one solution for retail businesses.

At our core, we help retail and service sector businesses to navigate and comply with an ever-changing and growing regulatory environment. We provide professional services and critical information right across the retail industry, including national retail chains and thousands of small businesses, independent retailers, franchisees and other service sector employers.

We help retailers get on with business.

We understand that as a business operating in a competitive marketplace, it is vital that retailers receive accurate and timely information on issues that impact their business. But no business, whether large or small, can afford to employ in-house experts in every regulatory area in the industry. We provide retailers with easy and affordable access to industry-specific advice and solutions across all jurisdictions.

We know what we're doing.

NRA services are delivered by highly trained and qualified in-house staff with combined decades of experience and industry knowledge. Importantly, because the NRA is a not-for-profit industry association, we can deliver professional services at a much lower cost than other providers.

We work well with others.

The NRA are known and respected for our professional approach to collaboration, influence and negotiation. This mature approach enables us to gain greater access, build stronger relationships, and work collaboratively with a wide range of stakeholders, including all levels of government, law enforcement, regulatory bodies, shopping centres, community groups, supporting associations and many more.

National Retail Association Technical Standards Committee

Dedicated to promoting responsible retailing through a cohesive cooperation, the National Retail Association Technical Standards Committee (NRATSC) actively participates in regulatory, industry and standard reviews relating to the safety of retail merchandise.

The Committee consists of product safety and quality assurance specialists from most of the national retail organisations across Australia. The Committee meets twice annually, with meetings convened at different sites and states.

2. INTRODUCTION

The National Retail Association welcomes the opportunity to make a submission to the Australian Competition and Consumer Commission (ACCC) on the consultation paper: *Assessment of Regulatory Options*

We would like to emphasise that the NRA's membership always views product safety as critical to customer welfare. NRA members constantly embrace new and innovative ideas, monitor emerging challenges in product safety, and consider new ways of addressing emerging retail challenges in an agile manner, responsive, responsible and adaptable with a view to meeting evolving customer needs for product safety.

Members of the National Retail Association Technical Standards Committee are aware of and have embraced the requirements and recommendations set out in the Industry Code for Consumer Goods that Contain Button Batteries.

We principally support the proposed Option 3 but would like to take the opportunity to raise concerns on behalf of our members for the consideration of the ACCC.

3. REGULATORY IMPACT ASSESSMENT OPTIONS

As part of this regulatory impact assessment, the following three options are proposed:

Option 1: Make a mandatory safety standard that includes requirements for secure battery compartments in consumer goods that use button batteries. Consumer goods that use button batteries that are intended to be replaced would be required to have a secure battery compartment such that batteries are only accessible with the use of a tool. Consumer goods that use button batteries that are not intended for user removal or replacement would be required to have the batteries fully secured inside the product.

All consumer goods that use button batteries would be required to incorporate mechanisms to prevent removal of the battery by children under normal use or foreseeable misuse.

Option 2: Make a mandatory safety standard that adopts all requirements in Option 1, and includes a requirement for all button batteries available for sale or supplied with consumer goods (where the battery is not pre-installed in a secure battery compartment) to be supplied in child-resistant packaging.

Option 3: Make a mandatory safety and information standard that includes all requirements in Options 1 and 2 and includes a requirement for warnings and information to be provided:

- on the packaging and instructions for all button batteries available for sale on the product (where practicable), packaging and instructions of consumer goods that use button batteries
- at point of sale (and prior to purchase) for all button batteries and consumer goods that use button batteries that are sold online
- at point of sale (and prior to purchase) for unpackaged consumer goods that use button batteries that are supplied to consumers.

4. QUESTIONS FOR RESPONSE

Q1. The ACCC considers the status quo and proposes three options to improve the safety of button batteries. Which is your preferred option and why do you prefer it to the others?

The NRA agrees with the ACCC and supports Option 3 for a mandatory safety and information standard that includes Options 1 and 2 and includes a requirement for warnings and information.

Option 3 is supported as it mitigates the user risk so far as practicably possible and informs the customer of the potential hazard/danger. The proposed mandatory safety standard will provide responsible retailers a tool to push back on suppliers to ensure minimum safety criteria are met when supplying consumer goods. Option 3 will also bring button battery safety awareness to all sectors of the industry and consumers alike so far as possible.

Option 2 (which includes Option 1) is also supported because it would be easier and quicker to implement. Providing warnings and information on packaging and products, and at the point of sale for products and batteries sold online, and at the point of sale for unpackaged products that use batteries (as required by Option 3), will take considerably more time to implement.

However, we believe more clarification is required regarding tool requirements and the differentiation between button and coin batteries. Though the mandatory safety and information standard may apply to both button and coin batteries, there are potential poor consequences if medical professionals or customers confuse the two. The NRA suggests an education campaign for retailers and consumers may be practical to address the highest danger of poisoning.

Q2. What effect do you believe each of the proposed options will have in saving lives and reducing severe injuries caused by button batteries?

The NRA believes that the changes will lead to incremental reduction in the frequency and severity of injuries and incidents. Addressing products and packaging through Options 1, 2 and 3 will not entirely eliminate the issue but will make button batteries less accessible. Option 3 will alert customers to the dangers more so than is currently being done and may reduce the frequency of incidents.

Option 2 will have a greater impact than Option 1, provided child resistant packaging for replacement batteries is appropriate and discount operators (e.g. \$2 shops) are compelled to use it, otherwise the problem will remain with their products.

The NRA notes that most brands and retailers have already substantially adopted changes to products and packaging as reflected in Option 3 following implementation of the industry guide. It is unlikely to change the status quo, except to the extent less-mainstream suppliers have not adopted the guide's recommendations. Toys for which young and vulnerable children have high exposure to are also already covered through the Toy Standard.

With a regulatory instrument, industry will be able to get supply chain partners on board with proposed requirements, and that should lead to improved products and phasing out of unsafe products.

Q3. Provide comment on the ACCC's essential requirements for secure battery compartments, child-resistant packaging and warnings and information. Are there any additional requirements that should be included?

Consideration should be given to:

- Designing the battery compartment such that the product will not work if it is not secured;
- communicating dangers and the importance of only purchasing products that meet the mandatory safety standard;
- Providing more clarity around what items fall within the scope of the mandatory safety standard;
- Legibility of icons and text on small objects (e.g. key ring torch) with limited space available, meaning font size must be lowered or omitted. In this case, closure design becomes more important, warnings can never replace a secure compartment;

- Providing more clarity “where practicable” a solution could be a decision tree for manufacturers;
- Readability of the ACCC proposed graphical warning icon, especially when small in scale, the ACCC suggested icon appears to show a child playing with a ball, generally text is better, an icon needs to be unambiguous;
- Customers are unable to access warnings and information on the product packaging if they have disposed of the packaging and are replacing batteries later in the product’s life.
- Ensuring that text referring to the contact details for the Poisons Information Centre (PIC) are usable in New Zealand and Australia for those retailers operating in both countries;

For consideration in support of the roll-out:

- Consumer-facing education campaign on the warning signs of button battery ingestion and improving recollection of the PIC number to improve crucial response times
- Media/educational campaigns aimed at educating both suppliers and parents/carers to highlight the

Q4. In relation to the requirement for secure battery compartments in which button batteries are only accessible with the use of a tool, do you consider that the use of a ‘tool’ should include the use of a coin? Why/why not?

The NRA does not support the inclusion of coins as a tool as coins are too readily available for a child to use to gain access to the compartment. These closures can also often be easily opened with fingers or other easily accessible implements.

The NRA suggests the term “tools” requires a clear definition as this can apply to a breadth of products.

We suggest a possible definition:

A “tool” is defined as a device intended specifically for the removal or detachment of devices used to secure battery compartment. Notable “tools” include screwdrivers, Allen keys, and product specific keys (such as SIM removal pins – see list below) but does not include general purpose tools such as knives, coins or similar. A battery compartment that is able to be opened with excluded tools would be deemed non-compliant.

The following are a few suggestions as to what a more appropriate tool may be to access compartments:

- Slotted screw – but **NB** a coin (e.g.: a 5c piece) may still open a compartment requiring a slotted screw.
- Phillips screw
- Pozi drive screw
- Square recess/Robertson screw
- Hex screw
- Torx head screw
- Allen Key/Hex Key
- Pin or Pen (for winding purposes)
- Key or a product-specific tool, such as the key used to iPhone compartments

The NRA notes that though you can give a perception of security by using an uncommon fastener, this may have unintended consequences of consumers using the incorrect tool to open the battery compartment and then not being able to close it properly again. Subsequently the issue is primarily about the security of the battery compartment, not the tool that is used.

The NRA understands that the ACCC has suggested a principles-based approach rather than a performance-based approach. However, there are a number of other performance-based considerations to be made before suggesting tools that improve safety:

- The number of turns required for effective fastening
- Performance and durability tests (i.e.eg. drop tests)
- Durability of the product to remain safe after opening the compartment a few times (i.e. stripped threads)

- Captive screws whereby the product cannot operate without the screw
- Non-replaceable batteries where product must be destroyed to access battery

Testing for durability is important as we have seen in single use items with non-replaceable button batteries. These objects can be so deficient in construction, fragile or feeble that if the outer casing is compromised, the button batteries are liberated. Therefore, testing parameters are yet to be determined but are very important.

Q4(b). In relation to providing a secured battery button compartment do you believe there are other options that should be considered? What/why?

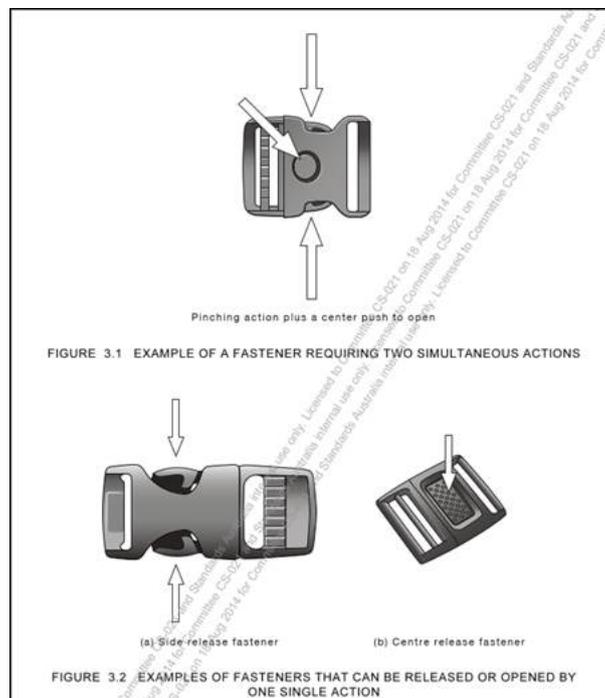
Generally speaking, no. Mandating a secured battery compartment gives clear guidance.

However, a number of remotes are provided with aquarium lighting, RGB lights and similar devices that have a slide in drawer arrangement where they employ two simultaneous actions to release the drawer. These types of designs are often more secure than coin operated covers and should be considered as an alternative option to those requiring tools.

Though some claim that pushing in a lever and then pulling out the tray requires two movements, but the push in and flick is normally done with a single hand and has the feeling of a single action.

There are genuine two movement fasteners, but these trays wouldn't meet the criteria and may or may not be more secure than a cover intended to be released using a flat head screwdriver or coin. Note that covers that are able to be released by hand should not be termed coin operated.

To illustrate this principle, see the example of fasteners for flotation aids as per AS/NZS 1900:2014 labelled Figures 3.1 and 3.2.



In the top image (Figure 3.1), the buckle requires two distinct and independent forces before it will open. It can only be done with two hands. In the lower image (Figure 3.2), the squeeze and pull are both done with one hand and are effectively one action and would therefore not be considered suitable.

Q5. Do you supply products that currently meet the essential requirements for secure battery compartments, child-resistant packaging and warnings and information? If not, which requirements do your products not meet and why?

As previously outlined in Question 2, the majority of products offered for sale through major retailers will already be substantially compliant and reflect the requirements outlined by Options 1, 2 and 3. Toys, for which young and vulnerable children have high exposure, are already catered for through the Toy Standard.

There have been a range of answers shared amongst retailers and associations:

- Yes, for products aimed at children, other categories may need to have packaging amendments and warnings added.
- The majority of products meets requirements. The compartment is secured with a screw, there are markings on products (where feasible) and on packaging and information in user instructions.
- Progress is being made towards sourcing and supplying products that have secured button batteries. Warnings may not fully align with the final warnings required by a mandatory safety standard and more work would be needed to ensure full alignment.
- A number of major brand button cell battery suppliers have been progressing towards the supply of button cell batteries in child resistant packaging for a couple of years. There are still a lot of discount operators that do not take the same approach.
- We have supported the voluntary industry code since its inception in 2016 and the majority of products meet the current requirements.
- The gaps in our range would mostly revolve around warnings and labelling of products and any products which use 2 or more independent and simultaneous movements.

The NRA also suggests that, presumably, exposures and gaps sit with smaller importers and retailers through:

1. Lower awareness of the risks associated with button batteries, and
2. Due to their relative scale they have less ability to influence or change the product or its packaging

Q6. Provide comment on the ACCC's proposed information standard for warnings and information to be made available at point of sale. Are there any additional requirements that should be included for products sold online, or for unpackaged products supplied to consumers?

There is agreement that having information at the point of supply is critical.

There have been a range of answers shared amongst retailers and associations:

- Principally, information should be provided no matter which channel. However, having safety information at the point of sale will be the least effective means of informing and influencing customer behaviours and is likely to have negligible real impact on customer behaviours.
- Information on packaging and/or the product that is accessible and visible to customers at the time of purchase should be deemed to meet the "at the point of sale" requirement. For unpackaged products that are too small for comprehensive marking, some thought may need to be given to how these can be made compliant. If the packaging cannot be labelled, some visible and accessible marking is required only at the point of sale. If a product is given away, the battery should be non-replaceable and the product itself should not be a small part and pass minimum test requirements.
- Clear guidelines need to be set around the type, size and location of warnings.

- The requirement states warnings and information are to be “on the product (where practicable)”, what does “where practicable” mean?
- There may be unpackaged products that are too small for comprehensive labelling. For these, warning labelling needs to be provided in store in some form (e.g. swing tag, shelf talker etc.).
- Warnings at POS are more problematic for online traders as it requires processes to identify which products have button batteries. A technical solution will need to be developed requiring specific data to be entered into the back-end support system to capture products with button batteries. It will be a large undertaking to develop the required support systems.
- At POS and online, information should include how many button cell batteries are in the item. There are anecdotal examples where CSC and emergency services were trying to find quick answers as to how many batteries were contained in products.
- Warning information should be prominent and legible for all products offered for online sale.

Q7. If you are a manufacturer, importer, distributor or retailer of button batteries or consumer goods that use button batteries, what impact will the proposed options have on your business?

The impact of the proposed options on businesses will depend on the implementation window and acceptability of current practices as meeting the intent of any changes. For example, products that have secure compartments but contain a warning label that differs from the ACCC final version. Under a principles-based approach, this may still be considered compliant, or at least low risk, and not subject to penalty, corrective actions or removal from sale.

For both bricks-and-mortar and online retail business models, additional work may need to be done to close gaps in product onboarding requirements to ensure all items that use a button battery are captured. For some, the impact will be minimal (e.g. implementing online warnings and changing some packaging), provided the transitional period is sufficient to ensure the required changes can be made and that current stock can be sold through.

For others, the impact will be greater, for example for an online trader:

- An IT solution to identify all relevant products involved and ensure they cannot be on-boarded until they meet requirements;
- A technical solution to automate the insertion of applicable warnings into individual specific PIDs;
- Development of guides and training of in-stock buying, marketplace and curation teams;
- An ongoing audit process to ensure the systems and processes are working.

Whilst the 12-18 months transitional period would probably have been feasible pre-COVID-19, this must now be factored in and extended.

Q8. Do you agree with the proposed exemption for hearing aid devices and associated zinc air batteries? Why/why not? (see section 5.2)

Yes. Hearing aids users are often elderly who may not have the dexterity to open compartments with a tool. This is about protecting children ultimately and not making things unnecessarily difficult for other sectors. For children, parents should be responsible for changing batteries in children's hearing aids. Further, hearing aids are fitted by a trained professional, who can be upskilled to provide hazard information relating to the batteries, including safe storage and replacement.

Though there are efforts in the industry to develop options for USB rechargeable hearing aids, many products already come with a container that has a compartment to capture spent batteries. Mandating that batteries for hearing aids are sold in packaging that can capture a spent battery before releasing a fresh battery could be considered. There are some good packaging solutions already in the market. Though not perfect, these will help to increase user understanding of the hazard.

Further, given that zinc batteries need to be exposed to oxygen, if swallowed, they will not have access to oxygen in the stomach and will therefore be less of a risk. These batteries are also very small in size and are more likely to pass through the stomach than become trapped in the oesophagus where oxygen is more likely to be available and allow a discharge reaction.

Q9. Do you consider that any other categories of consumer goods should be exempt from any of the proposed requirements? Do you have information and data you can provide to the ACCC in support of your view?

The NRA considers customer-to-customer second-hand sales should be exempt as these present too many obstacles and challenges. In due course, compliant products will flow.

A number of products need to be considered as to whether they fall within scope, such as wrist watches, car key fobs, medical devices etc.

Professional devices and equipment that sit outside the general definition of “consumer goods,” such as surveying equipment, trade equipment and tools, or laboratory equipment, should be exempt. The NRA suggests that this should be stated overtly and clearly to avoid any confusion. It is also unlikely that these items will be in the possession of a child.

Q10. What are the likely costs to implement each of the requirements (design changes, child resistant packaging, labelling), and what do you consider is the likely effect on prices for consumers?

There have been a range of answers shared amongst retailers and associations:

- At this stage it would be difficult to obtain a cost, if packaging needs to be completely changed then a cost would be associated but whether it would be passed on to the consumer is difficult to say.
- As larger sized retailers, brand owners and importers have already implemented most requirements, we do not foresee major cost implications. Should markings be mandated that are different from what we currently apply, we expect that changes can be rolled-out given a reasonable transition period is in place (minimum 12 months when considering supply chain impacts under COVID-19).
- It is difficult to quantify the costs that may be incurred as it will require a full inventory audit. The greatest impact will be on those products not designed or intended for use by children, as often those suppliers do not consider it necessary. Where a product requires a change, it may have a small cost impact of about \$0.20 at retail per unit where packaging needs to be redesigned.
- It is also difficult to quantify the cost of implementing warnings at POS, but it will result in additional costs.
- There would be potential costs to account for child resistant packaging for replacement batteries and possibly extra space required on packaging for warnings. Businesses are looking to reduce packaging costs in line with APCO targets.

One retailer commented that smaller retailers are likely to be unaware of recent initiatives or moves to tighten requirements as they often lack the infrastructure, communication networks and resources to invest a lot of time into keeping up with product safety developments. The cost of compliance for such businesses may be more significant as they would need to review their entire range to determine the state of compliance. Therefore, exit costs, including current stock and outstanding orders, may be significant for these smaller entities. Additionally, they are less likely to be able to influence their supply chains to implement design or construction modifications or changes to packaging and labelling. Thus, these products may need to be removed from supply. Removing items from sale is likely to affect their current or future earnings to some degree.

Q11. Do you think that all potential costs to business have been considered? Can you provide any further information about likely costs/impacts of each of the options?

The NRA refers to footnote 87 on page 57 where the ACCC cost assessments factored in a 10-year transition period. This then supports the statement on page 57 that “costs to industry are expected to be minimal if sufficient time is allowed for transition.” However, the ACCC is only proposing a 12-month transition period from the date of commencement without factoring in COVID-19 impacts.

Generally, we do not have a lot of sympathy for suppliers that have chosen not to comply with the industry code or existing standards and the sooner they face the same costs as responsible suppliers, the better.

12-months is not adequate to implement and allow product and packaging amendments to flow through the supply chain and undertake any necessary testing without some retailers and importers experiencing significant costs. If the transition window is restricted to just 12-months, then some smaller retailers would be expected to have

1. Significant product write-off and disposal costs,
2. Potentially heavy administrative costs to identify and action of “non-compliant” products, and
3. Possibly some significant contract exit-costs.

Option 1

This option includes testing of products which would involve 3rd-party testing. Whilst toys are often tested extensively as part of a responsible product safety program, there will be categories that are not tested in such great detail. They may include tools such as electronic tape measures, vernier calipers and a host of products not intended for use by children. This testing would likely add an additional \$300 - \$400 in additional costs per product type.

Option 2

Where existing products are supplied with batteries not in childproof packaging, the introduction of this requirement may add an additional cost of \$0.20 per unit.

Option 3

There will be a number of challenges and additional costs relating to Option 3:

1. In most instances, new artwork and screens will be required to update packaging to include the applicable warnings. This could cost a supplier around \$500 per individual item in set up costs.
2. The addition of warnings on physical products will add costs of \$0.10 - \$0.20 per unit depending on what is required. Solutions include adhesive labels or tampo printed warnings, both of which will involve artwork and screen set up costs. Also, the addition of labels would likely require an assessment to ensure they do not pose a small part hazard.
3. The addition of warnings at POS will add cost for both bricks and mortar retailers and online traders. For an online trader, significant costs would be incurred to provide technical solutions to enable the capture of affected products and the automation of the information to be inserted into PID's to enable information to be present at POS.

The additional costs are forecast to include:

- a) I.T. development costs of \$200,000;
- b) I.T. ongoing maintenance costs \$20,000 per year;
- c) Auditing costs \$10,000 - \$15,000 per year.

Generally:

- The implementation period is important as if it does not allow adequate time to comply with the new requirements, there will be an impact on the ability to sell through stock and costs associated with this.
- If items have to be removed from sale and modified to meet the requirements, a cost will be involved.
- For National Branded products which need modification, there would be a potential cost impact as they would need to be marked down to sell through.

Q12. Provide comment on the transition period for the proposed options (see section 7).

Under normal circumstances, a 12-18-month transition period would suffice. Consideration needs to be given to the significant impacts of COVID-19, which will extend well beyond the more immediate impacts and may last for many months, and the period should be extended.

For an online trader the following timing is anticipated whilst working under COVID-19 restrictions:

- Full assessment of existing merchandise range 6 months
- Once audited the estimated time to clear existing inventory that does not meet the requirements 12 months.
- Timing to make product changes, conduct testing and land compliant stock into warehouses 18 months.
- Timing to develop an I.T. technical solution to roll out a product specific gateway tool and automated warnings insertion into PIDs is estimated to be 18 - 24 months.

Putting aside COVID-19, a transition period of 12 - 18 months may not be practical for businesses with a slow turn-over of stock.

In keeping with the 12-month transition period, the NRA suggests there may need to be a differentiation between “substantial” and “full” compliance. If products have been engineered to have a secure battery compartment where batteries can only be accessed through the use of a tool, then items could be deemed “substantially compliant,” even if the packaging and labels do not strictly meet the new requirements. This may potentially reduce compliance costs and prevent otherwise “safe and functional” products being discarded to landfill.

A 12-month transition period would suffice for substantial compliance, and a further 12-months for full compliance. Consideration should also be given to impacts of COVID-19 on businesses.

- Brand owners have been able to engineer more secure battery compartments for some time and can continue to improve this aspect of products even prior to the final version of ACCC requirements are published. However, as the requirements for labelling of products and packaging are not yet clearly defined, no pre-emptive actions to implement changes are possible until such time as the ACCC publishes their final requirements. This further supports the delineation between substantial-compliance for products that have been engineered/manufactured to safe standards and the later requirement for full-compliance at a later date.

Q13. Provide comment on the principles-based approach to a mandatory safety standard (see section 7.2). A principles-based approach:

- *sets out safety principles that need to be met rather than specifying detailed standards*
- *incorporates external instruments for compliance tests only*
- *includes administrative guidance which provides examples of relevant clauses in external standards that are considered to comply with each requirement.*

A principles-based approach is a good option as it will cover and reference many product categories allowing manufacturers/suppliers to ensure they are compliant to the relevant standard for their product. A principles-based approach would still need to provide clarity on what is acceptable, and what is not. This is especially important for smaller businesses and those who have not yet implemented any of the proposed measures. Manufacturers, suppliers and retailers need very clear guidance on what is acceptable and what is not.

There needs to be clarity on:

- how a product would be assessed as compliant under surveillance and possible enforcement.
- types of secure closures, specifically around closures for non-replaceable batteries and details of the compliance tests associated with those.

Though we are supportive of a principles-based approach, it does not provide the same level of certainty and clarity as performance-based requirements. Principles-based approaches still allow for gaps in the market and opportunities for misinterpretation as to what is and is not compliant.

Q14. Provide any additional information or data that you think may be useful to informing the ACCC's recommendation to the Minister.

Based on the consultation paper, retailers and other associations have provided additional feedback on the following points.

Australian And New Zealand Poisons Information Centre (PIC)

If products are supplied across the Tasman, it is important to include a statement in the mandatory safety standard similar to: "Where a product is supplied and it is likely to also be offered in New Zealand (including Brick or Click), the warnings should include contact numbers for the Poisons Information Centre's in both Australia & New Zealand."

The rationale provided for the PIC number in Australia was:

1. Our large area and sparse population meant that people may travel large distances to get to a facility that didn't have the correct equipment, and
2. That our 000 operators couldn't be trained to know what to do.

However, simply referring to the Poisons Information Centre (PIC) for emergency information is not enough. Whilst the teams at PIC are trained to deal with button battery incidents, there are many scenarios. When it is unknown what is wrong with or whether a child has swallowed a button battery, the parents/carers should still call 000.

Labelling that could be applied internationally could follow AS/NZS 62115 rather than modifying it for the specific country.

AS/NZS 62115 specifies warning for the user instructions of products with coin batteries:

WARNING: This product contains a coin battery. A coin battery can cause serious internal chemical burns if swallowed.

WARNING: Dispose of used batteries immediately. Keep new and used batteries away from children. If you think batteries might have been swallowed or placed inside any part of the body, seek immediate medical attention.

This is aligned with ASTM F963 which requires

WARNING: This product contains a Button or Coin Cell Battery. A swallowed Button or Coin Cell Battery can cause internal chemical burns in as little as two hours and lead to death. Dispose of used batteries immediately. Keep new and used batteries away from children. If you think batteries might have been swallowed or placed inside any part of the body, seek immediate medical attention.

The text is applicable globally as people are aware of the number in their own market.

Compliance Testing – secure compartment (Page 37; Table 9)

The NRA stresses the importance of clear, and preferably simplified, testing directions for the secure battery requirements.

The testing requirements need to be clear and simplified (i.e. avoid multiple tests where practicable).

The testing needs to be practical but also allow for a principles-based approach, e.g.:

- Use of a tool to open the compartment.
- Is the battery 'loose' or 'secured' without the compartment lid.
- Is the screw captive (attached to the compartment).
- The enclosure of a non-replaceable battery is not a small part.
- The item/compartment can withstand drop testing and foreseeable abuse.

The NRA has provided examples of items with compartments not deemed secure as provided by members.

Compliance Testing - child resistant packaging requirements (page 40; table 10)

- Support current proposal.

Warnings and Information on Packaging of Button Batteries (Page 45; Table 11)

As mentioned previously, the ACCC warning symbol to include on the packaging of button batteries has drawn criticism for looking like a baby playing with a ball. The readability of the icon is lessened further when presented on a small-scale object

A simple pictogram and simple warning should be used on packaging. However, the ACCC's preferred warning symbol is not suitable as it doesn't clearly depict a battery and it shows a baby in a nappy, suggesting to those that cannot read that the product is only unsafe for babies and not those in the 0-5 or 0-6 age range. The symbol needs to be re-worked and there needs to be a written warning as well. Whether the age range is 0-5 as suggested by the ACCC or 0-6 as recommended by Dr Barker is immaterial. Figure 2 on page 22 shows that children under 10 suffer associated injuries.

Warnings on Products (Page 46; Table 12)

The NRA suggests that further definition is needed regarding the size and colour of the required symbol and texts, and whether multilingual translations are required. The ACCC also needs to define requirements for on packaging vs on product vs at POS.

A simple pictogram warning should be used on the physical product to the extent it will fit and "where practicable" needs to be clearly defined in this context.

However, the ACCC's preferred warning symbol is not suitable for the reasons stated above. Further, the sample pictograms on page 46 may not be readily understood given the multicultural diversity in Australia. They need to make it clear that the button battery is the hazard.

Although the product size will dictate to some extent, the following needs to be prescribed with respect to the warning:

- The minimum size of the warning, caveated with "where practicable" (as defined);
- The colour of the warning (black would be a preferred colour on the product itself rather than yellow which could look odd on say a coloured plastic toy);
- Whether the warning must be particularly located on the product, caveated with "where practicable" (as defined).

Warnings and Information on Packaging and Instructions of Consumer Goods (Pages 47-48; Table 13)

In regard to the warnings to be provided at point of sale, no extra signage should be needed where packaging adequately shows required information.

Warnings should be included on packaging and in user instructions (if they come with instructions).

Again, the ACCC's preferred warning symbol is not suitable for the reasons under question 17 and the comments in question 18 relating to the warnings apply here for packaging and user instructions.

POS information in store & online (page 48)

The requirements for POS information in store and online need to be clearly defined. If the packaging contains the requisite warnings and information, that should be sufficient rather than also requiring POS information in store. Warnings can be included as part of the PIDs for online sales.

Non-Replaceable Batteries

The labelling proposals for Option 3 need to include requirements for products with non-replaceable button batteries. A principles-based approach could define products that contain button batteries that cannot be accessed without breaking or damaging the product to be classified as "containing non-replaceable batteries." Once the product containing non-replaceable button batteries is broken or damaged, then the requirement to "access batteries by use of a tool" should no longer apply. This aligns with the requirements for products with replaceable batteries, where products are assessed in an undamaged state.

Generally, the NRA supports a clear approach that is simple, practicable and actionable. Definitions need to be clear as "where practicable" is not sufficient.

5. CONCLUSION

Thank you for this opportunity to provide our submissions on behalf of the retail industry and our members.

We submit that we principally support the proposed Option 3.

The National Retail Association and member retailers of the National Retail Association Technical Standards Committee would welcome the opportunity to work with the ACCC Button Battery Taskforce and other stakeholders to contribute our insight, practical experience and technical product safety expertise into further discussions and potential solutions.

Should you have any queries, I can be contacted on 0409 926 066 or d.stout@nra.net.au.

Yours faithfully,

A handwritten signature in black ink, appearing to read "D Stout".

David Stout

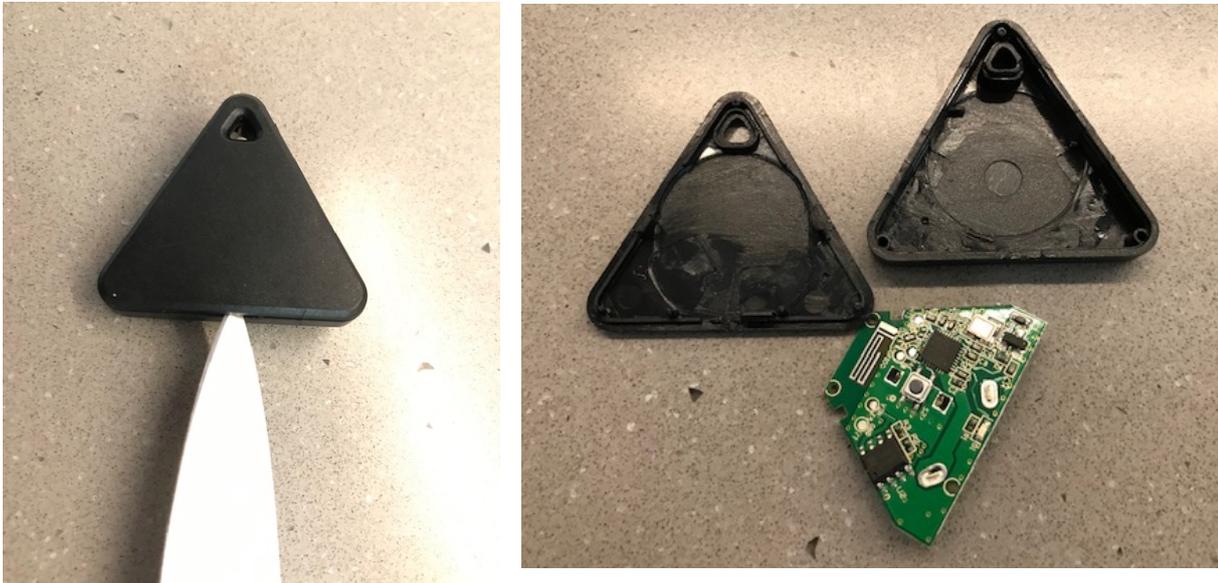
Director, Policy

National Retail Association

6. APPENDIX

Examples of compartment closures not deemed secure by members:

Use of a flat implement (i.e. knife) as 'tool', with grip becoming loose after a few times opening & closing:



Simple twist function securing compartment – can be opened by hand:



Slide function securing compartment, can be done by hand, without the aid of a tool. Also, does not meet drop test requirements.



Two independent movements securing compartment, can be done by hand, without the aid of a tool.



Many car keys fobs in the market arguably do not need a tool to access the button battery. Will these be covered?



Watch battery compartments generally some require a form of tool, but some have covers that can be removed by hand.



Clip fastening without screw, no tool required, and clip fastenings secured with glue, may require some form of tool. Would gluing acceptable as a non-replaceable closure?



Full screw closure can be opened by hand but requires an amount of dexterity from the user. Captured in proposed standard?



Compartment secured with silicon band and can be partially accessed after band is removed and product dropped in accordance with part 1 of the toy standard.



Fobs and remote controls that are designed to have a coin as 'tool'. Often can be pushed open by hand, or do not meet drop test requirements:



Products with non-replaceable batteries, that may not meet requirements under foreseeable misuse.





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