

CCAAC

Submission to the Review of the Australian Consumer Product Safety System

About CCAAC

The Commonwealth Consumer Affairs Advisory Council was established by the former Parliamentary Secretary to the Treasurer, the Hon. Ross Cameron (as he was then). CCAAC role is to provide advice to the PST. Council members come from a range of backgrounds across Australia. CCAAC is chaired by Mr. Colin Neave, the Banking and Financial Services Ombudsman.

Background

CCAAC strongly supports the need for reform of Australia's product safety system. We discussed consumer product safety with the previous Parliamentary Secretary with responsibility for consumer affairs, and flagged that it is a high priority issue for the council. We therefore commend the Ministerial Council for Consumer Affairs (MCCA) for taking on this reform project and issuing a comprehensive paper on options for reform.

The current system does not work well for consumers, including children who are injured as a result of unsafe products. It also does not work well for businesses, especially the majority of businesses that seek to apply high safety standards to their products. Finally, it does not work well for Governments and regulators, as the system is inefficient and in many cases ineffective, and does not allow regulators to take the sorts of actions that would improve market outcomes in a timely and rigorous fashion.

One particular issue that concerns CCAAC is that, in many instances, it would appear that products could be made significantly safer with relatively little modification or expense. This is particularly true of products designed for children and babies. The fact that these relatively modest changes are not occurring in enough cases is a sign that the current regulatory system needs reform.

Reform proposals

General Safety Provision

CCAAC supports the introduction of a "general safety provision" (GSP) into the Australian regulatory environment. A GSP would ensure that product safety obligations on business were more consistent across the economy and more consistent across firms within particular sectors. At present in many sectors we see safety

standards that are not mandatory and that only some firms observe (baby prams provide a very pertinent example).

We support the application of a GSP to situations of “foreseeable misuse” rather than only situations where a clear defect has already been established for a product. This would allow regulatory agencies to take a more proactive approach, and should help prevent injuries and perhaps save lives. CCAAC also supports the application of a GSP to all parts of the supply chain (including importers), but with particular responsibility being attached to manufacturers.

A GSP would also result in more sensible and more appropriate economic incentives to provide safe products than the current approach, which relies heavily on government agencies to identify problems. While firms effectively generate the risks associated with product safety (especially those firms with lower compliance standards), consumers and governments pick up the majority of the costs. A GSP helps rebalance this situation, and would encourage firms to be more responsible when issuing products into the marketplace.

We see that legal provisions of this sort already exist in several overseas jurisdictions (eg Europe, UK, and Canada in the near future). This suggests that such a provision can be made workable, and that we have the experience of regulators, businesses and consumers in these jurisdictions to draw on.

We support the application of a GSP to both services and second hand goods, but we recognise that this objective does raise some practical issues that would warrant further consideration by MCCA and relevant agencies, such as whether all second hand goods should be covered. We would support further work on this issue.

Coordinated National Regulation

CCAAC supports a more nationally focused approach to regulation. The current system does not give any single agency sufficient power, resources or responsibilities to ensure good market outcomes for consumers. It is vital that this problem is addressed.

This could best be achieved through giving the ACCC a clear responsibility as the main regulator in this area (and providing it with sufficient resources).

If this approach was not taken there should, at a minimum, be consistent regulation introduced through a template approach and a formal agreement set in place that clearly allocated responsibilities between different levels of government for product safety issues, instead of the ambiguity that currently exists.

Information and Research

CCAAC strongly supports more research in this area, so that governments, businesses and consumers have a much clearer picture of the impacts and costs of product safety.

This would assist regulation to be more cost-effective, and would allow warnings and regulatory efforts to be directed towards areas of highest risk.

We also support more effort being made to educate consumers about product safety. *However, we very strongly emphasise that consumer education is not the answer to the problems with Australia's product safety system.* There are simply too many products in the marketplace which consumers cannot assess adequately from a safety perspective, even if they did undertake time intensive preparation. We are pleased to see that simply more consumer education is not suggested as the major solution in the MCCA paper.

Guidance for business

CCAAC appreciates that significant change to Australia's product safety laws will generate some uncertainty for business (although we note that the current system creates uncertainties and costs for businesses as well). We therefore strongly support the provision of guidance by the ACCC to businesses on new requirements, and an appropriately funded information campaign to address this objective.