



**National
Retail
Association**

SUBMISSIONS FROM THE NATIONAL RETAIL ASSOCIATION

In response to Discussion Paper:

ACCC 2020 Product Safety Priorities

Submitted to:

Samantha Bull

Project Officer | Regulatory Reform | Consumer
Product Safety Branch | 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 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 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 meets twice annually, with meetings convened at different sites and states.

2. GENERAL FEEDBACK

The National Retail Association (NRA) welcomes the opportunity to make submissions to the Australian Competition & Consumer Commission Product Safety Priorities for 2020 consultation.

Our members referred to ACCC's Compliance and Enforcement Policy and Priorities in 2019 for the following reasons:

- To understand ACCC priorities
 - To develop factsheets, information, training and education for members / customers
 - To advise, educate, guide and/or refer clients / customers
 - To support clients to meet regulatory obligations
 - To negotiate with larger companies/franchisors / supply chain
 - To set annual compliance priorities and goals
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- **Do you think the ACCC should publish longer term (e.g. five-year) planning documents to provide insight into its future direction and priorities?**
Yes. In addition, progress should be measured (where possible) and the outcomes be shared publicly.
 - **Do you think the Compliance and Enforcement Policy and Priorities should be changed to make it easier for consumers, businesses, industry and government to engage with it in future?**
No, the way these were published for 2019 was clear and concise.
 - **What do you consider to be the overall purpose of the ACCC?**
To provide consumer protection through regulation, enforcement and support.
To engage with and train stakeholders to ensure they are well informed about their obligations.
 - **The ACCC's current purpose statement is 'Making markets work for consumers, now and in the future'. Consider whether this statement has meaning for you. Do you think this is what our purpose should be?**
We believe this should include a stronger statement about the ACCC's current purpose in relation to product safety, stakeholder education and enforcement.

3. SUBMISSIONS

3.1. 2019 PRODUCT SAFETY PRIORITIES

2019 Priorities

- Ensuring the effectiveness of the compulsory recall of vehicles with Takata airbags.
- Improving the safety of quad bikes.
- Supporting strategies that help prevent injuries and deaths to children caused by button batteries.
- Progressing the development of a General Safety Provision and other product safety reforms.
- Supporting strategies that help prevent injuries and deaths to infants caused by unsafe sleeping products.
- Improving product safety in the online marketplace, with a focus on improving the safety of products sold on online platforms.
- Raising awareness and building capacity to address consumer safety hazards with interconnected devices.
- Continuing to review and update current mandatory safety standards and bans and conduct surveillance.
- Improving product safety data through progressing the development of a national product safety incidents database.

Of the 2019 Priorities, are there any you feel should continue into 2020? As part of this, if you feel a priority should continue, should we change the way we address that priority?

3.2. EXISTING PRIORITIES

RAISE PRIORITY

1. Supporting strategies that help prevent injuries and deaths to children caused by button batteries.
 - TOP PRIORITY.

We submit that though some action has been taken, this priority needs to be addressed much faster and treated as a higher priority given the level of risk to vulnerable consumers.

Whilst many member organisations have implemented safeguards relating to consumer products powered by button batteries, a stronger, clearer regulatory tool would assist to address gaps.

Such a tool would assist product safety professionals to guide their businesses to prioritise this issue and enable them to enforce outcomes with their supply chain partners.

We would also like to see more ACCC surveillance and action regarding organisations selling non-compliant products with button batteries, such as many sold through online marketplaces. We believe children's toys with button batteries should be a high priority for surveillance.

2. Improving product safety in the online marketplace, with a focus on improving the safety of products sold on online platforms.
 - TOP PRIORITY.

As raised in previous submissions by the NRA (see Attachment 1), there are thousands of non-compliant products being sold through online marketplaces, by both Australian and international sellers. This is being witnessed en masse across all product categories, many of which pose serious risk to consumers.

Whilst the ACCC has taken steps to engage with prominent Australian online marketplaces, we are looking to see an approach similar to that taken in the EU which increases commitments and obligations for these marketplaces to ensure only compliant products are sold and that sellers are required to disclose safety information.

3. Continuing to review and update current mandatory safety standards and bans and conduct surveillance
 - TOP PRIORITY / CORE PURPOSE.

The group strongly believes that it is the ACCC's core purpose to mandate and maintain mandated standards and bans and therefore should be part of the ACCC's remit and always high priority.

We also recommend that this statement should be split into two parts: "review and update current mandatory safety standards and bans" and a separate strategy: "conduct surveillance" as these are linked but deserve greater focus.

In regards to standards and bans, we submit that the review process has been too slow and needs to produce results. We have received feedback that the Takata airbags priority has absorbed much of the ACCC's focus and efforts perhaps at the detriment of high priority standards and bans.

We believe that strong focus should be placed on mandating standards and bans, where true safety issues are evidenced.

We submit that resources could be better allocated by removing non-safety related mandatory standards, such as that for care labelling for clothing and textiles which only relates to the care and laundering of textiles, not safety risks which are mandated in other standards such as those relating to children's apparel. In these non-safety cases, the industry will self-regulate to align with international best practice and consumer demand.

We also submit that the legislative tools need to be designed to refer to the latest edition of a mandated standard as many refer to outdated standards, creating confusion and increasing risk of non-compliance in the industry.

In regards to surveillance, we submit that strategies need to be more proactive, less reactive, in surveilling products which do not meet mandated standards instead of waiting until a serious incident occurs.

4. Progressing the development of a General Safety Provision and other product safety reforms
 - Remains Important as an outcome is needed.

As the Consultation RIS for the Consumer Product Safety System is underway, the ACCC focus should shift on how a possible roll-out of the RIS outcomes can be supported.

Stricter regulatory tools are expected and with that a strong, comprehensive educational campaign – of industry and consumers - is needed. The ACCC is expected to lead such a campaign.

Our Technical Standards Committee is currently working on a submission for the RIS. The majority of committee members advocate stricter regulatory tools whilst avoiding too prescriptive legislation. More education and increased industry engagement are viewed as an essential component of the legislation by our members.

5. Improving product safety data through progressing the development of a national product safety incidents database.

- Very important but recommend change in approach.

There is an urgent need *and* want from industry to be proactive before incidents occur. Developing a complex database will take too long. Our members need to know product safety trends now.

Members of the NRA do not require a comprehensive database but ask for regular sharing of trends to better inform product design and procurement decisions. For example, we recommend that the ACCC publishes the top 10 trends in product types reported on a monthly or quarterly basis. This should not release confidential information about actual reports or cases, but provide useful signals to industry professionals to proactively examine products that may be posing unforeseen risk.

6. Supporting strategies that help prevent injuries and deaths to infants caused by unsafe sleeping products

- Very important but recommend change in approach.

The NRA recommends expanding the priority to *all* nursery products.

We would also applaud engagement with relevant industry associations, and organisations that support consumer information. We submit that user education is as important as safe product design in this space, especially for first time parents and carers. We would welcome more ACCC action on providing clear educational tools for consumers and ensuring these are part of widespread campaigns beyond the ACCC website.

DOWNGRADE PRIORITY

- Ensuring the effectiveness of the compulsory recall of vehicles with Takata airbags.

We submit that involvement in the Takata airbag recall is taking too much time and resources of the ACCC and has delayed all other actions. We believe that other high-risk products which affect vulnerable consumers should receive more attention.

We submit that the ACCC should no longer be tasked with any remaining issues addressing air bags that need to be replaced so that resources can be reallocated.

- Improving the safety of quad bikes

We believe that recent steps taking to improve quad bike safety should be sufficient to down grade this priority and reallocate resources to high-risk products impacting vulnerable consumers. We also submit that other organisations should address the user safety information training for quad bikes.

- Raising awareness and building capacity to address consumer safety hazards with interconnected devices

We submit that this is more an issue of privacy regulation and the safety risks presented by user-controlled software applications are rarely able to be controlled by the physical products.

3.3. NEW / EMERGING / UNADDRESSED PRIORITIES

From your experience, can you identify any new or emerging hazards that you think require regulatory action?

HIGH PRIORITY

1. We propose that **increased engagement with industry** should be a high priority.

Industry seeks proactive strategies, data and materials to be able to create safer products before they enter the market. As stated earlier, there is an urgent need *and* want from industry to be proactive before incidents occur, and we need more data and tools to do this.

The NRA would welcome greater engagement with the ACCC and regulators on product safety issues.

2. We propose that **national consistency and coordination** is a high priority.

We submit that the ACCC should ensure that collaboration and coordination across jurisdictions is a key focus to improve national consistency of standards, surveillance and engagement. Many brand owners and retailers operate national businesses, and these require consistency to meet their compliance obligations and to be able to focus resources on creating consistently safe products.

We also submit that greater focus should be placed on ensuring consistency across standards with other legislative instruments and policies. For example, a variety of environmental legislation is being introduced at multiple levels of government and can increase uncertainty if these do not align with standards, such as food safety and packaging design.

We emphasize that simplicity and clarity in the regulatory environment are key needs for industry to best manage its obligations.

3. We propose that **children's toys** should be a high priority area.

Children's toys pose some of the highest safety risks to vulnerable consumers and therefore are bound by some of the most detailed standards. Our members believe that too many toys which do not meet mandatory standards are being imported and sold to Australian consumers. These unsafe products are being sold in online marketplaces and physical storefronts throughout Australia. Some of these include counterfeit products.

4. We propose that **rechargeable Lithium Ion batteries** are an emerging priority.

Rechargeable lithium batteries are becoming more prevalent across many consumer products, and are often incorporated in products, such as mobile phones, tablets, and power banks.

Poor design, inadequate manufacturing practices as well as misuse can lead to incidents such as burns, smouldering or even fires. We believe this area should be investigated by the ACCC for a possible standard or guidelines.

4. CONCLUSION

As new products are rapidly being developed across the world, more products are entering the Australian marketplace and will continue to present new and emerging safety considerations.

In summary, we submit that high priorities for 2020 should include:

- Greater enforcement and action on high-risk products, especially those impacting vulnerable consumers such as children;
- Increased focus and speed in reviewing and updating standards on high-risk products, such as those containing button batteries;
- Comprehensive strategies to address unsafe products being sold through online marketplaces;
- Increased industry engagement and resources which can enable industry to proactively ensure products are safe;
- Increased market research, data and case studies being shared with industry to assist in the identification of unforeseen risks; and
- Increased consistency and coordination across jurisdictions to reduce red tape and confusion.

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

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

Yours faithfully,



David Stout

Director, Policy

National Retail Association



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