

Submissions

of the

New Zealand Retailers Association

to the

Ministerial Council for Consumer Affairs

in respect of

The Review of the Australian Consumer Product Safety System

October 2004

Introduction

This summary submission is presented by the New Zealand Retailers Association.

Background

The Association is the largest trade association involved in the retail industry in New Zealand. We represent an industry that has annual sales of NZ\$50b, and which employs some 325,000 people (17% of the workforce) in some 49,000 outlets spread throughout New Zealand. Our membership includes the major supermarket and general merchandise chains, specialised chains, traditional department stores and thousands of owner operators. We also service a number of trade groups of plumbing materials suppliers, metal fastener distributors, bicycle dealers, pet shops, jewellers and equestrian suppliers.

Comments

The Association does not normally address discussion papers issued by Australian Government Agencies. However, on this occasion, the paper under review has been drawn to our attention by the New Zealand Ministry of Consumer Affairs and we wish to make some general observations on the basis that we agree that the release of the paper provides an opportunity for groups such as ourselves to explore the potential for greater trans-Tasman consistency and harmonisation in consumer product safety frameworks.

Our interest in the trans-Tasman market was recently demonstrated by our submission to the Australian Productivity Commission on their review of Australian and New Zealand competition and consumer protection regimes. In our submission we pointed out the importance of the trans-

Tasman market to the retail industry in New Zealand in that our members import substantial quantities of merchandise from, as well as export merchandise to, Australia. The importance of the CER Agreement to the retail sector is also demonstrated by the fact that there are at least 30 Australian retail brands operating in New Zealand, and at least 10 New Zealand retail brands operating in Australia. A copy of these brands is appended.

We are aware that currently there are significant differences in the number and scope of the mandatory standards affecting different types of consumer goods sold in each country. Our understanding is that Australia has over twenty such standards whereas New Zealand has only six. We also understand that there are differences in the way in which some product information standards are interpreted. For example, country of origin labelling for apparel and footwear is a product information standard enforced by the Commerce Commission in New Zealand whereas in Australia the regulatory controls are understood to only apply to imported merchandise and are enforced by the border control agency.

The importance of working towards greater harmonisation is demonstrated by the fact that some importing retailers that operate in Australia on the one hand, and New Zealand on the other, either in their own right or through subsidiary companies, often purchase particular lines of merchandise for the combined Australasian market. Standards differences can clearly impact negatively in a practical sense on such traders, notwithstanding the fact that the Mutual Recognition legislation generally allows merchandise which is legally able to be sold in one country to be sold in the other.

Specific Comments

Notwithstanding the general observations set out above, we can see some merit in the introduction of a general safety provision that would impose a legal obligation on businesses to only place safe consumer products on the market. We believe bona fide traders, whether they be chain stores or independent owner operators, are responsible in terms of accountability for the quality and durability of the merchandise they sell and we do not expect that the majority of traders would be adverse to taking a greater responsibility in ensuring that the merchandise that they sell meets general consumers expectations as far as consumer safety is concerned.

Likewise we can see some merit in revising the definition under which an unsafe product could be recalled. We accept that the term 'will or may cause injury' has some limitations and more flexible wording could improve the success rate of specific product recalls.

Additionally, we can see some merit in ensuring that services are included in product safety rules as well as the proposal that a general policy statement could be developed concerning the treatment of second hand goods which clarifies the responsibilities of sellers, while allowing regulators to deal with specific goods on a case by case basis.

Administration

Whilst it is not directly within the purview of the current paper we do believe it is appropriate for us to comment on the implications of the possible changes in Australia mooted in the discussion paper, as we understand that a similar review may follow in New Zealand.

We believe that there is merit in working towards greater harmonisation of consumer product safety and consumer information standards to facilitate trans-Tasman trade. However, we consider there are major barriers in extending this joint approach to enforcement protocols.

In our recent submission to the Australian Productivity Commission we pointed out that joint enforcement raises issues of sovereignty that are probably insurmountable considering the differing political structures in Australia and New Zealand. We noted that the enforcement of some consumer laws in Australia, e.g. fair trading legislation is enshrined in state rather than federal agencies, and, as a consequence, federal/state relationships would need resolution as much as fostering a greater understanding between the Australian Federal Government and the New Zealand Government on consumer safety law issues.

Conclusion

We would like to participate in any round table meeting that the Australian Treasury may have in New Zealand as part of the current review. Such an approach may be useful in considering the implications to New Zealand of the possible changes mooted in the review and if this were pursued we would endeavour to get a number of our major members to attend.

**New Zealand Retailers Association
October 2004**

Trans Tasman Retail Brands

NZ Owned	Australian Owned
The Warehouse	K Mart
Michael Hill	Millers
Glassons	Katies
Pumpkin Patch	Colorado
Prouds (Owned by Pascoes)	Foot Locker
Rodney Wayne	Just Jeans
Keith Matheson	Jay Jays
Hannahs	Jacqui E
Kumfs	Progressive Enterprises
Max	Dymocks
	Bunnings
	Benchmark
	Country Road
	Dick Smiths
	Freedom Furniture
	Harvey Norman
	Hound Dog
	Billabong
	Quicksilver
	Sunglass Hut
	Jeans West
	Mitre 10
	Nationwide Jewellers
	Portmans
	Sussan
	Westfield
	Supre
	Kleins
	Priceline (coming soon)
	Cue