

██████████, Director  
Consumer Safety and Sustainability Unit  
Market Conduct Division  
The Treasury  
Email: [productsafety@treasury.gov.au](mailto:productsafety@treasury.gov.au)

Dear ██████████,

**Re: Mandatory standards regulation under the Australian Consumer Law**

I welcome the opportunity to make a submission to the Consultation Regulation Impact Statement on improvements to mandatory standards regulation under the Australian Consumer Law.

The NSW Productivity Commission is focused on driving economic reform to boost productivity, employment and household incomes. Well-designed regulation can protect the health and safety of the community while supporting innovation, competition and economic growth.

Australia is a small market and when it adopts different product and information standards to the rest of the world, this has implications for business costs, consumer prices, product choice and the uptake of new technology.

Where trusted overseas standards are not recognised, products imported from overseas that have met these standards may need to be re-tested, re-labelled or re-designed to meet Australian Standards requirements. If the overseas standard is associated with similar safety outcomes to the Australian Standard, this adds unnecessary compliance costs (both time and money) and delays for businesses importing and supplying the products in Australia.

In addition, there are upfront costs for meeting Australian Standards. With such fixed costs being spread over a relatively small production quantity (for the Australian market), it is relatively costly to produce an Australia Standards-compliant product. These costs may be passed on to consumers or in the worst-case scenario, may deter businesses from supplying Australian markets; limit consumer choice and drive up local prices.

Bicycle helmets provide an example of such duplication. United States (US) and European helmet standards are widely used internationally. In Australia, however, helmets must be shown to meet the AS/NZ2 2063 standard regardless of compliance with international standards. It is not clear whether the safety benefits from re-testing helmets that have already met US and European standards outweigh the costs of testing, re-labelling or re-design.

***A streamlined approach to declaring trusted overseas standards is supported***

To address this issue, the Australian Consumer Law should be amended to allow the Commonwealth Minister to declare trusted overseas standards more easily, as an alternative to Australian standards. I support the adoption of an “opt-out” model, with standards developed by trusted international standards organisations used as a default

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position where a mandatory product standard is declared, unless it is demonstrated to be unsafe for Australian conditions through a cost-benefit analysis.

This approach reflects the principles of good regulatory practice. Specifically, government action should only occur when it is in the public interest (that is, the benefits outweigh the costs) and, where possible, regulations should be simplified, and duplication removed. If a standard has been produced by a trusted overseas association, the standard should apply without additional Australian-specific requirements unless there is a net public benefit from such additional requirements.

### ***Benefits of a streamlined approach***

A streamlined approach to declaring standards from trusted overseas standards organisations would provide a range of benefits for businesses and consumers. The removal of duplicative testing and labelling measures would provide greater choice of products for consumers and businesses, more quickly and at cheaper prices, as importers would find it more economic and less burdensome to supply our market. International standards, which service a larger market, may also be backed by additional resources and data to support regular updates for changing technology.

Yours sincerely

A handwritten signature in blue ink that reads "Peter Achterstraat". The signature is written in a cursive, flowing style.

**Peter Achterstraat AM**  
**NSW Productivity Commissioner**

*12 January 2022*