



Australian Toy Association Limited

Submission to Productivity Commission's Review of the Australian Government's Relationship with Standards Australia Limited and the National Association of Testing Authorities, Australia

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Review of the Australian Government's Relationship with Standards Australia Limited and the National Association of Testing Authorities, Australia

The Australian Toy Association Limited refers to the Review of the Australian Government's Relationship with Standards Australia Limited and the National Association of Testing Authorities, Australia being conducted by the Productivity Commission and the Issues Paper dated March 2006.

Members of the ATA's Safety Committee have considered the issues paper and the matters raised therein.

The Australian Toy Association Limited (ATA), for itself, and on behalf of its members, makes the submissions set out below.

1. Preamble

The ATA recognises that one of its most important functions is to promote the highest possible standards of safety in design and manufacture of children's products.

The ATA continues to work closely with regulatory authorities, both Federal & State, on all issues of safety and standards and through this involvement ATA members are recognised as having accepted safety as their prime responsibility.

ATA Members are bound by the ATA's Code of Practice a copy of which is provided in Appendix I.

The ATA was also a key participant in the development of the ISO Global Toy Standard first published in 2000 and has excellent relationships with our overseas counterparts and has regular interaction with same in regards to issues of safety of toy and associated products on a global basis.

2. Concerns

The ATA is in accord that it is important for Australia to have an "effective and internationally recognised and harmonised standards and conformance structure".

The ATA is concerned that this review may be seen by some as an opportunity to take the privatisation of standards setting in Australia even further. This causes us serious concern.

In our previous submission to the Productivity Commission's review of the Consumer Product Safety System we expressed our concern that

- The work of Standards Australia appears to be determined by the sale of standards, rather than reducing public risk or increasing market awareness,
- Market awareness depends on the effective distribution of information. Selling of Standards seems to be counter-productive to this aim.

In now responding to the specific issues raised in the Issues Paper, the ATA strongly recommends that the above concerns be addressed by means of consultation with industry representatives.

3. Response to Matters Raised in Issues Paper

Government versus Private

The ATA raised specific concerns about the development of Standards in its submission to the Productivity Commission's review of the Consumer Product Safety System.

These concerns stemmed from the conflict of interest brought about by the 'privatisation' and market based model that has been adopted over time for the provision of the country's standards.

Privatisation attempts to make Standards self funding and assumes that benefiting parties will pay an amount for them in proportion to the benefit received. In fact, the direct users of Standards may have motivations that are quite different to the stated purpose and the intended beneficiaries are largely ignorant of their content.

The Issues Paper does a good job of describing the various purposes and potential misuses of standardisation. It acknowledges the benefit of Standards to the public in terms of utility, cost of living and safety. Ultimately each purpose is related to a benefit to the public, although that benefit is achieved indirectly.

Stakeholders

There are a number of different stakeholders and each has its own perspectives:

- Consumers
 - Consumers have an expectation that the goods and services that they use are safe. While they are largely unaware of the processes, they have an expectation that the government will protect them and so not allow goods to be sold in the market that present an unreasonable risk of harm.
 - Consumers have an expectation of uniformity both for the efficiency of supply, but also of use, eg so that telephones work throughout Australia and trains can travel between states.
 - The requirements of Standards do not apply to consumers but to the suppliers of goods and services.
- Government
 - The Government has a responsibility to support Standards in as much as they contribute to the operation of an efficient, competitive market which ultimately provides the best outcome for the public.
 - Markets operate both locally and globally and the government has international obligations under the WTO agreements to remove technical barriers to trade.
 - The government also utilises Standards in regulations intended to protect the public from harm.
- Industry Groups
 - International traders will act to support global standards that facilitate their trade.
 - Local producers may attempt to use Standards to erect technical barriers to trade and so protect their own revenue.

- In either case, industry must meet or work with the requirements of Standards in order to participate in the market.
- Laboratories
 - Laboratories interpret the Standard and give assurance on compliance, (or non compliance).
 - Laboratories need to be accredited for its results to be recognised by Australian regulators and by default industry itself.
 - Laboratories generate income from Standards.

Given these relationships, the 'privatisation' model is not appropriate. The public benefit is indirect and consumers would not pay individually for standards to be developed. Industry groups will participate of necessity, but will not be motivated by public benefit.

The ATA therefore believes that the Government should be responsible and accountable for Standards policy and development and should provide funding from the public purse as necessary to achieve its stated goals.

Standards Development

The ATA has some experience in the development of Standards, being principally involved in the 8124 series of Standards concerning the safety of toys. Based on this, it believes that the system of consensus based development with representation from all interest groups including government, industry, consumer advocates, laboratories; etc supported by a project manager produces good outcomes.

The participation of a Standards Australia based project manager is essential to ensuring that the Standard is not diverted to the aims of one of the interest groups and supports the public and national standardisation purpose. They also ensure that the Standard meets internationally accepted and consistent criteria for language, numbering, etc and liaise with other international standardisation bodies.

It is important that Standards Australia be able to operate as an independent arbiter in the standardisation process and so stand separate from the regulatory side of government. Its establishment as a separate organisation was intended to facilitate this, but the ATA contends that it still belongs squarely under the government umbrella.

The ATA believes that the current 'privatisation' model of Standards development has led to an increasingly ineffective process.

Time Taken in Developing Standards

We believe that under funding is a significant contributor to the time taken to develop a Standard.

Standards Australia is required to be self funding in the main. It therefore depends on the sale of Standards to generate funds for its operations.

In our opinion this has led to Standards Australia seeking to trim its costs and given that the majority of Standards Australia's costs are linked to staffing we believe that as a result project managers are increasingly overloaded and unable to spend sufficient time on each committee.

Standards Australia committee members are generally working on a voluntary basis and given the increasing pressures on individual's discretionary time, the standards Australia project managers' role is critical to maintaining progress on any standard.

In the 21st Century it is generally recognised that an individual's discretionary time is under increasing pressures from both a business and personal perspective. It is therefore important that the Standards Australia Project Managers have sufficient time to assist their committees to spend time on this activity.

The current philosophy for funding Standards Australia does not permit them to structure their staffing to provide the necessary level of project management required to develop standards in a timely fashion.

The ATA believes that a better model for funding Standards Australia requires an assessment of the community's need for a standard, an assessment of the resources required to achieve this within the required timeframe and then allocation of the appropriate government funding to achieve this.

This is in contrast to the current model which allows funding according to the income which may be generated.

Sale of Standards

Markets depend on information to operate efficiently and Standards are a vital piece of information that may affect purchase decisions. The current model requires businesses to purchase referenced Standards to understand regulations and virtually prohibits consumers from accessing them at all.

This lack of free access to standards reduces their effectiveness in supporting efficient markets.

Full government funding would allow Standards to be published on the internet and accessed by anyone. This would reduce cost to business and give the public more information to understand price differences, etc.

The ATA likens this to the full and free access to vital business information in the lead up to the introduction of GST in 2000.

The Role of Standards Australia

Under this proposed scenario, Standards Australia would return to its core business of Standards development.

As a result Standards Australia, being the government organisation responsible for Standards development, would not be able to abdicate this responsibility to individual interest groups as is currently being proposed by Standards Australia itself. It could however accept a document from any party as an initial working draft for one of its committees.

4. Conclusion

The Australian Toy Association Limited (ATA), for itself, and on behalf of its members, submits that in any proposal for changes in the standards setting regime for Australia:

- There be ease of understanding;

- Businesses are able to comply economically;
- Consumers can readily and economically access information

In particular, it is proposed that:

1. Standards Australia be returned to Government Funding;
2. Product Safety Standards to be publicly funded and freely available;
3. There must be valid and verifiable reasons for any variation from International Standards.

Further Consultation

It is the opinion of the Australian Toy Association Limited that there has been insufficient time and publicity to consider, be informed and understand the issues presented by this Issues Paper.

We also submit that because the Review has far reaching effects on both business and the public and because of the potential impact of any consequences both intended and unintended that further consultation and discussion for all industry and business groups is required.

We therefore strongly recommend that no change should be considered without full and comprehensive consultation with all affected parties.

The Australian Toy Association would be pleased to participate in this consultation process.

ATA Code of Practice



The members of the association are committed to the promotion of a safe play environment for children. To achieve this, members will do all things necessary to adhere to all relevant safety standards, to observe the ethical advertising of children's products and maintain free and fair trade in children's products throughout the country.

All members of the Association are subscribers to the ATA Code of Practice as follows:

1. We are firmly committed to the development and promotion of a safe play environment for children, and to place only safe products on the market.
2. We agree to adhere strictly to national and international safety standards and to take prompt, effective and appropriate action should a safety problem arise. Further we agree to notify the Association immediately of any allegation by an enforcement authority that my/our product(s) contravene relevant safety regulations.
3. We are committed to the principle of ethical standards in regard to the advertising to children and adhere to government regulations and requirements. Further we agree to operate under the AANA Principles and Advisory Notes on Advertising to Children (August 1999).
4. We support and encourage research conducted in regard to any aspect of children's products and will be involved where possible and offer full co-operation.
5. We oppose strongly the practice of counterfeiting not only as an unfair trading practice but one which may expose children to products which do not comply with safety standards. Further we declare that we do not knowingly market counterfeit product(s) and we understand that a judgement against us whether brought privately or otherwise for copyright or trade mark infringement may render us liable to review under ATA procedures.
6. We recognise we have a duty to ensure lawful, fair, safe and healthy working conditions for those employed in the contract manufacture of children's products. We support the production of safe product in compliance with the Code of Business Practice of International Council of Toy Industries. To discharge this duty, we agree to have arrangements with vendors or their agents which require and maintain such conditions.
7. We understand that a successful prosecution under relevant safety regulations will be regarded by the Association as a breach of this code and may render us liable to review under ATA procedures
8. We understand that wilful breaches of the code may lead to my/our expulsion from the Association and the denial of space at the Australian Toy, Hobby & Nursery Fair.
9. We shall actively support appropriate children's causes.